

INDEPENDENT POLICE REVIEW AUTHORITY
U #06-11

INVESTIGATION: U# 06-11
NUMBER

OFFICER #1

INVOLVED: “Officer A” (Chicago Police Officer); Male/Black; 45 years old; Off Duty;
In Plainclothes; Year of Appointment – 1998

OFFICER #1’s

INJURIES: None Reported.

SUBJECT: “Offender 1” – Male/Black; 32 years old

SUBJECT’S

INJURIES: Through & through gunshot Wound to right Calf; graze wound to left foot.
Treated at St. Francis Hospital (Evanston).

INITIAL

INCIDENT: Shots Fired

DATE/TIME: 15 April 2006; 0047 hours

LOCATION: 6966 N. Glenwood
Beat 2431

SUMMARY OF INCIDENT:

On 15 April 2006, at approximately 0035 hours, Witness 1 and Witness 2, were walking south on Morse Avenue toward the CTA Red Line entrance on Glenwood when an unknown black male subject fired several gunshots, striking Witness 1 three times. The unknown black male fled in an unknown direction. Witness 1 and Witness 2 walked south until they encountered a marked squad car and informed the officers about the incident. At the same time, off-duty Officer A was driving his personal vehicle west on Morse when he heard the gunshots. Officer A parked his vehicle and exited to investigate the incident. Officer A saw the marked squad car already on the scene and began to walk back to his vehicle, believing the on-duty officers would handle the incident. Officer A then observed Subject 1 on Glenwood. Officer A thought that Subject 1 appeared to be suspicious and began to follow him. Subject 1 stopped

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near a car parked north of the alley and was talking on his cell phone. When Officer A attempted to conduct a field interview with Subject 1 he noticed Subject 1 was holding a gun. Officer A announced his office and ordered Subject 1 to drop the gun. Subject 1 immediately turned and ran away and Officer A chased him west through the alley north of Morse Ave. During the chase Subject 1 turned toward Officer A and held the gun in his hand. Officer A discharged his firearm several times at Subject 1. Subject 1 then ran toward Officer A, who discharged his firearm several more times at him. Subject 1 ran past Officer A and north on Glenwood. Subject 1 again turned toward Officer A and Officer A discharged his firearm several more times at him. Subject 1 continued to run and Officer A chased him west on Lunt. Subject 1 ran into the apartment building at 6972 N. Greenview and turned toward Officer A, who fired more shots. Subject 1 then ran into the building.

Beat 2404A arrived on the scene and the officers observed Subject 1 run into the apartment building. The officers also saw Officer A standing outside holding a gun in his hand. Officer A put his hands in the air and identified himself to the officers. The on-duty officers then entered the building and found Subject 1 in one of the apartments.

INVESTIGATION:

In a statement to the Roundtable Panel on 15 April 2006, Detective A, stated that he interviewed Subject 1 at St. Francis Hospital. Subject 1 told Detective A that he had been walking west on Morse Ave., approaching the CTA station, when he heard four or five gunshots. Subject 1 saw a black male whom he knows as [Nickname] say, "I've been shot." Subject 1 stated that to avoid being shot himself he ran west on Morse and then north on Glenwood.

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Subject 1 initially told Detective A that he ran a half of a block north. Then Subject 1 said he walked that distance while talking on his cell phone. Subject 1 then returned to his original story that he ran. Subject 1 told Detective A that that Officer A approached him and identified himself as a police officer. Subject 1 also stated that Officer A “stuck a pistol in his face.” Subject 1 stated that he then ran down an alley and north on Glenwood. Officer A said words to the effect of, “Stop” or “Freeze” and then discharged his firearm. Officer A chased Subject 1 west on Lunt and discharged his firearm twelve or thirteen more times at Subject 1. Subject 1 ran into the apartment building at 6972 N. Greenview. Subject 1 explained to Detective A that he hit the door hard enough to break the glass, but that the door was unlocked and he did not need to break into the apartment building. Subject 1 stated that he ran up the first set of stairs and “banged” on the door to the first apartment. Someone (NFI) opened the door and Subject 1 ran into the apartment. Subject 1 stated that he ran down a spiral staircase in the apartment to the laundry room and stayed there until the police found him. (Att. 3)

