

SUBJECT: U# 06-10

OFFICER INVOLVED: “Officer A” (Chicago Police Officer); Male/Black; 37 years old; Off-Duty; In civilian dress; Year of Appointment – 1995

OFFICER’S INJURIES: None reported

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

SUBJECT’S INJURIES: Multiple gunshot wounds, deceased

INITIAL INCIDENT: Assault – Aggravated - Handgun

DATE/TIME OF INCIDENT: 12 April 2006 at 1855 Hours

LOCATION: 77XX S. Hermitage, Chicago Il.
Beat 611

SUMMARY OF INCIDENT:

On 12 April 2006, at approximately 1850 hours, Officer A, drove to a residence on the 7700 block of South Hermitage to meet an acquaintance. While waiting in his automobile, a black male (now known to be Subject 1) approached the front passenger side of Officer A's vehicle and pulled back his shirt, revealing that Subject 1 had a handgun in his waistband. Officer A exited his vehicle, announced his office and attempted to disarm Subject 1. After a brief struggle, Subject 1 pulled away and backed up to the stoop area at a residence on the 7700 block of South Hermitage. Subject 1 attempted to enter the residence but was unable to do so because the door was locked. Officer A continued to announce his office and ordered Subject 1 to drop his weapon. Subject 1 drew his weapon from his waistband and pointed the gun at Officer A, who then fired multiple shots, fatally wounding Subject 1. Officer A removed Subject 1's weapon from his hand and called "911".

INVESTIGATION:

Witness 1 related to the Roundtable panel on 13 April 2006 that she called Officer A on 12 April 2006 because she had seen him driving a new car. Officer A agreed to bring his new BMW to her friend's house so Witness 1 could see it. Before Officer A arrived, Witness 1 went shopping with Subject 1, who she knew as "[Name Withheld]," and was trying to date her. When they returned to her friend's residence, Witness 1 told Subject 1 to leave because someone was coming over to see her in a black BMW. Witness 1 then went into the apartment. Approximately ten minutes after she went inside, Officer A arrived and stayed in his car. Witness 1 looked out the window and saw Subject 1 walk towards Officer A's car. Witness 1 observed but could not hear a conversation that Subject 1 was having with Officer A on the parkway. Witness 1 saw Subject 1's shirt raise and Officer A reach for Subject 1. Subject 1 removed a gun from his pants and Officer A reached to get the gun away from him. Witness 1 heard Officer A yell many times for Subject 1 to put the gun down. Officer A then slipped and fell to the ground and Subject 1 started walking toward the front door of the building. Witness 1 left the living room and ran down the stairs to go outside but she could not leave the building because some kids were running up the stairs to get inside. Witness 8, who lives at that residence, slammed the front door while Witness 1 was standing in the front hallway. Witness 1 went in the apartment and heard five gunshots. Witness 1 went out the back door and ran around the block through the alley. When she got to the front of the building, she saw Officer A on his cell phone and Subject 1 on the ground.

Witness 2 related to the Roundtable panel on 13 April 2006 that she went to a residence on the 7700 block of South Hermitage and observed Subject 1 on the front porch. Witness 2 did not know Subject 1, but he asked her to get Witness 1. Witness 1 went outside to talk to Subject 1 and then returned inside to finish getting ready. Witness 1 went to the front room where Witness 2 was sitting with Witness 3. Witness 2's cousin [Initials Withheld] came inside to say that someone in a black car was waiting for Witness 1. Witness 2 looked out the window and saw Subject 1 leave the porch. Witness 2 heard someone outside yell that someone had a gun and heard someone yell "get down"

several times. Witness 3 yelled to Witness 2 to get the kids who were outside. Witness 2 got the kids and went to a room in the back of the apartment. Witness 8 was the last person to enter the apartment building and Witness 2 closed the door behind her. Witness 2 heard gunshots after she returned inside.

