



**OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS**

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POLICE INVOLVED DEATH DECISION MEMORANDUM
DECEDENT: MYLES FRAZIER

I. OVERVIEW

This matter involves the fatal shooting of Myles Frazier by Chicago Police Officers Orlando Sanchez and Daniel Colbenson. The Civilian Office of Police Accountability (COPA) and the Chicago Police Department (CPD) investigated Myles Frazier's death. During the course of the investigation, investigators interviewed civilian and law enforcement witnesses and reviewed OEMC transmissions, photographs of the scene, police reports, medical records, the Cook County Medical Examiner Post-Mortem Report, the results of forensic examinations, video surveillance and Body Worn Camera (BWC) footage. On May 21, 2021, 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 both Chicago Police Officer Orlando Sanchez and Officer Daniel Colbenson.

II. STATEMENT OF FACTS

The evidence presented at any criminal proceeding resulting from this incident would show as follows: On May 22, 2019, at approximately 11:00 a.m., Chicago Police officers

responded to a mental disturbance call at 1327 E. 61st Street. As they approached the house, they met with Witness A who identified himself as Myles Frazier's father. Witness A told the officers that Myles was in his bedroom on the second floor asking for the officers to come up. Witness A went up the stairs, told Myles the police were there, and noticed that Myles had his hands under his blankets during this conversation. Witness A returned to the first floor and told the officers that Myles may have a gun. After talking with the officers, Witness A returned upstairs. Myles asked Witness A for a cigarette and while he was lighting it, Witness A pulled down the blankets and saw what he described as a black 9mm gun. After seeing the gun, Witness A ran down the stairs yelling, "Help! Help! He got a gun!"

Witness A then told the officers that Myles was bipolar and had not been taking his medication. Officers Bennett and Negron then talked with Myles for approximately thirty minutes to get him to surrender his weapon and come downstairs. During that time, Myles was crying and asking the officers to come upstairs and kill him. Body-worn cameras captured Myles also threatening the officers during the conversation. He stated the following: "I'm going to mag dump on ya'll," "I'm gonna smoke everyone who runs up on me," and "I'm shootin' at y'all."

During that conversation, Myles fired six rounds from his weapon which can also be heard on the body-worn camera footage. On one of the occasions, the shot was fired out a window on the second floor toward a neighboring house. Officer Bennett and Officer Negron repeatedly asked Myles to stop firing his weapon and to throw it out into the hallway. After he fired the six shots, Myles entered the hallway and pointed the barrel of the gun down the stairway at Officer Bennett and Officer Negron. The officers retreated back from the stairs when they saw the gun and told Myles not to point the gun at anyone.

A few minutes after Myles pointed the gun down the stairs, Chicago SWAT Officers Orlando Sanchez and Daniel Colbenson arrived. As they arrived, they heard over the radio that Myles was coming down the stairs armed with a gun. Once inside the house, Officer Sanchez began talking with Myles trying to get him to drop his weapon so that he could get help. As they were talking, Officer Sanchez could hear what sounded like Myles manipulating the slide of his semi-automatic handgun.

Officer Sanchez talked with Myles for about four to five minutes when Myles appeared around the corner at the top of the stairs. Officers could see Myles' head and upper chest and, in his hand, he held a semi-automatic handgun. Myles pointed the gun down the stairs towards the officers. As Officer Sanchez saw the gun, he yelled for Myles to drop his weapon and let the officers help him. Myles refused to obey Officer Sanchez, raised the gun, and pointed it at Officer Sanchez. Myles then lowered his weapon for a moment, and then again pointed the gun at Officer Sanchez. Officer Sanchez saw Myles stiffen his arm while holding the gun. When Myles stiffened his arm, Officer Sanchez fired five shots at Myles. Once he saw Officer Sanchez fire, Officer Colbenson fired an additional two shots at Myles.

When Myles fell to the ground, Officer Sanchez and three other SWAT officers cleared the second floor and a SWAT medic performed first aid on Myles. After SWAT officers cleared the house, Chicago Fire Department personnel took Myles in an ambulance to the University of Chicago Hospital where he was pronounced dead in the emergency room at 12:28 p.m.

