

INDEPENDENT POLICE REVIEW AUTHORITY

Log#1017395/U# 08-18

**INVESTIGATION**

**NUMBER:** Log #1017395/U# 08-18

**OFFICER**

**INVOLVED:** "Officer A" (Chicago Police Officer); Male/Black; 41 years old;  
On Duty; Plainclothes; Year of Appointment – 1995

**OFFICER'S**

**INJURIES:** None reported

**SUBJECT:** "Subject 1"; Male/Black; 24 years old

**SUBJECT'S**

**INJURIES:** FATAL; one through-and-through gunshot wound to left thigh;  
one gunshot wound, lodged, to right rear flank. Pronounced dead at  
Christ Hospital at 0020 hours on 16 June 2008.

**INITIAL**

**INCIDENT:** Officers observed subject driving a vehicle without headlights.

**DATE/TIME**

**OF INCIDENT:** 15 June 2008 at approximately 2322 hours

**LOCATION:**

338 W. 109<sup>th</sup> Place  
**Beat 513**

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**SUMMARY OF INCIDENT:**

On 15 June 2008, at approximately 2322 hours, officers assigned to Beat 42T72E, Officer A and Marcus Broadway, who were in plainclothes and an unmarked car, responded to a call of a man with a gun. The officers then observed a subject now known as Subject 1 driving a vehicle without activated headlights at a high rate of speed near 108<sup>th</sup> and Princeton. Officers A and B attempted to curb Subject 1's vehicle but Subject 1 did not stop. Officers A and B radioed Subject 1's direction of travel and a description of the vehicle. Subject 1 drove through an alley and struck a parked vehicle at approximately 348 W. 109<sup>th</sup> Pl. Subject 1 abandoned his vehicle and fled through a gangway on the east side of 338 W. 109<sup>th</sup> Place. Officer A exited his vehicle and pursued Subject 1 on foot. Officer A related that Subject 1 tried to enter a gate in the gangway. Officer A said he shouted, "Stop, police!" but Subject 1 continued running. Officer A heard a gunshot and saw a muzzle flash. Officer A said he assumed Subject 1 was shooting at him, drew his weapon, yelled, "Police!" and fired approximately two shots. Subject 1 seemed to trip as he went through the gate, and he seemed to flail his arms. Officer A said he did not see Subject 1 throw anything.

Officer A pursued Subject 1, who ran diagonally through the back yard and pivoted, turning toward Officer A. Officer A feared for his life and believed that Subject 1 was still armed and was going to fire at him again. Officer A fired several times. Subject 1 turned and jumped over two fences, eventually falling on top of garbage cans in the alley. Officer A went to Subject 1 and patted him down. He found that Subject 1 was wounded and radioed for an ambulance. Officer A found a weapon on the ground in the back yard at 334 W. 109<sup>th</sup> Pl. A shell casing was recovered near the gate leading to the back yard of 338 W. 109<sup>th</sup> Pl. A bullet hole was discovered on the paneling of the house at 338 W. 109<sup>th</sup> Pl. Officer A was not injured. Subject 1, who was shot in the right rear flank and left thigh, was pronounced dead at Christ Hospital.

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**CPD Detective 1** related to the Roundtable panel that during a canvass he spoke to Witness 4. Witness 4 said that he was with his cousin, Witness 5, and as they drove up to Witness 5's house located at 329 W. 110<sup>th</sup> St., he heard squealing car tires and then a gunshot. Witness 4 looked north through an empty lot across the street and saw a black male subject run through a gangway at 338 W. 109<sup>th</sup> Pl. Witness 4 saw another black male subject<sup>1</sup> run into the same gangway, at which time Witness 4 heard another gunshot. A few seconds later, Witness 4 heard several more gunshots.

**CPD Detective 2** related to the Roundtable panel that during a canvass he spoke to witness "[Name]," [later identified as Witness 2]. Witness 2 said that he was sitting on the front porch of XXX W. 109<sup>th</sup> Place when he heard squealing car tires. Witness 2 looked toward 350 W. 109<sup>th</sup> Pl. and saw Subject 1, whom he knew, exit a vehicle and run north through a gangway located at 338 W. 109<sup>th</sup> Pl. Witness 2 saw Officer A exit his vehicle, run through the gangway after Subject 1 and fire his weapon at Subject 1. Witness 2 stated that he and other persons "scattered" from the porch.

