

INDEPENDENT POLICE REVIEW AUTHORITY
Log #1039363 / U #10-33

INVESTIGATION

NUMBER: Log #1039363 / U #10-33

INVOLVED

OFFICER: “Officer A” (Chicago Police Officer); Male/Black; 32years old;
Off-duty; Plainclothes; Year of Appointment – 2006

OFFICER’S

INJURIES: Treated at Little Company of Mary Hospital for traumatic stress and anxiety

SUBJECT: “Subject 1”; Male/Black; 15 years old

SUBJECT’S

INJURIES: Multiple gunshot wounds.

DATE/TIME: 28 August 2010, 2321 Hours

LOCATION: 1419 W. 79th St.
Beat 612

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SUMMARY OF INCIDENT:

On 28 August 2010, at approximately 2321 hours, off-duty Officer A and his girlfriend, Witness 1, went to the Ribs and Fish Unlimited restaurant to order takeout. There is no inside dining. Officer A and Witness 1 walked past Subject 2 who was standing east of the restaurant's entrance. Subject 1 was also inside the store with several other customers waiting on their orders. Officer A and Witness 1 entered the restaurant and placed their order. While waiting for their order Subject 2 appeared at the entrance of the restaurant. Subject 2 pointed at Officer A and said words to the effect, "Watch that motherfucker." Officer A turned around in an attempt to see who Subject 2 was talking to. Officer A turned and saw Subject 1 holding a handgun and other customers putting money on the floor. Officer A drew his firearm and Subject 1 fired his handgun several times at him. Officer A fired back, striking Subject 1 several times. Subject 1 fell to the floor. Officer A turned and ran after Subject 2, who fled from the restaurant. As he ran out of the restaurant, Officer A instructed the other patrons to call the police. Officer A ran outside but was unable to locate Subject 2. Officer A was unable to get his cell phone to operate so he ran across the street to the White Castle restaurant, identified himself as a police officer, and instructed those employees to call the police.

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On 29 August 2010, CPD Detective 1 and CPD Detective 2 and Assistant States Attorney A attempted to interview **Subject 1** at Christ Hospital in the presence of his mother, [Subject 1's Mother]. Subject 1 invoked his right to counsel and refused to be interviewed. Prior to leaving the hospital, CPD Detective 1 and CPD Detective 2 were stopped by a male subject who asked to remain anonymous but identified himself as a relative of Subject 1. The anonymous relative stated that Subject 1's uncle got him into this situation. The anonymous relative stated that Subject 1's uncle's name is "[First Name]" and that his nickname is "[Nickname]." "[First Name]" was related to [Subject 1's Mother] and lived on Union Ave.

CPD Detective 1 and CPD Detective 2 relocated to Area Two Police Headquarters and conducted a name search regarding "[First Name]." CPD Detective 1 and CPD Detective 2 discovered a Subject 2 who's last known address was XXXX S. Union Ave.

Attempts to interview **Subject 1** in furtherance of this investigation were unsuccessful.

In an interview with CPD Detective 1 and CPD Detective 2 on 25 October 2010, **Subject 2** stated that he is [Subject 1's Mother]'s brother and Subject 1's uncle. The detectives repeatedly confronted Subject 2 with the fact that he had been positively identified in a line-up. Subject 2 asked the detectives, "What's a police officer pointing me out in a line-up for?" The detectives then asked how Subject 2 knew that a police officer was viewing a line-up, or even that a victim in this

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incident was a police officer. Subject 2 replied that he knew because of his yellow shirt and that the officer had a gun out. The detectives told Subject 2, “You shouldn’t give a gun to a baby to do a robbery,” referring to Subject 1. Subject 2 subsequently invoked his right to counsel and the interview was terminated.

In an interview with CPD Detective 1 and CPD Detective 2 on 28 August 2010, **Officer B**, related that he and his partner, Officer C, responded to the location of incident regarding a “10-1” called in by a citizen. Upon arrival, Officer B observed Subject 1 lying on the floor next to a handgun in the northwest corner of the restaurant. Officer B related that he observed that Subject 1 was shot and bleeding. Officer B secured the firearm on the floor and learned from a citizen that Subject 1 was an armed robbery offender. Officer B also learned that an off-duty police officer, Officer A, shot Subject 1.

