

INDEPENDENT POLICE REVIEW AUTHORITY
LOG #1047430 / U #11 - 44

INVESTIGATION

NUMBER: Log #1047430 / U #11 - 44

OFFICER

INVOLVED #1 "Officer A" (Chicago Police Sergeant); Male/White; 48 years old;
On- Duty; In Uniform; Year of Appointment - 1986

OFFICER'S

INJURIES: Lacerations about the left and right side of the face including a laceration over the left eye; swelling about the bridge of the nose; bruise on the left calf area; laceration on the right index finger; a bruised upper lip; and a fractured left knee. Treated at Northwestern Hospital.

OFFICER

INVOLVED #2 "Officer B" (Chicago Police Officer); Female/White; 46 years old;
On- Duty; In Uniform; Year of Appointment - 2000

OFFICER'S

INJURIES: Bruises and abrasions to the body; severe headache; sore neck and swollen left arm. Treated at West Suburban Hospital in Oak Park, IL.

SUBJECT: "Subject 1"; Male/Black; 35 years old

SUBJECT'S

INJURIES: Fatal Gun Shot Wound in the mid-left chest area and pronounced at Mt. Sinai Hospital.

DATE/TIME: 03 August 2011, at approximately 1340 hrs.

LOCATION: XXX N. Latrobe Avenue, Basement.

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SUMMARY OF INCIDENT:

This investigation, in conjunction with information gained through Chicago Police Department records, revealed the following:

On 03 August 2011, at approximately 1325 hours, Officer A and Officer B received an OEMC call of a Domestic Disturbance and a Person with a knife. The victim, Victim 1 alleged that she had been threatened by her nephew, Subject 1, regarding a dispute over money that she owed him. Officer B and Officer A arrived at the location at approximately the same time. Victim 1 informed the officers that Subject 1 was in the basement. Officer A led the way to the basement and called out to Subject 1. Subject 1 told Officer A that he had not done anything wrong and that Victim 1 owed him money.

Officer A informed Subject 1 that he was going to be handcuffed for officer safety, at which time he became combative. Subject 1 allowed one wrist to be cuffed but pulled away abruptly. Officer A and Officer B discharged O/C Spray at Subject 1. Subject 1 tackled Officer A and repeatedly punched him about the head. Officer A issued multiple commands to Subject 1 ordering him to stop, but Subject 1 did not comply. Officer A radioed for assisting units.

As Officer A was being punched, he felt that he may lose consciousness. Officer A instructed Officer B to shoot Subject 1. Officer B was afraid that she might accidentally shoot Officer A and instead began to strike Subject 1 with her hands. Subject 1 continued striking Officer A. Officer B called a 10-1 to assist she and Officer A. Officer A felt a tug at his gun, at which point he felt that Subject 1 was going to kill him. Officer A was able to free one hand and unholstered his gun and placed it on the left side of Subject 1's chest and fired one shot. Officer A got up and determined that Subject 1 was no longer a threat. Officer A requested an ambulance and notified OEMC that shots had been fired by the police.

Paramedics transported Subject 1 to Mount Sinai Hospital, where he was later pronounced. Officer A and Officer B were taken to separate hospitals where they were treated for their injuries.

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The **Department Reports** indicate that officers responded to a domestic disturbance at XXX N. Latrobe. Officer A and Officer B were met by Victim 1 upon their arrival. Victim 1 related that she called the police because her nephew, Subject 1, was upset about money that she owed him. Subject 1 brandished a knife and threatened to “kick her face in.” According to Victim 1, she feared for her safety and she telephoned 911. The Departmental reports are consistent with the summary within this report, and the statements provided by the involved officers.

The **Tactical Response Report (TRR) for Officer A** documented that Subject 1’s actions were that of an assailant: deadly force. Officer A’s response to Subject 1’s actions included utilizing O/C Spray, a knee strike and his firearm.

The **Battery Report for Officer A** documented that he received non-fatal, minor injuries and that Subject 1 used his hands / fists as his type of weapon / threat.

The **Tactical Response Report (TRR) for Officer B** documented that Subject 1’s actions were that of an assailant in that he became combative; tackled Officer A and repeatedly punched Officer A about the head. Officer B’s response to Subject 1’s actions included the utilization of O/C Spray and closed hand punches / elbow strikes.

