



OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS

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POLICE INVOLVED DEATH DECISION MEMORANDUM
DECEDENT: HERBERT JOHNSON

I. OVERVIEW

On January 15, 2017, Herbert Johnson was shot and killed by Chicago Police Officer Angel Collazo after Johnson pointed a firearm in the direction of the officer. The Independent Police Review Authority (IPRA) / Civilian Office of Police Accountability (COPA) and Chicago Police Department (CPD) conducted an investigation into Johnson's death. During the course of the investigation, investigators interviewed numerous law enforcement and civilian witnesses, reviewed OEMC transmissions, videos, photographs of the scene, police reports, medical records, and the results of forensic examinations. On December 3, 2019, COPA provided the Office of the Cook County State's Attorney its final report of investigation, pursuant to the Police and Community Relations Improvement Act (PCRIA).

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 the officer.

II. STATEMENT OF FACTS

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

On January 15, 2017, at approximately 12:23 a.m., Herbert Johnson was inside Roseland Food and Liquor located at 3407 W. Madison Street. While inside the store, Johnson, wearing a red jacket, had a verbal altercation with two couples. Johnson followed the two couples out of the store and pulled a gun from his waistband. Johnson fired the gun multiple times at the two couples. One individual was struck in the buttock, another received a graze wound to her leg. A third individual who had not been in

the store, sustained a gunshot wound to her chest. Two independent witnesses observed Johnson fire his gun and then run eastbound towards Homan Avenue.

At approximately the same time Johnson fired his gun, Chicago Police Officers Angel Collazo and Patrick Joyce were in full uniform and assigned a marked Chicago Police vehicle. The officers were on routine patrol when they heard several gunshots coming from the vicinity of Roseland Food and Liquor. The officers drove towards the liquor store and observed a woman directing the officers toward Madison and Homan. The officers could see Johnson, in a red jacket, running eastbound towards Homan in the opposite direction of the people fleeing the area. Officers Collazo and Joyce exited their police vehicle. Officer Collazo gave verbal commands for Johnson to stop. Johnson did not comply. Officer Collazo followed Johnson into a vacant lot where Johnson turned toward Officer Collazo, drew a gun from his waistband, and pointed it at Officer Collazo. Officer Collazo fired his weapon multiple times and struck Johnson in the forearm, groin, thigh, buttock, and lower right flank. Johnson dropped his gun and ran a few steps before falling to the ground. Johnson was transported to Mount Sinai Hospital, where he was pronounced dead.

A .40 caliber semi-automatic pistol with no live rounds was recovered near where Johnson collapsed. Nine .40 caliber cartridge casings were also recovered from in front of Roseland Food and Liquor. An Illinois State Police (ISP) Crime Laboratory analyst examined the ballistics evidence and concluded that the cartridge cases were fired from Johnson's .40 caliber pistol.

Four fired 9mm cartridge cases were found on the ground of the vacant lot. An ISP analyst examined these items and concluded that they were fired from Officer Collazo's service weapon.

An examination of Johnson's .40 caliber pistol and the attached magazine did not reveal any latent impressions suitable for comparison. The .40 caliber handgun was swabbed for DNA, however the swab was not submitted for testing.

The two individuals who were shot after being in the store with Johnson identified him as the shooter. The third woman who was not in the store was not able to identify anyone as the shooter. Additionally, two independent witnesses who were outside the liquor store identified Johnson as the person who drew a handgun from his waistband outside of Roseland Food and Liquor and fired upon the three people who were shot.

The Cook County Medical Examiner's Office conducted an autopsy and examined Herbert Johnson. The cause of death was determined to be multiple gunshot wounds which included one that entered the right side of his back that lodged, one that entered the outer side of his right forearm and exited on the inner side of the right forearm, one to his left buttock that lodged, and one that entered and exited the right thigh before entering the inner left thigh and lodging.

The evidence at any trial would include evidence indicating that Johnson shot at three other individuals and then confronted Officer Collazo with deadly force when he pointed his firearm in the officer's direction and the officer fired in order to prevent death or great bodily harm to himself.

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 Officer Collazo was not legally justified in using deadly force against Johnson. In other words, a judge or jury would need to conclude that Officer Collazo did not reasonably believe that he was in imminent danger of great bodily harm from Johnson. The uncontroverted evidence established that the officer's use of deadly force was objectively reasonable. The weight of the evidence shows that Johnson had just fired upon three people after a dispute outside of the liquor store, fled, and then confronted Officer Collazo with deadly force in that he was armed with a gun, which he pointed in the

direction of the uniformed officer. Officer Collazo fired at Johnson to prevent death or great bodily harm to himself. Further, Johnson disobeyed verbal commands to stop fleeing prior to the officer discharging his weapon. 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 officer's use of deadly force against Johnson 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 Chicago 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.