

**SUMMARY REPORT OF INVESTIGATION**

**I. EXECUTIVE SUMMARY**

Date of Incident:	December 5, 2018
Time of Incident:	11:24 P.M.
Location of Incident:	3944 W. Roosevelt Rd. (Shell Gas Station)
Date of COPA Notification:	December 5, 2018
Time of COPA Notification:	11:58 P.M.

Officers Jeremy Carter and Anthony Alvarez were on routine patrol in the vicinity of Pulaski and Roosevelt Road when their vehicle’s license plate reader identified a stolen car, a white Ford Escape. The Ford Escape (now known to be driven by ██████████) drove into a Shell Gas Station and parked at one of the gas pumps. Officers Carter and Alvarez called for additional units to arrive on the scene to conduct the traffic stop.

When the additional officers arrived on the scene, the officers converged on the stolen vehicle, driven by ██████████. Officers Carter and Alvarez, along with the additional units on the scene, surrounded the vehicle and ordered ██████████ out of the vehicle. Officer Carter and the other officers had their weapons drawn and pointed in ██████████ direction. The officers gave verbal commands for ██████████ to exit the vehicle, but he refused to comply. ██████████ revved the engine as if he was going to drive away. Directly in front of the Ford Escape was a marked CPD SUV. ██████████ moved forward and struck the front end of the marked CPD SUV, during which time Officer Carter fired his weapon once at ██████████ believing that he was about to hit an officer (P.O. Trifunovic). The shot struck ██████████ on the left wrist. ██████████ then struck a wrought iron fence surrounding the Shell Gas Station and was placed in custody.

**II. INVOLVED PARTIES**

Accused Officer #1:	CARTER, Jeremy, Star #4007, Empl. ██████████, DOA May 1, 2013, DOB ██████████ 1981, Male, White
Accused Officer #2:	ALVAREZ, Anthony, Star #8822, <sup>1</sup> Empl. # ██████████, DOA March 16, 2018, DOB ██████████ 1995, Male. Hispanic
Involved Individual #1:	██████████, 2002, Male, Black

<sup>1</sup> At the time of this incident, Officer Alvarez’s Star Number was 7933.

**III. ALLEGATIONS**

<b>Officer</b>	<b>Allegation</b>	<b>Finding / Recommendation</b>
Officer Jeremy Carter	<p>It is alleged by the Civilian Office of Police Accountability that on or about December 5, 2018, at approximately 11:24 p.m. at or near the Shell Gas Station located at 2944 W. Roosevelt Road that Officer Jeremy Carter, #4007, you:</p> <p>1. Discharged your firearm at or into a moving vehicle in violation of General Order G03-02; and</p> <p>2. Failed to activate your Body Worn Camera in a timely manner.</p>	<p>Sustained</p> <p>Sustained</p>
Officer Anthony Alvarez	<p>It is alleged by the Civilian Office of Police Accountability that on or about December 5, 2018, at approximately 11:24 P.M. at or near the Shell Gas Station located at 2944 W. Roosevelt Road that Officer Anthony Alvarez, #8833</p> <p>1. Failed to activate his Body Worn Camera in a timely manner.</p>	<p>Sustained</p>

**IV. APPLICABLE RULES AND LAWS**

Rules
1. Rule 6: Disobedience of an order or directive, whether written or oral
General Orders
1. General Order G03-02, effective October 16, 2017
Special Orders
1. Special Order S03-14, effective April 30, 2018

## V. INVESTIGATION

### a. Interviews

COPA interviewed, Officer Jeremy Carter,<sup>2</sup> on December 21, 2018. At approximately 11:24 P.M., on December 5, 2018, Officer Carter (driver) and Officer Alvarez (passenger) were traveling eastbound on Roosevelt when their license plate reader identified a vehicle, driven by ██████ (white Ford Escape), as stolen. ██████ was traveling westbound in the vicinity of 3900 W. Roosevelt when the vehicle was identified. Officer Carter made a U-turn and followed the vehicle. Officer Carter indicated that he did not turn on the emergency equipment at that time because he wanted to verify that they had the right vehicle. Officer Alvarez observed ██████ drive into the Shell Gas station, at which time Officer Carter pulled over at a bus stop in the vicinity of Roosevelt and Pulaski and called for assist vehicles.

