

INDEPENDENT POLICE REVIEW AUTHORITY

Log #1038595/U# 10-28

SUBJECT: LOG #1038595 / U#10-28

OFFICER

INVOLVED: “Officer A” (Chicago Police Officer); Male/Black; 34 years old; On- Duty; In Civilian Dress; Year of Appointment – 2004

OFFICER

INJURIES: None reported.

OFFICER

INVOLVED: “Officer B” (Chicago Police Officer); Male/Black; 40 years old; On- Duty; In Civilian Dress; Year of Appointment – 1995

OFFICER

INJURIES: Struck by car and fractured left leg and sustained an abrasion to the left cheek. Treated at Christ Hospital.

ACCUSED

OFFICER: “Officer C” (Chicago Police Officer); Male/Black; 27 years old; On- Duty; In Civilian Dress; Year of Appointment – 2007

OFFICER

INJURIES: None reported.

ACCUSED

OFFICER: “Officer D” (Chicago Police Officer); Male/Black; 43 years old; On- Duty; In Uniform; Year of Appointment – 2007

OFFICER

INJURIES: None reported.

WITNESS

OFFICER: “Officer E” (Chicago Police Sergeant); Male/Black; 41 years old; On- Duty; In Uniform; Year of Appointment – 1994

OFFICER’S

INJURIES: None reported.

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

SUBJECT’S

INJURIES: One gunshot wound to the right arm. Treated and released at Roseland Community Hospital.

OFFENDER: Subject 2”; Male/Black; 22 years old

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OFFENDER'S

INJURIES: None reported.

INITIAL

INCIDENT: Traffic Stop.

**DATE/TIME/
LOCATION OF
INCIDENT:**

04 AUG 2010, 0112 hours, 7900 S. South Chicago Ave., (outside).
Beat 411.

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SUMMARY OF INCIDENT:

On 04 August 2010, at 0112 hours, Chicago Police Officers A and B observed a silver Chevy Monte Carlo that had been broadcast over OEMC as stolen. Via police radio, they announced their intention to apprehend the stolen Monte Carlo. At approximately 7900 South Chicago Avenue, Officer B parked their unmarked squad car in front of the Monte Carlo at an angle to curb it. The officers exited their vehicle; as they walked towards the Monte Carlo, the driver, Subject 2, accelerated towards the officers. Officers A and B both discharged their weapons at the Monte Carlo as it approached. The front end of the Monte Carlo struck Officer B, who landed on the hood of the car and rolled onto the ground; Officer B obtained a fractured knee. The Monte Carlo continued driving away.

Meanwhile Officers C and D heard over the radio that officers intended to apprehend the stolen Monte Carlo. Officers C and D activated their emergency lights and drove toward the location to assist. While driving west on 79th Street, they heard multiple gunshots. Upon their arrival to the scene, Officers C and D both leaned out the respective windows of their police Tahoe and discharged their weapons at the Monte Carlo. Officers C and D pursued the Monte Carlo until they lost sight of it on the I-57 Expressway near Halsted Street.

Officer E, who had monitored the pursuit on his radio and had parked on the I-57 Expressway near 119th Street, observed the Monte Carlo pass him, traveling southbound; Sergeant Casey pursued it until he lost the Monte Carlo on Thornton Road. The Monte Carlo was found abandoned and inoperable at 13300 S. Ashland Avenue at approximately 0141 hours. Sergeant Casey secured the vehicle, which had three bullet holes in the windshield and blood in the front passenger area.

The passenger from the Monte Carlo, Subject 1, was arrested several hours later; he sustained a gunshot wound to his right forearm. After his apprehension, Subject 1 identified the driver of the Monte Carlo as Subject 2. Subject 2 was arrested a week later and a jury subsequently found him guilty of two counts of Attempted Murder, for which he was sentenced to twenty years for each count. Neither Subject 2 nor Subject 1 cooperated with this investigation.

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INVESTIGATION:

The **Department Reports** documented an account of the incident that is consistent with the “Summary of Incident” section of this report.¹ The reports further documented the steps the detectives took while conducting their investigation into the shooting.

Subject 2, Subject 1 and the witness, Witness 2, did not cooperate with this investigation.²

Court Records documented that Subject 2 was subsequently tried by a jury and found guilty of two counts of Attempted Murder and one count of Aggravated Battery and sentenced to 20 years for each count.

The **Office of Emergency Management and Communications Event Queries (PCAD)** and **OEMC Recordings** of relevant transmissions made by both citizens and Department Personnel provided information consistent with the Summary of Incident, including the reporting of the traffic stop, shots fired, Officer B being injured, the high speed chase and Subject 1’s arrest.

