

INDEPENDENT POLICE REVIEW AUTHORITY  
LOG#1050281/U#11-56

**INVESTIGATION**

**NUMBER:** Log #1050281/U #11-56

**OFFICER**

**INVOLVED:** “Officer A” (Chicago Police Officer); Male/White; 42 years old;  
Off- Duty; Year of Appointment – 1994

**OFFICER’S  
INJURIES:**

None reported

**VICTIM/  
SUBJECT:**

“Subject 1”; Male/White; 30 years old

**SUBJECT’S  
INJURIES:**

Single gunshot wound to the top of the left hand

**INITIAL  
INCIDENT:**

Officer – Involved Shooting

**CHARGES:**

Aggravated Assault - Handgun, Battery – Made physical contact

**DATE/TIME  
OF INCIDENT:**

27 November 2011 at approximately 0400 hours

**LOCATION:**

Intersection of West Erie St and North Orleans St, parking lot west of  
Cuvee Night Club; 319 West Erie St and 308 W. Erie St

**SUMMARY OF INCIDENT:**

**On 27 November 2011 at approximately 0400 hours**, Officer A was off-duty and at Cuvee Nightclub, located at 308 West Erie. Officer A was inside the bar when he overheard arguing between three males. The three males were fighting inside the bar and, after the fight broke up, all three left the bar. A bouncer at Cuvee decided to follow them into the parking lot to ensure everyone left safely. Two males went to the parking lot and got into a black, four- door Mercedes-Benz. The third male was walking alone down the alley next to Cuvee night club. As the third male was walking toward the intersection of North Orleans Street and West Erie Street, the two males got into the car, made a quick turn, and then drove off toward the parking lot's exit in an attempt to run over the third male. The male ran and jumped toward the sidewalk, thus avoiding being hit. As the car came to a halt, the male in the passenger seat of the car, now known as Subject 2, came out of the vehicle and walked toward the fallen male. At this moment, one of the other bouncers from a nearby bar ran up behind the passenger and grabbed him. At this point, Officer A was at the south exit of the parking lot. Officer A saw the driver of the car, now known as Subject 1, with a gun. Subject 1 pointed the gun at the bouncer so he would release Subject 2. Subject 1 then put the car in drive while Officer A was near the driver's side of the vehicle and pointed the gun at Officer A. Officer A then pulled out his gun and fired about 4-6 shots at the driver of the vehicle. The car then sped off eastbound on Erie.

**INVESTIGATION:**

**In a statement with IPRA, Involved Officer A,** related that on 27 November 2011 at approximately 0400 hours, he was at a nightclub called Cuvee. Cuvee is located at 308 West Erie, next to a parking lot. The nightclub entrance is located on the east side of the parking lot in an alley. According to Officer A, he witnessed three young white males fighting inside, then being thrown out of Cuvee. After being kicked out, one young male walked down the alley while the two other males went to their car north of the parking lot. One of the bouncers from Cuvee, now known as Witness 2, followed the males to the parking lot to ensure they were safe. The male walking down the alley was identified as [Club Patron] and the two other males were identified as Subject 2 and Subject 1. Officer A was near the entrance of Cuvee observing the incident. Officer A and another bouncer, “[First Name],” were watching Witness 2 walking into the parking lot and saw a parked black four door Mercedes Benz with two people inside of the vehicle. As Witness 2 got close to the Mercedes, the driver of the vehicle pulled out his gun and pointed it at Witness 2. Fearing for his life, Witness 2 put his hands up and started to walk away slowly. Officer A started to approach the situation after he saw this male point a gun toward Witness 2. Officer A and the bouncers from Cuvee saw the Mercedes-Benz being put into drive and making a quick U-turn in the parking lot. The car was heading southbound towards the parking lot exit. Officer A ran toward the south exit of the parking lot to see the Mercedes-Benz on West Erie Street facing the wrong side of traffic. The young male who exited the nightclub, [Club Patron], was lying on the ground near the vehicle. The passenger, Subject 2, exited the vehicle and started walking toward [Club Patron]. Officer A noticed other bouncers from nearby clubs, as well as other police officers originally dealing with another incident, approach the Mercedes-Benz. While the bouncers approached the car, Officer A saw that Subject 1 was in possession of a gun. Officer A shouted, “He has a gun, he has a gun!” Subject 2 then returned to the car and, as Officer A got closer to the car, Subject 1 started to point his gun at Officer A. Officer A, who was carrying his secondary weapon, drew his gun and, in fear for his life, fired toward the driver. Officer A fired about five or six times at the driver and the two males in the vehicle drove away.

