

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1045332/U#11-21

**INVESTIGATION**

**NUMBER:** Log #1045332/U#11-21

**OFFICER**

**INVOLVED #1:** “Officer A” (Chicago Police Officer); Male/White; 31 years old;  
On-duty; In Uniform; Year of Appointment – 2006

**OFFICER**

**INVOLVED #2:** “Officer B” (Chicago Police Officer); Male/White; 36 years old;  
On-duty; In Uniform; Year of Appointment – 2006

**SUBJECT:** “Subject 1”; Male/Black; 30 years old

**SUBJECT**

**INJURIES:** Gunshot wound to the right side of chest, deceased.

**INITIAL**

**INCIDENT:** Officers observed two male subjects in dark clothes and hoodies run into  
the JJ Peppers Convenience Store

**DATE/TIME:** 11 May 2011, at 0132 hours

**LOCATION:** 659 West 31<sup>st</sup> Street–inside JJ Peppers Convenience Store  
**Beat 924**

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**SUMMARY OF INCIDENT:**

On 11 May 2011, at 0130 hours, Officers A and B, were on duty, in uniform, driving westbound on 31<sup>st</sup> Street, in a an unmarked police vehicle, en route to get gasoline at 3900 S. Iron. When Officers A and B approached the stoplight at Union Avenue, Officer A observed two (2) male subjects in dark clothing wearing hooded sweatshirts, or “hoodies,” run into the JJ Peppers Convenience Store (659 W. 31<sup>st</sup> St). Based on their observations, Officers A and B pulled into the JJ Peppers parking lot and exited the vehicle. The two male subjects displayed a weapon and demanded money from store clerk Witness 1. Officers A and B then observed one of the male subjects, now identified as Subject 1, jump over the service counter, while the other subject, now identified as Subject 2, was observed with a gun in his hand. Initially, Subject 2 went to the front door, but then retreated to the rear of the store, giving the gun to Subject 1 as he passed him. Officers A and B approached the front entry door and announce their office. Subject 1 went to the front entry door, opened it, and immediately fired his weapon at both Officers A and B. Officers A and B returned fire and struck Subject 1, fatally wounding him. Subject 1 was pronounced dead at the scene. Subject 2 fled out of the rear store exit and made good his escape on foot. <sup>1</sup> A gold/tan minivan, located at the rear exit of the JJ Peppers, was found to be the vehicle driven by Subject 1 and Subject 2 to commit the robbery. The vehicle contained a rifle, a magazine for the rifle, and cartridges.

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<sup>1</sup> Subject 2 was subsequently apprehended on 23 Aug 2011 after he was identified via fingerprints obtained at the scene.

**INVESTIGATION:**

In a statement to the IPRA on 12 May 2011, **Involved Officer A** stated he and Officer B were in an unmarked squad car driving westbound and stopped at the stop light at 31<sup>st</sup> Street and Union Avenue. Officer A, who was driving, observed two male subjects, with their hoods up, running into the JJ Peppers Convenience store through the front door.<sup>2</sup> Officer A told Officer B words to the effect of "I think there is a robbery happening." Officer A pulled into the parking lot and observed one of the male subjects, now identified as Subject 1 jumping over the counter.

Officer A exited his vehicle and approached the store's entrance as he announced his office. Officer A's view into the store was obstructed by items in the windows and he did not see that Subject 1 had a gun in his hand. Officer A was approximately five to ten feet from the door when he saw muzzle flashes right in front of his face coming from Subject 1, who was approximately five to ten feet in front of him, in the doorway of the convenience store. Officer A stated that there was no place to seek immediate cover, so he retreated, sought cover behind his vehicle and returned fire. Officer A estimated that he was between five and ten feet from Subject 1 when he fired. Officer B was behind and to Officer A's left. Subject 1 did not say anything to the officers before he began firing. Officer A instructed Subject 1 to drop the gun several times. Officer A fired until Subject 1 fell to the ground.

