

**INDEPENDENT POLICE REVIEW AUTHORITY
LOG #1060707/U# 13-08**

INVESTIGATION

NUMBER: Log# 1060707 / U#13-08

OFFICER #1: “Officer A” (Chicago Police Officer); Male/Hispanic; 34 years old;
On Duty; In Uniform; Year of Appointment – 2002

OFFICER #1

INJURIES: None reported.

SUBJECT: “Subject 1”; Male/Black; 58 years old

SUBJECT’S

INJURIES: Gunshot wounds to the throat and right chest; Fatal.

DATE/TIME: 14 March 2013 at 0223 hours

LOCATION: XXX North Homan, Apartment #2-South, Chicago, IL
Beat 1123

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SUMMARY OF INCIDENT:

On 14 March 2013 at approximately 0210 hours, several officers responded to a domestic dispute. Witness 1 had called 911 to report that Subject 1, her mother's boyfriend, pointed a gun at her. When the officers arrived, Witness 2 told the officers from her second story window that there was no dispute and that the officers could leave. As the officers were leaving, Witness 1 signaled the officers to return and opened the front door for them. Officers A and B followed Witness 1 upstairs to the second floor apartment, as she informed them that Subject 1 had guns. Officers C and D ascended the stairway behind Officers A and B. The officers unholstered their weapons and held them in the low ready position. Officers A and B entered the second floor apartment; the entrance door swung open to obscure the doorway to the kitchen. Witness 1 pointed towards the kitchen and told the officers that Subject 1 was behind the door. Officer A swung the entrance door to close it, which also prevented other officers in the stairway from entering the apartment. Officers A and B observed Subject 1 in the kitchen pointing a Tech 9 Luger towards them. Officer A identified himself as Chicago Police and instructed Subject 1 repeatedly to drop the gun. Subject 1 continued to point the weapon at the officers; Officer A fired his weapon twice, fatally striking Subject 1 in the throat and right chest. A shotgun was also recovered from the dining room table.

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The preliminary report provided substantially the same information as the Summary of Incident.

Department Reports documented the investigation of the Homicide of Subject 1 (HW-192022), and the related Aggravated Assault of a Police Officer (HW-191336). The investigations were respectively classified as Justified – Non-Criminal, and Exceptionally Clear Closed due to the Death of the Offender. These reports supported the narrative in the Summary of Incident, and included additional ballistic information from the Illinois State Police, Medical Examiner results, a diagram of the scene, and detective notes.

In her statement to CPD Detective 1, Witness 1¹ stated that she lives in Iowa and was visiting her mother, Witness 2, who resided with Subject 1. Witness 1 reported that she and Subject 1 had an acrimonious relationship, because he had physically abused Witness 2 in the past. Subject 1 told Witness 1 she had to leave, but Witness 2 told her that she could stay. Subject 1 held a long rifle and told Witness 1 to leave. Witness 1 called 911 and reported that Subject 1 was armed; she waited in the front bedroom for the police. Witness 1 was afraid to leave the bedroom because of Subject 1, but she signaled to officers from the window of the bedroom. Witness 1 exited the apartment, opened the front door and told the responding officers that Subject 1 was armed with a shotgun. She then led the officers up the stairs, opened the apartment door and walked inside.

Witness 1 reported that at least two uniformed Chicago Police officers followed her into the apartment. She observed Subject 1 emerge from the bathroom into the kitchen, where he was concealed behind the open front door. Witness 1 yelled, “There he is,” and pointed to the kitchen. Witness 1 heard a police officer yell, “police, drop the gun,” followed by two gunshots. Additional police officers entered the apartment. Witness 1 observed Subject 1 on the kitchen floor not moving. Witness 1 was taken outside of the apartment by female officers.

Witness 1 reportedly related the above information to Assistant State’s Attorney A; she also reported to Assistant State’s Attorney A that when the police initially arrived, her mother told the police that everything was Okay and that the police could leave.

