

**INDEPENDENT POLICE REVIEW AUTHORITY**

**LOG #1058078/U#12-41**

**INVESTIGATION**

**NUMBER:** Log #1058078 / U #12-41

**OFFICER**

**INVOLVED:** "Officer A" (Chicago Police Officer); Male/Hispanic; 35 years old; On- Duty; In Uniform; Year of Appointment – 2000

**INJURIES:** None reported.

**SUBJECT/**

**OFFENDER:** "Subject 1"; Male/Black; 16 years old

**OFFENDER'S**

**INJURIES:** One fatal gunshot wound to the head.

**DATE/ TIME/**

**LOCATION:** 28 OCT 2012, 2317 hours, 8211 South Drexel Avenue  
BEAT #4527C

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### **SUMMARY OF INCIDENT:**

On 28 October 2012, at approximately 2317 hours, involved Officer A reported that he and his partner, Officer B, were driving north on Maryland from 83<sup>rd</sup> Street, when they were flagged down by Robbery Victim. Robbery Victim reported to Officers A and B that he was a victim of an armed robbery that just occurred near the vicinity of 8223 South Maryland Avenue. He told the officers that the offender was a male black wearing a black hoody, and he had just pointed a weapon at him. Robbery Victim then informed the officers of the assailant's last direction of travel, telling them the offender was down the street, walking northbound.

Officer A then looked down Maryland Street and observed a subject walking northbound that matched Robbery Victim's description given by Robbery Victim of the offender. The Officers then drove northbound on Maryland and quickly located a subject, later identified as Subject 1, who matched the description provided by Robbery Victim. Officer B exited the police vehicle and ordered Subject 1 to walk over to him, but he refused and instead fled on foot east through a gangway. Officer B observed Subject 1 with both hands tucked in his waistband and stated that, based upon his experience, it appeared Subject 1 was concealing something – possibly a weapon. A foot chase by Officer B ensued while Officer A pursued in the police vehicle.

When Officer A, driving the police vehicle, turned east on 82<sup>nd</sup> street, he observed Subject 1 running. Officer A continued driving east, parallel to Subject 1. They both turned south on Drexel and Officer A made repeated orders for the subject to stop while announcing his office, but the subject kept running. At 8215 S. Drexel, Officer A exited his vehicle and pursued Subject 1 on foot, stating he was within 20 feet of the subject. Subject 1 entered a gangway south of 8219 S. Drexel and, as Officer A began to use the "slice the pie" maneuver entering the gangway, Officer A observed the subject pointing a gun at him. Subject 1 then fired a single shot at Officer A, although not striking him. Officer A reported on his police radio that shots were fired at the police. Subject 1 then ran east through the gangway and Officer A returned to his vehicle. Officer A then relocated and parked his vehicle in an alley at 8207 S. Drexel and observed Subject 1 attempting to climb over a six-foot fence with barbed wire in a backyard at 8209 S. Drexel. Officer A repeatedly ordered Subject 1 to get down and put his hands up, while again announcing his office. Subject 1 then jumped off the fence after he saw Officer A. Subject 1 then ran south through the yard and Officer A again observed Subject 1 in the gangway south of 8211 S. Drexel attempting to climb a locked gate. Officer A continued to instruct Subject 1 to stop and get down, but Subject 1 refused, continued over the fence and continued running.

Officer A then attempted to climb the fence, when Subject 1, who was moving westbound down the center of the gangway, suddenly stopped, turned around and squared up to Officer A, who observed Subject 1 still clenching his

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waistband. Officer A, thinking Subject 1 was again going to shoot at him because he could have just kept running through the open gangway, got off the fence as quick as he could. Officer A then drew his weapon and discharged it a single time, striking Subject 1 in the head. Subject 1 ran a short distance and fell down. Subject 1 was then placed into custody. Subject 1 was transported via CFD ambulance to Stroger Hospital, where he subsequently died of his wounds on 29 October 2012. A weapon was recovered from the scene where Subject 1 first shot at Officer A.

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### INVESTIGATION:

The Chicago Police Department Arrest, Case and Supplementary Reports relating to Subject 1 are reported under RD# HV538900 and CB# 18527115. Department reports also include Officer A's Tactical Response Report (TRR) and Officer's Battery Report (OBR). All these reports provide accounts of the incident which are consistent with the facts contained in the Summary of Incident.

