

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1036441, U#10-19

INVESTIGATION

NUMBER: Log #1036441/U# 10-19

OFFICER

INVOLVED#1: “Officer A” (Chicago Police Officer); Male/Black; 30 years old; Off Duty; Civilian Clothes; Year of Appointment – 2007

OFFICER #1’S

INJURIES: One (1) gunshot wound (GSW) to the abdomen and a graze wound to the left buttocks; Fatal.

SUBJECT #1: “Subject 1”; Male/Black; 20 years old

SUBJECT #1

INJURIES: One (1) GSW to the head, Two (2) GSWs to the chest, One (1) GSW to the abdomen, Two (2) through and through GSWs to the left arm, One (1) through and through GSW to the left hand, One (1) GSW to the left thigh; and a graze wound to the right arm; Fatal

SUBJECT #2: “Subject 1”; Male/Black; 19 years old

SUBJECT #2

INJURIES: One (1) GSW to the right torso, One (1) GSW to the left torso, One (1) GSW to right forearm, One (1) through and through GSW to left forearm, One (1) through and through GSW to upper left arm, and One (1) GSW to the upper abdomen exiting back. Treated at Christ Hospital.

INITIAL

INCIDENT: Armed Robbery

DATE/TIME

OF INCIDENT: 19 May 2010, at approximately 2327hours

LOCATION:

8XXX South King Drive
Beat 0632

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SUMMARY OF INCIDENT:

On 19 May 2010, at 2327 hours, Officer A, went to visit his family at 8XXX S. Martin Luther King Drive. Officer A wanted to show his father, Retired CPD Sergeant A, a motorcycle that he had recently purchased. After Officer A visited with his family, he left the residence and mounted his motorcycle, which was parked in front of the family's residence. Retired CPD Sergeant A stood by his front door and watched Officer A get onto his motorcycle. As Officer A was getting onto his motorcycle, a black male subject, now known as Subject 1, walked towards Officer A. Another male subject, now known as Subject 2, also walked towards Officer A. Subject 1 approached Officer A and shortly afterwards pointed a handgun at Officer A's head.

Retired CPD Sergeant A yelled at Subject 1 to leave Officer A alone and Subject 1 replied, "Get the fuck in the house." Subject 2 then yelled at Retired CPD Sergeant A, "Mind your own business, old man." As Subject 1 and Subject 2 focused their attention on Retired CPD Sergeant A, Officer A retrieved his semi-automatic pistol and fired multiple rounds at Subject 1. Subject 1 then fired his handgun at Officer A.

Retired CPD Sergeant A then rushed back inside his residence, retrieved his revolver, and then exited his residence. When Retired CPD Sergeant A returned outside, he did not see Officer A; however, he observed a red colored vehicle, a Pontiac Grand Prix, that was stopped in front of his residence. Retired CPD Sergeant A walked towards the street. He stepped between two vehicles, a Saturn and a Jeep Cherokee, and observed two male black subjects, now known as Subject 3 and Subject 4, in the Pontiac telling Subject 1 and Subject 2 to "get in the car." Subject 1 was lying in the street, adjacent to the right front tire of the Saturn, and Subject 2, was lying in the street, directly in front of the Saturn.

At that time, Subject 1 and Subject 3 pointed a gun at Retired CPD Sergeant A. Retired CPD Sergeant A fired his revolver three times at Subject 1. Subject 3 then fired his gun at Retired CPD Sergeant A. The Pontiac reversed going eastbound on 85th Street fleeing the scene. Retired CPD Sergeant A returned to Officer A's motorcycle, which was parked in the street, and observed Officer A lying in the street. Ambulances responded to the scene and transported Officer A and Subject 2 to Christ Hospital. Subject 1 was pronounced dead at the scene. Officer A was subsequently pronounced dead at Christ Hospital. According to detectives, it appeared that the Pontiac struck and dragged Officer A from the front of Retired CPD Sergeant A's house to the alley opening. Officer A sustained injuries that were consistent with being struck by a motor vehicle.

