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COOK COUNTY, ILLINOIS

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POLICE INVOLVED DEATH DECISION MEMORANDUM **DECEDENT: JUAN LOPEZ**

I. OVERVIEW

On November 19, 2018, Juan Lopez was fatally shot by Chicago Police Officer Elvis Turcinovic after Lopez shot and killed three victims, including a Chicago Police Officer, at Mercy Hospital. Lopez shot at numerous officers and law enforcement vehicles and refused all commands to stop and drop his weapon. The Civilian Office of Police Accountability (COPA) and the Chicago Police Department (CPD) conducted an investigation into Lopez'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 and video footage from multiple interior and exterior 3rd party surveillance cameras, POD cameras, CPD in-car cameras and CPD body-worn cameras. On January 17, 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 Chicago Police Officer Elvis Turcinovic.

II. STATEMENT OF FACTS

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

On November 19, 2018, at approximately 1:45pm, Juan Lopez entered the lobby of Mercy Hospital on the west side of the building. Lopez appeared to be waiting for his former fiancé Tamara O'Neal, an emergency room doctor at Mercy Hospital, to leave work for the day. O'Neal exited the west doors of the emergency room at approximately 3:11pm and walked through the parking lot. Lopez walked towards O'Neal and confronted her in the hospital parking lot. After several minutes of arguing with O'Neal, Lopez produced a semi-automatic handgun and shot O'Neal three to four times, causing her to collapse to the ground. Lopez continued to shoot O'Neal intermittently as she remained on the ground. Several 911 calls originating from inside and outside of the hospital directed officers to a "domestic disturbance" at the hospital which was updated as a "shots fired." Officers began responding to the scene, entering the west lot of Mercy Hospital. Lopez discharged his handgun at several Chicago Police Officers' vehicles, striking one police vehicle several times.

Lopez then entered the west entrance of the hospital where he paced in the lobby. Hospital employees Dayna Less and Witness A exited the south elevators in the lobby and Lopez pointed his gun and yelled at them to get out. Lopez shot and killed Less while Witness A made good her escape. Additional arriving police officers attempted to shield O'Neal with their vehicles and to render aid to her in the west lot. Lopez then exited the lobby and discharged his firearm several more times at Chicago Police Officers and their vehicles, striking Officer Bernardo Quijano on his duty weapon which was holstered on his right hip. Lopez then reentered the west lobby of the hospital and traveled east on foot through the building. Additional assisting officers entered the hospital through various entry points and attempted to locate Lopez and evacuate the building. Chicago Police Lieutenant Jacob Alderden, Officer Samuel Jimenez, Officer Elvis Turcinovic, and several other officers entered the hospital and located Lopez and paralleled him for a few minutes through the halls. Lieutenant Alderden yelled out to Lopez that they were the Chicago Police and to drop his weapon. When Lieutenant Alderden and Officers Jimenez and Turcinovic got to a "T" hallway, they charged into the hallway in an attempt to get closer to Lopez. Lopez shot at them and Officer Jimenez was hit in the neck. Officer Jimenez and Lieutenant Alderden retreated, while Officer Turcinovic hid in a doorway in the hallway. Officer Jimenez was dragged away to the ER and eventually died from his injury. Officer Turcinovic's weapon had jammed,

which he fixed promptly. After fixing the jam, he looked out into the hallway and located Lopez again. Officer Turcinovic shot at Lopez, hit him, and yelled out, "I think I got him," to the other officers. Officers approached Lopez to find that he had a gunshot wound to his head and to his abdomen. Lopez was pronounced dead on the scene by Chicago Fire Department Paramedics.

The Cook County Medical Examiner's Office conducted an autopsy and examined Juan Lopez. The Medical Examiner determined Lopez died from the gunshot wound to his abdomen, but that the gunshot wound to his head was a significant condition contributing to his death, making the manner of death a homicide. Dr. White determined that the gunshot wound to Lopez's head was self-inflicted, while the gunshot wound to his abdomen was inflicted by someone else, and it was not possible to determine the sequence of the gunshot wounds.