**In a statement with IPRA on 27 November 2011, Witness 1** stated that, on the date of the incident, he was riding his bike taxi southbound on Wells Street when he spotted an object resembling a gun on the bike lane. Witness 1 described the gun as a black .9 mm handgun that was chrome plated. Witness 1 initially drove past the gun, but after second guessing what he saw, he drove back to the location of the gun. He parked his bike taxi over the gun while he contacted Officer D by cell phone. He has previously contacted Officer D and had his number saved in his cell phone. Soon after talking with Officer D, several police officers arrived at Witness 1’s location. Witness 1 stated that he had not heard any gun shots or saw anyone fire any weapons when he spotted the gun.

**In a statement with IPRA on 27 November 2011, Witness 2** stated that, on the date of the incident, he was working as a bouncer at Cuvee. He saw [Club Patron] and two white males fighting inside the nightclub. After the fight broke up, [Club Patron] headed outside and walked down the alley. Witness 2 saw the two white males from the fight head to a black four door Mercedes-Benz in the parking lot. Witness 2 approached the car and the driver pulled out his gun and pointed it at Witness 2, so Witness 2 started to back away. While shouting at [Club Patron],

the driver turned the car around and sped toward Witness 2. [Club Patron] jumped to the sidewalk to avoid getting run over and the passenger of the vehicle stepped out of the car. Two bouncers from a nearby club started to intervene to help Witness 2 and the driver pointed his gun at the other bouncers while the passenger returned to the car, and then pointed the gun toward Officer A. Officer A then opened fire upon the driver. Witness 2 described the suspect's gun as a black handgun with a black metallic finish.

**In a statement with IPRA on 27 November 2011, Witness 3** stated that, on the date of the incident, he was working as a bouncer at The Boardroom night club. This club is located at 343 West Erie, on the opposite side of the street and about 300 feet west of Cuvee, west of Orleans Street. Witness 3 stated he was outside directing cabs when he heard a screeching sound and saw a black four-door Mercedes-Benz speeding out of the parking lot next to Cuvee. He saw a young man, now known as [Club Patron], who ran away from the vehicle and dove to the sidewalk to avoid getting hit. Another bouncer from The Boardroom, "[First Name]" (last name unknown), followed Witness 3 toward the vehicle to intervene. The passenger exited the vehicle and walked toward [Club Patron]. "[First Name]" ran up to the passenger and grabbed him. [First Name] and Witness 3 found out the driver had a gun and was pointing the gun towards them. [First Name] then let go of the passenger while Witness 3 grabbed [Club Patron] and pulled him to safety. The passenger then returned to the car and they headed east. As the two males were leaving, he heard gun shots fired toward the car.

**In a statement with IPRA on 27 November 2011, Witness 4** stated that, on the date of the incident, he was working at Enclave Nightclub. It is located at 213 West Institute Place, a few blocks away from Cuvee. Witness 4 had just finished his shift and decided to stop by Cuvee on his walk to his car to say hello to the bouncers. While talking with some of the bouncers, he saw a bouncer approach a black four-door Mercedes-Benz in the parking lot west of Cuvee. He then saw the same bouncer with his hands up, walking back slowly, and saw Subject 1 point the weapon twice in Witness 2's direction. He turned to Officer A and stated he believed the driver had a gun. He followed Officer A toward the intersection of West Erie Street and North Orleans Street after the car sped off from the parking lot, nearly hitting a young white male. He saw a bouncer from The Boardroom grabbing the passenger of the car and overheard the driver yelling at the passenger to get back in the car. After the passenger got in the car, the driver drove the Mercedes-Benz in reverse to straighten the car first and then drove off. Witness 4 stated that he heard Officer A fire his weapon approximately four to five times at the driver

**In a statement with IPRA on 28 November 2011, witness Officer B** stated that, on the date of the incident, he was with his partner, Officer C, outside of the Boardroom night club. They were breaking up a fight until they heard cries of someone being run over by a black four door Mercedes Benz and decided to intervene. As they got closer to the vehicle, the vehicle backed up, then started to drive away. Officer B took down the license plate numbers to look up the vehicle in their systems. He heard a male voice state that the driver has a gun then heard four or five shots fired. Officer B then recognized Officer A when he saw Officer A with his gun drawn.