Officers Carter and Alvarez waited briefly and then drove into the gas station when the assisting officers arrived on the scene. Officer Carter parked behind the Ford Escape, which was parked at one of the gas pumps. Officer Carter exited the vehicle and approached the driver's side, while Officer Alvarez approached the passenger's side. Both officers had their weapons drawn. Officer Carter stated that another unit, driven by Officer Trifunovic, along with Officer Depietro, parked in the direct line of the Ford Escape. According to Officer Carter; "I approached the driver's side, gave verbal commands for the driver to put the car in park, shut the vehicle off, and with my weapon drawn,<sup>3</sup> at which point I observed the subject in the vehicle flailing around and reaching, while also I heard the vehicle engine revving."<sup>4</sup> Officer Carter believed ██████ put the vehicle in drive and began to move forward. He saw Officers Trifunovic and Depietro in front of the Ford Escape and observed that there was a minimal amount of space between the officers and the Ford Escape.

At this time, ██████ put the car in drive and moved forward. Officer Carter discharged his weapon, once at ██████ fearing that ██████ was going to cause great bodily harm or death to Officers Trifunovic and Depietro. Officer Carter claimed that he did not realize Officers Trifunovic and Depietro had moved to the side of the Ford Escape until after the incident. ██████ crashed into the squad car parked in front of it and then into a fence. ██████ was subsequently placed into custody. Officer Carter said that EMS was immediately called to the scene and he heard that ██████ sustained a gunshot wound to the left wrist.

Officer Carter learned later that evening that the Ford Escape had been involved in a double shooting. Officer Carter was not aware of the shooting when the license plate reader identified the vehicle. Officer Carter said he fired his weapon to prevent ██████ from continuing to operate the vehicle and driving into an officer. He only fired once because ██████ moved far enough that if he kept firing his weapon, he might not be firing on the subject anymore and might hit something else unintentionally.

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<sup>2</sup> Att. 46, 60

<sup>3</sup> Officer Carter explained that he had his weapon drawn, because the car was stolen and considered a felony stop. Att. 60, Page 13, Line 16 - 18

<sup>4</sup> Att. 60, Page 13, Line 19 - 24

Officer Carter reported that he turned on his body-worn camera seconds after he fired his weapon. Officer Carter indicated that he did not turn on his body-worn camera when he exited the vehicle because he had his gun drawn. Officer Carter stated that he did not turn on his body-worn camera when his license plate reader identified the car because he wanted to verify that he had the right vehicle. Officer Carter further indicated that he did not turn on the body-worn camera by the bus stop, because he was not sure they were going to conduct a stop on the vehicle. He agreed that it would have been an appropriate time to turn on the body-worn camera when he was verifying the vehicle. Officer Carter did not believe he violated General Order 03-02 when he fired into a fleeing vehicle. Officer Carter denied that he failed to activate his body-worn camera in a timely manner.

**COPA interviewed Officer Anthony Alvarez<sup>5</sup>** on December 13, 2018. Officer Alvarez (passenger) said that at approximately 11:24 P.M., on December 5, 2018, he and Officer Carter (driver) were on routine patrol, traveling eastbound on Roosevelt when their license plate reader identified a stolen vehicle, now known to be a white Ford Escape that was traveling westbound on Roosevelt.<sup>6</sup> Officer Alvarez indicated that they were told during roll call that a vehicle fitting the same description was involved in a shooting. Officers Alvarez and Carter made a U-Turn and followed the Ford Escape to the location of 3944 W. Roosevelt (Shell Gas Station). Officer Alvarez said that when ██████ entered the gas station, he parked at a gas pump. During this time, Officer Carter and himself parked at a bus stop just outside the gas station to verify that they had the right vehicle. Officer Carter called for additional units to the area to assist with the traffic stop.

When the additional officers arrived on the scene, they drove into the gas station, exited their vehicle, and approached the white Ford Escape. Officer Alvarez approached the front passenger side window and attempted to open the door. Officer Carter approached the driver's side of the vehicle. Officer Alvarez could not see what Officer Carter was doing because he was focused on the driver (██████) of the Ford Escape. Officer Alvarez observed ██████ manipulating the gear shift, and he could hear the engine revving.

During this time, Officer Trifunovic parked his police vehicle near the front of the Ford Escape and exited the police vehicle. When Officer Trifunovic exited his police vehicle, he was positioned directly in front of the Ford Escape. Officer Alvarez stated that when ██████ revved the engine, Officer Trifunovic quickly moved out the way. Officer Alvarez indicated he removed his gun from his holster. The Ford Escape moved forward and tore off the front bumper of Officer Trifunovic's vehicle, and then ran into a fence. ██████ was immediately placed in custody by the officers on the scene.