In her statement to CPD Detective 2, Witness 2² stated that she was in her apartment with her boyfriend, Subject 1, and her daughter, Witness 1. There was a disagreement about whether Witness 1 would stay at the apartment; Subject 1 appeared with a black gun in his hand and waved it around while he argued with Witness 2. Witness 1 called 911 and reported, “A man with a gun.” When the police arrived, Witness 2 waved the police away, but Witness 1 left the apartment to allow the police to enter.

Witness 2 reported that the police entered the apartment with their guns drawn. She saw Subject 1 standing in the kitchen with the black gun in his hand. Witness 2 heard the police yell for Subject 1 to put the gun down several times. She then heard three shots fired and saw Subject 1 on the ground.

¹ Witness 1 did not cooperate with the IPRA Investigation.

² Witness 2 did not cooperate with the IPRA investigation.

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Potential witnesses Witness 3, Witness 4, Witness 5 and Witness 6 did not see the police-involved shooting, although some of them heard the gunshots and/or police response.

The Crime Scene Processing Reports documented the investigation, including the inventoried items, photographs taken of the victim/offender, and the location of incident.

Evidence Technician (E.T.) Photographs and a **Video Recording** were taken of Subject 1, the apartment, the evidence and markers, and Witness 1's vehicle. The photographs depict the injuries that Subject 1 sustained which included two gunshot wounds on the neck below the Adam's apple and on the right side of his upper chest. E.T. photographs of Subject 1 also showed him lying on the kitchen floor, with what appeared to be a gun magazine between his legs and a weapon nearby. Subject 1 also displayed a gunshot wound in the middle of his left back. A weapon with its safety disengaged and a shoestring tied to it was depicted near the doorway between the living room and kitchen. Two 9mm casings were documented near the entrance of the apartment. A long gun was photographed on the living room table and a shotgun casing was on the floor near the entry door to the apartment.

The **Property Inventory** report related all the evidence collected and secured on 14 Mar 13 for the investigation. The evidence included firearms, casings, blood swabs, GSR kits, clothing of the subject, and POD recordings.

The Tactical Response Reports and **Officer's Battery Report** documented that Subject 1 held Officer A at gunpoint. The reports indicated that Subject 1 did not follow verbal direction and presented an imminent threat of death or great bodily harm when he pointed a semi-automatic firearm at the responding officer and his partner.

The **Event Queries** and **OEMC 911 Calls** documented that Witness 1 informed the dispatcher that her mother's boyfriend Subject 1 pointed a gun at her. Beat 1123-R was assigned the job and Beat 1111-R was dispatched to assist. At 0223 hours, a notification was made about shots fired by the police. Evidence Technician and the Crime Lab Units were notified and requested.

The Chicago Fire Department Ambulance Report indicated the gunshot victim at XXX N. Homan Avenue was lying on his back unresponsive and pronounced dead on arrival. The victim was an African American male, about 45 years of age, and about 180 pounds.

The Illinois State Police (ISP) Laboratory Report #C13-011408 completed on 17 May 13 related that the subject had either discharged a firearm, contacted a PGSR related item, or had both hands in the environment of a discharged firearm.

The **ISP report** that was completed on 24 Sept 13 related that the examination of exhibits 2 (one gun), 3 (one live cartridge), 12 (one gun magazine), and 13 (six live cartridges) did not reveal any latent impressions suitable for comparison.

The **Medical Examiner's Postmortem Examination Report** and **Photographs** documented that Subject 1 had a gunshot entrance wound on the front of his neck; a medium caliber copper-jacketed bullet was recovered from his back. This wound coursed from front to back, right to left, and downward. Another gunshot entrance wound to the right chest and a corresponding exit

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wound on the left back. The wound coursed from front to back, right to left and downward. There was no evidence of close-range firing associated with either entrance wounds. The manner of death was homicide by multiple gunshot wounds. The results of the toxicological analyses revealed that Subject 1 was positive for cocaine, opiates and morphine.

