

INDEPENDENT POLICE REVIEW AUTHORITY

Log# 1044816 / U# 11-18

INVESTIGATION

NUMBER: U# 11-18/Log# 1044816

INVOLVED OFFICER #1: "Officer A" (Chicago Police Officer); Male/Hispanic; 29 years old;
On Duty; Uniform; Year of Appointment – 2006

INJURY: Level one trauma GSW to anterior left knee

INVOLVED OFFICER #2: "Officer B" (Chicago Police Officer); Male/Hispanic; 39 years old;
On Duty; Uniform; Year of Appointment – 2007

INJURY: None reported

INVOLVED OFFICER #3: "Officer C" (Chicago Police Officer); Male/White; 31 years old;
On Duty; Uniform; Year of Appointment – 2006

INJURY: None reported

INVOLVED OFFICER #4: "Officer D" (Chicago Police Officer); Male/White; 31 years old;
On Duty; Uniform; Year of Appointment – 2007

INJURY: None reported

INVOLVED OFFICER #5: "Officer E" (Chicago Police Sergeant); Male/White; 33 years old;
On Duty; Uniform; Year of Appointment – 2001

INJURY: None reported

SUBJECT: "Subject 1"; Male/Black; 27 years old

INJURIES: GSW back of head
GSW right jaw
Perforating GSW back of left shoulder
Perforating GSW back or right arm
Perforating GSW left hand (base of left thumb)
Perforating GSW right calf area
Oval dried abrasion over right side of abdomen
Small (1-inch) abrasion left upper leg
Superficial abrasion (1/2-inch) left elbow

INITIAL INCIDENT: Attempted armed robbery–handgun

**DATE/TIME
OF INCIDENT:** 18 April 11, 2030 hrs.

LOCATION: 6308 South Ashland Avenue, Beat# 0725

INDEPENDENT POLICE REVIEW AUTHORITY

Log# 1044816 / U# 11-18

SUMMARY OF INCIDENT:

The Family Dollar Store at 63rd and Ashland, which closed regularly at 2000 hours, was remotely monitored by an out of state security service in North Carolina. At approximately 2020 hours, that out of state monitoring center observed a robbery in progress and contacted O.E.M.C., from which a call for service was transmitted. Mobile Strike Force and 7th District patrol units arrived outside the store and observed two female subjects exit the store, stating the store was being robbed. Officers then entered the store in search of an offender and encountered a black male subject attempting to leave the premises, stating he was a customer. Officers asked the subject to identify himself and to display his hands, at which point the subject retreated further into the store and appeared to be reaching into his waistband. A Taser was deployed at the subject with no apparent effect. The subject produced a firearm and fired at officers while attempting to seek cover among the store's merchandise racks. An exchange of fire continued until it was determined that the subject was no longer discharging his weapon. One officer was taken from the scene for medical treatment of a gunshot wound and the subject died at the scene.

INDEPENDENT POLICE REVIEW AUTHORITY

Log# 1044816 / U# 11-18

INVESTIGATION:

The narrative section of the **Case Supplementary Report**, prepared in part by Detective Timothy O'Brien, #20034, related that the Family Dollar Store's Assistant Store Manager, Witness 1 and the store's cashier, Witness 2, closed the store fifteen minutes early, at 1945 hours due to the absence of their security guard, who did not work that day. The two workers then carried out routine cleaning procedures and also counted and deposited store receipts into the store's safe. Witness 1 said that at 2027 hours she called I-Verify, the Family Dollar Company's security monitoring system, to say the employees were preparing to leave the building. After clocking out, the two co-workers unlocked the store's door to exit, when a black male appeared and pushed them back inside the store at gunpoint. This subject, Subject 1 ordered Witness 1 and Witness 2 to accompany him to the area where the safe was kept and for Witness 1 to first re-lock the door they had just entered. At the safe, Subject 1 asked Witness 1 to open it for Subject 1. When Witness 1 explained that an independently programmed time delay prevents re-opening the safe, a disbelieving Subject 1 became aggressive and threatened to kill the two store employees. Meanwhile I-Verify personnel observed the forced entry and notified O.E.M.C. As police arrived at the front of the building, the safe's automated security timing device released and Witness 1 began entering the code to open the safe. In the meantime, Subject 1, seeing the police arrive, took Witness 1's keys and ran to seek exit at the rear of the store. At that time, Witness 1 and Witness 2 made their escape via the main entrance to the store. Once outside, they identified themselves and reported to officers arriving at the scene that an armed subject was inside the store. Officers then entered the store and fanned out in search of the offender. These officers were: Officers A, B, C, D, E, F (rifle), G, H, I, and J and various others assisting. Subject 1 approached Officer F with his hands up, claiming to be a victim and seeking escape. When Officer F informed Subject 1 that he needed to be patted down, Subject 1 retreated and produced a handgun. Officer F ordered Subject 1 to drop his weapon. Subject 1 did not comply with that verbal command and retreated toward the rear of the store. Officer F discharged his department-issued Taser at Subject 1, ineffectively striking Subject 1's heavy jacket. As Subject 1 ran, he turned and aimed his firearm at the officers toward the front of the store. Officers B, C, D, and E fired numerous times at Subject 1, who then sought cover among the store's clothing racks. Subject 1 continued to make his way toward the rear of the store but encountered and fired upon Officer A, who returned fire as he sought cover. In the exchange with Subject 1, Officer A was wounded. When firing ceased, Subject 1 lay motionless beneath a clothing rack, though still holding his firearm. Officer F approached Subject 1 with his rifle trained on him. EMS personnel arrived and took Officer A for treatment to Northwestern Memorial Hospital. Subject 1 displayed no vital signs.¹

The **Tactical Response Report** and **Officer's Battery Report** submitted by Officer A indicated that Subject 1 did not follow verbal direction and actively resisted by fleeing and by firing a semi-automatic pistol toward officers, striking Officer A, who returned fire, discharging fourteen rounds toward Subject 1. Officer A sustained a gun shot wound to the left anterior knee.

The **Tactical Response Report** and **Officer's Battery Report** submitted by Officer B indicated that Subject 1 did not follow verbal direction and actively resisted by fleeing and by firing a semi-automatic pistol toward officers. Officer B fired his weapon, discharging two

¹ Subject 1 died from multiple gun shot wounds from officers at the scene.

INDEPENDENT POLICE REVIEW AUTHORITY

Log# 1044816 / U# 11-18

rounds toward Subject 1. Officer B sustained no apparent injury.

The **Tactical Response Report** and **Officer's Battery Report** submitted by Officer C indicated that Subject 1 did not follow verbal direction and actively resisted by fleeing and by firing a semi-automatic pistol toward officers. Officer C fired his weapon, discharging eight rounds toward Subject 1. Officer C sustained no apparent injury.

The **Tactical Response Report** and **Officer's Battery Report** submitted by Officer D indicated that Subject 1 did not follow verbal direction and actively resisted by fleeing and by firing a semi-automatic pistol toward officers. Officer D fired his weapon, discharging five rounds toward Subject 1. Officer D sustained no apparent injury.

The **Tactical Response Report** and **Officer's Battery Report** submitted by Officer F indicated that Subject 1 did not follow verbal direction and actively resisted by fleeing and by firing a semi-automatic pistol toward officers. Officer F deployed his Department-issued Taser toward Subject 1. Officer F sustained no apparent injury.

The **Tactical Response Report** and **Officer's Battery Report** submitted by Officer E indicated that Subject 1 did not follow verbal direction and actively resisted by fleeing and by firing a semi-automatic pistol toward officers. Officer E fired his weapon, discharging two rounds, toward Subject 1. Officer E sustained no apparent injury.

The **Tactical Response Report** and **Officer's Battery Report** submitted by Officer G indicated that Subject 1 did not follow verbal direction and actively resisted by fleeing and by firing a semi-automatic pistol toward officers. Officer G issued verbal commands, but did not discharge her weapon. Officer G sustained no apparent injury.