In an interview with CPD Detective 1 and CPD Detective 2 on 28 August 2010, **Officer C**, stated that when he and Officer B arrived they discovered Subject 1 on the floor in the northwest corner of the restaurant. Officer C stated that Subject 1 had been shot. Officer B immediately secured a handgun that was observed on the floor next to Subject 1. Officer C immediately radioed for an ambulance. Officer C learned that Subject 1 was an armed robbery offender and that an off-duty police officer, Officer A, was involved in the shooting.

In an interview with CPD Detective 1 and CPD Detective 2 on 28 August 2010, **Witness 1**

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stated that she and her boyfriend, Officer A, were returning from the Bears football game and decided to stop and get some food to take home. Witness 1 related that they were in the restaurant for approximately five minutes when she saw a customer suddenly raise his hands. Witness 1 then saw money on the floor and realized that a robbery was taking place. Witness 1 started to alert Officer A when she saw a male subject, Subject 2, standing in the doorway of the restaurant. Witness 1 heard Subject 2 say, "Watch that motherfucker right there" referring to Officer A. Witness 1 looked to see who Subject 2 was speaking to and saw a second male subject, Subject 1, holding a gun. Witness 1 then heard a gunshot. The customer standing next to her jumped on her to protect her and she heard several more gunshots. Witness 1 saw Subject 1, who was bleeding, fall to the floor with the gun by his hand. Officer A chased Subject 2 out of the restaurant, yelling for someone to call "911." Witness 1 got up and went to the front door of the restaurant and saw Officer A running across the street toward a White Castle restaurant.

In a second interview on 28 August 2008 with CPD Detective 1 and CPD Detective 2, witnessed by Assistant States Attorney A, **Witness 1** stated that she was standing next to her boyfriend, Officer A, inside the restaurant when she saw another customer raise his hands in the air and toss money onto the floor. Witness 1 realized that a robbery was taking place and alerted Officer A. Witness 1 heard the person standing in the doorway, Subject 2 say, "Watch this motherfucker right here," referring to Officer A. Witness 1 looked to see who Subject 2 was speaking to and turned and saw another person, Subject 1 with a gun. Witness 1 then heard a gunshot and the customer next to her jumped on her to protect her. Witness 1 heard more gunshots

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and saw Subject 1 fall to the floor. Witness 1 stated that Subject 1 was bleeding and that his gun was on the floor near his hand. Witness 1 stated that Officer A chased Subject 2 out of the restaurant. Witness 1 heard Officer A you out for someone to call "911." Witness 1 stood up and ran out of the restaurant and saw Officer A running across the street toward a White Castle restaurant.

CPD Detective 1 and CPD Detective 2 assembled a photo array containing a photograph of Subject 2 and on 03 September 2010, Witness 1 viewed the photographs and positively identified Subject 2 as the male subject was stood in the doorway at the time of the robbery and subsequent shooting involving Officer A.

Attempts to interview **Witness 1** in furtherance of this investigation were unsuccessful.

In an interview with CPD Detective 1 and CPD Detective 2 on 28 August 2010, **Witness 2**, the night manager of the Ribs and Fish Unlimited, stated that at the time of the shooting he was in the back of the restaurant by the grill when he heard several gun shots. Witness 2 stated that upon hearing the gunshots he fell to the floor and that he did not witness the shooting. Witness 2 also stated that the restaurant's video surveillance system camera was functioning, but that the camera is only for monitoring and does not have recording capability.

In an interview with CPD Detective 3 on 28 August 2010, **Witness 3**, a cashier at the Ribs

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and Fish Unlimited restaurant for twenty-five years, stated that on the night of the incident she was waiting on customers and giving orders to the cooks. Witness 3 stated that there were several customers in the restaurant. Witness 3 was unable to hear what, if anything, was said because she was behind thick glass. Witness 3 heard several gunshots and took cover on the floor. Witness 3 stated that all of the customers that had been inside the restaurant at the time of the shooting left prior to the arrival of the police and fire departments. Witness 3 stated that she did not know the names of any of the customers.

