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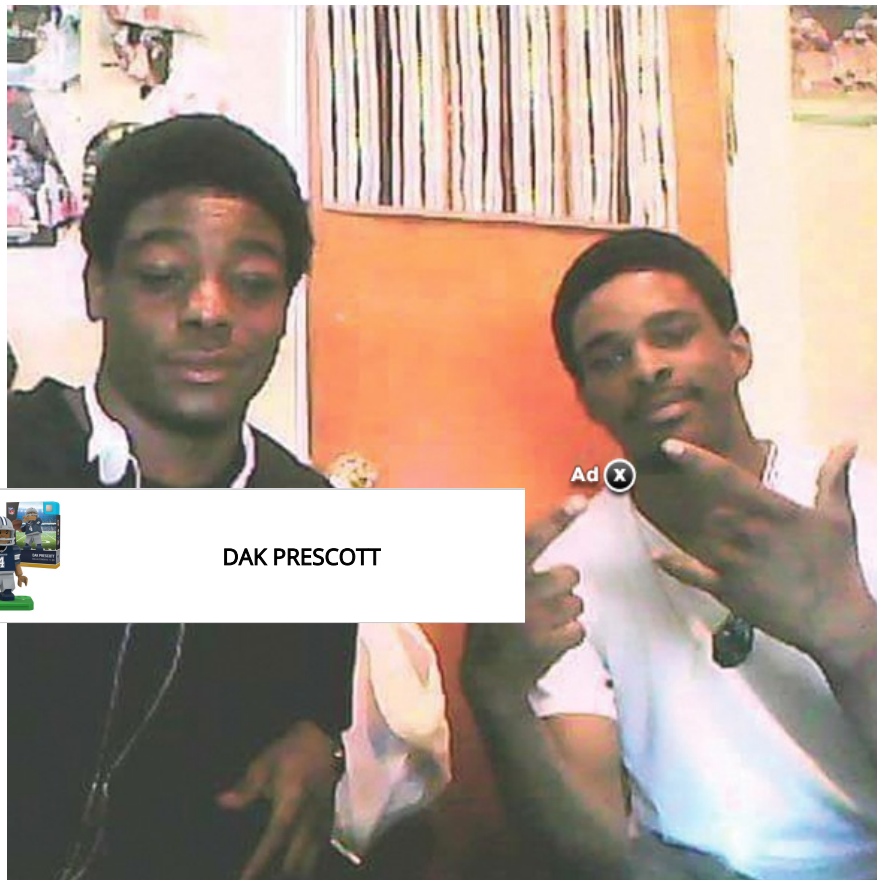
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# Charged with murder, but they didn't kill anyone—police did

A *Reader* investigation found ten cases since 2011 where police killed a civilian in Chicago and charged an accomplice with the murder.

By Alison Flowers @flowersalison and Sarah Macaraeg @seramak



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**O**n July 8, 2012, as the summer sun rose over the Auburn Gresham neighborhood on the south side of Chicago, police hauled a distraught 19-year-old named Tevin Louis away from a murder scene. The victim was Louis's best friend, Marquise Sampson. The shooter was a veteran police officer, Antonio Dicarolo.

For the previous five years, Louis and Sampson had been inseparable, drawn together by rough childhoods marked by foster care and poverty. In good times, Sampson made Louis laugh. In hard times, Louis made sure Sampson had food and a place to stay. As the boys became young men, they began to work the streets together, as they did everything, for better and for worse.

The day Sampson died, the pair had allegedly robbed a local gyros shop of approximately \$1,250. Louis then ran from the restaurant. Sampson soon followed, then crossed paths with police.

After spotting Sampson running, Dicarolo and his partner gave chase, according to the Chicago Police Department's case report, pursuing the teen for a quarter mile as he ran to the block where he often stayed with Louis and his cousin. But Louis never saw his friend alive again.

Louis didn't arrive on the scene until after Dicarolo shot Sampson three times—in the shoulder, chest, and back, according to the Cook County Medical Examiner's autopsy report. Louis attempted to cross the police line to be at his friend's side. He was promptly arrested for disorderly conduct and has been locked up ever since.

"Marquise was like a brother—like he came from my momma's womb," Louis told the *Reader* by phone from Lawrence Correctional Center in southern Illinois. "It was heartbreaking. I lost somebody I be with every day."

In a statement given to the Independent Police Review Authority, the agency that investigates police shootings and allegations of misconduct, Dicarolo described in detail the lead-up to Sampson's death, claiming the teen had pointed a weapon in his direction, prompting him to fire. That Dicarolo fatally shot Sampson is also acknowledged in Chicago Police Department reports.

Yet it's Louis whom the Cook County criminal justice system has held responsible. Following Louis's initial arrest, the charge of disorderly conduct evolved to include robbery and first-degree murder. In the subsequent months, he was found guilty of each.

