

Independent Police Review Authority
Log #1038558, U# 10-27

INVESTIGATION

NUMBER: Log #1038558, U# 10-27

OFFICER

INVOLVED: “Officer A” (Chicago Police Officer); Male/White; 44 years old;
On-Duty; Civilian Dress; Year of Appointment – 2000

OFFICER’S

INJURIES: None reported

SUBJECT #1: “Subject 1”; Male/Black; 34 years old

SUBJECT #1’S

INJURIES: One Gun Shot wound to the right hand, lodged.

SUBJECT #2: “Subject 2”; Male/Black; 32 years old

SUBJECT #2’S

INJURIES: None reported

DATE/TIME

OF INCIDENT: 02 Aug 2010, at approximately 2041 hours

LOCATION:

2400 N Pulaski Rd – T-Mobile Store
Beat 2531

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SUMMARY OF INCIDENT:

On 02 August 2010, two subjects, Subject 1 and Subject 2, made several visits throughout the day to the T-Mobile Store located at 4000 W. Fullerton. The three employees working inside the store, Witness 2, Witness 1 and Witness 3, believed the subjects were “casing” the store for a robbery. A T-Mobile employee from a different store in the area had previously been robbed and Subject 1 and the other subject matched the description of the suspects in that robbery. The T-Mobile employees telephoned their corporate office who then called the Chicago Police Department. Chicago Police Officer A and Officer B arrived at the store a short time later. Officer B remained in the squad car parked nearby in order to conduct surveillance. Officer A entered the store to interview the employees. Officer A proceeded to the back room of the store with Witness 2. Approximately five minutes later, Officer A heard someone enter the store and yell something to the effect of “everybody to the back.” Officer A stood against the wall in the backroom so he would be hidden by the door that separates the back room from the main part of the store. The employees entered the back room followed by a subject, later identified as Subject 2 who had a gun in one hand and a blue bag in the other hand. It was later learned that Subject 1 remained near the entrance of the store to watch for the Police. Officer A announced his office, startling Subject 2. Subject 2 dropped the bag to the ground and turned toward Officer A, pointing his weapon at him. Officer A fired one shot at Subject 2. Subject 2 began to move towards the main part of the store and pointed his weapon at Officer A again. Officer A fired two more shots at Subject 2, striking the wall near the back room door. Subject 2 continued to move toward the exit door and again turned and pointed his weapon at Officer A, who was standing near the doorway of the back room. Subject 2 was near the middle of the store at this point. Officer A fired one more shot at Subject 2. Subject 2 turned back toward the exit door and followed Subject 1 out of the store. Officer A told the store employees to stay in the back room away from the door. Officer A heard “popping sounds” and used his radio to report shots fired. Officer A then observed that the glass front door was broken.

A handgun was recovered from the vestibule of the store. One expended shell casing matching that gun was recovered from the same area. Another expended shell casing was still in the chamber of the recovered gun. Four expended shell casings were recovered in the back room, which are believed to have come from Officer A’s weapon. A piece of skin that is believed to be part of Subject 1’s finger was recovered inside the store near the exit door. A bloody white shirt was recovered at 2443 N. Pulaski. A .45 caliber handgun was recovered from a parking lot immediately north of that location. A glove was recovered from the middle of Pulaski. A hat with a wig attached to it was recovered on top of a vehicle parked on the west side of Pulaski. The vehicle also had blood on it. A blood trail on the ground indicated that Subject 1 exited the store and ran north on Pulaski. He ran northeast diagonally across Pulaski, dropping the hat, glove and shirt as he ran. Subject 1 then entered the rear of the parking lot and discarded the .45 caliber handgun¹. Blood at the top of the fence at the rear of the parking lot and in the alley indicated that Subject 1 jumped over the fence, which had barbed wire at the top, and ran north in the alley. Subject 1 ran back towards Pulaski and continued to run north, where he was eventually stopped by responding Officers and arrested. Subject 1 told Officers that “a white guy” shot him. Subject 1 was transported to Our Lady of the Resurrection Hospital, where he

¹ Illinois State Police Forensics testing determined that the .45 Caliber handgun found in the parking lot had DNA/blood consistent with Subject 1 on the weapon.

