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COOK COUNTY, ILLINOIS

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POLICE INVOLVED DEATH DECISION MEMORANDUM

DECEDENT: DARREON NEAL

I. OVERVIEW

This matter involves the fatal shooting of Darreon Neal by Dolton Police Officer Stephen Curry after Neal fled from police officers from a vehicle after a traffic crash, while armed with a handgun, and refused all commands to stop and drop the weapon. The Illinois State Police Public Integrity Task Force (ISP-PITF) investigated Neal's death. During the course of the investigation, investigators interviewed civilian and law enforcement witnesses, reviewed radio and dispatch transmissions, photographs of the scene, police reports, medical records, the Cook County Medical Examiner Post-Mortem Report, the results of forensic examinations, video surveillance and body camera footage. On January 22, 2019, 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 Dolton Police Officer Stephen Curry.

II. STATEMENT OF FACTS

The evidence presented at any criminal proceeding resulting from this incident would show as follows: On August 8, 2017, Dolton Police Officers Stephen Curry and John Frasure were in uniform and assigned to separate marked Dolton Police vehicles. While traveling on routine patrol, both officers

were monitoring the Illinois State Police Emergency Network (ISPERN) and received notice of an aggravated vehicular hijacking offense which took place earlier in Hazel Crest, Illinois. Both offenders were described as male, black and armed, traveling in the stolen vehicle, a gold Lexus SUV with Illinois license plate #B397505. At approximately 2:19 p.m., Officer Curry communicated via radio that he had located the stolen Lexus traveling eastbound on Sibley Boulevard, approaching Greenwood Boulevard. While Officer Frasure was stationed in the parking lot at 1000 East Sibley Boulevard, he observed the stolen Lexus fleeing eastbound on Sibley Boulevard and picked up the chase with Officer Curry.

The stolen Lexus continued at a high rate of speed eastbound on Sibley Boulevard from Minerva Avenue. Officer Frasure and Officer Curry activated their emergency equipment and pursued the stolen Lexus which entered the Bishop Ford expressway traveling westbound. The stolen Lexus was traveling at a high rate of speed, recklessly merging with traffic and striking a parked car on the right shoulder while continuing to travel at a high rate of speed. At a location approximately three hundred feet south of the 130th Street exit, the stolen Lexus crashed into the passenger side rear trailer of a semi-truck tractor trailer. At the sight of the crash, both occupants of the vehicle, Darreon Neal and juvenile co-defendant C. S., exited from the passenger side of the disabled stolen Lexus with guns visible in hand and attempted to flee eastbound on foot. Officer Curry and Officer Frasure observed the clothing both Neal and C. S. were dressed in as they exited the Lexus and ran eastbound from the expressway into the tall brush.

Officer Curry and Officer Frasure chased Neal and C.S. into the brush where Officer Curry announced “gun”; Officer Curry observed Neal was approximately five feet away and proceeding over the guardrail with his gun in hand. Neal had the gun in his right hand with his body turned around, body facing forward and right hand holding the gun facing backward at Officer Curry. Officer Curry drew his service weapon and fired seven times into the tall brush, announcing on the radio that shots had been fired. Officer Curry and Officer Frasure searched the tall brush along with members of the Dolton Police Department’s K-9 unit. All officers proceeded into the tall brush with weapons drawn and located Neal laying down in the tall brush approximately ten to fifteen feet into the vegetation; it was determined that Neal had been shot and officers on scene rendered aid while requesting medical assistance on scene. A pat-down search was performed on Neal which did not reveal a firearm on Neal’s person. However, a Ruger .45-caliber semi-automatic firearm was recovered from the location where Neal was shot, in the path of his flight into the tall brush. Officer Curry communicated the incident over his radio and

requested EMS. Neal was transported by Calumet City ambulance to Advocate Christ Medical Center where he was treated with emergency surgery for a single gunshot wound to the lower back and later pronounced deceased.