In an interview with CPD Detective 3 on 28 August 2010, **Witness 4** stated that he is employed as a cook at Ribs and Fish Unlimited. Witness 4 stated that he had been working and his cooking station when he heard shooting. Witness 4 ducked down, took cover and did not see anything.

In an interview with CPD Detective 3 on 28 August 2010, **Witness 5** stated that she is employed as a cashier and as a cook at the Soul Food Unlimited Restaurant next door to the Ribs and Fish Unlimited restaurant. Witness 5 stated that at the time of the shooting she was in the restaurant next door to the Ribs and Fish unlimited restaurant and did not witness the incident.

In an interview with CPD Detective 5 on 28 August 2010, **Witness 6** stated that at the time of the incident she was inside Soul Food Unlimited, which is next door to Ribs and Fish Unlimited, when she heard several gunshots. “[Female First Name]” came over and said there was a shooting.

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“[Female First Name]” also called “911.” Witness 6 went into Ribs and Fish Unlimited and saw a gun on the floor.

In an interview with CPD Detective 3 on 28 August 2010, **Witness 7** stated that she was in the office with Witness 6, Witness 5, and [Female Name], when she heard more than ten gunshots. When the shooting stopped Witness 7 went to the front of the restaurant and saw Subject 1 lying on the floor next to a gun. Subject 1 was also bleeding. Witness 7 also saw other people lying on the floor, but could not provide any further information regarding their identities.

In an interview with CPD Detective 3 on 28 August 2010, **Witness 8** stated that as he was working in the “cook pit” of the restaurant, he heard gunshots and took cover on the floor. After the gunshots Witness 8 stated that he saw Subject 1 lying on the floor. Witness 8 saw that Subject 1 was bleeding. Witness 8 also saw a gun on the floor.

In an interview with CPD Detective 3 on 28 August 2010, **Witness 9** stated that he was on 79th St. when he heard seven to eight gunshots. Witness 9 saw people running out of the Ribs and Fish Unlimited restaurant. Witness 9 went to the front door of the restaurant and saw people lying on the floor. Witness 9 asked if anyone was hit and one of the patrons replied, “Yes.” Homes asked the patrons what happened and one of them replied that it had been a “stick-up.” Witness 9 turned to his right and saw a male subject, Subject 1, lying on the floor next to a handgun. Witness 9 also saw that Subject 1 was bleeding. Subject 1 was moving around and Witness 9 said to him, “Don’t move!

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Don't touch that gun!" Witness 9 then saw Officer A walking toward him from across the room. Officer A told Witness 9 what occurred in the restaurant.

In a second interview with CPD Detective 1 and CPD Detective 2 and Assistant States Attorney A, **Witness 9** stated that he was driving his car north on Loomis Ave, about to turn west on 79th St., when he heard several gunshots. Witness 9 saw people running from the Ribs and Fish Unlimited store. Witness 9 also saw people on the street pointing to the Ribs and Fish Unlimited store. Witness 9 parked his vehicle and walked to the Ribs and Fish Unlimited store. Witness 9 stood in the doorway and saw people lying on the floor of the store. Homes stated that he turned to his right and saw a black male, Subject 1, on the floor bleeding. Witness 9 saw a gun on the floor approximately one foot away from Subject 1. Witness 9 asked the people on the floor what happened and a patron told him it was a "stick-up." Witness 9 then told Subject 1, "Don't move and don't touch that gun!" Police officers arrived and Witness 9 told them that there was a gun on the floor. Witness 9 stated that he then saw Officer A walking across the street and that he appeared to be "shaken up." Witness 9 asked Officer A what happened. Officer A informed him that there had been a robbery and that the offenders started shooting. Witness 9 stated that he told a uniformed officer that Officer A was involved in the shooting. Witness 9 stated that he heard Officer A identify himself to the uniformed police officer. The uniformed officer then radioed dispatch, "Shots fired by the police."

In an interview with CPD Detective 4 and CPD Detective 5 on 28 August 2010, White Castle

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Employee **Witness 10** stated that she was the Shift Manager at the time of the incident. Witness 10 stated that she was in the back room of the restaurant when two employees, Witness 11 and Witness 12, ran to the back room and told her there was a guy with a gun in the dining room. Witness 10 went to the front of the restaurant and saw Officer A yelling, “Lock the door! Lock the door! I’m a police officer! I just got shot at and somebody is shot! Call the police! Call the police!” Witness 10 related that she called White Castle Security while other employees called “911 for the police to respond. Witness 10 stated that Officer A went outside before other police officers arrived.