Officer Alvarez indicated that he did not observe Officer Carter discharge his weapon or hear a gunshot. Officer Alvarez believed he did not hear the gunfire because the Ford Escape hit the police vehicle simultaneously. Officer Alvarez said that he did not fire his weapon because ██████ was not a threat, and it was not safe to fire a gun at that time. Officer Alvarez did not know at what point he activated his body-worn camera.

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<sup>5</sup> Att. 37, 59 Officer Alvarez was a Probationary Police Officer at the time of the incident.

<sup>6</sup> Officer Alvarez did not know specifically where on Roosevelt they were, but he believed they were near 3944 W. Roosevelt.

In an email dated May 29, 2020,<sup>7</sup> addressing the allegation against Officer Alvarez that he failed to activate his body-worn camera in a timely manner, Officer Alvarez and his attorney said that Officer Alvarez was a Probationary Police Officer at the time of the incident and was new to the district. They indicated that if Officer Alvarez was in violation, it was inadvertent.

COPA interviewed Officer Marko Trifunovic<sup>8</sup> on December 14, 2018. Officer Trifunovic (driver) said that at approximately 11:24 P.M., on December 5, 2018, Officer Depietro (passenger) and himself were leaving a job when they received a call over the radio for an assist unit at the Shell Gas Station at the location of 3944 W. Roosevelt. They immediately responded to the location, and when they arrived, he observed the offender, ██████ in a white Ford (Escape), parked at pump 10. Officer Trifunovic stated that he parked his marked police vehicle near the front passenger side of the Ford Escape. Officers Trifunovic and Depietro exited the police vehicle, and Officer Trifunovic observed ██████ manipulating the gear shift. Officer Trifunovic indicated that he was initially on the right side in front of the Ford Escape, and he touched the vehicle and believed it moved forward. Officer Trifunovic moved quickly to his left, toward the vehicle's passenger side, and removed his gun from his holster. The Ford Escape drove forward and struck his vehicle and a fence. Officers on the scene approached ██████ took him out of the vehicle, and conducted emergency handcuffing. Officer Trifunovic reported that he observed a small hole in ██████ wrist during that time, which he believed was a gunshot wound. Officer Trifunovic called an EMS over the radio for ██████

Officer Trifunovic indicated that he did not observe or hear Officer Carter fire his weapon at ██████ Officer Trifunovic realized that an officer discharged their weapon during the incident when he observed the injury to ██████ Officer Trifunovic indicated that he did not fire his weapon at ██████ because he had moved out of the way of the Ford Escape, and he did not believe ██████ was a threat.

COPA interviewed Officer Joshua Haislet<sup>9</sup> on December 14, 2018. Officer Haislet (driver) stated that at approximately 11:24 P.M., on December 5, 2018, he and Officer Robles (passenger) were leaving a job when they received a call on the radio for an assist unit for a possible stolen vehicle. Officer Haislet indicated that the description of the involved vehicle was a white Ford Escape. Officer Haislet explained that during their roll call, they were told that the Ford Escape was involved in a shooting earlier that same day. When they arrived on the scene, he observed the Ford Escape parked near a gas pump. Officer Haislet parked his vehicle and then heard two loud noises. As Officer Haislet attempted to exit his vehicle, he observed the Ford Escape strike a police vehicle and drive in his direction. Officer Haislet quickly closed the door, and the Ford Escape just missed his vehicle and struck a fence.

Officer Haislet indicated that he never observed Officer Carter fire his weapon. Officer Haislet later learned that Officer Carter discharged his weapon and believed that one of the loud noises he heard was a gunshot. Officer Haislet explained that the other loud noise he heard was the Ford Escape striking the police vehicle.

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<sup>7</sup> Att. 80. While Officer Alvarez was not given this allegation during his initial interview, he was provided with the allegation via email and declined to make any amendments to his statement. See Att. 80, 87.

<sup>8</sup> Att. 41, 52

<sup>9</sup> Att. 39.58

**COPA interviewed Officer Theresa Depietro<sup>10</sup>** on May 01, 2019. Officer Depietro stated that at approximately 11:24 P.M., on December 5, 2018, she (passenger) and Officer Trifunovic (driver) were on routine patrol when they responded to a stolen vehicle (a white vehicle<sup>11</sup>) call at the Shell gas station. Officer Depietro explained that another unit asked for additional units to the scene. When Officers Depietro and Trifunovic arrived at the Shell Gas Station, they parked next to the vehicle (a white Ford Escape) at a 45-degree angle.

