

Independent Police Review Authority

U# 06-27

**SUBJECT:** U# 06-27

**OFFICER**

**INVOLVED:** “Detective A” (Chicago Police Officer); Male/Black; 40 years old;  
Off-Duty; In civilian dress; Year of Appointment – 2000

**OFFICER’S**

**INJURIES:** None reported

**SUBJECT #1:** “Subject 1”; Male/Black; 22 years old

**SUBJECT #1**

**INJURIES:** Gunshot wound to the right center back

**SUBJECT #2:** “Subject 2”; Male/Black; 18 years old

**SUBJECT #2**

**INJURIES:** Gunshot wound to the right calf, fragment in rear shoulder

**DATE/TIME**

**OF INCIDENT:** 16 July 2006, 0323 hours

**LOCATION:**

7100 block of S. Champlain, in the alley  
Beat 323

## **SUMMARY OF INCIDENT:**

In the morning of 16 July 2006, Detective A went to J & J Fish at 75<sup>th</sup> and Martin Luther King Jr. Drive and then went home. He drove into the alley to park on the concrete pad behind his house. While backing into his parking spot, he observed an unfamiliar green van drive southbound in the alley past him. The driver of the van looked at him as he passed. As the van drove down the alley out of his sight, Detective A saw the van's brake lights reflect off nearby garages across the alley. Detective A then retrieved his gun and food and began to exit his car. He saw two black males (now known to be Subject 1 and Subject 2) run toward him from the direction of the brake lights. Subject 1 ran toward the driver's side of Detective A's car and Subject 2 ran towards the passenger side. Both Subject 1 and Subject 2 had guns in their hands.

Detective A leaned back and kicked open his driver's side door, pointed his weapon at Subject 1, announced his office, and then hit Subject 1 with his car door. Subject 1 fell to the ground. Subject 1 got up and he and Subject 2 turned and ran southbound into the alley. Detective A followed them. When he got to the garage behind 71XX S. Champlain, Detective A saw Subject 1 on the east side of the alley near 71XX S. Champlain and Subject 2 on the west side of the alley near 71XX St. Lawrence. Detective A continued yelling commands at Subject 1 and Subject 2 who turned and pointed their weapons at him. Detective A fired his weapon at Subject 1, who turned east into a yard. Detective A then fired at Subject 2, who continued running southbound in the alley. Detective A observed the green minivan at the south end of the alley make a left turn onto 72<sup>nd</sup> Street going east. Detective A ran through his own yard to catch Subject 1 because he thought Subject 1 was heading east to Champlain. Detective A did not see Subject 1 when he reached the front of his house, so he entered his residence, called 911 and waited for on-duty officers to arrive.

Responding officers found Subject 1 partially concealed under a vehicle behind 71XX S. Champlain, incoherent and suffering from a gunshot wound to the side of his back. Detective A identified Subject 1 as the individual who approached his driver's side door and later fled. A semi-automatic handgun was later found inside the front bumper of the car under which Subject 1 was hiding. Further investigation revealed that Subject 2 had arrived at St. Bernard Hospital suffering from a gunshot wound to the right calf and a bullet fragment to the back.

## INVESTIGATION:

**Detective A**<sup>1</sup> related to the Roundtable panel on 16 July 2006 that he went to J&J Fish at 75<sup>th</sup> and King Drive and then drove home and parked in the alley behind his house. While backing into his parking spot, Detective A observed a green van drive past him. Detective A did not recognize the van. The van left Detective A's line of sight, but he saw the reflection of brake lights on the garage across the alley. Detective A picked up his gun from the center console of his car and saw two black males (subjects Subject 1 and Subject 2), both carrying handguns, approaching him from the direction of the brake lights. Subject 1 approached Detective A's driver's side door. Detective A announced his office and hit Subject 1 with his car door, knocking him to the ground. Detective A pointed his gun at Subject 1 and Subject 2. Subject 2 ran into the alley and Subject 1 got up and followed. Detective A ran after them, announced his office, and ordered them to stop. Subject 2 was on the west side of the alley and Subject 1 was on the east. Detective A was standing in the middle of the alley behind 71XX S. Champlain when Subject 1, who was closer to him, turned and pointed his gun at Detective A. Detective A fired his weapon at Subject 1. Subject 2 looked at Subject 1 and then turned and pointed his gun at Detective A. Detective A yelled at Subject 2 to drop his gun and fired his own weapon at Subject 2. Subject 1 ran behind some bushes in the direction of Champlain and Subject 2 continued south in the alley heading for the green van, which turned east on 72<sup>nd</sup> Street. Detective A ran through his own yard to Champlain but did not see Subject 1. Detective A entered his residence, called 911 and waited for responding officers to arrive. Detective A directed responding officers to the alley and provided descriptions of Subject 1 and Subject 2. Subject 1 was located under a car and Detective A positively identified him as the individual who ran up to his car.