In an interview with CPD Detective 4 and CPD Detective 5 on 28 August 2010, White Castle Employee **Witness 11** stated that Officer A ran into the restaurant yelling, “Call the police! Call the police! I’m the police! Lock the door!” Officer A identified himself as a police officer and showed his police star while waiting in the restaurant for other police officers to arrive. Witness 11 stated that he did not hear gunshots or anything else.

In an interview with CPD Detective 4 and CPD Detective 5 on 28 August 2010, White Castle Employee **Witness 12** stated that he heard four to five gunshots. A short time later Officer A ran into the restaurant identified himself as a police officer and showed his police star. Witness 12 stated that Officer A yelled, “Call the police! Call the police! I’m a police officer! Lock the doors! Call the police!” Witness 12 stated that Officer A then got on his cell phone. Officer A exited the restaurant when other police officers arrived on the scene.

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In an interview with CPD Detective 4 and CPD Detective 5 on 28 August 2010, White Castle Employee **Witness 13** stated that he was sitting in the driver's seat of his vehicle in the parking lot of the White Castle Restaurant. Witness 13 stated that he was parked facing south in the second parking space was of Loomis St., closest to 79th St. Witness 13 stated that he heard several gunshots that originated to the west of his location. Witness 13 was unable to determine exactly where the gunshots came from. After hearing the gunshots Witness 13 saw several men and women run out of the Ribs and Fish Unlimited Restaurant. A short time later Witness 13 saw a black male, Officer A, exit the Ribs Unlimited Restaurant holding a gun in his hand. Officer A ran across the street and into the White Castle Restaurant. Witness 13 telephoned "911" to report what he witnessed. Witness 13 further stated that a short time later Officer A exited the White Castle Restaurant when the first police car arrived. Witness 13 went into the White Castle Restaurant and was told by his co-workers that Officer A asked them to call "911."

In an interview with CPD Detective 4 and CPD Detective 5 on 28 August 2010, White Castle Employee **Witness 14** stated that she was in the back of the restaurant when her co-workers told her that a man with a gun was in the restaurant. Witness 14 went to the front of the restaurant and saw Officer A, who was asking to be allowed into the employee area of the restaurant. Witness 14 saw that Officer A was talking on a cell phone and she heard him say that shots were fired and that he was a police officer. Witness 14 stated that her co-worker, [Female Co-Worker], would not allow Officer A into the employee area. Officer A stated that he was a police officer and showed his police star. Witness 14 stated that she also saw the handle of Officer A's gun. Other officers arrived

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on the scene and Officer A exited the restaurant.

In an interview with CPD Detective 4 and CPD Detective 5 on 28 August 2010, White Castle Employee **Witness 15** stated that she heard approximately six gunshots, and that five minutes later Officer A entered the White Castle Restaurant. Witness 15 stated that Officer A put the gun into his pocket, showed them his police star, and informed them that he was a police officer. Officer A asked an unknown customer to call “911.”

In an interview with CPD Detective 4 and CPD Detective 5 on 28 August 2010, White Castle Employee **Witness 16** stated that she heard eight gunshots. A short time later a police officer, Officer A, ran into the White Castle Restaurant yelling, “Call the police!” Witness 16 was unable to remember anything else.

In an interview with CPD Detective 4 and CPD Detective 5 on 28 August 2010, White Castle Employee **Witness 17** stated that she did not see or hear anything because she was in the back of the restaurant at the time of the incident.

The **Arrest Report** for Subject 1 stated that he was arrested after he was identified as the person who, during the course of an armed robbery, fired multiple shots at off-duty Officer A.

Officer A’s **Tactical Response Report** (TRR) stated that Subject 1 fired a handgun at him.

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Officer A returned fire and discharged his firearm (a Sig Sauer, P229, 9mm, semi-automatic pistol) fourteen times at Subject 1.