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received treatment for a gunshot wound to his right hand. Subject 2 was not immediately located and was subsequently arrested on arrest warrants for his part in the attempted robbery and assault on Officer A on 14 August 2010.

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In letters written to IPRA, Subject 1, related that he was in a T-Mobile store when “shots went off.” Subject 1 ran out of the store and, approximately two blocks later, ran into two Chicago Police Detectives. The Detectives asked Subject 1 why he was bleeding, to which Subject 1 replied that he was shot. The officers placed him in custody and Subject 1 stated that he became delirious. Subject 1 was transported to a hospital by ambulance (Subject 1 had no idea which hospital due to his delirium). Subject 1 stated that he woke up with the bullet removed from his hand and the detectives arrested him for the robbery at the T-Mobile store. In a second letter to IPRA, Subject 1 related that he was not sure why his Public Defender advised him not to speak with IPRA. Subject 1 further related that he was arrested on 03 August 2010 two blocks away from a T-Mobile Store. Subject 1 stated he fled from the store because he heard gunshots. Subject 1 stated he didn’t know what was done with the bullet after it was pulled from his hand and why he was being charged for the robbery.

In a statement with IPRA, Witness 1, related that he works at the T-Mobile where the shooting occurred. Witness 1 stated that two men entered the store several times on the date of the incident. The assistant manager told Witness 1 that the men had been in before and were acting suspiciously. The two men matched the description of suspects from robberies of other T-Mobile stores in the area. Witness 1 observed one of the men return at approximately 2000 hours and the man continued to act suspiciously. Witness 1 followed the man outside and observed that the man had parked his vehicle across the street when the whole parking lot in front of the store was empty. Witness 1 called his manager who stated he would call the police. Witness 1 related that Officer A arrived and went to the back room with a co-worker, Witness 2. Officer A told Witness 1 and co-worker Witness 3 to warn him if the two men returned to the store. A short time later a male subject came into the store and asked about upgrading his cellular phone. Witness 1 stated that the man was acting suspiciously so Witness 3 went to the back room to tell Witness 2 and Officer A about the man. A second male subject, not recognized as the man who came into the store earlier, entered the store. Witness 1 indicated that when the second male subject arrived, the first male pulled out a gun and ordered Witness 1 and Witness 3 to the back room. The male subject held the gun to Witness 1’s back. Witness 1 related that they opened the door to the back room and Officer A announced, “Police, Police.” Witness 1 heard four or five shots, but did not observe who shot. Witness 1 ran to the rear part of the back room and he stayed there with Witness 2, Witness 3, and Officer A. Witness 1 stated that Officer A used his radio to call for more Officers to respond to the scene.

In a statement with IPRA, Witness 2, related that he works at T-Mobile where the shooting took place. On 01 August 2010, Witness 2 observed two suspicious males at the store. Witness 2 related that the two men matched the description of two suspects in a robbery of another T-Mobile Store the previous day. Witness 2 witnessed the same two men re-enter the store on 02 August 2010. Witness 2 also observed one of the men look into the store’s window and then drive away. Further, Witness 2 observed the other male walk on foot past the store and then entered the parked vehicle. Witness 2 called the district manager who called the Officers who were working the previous robbery. Witness 2 stated that Officer A arrived at approximately 2030 hours and said there were more Officers nearby if needed. Officer A and Witness 2 entered the back room of the store and, a few minutes later, Witness 3, a co-worker, came to the back

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room and stated someone needed to see Witness 2, which indicated that the suspicious men were back. Officer A hid behind a door in the back room. Witness 2 recognized one of the men as one of the males he observed earlier at the store. Witness 2 stated that one of the male subjects told them to go to the back and open the safe. Witness 2 related that the man had a gun and pointed it at them. Witness 2 entered the back room with Witness 3 and the subject followed behind them. Witness 2 heard someone yell, "Police, police" then heard one gunshot followed by four more. Witness 2 stated that he and the other employees ran to the back of the room. Witness 2 heard Officer A report the shots fired over the radio and said he was going to stay in the back room until the employees were safe.