**Detective B** related to the Roundtable panel on 16 July 2006 that he was at Christ Hospital when Subject 1 was brought into the emergency room suffering from a gunshot wound to the front torso. Subject 1 was unable to speak and never regained consciousness. Subject 1 was pronounced dead at 0916 hours. (Attachment 3)

In an interview with the Office of Professional Standards (now known as the Independent Police Review Authority, "IPRA") on 16 July 2006, **Subject 2** stated that on 16 July 2006, he and Subject 1 were riding around when they spotted a car with nice rims. Subject 1 stated that he wanted to take the rims and that he had a gun. Subject 2 and Subject 1 followed the car that eventually stopped in an alley. Subject 2 and Subject 1 approached the man driving the car (Detective A). Subject 1 had a gun in his hand at this point. They got about two or three feet from Detective A when they saw Detective A had a gun. Subject 2 and Subject 1 ran when they saw the gun. Subject 2 heard approximately fifteen gunshots and he got hit once on his right leg. Subject 2 did not know what happened to Subject 1. A friend brought Subject 2 to St. Bernard Hospital after he fled the area. Subject 2 and Subject 1 were not aware that Detective A was a Police Officer when they approached him. Subject 2 and Subject 1 did not say anything to Detective A

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<sup>1</sup> Detective A was a Police Officer at the time of the incident. He has since been promoted to a Detective. He will be referred to as "Detective A" throughout this report to reflect his current title.

when they approached, but Subject 2 assumed that Detective A saw Subject 1's gun. Subject 2 did not think Subject 1 fired the pistol. Detective A did not say anything to them, he just fired his gun. (Attachment 17)

A **canvass** of the location of incident produced no additional witnesses. The incident occurred in the alley where garages obstruct the view to the alley. (Attachment 38)

The **related Department Reports**, including the report of Assistant Deputy Superintendent A, the General Offense Case Report, and the Tactical Response and Officers Battery Reports submitted by Detective A, Subject 2's Arrest Report and Case Supplementary Reports provide an account of the incident that is consistent with the Summary of Incident. (Attachments 2, 4, 5, 6, 7, 8, 9)

The **Case Supplementary Reports** contained further information obtained from Subject 2, who arrived at St. Bernard Hospital to be treated for his gunshot wound. Subject 2 initially told detectives that he had been shot by an unknown individual who tried to obtain cannabis from Subject 2. When the detectives told Subject 2 that Subject 1 was in custody and being treated at Christ Hospital, Subject 2 told them that "[Initials Withheld]" (later revealed to be [Name Withheld]) picked up Subject 2 and Subject 1 on 15 July 2006 and the three spent the evening driving around and partying. When they observed Detective A's vehicle at J & J Fish, Subject 1 decided that he wanted to steal the rims from the car. After following Detective A home, Subject 1 decided that he wanted to take the car because it had a Hemi engine. Subject 1 decided that he and Subject 2 would confront Detective A at gunpoint, take the car, and meet [Name Withheld] later. They followed Detective A into the alley. Subject 1 and Subject 2 got out of the van after [Name Withheld] drove out of Detective A's sight. Subject 2 stated that he did not have a gun but that Subject 1 had a semiautomatic handgun. They approached Detective A, but they ran away because he was yelling and had a gun. Subject 2 heard more yelling and gunshots and then felt a pain and ran out of the alley. Subject 2 saw [Name Withheld]'s van on 72<sup>nd</sup> Street and got in the van. Subject 2 told [Name Withheld] that the robbery went bad and that he needed to go to the hospital. At the time of the interview, Subject 2 told detectives that he realized that Detective A was a police officer. Detective A told the detectives essentially the same account of the incident that he told to the Roundtable panel and to IPRA. Two circumstantial witnesses were interviewed by detectives, neither of whom actually witnessed the shooting. Witness 1 (son of Detective A) related that he was on his front porch when he heard multiple gunshots. He heard his father yelling and saw him run through the gangway to the front yard. Witness 2 related that he heard multiple gunshots. He then saw a black male (Subject 2) get into a van, which drove south on Champlain. [Name Withheld] declined to give a statement to detectives. Subject 1 was unable to provide a statement due to the extent of his injuries.