The **Medical Records** from Christ Hospital reported that Officers A and B were approaching a car when the driver tried to drive off, striking Officer B on the left knee. Officer B was diagnosed with a tibia-fibia fracture to his left leg and an abrasion to his face. Officer B was treated and released.

The **Medical Records** from Roseland Community Hospital reported that Subject 1 sustained a gunshot wound to his right forearm. Subject 1 was treated, given a referral to Stroger Hospital and then released into police custody with the bullet still lodged in his arm.³

The **Evidence Technician Photographs and Video Tapes** captured the location of the incident, the location of Subject 1’s arrest, the Monte Carlo and the area where it was recovered. The photographs further showed Officer B’s left leg in a cast and abrasions to his left cheek and left knee and Subject 1’s right arm in a cast.⁴

The **Illinois State Police Leica Scan** depicted a drawing of a car with the demographics of the recovered Monte Carlo.

The **POD videos** did not capture the shooting.

¹ A Ballistics Analysis could not determine which officer shot Subject 1 or which officer(s)’ bullets struck the Monte Carlo. Also, the traffic pursuit of the Monte Carlo was investigated by CPD’s Traffic Pursuit Board under Pursuit #10-180 and was deemed “In Compliance.”

² A **canvass** was conducted and Witness 2 was identified as a possible witness to the shooting. The canvass produced no additional witnesses or information.

³ Subject 1 was transferred to Roseland Hospital by Chicago Fire Department EMS #4.

⁴ The Crime Scene Processing Reports reported essentially the same information that was depicted in the photos and videos.

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The **In-Car video** for Beat 631R (Officers C and D) had no audio and captured the silhouette of a person running with their hands clasped together in front of their body pointed at a silver Monte Carlo as it sped from a northbound lane on South Chicago Avenue to a southbound lane on Stony Island Avenue.⁵ Beat 631R pursued the car on Stony Island Avenue, down several side streets and onto the expressway.

In a statement to IPRA, **Witness 1** stated that he was in an outside line at Maxwell's Restaurant on 7900 S. Stony Island Avenue when he observed an unmarked squad car occupied by two black, male, plainclothes officers, now known as Officers A and B, traveling southbound on South Chicago Avenue. The squad car did a U-Turn onto Stony Island Avenue and blocked a silver-colored Monte Carlo that was heading northbound on Stony Island Avenue.⁶ Officers A and B exited the squad car with their guns drawn and the Monte Carlo accelerated forward. Witness 1 related that at this time, he observed a marked Chicago Police Tahoe Truck heading westbound on 79th Street. Witness 1 heard eight-to-fifteen shots and ran to the back of Maxwell's. When Witness 1 returned to the front of the restaurant, he observed the Tahoe Truck increase its speed and the Monte Carlo drive forward. Witness 1 related that he then observed one of the plainclothes officers, now known as Officer B, on his knees and his gun flying out of his hand onto the curb. The Monte Carlo drove onto the sidewalk on Stony Island Avenue, did a U-Turn and headed northbound on Stony Island Avenue as two-to-three officers fired at it.⁷ Witness 1 related that the Tahoe pursued the Monte Carlo. Witness 1 added that he did not observe the initial gunfire or the Monte Carlo striking the officer. He further added that the driver of the Monte Carlo was a male black and that the Monte Carlo had a donut (temporary tire) on the back driver's side.

In a statement to IPRA, **Witness Officer E** related that he was at 115th and South Marshfield Avenue when he heard the radio transmission regarding an officer down and the outbound I-57 vehicle pursuit of the silver-colored Chevy Monte Carlo with temporary license plates. Officer E went down the 119th Street ramp, parked and monitored the southbound I-57 Expressway traffic. Officer E related that about 45 seconds later, he saw the Monte Carlo weaving through traffic doing over a hundred miles an hour. Officer E activated his emergency equipment and notified the dispatcher that he had the car in sight and was pursuing it. The car exited at 147th Street and went eastbound. The car turned left onto Loomis St. and made another left turn onto Thornton Road. Officer E lost the car on Thornton Road as the street goes through a forest preserve and has curves. Officer E heard an officer on the radio stating that the car was located and unoccupied at 13300 S. Ashland Avenue; he went to the location and observed that the car had front end damage, bullet holes across the windshield and blood on the passenger side door and arm rest. Officer E added that he secured the car and allowed no one to go

⁵ The R/I believed that the person, now known as Officer A, was holding and/or firing a weapon into the Monte Carlo as demonstrated by evidence gathered in this investigation. Also, the investigation revealed that there were no in-car videos for Beats 6721D and 6721E (Officers A and B).

⁶ The investigation revealed that the Monte Carlo was in a northbound lane at 7900 S. South Chicago Ave.

⁷ The investigation revealed that the Monte Carlo fled southbound on Stony Island Ave.