Officers Depietro and Trifunovic exited their vehicle and approached the Ford Escape. Officer Depietro indicated that once they exited their vehicle, the subject (now known to be ██████████) was revving the engine as if he was about to drive away. Officer Trifunovic gave ██████████ verbal commands to exit the vehicle, but ██████████ did not comply. The Ford Escape went forward, ran into Officers Depietro and Trifunovic's vehicle, and then into a fence. Officer Depietro said that ██████████ almost struck Officer Trifunovic with the vehicle. Several officers approached the vehicle, removed ██████████ from the vehicle, and placed him in custody.

Officer Depietro stated that she never observed Officer Carter fire his weapon and did not hear any gunshots. Officer Depietro believed that she might have mistaken the gunshots for the car crash. Officer Depietro was later told by the officers on the scene that Officer Carter had discharged his weapon.

**COPA interviewed the witness, Officers Yamaji, Rodriguez, Robles, Bednarczyk, and O'Connor.<sup>12</sup>** The officers related, in essence, the same information as Officers Carter, Trifunovic, Alvarez, Hailset, and Depietro.

#### **b. Digital Evidence**

The **evidence technician's photographs<sup>13</sup>** include several photographs of the scene. The photographs depict one shell casing near the gas pumps, the detached front bumper from a marked police vehicle, and a damaged wrought iron fence. The photos also depict a white Ford that had crashed into the wrought iron fence.

The **Body-Worn Camera of Officer Carter<sup>14</sup>** depicts him driving and stopping behind a white Ford Escape. Officer Carter exits the vehicle and retrieves his gun from his holster. Officer Carter approaches the Ford Escape and attempts to open the front driver's side door. The Ford Escape drives forward, striking the marked police vehicle parked in front of the vehicle, and hits a wrought iron fence. The video footage captures the driver's side window shattered as the vehicle drives away from Officer Carter. Officer Carter's camera is not activated until after the crash.

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<sup>10</sup> Att. 71, 74

<sup>11</sup> Now known to be a white Ford Escape.

<sup>12</sup> Att. 88, 89, 91, 97

<sup>13</sup> Att. 29

<sup>14</sup> Att. 27

The **Body-Worn Camera of Officer Alvarez**<sup>15</sup> depicts a white Ford Escape near a gas pump, with several officers surrounding the vehicle and a marked police vehicle parked in front of the vehicle. The Ford Escape drives forward and strikes the front bumper of the marked police vehicle, and hits a wrought iron fence. The responding officers pull [REDACTED] from the car and place him in custody. As the officers place [REDACTED] in custody, he yells that the officers shot him. Officer Alvarez's camera is not activated until after the crash.

The **Body-Worn Cameras of Officer's Trifunovic, Haislet, and Depietro**<sup>16</sup> depict a white Ford Escape near the gas pump, with several officers surrounding the vehicle and police vehicles parked in front of the Ford Escape. The Ford Escape drives forward, strikes the front of the marked police vehicle, and then hits a wrought iron fence. The responding officers pull [REDACTED] from the vehicle and placed him in custody. As the officers placed [REDACTED] in custody, he yells that the officers shot him. The Body-Worn Cameras of Officers Bednarczyk, Rodriguez, O'Connor, Yamaji, and Robles did not capture the shooting.

The **In-Car Camera of Beat #1131R**<sup>17</sup> depicts the marked squad entering the Shell Gas Station at the 1:38 mark. At the 1:40 mark, the video shows Officer Trifunovic exit the marked squad vehicle. The white Ford Escape, driven by Whitely, moves forward and stops as soon it gets near Officer Trifunovic

The **third-party video from Shell Gas Station**<sup>18</sup> depicts a white SUV driven by [REDACTED] pulling up alongside the store, and two black females (now known as [REDACTED] and [REDACTED]) exit the vehicle. [REDACTED] then pulls up next to one of the gas pumps and stops the car. During this time, several squad cars pull into the lot of the gas station and surround the white SUV. One police vehicle parks in front (Officers Trifunovic and Depietro) of the white SUV, and another police vehicle (Officers Carter and Alvarez) parks behind the white SUV. As Officer Trifunovic exits his vehicle, he is directly in front of the white SUV. During this time, the vehicle moves forward and almost hits Officer Trifunovic. Officer Trifunovic moves to his left, to the passenger side of the white SUV. Officer Trifunovic is no longer in front of the white SUV when Officer Carter exits his vehicle and draws his weapon. Officer Carter exits his vehicle and approaches the vehicle with his gun in his hand, and attempts to open the driver's side door of the white SUV. The white SUV drives forward, the vehicle appears to stop, and several officers surround the vehicle. The video footage does not capture the interaction between [REDACTED] and the officers because the view is obstructed.