Witness 3 related to the Roundtable panel on 13 April 2006 that she was sitting in the front room with Witness 2. Witness 1 was outside talking to a black male (Subject 1) and then went inside the apartment. After Witness 1 came back inside, “[Initials Withheld]” told her that there was someone outside in a black car looking for her. Witness 3 looked out the window and saw Subject 1 walk to the black car. Another black male (Officer A) got out of the car and told Subject 1 to get down on the ground. Officer A repeated this order many times, but Witness 3 never heard him say he was a police officer. Witness 3 told Witness 2 to go outside and get the kids who were playing out there. When all the kids were inside, they all went to a back room. Witness 3 heard five or six gunshots. Witness 3 returned to the front room, looked out the window and saw Subject 1 lying dead on the ground.

Witness 4 related to the Roundtable panel on 13 April 2006 that she and Witness 1 met [Name Withheld] (Subject 1), a friend of Witness 1, and they all went shopping. The three returned to Witness 4’s residence and Subject 1 said that he would be back in two hours. Chenelle stated that Subject 1 stayed outside the building and a black car pulled up. Witness 5 came inside to tell Witness 1 that she had two guys waiting for her outside. Witness 4 stated that she went outside with some of the young kids to see what was happening. Witness 4 stated that although Witness 1 had not told her anything, Witness 4 told Subject 1 that Witness 1 was not coming out to see him. Witness 4 stated that as Subject 1 walked away, she observed Subject 1 to have some sort of contact with the black male (Officer A) who was sitting in the car. Officer A got out of the car with his gun drawn and told Subject 1 to put his hands up, but Subject 1 kept his hands at his side. Subject 1 backed up towards the building and Officer A told Subject 1 to stop and turn around. Witness 4 went inside with the kids and heard three gunshots. Witness 4 and Witness 1 went outside through the back of the building and ran around the block to the front where they saw Subject 1 dead on the ground. Witness 4 did not see Subject 1 with a gun at any point.

Witness 5 related to the Roundtable panel on 13 April 2006 that she went to a residence on the 7700 block of South Hermitage after playing with some kids at the end of the block and met a black male who introduced himself as [Name Withheld] (Subject 1). Subject 1 was standing on the porch and asked for Witness 1. Witness 5 told Subject 1 that Witness 1 was inside. Witness 5 then saw a black car pull up but did not see the driver. Witness 5 stated that she entered the apartment, sat down with her back to the front window, and told Witness 1 that she had company. Witness 5 stated that Witness 3 was looking out the window and said that two men were “tussling” or “arguing.” Witness 5 stated that she heard loud voices from outside but was unable to hear what was being said. Witness 5 stated that Witness 3 said, “He has a gun.” Witness 5 then looked out the window and saw a black male (Officer A) with a gun in his hand. Witness 5 walked out

of the front room, heard three shots, and ran into a back room with one of the kids. Witness 5 did not go outside and did not observe Subject 1 with a gun.

Officer B related to the Roundtable panel on 13 April 2006 that he was near 7900 S. Marshfield on routine patrol and heard loud reports coming from the north. He and his partner drove north on Marshfield and saw people running westbound on 78th Street toward Hermitage. The officers drove to a residence on the 7700 block of South Hermitage. Officer B stated that he observed Officer A, who he knew. Officer A told Officer B that Subject 1 pointed a gun at him, causing Officer A to fire at Subject 1. Officer B stated that he saw Subject 1 on the ground and saw a bloody gun on a ledge approximately 30 feet from Subject 1.

Officer C related to the Roundtable panel on 13 April 2006 that he responded to the Medical Examiners Office and observed Subject 1's body, which had multiple gunshot wounds to the right bicep, center chest, left torso, groin and buttocks.