Under a controversial legal doctrine known as the "felony murder rule," the teen's prosecution relied on a theory of accountability enshrined in Illinois's criminal code: that while committing a felony, a person can set in motion a chain of events that lead to the death of another person.

"I cried," Louis admitted, remembering the moment he learned that he was being charged with murder for his friend's death. "It was unreal. I didn't know what was happening."

But Louis's prosecution was no fluke. Rather, a *Reader* investigation finds that his case was one of at least ten in Cook County in the past five years in which killings by Chicago Police Department and Cook County sheriff's officers have resulted in felony murder charges for civilians. In particular, the *Reader* found three cases in which police fatally shot passengers in fleeing vehicles—an act that's come under intense scrutiny since the fatal shooting of 18-year-old Paul O'Neal in late July—before holding a surviving passenger responsible.

Although these prosecutions are sanctioned by Illinois law, these cases raise difficult questions about the law's use and impact—especially when felony murder charges stem from situations involving possible police misconduct.

At trial, Louis refused a plea deal on the murder charge. Presiding judge Jorge Alonso instructed the jury to consider Louis's murder and robbery charges as interdependent, explaining that under the law it's "immaterial whether the killing in such a case is intentional or accidental or conflicted by a third person."

The jury found Louis guilty. He's now serving a 32-year sentence for armed robbery and an additional 20-year sentence for Sampson's death. He's also appealing his case.

"I'm not perfect," he says. "But I don't deserve this."



From left: Sampson, Louis, and Louis's younger siblings, Kevin and Olivia, at Kevin's high school graduation

COURTESY WINTHER POLK

While in prison, he had "Marquise 7-8-12" tattooed on one hand, and his best friend's birthday on the other.

And while Louis is serving time for his friend's murder, the officer who actually pulled the trigger has been commended for his actions. For fatally shooting Sampson, Dicarlo received a 2013 Superintendent's Award for Valor, which honors "an act of outstanding bravery or heroism," according to CPD. Mayor Rahm Emanuel presided over the ceremony.

CPD spokesman Anthony Guglielmi deferred to IPRA for comment on specific cases, although IPRA did not respond to three detailed interview requests. In a statement, Guglielmi said that "when wrong doing [*sic*] or intentional misconduct is discovered, CPD holds individuals accountable," and that the department's "commitment to the highest levels of integrity and the highest levels of professional standards is unwavering." Attempts to interview the individual officers named in this story, including Dicarlo, made through requests sent to personal e-mail addresses, phone numbers, and via CPD and the Fraternal Order of Police (the police union), yielded no

response from the officers. The FOP didn't respond to other requests for comment, nor did the Cook County Sheriff's Office.

Based on Dicarlo's account, IPRA found the shooting of Sampson justified in February 2014, as it has in nearly all of the 238 closed shooting investigations detailed on the organization's website. In dashcam video obtained by the *Reader* via a Freedom of Information Act request, Dicarlo's encounter with Sampson is obscured, visible only through the windshields of a car parked between Dicarlo's police vehicle and the officer and suspect. Their interaction lasts just a few seconds before Sampson appears to collapse.

Dicarlo's 15-year career with CPD has been marred by at least 21 misconduct complaints, including four excessive force complaints, one of which alleged improper use of a weapon, according to documents obtained via FOIA request and from the Citizens Police Data Project. Misconduct complaints also accuse Dicarlo of conduct unbecoming an officer, unnecessary physical contact, illegal search, illegal arrest, and five separate instances of failure to provide service.

The city has settled at least two civil lawsuits against Dicarlo—for a total of \$55,000—including one that alleged the officer had beaten a man so badly he was left bleeding from the head, that he then tried to convince fellow officers to forgo calling an ambulance, and then lied to a health-care provider about the cause of the man's injuries.

For his part, Louis doesn't believe his friend would have pulled his weapon on police.

"There's a difference between doing something wrong and just being fucking stupid," Louis says. "Marquise wasn't stupid. I think [Dicarlo] murdered him in cold blood."


**THE FELONY MURDER RULE** has its roots in English common law, under which all felonies were punishable by death, and any participant in a violent crime could be liable for a killing by an accomplice. Starting in the 19th century, most American states enacted laws imposing murder liability for killing in the course of the most serious felonies—robbery, rape, arson, and burglary. These laws didn't require intent, but in practice they were generally limited to cases in which one of the accused fatally attacked a victim with a weapon.

Today, almost every state has some form of felony murder liability. The laws vary as to which felonies can give rise to murder charges and how directly the arrestee must be involved in the death in order to be charged. Many felony murder laws—including those in

California, Pennsylvania, and Maryland—contain a separate rule that requires the killer to be a participant or "agent" in the felony. Other states, such as New York and Kansas, have a "protected person" rule that prevents an arrestee from being liable for the death of a co-arrestee.