In the **telephone video recording of [REDACTED] provided by [REDACTED] step-father**,<sup>19</sup> [REDACTED], [REDACTED] who is in the hospital at the time of the recording, states that he was at the gas station on Pulaski and Roosevelt when a squad car (Chevy Tahoe) pulled in front of his car as he was turning. [REDACTED] said he moved forward and knocked the bumper off the squad car. [REDACTED] indicated that he was shot in the wrist and then ran (the vehicle) into the gate. The officers pulled [REDACTED] out of the vehicle and placed him in handcuffs.

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<sup>15</sup> Att. 27

<sup>16</sup> Att. 21, 27

<sup>17</sup> Att. 81

<sup>18</sup> Att. 28

<sup>19</sup> Att. 10

In the **Electronic Recorded Interview (ERI)** of ██████████,<sup>20</sup> conducted by Det. Hopps (IRT),<sup>21</sup> ██████████ said that she and her boyfriend, ██████████ (██████████)<sup>22</sup>, and her cousin, ██████████, went to the Shell Gas Station located at 3944 W. Roosevelt. ██████████ stated that ██████████ was driving a white mini truck, which belonged to ██████████ friend, ██████████<sup>23</sup> ██████████ stopped the vehicle at the Shell Gas Station, at which time ██████████ and ██████████ exited the vehicle and entered the store. As they were shopping, ██████████ told ██████████ to look out the window. When ██████████ looked outside, she observed ██████████ who was in the parking lot of the gas station, crashing into a fence located in front of the Shell Gas Station. ██████████ further explained that she heard a gunshot when ██████████ crashed into the fence. ██████████ and ██████████ exited the store to check on ██████████ at which time they observed ██████████ on the ground, in handcuffs.

In the **Electronic Recorded Interview (ERI)** of ██████████,<sup>24</sup> conducted by Det. Hopps (IRT), she said that she and her ██████████, ██████████ (also known as ██████████), went to the Shell Gas Station located at 3944 W. Roosevelt, along with ██████████ boyfriend, ██████████<sup>25</sup> ██████████ explained that ██████████ was driving a little white truck that belonged to his friend. ██████████ and ██████████ entered the gas station when they arrived at the gas station, and ██████████ remained in the car. ██████████ thought she had left her bank card in the car, and as she attempted to walk back to the car, she observed several officers outside. ██████████ informed ██████████ of what was happening, and when ██████████ looked back outside, ██████████ attempted to drive off, at which time he drove into a gate. Jones related that she heard one gunshot and immediately ran to the gas station. ██████████ never observed who was shooting or where the shots had come from. ██████████ indicated that she went back to see what was occurring and observed ██████████ on the ground in handcuffs. An ambulance eventually arrived on the scene and left with ██████████

### c. Physical Evidence

The **medical records**<sup>26</sup> of ██████████ from Mt. Sinai Hospital indicate that he was brought to the hospital for a gunshot wound to the left wrist. The medical records state that ██████████ evaded the police and crashed his vehicle into a fence. The police shot ██████████ in the left wrist during the incident. ██████████ also had an abrasion with possible glass fragments to the posterior left upper back/scapula area. ██████████ was further diagnosed with an abrasion to the left cheek. ██████████ also sustained a fracture to the left wrist due to the gunshot wound.

The **CFD Ambulance Report**<sup>27</sup> indicates that paramedics responded to a call of a gunshot wound victim, ██████████ at the location of Roosevelt and Pulaski. The paramedics found ██████████ prone and handcuffed, and he complained of pain in his left wrist, which resulted from a

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<sup>20</sup> Att. 28

<sup>21</sup> IRT - Immediate response team.

<sup>22</sup> Covington knows ██████████ as ██████████. During the interview, Det. Hopps misspoke and referred to ██████████ as ██████████ several times.

<sup>23</sup> Att. 28, at the 5:57 mark. The spelling is unknown.

<sup>24</sup> Att. 28

<sup>25</sup> ██████████ knows ██████████ as ██████████.

<sup>26</sup> Att. 63, 68

<sup>27</sup> Att. 56

gunshot wound. ██████ told the paramedics that he had crashed a vehicle into a gas station fence. ██████ denied having loss of consciousness and head, neck, or back pain. ██████ was transported to Mt. Sinai Hospital.

The **CFD Ambulance Report**<sup>28</sup> indicates that the responding paramedics treated Officer Carter for anxiety at 3944 W. Roosevelt. Officer Carter did not have any visible injuries, and the paramedics transported Officer Carter to Rush Hospital.

The **Illinois State Police Crime Report**<sup>29</sup> indicates that Officer Carter's weapon, Smith & Wesson, M&P, 9mm, was tested for functionality, and cartridges were examined for caliber and type. Officer Carter's weapon was deemed operable.