**CPD Detective 3** related to the Roundtable panel that during a canvass he spoke to Witness 6. Witness 6 related that she was sitting on the front porch of her residence at XXX W. 109<sup>th</sup> Pl. when she saw Subject 1, who was driving his Buick east on 109<sup>th</sup> Place, sideswipe a parked vehicle. Subject 1 exited his vehicle and ran into the gangway of 338 W. 109<sup>th</sup> Pl. Witness 6 saw two male officers in an unmarked squad car behind the Buick. When Subject 1 fled on foot, Officer A exited his squad car and chased Subject 1 into the gangway. A few moments later, Witness 6 heard several gunshots. Witness 6 did not witness the shooting.

**Officer B** related to the Roundtable panel that he and Officer A attempted to curb Subject 1's vehicle, but he did not stop. After Subject 1's car struck a parked vehicle, he abandoned his vehicle at approximately 336 W. 109<sup>th</sup> Pl. and ran north through the gangway between 338 and XXX W. 109<sup>th</sup> Pl. Officer A exited the squad car to pursue Subject 1 on foot, and Officer B drove around the block and heard several gunshots. Officer B drove up to where he saw Subject 1 lying on the ground in the alley at 338 W. 109<sup>th</sup> Pl. Officer A told Officer B that he believed Subject 1 had "tossed" a gun. Officer B stayed with Subject 1 as Officer A retraced his path and searched the area until he located Subject 1's weapon.

**Officer A** told the Roundtable panel that he chased Subject 1 on foot into the gangway between 338 and XXX W. 109<sup>th</sup> Pl. Subject 1 reached the gate that led to the back yard and appeared to try to open the gate. Officer A yelled, "Stop!" and then heard a gunshot and saw a muzzle flash coming from Subject 1's direction. Officer A fired twice at Subject 1, who opened the gate, stumbled into the yard and appeared to make a "throwing motion" with his arm. Officer A did not see what Subject 1 might have thrown because he focused on Subject 1 who continued to run to the north end of the yard.

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<sup>1</sup> Based on this investigation, the first black male subject was Subject 1, while the second black male subject was Officer A.

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Subject 1 ran to the fence along the north end of the back yard. Officer A again yelled, "Stop!" Subject 1 turned and faced Officer A, who had stopped in the back yard. Officer A fired his weapon several more times at Subject 1, who scaled the fence on the west side of the yard and landed in the back yard of 340 W. 109<sup>th</sup> Pl. Subject 1 jumped the north fence of 340 W. 109<sup>th</sup> Pl., fell over garbage cans and landed in the alley behind 340 W. 109<sup>th</sup> Pl. Officer A holstered his weapon, scaled the same fences and searched Subject 1. Officer B arrived, and Officer A told him that he believed that Subject 1 had thrown his gun. Officer A back-tracked his path and found the gun on the east side of the back yard of 344 W. 109<sup>th</sup> Pl.

**CPD Detective 4** related to the Roundtable panel that he responded to Christ Hospital where he learned that Subject 1 sustained a through-and-through gunshot wound to his right thigh<sup>2</sup> and a gunshot wound to his right rear flank, with the bullet lodged. Subject 1 was pronounced dead at 0020 hours by Doctor A.

**In a statement to IPRA on 16 June 2008, Witness 1** related that he was sleeping at his home at XXX W. 109<sup>th</sup> Pl. when he heard an uncertain number of gunshots. Witness 1 looked out of a rear window and observed a black male subject [Subject 1] jumping over a fence to the east of his house. Subject 1 jumped to the fence directly behind Witness 1's house, but did not make it over that second fence. While Subject 1 was straddling the second fence, Witness 1 heard a gunshot and saw blood come out of Subject 1's side or back. Subject 1 fell on the garbage can, causing the garbage can to fall over. Witness 1 saw a plainclothes police officer jump over the second fence. Witness 1 stated that Subject 1's back was toward the person who shot him. Witness 1 did not see a person shoot Subject 1. Witness 1 never observed Subject 1 with a gun in his hands. Witness 1 stated that he heard the police say "Stop," but did not hear police say anything about Subject 1 having a weapon or telling him to drop a weapon. A black female ran toward Subject 1 after the shooting, but persons who were possibly officers did not allow her to get near Subject 1.