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**“A felony murder charge for an arrestee where a police officer has killed somebody is an indicator that the police officer probably engaged in misconduct.”**

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—LEGAL SCHOLAR GUYORA BINDER

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But in Illinois and other states, the felony murder rule features an even more controversial component: If death is a foreseeable result of the crime, then a participant in the felony can be liable for any death—even if the bullets were fired by the police, and even if the victim is the accused's partner.

Guyora Binder, a professor at the University at Buffalo Law School and the author of a scholarly book on felony murder, sees charges filed under these circumstances as a red flag for police misconduct.

"A felony murder charge for an arrestee where a police officer has killed somebody is an indicator that the police officer probably engaged in misconduct," Binder says, explaining that in situations where police have behaved irresponsibly and caused death, prosecutors will often turn around and charge an arrestee with the killing.

But in a statement, the Cook County state's attorney's office said that the way it applies the felony murder law is legally appropriate and justified, adding that it "does not base felony murder charges against a defendant charged with murder . . . upon irresponsible police conduct. The murder charges are well founded under established law."

Still, because Illinois law lacks either an "agent of the defense" or "protected person" rule, there are fewer hurdles to charging arrestees with felony murder after a police shooting.

As a result, "you get a surprising number of cases of police-inflicted death for felony murder in Illinois," Binder says.

**AMONG THE TEN** recent felony murder cases studied by the *Reader*, three stem from police officers firing at fleeing vehicles in apparent violation of the department's "deadly force" policy, which since February 2015 has forbidden the practice. In another case, charges stemmed from police crashing into the car of a bystander during a chase.

In August 2015 Rafael Cruz Jr. died from a single gunshot wound to the back. At the time he was driving a car away from police commander Francis Valadez and another officer, who both fired on his vehicle. Officers claimed that Cruz and his companion, Erik Martinez, had been exchanging gunfire with another car immediately prior—an alleged felony that later allowed prosecutors to charge that Martinez had set in motion a chain of events that led to Valadez and the second officer killing Cruz. Martinez has been locked up in Cook County Jail awaiting trial since the incident. Valadez pulled the trigger in three previous fatal civilian shootings, according to city documents.

In April 2012, John Givens and Leland Dudley, both 37 years old, each sustained multiple gunshot wounds while attempting to flee Chicago police officers following a robbery. According to court records, the officers shot "30 to 40 bullets" in total at the car, while both Givens and Leland were unarmed. Afterward, they were convicted on felony murder charges for the death of a third companion, David Strong, and are currently serving 20- and 25-year sentences respectively.

And in the 2013 case of 23-year-old Timothy Jones, a felony murder charge came after police in his pursuit fatally crashed into a car belonging to an innocent bystander, 56-year-old Jacqueline Reynolds.

According to the *Chicago Tribune*, at Jones's trial, a close friend of Reynolds's asked for mercy on his behalf. Reynolds's family refused to submit victim impact statements, which are typically used to evoke a harsher sentence from the judge. Still, Jones was found guilty and is required to serve the corresponding 28-year sentence in full.

"It took all my dreams away from me," Jones wrote in a letter sent from Menard Correctional Center in southern Illinois in June. "And now I'm labeled a murderer."

"I think of Jacqueline Reynolds everyday," he added, "'cause not only was her life lost that day, but mine was too."



Timothy Jones's prom photo with godbrother Amari Hatch

COURTESY CARMEN HATCH

In contrast to the state's aggressive prosecution of Jones, an NBC 5 investigation revealed in May that none of the 70 Chicago police chases that have resulted in death or injury since 2013—including the crash that killed Reynolds—had been reviewed by the Illinois Law Enforcement Training and Standards Board, the state agency that investigates fatal police chases. The investigation implies that while the board reviews the cases it receives, it receives few reports. NBC 5 found that the organization never received a report on Reynolds's death from CPD.



Asked to explain how the actions of officers who embark on fatal police chases are reviewed within the department—if they are not being investigated by an outside agency—CPD's Guglielmi said the department has a traffic-pursuit review committee that "meets regularly to thoroughly review traffic pursuits," but he was not able to share the committee's finding regarding the pursuit that led to Reynold's death or the number of cases that have resulted in discipline since 2013.

**FOR TRISTAN SCAGGS**, the incident started with a police pursuit and ended with scores of bullets. In November 2006, 19-year-old Scaggs woke up in pain, shackled to a hospital bed, and surrounded by Cook County Sheriff's deputies.

"You must be somebody," he remembers a nurse remarking.

(Although Scaggs's case took place prior to the years the *Reader* examined in detail, the particulars of the case seemed to warrant further scrutiny.)