In a statement to IPRA on 15 April 2006, Subject 1 stated that on the night of the incident he was walking on Morse Ave. toward the “El” and a pizza shop. Subject 1 heard several gunshots and saw a black male he only knows as [Nickname] run past him. Subject 1 stated that [Nickname] ran up to a nearby marked Chicago Police squad car and told the officers that he had been shot. Subject 1 continued walking and turned a corner. Subject 1 stated that he walked past a black male subject (NKA Officer A). Subject 1 stated that Officer A asked him what happened regarding the gunshots and Subject 1 told him that his friend had been shot. Subject 1 also told Officer A that he did not want to speak to him. Subject 1 stated that as he walked past Officer A, Officer A told him to “freeze.” Subject 1 stated that he continued to walk past Officer A and

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Officer A pointed a gun at him. Subject 1 put his hands up in the air and Officer A said, "Brother, I don't want no trouble." Officer A then fired his gun at Subject 1. Subject 1 ran away and heard gunshots behind him. Subject 1 stated that he ran on Lunt and fell into a doorway of a building. Subject 1 pushed the door open and entered the building. Subject 1 ran up the stairs and banged on the door of an apartment. The door opened and Subject 1 told the occupants that he needed help because he had been shot. The occupants yelled at Subject 1 to leave and he left and hid in the laundry room until the police found him there. Subject 1 stated that at the time of the incident he did not know that Officer A was a police officer, and that Officer A never identified himself as a police officer. Subject 1 also stated that he did not know the occupants of the apartment. Subject 1 denied having a gun at any time during the incident. Subject 1 believed Officer A discharged his firearm approximately twelve times. (Att 6)

In a second statement to IPRA on 20 April 2006, Subject 1 stated that he knew that Witness 1 was the other person that was shot on the night of the incident. Subject 1 explained that he and Witness 1 were next to each other in the hospital. Subject 1 also stated that he and Witness 1 used to play basketball together. Subject 1 stated that on the night of the incident he had been to the movies with three friends, "[Name Withheld]" and two other people he did not know. Subject 1 could not provide any of his friends' contact information.

After Subject 1 and his friends had separated, Witness 1 told him he had been shot. Subject 1 quickly walked away because he did not want to get shot. Subject 1 stated that he turned a corner onto Glenwood and called Witness 1's brother, [Name Withheld] from his cell phone. Subject 1 stated that he was talking to [Name Withheld] when Officer A approached

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him. Subject 1 stated that because he did not know Officer A, and he did not know he was a police officer, he did not want to speak with him. Subject 1 continued to walk past Officer A, and when he turned around he saw Officer A pointing a silver or chrome-plated semi-automatic handgun at him. Officer A yelled, "Freeze! Freeze! Get Down!" Subject 1 raised his hands in the air. Subject 1 stated that he did not know if [Name Withheld] was still connected. Officer A walked toward Subject 1 and Subject 1 backed away. Officer A discharged his firearm at Subject 1 from approximately seven feet away. Subject 1 ran north on Glenwood and turned onto Lunt. He heard more gunshots and Officer A yelling, "Police! Freeze!"

Subject 1 stated that as he ran on Lunt he received a telephone call from a girl named Witness 7. Subject 1 explained that he used to date Witness 7 and that she lived nearby. Subject 1 explained that he had been running to Witness 7's apartment because it was the safest place he could think of. Witness 7 told him that she heard gunshots and asked if he was alright. Subject 1 did not tell her what occurred, but did ask her to open her door for him. When he got into Witness 7's apartment another female told him he could not stay as they tried to get him to go out the rear door. Subject 1 told them he had been shot and showed them his wounds. Subject 1 then exited the apartment and hid in the laundry room until the police found him. Subject 1 again denied having a gun at the time of the incident. (Att. 22)

On 19 April 2006, IPRA Investigator A made a personal visit to the home of Witness 7 and spoke with Witness 7 and Witness 8. Witness 7 told IPRA Investigator A that she was home when the police removed Subject 1 from the laundry room in the basement of her apartment building. Witness 7 told IPRA Investigator A that she did not know Subject 1, and that she did not recognize his name. Witness 7 stated she did not get a "good look" at him when the officers

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took him out of the building. Witness 7 refused to a statement or sign any paperwork regarding this investigation.

