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COOK COUNTY, ILLINOIS

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## **POLICE INVOLVED DEATH DECISION MEMORANDUM** **DECEDENT: DECYNTHIA CLEMENTS**

### **I. OVERVIEW**

On March 12, 2018, Elgin Police Department (EPD) Officers attempted to extricate DeCynthia Clements from her vehicle following a stand-off and after observing her ignite her vehicle on fire and hold a knife to her own neck. Clements opened the door, rapidly exited the vehicle, and approached officers while holding a knife in each hand, at which time Elgin Police Lieutenant Christian Jensen fired three shots that struck and killed Clements.

The Illinois State Police Public Integrity Task Force (PITF) conducted an investigation into Clements' death. During the course of the investigation, PITF investigators interviewed numerous civilian and law enforcement witnesses, and reviewed body camera and dash camera video footage, police radio transmissions, photographs of the scene, police reports, and the results of forensic examinations. On August 15, 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 Lt. Jensen.

### **II. STATEMENT OF FACTS**

The evidence presented at any criminal proceeding resulting from this incident would show as follows:

On March 12, 2018, at approximately 2:00 a.m., an Elgin Police Officer attempted to initiate a traffic stop on a suspicious vehicle driven by its sole occupant, DeCynthia Clements. Clements refused to stop and entered Interstate 90 eastbound from Route 25. The officer was then instructed to terminate

the pursuit. While returning on I-90 westbound, the officer observed Clements' vehicle on the left shoulder with both driver's side tires flat and resting on the rims. The officer approached the vehicle and instructed Clements to exit. Clements ignored the officer and continued smoking a cigarette while holding a crack pipe and wiping cocaine residue from her hand. Clements then brandished a knife toward the officer and he retreated. Several assisting officers arrived on scene to negotiate with Clements. Clements continued to refuse the officers' orders to exit her vehicle and, on several occasions, drove her vehicle forward causing tire and metal debris to fly toward the officers. The officers then boxed in Clements' vehicle with one patrol car in front of her vehicle and another in back. Clements continued to refuse the officers' orders and accelerated into the patrol car. Illinois State Police Troopers arrived on scene and closed I-90 in both directions. During the approximately hour-long negotiation, officers observed Clements scream while holding a knife to her neck and then ignite materials on her back seat. As the flames began to grow and smoke filled the interior of the car, the officers approached Clements' vehicle to extricate her. One officer was instructed to ready his Taser and two officers were assigned to grab Clements while Lt. Jensen held a shield and readied his handgun. The officers were confined in the small space between Clements' vehicle and the median wall of the highway. As Lt. Jensen stepped toward the driver's door, Officers observed Clements open the door and Clements was heard to make a growling type noise. Officers subsequently observed her rapidly exit the vehicle in an aggressive manner with knives in her hands. Lt. Jensen fired his handgun three times striking Clements while another officer simultaneously deployed his Taser. The incident was captured on body camera and dash camera videos. Three fired 9mm cartridge cases and two knives were recovered from the pavement beside Clements' vehicle. Two lighters were recovered from the interior center floorboard of Clements' vehicle. The three fired cartridge cases were submitted to the Illinois State Police Crime Lab and were determined to have been fired from Lt. Jensen's handgun.

Clements was transported via ambulance to St. Alexius Medical Center where she was pronounced dead. A postmortem examination performed by the Cook County Medical Examiner's Office revealed a gunshot wound to the left side of the head, a gunshot wound to the left back of the head, and a gunshot wound to the left upper chest. One deformed, medium caliber bullet and one gray metal bullet fragment were recovered from Clements' head. There were multiple horizontal abrasions and incised wounds on the front of her neck which were superficial and did not contribute to her death. A long piece of yellow metal wire and a gray metal piece which are consistent with components of a Taser were found in Clements' hair. Clements had black soot on her tongue and in her airways. Additionally, the lab report indicates that Clements tested positive for Cocaine, Cotinine, and Nicotine.

### **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 Lt. Jensen was not legally justified in using deadly force against DeCynthia Clements. In other words, a judge or jury would need to conclude that Lt. Jensen did not reasonably believe that he or others were in imminent danger of great bodily harm from DeCynthia Clements. The uncontroverted evidence established that Lt. Jensen was justified in his use of deadly force to defend himself and his fellow officers against the deadly threat posed by DeCynthia Clements as she came toward the officers. The evidence shows that prior to the shooting, Clements fled from an Elgin Police officer who had attempted to conduct a traffic stop on her vehicle. As she sat in her vehicle on the I-90 shoulder, Clements ignored officers' commands and refused to exit her vehicle as she brandished knives at the officers. During the next hour, Clements continued to disregard commands to exit the vehicle and attempted to flee from officers on the rims of her wheels. Eventually, Clements ignited a fire inside her vehicle and held a knife to her own neck as her vehicle filled with smoke. It was at this time that officers decided they had to physically remove Clements from her vehicle. While the officers were

approaching Clements' vehicle to extricate her for her own safety, officers observed Clements open the door, make a growling noise, and rapidly exited the vehicle in an aggressive manner with knives in her hands.

The evidence in this case demonstrates that the intent of Lt. Jensen and other officers was to rescue Clements from the burning vehicle in order to save her life. When Clements exited her vehicle with knives in her hands, she confronted the officers in such a manner that Lt. Jensen reasonably believed that the force used was necessary to prevent death or great bodily harm to himself and other officers.

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 Lt. Jensen's use of deadly force against Clements 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 Elgin 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.