The Supplementary Reports also documented the search for and discovery of Subject 1's weapon. After the ambulance brought Subject 1 to the hospital for treatment, numerous CPD members conducted a systematic search of the area where Subject 1 was discovered. Canine units also participated in the search. Officer Cummings eventually

discovered that the weapon was hidden in the bumper of the vehicle that Subject 1 had been hiding underneath. (Attachments 56, 57)

The **Evidence Technician (“ET”) Photographs and Videotape** depict the location of the incident and recovered evidence. The photographs include images of the black gun that was recovered under the car near where Subject 1 was hiding. (Attachments 43, 45)

**ET Photographs** taken of Subject 2 at St. Bernard Hospital depict a bandage on his lower right leg. There is also a laceration on his back (described in medical records as a gunshot wound) and scratches of unknown origin on his right shoulder. (Attachment 44)

The **Major Crime Scene Report** contains essentially the same account of the incident as in the Summary of Incident above. The report also indicates that seven<sup>2</sup> cartridge cases were recovered from the alley. A blood-stained shirt was recovered near a car parked in the alley behind 71XX S. Champlain. A sealed pellet envelope was recovered from St. Bernard Hospital, where Subject 2 was treated. (Attachment 10)

The **Chicago Fire Department ambulance report** indicates that paramedics found Subject 1 at 0427 hours at 71XX S. Champlain with abdominal trauma due to a gunshot wound. Subject 1 was transported to Christ Hospital at 0442 hours and arrived at 0454 hours. (Attachment 39)

The **Medical Examiner’s Report of Postmortem Examination** indicates that Assistant Medical Examiner A performed the examination on Subject 1 on 17 July 2006. The examination revealed that Subject 1 died of a through-and-through gunshot wound to the back. There was no evidence of close range firing on the wound. (Attachment 47)

**Medical Examiner photographs** taken during the postmortem examination depict Subject 1 and his injuries. (Attachment 46)

**Medical records** from St. Bernard Hospital indicate that Subject 2 was treated for gunshot wounds to the right leg and back. He was released to Chicago Police custody. There is no indication of what explanation Subject 2 gave medical staff regarding his injuries. (Attachment 40)

A report from the **Illinois State Police Division of Forensic Services (“ISP”)** dated 28 July 2006 indicates that Detective A’s weapon, Beretta Model 92D 9mm semi-automatic pistol, was examined and found to be in firing condition and test fired. The ten cartridge cases recovered from the scene were found to have been fired by Detective A’s weapon. The Hi-Point Model JC 40 S & W semi-automatic pistol that was recovered near Subject 1 was also examined and found to be in firing condition and test fired. A bullet

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<sup>2</sup> Inventory Lists, Evidence Technician photographs, and test results from the Illinois State Police Division of Forensic Services indicate that three additional cartridge cases were recovered from the alley at a later point for a total of ten cases. (Attachments 14, 42)

fragment<sup>3</sup> was tested but was not found to have been fired from either recovered gun. (Attachment 42)

**ISP reports** dated 11 April 2007 and 13 November 2008 indicate that nine latent prints suitable for comparison were lifted from the recovered weapon, but they did not match the samples from Subject 2 and [Name Withheld]. (Attachments 48, 55)

**ISP reports** dated 11 June 2007, 29 June 2007 and 30 November 2007 indicate that the human male DNA profile obtained from swabs of the grips of the recovered weapon came from Subject 1. There is no indication on any of these reports that blood was recovered on the gun. (Attachments 49, 50, 51, 52)

The **Office of Emergency Management and Communications (OEMC) recordings and related Event Queries** provide information consistent with the Summary of Incident. Telephone calls to “911” regarding the incident include Detective A’s call reporting the shots fired and a call from St. Bernard Hospital to report a gunshot victim. Detective A reported to OEMC that two men with guns tried to carjack him. He provided descriptions of both individuals and the vehicle they used. Detective A reported that he fired his weapon at the two men. A nurse from St. Bernard Hospital telephoned OEMC to report that Subject 2 was at the hospital with a gunshot wound. Another officer was at the hospital on an unrelated incident and also reported that a gunshot victim was there. Additional units went to the hospital and made arrangements for Detective A to go to the hospital to try to identify Subject 2. (Attachments 24-36)

In a statement with IPRA on 14 November 2008, **Detective 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. Detective A stated that on 16 July 2006, while off-duty, he went to J & J Fish on 75<sup>th</sup> and King Drive at approximately 0001-0100 hours. Detective A stayed at the restaurant for approximately 35 minutes and then drove home. Detective A did not pay attention to the time and did not know what time he arrived at home. Detective A drove north into the alley and parked on the cement slab behind his house. As he got ready to go inside his house, Detective A saw a green van drive past him heading south in the alley from 71<sup>st</sup> Street. Detective A related that he knows most of the vehicles that belong to the people in his area but he did not recognize the green van. Detective A had previously seen the green van driving behind him while he was driving on St. Lawrence. Detective A recognized the driver from a previous arrest. The van proceeded down the alley out of Detective A’s line of sight, but Detective A could see the reflection of the van’s brakes on nearby garages. Detective A collected his food and his gun, which was holstered and stuck between the seat and center console, and started to get out of his vehicle.