The **Battery Report for Officer B** documented that she received non-fatal, minor injuries and that Subject 1 used his hands / fists and feet as his type of weapon / threat.

The **Chicago Fire Department Ambulance Report** documented that Subject 1 was found unresponsive and in severe distress from a gunshot wound to the chest. Subject 1 was transported to Mt. Sinai Hospital. The CFD Ambulance Report for Officer A indicated that he had multiple contusions to his face, lips and nose; a ligature mark on his left wrist; a laceration to his right index finger; and pain and swelling to his left knee. He denied any loss of consciousness or neck or back pain. Officer A informed emergency personnel that he was repeatedly struck in the face with fists. Officer A was transported to Northwestern Hospital. CFD Reports further indicated that Officer B had tearful eyes. She informed emergency personnel that she was maced. Officer B was transported to West Suburban Hospital for treatment.

The **Detectives’ Supplementary Reports** reflect the accounts of the incident that are consistent with the Summary of the Incident, the accounts provided by the involved officers and the evidence recovered during the investigation. Reports further indicate that Subject 1 was shot by Officer A, after he (Subject 1) attacked Officer A. Victim 1, Subject 1’s Mother, Witness 1, Witness 2, Witness 3, Witness 4, Witness 5 and Witness 6 all provided interviews at Area 5 stating that they all heard Subject 1 state that he was going to “kick her (Victim 1) face in.” During her interview with detectives, Victim 1 stated that she met the officers at the front door. After speaking with the police, Victim 1 stated that she wanted Subject 1 out of the house and that she would sign a complaint against him. Victim 1 directed the police into the basement. Her sister, Subject 1’s Mother told her to go upstairs, to which she complied. Victim 1 stated that when the fighting started in the basement, she could hear her sister yelling at Subject 1 to stop fighting and to cooperate. According to Victim 1, she then heard one gunshot. As the police sergeant appeared from the basement, he was covered with blood. Victim 1 heard the police sergeant state, “He wouldn’t stop, I had to shoot him, I had

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no choice.” When asked by detectives about Subject 1’s behavior, Victim 1 stated that he had been acting very strange.

During her interview with detectives, Subject 1’s Mother stated that after her sister directed the officers to the basement, she went down to the basement behind the officers and stood just outside the bedroom door to the basement. She further stated that she could hear the officers instruct her son to put his shoes on and he responded by telling the officers that he had not done anything wrong. Her son put his shoes on and was then asked by the officers to stand and place his hands behind his back. According to Subject 1’s Mother, she could not observe everything that was taking place however she could hear the officers instruct her son to place his hands behind his back a second time. She observed the male officer put one handcuff on her son and watched him pull away. Subject 1’s Mother explained that she observed her son fighting with the officers and he was subsequently maced. She further explained that she repeatedly shouted for her son to stop fighting, to do what the officers said and to stop resisting. As Subject 1’s Mother turned to walk back up the stairs, she observed her brother, Witness 2 coming down the stairs. She instructed him to go back upstairs and not to go downstairs. Subject 1’s Mother heard one gunshot and observed the sergeant with blood all over his face and shirt. She further explained that she observed the female officer standing in the room, while her son was on the floor. When asked by detectives about Subject 1’s behavior, Subject 1’s Mother stated that her son had been acting very strange, using drugs and getting drunk a lot lately. She further went on to say that she had been seeking mental help for him.

The related Civil Suits, Subject 1’s Mother (Administrator of the Estate of Deceased Subject 1) V. City of the Chicago, Officer A and Officer B (12 L 8468) documented that while Subject 1 was in his bed, the aforementioned officers acting in concert willfully and wantonly began striking and grabbing Subject 1. It is further alleged that Officer A carelessly and negligently handled his weapon and shot Subject 1 when circumstances did not employ the use of deadly force. The civil suit further alleged that Officer B carelessly and negligently failed to deter Officer A from employing deadly force. It is further documented that Subject 1 suffered great bodily harm and expired from his wounds. The above state civil suit was dismissed and Civil Suit 12 C6451 was filed in Federal Court on 15 August 2012 and a second amended complaint was filed on 06 March 2013.