The **Arrest Report** for Subject 2 stated that on 24 October 2010, at 1945 hours, at 7135 S. Emerald Ave, he was taken into custody by an Area Two Gang Intelligence Unit for an Investigative Alert. The report stated that on 28 August 2010, Subject 2 was an active participant in an Attempted Murder and Armed Robbery at 1419 W. 79th St. Subject 2 accompanied Subject 1, watched the front door and did not let anyone exit the restaurant. Additionally, Subject 2 told Subject 1 to “watch out” for Officer A. On 24 October 2010, Officers D, E, and F were looking for Subject 2 when they observed him walking in the vicinity of 7135 S. Emerald Ave. The officers exited their vehicle, announced their office and approached Subject 2 to conduct a field interview. Subject 2’s identity was confirmed when he stated that his name was Subject 2. Subject 2 was subsequently transported to Area Two Police Headquarters and processed.

Evidence Technician photographs depict the location of incident. The photographs show several expended casings on the floor of the Ribs and Fish unlimited Restaurant. The photographs also show a dark-colored revolver with a brown handle lying on the floor of the restaurant. The photographs also show what appears to be blood on the floor and wall, as well as several bullet holes in the walls of the restaurant.

The Evidence Technician photographs also depict Subject 1 on a hospital bed covered by a

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blanket.

The recording from **POD #103** did not record this incident.

The **Chicago Fire Department Ambulance Report** stated that on 28 August 2010, at 2311 hours, Ambulance #30 was dispatched to 7900 S. Bishop regarding a gunshot victim. Ambulance #30 arrived at 7900 S. Bishop at 2315 hours and found Subject 1, who sustained multiple gunshot wounds. Subject 1 was shot in the left side of his abdomen, his buttock area, leg, and foot. The report stated that Ambulance #30 departed the location of incident at 2339 hours and transported Subject 1 to Christ Hospital without incident.

The second **Chicago Fire Department Ambulance Report** stated that on 29 August 2010, at 0003 hours, Ambulance #14 was dispatched to 1415 W. 79th St. regarding a victim who was unconscious from an unknown cause. The victim was reported to be off-duty Chicago Police Officer A. Officer A appeared to be suffering from post-traumatic stress syndrome. Officer A did not have any visible injuries but was visibly shaken up. At 0027 hours, Ambulance #14 transported Officer A to Little Company of Mary Hospital without incident.

Medical Records obtained from Little Company of Mary Hospital stated that Subject 1 sustained multiple gunshot wounds to his abdomen, back, buttocks, and left foot. The reports also stated that Subject 1 sustained fractures to his pelvis area. Subject 1 underwent surgery for

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treatment of his injuries.

A report from the **Illinois State Police (ISP) Division of Forensic Services** dated 30 September 2010, indicated that the firearm belonging to Officer A was test fired and found to be in firing condition. The ISP report also indicates that five of the eight fired bullets submitted for comparison were fired from Officer A's firearm. Thirteen of the seventeen expended casings submitted for comparison were fired from Officer A's firearm. The ISP report also stated that the remaining three fired bullets were examined and determined to have been fired from the same firearm.

A report from the **ISP Report** dated 24 March 2011 indicated that Subject 1's firearm arrived at the laboratory; it was checked and appeared to function properly. From the time it arrived at the laboratory until it was received in the firearms section, Subject 1's firearm became rusted and inoperable. Subject 1's firearm was restored to an operable condition and test shots were fired. It was determined that three of the fired bullets and four of the expended casings were fired from Subject 1's firearm.

The **ISP Report** dated 14 February 2011, indicated that examination of Subject 1's firearm revealed no latent impressions suitable for comparison.

The **ISP Report** dated 24 March 2011, indicated that examination of the swab of Subject 1's

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firearm determined that a human male DNA profile was identified on the firearm, and that it matched the DNA profile of Subject 1. Further examination determined that the DNA found on Subject 1's firearm did not match Subject 2's DNA profile.