Witness 8 told IPRA Investigator A that at the time of the incident she was inside the apartment playing with her children. Witness 8 did not know how Subject 1 got into the apartment. Witness 8 also stated that she did not know Subject 1 and did not recognize his name. Witness 8 also refused to provide a statement regarding this incident. (Att. 15)

In a statement to Detective B, on 15 April 2006, Witness 1 stated he frequents the area of Morse and Glenwood on a daily basis. Witness 1 stated that at the time of the incident he and his friend, Witness 2, were walking south on Glenwood, approaching Morse, when he passed a parking lot on the east side of the street. Witness 1 heard three or four gunshots and felt a sharp pain in his left arm and his buttocks. Witness 1 then ran to Morse and flagged down a CPD vehicle. Witness 1 further related that he did not see the shooter, but he is sure in came from the parking lot. (Att. 45)

In a statement to Detective B, on 15 April 2006, Witness 2 stated he was walking with Witness 1 on Glenwood, approaching Morse Ave., when he heard approximately three gunshots. Witness 2 dropped to the ground and covered his head. When the shooting stopped Witness 2 stood up and ran to Morse where he saw that Witness 1 had been shot. Witness 2 then heard several more gunshots. Witness 2 further related that he did not see the offender, nor did he know where the shooting came from. (Att. 45)

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In a statement to IPRA on 15 April 2006, Witness 3 stated that on the day of the incident he and his wife, Witness 4, parked their car at the parking space they rent on the 1400 Block of West Lunt. Witness 3 was at the front parking gate when he heard several gunshots. Witness 3 did not see or know where the shots originated. Witness 3 told his wife to get back in the car. Witness 3 sat in the passenger seat of their car and his wife sat in the driver's seat. Witness 3 stated that he then saw a black male (NKA Subject 1) walking west in the alley between Morse and Lunt. Witness 3 saw a second black male (NKA Officer A) approach Subject 1 with his gun drawn and pointed at him. Witness 3 heard Officer A tell Subject 1 to "Freeze. Freeze when I tell you to freeze." Subject 1 replied, "Man, I am not trying to hear that." Officer A aimed his gun downward and then shot Subject 1 twice. Witness 3 stated that Officer A may have shot Subject 1's leg because Subject 1 grabbed his left thigh, turned and walked away. Witness 3 stated that Officer A followed Subject 1. Witness 3 stated that he lost sight of Officer A and Subject 1. After losing sight of them Witness 3 heard three more gunshots. Witness 3 and his wife remained in the parking lot and saw several police cars arrive but he did not speak to any of the officers. Witness 3 did not inform anyone that he witnessed the incident until he saw that a news report on television the next day. (Att. 7)

In a statement to IPRA on 21 April 2008, Witness 4 and her boyfriend, Witness 3, were in a parking garage when she heard several gunshots. Witness 4 stated that when she heard the gunshots she did not "think anything of it." About five minutes later Witness 4 and her boyfriend were sitting in their car, still in the parking garage, when she saw two men (NKA Subject 1 and Officer A) in the alley. Witness 4 stated that Subject 1 appeared to be attempting to get away from Officer A. Witness 4 could not hear what was said between them. Witness 4

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saw Officer A pointing a gun at Subject 1, and that Subject 1 had his hands in the air. Subject 1 did not appear to be holding anything in either hand. Witness 4 stated that Officer A discharged his firearm approximately six times at Subject 1. Witness 4 stated that she and Witness 3 then exited their vehicle and hid behind another vehicle. Witness 4 stated that Subject 1 and Officer A ran out of the alley. Witness 4 stated that she did not hear any more gunshots. (Att. 43)

