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COOK COUNTY, ILLINOIS

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POLICE INVOLVED DEATH DECISION MEMORANDUM **DECEDENT: KAJUAN RAYE**

I. OVERVIEW

This matter involves the fatal shooting of Kajuan Raye by Chicago Police Sergeant John Poulos after Raye pointed his gun at Sergeant Poulos during a foot pursuit. The Independent Police Review Authority (IPRA)/Civilian Office of Police Accountability (COPA) conducted an investigation into Raye'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 Sergeant Poulos.

II. STATEMENT OF FACTS

The evidence presented at any criminal proceeding resulting from this incident would show as follows: On November 23, 2016, at approximately 11:00 pm, Sergeant Poulos was investigating a call

of a domestic incident in the vicinity of 65th and South Ashland Avenue when he encountered Kajuan Raye who fit the physical and clothing description of the offender. When Sergeant Poulos called Raye over to his marked CPD vehicle, Raye ran away. Sergeant Poulos chased after Raye on foot to an alley where Raye entered a vacant lot at approximately 6505 South Marshfield. Sergeant Poulos alleged that Raye was carrying a weapon and pointed it at Sergeant Poulos on two separate occasions in the vacant lot. Sergeant Poulos discharged his weapon two times during the chase striking Raye one time in the back. Radio communications reflect that Sergeant Poulos reported the direction of the foot pursuit and that shots were fired by the police and Raye had a gun. After Raye was shot, he continued to run westbound through the vacant lot onto the 6500 Block of South Marshfield. While running southbound on Marshfield, Raye crossed the street and ran along the west side of Marshfield and then through a gangway into the alley. His jacket was found lying in that alley. Raye was found lying in a gangway at 6517 South Paulina where he was taken into custody by several officers. No weapon was recovered from Raye at that time. A spring and a plastic panel marked "P40" were recovered from Raye's jacket pocket after the shooting. Raye made a statement to officers that he tossed the gun. Officers conducted a search of the area along the chase route but no weapon was recovered at that time. Raye was taken to Advocate Christ Medical Center via ambulance but died a short time later from the gunshot wound to his back.

In February of 2017, approximately three months after the shooting, the homeowner of a residence located along the route that Raye ran after he was shot contacted police and reported the discovery of a gun in the bushes on the property. The weapon, a 40 caliber semi-automatic pistol, had missing parts including a spring and plastic panel. A forensic examination conducted at the Illinois State Police Crime Lab revealed that the parts recovered from the pocket of Raye's jacket fit the 40 caliber recovered weapon.

A post-mortem examination performed by the Cook County Medical Examiner's Office revealed that Raye died from a single perforating gunshot wound to the back. The manner of death was homicide.

Two spent cartridge cases were recovered in the vacant lot between Ashland and Marshfield. Two fired bullets were also recovered. One bullet was removed from the porch at 6509 South Marshfield and the other was found inside the breast pocket of Raye's jacket. All ballistic evidence was sent to the Illinois State Police Crime Lab for analysis. The fired cartridge casings were identified as

having been fired by Sergeant Poulos' weapon. The two fired bullets could not be identified or eliminated as having been fired from Sergeant Poulos' weapon, but neither were fired from the Kahr Arms CW40 pistol.

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 Poulos was not legally justified in using deadly force against Kajuan Raye. In other words, a judge or jury would need to conclude that Sergeant Poulos did not reasonably believe that he or others were in imminent danger of great bodily harm from Raye. The uncontroverted evidence shows that Sergeant Poulos was justified in his use of deadly force to defend himself and others against the deadly threat posed by Raye as he ran with the gun which he then pointed in the direction of Sergeant Poulos.

The evidence in this case demonstrates that the intent of Sergeant Poulos was to defend himself. The physical evidence revealed that Raye fled from Sergeant Poulos who attempted to speak to him regarding a domestic battery complaint. Raye took off running and led Sergeant Poulos on a foot chase through a vacant lot. Sergeant Poulos observed Raye in possession of a gun which Raye pointed at Sergeant Poulos. Raye ignored Sergeant Poulos' verbal commands to stop and continued to run through the lot toward Marshfield where several individuals were out on the street. The evidence demonstrates that Sergeant Poulos reasonably believed that Raye had a gun. Immediately following the shooting, while chasing after Raye, Sergeant Poulos encountered two witnesses who were walking on Marshfield and told them to move and that Raye had a gun. Further, Sergeant Poulos provided radio communications during the chase indicating that Raye had a gun.

Although Raye's gun was not recovered until approximately three months after the shooting, there is significant evidence to support the assertion that the recovered weapon was in Raye's possession at the time of the shooting. Raye's gun was recovered from the bushes against a residence that Raye ran past after he was shot. The recovered gun had two missing pieces and investigators recovered two items in Raye's jacket pocket which fit on the recovered weapon. A damaged bullet was recovered in the same pocket with the gun pieces and the recovered gun had damage done to one side of the grip consistent with being struck by a bullet. An ATF trace performed on the recovered weapon, along with subsequent investigation, indicated that the original purchaser sold the weapon in early November 2016 providing an opportunity for it to end up in Raye's possession on the date of the shooting. Social media records revealed photographs of Raye holding what appeared to be the same weapon along with communications regarding Raye's effort to sell a "40." Further, when officers located Raye in the gangway where he fell, they inquired about the location of his gun and Raye responded that he tossed it, thereby acknowledging that he had a gun.

Raye's actions were such that Sergeant Poulos reasonably believed that the force used was

necessary to prevent death or great bodily harm to himself and any other individuals in the area. Further, Raye was fleeing the commission of a forcible felony, aggravated assault of a police officer, in which he threatened use of a deadly weapon and Sergeant Poulos' use of deadly force was necessary to prevent death or great bodily harm to himself and others

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 Poulos against Raye 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.