In a statement with IPRA, Witness 3, stated she works at the T-Mobile store located where the shooting incident took place. Witness 3 stated she was in the front of the store with co-worker, Witness 1. Witness 3 related that another co-worker; Witness 2, was speaking in the back room with Officer A. Witness 3 stated she and Witness 2 explained to Officer A that they have observed two men matching a description of subjects who robbed the T-Mobile store located at Cicero and Armitage. Witness 3 indicated that the two men had repeatedly driven up in front of their store in a brown Buick while Witness 2 spoke with Officer A in the backroom. Witness 3 stated that a black male wearing fake dreadlocks entered the store and began to ask questions in regards to upgrading his cell phone. Witness 3 stated she went to the back of the store and gestured to Witness 2 and Officer A to alert them of the suspicious male, who was in the front of the store. Witness 3 also heard the door opening, which indicated that another person had entered the store. Witness 3 exited the back room and began to walk back towards the front of the store. Witness 3 observed Witness 1 followed by the subject walking towards her. The subject pointed a gun towards Witness 3 and ordered her and Witness 1 to guide him to the back office. Witness 3 stated that Officer A was standing behind the door when they entered the backroom. Witness 3 heard Officer A state "Police Police!" followed by several gunshots. Witness 3 stated she ran to the back of the room and never turned her back until more Officers arrived; thus, she never observed who was shooting. Witness 3 indicated she could not describe the second individual that was involved in the robbery.

In a statement with IPRA, Witness 4, stated he was driving and stopped at a red light at Pulaski and Fullerton. Witness 4 observed two male subjects in front of the T-Mobile Store. Witness 4 stated the two men appeared to be arguing and passing an object back and forth to each other. Witness 4 stated that he then heard a gunshot and observed the two men run from the store and under a bridge. Witness 4 stated a Chicago Police SUV arrived near his location and the Officers asked if he saw where the men went that ran from the store. Witness 4 related the information he observed to the Officers. Witness 4 stated the Officers told him to wait at his location which he did. Witness 4 stated one male subject was short and had a lighter skin tone than the other; the other was wearing a "funny" hat that had long dreadlocks for hair. Witness 4 stated he could not tell if either subject had a firearm as they ran from the store.

The **Arrest Report** of **Subject 1** documented that Subject 1 was arrested for attempted robbery - armed with a firearm. The report indicated Subject 1 was arrested after being positively identified as a subject who entered the T-Mobile store armed with a handgun in an attempt to rob it. The report stated he was transported to Our Lady of the Resurrection Hospital by Chicago Fire Department Ambulance #52 for injuries to his right hand and left leg.

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The **Arrest Report** of **Subject 2** documented that Subject 2 was subsequently located and arrested on 14 August 2010 for his part in the attempted robbery at the T-Mobile Store on 02 August 2010. Subject 2 was located at 7XX South Karlov Avenue and charged with Attempted Armed Robbery, Aggravated Assault on a Police Officer and Unlawful Use of a Weapon by a felon. Subject 2 is quoted in the report stating, "I robbed the cell phone store for cash and phones."

The **Tactical Response Report** filed by **Officer A** documented that Subject 1 "did not follow verbal direction", was an "imminent threat of battery," and "attacked with weapon." Officer A indicated he responded with "member presence," "verbal commands," and the use of his firearm.

Officers Battery Report for Officer A documented that he received a physical battery from being shot at, near the location of 4000 West Fullerton Avenue. Officer A related that he received no apparent physical injuries from the incident.

