



OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS

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POLICE INVOLVED DEATH DECISION MEMORANDUM
DECEDENT: JOSHUA BEAL

I. OVERVIEW

This matter involves the fatal shooting of Joshua Beal by Chicago Police Officer Joseph Treacy and Sergeant Thomas Derouin after Beal pointed his gun at Officer Treacy and other civilians and tried to fire the weapon which malfunctioned and failed to fire. The Independent Police Review Authority (IPRA)/Civilian Office of Police Accountability (COPA) conducted an investigation into Beal's death. During the course of the investigation, investigators reviewed witness interviews, Illinois State Police Crime Lab analysis and reports, the Cook County Medical Examiner Post-Mortem Report, and Chicago Police Department reports including Crime Scene Processing reports, the witness officers' statements to detectives, civilian witness statements, and video footage. On June 17, 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.

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 Officer Treacy or Sergeant Derouin.

II. STATEMENT OF FACTS

The evidence presented at any criminal proceeding resulting from this incident would show as follows: On November 5, 2016, at approximately 3:00 pm, Joshua Beal and a group of his family and friends departed a funeral on the south side of Chicago. As their cars were caravanning down 111th Street in the Mount Greenwood neighborhood, the group exited their cars and blocked access to a firehouse on 111th and Troy. After observing this, an off-duty Chicago Firefighter exited his vehicle and instructed the group to continue moving in order to clear the access to the firehouse. The group initiated a confrontation with the off-duty firefighter during which the group struck the firefighter about his body in the street. Chicago Police Officer Joseph Treacy and Sergeant Thomas Derouin were off-duty. Both were driving by as the incident occurred and stopped to break up the altercation. Officer Treacy was dressed in plain clothes and Sergeant Derouin was in his police uniform. Both officers identified themselves as police officers and both officers drew their weapons. Joshua Beal pulled a handgun from his vehicle and pointed it at Officer Treacy and other civilians. Beal attempted to fire the weapon, but the gun malfunctioned causing a cartridge to get jammed in the ejection port. Sergeant Derouin and Officer Treacy fired several times striking Beal. Beal's gun was recovered near his body in a slide-lock position, which occurs when the slide portion of the gun is pulled back in order to eject an empty or jammed cartridge case. Joshua Beal was taken to Advocate Christ Medical Center via ambulance where he arrived in an unresponsive condition and was later pronounced deceased. Officer Treacy was taken to Palos Hospital where he was treated for dizziness, neck pain, and a laceration to the left elbow.

While portions of the incident were captured on cell phone video, the shooting itself was not captured on surveillance or cell phone video. Cell phone footage depicted several individuals exit their vehicles and engage in a verbal altercation. Officer Treacy appeared on the video with his weapon drawn announcing his office and shouting for people to get down. Officer Treacy's attention was brought toward a Dodge Charger where Joshua Beal stood with a gun pointed at the location where Officer Treacy and other civilians were standing. The video then ends. A second video is recorded from behind a vehicle and the sound of several gunshots and screaming can be heard.

A post-mortem examination performed by the Cook County Medical Examiner's Office revealed that Beal had sustained gunshot wounds to the left side of the abdomen, pelvic region, back of the left thigh, right upper chest, right anterior shoulder, right arm, right wrist, and laceration wound to the top of his scalp. The cause of death was multiple gunshot wounds. The manner of death was homicide.

Three projectiles and bullet fragments were recovered from Beal's body during the post-mortem examination. The bullets and fragments were sent to the Illinois State Police Crime Lab for analysis where they could not be identified or eliminated as having been fired from the firearms belonging to Joshua Beal, Officer Treacy and Sergeant Derouin. Numerous fired bullets and cartridge cases were recovered from the street and Dodge Charger vehicle. Forensic scientists were able to determine that nine of the recovered cartridge cases were fired from Officer Treacy's gun and six of the recovered cartridge cases were fired from Sergeant Derouin's gun. Two 9mm caliber unfired cartridges were also recovered and were determined to possess toolmarks made by Joshua Beal's gun. A Firearms Trace Summary report indicates that Joshua Beal purchased the Bersa 9mm semiautomatic pistol in Indianapolis on September 20, 2014.

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."

IV. ANALYSIS AND CONCLUSION

A criminal prosecution for either first - or second-degree murder would require proof beyond a reasonable doubt that Officer Treacy and Sergeant Derouin were not legally justified in using deadly force against Joshua Beal. In other words, a judge or jury would need to conclude that the officers did not reasonably believe that they or others were in imminent danger of great bodily harm from Beal. The uncontroverted evidence shows that Officer Treacy and Sergeant Derouin were justified in their use of deadly force to defend themselves and their fellow officers against the deadly threat posed by Beal as he grabbed a gun from inside his car and pointed it in the direction of Officer Treacy and other civilians.

The evidence in this case demonstrates that the intent of Officer Treacy and Sergeant Derouin was to defend themselves, and the numerous civilians in the street, against Beal who was pointing a gun at Officer Treacy and the civilians. The cell phone video footage clearly depicted Beal standing outside the passenger side of the Dodge Charger pointing a weapon in the direction of the crowd. A witness related that Beal attempted to fire the gun, but it jammed, and the bullet went up. The physical evidence revealed that Beal's gun was recovered from next to his body and was found in a slide lock position. Further, the two 9mm caliber unfired cartridges recovered on the scene were determined to possess tool marks made by Beal's gun. Beal's actions were such that Officer Treacy and Sergeant Derouin reasonably believed that the force used was necessary to prevent death or great bodily harm to themselves and other individuals in the street.

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 Officer Treacy and Sergeant Derouin against Beal 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 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.