Numerous attempts were made to contact and interview Subject 1’s Mother, Witness 7, Victim 1, Witness 2, and Witness 1. They declined to be interviewed by the responding investigators on 03 August 2011, at Area 5, but were interviewed by detectives. A business card was provided. Two certified letters, several telephone calls to the above and a telephone call to their attorney were never responded to.

The OEMC Reports were collected and made part of this case file. An analysis of said documents shows information that is consistent with the facts as related by the involved officers.

Evidence Technician Photographs depict the location of the incident and the recovered evidence; the single gunshot wound to Subject 1; Officer A’s injuries; and Officer B’s injuries. The photographs are consistent with the information officers related in their statements.

Illinois State Police Forensic Science Laboratory Reports document the examination of the recovered ballistic evidence, in comparison to the firearm belonging Officer A. It was determined that a single fired cartridge case was recovered and was fired from Officer A’s

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Colt, King Cobra, 357 Magnum Caliber Revolver, Serial #KC3363. The weapon was found to be in proper firing condition.

The Medical Examiner's Report and Photographs indicates that Subject 1. was examined on 04 August 2011, at 0810 hours by Doctor A. According to the Postmortem Report, Subject 1 had a single contact range gunshot wound of the chest involving the heart, diaphragm and the liver. The manner of death is homicide.

In an audio recorded statement to IPRA, Officer B related the facts concerning her involvement in this event in a manner consistent with the Departmental Reports, and the Summary contained within this report.

Officer B related that as she and Officer A approached the residence at XXX N. Latrobe, they were met by a woman who stated that she wanted her nephew, Subject 1 out. The woman, now known as Victim 1 related that Subject 1 had disrespected and threatened her and was in the basement. Officer A entered the basement first and Officer B followed behind him. As Officer A walked down the stairs, he called out to Subject 1 and identified himself as the police. Subject 1 responded to she and the sergeant. Upon approach, Officer B indicated that Subject 1 was lying in his bed on his back. She described Subject 1 as possibly 5'9", and a heavy man. Officer B stated that Officer A spoke with Subject 1 about the situation and Subject 1 admitted that his aunt owed him money. Accordingly, Subject 1 did not deny that he had pulled a knife on his aunt. Officer B explained that she never observed a knife. Officer A asked Subject 1 to stand up and Subject 1 complied. Officer A explained to Subject 1 that he was going to handcuff him for his safety and theirs, just until they were able to find out what was going on. Officer A handcuffed Subject 1's right arm but Subject 1 did not make any motion to place his left arm behind his back. Officer B stated that she went over to Subject 1 and grabbed his left arm in an attempt to place it behind his back. Subject 1 spun away from them and faced them in an aggressive manner.

According to Officer B, they formed a triangle and she and Officer A dispensed their O/C spray at Subject 1, to which he became enraged. Subject 1 grabbed Officer A and they hit the wall. Officer B stated that it was at that time that she called for more cars. Subject 1 then tackled Officer A and they fell onto the bed. Subject 1 was on top of Officer A punching him in the face. Officer B stated that she could not see Officer A. She attempted to pull Subject 1 off of the sergeant and she began to punch Subject 1. Officer A instructed her to shoot Subject 1. Officer B related that she unholstered her gun and put it back. She further related that she was afraid that she might shoot Officer A being that Subject 1 was on top of him. Officer B got back on her radio and began screaming, 10-1. Officer B continued to grab Subject 1 on the right side, as it appeared that Officer A was trying to squeeze through Subject 1's left side. All of a sudden she heard one gunshot and Subject 1 fell off of Officer A and onto the floor.

Officer A got up, called in on his radio for shots fired by the police and requested an ambulance. As she looked at Officer A, he had blood all over his face. An officer came down and escorted Officer A upstairs and outside and another officer came downstairs and escorted Officer B upstairs. After going upstairs, Officer B stated that she believed that a family member asked her, "You shot him?" Officer B recalled that she had mace in her face and she had some bruises. She was transported to West Suburban Hospital where she was treated and released.

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In an audio recorded statement to IPRA, Officer A related the facts concerning his involvement in this event in a manner consistent with the Departmental Reports, and the Summary contained within this report.