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inside of it. He further added that, during his pursuit of the car, he could not tell how many people occupied the car as he was never within a block of the car.

In a statement to IPRA, **Witness Officer A** stated that Officer F called him and his partner, Officer B, on a cell phone and related that he was following behind a stolen silver-colored, two-door Monte Carlo at 7900 S. Essex Avenue. Officer A stated that he and Officer B were turning from Stony Island Avenue onto 79th Street and heading eastbound when they observed the northbound-facing Monte Carlo at the light at 7900 S. South Chicago Avenue. Officer B drove the police vehicle, cut across South Chicago Avenue, and circled the Monte Carlo to verify its license plate matched the reported stolen vehicle. After the officers verified the plate number, Officer B notified the dispatcher that they were behind the stolen Monte Carlo and that they were going to curb it.

Officer A related that there was a black car behind the Monte Carlo so Officer B parked the unmarked squad car five-to-seven feet in front of the Monte Carlo at an angle, blocking it in. It was at this time that Officer A observed two black males inside of the Monte Carlo. Officers A and B exited their vehicle with their guns drawn and approached the Monte Carlo's driver side. Officer B was behind Officer A as Officer A told the driver to turn the car off and to show him his hands. Officer A related that neither the driver nor his passenger showed their hands, and when Officers A and B reached the front of the Monte Carlo, the driver reversed, drove about a foot and then immediately drove forward towards him and Officer B. Officer A fired six rounds at the driver, leaving several holes in the Monte Carlo's windshield. After Officer A fired his weapon, he jumped out of the Monte Carlo's path as it continued to accelerate in speed. Officer A related that after the Monte Carlo passed him and was about a car-length away, he observed Officer B on the hood of the Monte Carlo and then fall from the car, causing his gun to fall in the street about two to three feet from him. The Monte Carlo continued into the intersection and fled southbound onto Stony Island Avenue. Officer A added that after Officer B fell from the Monte Carlo, he observed a marked CPD Tahoe follow the car; he heard gunshots but did not know where they were coming from as he went to the aid of Officer B. Officer A related that Officer B had blood on his face and had suffered broken bones to his knee. Officer B radioed that an officer was down and requested an ambulance.

In a statement to IPRA, **Witness Officer B** provided an account of the incident that was consistent with the Summary of Incident and the statement of his partner, Officer A. Officer B added that, when he exited the police car, his partner was heading to the driver's side of the stolen Monte Carlo when it reversed, hit the car behind it, and attempted to pull around the police vehicle. The Monte Carlo was headed towards Officer B when he froze and yelled for it to stop. Officer B then pulled his gun and shot twice at the driver, but the Monte Carlo struck him and knocked him onto its hood. Officer B then rolled off of the moving car, causing his gun, radio and other possessions to fall to the street. The Monte Carlo continued onto South Chicago Avenue and then went southbound onto Stony Island Avenue. Officer B tried to stand up several times but fell down. Officer A asked Officer B if he was okay and then radioed that Officer B had been

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hit by a car. Officer B related that his left knee had been fractured in two places. He added that although he did not observe Officer A fire his weapon, as he was concentrating on the Monte Carlo, he did recall hearing gun shots at the same time that he was shooting but did not observe any officers discharge their weapon. Officer B stated that officers and an ambulance arrived at the scene and he was taken to Christ Hospital for treatment.

In a statement to IPRA, **Accused Officer C** stated that he and his partner, Officer D, were on patrol in a marked Tahoe when they heard another unit broadcast they were stopping a stolen vehicle at 7900 S. South Chicago Avenue. Officer C related that he and Officer D, who was the driver, drove westbound on 79th Street to assist the unit. As they approached South Chicago Avenue., they heard gunshots. Officer C unholstered his weapon with his left (strong) hand and passed the weapon to his right (weak) hand. Officer C stated that he observed an officer, now known as Officer B, lying motionless in the street as another officer, now known as Officer A, stood over him while a silver-colored Monte Carlo drove away. Officer C stuck his head and right hand out of his passenger side window and discharged his weapon seven times at the Monte Carlo's male driver. The silver Monte Carlo accelerated its speed, made a U-Turn and headed southbound onto Stony Island Avenue as Officers C and D gave chase. The officers pursued the Monte Carlo onto the Bishop Ford Expressway and then onto the I-57 Expressway where they lost it at Halsted Street. After losing the Monte Carlo, Officers C and D went back to 7900 S. South Chicago Avenue.

