



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

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**POLICE INVOLVED DEATH DECISION MEMORANDUM
DECEDENT: KLEVONTAYE WHITE**

I. OVERVIEW

This matter involved the fatal shooting of Klevontaye White by Chicago Police Officers Cameron Mays #17851, Nicholas Esquivel #18016, and Joseph Napoleon #7819 and Deputy US Marshal Justin McCloud #3241. 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 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 Officers Cameron Mays #17851, Nicholas Esquivel #18016, and Joseph Napoleon #7819 and Deputy US Marshal Justin McCloud #3241.

II. STATEMENT OF FACTS

The evidence presented at any criminal proceeding resulting from this incident would show as follows: On July 9, 2021, members of the Great Lakes Regional Task Force (GLRTF) were aware that Klevontaye White had two active arrest warrants for escape and criminal sexual assault. GLRTF task force members then met to prepare and begin their efforts to apprehend White. They drove to the area of Kilpatrick and Monroe and located an unoccupied black Jeep Grand Cherokee (Illinois license Plate CN19260) on Monroe, which was identified as White's Jeep.

At approximately 9:40am, White was observed in the area of 109 S. Kilpatrick, entering and exiting the driver's compartment of his black Jeep Grand Cherokee. At approximately 9:45am the GLRTF team members activated their emergency lights, drove towards the Jeep Grand Cherokee in their unmarked police vehicles and boxed it in. The task force officers exited their vehicles, approached the Jeep and instructed White to exit the Jeep with his hands up.

White refused to exit the vehicle and was observed pointing a gun at the task force officers. Upon noticing that White was armed with a firearm, the GLRTF members called for the assistance of the Chicago Police Department (CPD). CPD officers responded to the scene. Among the first responding CPD officers were Officers Mays and Napoleon. The officers positioned themselves behind White's Jeep and directed him to stop moving, drop the gun and get out of the vehicle. In response, White pointed his gun at the officers. Officer Napoleon, Officer Mays and Deputy US Marshal McCloud retreated behind Deputy US Marshal McCloud's SUV and retrieved ballistic shields. The officers attempted to reapproach the Jeep and again observed White aiming his gun at them. Officer Napoleon and Officer Mays retreated behind a tree for cover. They ordered White to drop his gun. White continued to point his gun at the officers. Officer Napoleon fired a single shot towards the back of the Jeep. This single shot was perceived by Officer Mays as originating from White from within the Jeep. Officer Mays then called out shots fired.

Officer Nicholas Esquivel arrived on the scene and positioned himself behind the Chevrolet Traverse which was parked at the rear of the black Jeep Cherokee. Deputy US Marshal McCloud and an assisting officer moved towards the Jeep and instructed White to stop moving and show his hands. White continued to move in the Jeep and point his gun towards the officers. Deputy US Marshal McCloud and CPD Officers Mays, Napoleon, and Esquivel intermittently discharged their weapons at White as White continued to move around within the Jeep. Once the shooting ceased,

officers reached into the vehicle and retrieved White's gun from the back seat. Once the gun was recovered, officers removed White from the backseat of the Jeep and placed him on the ground where life-saving aid was rendered. White was subsequently transferred to Stroger Hospital, where he was pronounced dead.

A Cook County Medical Examiner performed an autopsy on White and determined that the cause of death was multiple gunshot wounds, and the manner of death was homicide.

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 officers were not legally justified in using deadly force against Klevontaye White. In other words, a judge or a jury would have to find that Officers Cameron Mays, Nicholas Esquivel, Joseph Napoleon and Deputy US Marshal Justin McCloud did not reasonably believe that they were in imminent danger of great bodily harm or death. In this case, however, the evidence shows that Officers Mays, Esquivel, Napoleon and Deputy US Marshal McCloud reasonably used deadly force in defense of themselves and others.

Under the current case law, the trier of fact could reasonably conclude that the evidence demonstrates that Officers Cameron Mays, Nicholas Esquivel, Joseph Napoleon and Deputy US Marshal Justin McCloud were reasonably justified in their use of deadly force to protect themselves and others from White as he pointed a semi-automatic pistol towards the officers from the back seat of his Jeep to avoid being apprehended for an active warrant for criminal sexual assault and escape. Video footage clearly showed White in his Jeep pointing a weapon at the officers. Officers gave White numerous commands to drop his weapon and show his hands but White never complied. A 9mm Luger semi-automatic gun was recovered from inside the Jeep next to White's body. White's palm and fingerprint were recovered from the right-side frame of the weapon near the trigger above the grip. DNA comparison of the swabs taken from White's firearm against the buccal standard of White were consistent with having originated from White. These results and the video evidence further corroborates the officers' statements that White pointed a gun at the officers and the officers recovered the gun from inside White's Jeep next to his body. The fact that the gun was later discovered to have no magazine and an empty chamber, does not negate the officer's perception of whether they were in danger of imminent harm in reviewing the totality of the circumstances.

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 Officers Cameron Mays, Nicholas Esquivel, Joseph Napoleon and Deputy US Marshal Justin McCloud against Klevontaye White 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 reviewed the case and on February 2, 2023, 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, United States Marshal's Service 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.