The **Tactical Response Report** and **Officer's Battery Report** submitted by Officer H indicated that Subject 1 did not follow verbal direction and actively resisted by fleeing and by firing a semi-automatic pistol toward officers. Officer H issued verbal commands but did not discharge his weapon. Officer H sustained no apparent injury.

The **Tactical Response Report** and **Officer's Battery Report** submitted by Officer I indicated that Subject 1 did not follow verbal direction and actively resisted by fleeing and by firing a semi-automatic pistol toward officers. Officer I issued verbal commands but did not discharge his weapon. Officer I sustained no apparent injury.

The **Tactical Response Report** and **Officer's Battery Report** submitted by Officer J indicated that Subject 1 did not follow verbal direction and actively resisted by fleeing and by firing a semi-automatic pistol toward officers. Officer J issued verbal commands but did not discharge his weapon. Officer J sustained no apparent injury.

The **Tactical Response Report** and **Officer's Battery Report** submitted by Officer K indicated that Subject 1 did not follow verbal direction and actively resisted by fleeing and by firing a semi-automatic pistol toward officers. Officer K issued verbal commands but did not discharge his weapon. Officer K sustained no apparent injury.

A series of **Event Query** reports generated from the Office of Emergency Management and Communication's Police Computer Assisted Dispatch service recorded a sequence of actions that parallels the chronological account contained in the narrative of the Case Supplementary Report.

Various **Evidence Technician Photographs** were taken of the scene. These images displayed various interior and exterior perspectives of the scene, The Family Dollar Store at 6308 South Ashland Avenue. Images included: shell casings situated at various locations on the floor of the store; spent rounds embedded in partitions and other stationary objects inside the store; damage by discharged projectiles to store infrastructure, furnishings and equipment: such as glass partitions, support columns, computer screen, all displaying bullet impact damage. Several images also displayed the body of Subject 1, including Subject 1's hands, face and head.

A **video surveillance recording** displayed: Subject 1 forcing the two employees back into the store as they were attempting to leave; Subject 1 trying to exit via a back door; Subject 1 with his hands up in front of officers; Subject 1 evading officers and moving about the store between shelves and display racks. Visibility on the recording is limited since the two employees had turned off the interior ceiling lights just before being confronted by Subject 1.

The report from the **Cook County Medical Examiner** established that Subject 1 died from multiple gun shot wounds (as herein enumerated above). The report also documented that GC (Gas Chromatography) testing revealed 112 milligrams of ethanol (alcohol) to be present in each decilitre of Subject 1's circulating blood and that 67 milligrams of ethanol were also present in each decilitre of his vitreous humor (eye fluid).

Medical records obtained from **Northwestern Memorial Hospital** revealed that Officer A was admitted to the emergency department with a "level one trauma gun shot wound to anterior left knee."² Further observation indicated the officer's "pulses intact in all extremities"³ and that he displayed "no evidence of acute fracture/compartment/syndrome."⁴

Drug and Alcohol Testing authorized and conducted by the **Internal Affairs Division** (later the Bureau of Internal Affairs) determined that no officer who discharged a weapon during the incident was under the influence of any controlled substance at the time of the incident.

In her interview, civilian **Witness 1** stated that she and a coworker had just closed the Family Dollar Store at 63rd and Ashland, and that Witness 1 had called the monitoring company that monitors the closing of the store and informed them that the last two employees in the store were about to leave. As both women were exiting the store, an unknown man (nka Subject 1) with a gun pointed the weapon at the chest of employee Witness 2⁵, pushing both employees back inside the store where he had them sit on the floor, give him money and lock the front door. Witness 1 said that Subject 1 asked the women several times to open the safe, not accepting their

² cf Northwestern Memorial Health Care, "Clinical Notes" in Attachment 107

³ Ibid

⁴ Ibid

⁵ Witness 2 refused to be interviewed.