Officer A could not recall how many times he discharged his weapon, but later learned he fired seven (7) times. Officer A did not recall when he un-holstered his weapon. Officer A related that he was completely focused on eliminating the threat (Subject 1) and did not realize that Officer B had fired his weapon until Subject 1 was on the ground and both officers stopped firing their weapons. Officer A yelled to Officer B to tactically reload because he believed that shooting from the store would start again, possibly from the second subject inside the store. Officer A also reloaded his magazine. Officer A observed Subject 1 lying in the doorway of the convenience store with his gun right next to him as he and Officer B began approaching. Officer A took Subject 1's gun and moved it from Subject 1's reach as he believed that someone, either Subject 1 or Subject 2, would start shooting again. Officers A and B did not enter the convenience store because they could not see Subject 2 and did not know his location inside of the store.

Officer A got on the radio and requested assistance on locating Subject 2. Officer A recovered Subject 1's gun and held it until he turned it over to a Supervisor. Officer A related that he held Subject 1's gun until a supervisor came for his protection as well as that of other officers. Officer A did not believe that Subject 1 had been affected by the gunshots and thought Subject 1 would grab the gun and begin firing at him and other officers. Officer A stated that he did not see Subject 1 or Subject 2 again after Subject 1 was removed from the crime scene

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<sup>2</sup> Officer A did not know the race of the male subjects he observed running with their hoods up.

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In a statement to the IPRA on 12 May 2011, **Involved Officer B** stated that while he and Officer A were en route to get gas, Officer A observed two (2) subjects wearing black hooded sweatshirts or “hoodies” and stated words to the effect of “I think there is a robbery in progress.”<sup>3</sup> Officer B observed one of the male subjects, Subject 1, jump over the counter of the store. Officer B exited the vehicle, drew his weapon, positioned himself behind a fuel pump/brick wall and waited for Subject 2 and Subject 1 to exit. Officers A and B announced their office. Officer B attempted to look inside the store, but his view was obstructed because of advertisements on the windows. Officer B observed one of the subjects “pop” his head up and look outside. At this point, Subject 1 exited the store, pointed his gun and began firing at Officers A and B. Officer B returned fire in fear of both his life and Officer A’s life. Officer B related that the incident happened quickly and that he returned fire after he observed the muzzle flash from Subject 1’s weapon. Officer B did not recall how many times Subject 1 fired and believed that it was two or three. Officer B related that he immediately returned fire and believed he fired six to seven times, then re-loaded his gun. Officer B positioned himself behind the brick wall for cover.

Officer B stated he was approximately fifteen (15) feet from Subject 1 when he fired, and that Officer A was to his right using the squad car for cover. Officer B related that he fired until he did not see the threat (Subject 1). Officer B re-loaded his weapon because he feared that the second subject, Subject 2, would exit the store and also begin firing at him and Officer A. Officer B radioed a 10-1 when he stopped firing. Officer B remained in his position behind the brick wall because he did not know Subject 2’s location. Once additional units arrived on the scene, Officer B and the responding officers approached the convenience store to look for Subject 2. One of the officers broke the store window with his ASP and entered the store. Upon doing so, Officer B located a male subject, who he would later learn was the store clerk, Witness 1, by the cash register.<sup>4</sup> Officer B related that the responding officers went to look for Subject 2 inside the convenience store, while Officer B remained outside.<sup>5</sup> Officer B did not know if he struck Subject 1 because he never approached him. Officers A and B were taken from the scene to Northwestern Memorial Hospital via ambulance. Officer B did not see Subject 2 after Subject 2 entered the store.

A **canvass** was conducted and multiple witnesses were located and interviewed.

In a formal statement to the IPRA, **Witness 1** stated that he was working at the JJ Peppers store by himself at approximately 0130 hours when a black male entered the store wearing a black mask that covered his face. The man pointed a small black pistol at Witness 1 and told Witness 1 to open the register and give him the money. A second later, another black male entered the store with is face covered, struck Witness 1 in the face, and instructed Witness 1 to open the register. The second male also instructed Witness 1 to get down on the floor, so Witness 1 opened the register and laid down on the floor behind the counter. The first male to enter yelled

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<sup>3</sup> Officer B recalled he said this because the two males had hoodies on and it was approximately “70-80 degrees out.”