The **Original Case Incident Report** documented that Officer A relocated to the T-Mobile Store after he was contacted by CPD Sgt. A regarding suspicious individuals who entered the store earlier in the day. Officer A arrived and walked to the rear office to speak with the store manager. Officer A overheard a male voice ordering store employees to the rear office area. Officer A observed a female employee, a male employee, and a black male enter the office. The black male was carrying a blue bag and a gun in his right hand. Officer A announced his office and the black male subject pointed his weapon towards Officer A. Officer A fired his weapon at the subject who exited the rear office and fled the location.

Medical Records for **Subject 1** from **Our Lady of the Resurrection Medical Center** documented that he was admitted into the Medical Center on 02 August 2010 at 2137 hours for a gun shot wound to his right hand and lacerations to his left leg. Subject 1 was found to have comminuted fractures and soft tissue damage to his left hand with bullet fragments adjacent to the third and fourth metacarpals. No fractures were found in Subject 1's left leg.

Illinois State Police Forensic Science Laboratory Report (C10-031016) documented that blood (DNA) was present on the left and right side of the Smith and Wesson handgun that was located in the parking lot near the scene of the incident. Buccal swabs were obtained, preserved and tested from Subject 1 and Subject 2. Forensic Scientist A concluded that the DNA found on the Smith and Wesson handgun matched the DNA profile of Subject 1 and did not match the DNA profile of Subject 2.

The **Detective Supplementary Reports** documented Subject 1 stated he and his friend, Subject 2, discussed doing a robbery at the T-Mobile Store at Fullerton and Pulaski. Subject 1 related that Subject 2 instructed him to watch the door and stated, "I'm going to get a lick, watch the door so I don't get locked in." Subject 1 stated he observed Subject 2 with a black semi-automatic handgun. Subject 1 stated Subject 2 entered the store first and he followed soon after. Subject 1 stated he observed Subject 2 walking the store employees into the back room. Subject 1 stated as Subject 2 entered the back room, he heard a male voice yell something followed by gunshots. Subject 1 stated he immediately felt pain in his right hand and he fled the store northbound on Pulaski. Subject 1 stated he was stopped by police a short distance from the T-

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Mobile Store. Subject 1 denied wearing a dreadlock wig. Subject 1 stated to arresting Officers, "I was shot by some white guy." The report documented that a Ruger 9mm handgun was observed inside the vestibule area of the store and a Smith and Wesson handgun was found in the parking lot. Two bullet holes were found on the door of the showroom and two bullet holes were in the wall. Four .40 caliber shell casings were found in the northwest exterior wall.

Subject 2 stated he and his friend "[Nickname]," also known as Subject 1, discussed robbing the T-Mobile store at Fullerton and Pulaski. Subject 2 stated he would take "cash" from the store while Subject 1 wanted to steal phones. Subject 2 stated he had a dark colored semi- automatic handgun in his waistband. Subject 2 could not recall if Subject 1 had a gun. Subject 2 stated he entered the store first followed by Subject 1. Subject 2 stated he instructed an employee to walk him to the back room. Subject 2 stated two employees entered the back room first and then he heard gunshots. Subject 2 related that he fled the scene and dropped the weapon he had in his hand. Subject 2 stated Subject 1 left the store first and he followed. Subject 2 originally was not found after the incident and then decided to turn himself in days later. Subject 2 participated in a line up where Witness 2, Witness 3 and Witness 1 identified Subject 2 as the subject offender involved in the incident.

A red light camera was located on the southeast corner of Fullerton and Pulaski. The video footage captured from the camera was very dark and grainy. A white cargo van entered the T-Mobile parking lot and parked. Two individuals exited the van, one in dark clothing and the other in a white t-shirt and entered the T-Mobile Store. After approximately thirty seconds, the individual wearing the white t-shirt ran from the store towards Pulaski and the individual wearing dark clothing ran from the store towards Fullerton.