INDEPENDENT POLICE REVIEW AUTHORITY

Log# 1044816 / U# 11-18

explanation that the safe's lock operated according to a timed security lock and release mechanism and repeatedly threatened to shoot the employees if they did not open the store's safe for him. Subject 1 then asked for the store keys so that he could exit via the store's rear door. Witness 1 handed the keys to Subject 1, who walked to the rear of the store, at which time Witness 1 and Witness 2 ran to the front entrance and exited the store, where they met police officers arriving at the scene.

In his **Witnessing Officer Report, Officer K**, Beat# 714, stated that he was at the scene at the time of the incident and did observe the subject, Subject 1, "firing shots in the direction of responding P.O.'s" but did not see Officer A firing at Subject 1.

In his **Witnessing Officer Report, Officer J**, Beat# 714, stated that he was at the scene at the time of the incident, but did not have any contact with Subject 1 and did not observe Officer A discharging his weapon.

In his **Witnessing Officer Report, Officer I**, Beat# 753, stated that he was at the scene at the time of the incident and did observe gunfire "erupting" but did not see Officer A discharge his weapon.

In his **Witnessing Officer Report, Officer H**, Beat# 4361A, stated that he was at the scene at the time of the incident and "did hear reports of firearms,"⁶ but added that his view of the scene "was obstructed by clothing racks and large shelves"⁷ and that he did not see Officer A discharging his weapon. Officer H also stated that he heard verbal commands for Subject 1 to drop his weapon before shots were fired.

In her **Witnessing Officer Report, Officer G**, Beat# 4391B, stated that she was at the scene at the time of the incident, but remained in the vestibule of the store and therefore had limited visual perception of the scene and its activity. Officer G heard numerous officers report that Subject 1 was armed and also heard numerous officers giving verbal commands to Subject 1 to drop his weapon. Officer G reported that she heard shots fired but did not observe either Subject 1 or Officer A discharging their weapons.

In his **Witnessing Officer Report, Officer F**, Beat# 4391A, stated that he responded to the scene and made contact with Subject 1 inside the store, whereupon Officer F and other officers attempted to conduct a protective pat-down of Subject 1. At that point Subject 1 fled from the officers. Officer F pursued Subject 1, then lost sight of him. Officer F then heard other officers call out "gun,"⁸ after which he then heard an exchange of gunfire. Officer F did not observe either Subject 1, or Officer A discharge their weapons. After the gunfire, Officer F located Subject 1, who was at that time "unresponsive with a gun in his hand and his finger on the trigger."⁹

In his **interview, Involved Officer E**, Beat# 710, stated that he arrived at the scene and

⁶ cf To/From/Subject Report of Officer H, Attachment 118

⁷ Ibid

⁸ cf To/From/Subject report of Officer F, Attachment 120

⁹ Ibid

INDEPENDENT POLICE REVIEW AUTHORITY

Log# 1044816 / U# 11-18

observed the two female hostages exit the store, calling out that an armed robber was inside the store. Officer E then entered the store. Inside the store he heard voices saying “Police, police. Let me see your hands.”¹⁰ He also heard the “pop”¹¹ of a Taser being deployed and voices also calling out, “He’s got a gun. He’s got a gun. Police, police. Put down the gun.”¹² He then heard approximately two or four gunshot “pop”¹³ sounds, but did not see anyone firing at that time. At one point Officer E saw Subject 1 running toward some clothing racks. Officer E then dropped down and could see Subject 1 beneath the clothing racks, handgun in hand. Officer E could hear from his left an officer saying, “He’s got a gun. He’s pointing the gun at you.”¹⁴ Officer E then observed Subject 1 turn with a gun in his hand toward the officer situated at Officer E’s right. Officer E also issued a verbal command, saying, “Police. Drop the gun. Drop the gun.”¹⁵ As Subject 1 turned toward the officer Officer E, fearing for his safety and that of other officers at the scene, discharged his weapon twice at Subject 1. Simultaneously Officer E heard other shots and then he saw Subject 1 collapse to the floor. Officer E related that he was aware that other 7th District officers were present, but only recalled one specifically, Officer J, who was behind Officer E at the time of the shooting. After the shooting, Officer E made sure that all officers continued to take cover. Officer E did not recall which officer reported this to him, but he said one officer determined that Subject 1 was down and not moving. Officer E then took another officer with him and searched the upper floor of the building. No other offender was found on that upper floor.