<sup>4</sup> Officer B knew that Witness 1 was not one of the shooters as he was not wearing a black hooded sweatshirt.

<sup>5</sup> Officers were unable to locate Subject 1 in the store, prompting them to believe he might have barricaded himself in the bathroom of the store. The Specialized Weapons and Tactics Team “SWAT” arrived and after a search of the store determined that Subject 2 was not hiding in the store and had made good his escape.

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that the police were coming. He threw the gun over the counter and ran out the back door. The second male grabbed the gun, jumped over the counter and walked towards the entrance of the store. Shortly thereafter, Witness 1 heard approximately two to three gunshots and heard the glass windows of the store breaking. Witness 1 did not see who was firing a gun because he was still down on the floor behind the counter. Witness 1 could hear police sirens and stated he picked up the phone and requested help. A Police officer entered the store through the broken window and Witness 1 showed the officer his hands before being escorted from behind the counter to a squad car outside.

In a formal statement to the IPRA, **Witness 2**, who was identified during the IPRA canvass, stated she was home, in her living room, when she heard three gunshots. Witness 2 got up and looked out of her living room window, which faces the JJ Peppers store and parking lot, and observed a uniformed police officer behind a squad car talking on a police radio. Witness 2 heard the officer state, "Robbery in progress, he almost took my freakin' head off!" Witness 2 observed a second officer walk backwards as if looking for shelter as she heard more shots being fired. Witness 2 could not see who was shooting, but could see muzzle flashes coming from inside the store. Witness 2 heard several more gunshots being fired. Witness 2 observed the officer by the squad car returning fire and heard those gunshots as well. Witness 2 woke up her husband, Witness 4, and daughter Witness 3, who were sleeping, and they also watched from the window. Witness 2 observed additional officers respond, then observed a person's body on the ground between the main entrance to the store and a toy machine at the entrance. Witness 2 was unable to give full descriptions of the officers on the scene or of the individual lying on the ground at the store entrance, but stated that the parking lot and street were well lit. Witness 2 also observed officers approach the male lying on the ground and remove a gun, but did not actually see the gun on the ground near the male before officers removed it.

In a formal statement to the IPRA, **Witness 3**, who was identified during the IPRA canvass, stated she was home sleeping when she heard a loud popping noise. She got up and looked out of her kitchen window, which faces directly toward the JJ Pepper's convenience store/gas station. Witness 3 observed a male uniformed officer behind the passenger door of an unmarked white Ford Crown Victoria. Witness 3 stated the parking lot was well lit and street lights around the JJ Peppers were activated as well. Witness 3 could not see the officer's face, but could see that the officer had dark hair. Witness 3 heard the officer yell into his radio, "He just shot at me and almost took my freakin' head off!" Witness 3 then heard several more gunshots and heard the officer yell into the radio, "They're shooting at me!" Witness 3 did not see any gunshots fired, but saw the glass windows shatter because of the gunshots. Witness 3 could not see inside of the store from her window, but could see the main entrance and a toy machine at the front of the store. Witness 3 then observed a male lying on the ground at the entrance of the store but did not see when he fell or how he got to the ground. Witness 3 did not know if the male was the shooter. After approximately 10-15 minutes, Witness 3 observed a group of officers approach the male on the ground and open the door to the store. Witness 3 then observed an officer grab a black gun by the "butt" or handle that was next to the male lying on the ground and throw the gun outside the door. As the officer did this, other officers broke one of the windows of the store and grabbed the male store clerk, whom Witness 3 described as being

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“Arabian,” out of the store. Witness 3 heard officers yell into the store, “This is the police, this is the police, you need to come out, put your hands up!”