In a statement to the Roundtable Panel on 15 April 2006, Witness 5 stated that she was driving on Morse Ave. with her friend, Witness 6, when Witness 6 saw some people he knows in a nearby van. Witness 6 told Witness 5 to follow the van so he could talk to his friends and they ended up at the intersection of Glenwood and Lunt. Witness 5 was facing westbound in the east lane on Lunt with a clear line of sight south on Glenwood. Witness 5 stated that while Witness 6 spoke with his friends she heard “a bunch of shots, like fireworks.” Witness 5 looked to her left and saw two men running very fast in her direction. Witness 5 stated that one of the men appeared to be chasing the other man. Witness 5 stated that she did not see the man being chased holding a gun, but that she did see the other man holding a gun. Witness 5 heard another gunshot and felt a burning sensation on her leg. Witness 5 looked down and saw a hole in her car door. Witness 5 leaned back in her seat and then bent over to avoid being shot. Witness 6 told her that he was getting out of the car if people were shooting in the area. Witness 6 exited the car but she remained in her car until the police arrived. (Att. 3)

In a statement with IPRA on 18 April 2006, Witness 6 stated that on the night of the incident he was in a vehicle driven by his friend, Witness 5. Witness 6 stated that they drove to a gas station on Devon where he saw his friend, [Nickname], driving by in a truck. Witness 6 told

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Witness 5 to follow [Nickname's] truck. Witness 6 stated that they followed [Nickname] to Lunt. [Nickname] parked his truck and got into a van with another person Witness 6 knew as "Perm." Two other male subjects Witness 6 knows as [Nickname] and [Nickname] were in [Nickname's] van. According to Witness 6, [Nickname] told them that a person had been shot in the area. Witness 6 stated that he then heard two gunshots, followed by four more gunshots. Witness 6 then heard an additional five gunshots. Witness 6 stated that the gunshots sounded as if they were getting closer. Witness 6 stated that he did not know who was shooting. Witness 6 stated that one of people in [Nickname's] van then said, "Here they come." Witness 6 looked down the street and saw a commotion. Witness 6 heard someone say, "Get out of the way." Witness 6 stated that he saw someone "duck around the corner." Witness 6 then saw a black male holding a chrome handgun. Witness 6 heard another gunshot and felt something hit his stomach. Witness 6 bent over and waited "for a second." Witness 6 then opened the door and fell out of Witness 5's car. Witness 6 got to his feet and ran west on Lunt. Witness 6 looked back and saw the male black subject chasing the first male subject. Witness 6 ran to the corner and saw some police cars. Witness 6 put his hands up and spoke to a detective. Witness 6 stated that Witness 5's knee had been struck or grazed by a bullet and that a bullet struck him on the lower left side of his stomach. Witness 6 stated that he believes the bullet that struck him got stuck in his clothes, because police later found a bullet on the street near Witness 5's vehicle. (Att. 11)

Attempts to interview, Witness 1, Witness 9, Witness 7, and Witness 8, in furtherance of this investigation were unsuccessful. (Att's 15-17, 19, 42)

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General Offense Case Report (RD# HM291-679) stated that on 15 April 2006, at approximately 0042 hours, officers heard approximately five gunshots and saw Witness 1 run to a car yelling, "I've been shot!" The officers assisted Witness 1 and called for an ambulance. Witness 1 was subsequently transported to St. Francis Hospital in Evanston, IL. The officers also reported that a vehicle parked at approximately 6913 N. Glenwood had its windows apparently "shot out." (Att. 20)

The Case, Arrest, and Tactical Response Reports provide an account that was consistent with the Summary of Incident. The reports indicated that Officer A discharged his firearm 13 times during the incident. A .44 caliber blue steel Desert Eagle, semi-automatic handgun was recovered from the right rear wheel well of a parked vehicle and inventoried. Officer A observed Subject 1 standing near that vehicle. Subject 1 was subsequently charged with Aggravated Assault to a Police Officer. (Att. 5, 9-10, 20, 25-41, 46)

