



OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS

KIMBERLY M. FOXX
STATE'S ATTORNEY

LAW ENFORCEMENT ACCOUNTABILITY DIVISION
2650 SOUTH CALIFORNIA AVENUE
CHICAGO, ILLINOIS 60608

POLICE INVOLVED DEATH DECISION MEMORANDUM
DECEDENT: ALFONSO D. LOPEZ

I. OVERVIEW

On December 27, 2016, Alfonso D. Lopez was shot and killed by North Riverside Police Sergeant David M. Kopka and Officer Raul Pelayo as Lopez, who was holding a knife to an elderly man's neck, made a move toward the officers. The Illinois State Police Public Integrity Task Force (PITF) conducted an investigation into Lopez's death. During the course of the investigation, investigators reviewed audio recordings of police radio traffic, 911 calls, dash camera video and video surveillance footage which captured the shooting. PITF investigators also interviewed numerous law enforcement witnesses and civilian witnesses and reviewed photographs of the scene, police reports, medical records and the results of forensic examinations. On March 9, 2018, PITF provided the Office of the Cook County State's Attorney its final report of investigation, pursuant to the Police and Community Relations Improvement Act.

The Office of the Cook County State's Attorney, as the agency responsible for making criminal charging decisions under Illinois law for incidents that occur in Cook County, reviewed the evidence collected during the investigation to determine whether there was a good-faith basis for filing criminal charges. After a thorough review, the Office has concluded that the evidence is insufficient to support criminal charges against Sergeant Kopka and Officer Pelayo.

II. STATEMENT OF FACTS

The evidence presented at any criminal proceeding resulting from this incident would show as follows: On December 27, 2016, at approximately 12:30pm, North Riverside Police Sergeant David M. Kopka #614, Detective Kyle Pinelli #610, and Officer Raul Pelayo #614 responded to a call of a suspicious man at the Jewel Food Store located at 7201 W. 24th St., North Riverside, IL. The suspect, later identified as Alfonso D. Lopez (age 40) was observed standing near the TCF Bank counter located

within the Jewel Food Store. Lopez was holding a note that read, "I HAVE A GUN Give ME Money NO Die PACKs OK I Will Shoot NOW give 100 50 20 Bills." Before the officers arrived, Lopez left the Jewel and was last seen entering a silver Honda that was parked in the Jewel parking lot. Detective Pinelli, who was in plain clothes and driving an unmarked police SUV, established surveillance on the Honda while Sergeant Kopka and Officer Pelayo staged nearby. A short time later, Detective Pinelli observed Lopez return to his car and then walk toward the Best Buy. Detective Pinelli notified his fellow officers and then drove toward the front entrance of the Best Buy in an attempt to block Lopez from entering. After exiting his vehicle, Detective Pinelli drew his weapon and ordered Lopez to get on the ground. Lopez refused and began to run toward the Burlington Coat Factory. As he ran, Lopez, who had an object in his hand, would point the object at Detective Pinelli in the same manner as someone pointing a gun. Lopez then ran into the Burlington Coat Factory followed by Officer Pelayo, Sergeant Kopka and Detective Pinelli. Burlington Coat Factory security cameras recorded Lopez as he entered the store, stopped, assumed a shooter's stance and pointed an object toward the officers who had their weapons drawn. Based on the information relayed to the officers and their observations of Lopez's actions, they believed that the object in Lopez's hand was a gun. Lopez then made his way to the rear of the store where he grabbed an unidentified elderly man and held the object to the man's neck. Store security cameras recorded the officers as they closed in on Lopez with their weapons drawn. The officers repeatedly ordered Lopez to drop his weapon but he refused. A woman, presumably the elderly man's wife, pulled the man free from Lopez. Lopez then moved toward the officers, and the officers fired their weapons at Lopez. Officer Pelayo fired one shot, striking Lopez in the chest. Sergeant Kopka fired three shots which struck Lopez in the lower back, thigh and grazed his left arm. Lopez fell to the floor where the officers recovered a wooden handled knife with a 1.5" blade.

Lopez was secured and transported to Loyola University Hospital where he was pronounced dead. A postmortem examination performed by the Cook County Medical Examiner's Office revealed gunshot wounds to the chest, right thigh, right buttock, and a graze wound to the left arm. Additionally, the lab report indicates that Lopez tested positive for opiates. Two fired bullets were recovered from Lopez's body. A .45 caliber bullet was removed from Lopez's abdomen during his autopsy. The bullet was sent to the Illinois State Police Crime Lab where it was analyzed and identified as having been fired from Officer Pelayo's duty weapon. A 9mm bullet was recovered from Lopez's leg at Loyola Hospital. This bullet was also sent to the ISP Lab where it was determined to have been fired from Sgt. Kopka's duty weapon.

III. LEGAL STANDARD

In making any charging decision, the Office of the Cook County State's Attorney is bound by the Illinois Criminal Code. The Illinois Use of Force in Defense of Person statute provides in pertinent part:

A person is justified in the use of force against another when and to the extent that he reasonably believes that such conduct is necessary to defend himself or another against such other's imminent use of unlawful force. However, he is justified in the use of force which is intended or likely to cause death or great bodily harm only if he reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another, or the commission of a forcible felony.

720 ILCS 5/7-1 (a).

The statute regarding an officer's use of force provides in pertinent part:

A peace officer . . . need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to affect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he reasonably believes both that: (1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and (2) the person to be arrested has committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.”

720 ILCS 5/7-5.

IV. ANALYSIS AND CONCLUSION

A criminal prosecution for either first- or second- degree murder would require proof beyond a reasonable doubt that Sergeant Kopka and Officer Pelayo were not legally justified in using deadly force against Lopez. In other words, a judge or jury would need to conclude that Sergeant Kopka and Officer Pelayo did not reasonably believe that they or others were in imminent danger of great bodily harm from Lopez. The uncontroverted evidence, including video footage of the shooting, established that Sergeant Kopka and Officer Pelayo were justified in their use of deadly force to defend themselves, their fellow officers and civilians against the deadly threat posed by Lopez. Both civilian witnesses and police officers observed Lopez in possession of what they believed was a firearm as he fled from the police. The officers and witnesses then observed Lopez struggle with an elderly man as he held a knife to the man's neck. After being confronted by Sergeant Kopka and Officer Pelayo, Lopez refused all orders to drop the knife. The elderly man was pulled free and Lopez moved toward the officers prior to being shot. Accordingly, based on the evidence reviewed in this matter and the applicable legal standards, the evidence is insufficient to support the filing of criminal charges as the use of deadly force by Sergeant Kopka and Officer Pelayo against Lopez was reasonable under the totality of the circumstances. Accordingly, the Office is not filing criminal charges in this case.

Pursuant to policies and legislation enacted at the urging of State's Attorney Foxx, after making its declination determination, the State's Attorney's Office referred the review of the case to the Office of the Illinois State's Attorneys Appellate Prosecutor (ILSAAP) for an additional review. ILSAAP has reviewed the case and has concurred that no criminal charges are appropriate.

This conclusion is based entirely on the relevant criminal laws and standards of proof in Illinois and does not limit administrative action by the North Riverside Police Department or civil actions where less-stringent laws, rules, and legal standards of proof apply. The Office expresses no opinion regarding the propriety or likelihood of success of any such actions.