Slowly, Scaggs remembered how he'd gotten there: On October 30 he and two friends had been driving in Humboldt Park in a stolen Pontiac Grand Prix. Police followed them for many blocks, then curbed and surrounded the car, firing into it more than 60 times, according to state appellate court records.

Officers shot his friend William Tyler, the driver of the car, at least 24 times, according to ballistics reports from the medical examiner's office. They also shot a passenger, his friend Marcus Thomas, at least six times, according to reports. Both young men died.

Scaggs also took a shot—in the back.

As he slowly came to at the hospital, a deputy informed him that he had been charged with his friends' murders—along with several other charges, including attempted murder and conspiracy to commit murder.

"At first I thought it was a lie," Scaggs said in a recent phone interview from Stateville Correctional Center. "I thought to be charged with murder you had to kill somebody."



Tristan Scaggs with his godsister Maria Mitchell; Scaggs's aunt Shirley Carter

COURTESY SHIRLEY CARTER; SUNSHINE TUCKER

During the initial investigation, hospital staff kept Scaggs's family members at a distance, according to his aunt, Shirley Carter. Scaggs was listed under an alias at the hospital, making it hard to track him, Carter recalls. She was the first person to see him because Scaggs's mother is deaf and cannot speak.

"It was crazy to me to hear that [he had been shot] and to try to explain to my sister what had happened," Carter says. "It was like, 'Oh my god, is my nephew going to make it?'"

Scaggs is now serving a 38-year-sentence. In a recent conversation, he recalled the traumatic encounter that put him in the hospital and then in prison.


After seeing Tyler get shot in the head, Scaggs says he raised his hands and exited the car, crawling on the ground. He could see one officer's boots from where he lay. They belonged to Michael Bocardo, then a 20-year police veteran.

"Officer Bocardo was standing there with an assault rifle, and then he shot me in the back," Scaggs wrote in a 2013 affidavit. "I felt it down in my hip. I was rocking back and forth trying to breath [*sic*]. I

said, 'Why the fuck did you shoot me.' He said, 'Because you are fixing to die mother-fucker.'"

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**“At first I thought it was a lie. I thought to be charged with murder you had to kill somebody.”**

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—TRISTAN SCAGGS, CHARGED WITH FELONY MURDER

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Bocardo—a CPD sergeant—has ten known misconduct complaints against him, according to the Citizens Police Data Project. Half of those complaints are for use-of-force allegations, for which Bocardo has received no discipline, according to city data. None of the complaints were sustained in favor of the citizens' account of events. Rather, the department has commended Bocardo dozens of times, with honors such as the Life Saving Award the year after he shot Scaggs and the Superintendent's Award of Valor.

Within days of Scaggs's shooting, CPD issued a press release describing the scene as a fatal shoot-out in which officers had foiled a murder plot by members of the New Breed street gang.

Scaggs says he was never a New Breed gang member, although he admits to being friends with some of the gang's members and holding weapons for them for a couple of bucks. As a young teen, he had been part of the Four Corner Hustlers, he says, but his ties dwindled as he grew older, became more interested in school, and fostered career ambitions of working as an EMT.

CPD's press release stated that the young men in the car "brandished weapons."

But the shell casings found at the scene all came from police weapons, and officers had fired at least 69 times from at least ten different guns, according to uncontested forensic evidence presented at trial.

In addition, no officer saw Scaggs exit the car with a weapon, according to trial evidence. Police reports indicated that three officers gave statements supporting Scaggs's account, but these officers were never called to testify at his trial—a fact highlighted in Scaggs's appeal, along with his assertion that CPD allowed the Grand Prix to be salvaged after the defense filed a motion to inspect the car.

While Scaggs was ultimately found not guilty of killing his friends, a jury convicted him of attempted first-degree murder of a police officer and conspiracy to commit murder.

"I know I didn't do nothing. I shouldn't have been in that situation," Scaggs said. "I'm locked up for something I didn't do."

Scaggs's words echo Jones's: "I don't feel I should serve 28 years of my life for a car accident that I was not involved in," wrote Jones, who had a scholarship to play football at Lincoln University in Jefferson City, Missouri. "I feel as if I wasn't given a second chance, seeing that I was actually on a path that was leading me somewhere. . . . I feel as if the police could have told the truth at my trial, and I would have been found not guilty. I feel the judge could have done more to help too. But the system was built to destroy."

For others convicted of felony murder, like Tevin Louis, the road ahead is their focus.

"Right now, I'm just living to go home," he says. "I want what every other human being wants: have some kids, make a family, do the small things that matter the most. I'm still living. I'm alive." 📱

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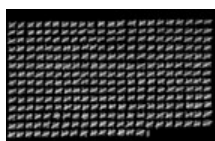
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