



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

KIMBERLY M. FOXX
STATE'S ATTORNEY

LAW ENFORCEMENT ACCOUNTABILITY DIVISION
2650 SOUTH CALIFORNIA AVENUE
CHICAGO, ILLINOIS 60608

**POLICE INVOLVED DEATH DECISION MEMORANDUM
DECEDENT: LEEVON SMITH**

I. OVERVIEW

This matter involved the fatal shooting of Leevon Smith by off-duty Chicago Police Officer Precious Dunn #19452. 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 of responding officers.

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 Precious Dunn.

II. STATEMENT OF FACTS

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

On the afternoon of January 18, 2023, Officer Dunn was off-duty and at her home, which was a multi-unit apartment building in Chicago, Illinois. Officer Dunn overheard males arguing for several minutes outside of her home. Officer Dunn eventually exited her apartment building, with her gun holstered inside of her sweatpants, and encountered a group of four males, which included Leevon Smith. Officer Dunn told the four individuals to "stop," "calm down," and "go

home.” Eventually three of the males began to walk away and Leevon Smith remained standing with Officer Dunn. Smith told Officer Dunn that the three males robbed him. During this conversation, Officer Dunn confirmed that she was armed. Officer Dunn turned to walk toward the entrance door of the multi-unit building in which she lived, and Smith grabbed her waist from behind and demanded that she give him her gun. Officer Dunn turned to face Smith. A struggle ensued and Smith and Officer Dunn moved up against a wall. Smith had both of his arms wrapped around Officer Dunn’s upper right-side body and he reached toward Officer Dunn’s gun on her right-side hip. Officer Dunn stated, “I’ll kill you;” Smith replied, “You’re going to have to kill me then.” Officer Dunn drew her gun, and with Smith’s arms wrapped around her upper body, she fired her gun at Smith one time. Officer Dunn moved off the wall and pushed Smith away from her with her left hand as she held her gun in her right hand. Smith did not release his grasp on Officer Dunn’s upper body and continued to reach for her gun which was in her right hand. Officer Dunn fired her gun at Smith again. Smith continued to reach for Officer’s Dunn’s right hand, arm, and gun as Officer Dunn bent down and spun away from Smith. Smith grabbed ahold of Officer Dunn’s right wrist, the arm in which she held the gun. Smith fell to the ground and appeared to pull Officer Dunn down with him.

While they were on the ground, Smith and Officer Dunn laid on their sides facing each other, and Smith continued to reach for Officer Dunn. Officer Dunn used her feet to kick and push Smith away from her. Smith continued to pull himself closer to Officer Dunn. Smith continued to reach toward Officer Dunn’s gun as she fired a third shot at Smith, while they both lay on the ground propped up by their arms. Officer Dunn knelt on the ground as she attempted to stand up. Smith continued to reach for Officer Dunn’s gun as she tried to stand up. As she got to her feet, Officer Dunn yelled, “Let me go right now.” Smith moved his hands away from Officer Dunn’s gun. Smith slowly stood to his feet. Officer Dunn kept one hand on Smith and her other hand holding her gun as she yelled for someone to call the police. Smith and Officer Dunn both made statements as they waited for police and emergency medical services to arrive on scene. Smith stated, “I just tried to take her gun.”

Smith was transported to Advocate Christ Medical Center via Chicago Fire Department Ambulance. Smith underwent surgery then was interviewed by Chicago Police Detectives. Smith made statements indicating he tried to take Officer Dunn’s gun. Two days later, on January 20,

2023, Smith died. A medical examiner ruled the cause of death to be complications from multiple gunshot wounds.

Surveillance cameras attached to Officer Dunn's apartment building, as well as the apartment building across the street, captured audio and video of the entire encounter between Smith and Officer Dunn. Forensic DNA testing performed on the swab samples taken from the slide of Officer Dunn's gun were linked to Smith.

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 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, based on the totality of the circumstances, to be necessary to effect the arrest and of any force which he reasonably believes, based on the totality of the circumstances, 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: (i) he reasonably believes, based on the totality of the circumstances, that such force is necessary to prevent death or great bodily harm to himself or such other person, or (ii) when he reasonably believes, based on the totality of the circumstances, both that:

(1) Such force is necessary to prevent the arrest from being defeated by resistance or escape and the officer reasonably believes that the person to be arrested is likely to cause great bodily harm to another; 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.

* * *

A peace officer is not justified in using force likely to cause death or great bodily harm when there is no longer an imminent threat of great bodily harm to the officer or another.

720 ILCS 5/7-5(a) (2021)

IV. ANALYSIS AND CONCLUSION

A criminal prosecution for either first- or second-degree murder would require proof beyond a reasonable doubt that Officer Dunn was not legally justified in using deadly force against Leevon Smith. In other words, a judge or a jury would have to find that Officer Dunn did not hold a reasonable belief that she herself or anyone else was in imminent danger of great bodily harm or death. In this case, however, the evidence shows that Officer Dunn had a reasonable belief that Leevon Smith put her in imminent danger of bodily harm or death.

The analysis for making a charging decision must look at whether the decision by Officer Dunn to use deadly force was reasonable under the totality of the circumstances. The evidence in this case establishes that Smith tried to disarm Officer Dunn after she tried to diffuse the situation between Smith and the other three men that just robbed Smith. Smith grabbed Officer Dunn from behind and demanded she give him her gun. Smith wrapped himself around Officer Dunn's upper body and reached for her right side where her gun was located. Officer Dunn told Smith she would kill him, and Smith replied, "You're going to have to kill me then," and continued to wrestle with Officer Dunn into the wall. After Officer Dunn fired the first shot, Smith did not release his grasp on Officer Dunn as she attempted to use her left hand to push him away from her. Smith continued to grab onto Officer Dunn and reach for her gun. Officer Dunn then fired the second shot. Smith continued to reach for Officer Dunn's gun and eventually grabbed her right wrist in which she held the gun. They both fell to the ground and Smith continued to reach toward Officer Dunn. Officer Dunn tried pushing and kicking Smith away with her legs. Smith was reaching toward Officer Dunn as she fired the third shot and as she attempted to stand to her feet. When she got to her feet, she ordered Smith to let her go. Minutes later, audio of Smith admitting to trying to take Officer Dunn's gun was captured on video. Forensic DNA testing performed on the samples taken from the slide of Officer Dunn's gun were

linked to Smith, indicating he physically touched her gun as he tried to remove it from Officer Dunn's possession.

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 the deadly force used against Leevon Smith by Officer Dunn 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 on May 1, 2024, 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.