There were numerous 9mm and .40 caliber shell casings located on the scene. A Smith & Wesson semi-automatic pistol was found in the street. The weapon had its slide locked back. This weapon was believed to have been used by either Subject 2 and/or Subject 1. Officer A's weapon, a 9mm Glock semiautomatic pistol, was recovered at the scene and processed by forensic investigators. A preliminary examination of Officer A's weapon led forensic investigators to believe that Officer A fired approximately eight rounds¹ from his weapon. Retired CPD Sergeant A's .38 caliber revolver was also recovered at the scene and processed by

¹ A Tactical Response Report (Att.7) documented that Officer A fired his weapon seven times.

SUMMARY OF INCIDENT (continued):

forensic investigators. At the time, it was believed that Retired CPD Sergeant A fired three rounds from his revolver. Officer A's Yamaha motorcycle had a through-and-through bullet strike in the windshield. The motorcycle helmet that Officer A had been wearing at the time of the shooting was found lying in the street, adjacent to where Retired CPD Sergeant A located Officer A after the shooting.

INVESTIGATION:

The related Department Reports, including Arrest Reports, an Original Case Incident Report, and Case Supplementary Reports, included an account of the incident that is consistent with the Summary of Incident. The Case Supplementary Report added that Subject 3 and Subject 4 invoked their rights to remain silent and therefore did not speak with detectives. On 20 May 2010, Subject 3 was charged with Attempted Robbery – Armed with a Firearm and two counts of Murder – Other Forcible Felony. On 20 May 2010, Subject 4 was charged with Attempted Robbery – Armed with a Firearm and two counts of Murder – Other Forcible Felony. On 12 June 2010, Subject 2 was placed under arrest while at Christ Hospital. He was also charged with Attempted Robbery – Armed with a Firearm and two counts of Murder – Other Forcible Felony.

Detectives interviewed Retired CPD Sergeant A. Retired CPD Sergeant A stated that his son, Officer A, came to his residence to visit on the date of the incident. Officer A had just purchased a new motorcycle. Retired CPD Sergeant A had never seen Officer A ride the motorcycle so he accompanied him outside to see him ride the motorcycle. Retired CPD Sergeant A stood on his porch and watched Officer A walk down the sidewalk and mount his motorcycle. Retired CPD Sergeant A then observe a large black male, now known as Subject 1, walking east on 85th Street and another black male, now known as Subject 2, walking on the west sidewalk of 85th Street. Subject 2 and Subject 1 then both converged on Officer A. Subject 1 pointed a handgun in a sideways position at Officer A's head and Subject 2 pointed an object, which Retired CPD Sergeant A believed to be a handgun, at Officer A's person.

At that time, Retired CPD Sergeant A, while standing on his porch, yelled at Subject 2 and Subject 1, "Get away from him, leave him alone," referring to Officer A. Subject 1 pointed a handgun at Retired CPD Sergeant A's direction and stated, "Get your ass back in the house." Officer A announced his office by stating, "Police," and pulled out his weapon. At that point, everyone started to fire their guns. Retired CPD Sergeant A believed that Subject 1 may have fired his weapon at him (Retired CPD Sergeant A) but the rapid gun fire made it hard to be sure.

Retired CPD Sergeant A ran into his residence and instructed his wife, Witness 1, to call the police as he retrieved his handgun. Retired CPD Sergeant A then ran back outside and towards his daughter's vehicle, a Saturn, which was park in front of his house on the north curb. Retired CPD Sergeant A first noticed that Officer A's motorcycle was still in the street. He then approached the curb and observed a four door red Pontiac parked next to Subject 1 and Subject 2 as they laid in the street. Subject 1 and Subject 2 were attempting to stand up and enter the

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Pontiac. Two black male subjects, now known as Subject 3 and Subject 4 who were in the Pontiac, yelled at Subject 2 and Subject 1 and instructed them to “get up, jump in the car.” Retired CPD Sergeant A yelled at Subject 3 and Subject 4 to “get the hell away from them,” referring to Subject 2 and Subject 1. Subject 3, who was the passenger in the Pontiac, stood in the street next to the Pontiac with the passenger side door open and a gun in his hand. Retired CPD Sergeant A pointed his gun at Subject 3 but did not fire because he did not know what involvement they, referring to Subject 3 and Subject 4, had in the incident at that time. The Pontiac then drove backwards and went eastbound down 85th Street across King Drive Street. As the Pontiac fled the scene, Subject 3 discharged his gun in Retired CPD Sergeant A’s direction.