Attempts to obtain Surveillance Video from the T-Mobile Store were met with negative results. The store appeared to have a surveillance system in place; however it was not functioning at the time of the incident.

The OMEC event queries and CD recordings documented that Beat 2566 stated he had an emergency, armed robbery in progress at Fullerton and Pulaski at 2040 hours. Beat 2566 stated that he was in the back room of a T-Mobile with three employees, shots had been fired and the subject may be hit. A summary of the event query was completed.

In a personal visit to the scene and follow-up on canvasses, IPRA Investigator A spoke with Witness 1 on 04 August 2008 at 4000 W. Fullerton. Witness 1 showed IPRA Investigator A the back room and pointed out where everyone was standing during the shooting. IPRA Investigator A spoke with [Name Withheld] of the Currency Exchange located at 4001 W. Fullerton, and she stated that she didn't have a good vantage point to view the scene when the incident occurred. [Name Withheld] stated she observed people running out of the store but she did not hear any gunshot(s). IPRA Investigator A spoke with [Name Withheld] of the Shell Gas Station located at 3959 W. Fullerton. [Name Withheld] stated he had a good view to the T-Mobile but did not witness the incident. He did not hear any gunshot(s) and only became aware of the incident when police cars arrived at the T-Mobile Store.

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Chicago Fire Department Ambulance Report documented that Subject 1 was transported to Our Lady of the Resurrection by Chicago Fire Department Ambulance #52. The report documented that Subject 1 suffered a gun shot wound to his hand and also an abraded leg. The report documented that Subject 1 was trying to jump a fence and his leg got caught and abraded.

IPRA sent a **certified letter** to **Subject 1's family** detailing that IPRA is conducting an investigation into the police involved shooting involving Subject 1.

Crime Scene Processing Report #103340 documented items inventoried and photographs obtained by the Evidence Technicians at the scene. The report also documented that Officer A's weapon was recovered and swabbed at Area 5 Detective Division. The Evidence Technicians swabbed all recovered pistols for DNA. A Ford van in the T-Mobile parking lot was towed to Pound #4 for the super glue fuming process. The report was submitted by Officer C on 03 Aug 2010 at 1033 hours.

Crime Scene Processing Report #103357 documented that a 1992 Ford Econoline van was processed at the Pound 4 garage. The Evidence Technicians photographed the interior and exterior of the van as well as evidence recovered from the van. The van was also swabbed for possible evidence. The report was submitted by Officer D on 03 Aug 2010 at 1704 hours.

Crime Scene Processing Report #103370 documented that a bullet was recovered from the right hand of Subject 1 and sent to Forensics. The report also documented that Subject 1 was finger printed and photographed at Our Lady of the Resurrection Hospital. The report was submitted by Officer E on 03 Aug 2010 at 1516 hours.

IPRA Investigator A requested to interview Subject 1 for an appointed date of 16 September 2010. Subject 1 invoked his right to remain silent under the 5th amendment, having consulted his Assistant Public Defender, and decided not to discuss any matters relating to police conduct with the Independent Police Review Authority.

IPRA Investigator B requested to interview Subject 2 for an appointed date of 24 July 2012. Public Defender A related that Subject 2 invoked his right to remain silent under the 5th Amendment and refused to let Subject 2 discuss any matters relating to the incident under investigation.

In an audio recorded statement with IPRA on 16 May 2011, witness, Officer B, stated he was on duty in civilian dress with his partner Officer A. Officer B stated he was part of a robbery team and he and Officer A were investigating a string of robberies at T-Mobile stores in the area. Officer B stated they received information detailing suspicious people coming in and out of a T-Mobile Store located at 4000 W. Fullerton Avenue. Officer B stated he did not enter the store and remained in the parked unmarked squad car a block away from the store to conduct surveillance. Officer B did not hear any shots fired and only knew of the shots fired when his partner called it out on the radio. Officer B stated he got out of the vehicle and went to the front of the store. Officer B noticed the front window of the store was broken out and a gun was on the ground inside the foyer area of the store. Officer B stated he spoke with Officer A who said two subjects armed with handguns attempted to rob the store. Officer B stated Officer A said he fired

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at the subjects and the subjects shot back at him while they fled out of the store. Officer B related that another unit arrested Subject 1 a short distance away from the scene and Subject 1 was suffering from a hand injury.