**The Evidence Technician Photographs** depict photos of the scene, recovered evidence, Subject 1's injuries, and Subject 1's weapon. Nothing in the photos are inconsistent with the facts related in official reports and the summary of incident.

**The Ambulance Report** documents that **Subject 1** sustained a gunshot wound to the head and an injury to this forehead area.

The **Medical Records** document that **Subject 1**, while in CPD custody, was treated at Cook County Stroger Hospital on 29 October 2012 at 0003 hours for a gunshot wound to the left posterior parietal region. On 29 October 2012, at approximately 1328 hours, Subject 1 was pronounced brain dead. On 29 October 2012, at approximately 2151 hours, Subject 1 was declared deceased.

The **Medical Examiner's Report of Postmortem Examination** for Subject 1 documents that the cause of death is due to a gunshot wound to the head. The manner of death is homicide.

**The OEMC Event Queries and Recorded Transmissions** document that on 28 October 2012, there was a report of two shots fired on 82nd and Drexel. The reports indicated that a male/black was in possession of a handgun. An analysis of the transmissions and documents did not reveal any information that was inconsistent with the facts contained in the summary of incident and statements of Officers A and B.

**A Report from the Illinois State Police (ISP), Division of Forensic Services**, inventory # 12751194, documents that Officer A's weapon is a Smith & Wesson model 5943, 9 mm Luger semi-automatic pistol; serial # TDU8332, with one detachable box magazine. The weapon was examined and found to be in firing condition.

The report further indicates that the fired bullet recovered from Subject 1 was fired from Officer A's weapon.

Inventory #12751164 indicates that Subject 1's weapon was a Clerke, model Clerke 1st, 22 Long Rifle revolver, serial # 309920, with a capacity of five rounds. It was found to be in firing condition. The weapon displayed rifling characteristics of six lands and grooves with a right hand twist. Recovered from the weapon were 4 live cartridges and one discharged cartridge case.

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Examinations of weapons and cartridges and cartridge cases revealed no latent impressions suitable for comparison.

**The canvass** conducted of the location of incident, in the vicinity of 8211 South Drexel, did not produce any additional witnesses.

In a statement to IPRA on 29 October 2012, the robbery victim, **Robbery Victim**, related that on 28 October 2012, he had just left from visiting with a female friend at the location of 8223 South Maryland Avenue, when he encountered two armed male blacks wearing ski masks. One of the male blacks had a handgun. Robbery Victim described the gun as a "chrome-looking gun with a single barrel."<sup>1</sup> The male that pointed the weapon at Robbery Victim took off running as soon as he observed a police vehicle approaching from down the street.

Robbery Victim immediately observed a marked police vehicle that was driving northbound on Maryland Avenue and flagged it down. He explained to the officers (Officers A and B) that he was the victim of an attempted armed robbery. Robbery Victim then informed the officers of the direction that the offenders took when they ran. He pointed northbound towards 82<sup>nd</sup> and Maryland, which is the direction that Subject 1 took. He also informed the officers that the offenders took off running when they saw the officers driving down the street. Robbery Victim described the ski masks being worn by the two male blacks, adding that one was 5'5 and the other was 5'7; the male that pointed the weapon at Robbery Victim was the shorter of the two.

The officers observed one of the offenders Robbery Victim identified and immediately pursued him in their vehicle on South Maryland. Robbery Victim then began heading home walking on Maryland towards 83<sup>rd</sup> Street, and then east towards Drexel, heading towards his residence on Dobson.

Robbery Victim further related that as he was heading home, he heard maybe two or three gunshots. When he heard the gun fire, he walked faster. Robbery Victim stated that he observed a marked police vehicle do a u-turn. The officers stopped Robbery Victim and handcuffed him. He was then taken to the scene of the crime. As soon as Officers A and B observed him, they verified that he was the victim of a robbery. Robbery Victim sat in the back of the police vehicle for a little while and was eventually released.

In a statement to IPRA on 30 October 2012, the involved member, **Officer A**, reported that on 28 October 2012, he was working with Officer B, Beat 4527C. Their tour began at 1800 hours (third watch). Officer A was the driver on this day. Officer A was assigned to work the violence reduction program<sup>2</sup> in the 006<sup>th</sup>

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<sup>1</sup> Att. 29 pg 5 lines 1-16

<sup>2</sup> VRP (Violence Reduction Program) is a program where officers work on their regular day off in areas where there have been violent shootings or gang retaliation towards any shootings.