**In a statement to IPRA on 19 June 2008, Witness 2** said that he was sitting on the front steps at XXX W. 109<sup>th</sup> Pl. when Subject 1 dropped off his (Subject 1's) girlfriend, "Witness 3," there. Subject 1 drove away. Witness 2 then saw Subject 1 drive his car out of an alley west of the porch where he was sitting. Subject 1's car scraped a burgundy Chrysler LeBaron and he then drove east on 109<sup>th</sup> Place before stopping the car. Subject 1 exited his car and ran east on the sidewalk on 109<sup>th</sup> Place toward Witness 2. Subject 1 turned north and ran into the gangway west of XXX W. 109<sup>th</sup> Pl. Witness 2 did not see anything in Subject 1's hands as he ran and did not see anything protruding from his waistband, which was covered by his white t-shirt. An unmarked police car stopped just west of XXX W. 109<sup>th</sup> Place and a black male officer [Officer A] exited the vehicle and ran after Subject 1. The police car continued driving east on 109<sup>th</sup> Place. Officer A ran up to the gangway into which Subject 1 had run. Witness 2 heard what sounded like a "skyrocket" go off north of him. Officer A fired six or seven gunshots down the gangway. Witness 2 was approximately five feet from Officer A when he fired. Officer A ran north into the gangway. Witness 2 looked down the gangway and saw

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<sup>2</sup> Correct location is left thigh.

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Subject 1 hanging on a fence and then fall into the alley. "Witness 3" ran off the porch and ran north in the gangway to the alley. She tried to go to Subject 1, but officers stopped her. "Witness 3" slapped at the officers, who were in plainclothes. The officers took her into custody. Witness 2 did not hear Officer A say anything before he fired. Witness 2 did not see Subject 1 drop or throw anything, and he did not see officers recover a gun. Officers kept everyone out of the back yard where Subject 1 had run.

**In a statement to IPRA on 16 June 2008, Witness 3** related that Subject 1 was the father of her child. On the date of incident, she was sitting on the front porch of XXX W. 109<sup>th</sup> Place and waiting for Subject 1 to return from buying cigarettes. Witness 3 saw Subject 1 run into the gangway between XXX and 338 W. 109<sup>th</sup> Pl. and saw a black male police officer [Officer A] run after him. Witness 3 was going down the stairs of the porch when Officer A fired his weapon, although she did not witness the shooting. Witness 3 heard "at least two gunshots." Witness 3 ran after Subject 1 and Officer A. Subject 1 ran through the yard and into the alley. When she caught up to Subject 1, he was lying in the alley with Officer A standing over him. She approached Subject 1, but officers pushed her back.

**In a statement to IPRA on 16 June 2008, Witness 4** said that, at the time of the incident, he was with his cousin, Witness 5, and a friend, Terry Childs, outside Witness 5's mother's house on 110<sup>th</sup> Street. Witness 4 heard what sounded like a car crash on 109<sup>th</sup> Place and then a gunshot. Looking across a vacant lot, Witness 4 saw a black male [Subject 1] running east on 109<sup>th</sup> Place and then into a gangway. Witness 4 saw a second black male [Officer A] running after Subject 1 into the gangway and then heard a second gunshot. He saw Subject 1 angle to the left after reaching the back of the house next to the gangway and then heard five or six more gunshots. Witness 4 did not see who fired the shots and he did not see either man holding a gun. Witness 4 was able to see the two males in the gangway because of a security light that was in the gangway. He did not hear anyone say, "Police," or "Drop it," or similar words. He did not see police recover a gun.