Officer A related to the Roundtable panel that he went to a residence on the 7700 block of South Hermitage to see Witness 1 to show her his new car. Upon his arrival, Officer A parked the car and saw several people on the porch area and in front of the building. Officer A asked someone to go inside and tell Witness 1 that he was there. Officer A sat in his car, looked down at his phone and then looked up and saw a person that he had never met or seen before (Subject 1) standing on the sidewalk near his passenger window. Subject 1 opened his jacket or shirt and displayed the butt of a handgun. Subject 1 walked to the rear of Officer A's car. Officer A got out of his car, removed his weapon, announced his office and twice asked Subject 1 why he had a gun. Subject 1 did not answer. Officer A told Subject 1 not to touch the gun. Subject 1 began backing up toward the apartment building. While the two were on the parkway, Officer A was close enough to Subject 1 to attempt to reach out and touch Subject 1's gun in an effort to keep it in Subject 1's pants, but Subject 1 yanked away. Officer A backed away but slipped and fell to the ground. At this point, Officer A pointed his gun at Subject 1 and the people outside ran in the apartment and shut the door. Subject 1 had his hand on his gun and hit the door of the apartment with his shoulder several times to get inside. Subject 1 could not get inside so he turned and raised his gun and pointed it at Officer A. Officer A was ten to fifteen feet away at this time and started shooting at Subject 1. Subject 1 fell to the ground. Officer A walked to where Subject 1 fell and observed that Subject 1 was still moving. Officer A picked up Subject 1's bloody gun and placed it on the ledge next to the porch and called 911. (Attachment 16)

In an interview with the Office of Professional Standards ("OPS", now known as the Independent Police Review Authority, "IPRA") on 13 April 2006, **Witness 6** stated that he lives next door to the residence on the 7700 block of South Hermitage and was outside on 12 April 2006 when he noticed a black male (Subject 1) outside that address. Witness 6 did not know Subject 1, who was outside for at least thirty minutes. Witness 6 left the area for a short time. When he returned, he noticed another black male (Officer A) in a black BMW. Witness 6 returned to his porch and stood on the steps. Subject 1 was still standing in front of a residence on the 7700 block of South Hermitage. Witness

6 did not see Subject 1 approach the BMW. Officer A got out of his car, approached Subject 1 and they said “what’s up,” to each other. About one minute later, Subject 1 put his hands under his shirt. Witness 6 did not see the gun at this point, but he said that Officer A must have seen it. Officer A put his hand on his own gun and told Subject 1 that he was a police officer and to get down. Subject 1 did not say or do anything at this point. Officer A removed his gun from his hip and told Subject 1 he had three seconds to get down. Subject 1 bent over, stood up and pointed his gun at Officer A. Officer A fired his gun three times. Witness 6 backed up to his own porch and heard three more shots. When he looked back, Witness 6 saw Officer A standing over Subject 1. Officer A picked up Subject 1’s gun and put it on the red stoop by the front door. Officer A then called “911” and identified himself as a police officer that had just been involved in a shooting. (Attachment 14)

In an interview with OPS on 14 April 2006, **Witness 7** stated that he was standing outside his vehicle across the street from 77XX S. Hermitage when he saw two cars pull up near a residence on the 7700 block of South Hermitage. Both male drivers exited their vehicles and approached that building. Witness 7 knows one of the drivers as “[First Name]” (Officer A) and had seen the other male (Subject 1) around but did not know his name. Witness 7 believed that the one he knew as “[First Name]” was sitting on the porch when the other male approached him. The men said “what’s up” to each other. It seemed to Witness 7 that both of the men were there to see “[First Name]” (Witness 1), who is friends with the people who live at a residence on the 7700 block of South Hermitage. The two men exchanged words but Witness 7 could not hear them. Witness 7 was able to hear Officer A identify himself as a police officer. Witness 7 was talking to “[Name Withheld]” and was looking back and forth between “[Name Withheld]” and the two males. About thirty-forty seconds later after Officer A identified himself as a police officer, Witness 7 heard six or seven shots. Witness 7 stated that he walked to a residence on the 7700 block of South Hermitage and saw Subject 1 dead on the ground. Witness 7 never saw either of the men with a gun. (Attachment 19)