**In a statement with IPRA on 28 November 2011, witness Officer C** stated that, on the date of the incident, he was with his partner, Officer B. He stated essentially the same

information as Officer B. He did not see Officer A with his weapon drawn, but recognized him as the Mercedes-Benz was driving away.

The **Original Arrest Report** stated that Subject 1 was charged with two counts of Aggravated Assault with a gun. The offender was placed in custody after being positively identified as the person who pointed a handgun at Witness 2 and Officer A.

The **Original Case Incident Report** documents all officers and civilians who had been a victim or witness to the incident. The offender, Subject 1, sustained a through-and-through gun shot wound to the left hand. Subject 1 was transported to Illinois Masonic Hospital.

The **Case Supplementary Report** documents that Officer A was at the location of the incident and observed an unidentified male white victim struck by a Mercedes-Benz and assaulted by an occupant of that vehicle at the corner of Orleans and Erie. Officer A approached the scene on foot to investigate further, at which time the Mercedes-Benz drove away from the scene. The vehicle fled past Officer A and the driver of the vehicle raised a semi-automatic handgun and pointed it at Officer A who, in fear for his life, fired his own weapon multiple times at the offender who was pointing the weapon at him. The offenders were taken into custody at 5035 West Lawrence and the suspected weapon used and pointed at Officer A was recovered and being secured at the location of 640 North Wells.

The **Pods** revealed no images relevant to the incident.

The **Chicago Police Department Event Query and the OEMC 911 transcriptions** indicate shots were fired from a vehicle, a victim was shot in the hand and a weapon was recovered.

The **Chicago Fire Department Ambulance Report** indicated that Subject 1 sustained a single through and through gun shot wound to the left hand.

The **Medical Records for Subject 1 from Illinois Masonic Hospital** documented that Subject 1 was treated for a gun shot wound to the left hand and was also diagnosed with a fracture to the left hand.

The **Synoptic Report** indicated that Officer A arrived at Area Three at 0820 hours and began the 20 minute observation period. Officer A was presented with the Notice of Alcohol and Drug Testing following a Firearm Discharge Incident form. The breath test was conducted at 0913 hours and the BAC was .000. The urine specimen was collected at 0920 hours.

The **Illinois State Police Forensic Laboratory Report** documented under Lab Case #C12-000708 indicated that the victim Subject 1's weapon was tested and revealed no latent impressions suitable for comparisons.

A **Canvass** in the area of the incident was conducted on 27 November 2011 at approximately 1115 hours and revealed a bullet hole at the lower level window of 319 West Street.

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**Photographs** taken by Evidence Technician A, show various views of the crime scene, fired shells from Officer A's weapon on West Erie Street and bullet holes in the suspect's car. Photographs show bullet hole through the lower level window of 319 West Street.

**CONCLUSION AND FINDINGS:**

According to the Chicago Police Department's General Order 03-02-03, II (A):

- 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 the requirements of the Department's Use of Deadly Force policy. Officer A's reactions were solely based on the actions of Subject 1. Officer A and another bouncer were watching Witness 2 walk into the parking lot and saw a parked four-door Mercedes-Benz with two people inside of the vehicle. As Witness 2 got close to the Mercedes-Benz, Subject 1 pulled out his gun and pointed it at Witness 2. Officer A started to approach the situation after he saw the male point a gun at Witness 2. Officer A and the bouncers from Cuvee saw the Mercedes-Benz being put into drive and do a making a U-turn in the parking lot. The passenger, Subject 2, exited the vehicle and started walking toward [Club Patron]. Officer A noticed other bouncers from nearby clubs, as well as other police officers originally dealing with another incident, approach the Mercedes-Benz. While the bouncers approached the car, Officer A saw that the driver had possession of a gun and shouted, "He has a gun, he has a gun!" Subject 2 returned to the car and, as Officer A got closer to the car, Subject 1 pointed his weapon toward Officer A. Officer A, who was carrying his secondary weapon, drew his gun and fired at the driver about five or six times. Subject 1 and Subject 2 drove away. Officer A, who was in fear for his life and the life of others around him, fired at Subject 1 to prevent death or great bodily harm to him and others. All witnesses and officers present confirmed the details as stated above. Therefore, based on the totality of the circumstances surrounding the incident, Officer A's actions were in compliance with the Use of Force Model.