In his **interview, Involved Officer D**, Beat# 4391A, stated that he responded to the scene along with Officer F. At one point Officer D observed Subject 1’s reflection in an overhead surveillance mirror as Subject 1 proceeded EB in the center aisle directly toward the store’s entrance. He then heard officers issuing the verbal commands. He then heard a Taser discharge, followed “almost immediately”¹⁶ by gunshots. Officer D then saw Subject 1 in the northeast portion of the store, on his back on the floor, and tilted a bit to the right either directly under a clothing rack or between two clothing racks. Officer D could see a two-toned (silver and black) pistol in Subject 1’s hand, held near his head and pointed at Officer F. Upon seeing the gun pointed at his partner, Officer D yelled “Dan, he has a gun.” three or four times¹⁷. After the last time Officer D yelled that warning, he then yelled several times at Subject 1, “Drop the weapon!”¹⁸ Subject 1 did not drop his weapon. Officer D then fired his weapon approximately three or four times at Subject 1. Officer D did not hear other officers fire at that time. (Attachment 10)

In his **interview, Involved Officer C**, Beat# 4391B, stated that he arrived at the front of the store along with his partner, Officer G. He saw two female store clerks running from the store, yelling there was a shooter inside. Officer C and other officers, among them Officer F, then secured the store to make sure no one else exited the store. Officer C remained near the

¹⁰ cf also the printed transcript of Officer E’s interview, Attachment 121, page 13

¹¹ Ibid, p. 14

¹² Ibid, p. 16

¹³ Ibid, p. 15

¹⁴ Ibid, p. 18

¹⁵ Ibid, p. 28

¹⁶ cf also the printed transcript of Officer D’s interview, Attachment 122, page 16

¹⁷ Ibid, p. 21

¹⁸ Ibid

INDEPENDENT POLICE REVIEW AUTHORITY

Log# 1044816 / U# 11-18

store's "metal detectors"¹⁹ (i.e. security pillars) and near the store's main entrance/exit. At one point, Officer C observed Subject 1 approaching him with his hands up. Officer C ordered Subject 1 to keep his hands up. Subject 1 replied, "Oh it's not me. It's not me. They shooting, they shooting at me, I'm not getting robbed - - they - - I'm not robber. He's - - they shooting at me."²⁰ Officer C then said, "All right. That's okay. Let me check you out. You be out in a couple of seconds. Let me check you out. Make sure you don't have a weapons."²¹ Subject 1 then put his hands inside his jacket and said, "Ah, ah, fuck you."²² Then Subject 1 turned and moved away from Officer C and Officer F moving in among some retail display clothing racks. Officer F then ordered Subject 1 to stop, to turn around and to keep his hands in the air. Subject 1 did not comply, but continued to move away from the officers. Officer F then deployed his Taser, which had no effect, as the probes struck Subject 1's coat. Subject 1 continued to flee from the officers, running toward the northwest corner of the store. During this time the officers continued to issue verbal commands to Subject 1, such as "Put your hands up. Drop your - - I mean, "Put your hands up. Let me see your hands. Let me see your hands, Stop,"²³ At one point Subject 1 turned east toward a wall adjacent to the store's exit. At one point he faced Officer C and produced a "silver, semi-automatic"²⁴ hand gun in his right hand, pointing it at Officers C and F, at a distance of approximately ten or fifteen feet. Officer C ordered Subject 1 to drop his weapon. When Subject 1 did not comply with that order, but instead discharged his weapon, Officer C, in fear for his own safety and that of his fellow officers, discharged his weapon approximately four or five times. Officer F did not discharge his weapon. Officer C then observed Subject 1 jump back, then duck, or stoop and hide behind some display shelving that contained sunglasses. Officer C was not certain at that point whether or not the rounds he had just fired in fact struck Subject 1 or not, but he felt that it was probable, based on Subject 1's immediate physical reaction, that his shots did strike Subject 1. Officer C believed that Officer D fired at Subject 1 after Officer C stopped firing. Officer C stated that he heard no other shots fired following those shots that he believed were fired by Officer D.