Attempts to contact Witness 1 and Witness 8¹ for additional interviews via personal visits to their residences and letters were unsuccessful. (Attachments 18, 31, 32, 59)

In a sworn statement on 12 June 2007 and a deposition on 16 October 2008, Witness 1 stated that she met Subject 1 for the first time earlier that day when he gave her and Witness 4 a ride to the store. While he was driving them back to Witness 4’s apartment, Subject 1 stopped at another apartment. When he got back to the car, Witness 1 saw him adjusting something in his pants. Witness 1 described the item as something with a handle and said that it looked like a gun. Subject 1 tried to get out of the car with Witness 1 and Witness 4 when they arrived at the apartment. Witness 1 told him to stay in the car and to put away whatever he had on him because she did not want to be involved in anything illegal. She made plans to call him when she was ready to go out. Subject 1 returned to the [Witness 4] residence before Witness 1 could call him. Witness 1 and Officer A previously dated. She had seen him earlier in the day and made a plan for

¹Witness 8 did not give a deposition in this matter.

him to come to the [Witness 4] residence to show her his new car. When Subject 1 arrived at the residence, Witness 1 told him to leave because an off-duty police officer was coming over to show her his new BMW. Subject 1 refused to leave. He showed Witness 1 that he had a gun tucked inside the waistband of his pants. Witness 1 returned inside the apartment and Witness 4 talked to Subject 1. After Officer A arrived, Witness 1 was inside the apartment and watched through the window as Subject 1 approached Officer A's car. The two men appeared to be talking but Witness 1 could not hear what they were saying. Officer A got out of his car. Witness 1 observed that the two men started "tussling" with each other outside. Witness 1 described that they were grabbing at each other. Witness 1 heard Officer A ask what was on Subject 1's hip and saw him reach for Subject 1. Witness 1 went down the stairs to tell the men to stop fighting and to leave. By the time she reached the front door, she saw that both men had guns in their hands. Witness 1 did not know which man pulled out his gun first. Witness 1 heard Officer A identify himself as a police officer and repeatedly tell Subject 1 to drop his weapon. Subject 1 then "flipped" Officer A onto the grass. When she saw that the men had guns, Witness 1 assisted Witness 8 in getting the young children who were playing outside to enter the apartment. Witness 8 then closed and locked the front door before Subject 1 could enter the apartment. Witness 1 returned inside the apartment and looked out the window. She saw Officer A pointing his gun at Subject 1, who was standing by the locked front door. She heard Officer A yelling at Subject 1 to drop his gun. Witness 1 saw Subject 1 raise his gun and turn his body toward Officer A. She did not know what he was planning to do with the gun, but he maintained his grip on it. Subject 1 was holding the gun at approximately shoulder level as he turned toward Officer A. Witness 1 then heard approximately four gunshots. She ducked toward the floor. Witness 1 and Witness 4 then ran out the back door, through the alley, and around to the front of the building. She saw that Subject 1 was lying on the front porch right outside the front door. Officer A put his own gun in his holster and used his foot to move Subject 1's gun away from Subject 1's hands. Officer A then picked up Subject 1's gun and put it on the ledge next to the porch. On-duty officers began arriving at that point. The officers brought Witness 1, Witness 4, and some of Witness 4's family to the police station to make statements. (Attachments 59, 60)

A **canvass** of the location of incident produced no additional witnesses. (Attachment 36)

The **related Department reports**, including the report of Assistant Deputy Superintendent A, the General Offense Case Report, Tactical Response and Officers Battery Reports submitted by Officer A, and Case Supplementary Reports, provide essentially the same account of the incident as in the Summary of Incident above. The reports indicate that Subject 1 initially displayed a weapon in the waistband of his pants in a threatening manner while Officer A was seated in his vehicle while off duty. Officer A exited his vehicle, announced his office and attempted to disarm Subject 1. Subject 1 retreated, pulled his weapon from his waistband and pointed it at Officer A. Subject 1 not only refused to drop his weapon when initially ordered to do so, but also then drew and pointed his weapon at Officer A, who was in fear of his life. Officer A then fired his weapon five times at Subject 1.

