



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

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**POLICE INVOLVED DEATH DECISION MEMORANDUM
DECEDENT: ANTHONY ALVAREZ**

I. OVERVIEW

This matter involved the fatal shooting of Anthony Alvarez by Chicago Police Officer Evan Solano #12874. 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, third-party video surveillance, and Body-Worn Camera (BWC) footage.

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 Chicago Police Officer Evan Solano.

II. STATEMENT OF FACTS

The evidence presented at any criminal proceeding resulting from this incident would show as follows: On March 31, 2021, at approximately 12:18 am, Chicago Police Officers Sammy Encarnacion #11790 and Evan Solano #12874, were dressed in full police uniform on

routine patrol in an unmarked Ford Explorer, driving south on Laramie Avenue when they observed Anthony Alvarez, who they knew from previous encounters and who had fled from the officers as they attempted a traffic stop the previous night, walking on the sidewalk on the west side of Laramie Avenue approaching Addison St. As they approached Alvarez, Officer Solano activated the squad's emergency lights after which Alvarez dropped the bag of food and a drink that he was carrying and fled. The officers pursued Alvarez as he ran west on Addison St., illuminating him with their spotlight as he ran and held his waistband. Alvarez then turned and ran through a gangway and into an alley. Officer Solano stopped the vehicle and the officers pursued Alvarez on foot. As Officer Encarnacion pursued Alvarez, he called him by name and ordered Alvarez to stop. As they ran, Officer Solano passed Officer Encarnacion and continued to chase Alvarez down the alley. Upon reaching Laramie Avenue, Alvarez exited the alley and ran south on Laramie Avenue toward Eddy Street. While pursuing Alvarez, neither officer had unholstered his weapon. As Alvarez turned west onto the front yard of 5200 W. Eddy, he slipped and fell to the ground. Alvarez held a cell phone in his left hand and a handgun in his right hand as he tried to regain his footing and slipped a second time. As he began to use both hands to push himself off the ground, Officer Solano arrived at the corner of the residence and observed Alvarez in a crouching position with a handgun in his right hand. Officer Solano immediately drew his handgun and ordered Alvarez to drop the gun. While running with the handgun in his right hand and a cell phone in his left hand, Alvarez looked back towards Officer Solano. Officer Solano fired five consecutive shots at Alvarez while veering to the left, away from Alvarez. Alvarez was struck twice, once in the back and once in the left thigh. Upon reaching the front steps of 5202 W. Eddy, Alvarez released the gun from his hand and collapsed to the ground. Officer Encarnacion then approached Alvarez and lifesaving measures were attempted as Officer Solano called in their location and requested EMS. Alvarez was subsequently transported by Chicago Fire Department ambulance to Illinois Masonic Medical Center where he was pronounced dead. The Cook County Medical Examiner determined that the cause of death was multiple gunshot wounds, and the manner of death was homicide. The Chicago Police Department's Incident Response Team and COPA investigated this incident.

III. LEGAL STANDARD

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 the involved officer was not legally justified in using deadly force against Alvarez. In other words, a judge or a jury would have to find that Officer Solano did not reasonably believe that he or Officer Encarnacion were in imminent danger of great bodily harm or death. In this case, however, the evidence shows that Officer Solano reasonably used deadly force in defense of himself and Officer Encarnacion.

Under the current case law, the trier of fact could reasonably conclude that the evidence demonstrates that Officer Solano reasonably believed himself, as well as his partner, Officer