In an audio recorded statement with IPRA on 03 Aug 2010, Involved Officer, Officer A, stated he was working with his partner Officer B. Officer A stated he was in plain clothes with his star visible. Officer A stated he was investigating a pattern of armed robberies in the 025th District. Officer A related that he was notified by his Sergeant that the employees at that T-Mobile store wished to speak to the police about suspicious persons around their store. Officer A relocated to the T-Mobile Store and entered the back room with employee Witness 2, while Officer B remained in the squad car outside. Officer A stated there were two other employees in the store and they remained in the front. Officer A was told by Witness 2 that suspicious individuals were passing back in forth at the store on multiple occasions. Officer A stated at one point a female employee, now known as Witness 3, entered the back room and spoke to Witness 2. Officer A stated after the female employee returned he heard a male's voice ordering people to get in the back room. Officer A stated he anticipated a robbery and positioned himself against the wall behind the door. Officer A stated the employees walked into the backroom first followed by the subject, now known as Subject 2, who was holding a bag and semi-automatic handgun. Officer A related that he announced his presence, which startled Subject 2. Officer A stated that Subject 2 then turned in his direction and in fear of his life fired his weapon three times in rapid succession in the direction of Subject 2. Officer A related that he knew all the employees were in the back room but he was unable to determine if there was anyone else in the direction he was firing his handgun. Officer A stated as Subject 2 ran towards the exit to leave the store, he turned and pointed his gun back towards Officer A, thus in fear of his life Officer A fired one more round. Officer A stated he did not observe anyone else in the store. Officer A radioed for assistance and stayed on the scene to protect the employees in the back room until assistance arrived.

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A was **Justified** and in compliance with Chicago Police Department policy and Illinois State statutes. According to the Chicago Police Department's General Order 02-08-03, III:

- A. "a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:
1. to prevent death or great bodily harm to the sworn member or to another person, or:
 2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b. is attempting to escape by use of a deadly weapon or;
 - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay."

Officer A was on-duty, inside the T-Mobile Store when an attempted armed robbery by Subject 1 and Subject 2 took place. Subject 2 pointed a handgun at one of the employees and ordered the employee to the back room. Officer A announced his office in the back room and startled Subject 2. Subject 2 dropped his bag and pointed his weapon at Officer A. Officer A fired his weapon at Subject 2. Subject 2 ran towards the entrance where Subject 1 was standing. Subject 2 turned back towards Officer A and Officer A fired his weapon again. Subject 2 and Subject 1 ran out of the store and departed the area. Subject 1 was subsequently located by responding units and was found to have one gun shot wound to his right hand. Two handguns were recovered on the ground near the scene of the robbery. The handguns were tested by the Illinois State Police for DNA and the .45 Caliber handgun was determined to have Subject 1's DNA/blood on it. Officer A stayed in the back room with the employees for their safety.

Officer A followed the statute "to prevent death or great bodily harm to the sworn member or to another person" because he reasonably believed his life and the lives of the T-Mobile employees were in danger when Subject 2 raised his weapon towards him. A reasonable person would believe Subject 2 and Subject 1 could create death or bodily harm to either Officer A or the T-Mobile employees. As Subject 2 and Subject 1 fled the store, Subject 2 turned back towards Officer A and raised his firearm. Officer A fired his weapon in the direction of Subject 2 and Subject 1. Officer A utilized the necessary force as he attempted to stop the threat to his life and the lives of the T-Mobile employees. Officer A is justified in using deadly force because he was preventing deadly harm to himself and the employees at the T-Mobile store.