In a statement to the IPRA on 15 March 2013, **Involved Officer A** related that on 14 March 2013, he was on duty working Beat 1111-R with Officer B. Officers A and B received a call about a domestic dispute between a woman and her mother's boyfriend who was armed. When they arrived at the caller's location, several squad cars were already at the scene. Officer A stated that an older female, identified as Witness 2, spoke to the officers from the second story window and reassured them that there was no problem. The officers on scene were in the process of leaving the area, when Officer A noticed a younger female (NKA Witness 1) at the second story window waving her arms to get the officers' attention. Witness 1 signaled the officers toward her and afterwards went downstairs to allow the officers into the building. Officers C and D from Beat 1121-R came to assist Officers A and B. As the officers were going up the stairs, Witness 1 informed them that her mother's boyfriend had several guns in the apartment.

As Witness 1 opened the door, Officer A related that Witness 1 and Witness 2 began to talk loudly to each other. Officers A and B were the first officers to enter the apartment. They entered the living room and the kitchen was to the left of the apartment entrance. Officer A related that the entry door blocked the view of the kitchen when the door was opened. Officer A related that a tall figure (KNA Subject 1) stepped into the kitchen holding a large weapon in his right hand. Officer A related that Subject 1 had his weapon pointed toward the officer and he ordered him to lower his weapon, but he failed to comply. Officer A discharged his weapon twice at Subject 1, who fell straight back and his weapon fell around his feet. Notifications were made and additional units responded.

In a statement to IPRA on 14 March 2013, **Officer B** stated that on 14 March 2013, he and his partner, Officer A were assigned to Beat 1111-R; he was the passenger of the vehicle and Officer A the driver. Officer B stated that upon arrival to XXX N. Homan, there were several units at the scene. They proceeded to go to the rear of the building by the alley and observed other units there. They exited their squad car to approach the building, when they heard Beat 1122-R code the job 19-Adam. Once the job was coded, Officers A and B waited for all the units that were in the alley and rear side of the building to clear out, when they drove onto Homan. Officer B stated that while on Homan, they looked up to the second floor of the building and observed a female, identified as Witness 1, flagging them down and motioning them to stop. Officers A and B pulled over, approached the building, checked the front door, but it was locked. Officer B stated that within seconds Witness 1 opened the door and told them that her mother's boyfriend was upstairs armed with a machine gun and a shotgun.

Officer B stated that as soon as he heard that there were weapons, he turned around and motioned for Beat 1121-R, who was nearby, to come over and help them. Officer B stated that Officers C and D were assigned to Beat 1121-R and they followed behind him as they went up the stairs to the second floor. Officer B did not know if there were any other officers behind them. When they reached the apartment, Witness 1 knocked on the door and her mother opened the door. Witness 1 and her mother were engaged in an argument; Officer B entered the apartment and observed a black male (NKA Subject 1) come out of the bathroom and point a blue steel handgun at them. Officer B stated that he was about seven to eight feet from the male while Officer A was only

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about five feet away. Officer B stated that Officer A immediately yelled out, "Chicago Police. Drop the gun," as Subject 1 raised the gun to chest level. Subject 1 did not drop or lower the gun, and within seconds Officer B heard two gunshots from Officer A. Subject 1 fell back, the weapon dropped to the floor and a magazine popped out of the weapon. Officer B immediately stepped forward, secured Subject 1 and checked him for additional weapons. Officer B stated that notifications were made by Officer A, who also called for an ambulance. CPD Sergeant 1, the fire department, crime lab and other officers responded, secured the scene and recovered a shotgun from the living room.

In a statement to IPRA on 14 March 2013, **Officer C** stated that on 14 March 2013, he and his partner, Officer D, responded to a call of a man with a gun and, upon arrival, they placed themselves at the rear of the location of incident while other officers were at the front of the location. After five to ten minutes, they heard on the radio that the job was cleared 19-P, so they proceeded to meet the rest of the officers at the front of the location of incident. Shortly after heading to the front, Officer C observed that Officer B appeared to be talking to someone from the second floor window; within minutes a black female opened the front door for Officers A and B to enter the building. Officers A and B signaled for them to follow them into the building. Officer C related that he and Officer D followed behind; as they went up the stairs the black female informed them that the individual inside the apartment had two guns.