**In a statement to IPRA on 16 June 2008, Witness 5** related that at the time of the incident, he was with his cousin, Witness 4, and a friend, Terry. They were outside of Witness 5's mother's house at 329 W. 110<sup>th</sup> St. when Witness 5 heard one gunshot. Witness 5 saw a man [Subject 1] run into a gangway between two houses on 109<sup>th</sup> Place. Witness 5 did not see an object in Subject 1's hands. Witness 5 heard a second shot. He saw another man [Officer A] run into the same gangway, stop, and crouch down with his hands together in front of him. Witness 5 could not see if anything was in Officer A's hands because his back was to him. Witness 5 heard several shots, but did not see who was firing. Witness 5 saw Subject 1 run out of sight. Officer A walked slowly north and into the alley, as if he was "hesitating." Witness 5 did not hear Officer A say anything at any time. He did not hear "Police," or "Drop it" or similar words. He did not see police recover a gun.

**In a telephone conversation on 09 July 2012, Witness 6** provided an account that was consistent with her Roundtable account as presented by CPD Detective 3. In addition, Witness 6 said that the first shot she heard was "softer" than the subsequent

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shots, which indicated to her that different weapons were fired. She did not see anyone fire a weapon.

**The canvass produced Witness 7.** In a statement to IPRA on 16 July 2012, Witness 7 related that she was sitting on the steps of her house at XXX W. 109<sup>th</sup> Pl. when she saw a black male run from the alley west of her. The black male ran into a gangway across the street from Witness 7. She did not see a gun or similar object on the black male. Two or three uniformed white male officers ran after the black male. Witness 7 then heard at least three gunshots one after another. She did not see anyone fire a weapon. She did not hear the black male or the officers say anything. Witness 7 and other persons from the neighborhood went to the alley north of 109<sup>th</sup> Place, and she saw the black male lying next to some dumpsters. Witness 7 did not see a gun or a similar object in the vicinity of the black male. She did not hear officers say anything about a gun.

**CPD Assistant Deputy Superintendent A Report** included an account of the incident that is consistent with the Summary of Incident. CPD Assistant Deputy Superintendent A added that, while Officer C was protecting the crime scene, Witness 3 attempted to reach Subject 1 prior to his removal by the ambulance. Officer Collado prevented Witness 3 from entering the crime scene and she struck him. Witness 3 was arrested. It was later determined that the vehicle Subject 1 was driving was registered to Witness 3 and they had a child together. CPD Assistant Deputy Superintendent A added that the Forensic Services Mobile Unit recovered both Officer A's gun and a gun from the yard at XXX W. 109<sup>th</sup> Place. Beat 9603 collected gunshot residue standards from Subject 1 at Christ Hospital.

The **General Offense Case Report** included an account of the incident that is consistent with the Summary of Incident.

The **Tactical Response Report** from Officer A indicates that Subject 1 fired his weapon first from 10-15 feet away from Officer A. Officer A fired his weapon six times at Subject 1.

**The Ambulance Report** documents that on 15 June 2008, at 2331 hours, paramedics responded to the scene and observed Subject 1 face down in the alley. Subject 1 had a gunshot wound to his right lower back, had lost a significant amount of blood and was unresponsive to treatment. Subject 1 was transported to Christ Hospital.

**The summary of the transmissions** from the disc provided by the Office of Emergency Management and Communications (OEMC) indicates that an officer from Beat 42T72Eddie radioed an "emergency" about a vehicle driving west on 108<sup>th</sup> and south on Union. At approximately 2322 hours, a male voice radioed in an "emergency" at XXX "E." 109<sup>th</sup> Pl. with shots fired by the police. Another voice corrects the direction to "west." A unit asks for an ambulance. At approximately 2326 hours, a male voice says that a weapon was recovered. A male voice tells Beat 5220 [Detective Division] that the incident involves shots fired at and by the police. Beat 524 eventually radios that they located the offender's weapon.

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**Forensic Services Photographs** depict the location of incident and the recovered evidence.