Officer A explained that he arrived to the scene at the same time as Officer B. He and Officer B were met by a female who was standing in the doorway and eager to meet them. As they approached, Officer A stated that the female informed them that her nephew, Subject 1 had threatened her with a knife prior to their arrival and she emphasized that she wanted him out of the house. Officer A explained the procedures to her and she agreed that she would sign a complaint against him.

According to Officer A, he stood at the top of the stairs and called down to Subject 1, who responded. He believed that Officer B continued to call out, "Police." At the onset, Officer A explained that it didn't seem like it was going to be a problem, however when they entered the basement and observed Subject 1 lying on his back in the bed, he appeared agitated. Officer A stated that he asked Subject 1 to stand up and Subject 1 questioned the sergeant. Subject 1 then complied and Officer A asked him to put his shoes on, to which Subject 1 complied. Officer A checked Subject 1's waistband to make sure that he had no weapons.

Officer A stated that when he started to put a handcuff on Subject 1's right wrist, he felt Subject 1 tighten up and clench his fist. Subject 1 asked the sergeant, "What is this for?" Officer A related that he responded by informing Subject 1 that he had threatened his aunt and that he was going to be arrested. Subject 1 responded by telling the sergeant that his aunt had taken money from him. Officer A stated that he told Subject 1 that they could talk about it however he was handcuffing him for safety reasons. Officer A stated that it was at that point that Subject 1 stated, "Fuck this" and pulled his wrist very hard. Officer A lost his grip of Subject 1's wrist. When Subject 1 pulled away, Officer A spun around; twisted his knee and felt severe pain. Officer A explained that he felt nauseous and thought he was going to lose consciousness. Although he was still standing, Officer A explained that he felt threatened. He stepped back and radioed for assistance.

According to Officer A, Subject 1 had a "crazed" look on his face. The room was dimly lit and Subject 1 started to move in on Officer A with his fists raised in the air and in an angry manner. Officer A dispensed his O/C spray in Subject 1's face. Officer A stated that he tried to calm Subject 1 down, that he gave him verbal commands to put his hands behind his back and to cooperate. Subject 1 moved in towards Officer A as if he was going to attack him. Subject 1 struck Officer A in the face and Officer A's glasses fell off of his face and his face started bleeding right away. Subject 1 simultaneously body slammed Officer A onto the bed. While on top of Officer A, Subject 1 repeatedly punched Officer A in the face.

Officer A explained that he could hear Officer B shout, 10-1 on the radio. Officer A related that he was pinned underneath Subject 1 and could not move. He then felt a tug on his gun and feared that Subject 1 was going to kill him. Officer A called out to Officer B "shoot him, shoot him," as Subject 1 continued to punch Officer A. Officer A explained that his vision became blurry and he thought he may lose consciousness. He began to pray and subsequently he was able to free his hand to retrieve his gun. He put the gun to Subject 1's body and fired one shot somewhere in Subject 1's upper left chest area. Subject 1 fell onto the floor. Officer A stood up and made sure Subject 1 was no longer a threat. He then holstered his weapon, notified the dispatcher that shots were fired by the police and requested an ambulance. Subject 1's eyes appeared glazed back and there was blood all over the floor. As he walked up the stairs, he believed that he saw the complainant and

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stated to her that he was sorry that this happened saying, "I had to shoot him." Officer A was transported to Northwestern Hospital where he was treated and released.

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CONCLUSION AND FINDING:

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

- 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 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's actions were in compliance with the first condition of CPD's deadly force policy. Officer A and Officer B responded to a domestic disturbance and spoke with Victim 1 who informed them that Subject 1 had a knife in his hand when he threatened to "kick her in the face." After Officer A and Officer B spoke with Subject 1, Officer A attempted to handcuff Subject 1. Subject 1 allowed one wrist to be handcuffed however he pulled away and refused to follow all verbal direction. Officer A and Officer B dispensed their O/C Spray which caused Subject 1 to become enraged. Subject 1's actions escalated to an Assailant when he charged at Officer A. Subject 1 continued his actions as an Assailant when he punched Officer A about the face. Officer A felt a tug at his holster at the same time that he was being punched and feared that he may lose consciousness. Officer A was able to retrieve his weapon and discharge it one time, striking Subject 1. Therefore, based on the totality of the circumstances surrounding this incident, Officer A was in fear for his life and great bodily harm.