Officer C stated that he fired his weapon at the Monte Carlo to eliminate the threat. Officer C reported that he considered the Monte Carlo to pose a threat to everyone on the scene, including himself. Officer C added that because he heard shots and observed Officer B on the ground, he was in fear of his safety when he discharged his weapon. Officer C also conceded that the Monte Carlo posed no threat to him or Officer D because they were still driving to the scene when he discharged his weapon. He said that he did not see the Monte Carlo strike Officer B and he did not know where the shots that he initially heard came from. Officer C said that he observed Officer D fire his weapon but he did not know at what point Officer D discharged his weapon, or if Officer D placed his gun out of the window to discharge it.

Officer C further added that he was not trained to fire at a moving vehicle, he did not recall if there were citizens on the street or if there were any cars at the scene when he shot, and he did not observe injuries to Officer B, but he believed he had been shot.

In a statement to IPRA, **Accused Officer D** stated that he and his partner, Officer C, were on patrol in a marked Chicago Police Tahoe when he heard a unit on the radio state that they were following three vehicles that were driving at a high rate of speed. The unit then radioed that they had stopped one of the vehicles and learned that the gray-colored Monte Carlo that they were following was stolen and that they had lost sight of it. Officer D stated that as he was driving westbound on 79th Street, a unit radioed they had spotted the stolen Monte Carlo and were stopping it at 7900 S. South Chicago Avenue.

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Officer D stated that he and Officer C were about three side streets away, so they took out their guns, sped up and drove to the location to assist with the stop.

Officer D said that as they neared the Maxwell's Restaurant, which is located on the corner of 7900 S. South Chicago Avenue, they heard gunshots and he saw a muzzle flash. Officer D then observed an officer, now known as Officer B, walk around his vehicle as a silver-colored Monte Carlo accelerated and struck him, causing Officer B to roll across the hood of the Monte Carlo. He stated that he also observed Officer B's police vehicle parked at an angle in front of the Monte Carlo and an officer, now known as Officer A, running after the Monte Carlo. Officer D said that the Monte Carlo then paused and was facing northwest when he, while still driving towards the scene, reached his right hand across his body, pointed his weapon out of his driver's side window and fired twice at the Monte Carlo's driver. The Monte Carlo fled southbound onto Stony Island Avenue as Officer D pursued it. Officer D radioed that the Monte Carlo drove southbound on Stony Island Avenue; he pursued it onto the Bishop Ford Expressway and finally onto the I-57 Expressway where he lost it at Halsted Street.

Officer D said that he did not know who was shooting at the time he neared 7900 S. South Chicago Avenue, but fired his weapon because he believed that if the driver of the Monte Carlo had shot at Officers A and B, he would shoot at him and Officer C as well. He added that he also fired his weapon because he did not want the Monte Carlo to reverse and run over Officer B, who was laying about 10 feet behind it. Officer D further added that there were no pedestrians or other vehicles at the scene when he fired his weapon and that he did not observe Officer C fire his weapon.

The applicable portions of the Chicago Police Department's **Deadly Force** policy, General Order No. 03-02-03, II, are as follows:

- 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 believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involved the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b. is attempting to escape by use of a deadly weapon or;
 - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay."
- B. "Firing at or into a moving vehicle is only authorized to prevent death or great bodily harm to the sworn member or another person. When confronted with an oncoming vehicle and that vehicle is the only force used against them, sworn members will move out of the vehicle's path."

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CONCLUSION:

Officers A and B were not identified as accused officers because the discharge of their firearms was in compliance with the Department Deadly Force policy. Although both Officers A and B discharged their firearms into an oncoming vehicle, their actions were justified because they did not both have the opportunity to safely move out of the path of the threatening vehicle. This vehicle struck and seriously injured Officer B before he could move out of the way and therefore justified the use of deadly force by Officer A and Officer B.

The R/I recommends a finding of **Exonerated** for **Allegation #1** that **Officer C** fired his weapon at or into a moving vehicle without authorization. The investigation revealed that Officer C's use of deadly force was authorized in response to Subject 2's actions. En route to the scene, Officer C understood that fellow officers apprehended a stolen vehicle whose driver evaded officers earlier in their tour. While still approaching the scene, Officer C heard gunshots coming from the direction of the traffic stop, saw Officer B lying on the ground and observed the stolen vehicle fleeing the scene. Officer D's description of the incident was consistent with the description provided by Officer C. There is no evidence to refute the description of incident as explained by Officer D and Officer C. Based on the information he had at the time, it was reasonable, albeit incorrect, for Officer C to assume that occupants of the stolen vehicle had shot Officer B. In response to Officer C's evaluation of the scene, he considered the occupants of the stolen vehicle to be an ongoing threat to himself and everyone at the scene. Therefore, Officer C's discharge of his firearm into a moving vehicle was authorized to prevent further harm to people on the scene. Furthermore, he was also authorized in his use of deadly force to prevent the escape of persons who he believed had committed a forcible felony that was likely to cause death or great bodily harm.

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