**Crime Scene Processing Reports** indicate that Forensic Services investigators recovered a 9mm semi-automatic Ruger, Model P95DC, believed to be Subject 1's weapon, in the rear yard of XXX W. 109<sup>th</sup> Pl. The hammer was cocked when the weapon was found. They also inventoried Officer A's pistol, a 9mm semi-automatic Sig-Sauer, Model P228. Seven cartridges were recovered from each pistol. Eight cartridge casings were recovered at the scene. There was a bullet hole in the siding of the east side of 338 W. 109<sup>th</sup> Pl., adjacent to the gangway and near the gate. One of the fired casings was also recovered in that gangway. A fired bullet was recovered from the lower kitchen cabinet at 338 W. 109<sup>th</sup> Pl. A bullet hole was near the rear door of 339 W. 109<sup>th</sup> St. Another bullet hole and "other holes and damage" were at the rear of 341 W. 109<sup>th</sup> St. The fired evidence was recovered both shortly after the incident and during daylight hours on 16 June 2008. A fired bullet was recovered during the autopsy.

The **Autopsy Report** indicates that there was an entry wound on the right side of Subject 1's chest wall. The bullet was recovered from his sternum. The wound course was from right to left, upward, and back to front. The second wound was an entry to the back of the left mid-thigh with the exit at the front of that thigh. The wound course was from back to front and upward. There was no evidence of close-range firing. The gunshot wounds caused the death, and the manner of death was homicide. Toxicological analyses indicated alcohol in the blood measured .123.

**A Case Supplementary Report** includes accounts of the incident from Officers A and B that are consistent with their Roundtable accounts. In addition, Officer A told the detectives that he found Subject 1's weapon in the rear yard at XXX W. 109<sup>th</sup> Pl.<sup>3</sup> The detectives said that a motion detector security light was on the rear wall of 338 W. 109<sup>th</sup> Pl. and it periodically clicked off and on depending on movement of personnel. The accounts from witnesses Witness 4, Witness 2 and Witness 6 were consistent with their accounts as presented at the Roundtable. In addition, Witness 2 said that as the officer (Officer A) reached the gangway, Witness 2 heard the first gunshot. Witness 2 then observed Officer A return fire down the gangway. The detectives related that Witness 3 told them that she did not know Subject 1 to have a gun. She saw the officer (Officer A) chase Subject 1 through the gangway as Witness 3 came off the porch. She told detectives that she heard gunshots from the gangway and then saw Officer A shoot at Subject 1. Witness 3 went down the gangway and into the yard and saw Subject 1 lying in the alley, with an officer standing over him. A canvass of the area produced several persons who heard gunshots, though none witnessed the shooting. The recovered Ruger pistol came back clear, not registered.

**The Firearms Trace Summary** from the Bureau of Alcohol, Tobacco, Firearms and Explosives indicates that the Ruger pistol had been bought by Bradford Diorio of Pleasantville, NY, on 25 July 2002.

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<sup>3</sup> This is where the weapon was actually found.

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An **Illinois State Police Division of Forensic Services (ISP)** report, dated 29 October 2008, documents that Officer A's weapon and the Ruger were examined, found to be in firing condition and test fired. Seven of the cartridge casings and the bullet recovered during the autopsy were found to have been fired from Officer A's gun. The cartridge casing recovered from the gangway of 338 W. 109<sup>th</sup> Pl. and the fired bullet recovered from the kitchen cabinet inside the home at that address were found to have been fired from the Ruger.

An **ISP** report dated 16 October 2008 indicates that no latent impressions suitable for comparison were found on the Ruger, its magazine or its live cartridges.

An **ISP** report dated 15 July 2008 documents that the gunshot residue test administered to Subject 1 indicates that he may not have discharged a firearm with either hand, and if he did discharge a firearm, the particles were removed by activity, were not deposited or were not detected.

An **ISP summary report** generated by the Metro-East Forensic Science Laboratory, dated 09 November 2009, indicates that no human DNA profile was identified from swabs taken from the Ruger.

**Cook County Court Documents** indicate that Subject 1's mother filed a civil suit against the City of Chicago and unknown officers for wrongful death.