The Detectives' Supplemental Report indicates that Officers B and C stated that they were responding to a "man shot" call at 1354 W. Morse Ave. when they heard several loud reports in the vicinity of Glenwood and Lunt. Officers B and C drove north on Glenwood and observed a commotion at the end of the block. The officers drove on Lunt, and as they approached Greenview they observed Officer A discharged his firearm in Subject 1's direction. Officers B and C heard Officer A repeatedly announce his office to Subject 1. Officer A informed Officers B and C that he was a police officer and the officers saw that his badge was on his belt. The officers were told what occurred and they requested assistance. Officers B and C entered the apartment building and subsequently found and arrested Subject 1. (Att. 21)

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Office of Emergency Management tape transcription indicates that on 15 April 2006, at 0043 hours, Officer A telephoned “911,” identified himself to the call taker, and reported that he was attempting to locate the source of the gunshots on Morse Ave. During the course of the telephone call Officer A informed the call taker that he was holding the offender at Morse and Glenwood. The call was disconnected and the call-taker wasn’t able to re-contact Officer A.

The transcription also indicates that there were several calls to “911” from citizens reporting that they heard gunshots in the vicinity. None of the calls claimed to have witnessed any of the shootings. (Att. 51)

The Evidence Technician photographs depict the locations of incident. The photographs also depict a dark colored semi-automatic handgun resting on the rear passenger tire of a dark colored vehicle. The handgun is partially concealed in the wheel-well of the vehicle. (Att. 13)

A canvass of the location of incident did not produce any additional information. (Att. 14)

The Chicago Fire Department’s Incident Report indicated that on 15 July 2006, at 0107 hours, Ambulance #13 was dispatched to Greenview and Lunt regarding a gunshot victim. Ambulance #13 arrived there at 0122 hours. The report continued that Subject 1 told the paramedics that he had been shot by an off-duty police officer, which was confirmed at the scene. It was reported that Subject 1 was struck on his right tibia. No exit wound was found. Subject 1 did not complain of any other injuries. Subject 1 was transported to St. Francis

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Hospital in Evanston. (Att. 18)

Medical Records obtained from St. Francis Hospital indicate that Subject 1 sustained two gunshot wounds to his lower right leg, a laceration to his lower left leg, and a graze wound to the second toe on his left foot. (Att. 48)

Medical Records obtained from Swedish Covenant Hospital indicate that Witness 6 informed hospital personnel that two days earlier he was in a car when a stray bullet struck him on the left side of his abdomen. Witness 6 was diagnosed with a contusion to his abdomen. (Att. 49)

A report from the Illinois State Police ("ISP") Division of Forensic Services dated 25 April 2006 indicates that Officer A's 9mm semi-automatic Smith & Wesson handgun was examined and found to be in firing condition. Two of the recovered fired bullets/bullet fragments, which were recovered from the sidewalk, and eleven of the recovered fired cartridge casings were examined and determined to have been fired from Officer A's firearm. (Att. 44)

In separate ISP report dated 01 August 2006, 13 February 2007, and 28 February 2007, indicate that the .44 Magnum Caliber, Desert Eagle semi-automatic handgun was examined and found to be in firing condition. There was no indication of blood on the gun. Examination of the gun, the eight live cartridges, or the magazine, revealed no latent impressions suitable for comparison. (Att's 52-54)

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On 22 March 2007, Subject 1 was found guilty of Aggravated Assault to a Police Officer with a Firearm and sentenced to three years and six months in the Department of Corrections. (Att. 55)

In a statement to the Roundtable Panel on 16 July 2006, Officer B, stated that he and his partner were assisting with the investigation of the shooting of Witness 1. While at the location of that incident he heard gunshots. Officer B and his partner drove north on Glenwood, approaching Lunt, and heard more gunshots. Officer B saw Officer A on the southwest corner of Glenwood and Lunt pointing a gun at a black male (NKA Subject 1) who was fleeing into an apartment building. Officer A turned toward Officer B with his hands in the air and identified himself as a police officer. Officer B saw a police star on Officer A's belt. Officer A told the officers what occurred and they sent out a "flash message." Officer B and other officers entered the apartment building and followed droplets of blood and subsequently found Subject 1. They placed Subject 1 into custody and Officer A positively identified Subject 1 as the person he chased. (Att. 3)