Officer A entered the second floor apartment first, followed by Officer B; the black female quickly yelled, "He's in there in the kitchen."³ Officer C immediately heard Officer A yell, "Police," "Let me see your hands," "Drop the gun,"⁴ as the door slammed and knocked Officer C back. As soon as that occurred, two shots were fired and Officer C immediately called out on the radio, "We have shots fired send an ambulance."⁵ Officer C stated that he was not able to see into the apartment while on the stairs, nor did he go inside since the door immediately slammed shut. After he heard the two officers' voices and no more screams from the two women, Officers C and D proceeded to go inside the apartment and observed that the door opened in an awkward manner blocking the entrance to the kitchen. Officer C saw an individual (NKA Subject 1) on the floor in the kitchen and Officers A and B standing nearby. Officer C stated that he quickly asked the officers where the second gun was located. One of the officers pointed to one of the guns and another officer indicated that the second gun was on the other side of the table on the floor.

Officer C saw a shotgun on the floor, picked it up and made sure that it was clear of any rounds in the chamber. Officer C stated that he then saw Officers E and F and asked them to take the two females out of the apartment. During the time that the officers were in the apartment, the lights were dim or off, and flashlights were used to observe the surroundings. Officer C stated that Subject 1 was on the kitchen floor on his back, did not move or talk, and, near him by the threshold of the door, was what appeared to be a Tech or Magnum 10, black or blue steel in color.

In a statement to IPRA on 14 March 2013, **Officer D** reiterated a similar account as Officer C. Although Officer D was present during the events preceding and following the officer-involved-shooting, he was not present in the apartment during the shooting.

³ Transcript of Officer C, Attachment #97, page 13, line 17 – 21.

⁴ *Id.*, page 13, lines 22 – 24, and page 14, line 1.

⁵ *Id.*, page 14, lines 4 – 5.

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In a statement to IPRA on 14 March 2013, **Officer E** stated that on 14 March 2013, she and her partner, Officer F were working Beat 1196 when they responded to a call of shots fired, man with a gun and it involved a domestic dispute. Upon arrival, several units were at the scene and the call was quickly coded. The officers were not able to get in contact with the involved parties and they did not see anyone at the time.⁶ Officer E reiterated the same account as the other involved officers and added that while going up the stairs, Officer D informed her and Officer F that the male in the apartment has a gun, at which time they all drew their weapons and held them in the low ready position as they went up the stairs. As they reached the top of the stairs, Officer E heard someone yell out, "Police. Drop the gun." Upon hearing these words, Officer E and the other officers, who were still in the staircase, began to rush up the stairs; suddenly she heard two gunshots fired. Officer E stated that the officers who were in front of her appeared to be coming back and they bumped into her, causing her to sprain her ankle. Officer E went to Illinois Masonic Hospital for medical treatment. Although Officer E was present during the events preceding and following the officer-involved-shooting, she was not present in the apartment during the shooting.

In a statement to IPRA on 14 March 2013, **Officer F** reiterated a similar account as Officer E regarding the details surrounding the incident. Although Officer F was present during the events preceding and following the officer-involved-shooting, she was not present in the apartment during the shooting.

⁶ Transcript of Officer Officer E, Attachment #98, page 7, lines 8 – 14.

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CONCLUSION AND FINDING:

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

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

Officer A was responding to a domestic dispute involving a male subject with a gun at XXX N. Homan. After locating the subject, Officer A told the subject, Subject 1, to drop his weapon. Subject 1 did not comply with Officer A's verbal commands. Officer A was in fear of his life and the life of his fellow officers. All witnesses and officers present at the incident confirm the narrative as documented above. Therefore, based on the circumstances surrounding the incident, Officer A was justified in using deadly force.