**In a statement to IPRA on 05 February 2009, Officer A** related that on 15 June 2008 at approximately 2322 hours in the area of 338 W. 109<sup>th</sup> Place, he and his partner Officer B were in the area investigating a call of shots fired, man with a gun. They attempted to curb a vehicle with its headlights off. The vehicle fled and they pursued. The vehicle parked at 338 W. 109<sup>th</sup> Place and Subject 1 got out and fled on foot. Officer A pursued Subject 1 on foot through a gangway and shouted, "Stop, police!" Officer A heard a gunshot and saw a muzzle flash and, in fear for his life, Officer A fired approximately two shots. Subject 1 seemed to trip as he went through the gate. Subject 1 stood up and seemed to be flailing his arms (Officer A added that it was "possible" that he told the Roundtable panel that Subject 1 appeared to make a "throwing motion" with his arm.). Officer A did not see Subject 1 throw anything. Subject 1 ran diagonally through the yard as Officer A pursued him. Subject 1 turned toward Officer A and, out of fear that Subject 1 was going to fire again, Officer A fired his weapon several times. Subject 1 jumped over two fences, falling onto garbage cans. Officer A holstered his weapon before jumping over the back fence and then he re-drew his weapon. He radioed for an ambulance after realizing that Subject 1 had been shot. Officer A located Subject 1's weapon, which still contained its magazine. Subject 1 was approximately 10-12 feet away from Officer A when Officer A first fired his weapon.

**In a statement to IPRA on 09 February 2009, Officer B** related that at the time of the incident, he and his partner Officer A were in the area of 338 W. 109<sup>th</sup> Pl. investigating a call of shots fired, man with a gun. They attempted to curb a vehicle that had its headlights off. The vehicle fled and they pursued. After striking a parked vehicle,



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Subject 1's car pulled over at 338 W. 109<sup>th</sup> Pl. and Subject 1 got out and fled on foot. Officer A pursued Subject 1 on foot as Officer B drove east in an attempt to cut off Subject 1 in the alley on the next block. While eastbound, Officer B heard two gunshots, and then shortly after heard three or four more gunshots. He made two left turns, driving into the alley north of 109<sup>th</sup> Place. Officer B drove halfway down the alley and saw Officer A standing in a fenced yard. Subject 1 was lying on the ground in the alley. Officer B approached Subject 1 on foot and saw that he was shot. Officers Broadway and Officer A looked for Subject 1's gun and Officer A found it in the yard east of the yard they had run through. Officer A told him that Subject 1 tried to throw the gun. Officer B did not hear anyone say words such as, "Stop police," or "Police" before he heard the shots.

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### CONCLUSION AND FINDING:

This investigation found that the use of deadly force by Officer A 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 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.

Substantial evidence supports Officer A's account of the incident. Witness 2 said that after Subject 1 ran into the gangway, he heard what he termed a "skyrocket" go off, and then Officer A, who was approximately five feet from Witness 2, fired his weapon, which lends credibility to Officer A's account that he heard a gunshot and saw a muzzle flash in the gangway before firing at Subject 1. In addition, the Ruger was found shortly after the incident in the yard next to where Officer A pursued Subject 1. The fired bullet recovered from the house adjacent to the gangway, 338 W. 109<sup>th</sup> Pl., and the casing recovered in the gangway had been fired from the Ruger. Although the gunshot residue test on Subject 1 was not positive, the location of the Ruger and the recovered bullet and casing indicate that Subject 1 fired the Ruger in the gangway and that the bullet struck the house. Subject 1 evidently tossed the Ruger into the adjacent yard before running toward the alley. Officer A was preventing death or great bodily harm to himself when he returned fire at Subject 1 in the gangway.

Officer A said that Subject 1 turned toward him in the back yard before Officer A fired a second set of shots, while Witness 1 said Subject 1's back faced the person who shot him. Regardless of Subject 1's exact position and that he apparently was not holding the Ruger when Officer A fired the second set of shots, Officer A was justified in firing at Subject 1 then. Subject 1 had already fired at Officer A, thereby committing a forcible

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felony that involved the use of force likely to cause death or great bodily harm. He was also attempting to escape. Under the General Order, Officer A was justified in using deadly force to prevent the arrest of Subject 1 from being defeated by escape even if Subject 1 was not armed then. Officer A said he did not see Subject 1 throw anything. Officer A reasonably believed that Subject 1 was still armed and might fire at him again when Subject 1 was in the back yard.