#### d. Documentary Evidence

The **arrest report of ██████** indicates that he was arrested for aggravated possession of a stolen motor vehicle and aggravated assault with a motor vehicle. ██████ was observed in a stolen vehicle, and he refused commands to turn the vehicle off and exit the vehicle. ██████ suddenly revved the motor and accelerated forward toward the direction of Officer Trifunovic, narrowly missing the officer. ██████ continued forward towards Officer Haislet, at which time Officer Carter, fearing that ██████ would strike officers, discharged his weapon, striking ██████ once in the left wrist. ██████ crashed and attempted to reverse the vehicle in the officers' path, where he was subsequently removed from the vehicle and taken into custody, and transported to Mt. Sinai Hospital.

The **general offense and supplementary case report**<sup>31</sup> related, in essence, the same information provided by the involved officers' interviews and the body-worn cameras. The reporting detectives attempted to interview ██████ but his step-father, Macon, would not allow him to say anything. Macon did show the reporting detectives an electronically recorded statement of ██████. The evidence technicians recovered a fired shell casing in the lot of the Shell Gas Station. Officers Robles, Bednarczyk, Rodriguez, Gallegos, Abouassi, O'Conner, and Yamaji were also present during the incident and related the same information as the involved officers. A witness, ██████ was inside the Shell Gas Station at the incident. ██████ said she heard one gunshot, but she did not witness the event.

The **Tactical Response Report completed by Officer Carter**<sup>32</sup> indicates that he fired one shot at ██████ that resulted in a non-fatal minor injury. The subject was taken to Mt. Sinai hospital for treatment.

The **Tactical Response Report completed by Officer Alvarez**<sup>33</sup> indicates that ██████ did not follow verbal commands, pulled away, was an imminent threat of battery with weapon,

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<sup>28</sup> Att. 55

<sup>29</sup> Att. 79

<sup>30</sup> Att. 8

<sup>31</sup> Att. 9, 78

<sup>32</sup> Att. 11 Officer Carter's TRR was incomplete because he was transported to the hospital immediately after the incident.

<sup>33</sup> Att. 13

physically attacked with weapon, used force to likely to cause death or great bodily harm, and attacked a member with vehicle. Officer Alvarez responded with member presence, verbal direction/control techniques, movement to avoid attacks, tactical positioning, and additional unit presence.

The **Tactical Response Report completed by Officer Trifunovic**<sup>34</sup> indicates that [REDACTED] did not follow verbal commands, was an imminent threat of battery with weapon, used force to likely to cause death or great bodily harm, and attacked a member with a vehicle. Officer Trifunovic responded with member presence, verbal direction/control techniques, movement to avoid attacks, and additional unit presence.

The **Tactical Response Report completed by Officer Joshua Haislet**<sup>35</sup> indicates that [REDACTED] used force to likely to cause death or great bodily harm and attacked a member with a vehicle. Officer Haislet responded with member presence, verbal direction/control techniques, movement to avoid attacks and additional unit presence.

The **Traffic Crash Report**<sup>36</sup> indicates that responding officers related that [REDACTED] was seen driving a Ford Escape, which was previously reported stolen and used in a shooting. The Ford Escape was parked next to pump #10, at 3944 W. Roosevelt (Shell Gas Station). The Chevy Tahoe was parked southwest of the vehicle inside the gas station to investigate further. The Ford Escape accelerated southbound towards Roosevelt, striking the Chevy Tahoe's left front bumper and causing the front bumper to fall off. The Ford Escape proceeded southbound at a high rate of speed, crashing into the Shell Gas Station fence.

The **OEMC Event Query**<sup>37</sup> indicates that [REDACTED] was shot in the wrist by an officer (Beat 1133R) attempting to stop a stolen vehicle that was believed to be involved in a shooting at the location of 3944 W. Roosevelt. An ambulance was requested for [REDACTED] and he was transported to Mt. Sinai Hospital.

The OEMC Report further indicates that the vehicle driven by [REDACTED] was reported as stolen. The vehicle owners are [REDACTED], [REDACTED], [REDACTED].

The **Crime Scene Processing Report**<sup>38</sup> indicates the evidence technicians took photographs of Unit #6472, which had damage to the bumper and driver side wheel well areas. Photos were taken of a damaged fence at the Shell Gas Station. The ET also took photographs and biological testing of the white Ford Escape driven by [REDACTED]. The technicians took latent prints from [REDACTED] at Mt. Sinai Hospital.