Officer A, Witness 1, Witness 5, Witness 4, Witness 2, and Witness 3 all told the investigating detectives essentially the same account of the incident that they reported to the Roundtable panel on 13 April 2006. Witness 2 also told detectives that she saw Subject 1 reach for his waistband before she went inside. Witness 8, who did not appear at the Roundtable, told the detectives that she went outside to talk to her children and observed Officer A and Subject 1 speaking to each other. She did not know either man. Witness 8 heard someone who was looking out the apartment window yell, "They got guns." Witness 8 rushed inside with her children. As she did, she observed Officer A pointing a gun. Subject 1 tried to enter the building but Witness 8 slammed the door closed and ran into the basement. She heard a voice yelling, "Get down." She also heard multiple gunshots. Witness 8 remained in the basement until the police arrived. (Attachments 2, 3, 4, 34, 35, 39, 44, 55, 58)

The **Evidence Technician Photographs and Videotape** depict the location of the incident and recovered evidence. Subject 1's body is positioned facedown on the front porch of the building. The front porch is a concrete slab one step above the sidewalk. A black handgun was photographed on the ledge next to the porch. There appears to be a red substance, possibly blood, on the handgun. Five cartridge cases were photographed on the front sidewalk and in the grass. (Attachment 37, 47)

The **Crime Scene Processing Report** contains essentially the same account of the incident as in the Summary of Incident above. The report also indicates that five cartridge cases were recovered from the front sidewalk and grass. A metal fragment was also recovered from the front door threshold. (Attachment 4)

The **Medical Examiner's Report of Postmortem Examination** indicates that Assistant Medical Examiner A. performed the examination on 13 April 2006. The examination revealed that Subject 1 died of multiple gunshot wounds. There was no evidence of close range firing for any of the gunshot wounds. Four bullets were recovered from his body and turned over to CPD. (Attachment 48)

Medical Examiner photographs taken during the postmortem examination depict Subject 1 and his injuries. (Attachments 45, 46)

A report from the **Illinois State Police Division of Forensic Services ("ISP")** dated 19 April 2006 indicates that Officer A's weapon, Smith & Wesson Model 5948, Semi-Auto handgun was examined and found to be in firing condition and test fired. Five cartridge cases recovered from the scene were attributed to the Smith & Wesson. (Attachment 41)

An **ISP report** dated 29 September 2006 indicates there were no latent impressions suitable for comparison on the KelTec 9mm semiautomatic pistol that was recovered near Subject 1's body. (Attachment 50)

An **ISP report** dated 11 October 2006 indicates that the KelTec handgun was examined and found to be in firing condition and test fired. The same report indicates that the four fired bullets recovered from Subject 1's body were attributed to Officer A's Smith & Wesson. The metal fragment recovered from the scene was deemed to be not suitable for comparison. An additional fired bullet fragment could not be identified or eliminated as having been fired by Officer A's handgun. That fragment was not fired by the KelTec. (Attachment 51)

The **Office of Emergency Management and Communications ("OEMC") recordings and related Event Queries** provide information consistent with the Summary of Incident. Officer A telephoned OEMC at 1853 hours and identified himself as an off-duty officer. Officer A reported that he shot someone and requested an ambulance to the scene. Officer A described that Subject 1 was awake and breathing at the time of his telephone call. A female caller telephoned OEMC at 1853 hours and reported that she was inside her house and heard six or seven gunshots outside. The caller was unable to provide a description of the people involved and asked to remain anonymous. A second unidentified female caller telephoned OEMC at 1925 hours and reported that she heard that someone had been shot two blocks away from where she was. This caller was not a witness to the incident. The radio transmissions indicate that numerous on-duty officers responded to the scene. The first officer on the scene requested a sergeant and an ambulance. (Attachments 6-13, 40)