In his **interview, Involved Officer B**, Beat# 793 stated that when he arrived at the store he remained in the store's front foyer. From that position Officer B could hear officers' voices saying, "Let me see your hands."²⁵ Officer B also heard a Taser being deployed to his right (north). Officer B observed Subject 1 with a silver gun in his hand emerging from among the clothing racks. Fearing for the safety of other officers at the scene in Subject 1's line of fire, Officer B then discharged two rounds at Subject 1 through the lobby's glass partition. Officer B then observed Subject 1 falling backward and out of Officer B's field of vision. Officer B believed that rounds from his weapon struck Subject 1. Officer B did hear other shots being fired, but did not see Subject 1 fire his weapon.

In his **interview, Involved Officer A**, Beat# 4361A, stated that when he arrived at the store along with his partner, Officer H, they noticed the store appeared closed. They tried to open the entrance door and found it locked. At that point a female opened the door from inside and ran

¹⁹ cf also the printed transcript of Officer C's interview, Attachment 123, page 9

²⁰ Ibid, p. 12

²¹ Ibid, p. 13

²² Ibid

²³ Ibid, p. 19

²⁴ Ibid, p. 17

²⁵ cf also the printed transcript of Officer B's interview, Attachment 124, page 10

INDEPENDENT POLICE REVIEW AUTHORITY

Log# 1044816 / U# 11-18

out from the store, saying there was someone inside attempting to rob the store. Officer A then asked the female if the subject inside the store was armed and the female confirmed that the subject was armed. Officer A then notified dispatch that the earlier message regarding an armed offender inside the store was bona fide. Officer A and Officer H then entered the store with weapons drawn, Officer H moving toward the south, Officer A moving to the north and west. Other officers also entered the store. Officer A then saw Subject 1 walking away from an officer, who then deployed his Taser at Subject 1. The Taser was ineffective and Subject 1 turned and produced a firearm which he then appeared to discharge in the direction of the officer who had just deployed the Taser. Officer A then fired about two or three times at Subject 1, unsure whether or not any of his rounds struck Subject 1. Subject 1 then fired at Officer A, who immediately felt pain in his leg and took cover among some shelves. Subject 1 then retreated from other officers, but in doing so he also drew closer to Officer A. Officer A heard commands called out to Subject 1 to drop his weapon. Officer A then heard shots from various weapons and saw muzzle flashes from Subject 1's weapon. Officer A had a partial view of Subject 1 as he peered below the items hanging at the clothing racks. Seeing the muzzle flashes from Subject 1's weapon, and in fear of his own safety and that of the other officers at the scene, Officer A then discharged approximately ten rounds from his weapon at Subject 1. He released the magazine from his weapon and inserted a fully loaded magazine in its place. Officer A then ceased firing, for by that time there was no further movement detected from Subject 1 and Officer A determined that the threat posed by Subject 1 as an armed assailant was eliminated.

The **General Order** on the use of **deadly force**, 03-02-03 (formerly 02-08-03) outlines the parameters under which officers are either permitted or obliged to apply this level of physical force.

INDEPENDENT POLICE REVIEW AUTHORITY

Log# 1044816 / U# 11-18

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officers A, B, C, D and Officer E was in compliance with Chicago Police Department policy. According to the Chicago Police Department's General Order 03-02-03 (formerly G02-08-03), Section II, A:

A sworn member is justified in using force likely to cause death or great bodily harm only 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.

The preponderance of the evidence indicates that the officers' actions were in accordance with the requirements of the Police Department's deadly force policy. Subject 1 resisted officers' non-lethal attempts (verbal, Taser) to cause him to cease and desist his threatening words and actions. Officers A, B, C, D and Officer E discharged their weapons only when they saw Subject 1 pointing and discharging his firearm toward the officers. The above-named officers fired in the belief that they were in immediate danger of death or great bodily harm from Subject 1.