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COOK COUNTY, ILLINOIS

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POLICE INVOLVED DEATH DECISION MEMORANDUM
DECEDENT: PIERRE LOURY

I. OVERVIEW

On April 11, 2016, Pierre Loury was shot and killed by Chicago Police Officer Sean Hitz after Loury pointed a firearm at the officer. The Independent Police Review Authority (IPRA) / Civilian Office of Police Accountability (COPA) Chicago Police Department (CPD) and the Federal Bureau of Investigation (FBI) conducted an investigation into Loury's death. During the course of the investigation, investigators interviewed numerous law enforcement witnesses and civilian witnesses, and reviewed OEMC transmissions, video, photographs of the scene, police reports, medical records and the results of forensic examinations. On July 7, 2017, 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 April 11, 2016, at approximately 7:43 p.m., Chicago Police Officers Sean Hitz and Jeffery Riordan were in uniform and assigned a marked Chicago Police SUV. While driving westbound on Roosevelt toward Homan the officers received three separate radio dispatch communications indicating that there were shots fired from a black Toyota in the area of 28th and Kedvale and 16th and St. Louis.

Shortly after receiving the radio communications, Officers Hitz and Riordan heard people yelling in two vehicles headed northbound on Homan. The officers made a U-turn onto northbound Homan and observed three vehicles: a red Cadillac, a grey Buick, and a black Ford Taurus. The individuals in the Cadillac and Buick indicated to the officers that the black Taurus was involved in a recent shooting.

The Taurus turned westbound on Roosevelt. The officers followed the Taurus and activated their emergency lights. The officers pulled the Taurus over at approximately 3420 West Roosevelt. Before the Taurus came to a complete stop, the passenger door opened and Pierre Loury ran from the vehicle northbound. Officer Hitz pursued Loury on foot through a vacant lot. Loury then ran into the north alley of Roosevelt and turned westbound, temporarily out of sight of Officer Hitz.

Officer Hitz entered the alley, drew his weapon, and turned into an open cement carport area behind 3431 West Grenshaw where he encountered Loury who was on top of a black fence with one leg on each side of the fence. Officer Hitz was approximately seven feet from Loury who had his hands near his waistband. Loury attempted to climb over the fence but his pant leg got stuck on the fence. Loury pulled out a gun and dropped it to the ground. Officer Hitz gave verbal commands for Loury to show his hands but Loury did not comply. Instead, Loury ripped his pants to free himself, dove from the fence, grabbed the gun, and pointed it at Officer Hitz. Officer Hitz fired two shots, one of which struck Loury in the chest causing a fatal wound. Officer Hitz communicated the incident over his radio and requested EMS. Loury was transported to Mt. Sinai Hospital by ambulance where he was pronounced deceased at approximately 8:27 p.m.

Officers recovered a 9mm semi-automatic Glock handgun near Loury's body. There was no magazine in the gun and the serial number was defaced. Officers recovered a black magazine with no identifiers on the street next to the curb at 3424 West Roosevelt where Loury exited the black Ford Taurus and fled from Officer Hitz at the time of the traffic stop. Swabs were taken from the magazine and submitted to the Illinois State Police Crime Laboratory (ISP) for DNA comparison. An ISP analyst concluded that a mixture of human DNA profiles was found on the magazine including Pierre Loury's DNA profile. Officers also recovered a 9mm Luger fired cartridge case from the S&R Grocery Plus store where the earlier shots had been reported coming from a black vehicle. An ISP analyst examined the ballistics evidence and concluded that the fired cartridge case from the earlier shooting matched the weapon recovered from Loury. Gunshot Residue (GSR) samples were taken from both of Pierre Loury's hands and submitted to the crime lab at ISP where an ISP analyst concluded they were positive for the presence of GSR.

The Cook County Medical Examiner's Office conducted an autopsy and examined Pierre Loury and identified a single gunshot wound to Loury's chest. The cause of death was a massive hemorrhage as a result of a single gunshot wound to the chest.

The evidence at any trial would include evidence indicating that Officer Hitz reasonably believed that Loury was fleeing from a forcible felony and trying to kill, or cause great bodily harm, to the officer when he disobeyed verbal commands to show his hands, dove for the handgun, and aimed a firearm at Officer Hitz.

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 Hitz was not legally justified in using deadly force against Loury. In other words, a judge or jury would need to conclude that the officer did not reasonably believe that he or others were in imminent danger of great bodily harm from Loury. The uncontroverted evidence

established that the officer's use of deadly force was objectively reasonable. The weight of the evidence shows that Lory was armed with a gun, which had been involved in the use of a forcible felony, and was attempting to escape from that forcible felony when he confronted the officer with the threat of deadly force. Civilian witnesses indicated Lory had been involved in a previous shooting shortly before this incident and lab testing confirmed that a fired cartridge recovered from the scene of that earlier shooting was fired from the weapon recovered from Lory. Additionally, the recovered weapon was missing a magazine at the time it was recovered from Lory; the magazine was recovered at the location where Lory initially fled from Officer Hitz. Lory's DNA profile was found on that magazine. Further, Lory disobeyed verbal commands to stop and show the officer his hands, freed himself from the fence, dove towards the firearm he retrieved from the ground, and then pointed his firearm at Officer Hitz. Officer Hitz responded to this threat of deadly force by firing twice, and striking Lory once in the chest. 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 Lory was reasonable under the totality of the circumstances. Accordingly, the Office is not filing criminal charges in this case.

On August 23, 2017, the Independent Police Review Authority (IPRA) submitted their final report pursuant to PCRIA concluding that Officer Hitz's use of deadly force was justified under Chicago Police Department policy, Illinois law, and Supreme Court legal precedent.

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.