In a formal interview to the IPRA, **Witness 4**, who was identified during the IPRA canvass, stated he was home sleeping when he heard four gunshots in rapid sequence. Witness 4 got up and looked out of the living room window, which has a view directly toward JJ Peppers convenience store/gas station. The parking lot was well lit; however, Witness 4 could not give descriptions of the officers. Witness 4 observed four uniformed officers hiding behind gas pumps in the parking lot of JJ Peppers and heard one of the officers yell, “He almost took my freakin’ head off!” Witness 4 moved to the window in his kitchen and observed several officers approach and remove a gun from a male lying on the ground at the entrance of the store. Witness 4 was unable to describe the male on the ground or any of the officers on the scene. Witness 4 did not see anyone shooting a gun and only heard gunshots.

In a formal interview to the IPRA, **Witness 5**, who was identified during the IPRA canvass, stated she was home, in the front room of her residence, when she heard gunshots outside. Witness 5 initially heard two gunshots then another six to seven gunshots. Witness 5 stated the gunshots sounded like they were coming from the alley adjacent to her residence, which also runs parallel to the rear of the JJ Peppers store. Witness 5 exited her residence, walked towards the front of the residence and looked down the alley. Witness 5 observed a tan-colored van, possibly a Dodge Caravan, parked in the alley between her fence and the back exit of the JJ Peppers store. Witness 5 also observed two police officers standing near their squad cars which were parked toward the front of the JJ Peppers store. The officers were yelling toward the front of the JJ Peppers store for someone to raise their hands, drop their weapons and walk outside. Witness 5 heard additional gunshots coming from the front of the JJ Peppers store as the officers continued to yell. Seconds later, additional squad cars arrived and Witness 5 heard more gunshots fired. A squad car pulled into the alley and the officers inside instructed Witness 5 to go inside her home. Witness 5 attempted to explain that the tan van did not belong in the alley, but she complied and stood near her front door. Officers instructed Witness 5 to go into her basement and she complied, but later went back upstairs. Witness 5 then gave the officers permission to use her home to watch the back of the store. At approximately 0200 hours, Witness 5 and her family were escorted out of her home for their safety. They returned at approximately 0700 hours.

In a formal interview to the IPRA, **Witness 6**, who was identified during the IPRA canvass, stated he was at home watching television when he heard gunshots outside. Witness 6 went outside through the rear of his home and observed an older white Crown Victoria unmarked squad car parked at an angle, in the parking lot of the JJ Peppers store. Witness 6 was facing a vacant lot and alley that faced west and south of 31<sup>st</sup> Street and Union. Witness 6 observed a male standing behind the driver’s side door of the squad car, holding a gun pointed at the store. Witness 6 heard the officer yell, “Get down on the ground!” several times and heard gunshots before and after the officer yelled. Once the shooting stopped, Witness 6 walked further into the lot and observed a body on the ground near the main entrance to the JJ Peppers store. Witness 6 observed a group of officers approach the main entrance and body on the ground as they yelled for someone to drop the gun. Witness 6 observed an officer kick an object that Witness 6 thought was a gun, although he could not see what the officer kicked; he only heard a metal sound when

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the officer kicked it. The officer then picked up the object and threw it further away from the person lying on the ground.

The **Chicago Police Department (CPD) Major Incident Notification Detail** provided an account of the incident which was consistent to the Summary of Incident.

The **Evidence Technician photographs and Video Tape** depict the location of the incident; the body of Subject 1; the tan minivan driven by Subject 1 and Subject 2; and locations of recovered evidence.

The **Tactical Response Reports** from the involved officers indicate that Officer A fired his weapon seven (7) times and Officer B fired his weapon nine (9) times.

**Department reports, including the Case Supplementary Report**, include accounts of the incident that are consistent with the Summary of Incident.

The **Office of Emergency Management Communications (OEMC)** Event Query and CD provide information consistent with the Summary of Incident. The OEMC Event Query further indicates that Officers A and B requested assistance at 0133 hours and stated a man had been shot during a robbery; additional information indicated that one offender was still inside the store and was possibly armed with a rifle; the bomb and arson unit was requested along with a robot to enter to determine if the second offender was barricaded in the store; a jacket was located at 3126 South Lowe; a gold minivan was located at the rear of the JJ Peppers store; a 911 call was placed at 0137 hours by the JJ Peppers store clerk, who stated he was being robbed and requesting police; at 0626 hours the scene was cleaned and turned over to the district.