A Cook County Medical Examiner performed an autopsy on Myles which determined the cause of death to be multiple gunshot wounds and the manner of death was homicide. The toxicology report from Myles' blood indicated a blood alcohol content of .375.

III. LEGAL STANDARDS

In making any charging decision, the Office of the Cook County State's Attorney is bound by the Illinois Criminal Code in effect at the time of the incident. The Illinois Use of Force in Defense of Person statute provided 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) (West 2018).

The statute regarding an officer's use of force provided 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(a) (West 2018).

IV. ANALYSIS AND CONCLUSION

A criminal prosecution for either first- or second-degree murder would require proof beyond a reasonable doubt that Officer Sanchez and Officer Colbenson were not legally justified in using deadly force against Myles Frazier. In other words, a judge or jury would need to conclude that Officer Sanchez and Officer Colbenson did not reasonably believe that they or others were in imminent danger of great bodily harm from Myles. The evidence shows that Officer Sanchez and Officer Colbenson were both justified in their use of deadly force as a defense to Myles' threat of deadly force when he pointed the gun in their direction.

In this case, Officer Sanchez and Officer Colbenson acted reasonably when they used deadly force because Myles posed an immediate danger to the safety of the officers. First, Officer Sanchez and Officer Colbenson were justified in using deadly force in self-defense. Before they entered the house, they had received information via radio and other officers. Over the radio they heard that Myles was bipolar, not on his medication, and had a weapon. Furthermore, Officer Sanchez and Officer Colbenson learned that Myles refused to surrender his gun, and instead, fired it six times. When he fired the gun in the house, there were several officers positioned on the first floor. As they entered the house, officers warned them that Myles was coming down the stairs armed with his gun.

The officers' actions inside the house were in response to Myles' threat of death or great bodily harm. During their conversation with Myles, Officer Sanchez saw Myles' head and chest appear on the top of the staircase. In his hand, Myles held the semi-automatic handgun and

pointed it at Officer Sanchez. Officer Sanchez yelled to Myles to drop the weapon, but Myles refused. Having been made aware that Myles previously fired his weapon multiple times while on the second floor, when Officer Sanchez saw Myles stiffened his arm, it was reasonable that he thought Myles was about to fire the weapon at him. In defense of himself and Officer Colbenson, Officer Sanchez acted reasonably when he fired his weapon five times.

Additionally, Officer Colbenson acted reasonably when he fired to protect himself and his partner. Officer Colbenson heard the same information about Myles as Officer Sanchez. In addition to the radio information, Officer Colbenson heard Officer Sanchez yell at Myles to drop his weapon and saw Myles ignore this command. Based on the fact that Myles had previously shot the gun and was refusing to surrender his weapon, Officer Colbenson was justified in using deadly force because he reasonably believed that Myles would shoot the gun at them.

Although there is no video of the actual shooting, the evidence found at the scene of the incident corroborates the officers' version of events. As the paramedics arrived on scene, they observed Myles on the top of the stairs. Next to Myles, located on the stairs, the paramedics saw a black handgun, that was later determined to be Myles'. That the gun was found next to Myles supports the officers' statement that Myles was threatening the officers with a gun when he appeared at the top of the stairs. Also, during the investigation, a detective observed bullet strikes in the front bedroom. The bullet strikes went through a window, a computer monitor, a file cabinet, and several spots on the walls. This evidence supports the fact that Myles had previously fired the weapon inside of his bedroom, and that he posed a danger to those persons located in the house with him.

Based on the evidence reviewed in this matter and the applicable legal standards, the evidence is insufficient to support the filing of criminal charges because Officer Sanchez's and Officer Colbenson's use of deadly force 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 Attorney Appellate Prosecutor (ILSAAP) for an additional review. ILSAAP has reviewed the case and on November 17, 2021, 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 notes 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 expressed no opinion regarding the propriety or likelihood of success of any such actions.