In an interview with CPD Detective 1 and CPD Detective 2 on 28 August 2010, **Officer A**, related that he was on his way home from the Chicago Bears football game with his girlfriend, Witness 1. Officer A stated that they decided to stop at the Ribs and Fish Unlimited restaurant to get some food to bring home with them. Officer A related that after he had placed the order he and Witness 1 waited in line with other patrons. Officer A stated that while they were waiting two subjects entered the restaurant. The first subject, Subject 1, walked to the northwest corner of the restaurant while the second subject, Subject 2, stood in near the doorway. Officer A stated that Witness 1 then said words to the effect, "Look! They're sticking the place up!" One of the other customers started to leave but Subject 2 prevented him from exiting the restaurant. Subject 2 then said, "We're getting all you motherfuckers in here tonight." Subject 2 then pointed at Officer A and said, "Watch that motherfucker right there." Officer A then looked at Subject 1, who was standing over money that was on the floor. Officer A saw Subject 1 pointing a dark colored handgun. Officer A stated that he unsnapped his firearm's holster and that Subject 1 fired one shot at him. Officer A stated that he heard the shot, heard the bullet fly past his head, and then heard the fired bullet strike the support post behind him. Officer A then discharged his firearm at Subject 1 approximately two times. Officer A and Subject 1 continued to shoot at each other several more times, and Subject 1 subsequently fell to the floor.

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After the shooting, Officer A exited the restaurant to apprehend Subject 2, but Subject 2 was able to escape. Officer A ran across the street to the White Castle Restaurant, identified himself as a police officer to the employees, informed them that there had been a shooting, and asked them to call for the police and an ambulance. Officer A then spoke to Witness 9, with whom he is acquainted from an anti-violence community group. Officer A then identified himself to the responding police officers. After speaking with the detectives, Officer A was transported to Christ Hospital to be treated for traumatic stress and anxiety.

In a subsequent interview on 28 August 2010 with CPD Detective 1 and CPD Detective 2 and Assistant States Attorney A, **Officer A** provided essentially the same account of the incident he gave in his first interview.

In an interview with IPRA on 29 August 2010, **Officer A** stated that on the night of the incident he was off-duty and that he and his girlfriend, Witness 1, left the Chicago Bears football game and went to the Ribs Unlimited restaurant at 79th and Loomis. Officer A and Witness 1 entered the restaurant and ordered food. There were approximately seven other patrons inside the restaurant at the time of the incident. Officer A stated that after he placed his order Witness 1 noticed two male subjects robbing the place. Officer A saw a male subject, Subject 2, standing in the doorway of the restaurant and forcing another patron back into the restaurant. Subject 2 then pointed at Officer A and said, "Watch that motherfucker right there." Officer A turned and saw a

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second subject, Subject 1, inside the restaurant. Subject 1 was holding a black handgun with a brown handle in his hand and he was demanding that the patrons put their money on the floor. Officer A reached for his firearm. Subject 1 fired one shot at him. Officer A stated that he then fired his gun several times at Subject 1. Officer A stated that he and Subject 1 shot at each other several times. Subject 1 stopped firing and said words to the effect of, "Oh shit." Officer A stated that other patrons began to run out of the restaurant.

Officer A stated that he exited the restaurant to look for Subject 2. Officer A stated that he did not know which way Subject 2 fled. Officer A attempted to call 911 on the cell phone he purchased the day before this incident, but was unable to unlock it. Officer A stated that he then ran across the street to the White Castle Restaurant to call the police. Officer A stated that he never went back inside the Ribs and Fish Unlimited restaurant.

CONCLUSION AND FINDING:

This investigation found that Officer A's use of deadly force was in compliance with Chicago Police Department policy. 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 involved the infliction, threatened infliction, or threatened use of physical force like to cause death or great bodily harm;
 - b. attempted 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's actions met the requirements of the Department's deadly force policy. Officer A

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provided separate and consistent accounts of the incident, that during the execution of an armed robbery Subject 1 pointed and fired a handgun at him. Fearing for his safety, and the safety of the other patrons inside the restaurant, Officer A discharged his firearm at Subject 1.

Officer A's account that Subject 1 had a handgun is corroborated by the witness, Witness 1. Witness 1 stated that she saw Subject 1 holding a handgun when the shooting began. Furthermore, several witnesses stated that they saw a handgun on the floor of the restaurant near where Subject 1 had fallen.

The gun, a revolver, was recovered on the floor where Subject 1 is reported to have fallen after being shot. The DNA profile on the gun was determined to match Subject 1's DNA profile.