



OFFICE OF THE STATE'S ATTORNEY  
COOK COUNTY, ILLINOIS

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## **POLICE INVOLVED DEATH DECISION MEMORANDUM**

### **DECEDENT: HARITH AUGUSTUS**

#### **I. OVERVIEW**

This matter involves the fatal shooting of Harith Augustus by Chicago Police Officer Dillan Halley after Augustus struggled with officers conducting a field interview of him after the officers observed him with a weapon holstered to his waistband. The Civilian Office of Police Accountability (COPA) conducted an investigation into Augustus' 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, and video surveillance footage. On November 27, 2020, 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 Chicago Police Officer Dillan Halley.

#### **II. STATEMENT OF FACTS**

The evidence presented at any criminal proceeding resulting from this incident would show as follows:

On July 14, 2018 at approximately 5:30pm, Chicago Police Officers including four probationary police officers (PPO) were conducting a foot patrol mission in the area of East 71<sup>st</sup> Street near Jeffery

Boulevard. PPO Megan Fleming #14875, PPO Dillan Halley #7341, PPO Danny Tan #10472, and Officer Leon Coleman #9438 were walking westbound on East 71<sup>st</sup> Street when Harith Augustus walked past them. The officers noticed that Augustus had the outline of a gun in a holster around his waist. Augustus continued walking westbound in the direction of Officer Quincy Jones who was standing in front of the Jeffrey Submarine Shop speaking to security guard (“DC”). The PPOs motioned to Officer Jones that Augustus had a gun around his waist. Officer Jones engaged Augustus in a conversation in which he asked Augustus for identification. When Augustus questioned why Officer Jones wanted the information, Officer Jones pointed out that Augustus had a gun at his waist. Augustus pulled out his wallet while placing his hand near the gun. Officer Fleming and Officer Tan walked up and grabbed Augustus’ arm. He pulled away from the officers, spun around and ran into the street. As Augustus continued reaching for his gun, Officer Halley fired his weapon five times at Augustus striking him in the chest, neck, upper arm, buttocks, and wrist. Augustus fell to the street and Officer Jones recovered the weapon and two magazines from Augustus’ holster.

Chicago Fire Department personnel arrived on scene and found Augustus unresponsive. Due to the hostile crowd gathering which caused unsafe conditions, Augustus was taken to Jackson Park Hospital via ambulance and was pronounced dead while en-route to the hospital.

A post-mortem examination performed by the Cook County Medical Examiner’s Office revealed that Augustus died from multiple gunshot wounds. Augustus was shot five times and four projectiles were recovered during the examination which revealed the following gunshot wounds: one entered the back of his neck and lodged, one entered the left chest and lodged, one entered the left upper arm and lodged, one entered the left buttocks and lodged, and one entered the right wrist and exited the wrist. Medium caliber projectiles were recovered from the neck, chest and buttocks. Post-mortem toxicology testing revealed the presence of marijuana metabolites. The manner of death was homicide.

The incident was captured on the Body Worn Cameras (BWCs) of several of the officers as well as on POD and video surveillance cameras. The footage depicts Augustus with the gun in the holster on his waist from various angles. Augustus is seen reaching for his weapon on multiple occasions.

Several ballistic items were recovered and sent to the Illinois State Police Crime Lab for analysis. The Ruger American 9mm semi-automatic pistol which contained a magazine loaded with 17 rounds that was recovered from Augustus along with an additional magazine containing 11 rounds recovered from his holster and a third magazine containing 17 rounds recovered from the street, were

submitted to the lab for fingerprint analysis. The lab found a latent impression suitable for comparison on the magazine recovered from the weapon. A comparison of that impression revealed that it was made by Harith Augustus. Five fired cartridge cases were recovered from the scene. Two fired bullets and four bullet fragments were recovered by the Medical Examiner during the autopsy of Augustus. The five cartridge cases and two fired bullets were submitted to the lab where an analyst confirmed that they were fired from Officer Halley's gun.

### **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.

### **III. 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 Harith Augustus. In other words, a judge or jury would need to conclude that the involved officer did not reasonably believe that he or others were in imminent danger of great bodily harm from Augustus. An

analysis of the facts and evidence with applicable law shows that the involved officer was justified in his use of deadly force to defend himself and others against the perceived deadly threat posed by Augustus as Augustus repeatedly reached for his waistband where his pistol was holstered during the encounter with the officers. Officer Halley and three fellow officers observed Augustus walking down the street with a bulge around his waistband in the outline of a gun. As Augustus continued walking in the direction of where Officer Jones stood, Officer Halley and the other officers informed Officer Jones that Augustus had a gun. Officer Jones observed the weapon on Augustus' waistband and engaged Augustus in conversation to determine if Augustus had a lawful reason to wear the gun on his waist. When the other officers approached, they grew concerned when Augustus did not inform the officers that he had a concealed carry permit when asked if he had a lawful basis to wear the gun. Though he did pull out his wallet when asked for identification, Augustus was described as turning his body away from the officers, arguing with the officers, and pulling away from them while continuously reaching for his waistband. Augustus then ran into the street where a police vehicle was pulling up and continued to reach for his waistband where his gun was holstered creating a threat to the officer in that vehicle. When Officer Halley fired his weapon at Augustus, as shown on BWC and video surveillance footage, Augustus continued to reach for his weapon. Augustus' actions led Officer Halley and fellow officers to believe that Augustus was trying to pull the weapon out to shoot at them. Their beliefs were discussed immediately following the incident and were captured on BWC footage.

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 the involved officer against Augustus was reasonable under the totality of the circumstances. Therefore, the Cook County State's Attorney's Office will not pursue 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.