Officer A related to the Roundtable Panel an account of the incident that was consistent with the Summary of Incident. (Att. 3)

In a statement to IPRA on 17 February 2009, Officer A stated that at the time of the incident he was off-duty. Officer A stated that he was driving in the vicinity of 6966 N. Glenwood, on his way to pick up his child from the babysitter's, when he heard two or three gunshots coming from the train platform on the CTA. Officer A immediately pulled over and

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parked his car. As he was parking Officer A saw and heard people screaming and running away from the train station. Officer A exited his vehicle and ran toward the train station. At the same time he saw a marked squad car. Officer A stated that he then believed that the on duty officers were responding to a call from that location. Officer A began to walk back to his car when he saw Subject 1 talking on his cell phone and pacing back and forth near the intersection of Glenwood and Lunt. Officer A stated that Subject 1 appeared to be “really upset.” Officer A approached Subject 1 to investigate whether or not he was involved in the shooting.

Officer A walked towards Subject 1 and asked him if he knew anything about the shooting in the area. Officer A stated he was standing in the street and Subject 1 was standing next to a building. Subject 1 became verbally abusive and said words to the effect “stay the fuck away from me.” Officer A saw that Subject 1 was holding a cell phone in one hand, but he could not see his other hand. Officer A pulled his firearm from its holster and at the same time used his cell phone to call “911.” Officer A stated that before he could give a description of Subject 1 to the call taker, Subject 1 raised his arm and pointed a handgun at him. Officer A immediately identified himself as a police officer and discharged his firearm at Subject 1. Subject 1 ran south and then west and into an alley. Officer A lost sight of Subject 1 after Subject 1 entered the ally. Officer A ran to the mouth of the alley and stopped. Officer A looked around the building into the alley and saw Subject 1 running toward him, still holding his handgun. Officer A repeatedly said, “Chicago Police Officer! Drop your weapon!” Officer A then discharged his firearm again. Subject 1 ran past him and continued running east out of the alley, then north, and eventually west on Lunt Ave. Officer A lost sight of Subject 1 after he ran past him out of the alley.

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Officer A stated that Subject 1 continued to run west on Lunt, approached Greenview, tripped and fell, but still held the gun in his hand. Subject 1 got up and ran into a nearby building. Officer A stated that he did not follow Subject 1 into the building. Numerous on-duty police officers arrived and Officer A identified himself to them and told them where Subject 1 ran. Other officers entered the building and arrested Subject 1. Officer A stated that during the incident he discharged his firearm at three different locations, but he did not know how many times he discharged his firearm. Officer A stated that to the best of his knowledge Subject 1 was in possession of a firearm the entire incident. Officer A did not know where Subject 1's firearm was found. (Att. 57)

CONCLUSION AND FINDING:

This investigation found that Officer A's use of deadly force was in compliance with Chicago Police Department policy. 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 like to cause death or great bodily harm;
 - b. attempted 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 met the requirements of the Department's deadly force policy. Officer A provided separate and consistent accounts of the incident, in that during the investigation of the shooting of Witness 1, Subject 1 repeatedly pointed a gun at Officer A before and during a foot chase. It was reasonable that Officer A feared for his safety as a result of Subject 1's actions.

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Subject 1, however, provided separate interviews during which he gave conflicting information. Subject 1 initially stated that he did not know Witness 1 or the occupants of the apartment. But Subject 1 subsequently admitted to knowing them, and even explained that he used to play basketball with Witness 1 and that he dated Witness 7. Also, in his first interview Subject 1 stated that at the time of the incident he did not know that Officer A was a police officer. In his second interview Subject 1 stated that he heard Officer A identify himself as a police officer. This was corroborated by Officer B at the Roundtable and in the CFD Incident Report. Subject 1 provided varying accounts of the incident but consistently denied that he had a gun. Subject 1 also had opportunities to leave the weapon somewhere during the pursuit and was found guilty of Aggravated Assault to a Police Officer with a Firearm. Officer A provided consistent accounts of the incident and explained that he discharged his firearm at Subject 1 to prevent death or serious injury to him.