Officers remained on scene to continue to search for C.S. Several hours later, C.S. was located by a private security agent hiding in the brush along the fence south of the initial scene and Illinois State Police placed C.S. in custody. A white t-shirt was found on the ground on the east side of the brush, north of where C.S. was apprehended, which was consistent with the manner of dress of one of the offenders at the time of their flight from the stolen Lexus. A pat-down search of C.S. revealed a cellular phone which was recovered and inventoried. A Springfield Armory .40-caliber semiautomatic firearm and additional clothing were also recovered.

Officers recovered a Ruger .45-caliber semiautomatic firearm from the grass along the east side of the guardrail on Interstate 94 highway northbound. The firearm was submitted to the ISP Crime Laboratory where it was examined and found to be operable. The firearm was examined for fingerprints and no latent impressions suitable for comparison were revealed. The firearm was swabbed for DNA and DNA testing revealed that C.S. was eliminated as a potential contributor to the DNA mixture whereas Neal could not be excluded. Officers recovered a Springfield Armory .40-caliber semiautomatic firearm from the east side of the fence line along northbound Interstate 94 highway. The firearm contained a magazine with five unfired cartridges. The firearm was submitted to the ISP Crime Laboratory where it was examined and found to be operable.

The Cook County Medical Examiner's Office conducted an autopsy and examined Darreon Neal and identified a single gunshot wound to Neal's lower back. The cause of death was a single gunshot wound to the lower back.

The evidence at any trial would include evidence indicating that Officer Curry reasonably believed that Neal was fleeing from a forcible felony and trying to kill, or cause great bodily harm, to the officer when he endangered the general public by recklessly driving and then crashing the stolen Lexus, exited the vehicle with a firearm in hand and aimed that firearm at Officer Curry.

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.

III. ANALYSIS AND CONCLUSION

A criminal prosecution for either first- or second-degree murder would require proof beyond a reasonable doubt that the involved officers were not legally justified in using deadly force against Darreon Neal. In other words, a judge or jury would need to conclude that the involved officers did not reasonably believe that they or others were in imminent danger of great bodily harm from Neal. The uncontroverted evidence shows that the involved officers were justified in their use of deadly force to defend themselves and others against the deadly threat posed by Neal as he fled from the scene of a traffic crash from responding officers with his weapon in hand which he pointed at Officer Curry. Neal was attempting to make good his escape from the commission of an armed felony offense, an aggravated vehicular hijacking, and was believed to be armed at the time of his flight. While traveling on routine patrol, both officers were monitoring the Illinois State Police Emergency Network (ISPERN) and received notice of an aggravated vehicular hijacking offense which took place earlier in Hazel Crest, Illinois. Both offenders were described as male, black and armed, traveling in the vehicle stolen. The

evidence in this case demonstrates that the intent of the involved officers was to defend themselves and others. The evidence revealed that Officer Curry announced his weapon and ordered Neal to drop his weapon. Neal refused commands to stop and drop his handgun. Instead, he continued to flee from the officers to avoid apprehension. Once observed in the tall brush on the side of the highway, Neal turned and looked at Officer Curry, pointing his weapon at Officer Curry. Officer Curry discharged his weapon at Neal at that time, fearing for his life and safety as well as that of Officer Frasure who had chased Neal and his co-offender with Officer Curry. Officer Curry had to make a split-second judgment in a tense, uncertain, and rapidly evolving circumstance in which Neal was attempting to escape arrest in a stolen vehicle with a deadly weapon in his hand and could utilize the weapon to inflict great bodily harm or death.

There is significant evidence to support the assertion that the recovered weapons were in Neal and his co-offender's possession at the time of the shooting. Both weapons were recovered from the path of their flight and one of the weapons was recovered from next to Neal's body where he was shot. Furthermore, witnesses indicated that Neal and his co-offender were both armed during the commission of the earlier offense and both were traveling in the stolen vehicle. Neal demonstrated that he was armed by pointing his weapon at Officer Curry before Officer Curry discharged his weapon. Accordingly, it was reasonable for the involved officer to believe that the use of deadly force was necessary to prevent death or great bodily harm to himself and others.

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 the involved officers against Neal was reasonable under the totality of the circumstances. Therefore, 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 Dolton 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.