Several ballistic items were recovered and sent to the Illinois State Police Crime Lab for analysis including the Glock 17 Gen4 semiautomatic firearm recovered from Juan Lopez in the hallway of Mercy Hospital which contained two magazines with a total of 9 live rounds (1 in the chamber and 8 in the magazine) and no remaining rounds in the second magazine. Also recovered was Officer Turcinovic's Bushmaster semiautomatic/fully automatic rifle loaded with a total of 19 rounds (1 in the chamber and 18 in the magazine). A total of fourteen bullets, bullet fragments and bullet jackets were recovered from the crime scene and submitted to the Lab for analysis including the following: (a) three fired bullets and one bullet jacket recovered from the Mercy Hospital Health Center main lobby, west hallway and west hallway of east main lobby floor; (b) four fired bullets recovered from the pavement of the Mercy Hospital parking lot and from the interior and exterior of a marked Chicago Police Department Unit on scene; (c) two fired bullets recovered from victim O'Neal's clothing at University of Chicago Hospital; and (d) two fired bullets recovered by the Medical Examiner's Office during the autopsies conducted on O'Neal and Less. The analysis revealed that all the fired bullets, bullet fragments and bullet jackets were fired by the Glock firearm recovered from Juan Lopez with two exceptions. First, the comparison of the fired bullet recovered from the exterior wall of the surgical west wing from the west side of the wall to the Glock firearm was inconclusive, and the comparison of a single fired bullet fragment, recovered from the Cook County Medical Examiner during the autopsy of Lopez, was inconclusive. The firearms expert was not able to determine whether the bullet fragment recovered from Lopez' body during the autopsy was fired from the Bushmaster rifle recovered from Officer Turcinovic.

An examination of the weapon and two magazines recovered from Juan Lopez revealed no

suitable latent prints. Swabs were taken from the textured surfaces of the weapon recovered from Lopez. The swabs taken from the weapon revealed biological materials and, despite multiple contributors, the major contributor to the DNA profile was identified as Juan Lopez. A gunshot residue kit administered to Lopez revealed that both of his hands were positive for gunshot residue.

Furthermore, witnesses observed Lopez shooting the semiautomatic handgun at the hospital where he shot and killed three victims before this officer-involved shooting occurred. The last victim, Chicago Police Officer Samuel Jimenez, was shot and killed by Lopez in front of Chicago Police Officer Elvis Turcinovic in the same location and immediately preceding the shooting death of Lopez. The shooting death of three separate victims immediately before the fatal shooting occurred indicated Lopez's possession and willingness to use his weapon.

The evidence at any trial would include evidence indicating that it was reasonable to believe that after Lopez had shot and killed his former fiancé, a doctor working at Mercy Hospital, and two other people, including Chicago Police Officer Samuel Jimenez and another individual working at Mercy Hospital, and then pointed the same semiautomatic weapon he used to kill those individuals at Officer Turcinovic and his partner officers, he was placing the officer and his partner officers both in danger of death or great bodily harm. In addition, Lopez was armed with a firearm and attempting to flee after the commission of multiple forcible felony offenses.

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 Officer Turcinovic was not legally justified in using deadly force against Juan Lopez. 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 Lopez. An analysis of the facts and evidence with applicable law shows that Officer Turcinovic was justified in his use of deadly force to defend himself and others against the deadly threat posed by Lopez as he fled from the responding officers with his weapon in hand which he pointed at Officer Turcinovic.

The evidence revealed that Lopez refused multiple commands to stop and drop his handgun. Instead, he continued to flee from the officers to avoid apprehension. After shooting and killing his former fiancé outside in the parking lot, Lopez reentered the hospital, shot and killed a hospital employee as she exited the elevator and then fled to an upstairs hallway. Lopez attempted to continue to flee through Mercy Hospital until Chicago Police Officer Elvis Turcinovic, Lieutenant Jacob Alderden and Officer Samuel Jimenez located Lopez and attempted to charge Lopez in the hallway. Lopez shot at the officers striking Officer Samuel Jimenez in the neck, killing Officer Jimenez. After clearing his jammed handgun, Officer Turcinovic discharged his firearm at Lopez as Lopez was attempting to escape arrest with a deadly weapon in his hand that he did and could further utilize to inflict great bodily harm or death to Officer Turcinovic or others who may have been in the vicinity. 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 Lopez was reasonable under the totality of the circumstances. Accordingly, the Cook County State's Attorney's Office will not be pursuing 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.