Encarnacion, who was behind him, to be in apparent danger of losing their lives or suffering great bodily injury. Upon the officers' initial approach, when Alvarez threw his food and drink to the ground and then ran while holding his waistband, the officers developed a reasonable and articulable suspicion that Alvarez was armed with a handgun. As Alvarez disregarded verbal commands and continued to run from the officers, his actions heightened the officers' suspicion that Alvarez was armed with a gun. Officer Solano pursued Alvarez around three blind corners with his gun holstered. Throughout the pursuit, Alvarez had maintained a consistent distance from the officers. As corroborated by the footage from Officer Solano's body worn camera and private surveillance cameras, when Alvarez turned the corner onto the front yard of 5200 W. Eddy Street, he was again out of Officer Solano's line of sight. Upon Officer Solano running around the corner of the 5200 W. Eddy residence, Officer Solano observed Alvarez crouching on the ground with a gun in his hand. Officer Solano was shocked to see that Alvarez had stopped running and believed that he was being ambushed due to Alvarez's body's position. Officer Solano immediately drew his handgun and ordered Alvarez to drop the gun. Alvarez did not comply and continued to run as he looked over his right shoulder in Officer Solano's direction in what Officer Solano described as "to acquire a target." Officer Solano thought Alvarez was turning to shoot toward Officer Solano and his partner who he believed was behind him. Officer Solano then fired five successive shots in the span of one second as he veered to the left to avoid any shots fired by Alvarez and stopped once he no longer saw the gun in Alvarez's hand. Officer Solano then approached Alvarez who asked, "Why did you shoot me?" Officer Solano vehemently replied, "You had a gun." Officer Encarnacion then approached Alvarez and began to administer first aid as Officer Solano called in their location and requested EMS. Officer Solano then assisted Officer Encarnacion with administering chest compressions until assisting officers arrived.

It is objectively foreseeable that a trier of fact would find, based upon the above, that Officer Solano's belief that deadly force was necessary was reasonable under the totality of the circumstances. An individual holding a handgun in the manner in which Alvarez did, unholstered, unconcealed, with his finger near the trigger, could be considered an imminent threat. Officer Solano made a split-second decision to defend himself while he anticipated being shot by Alvarez, who was running with the gun in his hand and looking back at Officer Solano. Illinois case law has established that "the law does not charge a person, when he has

reasonable grounds to believe himself in apparent danger of losing his life or suffering great bodily injury, to use an inerrable judgment. It would be unreasonable to require such an exacting decision to be made in the space of a few seconds while one is fearful and under great stress." People v. Parker, 260 Ill. App. 3d 942, 946 (1st Dist. 1994). The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain, and rapidly evolving - about the amount of force that is necessary in a particular situation." See Graham v. Connor, 490 U.S. 386, 396-397 (U.S. 1989).

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 Solano against Alvarez was reasonable under the totality of the circumstances.

While the above analysis has set forth the reasons why the evidence is insufficient to support criminal charges, it is important to highlight the system failures that lead to this deadly encounter through the creation of the very conditions, by the officers themselves, under which the use of deadly force became necessary. First, it was unnecessary for the officers to stop and engage with Alvarez, who was walking through a gas station parking lot holding food and drink, and not committing any crimes that were readily apparent to the officers at that time. The evidence has uncovered that, as this encounter occurred during the Covid-19 pandemic, Alvarez would not have been arrested for the traffic offenses committed the night before. In addition, the officers were aware of Alvarez's home address and could have sought to contact him there to further pursue any necessary investigation into the non-custodial traffic offenses committed the night before.

Second, Officer Solano may have committed several Foot Pursuit Policy violations during his foot chase of Alvarez such as rounding corners blind without first slowing to assess any danger and not creating distance or waiting for his partner upon observing Alvarez with a firearm. These policy violations may have further exacerbated the conditions that led to this deadly encounter. However, it is key to note that when analyzing Officer Solano's criminal culpability, the law requires a review of the totality of the circumstances to determine if Officer Solano's perception of whether he was in danger of imminent harm was reasonable. Such an analysis requires reviewing Officer Solano's policy violations *in light of Alvarez's actions*. As

demonstrated above, Officer Solano's belief in the need to use deadly force was in response to the actions of Alvarez that Officer Solano viewed at the time of the shooting as stated in the foregoing paragraphs. The importance of viewing Officer Solano's actions as a response to Alvarez's conduct is further borne out by the fact that Officer Solano stopped shooting immediately after Alvarez fell to the ground and no longer possessed the gun since the perceived threat no longer existed. Based upon the above detailed analysis of the evidence in this case and prevailing case law, the State would be unable to prove beyond a reasonable doubt that Officer Solano committed the offense of First-Degree Murder. In determining whether administrative action will be taken against Officer Solano as it relates to his employment with the Chicago Police Department, the initial decision to stop Alvarez and any policy violations committed by Officer Solano considered using a lesser standard of proof (than proof beyond a reasonable doubt) by a different agency.

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 on February 28, 2022, 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.