Before he got out of the car, a black male (now known to be Subject 1) came around the car toward the driver’s side. Subject 1 had one arm across the lower portion of

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<sup>3</sup> This is the item that was in the sealed envelope that was given to the Forensic Investigators at St. Bernard Hospital.

his face and held a black gun in his other hand, which he pointed at Detective A. Detective A leaned back and partially closed his door. When Subject 1 got close to the door, Detective A kicked it open. The door hit Subject 1 and knocked him to the ground. Detective A repeatedly yelled that he was a police officer. Detective A searched for the snap on his holster so he could remove his gun. As he did so, another black male (now known to be Subject 2) approached the vehicle. Subject 2 had a silver gun in his hand, which he pointed at Detective A. Detective A could hear the hammer of Subject 2's gun clicking. Detective A assumed that Subject 2 was attempting to shoot the gun but that the gun was not working. Subject 1 got up from the ground. Detective A got out of his car and was able to get the gun out of his holster. Detective A again stated that he was a police officer. Subject 1 and Subject 2 ran into the alley. Detective A ran after them and told them to stop.

As Detective A got to the middle of the alley, he saw Subject 1 on the east side of the alley and Subject 2 on the west side. Subject 1 turned and pointed his gun at Detective A. Detective A fired his gun in Subject 1's direction. Subject 2 turned and pointed his weapon at Detective A. Detective A then fired at Subject 2. Detective A believed that he fired his weapon a total of ten times. Subject 1 continued running in the alley and turned into an open area behind some overgrown bushes. Subject 2 continued running down the alley and appeared to be hobbling. The van had disappeared down the alley. Detective A thought he saw the van turn east. The last time Detective A saw Subject 2, he was running in the van's direction. He did not see Subject 2 get into the van. Detective A's attention was drawn to the area where Subject 1 had turned. Detective A ran to the front of his house to see if Subject 1 ran into the street. There were people outside who had heard the gunshots. Detective A asked them if they saw anyone run from the alley, but they said no. Detective A ran back to his car, changed the clip in his gun, and looked in the alley. He did not see anyone running in the alley. Detective A did not spend a long time searching for Subject 1. He stated that he merely looked into the alley but did not see him. Detective A then called "911" on his cell phone to report what happened. Detective A sat on his porch and waited for the police to arrive. Detective A directed the responding officers to the alley where the incident took place. He did not assist the officers in searching the area. When officers found Subject 1 hiding under a parked car, a detective called Detective A to the car. Detective A positively identified Subject 1 as one of his assailants. Subject 1 was lying on his back at the time. He and Detective A did not speak to each other during the identification. One of the officers later found Subject 1's gun stuck in the bumper of the car where he had been hiding. Detective A later identified Subject 2 in a line-up at Area 2. He also identified the driver of the van in a photo array. (Attachment 54)

## **CONCLUSION AND FINDING:**

This investigation found that Detective 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."

Detective A's actions were in accordance with CPD's deadly force policy. Detective A reported that Subject 2 and Subject 1 both pointed guns at him when they initially approached his vehicle. Detective A also reported that he repeatedly announced his office throughout this incident, starting from when he opened his car door. Subject 2 admitted that he and Subject 1 approached Detective A's car with the intention of carjacking him at gunpoint, which is a forcible felony involving the threatened use of physical force likely to cause death or great bodily harm. Detective A further stated that Subject 2 and Subject 1 both pointed their guns at him while they were running away from him down the alley. It was only at that point that Detective A fired his own weapon at them. Although Subject 2 denied that he had a gun and no recovered weapon was linked to him, he was able to flee the scene and was discovered at St. Bernard Hospital sometime later, offering an opportunity for him to get rid of the gun. DNA evidence obtained from the weapon recovered under the parked car near Subject 1 linked it to Subject 1. The preponderance of the evidence, including Subject 2's admissions to OPS and to the investigating detectives and the DNA evidence, supports the conclusion that Detective A's actions were in accordance with CPD's deadly force policy.