Retired CPD Sergeant A stood on the curb and did not know if the subjects were hiding on the other side of his daughter’s Saturn, waiting to ambush him, so he headed down the curb. He went around the Saturn to the motorcycle to get a better look at Subject 2 and Subject 1. At that time, Retired CPD Sergeant A observed a handgun² lying in the street next to the motorcycle and picked up the gun. Retired CPD Sergeant A returned east and observed Subject 1 and Subject 2 in the street south of his daughter’s Saturn. Subject 1 pointed a handgun at Retired CPD Sergeant A and Retired CPD Sergeant A fired his revolver multiple times with his left hand and fired the gun that he had found with his right hand, at least once.

Retired CPD Sergeant A then attempted to locate Officer A. He observed Officer A lying on the ground next to the alley on 85th Street. At that point, Retired CPD Sergeant A yelled for someone to call for an ambulance. Retired CPD Sergeant A stated that Officer A always wore his CPD police star visible on his belt when he carries his weapon, which he carries in a holster. When Officer A left Retired CPD Sergeant A’s residence, Retired CPD Sergeant A observed that Officer A’s CPD police star was visible on his belt and that his weapon was in a holster.

Detectives also interviewed Witness 1. Witness 1 stated on the night of the incident her son, Officer A, was over at her residence visiting. Upon leaving the residence, Officer A was escorted by his father, Retired CPD Sergeant A, to the front door. Witness 1 was in the living room near the east wall and was not able to see Retired CPD Sergeant A and Officer A out the front window. A few moments later, Witness 1 heard hollering outside. Retired CPD Sergeant A entered the residence through the front door and instructed Witness 1 to call the police because they (Subject 2 and Subject 1) were trying to rob Officer A. Retired CPD Sergeant A then ran to the bedroom.

Witness 1 picked up the phone and relocated to the front door. When she attempted to use the phone she could not get a dial tone. Witness 1 then looked outside the front door and observed two black males, Subject 2 and Subject 1, both visibly pointing guns and shooting at Officer A. Officer A was off his motorcycle and standing in the street. Officer A was verbally stating his office by yelling, “Police,” and firing his handgun in the direction of Subject 2 and Subject 1.

² This gun is believed to be Officer A’s. The crime Scene Processing Report documents that Officer A’s and Retired CPD Sergeant A’s guns were recovered on the porch of 3XX E. 85th Street.

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Witness 1 ran to the kitchen to use another phone. She called 911 and told the dispatcher that offenders, Subject 2 and Subject 1, were robbing and shooting at Officer A. At that time, Retired CPD Sergeant A was outside and informed Witness 1 that Subject 2 and Subject 1 had shot Officer A. Retired CPD Sergeant A told Witness 1 to call 911 and request that paramedics be sent to the location. Witness 1 then called 911 again to request that EMS be sent to the location. Witness 1 related that during the incident she heard several gun shots which were too numerous to keep track of. (Att.6,16,18,49,53,56)

A Tactical Response Report (TRR) documents that Subject 2 was an “assailant” who “used force likely to cause death or great bodily harm.” Officer A discharged his firearm seven times to stop Subject 2’s actions and protect himself. (Att.35)

An Officer’s Battery Report (OBR) documents that Officer A injuries were fatal. (Att.8)