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District. Officers A and B indicated that, during their patrol, they were flagged down on 82<sup>nd</sup> and Maryland by Robbery Victim, a victim of a recent armed robbery. Robbery Victim informed Officers A and B that an individual (now known as Subject 1) had pointed a gun at him, and attempted to rob him. Robbery Victim told the officers that Subject 1 was down the block on Maryland Avenue and then pointed at Subject 1. Officer A observed Subject 1 approximately two to three buildings away from where they stood, to Officer A's right, on the east side of the street.

Officer A then pursued Subject 1 in his police vehicle. He was driving parallel to Subject 1 and observed Subject 1 clinching the right side of his waistband. Based upon Officer A's experience, and what Robbery Victim had just related to him, Officer A believed that Subject 1 was clenching a weapon. Officer B then exited the vehicle to approach Subject 1 on foot, at which time Subject 1 fled down a gangway going east. Officer B told Subject 1 to stop, but he continued running down the gangway as Officer B pursued Subject 1 on foot. Officer A drove northbound to 82<sup>nd</sup> Street and made a right, at which time he observed Subject 1 from the mouth of the alley between Maryland and Drexel.<sup>3</sup> At this point he lost sight of Officer B. Officer A then observed Subject 1 running through the alley of Maryland and Drexel Avenue. Subject 1 eventually ran eastbound on 82<sup>nd</sup> Street and then south on Drexel Avenue. Officer A continued following Subject 1 in his car, and radioed Subject 1's location to the dispatcher.

Officer A announces his office and repeatedly told Subject 1 to stop and drop the gun, but he refused to comply with the verbal commands. Subject 1 continued to run southbound on Drexel Avenue while clenching his right waistband. Officer A had been updating OEMC on his location. Officer A then exited his vehicle and pursued Subject 1 on foot into a gangway. Officer A then performed a "slice the pie,"<sup>4</sup> at which time, he observed Subject 1 point a gun at him. Officer A stated that he conducted a "slice the pie" maneuver for officer safety and because he had been told Subject 1 was armed. As Officer A took a couple steps back, Subject 1 fired at him. The distance between them at this point was approximately 10 to 15 feet. Officer A then radioed, "Shots fired at police."<sup>5</sup> At this time Subject 1 continued to run and Officer A returned to his police vehicle and drove south on Drexel and turned eastbound on 83<sup>rd</sup> Street. Officer A thought Subject 1 would head through gangways to Ingleside, but he observed all the buildings were connected and thought Subject 1 was still somewhere in the alley. Officer A stated at this time he proceeded northbound on Ingleside, then west on 82<sup>nd</sup> Street. Upon reaching the mouth of the alley between Ingleside and Drexel, he parked his police vehicle two houses into the alley and exited his police vehicle. He "sliced the pie" of a gangway on the west side, or Drexel side of the alley, and observed Subject 1 attempting to climb a

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<sup>3</sup> Att. 33, pg. 18, lines 12-18

<sup>4</sup> As described by Officer A, a Slice the Pie is a tactical maneuver where you take quick or small steps to obtain a visual view of what is going on the other side of the corner.

<sup>5</sup> Att. 33, pg 23, lines 10-11

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chain link fence. Officer A then began verbal commands ordering Subject 1 to stop, put his hands up, and come down off the fence. Subject 1 continued to run and Officer A again lost sight of him. Officer A then approached the fence facing the building on Drexel, and again observed Subject 1. Officer A again gave verbal commands to stop and show his hands, but Subject 1 was still grabbing his right side waistband. At this time Officer A stated he started to climb the fence when Subject 1 suddenly stopped, turned towards him, and squared up facing him. Officer A then stated he got off the fence as quickly as he could, as he was in fear that Subject 1 was again going to shoot at him. Officer A stated there was no reason for Subject 1 to stop running, as he could have kept running through the open gangway to make his escape. Officer A stated he was in fear for his life since Subject 1 had already shot at him once. Officer A then pulled his weapon from its holster and shot once at Subject 1. He stated that, at this point in time, Subject 1 was approximately 30 feet from him. Officer A stated that he had not realized Subject 1 was hit because he continued to run. Subject 1 ran a couple of feet before falling to the ground. When asked about Subject 1's weapon, Officer A responded by saying that the weapon wasn't with Subject 1 in the area where he fell. Officer A further added that he didn't know Subject 1 had dropped his weapon until after it was located by officers two buildings over in the gangway where he had been shot at by Subject 1. Officer A then stated that he immediately got on the radio to report that Subject 1 was shot and needed an ambulance. Within minutes, the area was saturated with police officers. Subject 1 was then patted down, placed into custody by an unknown officer, and subsequently treated for his injuries by EMS personnel.