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<sup>34</sup> Att. 12

<sup>35</sup> Att. 14

<sup>36</sup> Att. 16

<sup>37</sup> Att. 16

<sup>38</sup> Att. 51

The redacted **Incident Report from Elmwood Police Department**<sup>39</sup> indicates that on December 4, 2018, at 6:41 A.M., a 2015 White Ford Escape was reported stolen from [REDACTED].

#### e. Additional Evidence

The **canvass**, conducted in the vicinity of 3944 W. Roosevelt, did not reveal any additional witnesses.

### VI. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct reviewed complied with Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

**Clear and convincing evidence** is a higher standard than a preponderance of the evidence but lower than the “beyond-a-reasonable doubt” standard required to convict a person of a criminal offense. See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a “degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true.” *Id.* at ¶ 28.

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<sup>39</sup> Att. 47

## VII. ANALYSIS AND CONCLUSION

### A. Applicable Department Policies

#### 1. Use of Force<sup>40</sup>

The Department's highest priority is the sanctity of human life. In all aspects of their conduct, Department members will act with the foremost regard for the preservation of human life and the safety of all persons involved. Department members may only use force that is objectively reasonable, necessary, and proportional, under the totality of the circumstances, in order to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject, or prevent escape.

The main issue in evaluating every use of force is whether the amount of force used by the member was objectively reasonable in light of the totality of the circumstances faced by the member on scene. Factors to be considered include but are not limited to: whether the subject is posing an imminent threat to the member or others; the risk of harm, level of threat or resistance presented by the subject; and the subject's proximity to weapons.

Department members are to only use the amount of force that is required to serve a lawful purpose. The force must be proportional to the threat, actions, and level of resistance offered by a subject, which may include using greater force or a different type of force than that used by the subject. The greater the threat and more likely that the threat will result in death or serious physical injury, the greater the level of force that may be necessary to overcome it. When or if the subject offers less resistance, however, the member will decrease the amount or type of force accordingly as members are to use de-escalation techniques to prevent or reduce the need for force when it is safe and feasible to do so based on the totality of the circumstances.

The use of excessive force, unwarranted physical force, or unprofessional conduct by a department member is prohibited and will not be tolerated.

Deadly force is force by any means that is likely to cause death or great bodily harm, including, but not limited to, firing a firearm at a vehicle in which the person to be arrested is riding and firing of a firearm in the direction of the person to be arrested. The use of deadly force is a last resort and may not be used on a fleeing person unless the subject poses an imminent threat.

A threat is imminent when it is objectively reasonable to believe that the subject's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; the subject has the means or instruments to cause death or great bodily harm; and the subject has the opportunity and ability to cause death or great bodily harm.

Firing at or into a moving vehicle when the vehicle is the only force used against the sworn member or another person is prohibited, unless such force is reasonably necessary to prevent death or great bodily harm to the sworn member or to another person.

#### 2. Body Worn Cameras<sup>41</sup>

In order to increase transparency and improve the quality and reliability of investigations, department policy requires law-enforcement-related encounters to be electronically recorded. Law-enforcement encounters include but are not limited to arrests, searches, traffic stops, investigatory stops,

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<sup>40</sup> General Order G03-02, Effective October 16, 2017

<sup>41</sup> Special Order S03-14, Effective April 30, 2018

high risk situations, and emergency vehicle responses where fleeing suspects or vehicles may be captured on video leaving the crime scene.

The decision to record is mandatory, not discretionary. The system is to be activated at the beginning of an incident and record the entire incident. If there are circumstances preventing the activation of the Body Worn Camera at the beginning of the incident, it shall be activated as soon as practical. However, sworn members are not to unreasonably endanger themselves or another person to conform with this policy.

**b. Legal Analysis**

**1. The use of deadly force by Officer Carter was in violation of Department Policy.**

COPA has completed its investigation and determined that the preponderance of the evidence supports that the force used was in violation of department policy. In coming to that conclusion, COPA weighed the credibility and reliability of all available statements and evidence discussed above.