The Crime Scene Processing Report documented that a Glock, Model 26, 9mm, semi-automatic pistol, Serial #KXM218, belonging to Officer A was inventoried under number 12021093. The capacity of Officer A’s weapon is eleven. A Smith & Wesson, Model 64-4, .38 S & W SPL, six shot revolver, Serial #BEK9335, which belongs to retired Retired CPD Sergeant A, was inventoried under number 12021109. There were three bullets recovered from Retired CPD Sergeant A’s weapon. In addition, a Smith & Wesson, Model 457S, .45 caliber, semi-automatic pistol, Serial #VJH7557, that was recovered on the scene was inventoried under number 12021141. (Att.29)

Evidence Technician Photographs and Videotape depicts what appear to be the location of incident and the recovered evidence. (Att.30-45, 84)

A canvass was conducted but did not produce any additional witnesses who actually witnessed the shooting. (Att.15)

A POD search of the vicinity of the location of incident produced negative results because there are no PODs in the area. (Att.27)

Office of Emergency Management and Communication Records and Chicago Police Department Event Queries document that on 19 May 2010, there were numerous phone calls placed to 911 regarding shots fired in the vicinity of the location of incident. The first call placed to 911 was at 2326 hours. The call was made by Officer A’s mother, Witness 1. Witness 1 reported that shots were fired in front of her home at 8XXX S. King Drive and that Officer A and her husband, Retired CPD Sergeant A, were outside. A minute later, Witness 1 called 911 again and reported that offenders were trying to rob Officer A and then they ran over him in a red vehicle. Shortly afterwards, numerous officers responded to the scene. (Att.9,73,74)

The Chicago Fire Department (CFD) EMS Incident Report documents that on 19 May 2010, at 2333 hours, paramedics responded to the scene and observed John Doe, now

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known as Subject 1, unresponsive and not breathing. Subject 1 had multiple gunshot wounds to his chest and head with no viable life signs and was pronounced DOA³. (Att.82)

The CFD EMS Incident Report documents that on 19 May 2010, at 2332 hours, paramedics responded to the scene and observed Engine 122 on the scene doing CPR on Officer A. Paramedics attempted to tube Officer A but could not because his teeth were clinched. Officer A was transported to Christ Hospital. (Att.12)

The CFD EMS Incident Report documents that on 19 May 2010, at 2335 hours, paramedics responded to the scene and observed Subject 2, unresponsive and with multiple gunshot wound. He was transported to Christ Hospital. (Att.83)

Medical Records from Christ Hospital for Subject 2 documents that on 20 May 2010, he was brought into the hospital because he sustained multiple gunshot wounds. He was discharged on 18 June 2010 and diagnosed with gunshot wounds, right kidney laceration, phimosis, and open abdomen. (Att.60)

Medical Records for Officer A documents that he was pronounced dead on 20 May 2010, at 0007 hours, while at Christ Hospital. (Att.80)

The Office of the Medical Examiner Report of Postmortem Examination documents that Doctor A, conducted the autopsy of Officer A. A copper-jacketed bullet was recovered from the right side of his back. Additionally, Officer A sustained multiple abrasions to his head, torso, and extremities. The cause of death was determined to be multiple gunshot wounds and the manner of death is homicide. (Att.68)

The Office of the Medical Examiner Report of Postmortem Examination documents that Doctor A, conducted the autopsy of Subject 1. A deformed copper-jacketed bullet was recovered from the right side of Subject 1's peritoneal cavity, the right side of his back, and the right sacroiliac bone. A graze wound was also observed to the anterior aspect of Subject 1's right arm. In addition, he also had small metal fragments in the left side and midline aspects of his head and bullet fragments in his left arm and forearm. Subject 1 also sustained a fracture to the left ulna and bilateral pleural infiltrates. The cause of death was determined to be multiple gunshot wounds and the manner of death is homicide. (Att.67)

A Report from the Illinois State Police (ISP), Division of Forensic Services, dated 07 June 2010, documented that the Smith & Wesson, Model 457S, .45 caliber, semi-automatic pistol, Serial #VJH7557, which was inventoried under number 12021141, did not reveal any latent impressions suitable for comparison. (Att.58)

An ISP Report, dated 17 June 2010, documented that five 9mm/.38 caliber fired bullets that were recovered on the scene could not be identified or eliminated as having been fired from the same firearm or from Officer A's weapon. However, the fired bullets were not fired from Retired CPD Sergeant A's weapon or the weapon that was recovered on the scene.