A report from the **Illinois State Police, Division of Forensic Services (ISP)**, dated 25 May 2011, reflects latent prints lifted from Subject 1's handgun, a magazine (from the handgun), a rifle recovered from the minivan and multiple live rounds, revealed latent prints suitable for comparison.<sup>6</sup> The comparison revealed the fingerprints belonged to Subject 1 and Subject 2.<sup>7</sup>

An **ISP report** dated 20 May 2011 reflects that of the fired evidence recovered at the scene and at the autopsy, nine (9) fired cartridge cases (recovered from the pavement of the gas station) were fired from Officer B's weapon; one (1) fired bullet jacket fragment (located inside of JJ Peppers), seven (7) fired cartridge cases (recovered from the pavement of the gas station) and one (1) fired bullet (recovered from the Medical Examiner) were fired from Officer A's weapon.<sup>8</sup> Officer B's weapon was examined, found to be in firing condition and was test fired. Officer A's weapon was examined, found to be in firing condition and test fired.

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<sup>6</sup> Evidence locations were determined by cross-referencing the Crime Scene Processing Reports, Evidence Technician photograph markers and inventory numbers with the ISP reports.

<sup>7</sup> An ISP report dated 26 May 2011 reflected that latent prints obtained from an additional magazine and cartridges recovered from the vehicle revealed no latent prints suitable for comparison.

<sup>8</sup> The ISP report dated 22 June 2011 also indicates that of the recovered evidence at the scene, three (3) bullet fragments and one (1) fired bullet (all recovered inside of JJ Peppers) could not be identified or eliminated as having been fired from either Officer A or Officer B's guns, but were not fired from Subject 1's gun; one (1) bullet

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An **ISP report** dated 14 June 2011 reflects that a primer gunshot residue (PGSR) sample recovered from a glove identified as Subject 1's was examined and the results indicated that the sampled area contacted a PGSR-related item or was in the environment of a discharged firearm.

An **ISP report** dated 04 August 2011 indicated that DNA obtained from a recovered face mask revealed that there was a mixture of DNA, interpreted as being from two people. A major human male DNA profile was identified and was associated with Subject 2. A minor human male DNA profile was also identified and associated to Subject 1 from buccal swabs obtained from Subject 1.

An **ISP report** dated 28 October 2011 indicated that Subject 1's weapon a Hi-Point gun, and the rifle recovered inside of the minivan were examined, found to be in firing condition and test fired.

The **Medical Examiner's Report of Postmortem Examination** and photographs, dated 11 May 2011, indicates that Subject 1 had a gunshot wound on the right side of his chest. The wound coursed from front to back, right to left. The bullet perforated the right lung, the pulmonary artery and the ascending thoracic aorta. A deformed large-caliber copper-jacketed lead bullet was recovered from the thoracic vertebral body. The cause of death was a single gunshot wound to the chest. The manner of death was homicide. The results of the toxicological analyses were negative for ethanol, benzoylgonine and opiates. Medical Examiner photographs depict the body, injuries and clothing of Subject 1.

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fragment and one (1) unfired bullet (both recovered from inside JJ Peppers) were not suitable for further microscopic comparison.



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**CONCLUSION AND FINDING:**

This investigation found that the use of deadly force by Officers A and B was in compliance with Chicago Police Department policy. According to the Chicago Police Department's General Order 02-08-03, Section 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.

The actions of Officers A and B were in accordance with the both conditions of the Chicago Police Department's deadly force policy. Officer A observed Subject 1 and Subject 2 wearing dark colored "hoodies" on a warm late evening/early morning as they ran towards and then into the JJ Peppers Convenience Store. The suspicious actions were indicative of what was going to occur. Upon their arrival at the store as they exited their vehicle they observed Subject 1, jump over the service counter. Officers A and B approached the front entry door and announced their office. Subject 1 exited the convenience store and fired his weapon at Officers A and B. Officers A and B returned fire and struck Subject 1, fatally wounding him.