In a statement to IPRA on 29 October 2012, witness, **Officer B**, related that on 28 October 2012, he was working with Officer A. Officer B essentially reported the same account of the incident as Officer A. Officer B added that after he and Officer A met with Robbery Victim, Officer A got on the radio to let OEMC know the direction they were headed. The officers drove northbound on Maryland until they observed a male black fitting the description that Robbery Victim had just provided. Officer B decided to get out of the vehicle to approach Subject 1. Officer B approached, announced his office, and stated to Subject 1, "Hey, come here."<sup>6</sup> Subject 1 refused the order and then walked away with his hand on the right side of his waistband area. Officer B ordered him again to come over, but Subject 1 refused his verbal command and instead ran eastbound from Maryland, through a gangway, heading towards an alley between Maryland and Drexel. Subject 1's actions made Officer B believe that he was trying to conceal some sort of a weapon. Officer B then followed Subject 1 northbound through the alley, then east on 82<sup>nd</sup> Street and onto Drexel Avenue heading southbound. Officer B stated that he observed a police vehicle following on Drexel and assumed that it was Officer A. Officer B then decided to run southbound on Drexel in the alley to make sure that Subject 1 didn't return towards Maryland.

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<sup>6</sup> Att. 32, pg 13 line 21-22

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At this time, Officer B heard one gun shot; he also heard over the radio Officer A say, "Shots fired at the police."<sup>7</sup> Officer B then ran through the alley onto 83<sup>rd</sup> Street and stopped after he observed an individual fitting Subject 1's description. He ordered the subject down to the ground and placed him in handcuffs.<sup>8</sup> Officer B then heard another gunshot and after he determined the subject in custody was not the offender, he released him.

Officer B then attempted to find his partner, Officer A, and located him in the area of 8211 South Drexel. Officer B then observed Subject 1 on the ground, and noticed blood near his head. When asked if he observed a weapon, Officer B replied, "at that time, no."<sup>9</sup> Officer B further added that he later learned a weapon was recovered in that immediate area, but he never saw it. Officer B did not observe how Subject 1 sustained the gunshot wound.

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<sup>7</sup> Att. 32, pg 21 lines 22-23

<sup>8</sup> Att. 32, Pg. 23, Line 20. Officer B did not provide the name of the subject he handcuffed. He was never identified and he was not the offender. Robbery Victim stated to IPRA that he had been handcuffed by unknown officers and then released once they realized he was not Subject 1.

<sup>9</sup> Att. 32, pg 25-26, lines 24, 1



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### 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 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;
    - 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 use of deadly force was in accordance with both the conditions of Chicago Police Department's Use of Deadly Force Policy and Illinois State Statutes.<sup>10</sup> Just prior to Officer A using deadly force, Subject 1, while armed with a handgun, made an attempt to rob Robbery Victim, and subsequently took off running when he observed officers approaching. Robbery Victim immediately stopped the officers and informed them of the armed robbery attempt. The officers pursued Subject 1 and, during the pursuit, Subject 1 pointed and fired his weapon at Officer A, knowing him to be a police officer. Officer A repeatedly announced his office and ordered Subject 1 to drop his weapon, but Subject 1 refused and continued to flee. After an additional period of pursuit, Officer A observed Subject 1 turn and square up at him between two buildings with dimly lit conditions. Officer A, in fear for his life, discharged his weapon once at Subject 1. The actions of Subject 1 clearly justified the use of deadly force by Officer A as actions necessary to prevent death or great bodily harm to himself and to civilians on the street. Based upon all reasonable and objective standards, Officer A was in fear for his life, believing Subject 1 was about to

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<sup>10</sup> This case was reviewed by the Cook County States Attorneys Office.

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shoot at him again, and was justified in the use of deadly force.