³ Dead on arrival.

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Officer A's weapon, a Glock, Model 26, 9mm, Luger caliber semi-automatic pistol, Serial #KXM218, listed under inventory number 12021093, was examined, found to be in firing condition, and test fired. In addition, six Winchester 9mm Luger + P caliber fired cartridge cases and two Federal 9mm Luger caliber fired cartridge cases were examined and revealed that they were fired from Officer A's weapon.

Retired CPD Sergeant A's weapon, a Smith & Wesson, Model 64-4, .38 Special Caliber revolver, Serial #BEK9335, listed under inventory number 12021109, was examined, found to be in firing condition, and test fired. A fired bullet, .38 caliber bullet, was examined and revealed that it was fired from Retired CPD Sergeant A's weapon. Further, two Winchester .38 Special + P caliber fired cartridge cases and One Federal .38 Special +P+ caliber fired cartridge case were examined and revealed that they were fired from Retired CPD Sergeant A's weapon. However, the two Winchester .38 Special +P caliber fired cartridge cases could not be identified or eliminated as having been fired from Retired CPD Sergeant A's weapon. Additionally, the two Winchester .38 Special +P caliber fired cartridge cases were not fired from Officer A's weapon or the weapon that was recovered on the scene.

The weapon that was recovered on the scene, a Smith & Wesson, Model 457S, .45 Auto caliber, semi-automatic pistol, Serial 3VJH7557, listed under inventory number 12021141, was examined, found to be in firing condition, and test fired. A test shot was fired from the weapon and compared to the IBIS database; however, no identification was made. Two fired bullets, .45 caliber bullets, were examined and revealed that they were fired from the weapon that was recovered on the scene. In addition, four Sellier & Bellot .45 auto caliber fired cartridge cases were examined and revealed that they were fired from the weapon that was recovered on the scene. The capacity of the recovered weapon is eight. (Att.59)

An ISP Report, dated 30 June 2010, documented that a gunshot residue (GSR) collection kit administered to the hands of Subject 1 revealed that he discharged a firearm, contacted a PGSR⁴ related item, or had his right hand in the environment of a discharged firearm. In addition, a GSR sample recovered from Subject 2's sweatshirt, specifically the right and left cuff of his sweatshirt, revealed that the sampled areas contacted a PGSR related item or was in the environment of a discharged firearm. Further, blue/violet colored cotton fibers⁵, identified as being recovered from the undercarriage of the Pontiac Grand Prix, are similar to the blue/violet cotton fibers from a t-shirt⁶, identified as being recovered from Officer A. Therefore, the blue/violet fibers from the undercarriage of the Pontiac could have originated from Officer A's blue t-shirt. (Att.62)

CONCLUSION AND FINDING:

⁴ Primer Gunshot Residue

⁵ Listed as Exhibit 42 in the ISP Report.

⁶ Listed as Exhibit 53 in the ISP Report.

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This investigation found that the use of deadly force by Officer A 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's actions were in accordance with both conditions of CPD's deadly force policy. Subject 1 and Subject 2 attempted to rob Officer A of his motorcycle by pointing and firing a gun at him. Forensic evidence revealed that Subject 1 discharged a firearm, contacted a PGSR related item, or had his right hand in the environment of a discharged firearm. In addition, a GSR sample recovered from Subject 2's sweatshirt, revealed that the sampled areas contacted a PGSR related item or was in the environment of a discharged firearm. Officer A, in fear of his life, fired his weapon multiple times. As a result of Subject 1's actions, he lost his life. Therefore, based on the totality of the circumstances, Officer A was reasonably in fear of his life, which resulted in him losing his life, and fired his weapon to prevent death or great bodily harm.