In a statement with IPRA on 02 December 2008, **Involved Officer A** provided an account of the incident that is consistent with the Summary of Incident, the related Department Reports and the account he provided to the Roundtable Panel. Officer A stated that he was off-duty on 12 April 2006 and was visiting a friend named "[First Name]" (Witness 1). Officer A stated that he parked his vehicle at a residence on the 7700 block of South Hermitage and asked one of the kids playing outside to tell Witness 1 that he was waiting out in front. Officer A stated that he was waiting in his car when a black male (Subject 1) approached his car on the passenger side. Subject 1 lifted or opened his shirt or jacket and displayed a weapon in his waistband. Officer A stated that he did not know Subject 1 and had never seen him before. Officer A described the weapon as a semi-automatic handgun with a black handle. Subject 1 then walked towards the rear of the vehicle. Officer A exited the vehicle, aimed his weapon at Subject 1, and announced his office. Officer A told Subject 1 to stop and to drop the weapon. Subject 1 raised his hands and started backing up slowly towards a residence on the 7700 block of South Hermitage. Officer A stated that he then tried to pull Subject 1's weapon out of the waistband with his left hand. After Officer A was unable to disarm Subject 1, Officer A began to back away but tripped and fell to the ground. Subject 1 continued to back up, holding the weapon that was still in his waistband. Officer A stood up, pointed his weapon at Subject 1 and continued to tell him not to move. Subject 1 attempted to enter the building but the door was locked. Subject 1 was holding the gun in his waistband and pushing on the door with his shoulder. Officer A stated that when the door would not open, Subject 1 turned more in Officer A's direction, pulled the weapon from his waistband and pointed it at him. At this point, in fear for his life, Officer A fired his

weapon at Subject 1 five times. Subject 1 fell out of the doorway and to the ground² with the weapon still in his right hand. Officer A was approximately ten feet away at this point. He approached Subject 1, took the weapon from his hand and placed it on the stoop and called “911” to report the shots fired. (Attachment 54)

Two civil lawsuits filed by Subject 1’s mother, [Name Withheld], alleged that Officer A killed Subject 1 without justification and “planted” a gun on Subject 1’s body to make it appear that Subject 1 was armed at the time of the incident. (Attachment 52, 61)

² The related CPD reports and Evidence Technician photographs indicate that Subject 1 fell onto the front porch. The photographs also indicate that the porch is a concrete slab one step off the sidewalk, which explains why Officer A said that Subject 1 fell to the “ground.”

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 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 accordance with the first condition of CPD's deadly force policy. Subject 1 initially displayed his weapon to Officer A in a threatening manner and ultimately pointed the weapon at Officer A when he was unable to gain access to the building at a residence on the 7700 block of South Hermitage. Officer A had already announced his office, given verbal commands and attempted to disarm Subject 1. Witness 6, who was on the porch of the house next to that location at the time of the incident, saw Subject 1 point a gun at Officer A. Witness 6 did not see Subject 1 approach Officer A's vehicle, however, Witness 6 was not on the scene when Officer A arrived. Witness 1 and Witness 4, on the other hand, saw Subject 1 have contact with Officer A while the officer was still in the car. Prior to Officer A's arrival on the scene, Subject 1 showed his gun to Witness 1. Witness 1 also reported that she saw the two men struggling and that Subject 1 turned toward Officer A while raising his gun. Witness 6, Witness 1, Witness 4, Witness 2, Witness 3, and Witness 8 reported that they heard Officer A give Subject 1 verbal commands, which Subject 1 ignored. Many of the witnesses, including Witness 7, also heard Officer A identify himself as a police officer.