**a. The use of deadly force was not objectively reasonable or necessary.**

In evaluating every use of force, the main inquiry is whether the force used was objectively reasonable in light of the totality of the circumstances faced by the officer. In this incident, though Officers Trifunovic and Depietro may have originally been positioned in front of the Ford, surveillance footage<sup>42</sup> reveals that neither Officer Trifunovic nor Officer Depietro were in front of the Ford when Officer Carter exited his vehicle and drew his weapon. Moreover, there were multiple officers on scene, faced with the same circumstances. None of those officers discharged their weapons. In interviewing Officer Alvarez, he informed COPA that he did not fire his weapon because he did not perceive a threat nor was it safe to fire his weapon at that time. Officer Trifunovic indicated to COPA that he did not fire his weapon at [REDACTED] because he did not believe he was in danger of being hit by the car. COPA finds that it was not objectively reasonable nor necessary to use deadly force against Mr. [REDACTED]

**b. Mr. [REDACTED] was a fleeing person who did not pose an imminent threat.**

Officer Carter fired his weapon into a moving vehicle at Mr. [REDACTED]. Firing at or into a moving vehicle when the vehicle is the only force used is prohibited by department policy unless reasonably necessary to prevent death or great bodily harm. Further, using deadly force on a fleeing individual is only permissible by department policy when the fleeing individual poses an imminent threat. As discussed above, at the time that Officer Carter used deadly force, no officer was in the vehicle's path. Thus, there was not an imminent threat to life that would warrant the use of deadly force or firing into a moving vehicle.

**c. The deadly force used by Officer Carter was not a last resort.**

The use of deadly force is a last resort that is only permissible when necessary to protect against an imminent threat to life or prevent great bodily harm to a member or other. As discussed above, the

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<sup>42</sup> Att. 28

evidence reveals that at the time Officer Carter discharged his weapon, neither Officer Trifunovic nor Officer Depietro were in imminent danger. Additionally, the firing of a weapon at a vehicle or the driver of the vehicle, would not protect the officers as the discharge would not stop or prevent the moving vehicle from striking him, as it was already in motion and would not have come to an immediate stop.

**2. Both Officer Carter and Officer Alvarez failed to activate their body worn cameras in a timely manner.**

Body worn cameras are to be activated at the beginning of law enforcement activities and record the entirety of the encounter. If there are circumstances preventing the activation of the Body Worn Camera at the beginning of the incident, it shall be activated as soon as practical. Officer Alvarez stated that if he activated his camera in an untimely manner, it was inadvertent. Officer Carter acknowledged that he did not activate his body worn camera until he fired his weapon at Mr. [REDACTED]. Neither officer activated their cameras until after the crash. Before approaching Mr. [REDACTED] it was known that the officers were embarking upon a law enforcement encounter. When the license plate reader indicated the car as stolen, the officers initiated an investigation. After which, they made a U-Turn and followed the Ford Escape. They then called for assist vehicles and positioned themselves for an investigatory stop. Each action that was taken is indicative of initiating a law enforcement action in which the body worn cameras could have been activated.

Officer Carter informed COPA that he did not activate his body worn camera when exiting the vehicle because his weapon was drawn, however the preponderance of the evidence shows that there were multiple instances prior to in which activating the camera would have been timely and feasible.

Therefore, **Allegation #2** against Officer Carter and **Allegation #1** against **Officer Alvarez** is **SUSTAINED**.

**RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS**

**VIII.**

**b. Officer Jeremy Carter**

**i. Complimentary and Disciplinary History**

- 1. Complimentary:** 1 Field Training Service Award, 2 Attendance Recognition Awards, 8 Physical Fitness Awards, 6 Department Commendations, 43 Honorable Mentions, 1 Crime Reduction Award (2019), 4 Complimentary Letters, 1 Life Saving Award
- 2. Disciplinary History:** None

**ii. Recommended Penalty**

For the Sustained findings, COPA recommends a penalty of Separation from the Chicago Police Department. COPA finds that Officer Carter was not justified in discharging his weapon at [REDACTED]. [REDACTED] did not present a threat to the safety of any officers or civilians on scene. No other officer present on scene perceived [REDACTED] conduct to pose a

threat of imminent death or great bodily harm. Use of excessive deadly force is a violation of Department policy, so egregious that it should not be tolerated.

**c. Officer Anthony Alvarez**

**i. Complimentary and Disciplinary History**

- 1. Complimentary:** 2 Superintendent Honorable Mentions, 1 Physical Fitness Award, 88 Honorable Mentions, 4 Department Commendations, 1 Police Officer of the Month Award, 1 Crime Reduction Award (2019), 1 Life Saving Award

**ii. Recommended Penalty: None**

COPA recommends a Written Reprimand for Officer Alvarez’s violation of Department policy by not activating his Body Worn Camera in a timely manner. Officer Alvarez should have activated his camera when it became clear that he would be engaging in a law enforcement activity and before approaching [REDACTED]

Approved:

[REDACTED]

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Sharday Jackson  
*Deputy Chief Administrator – Chief Investigator*

September 28, 2022

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Date

[REDACTED]

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Andrea Kersten  
*Chief Administrator*

September 28, 2022

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Date