



OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS

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LAW ENFORCEMENT ACCOUNTABILITY DIVISION
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POLICE INVOLVED DEATH DECISION MEMORANDUM

DECEDENT: MICHAEL ELAM

I. OVERVIEW

This matter involves the fatal shooting of Michael Elam by Chicago Police Officer Adolfo Bolanos after Elam exited a vehicle, in which he was a passenger, while holding a semi-automatic pistol with an extended magazine which he aimed at Officer Bolanos. The Civilian Office of Police Accountability (COPA) conducted an investigation into Elam'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 surveillance footage. On April 17, 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 Adolfo Bolanos.

II. STATEMENT OF FACTS

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

On February 16, 2019 at approximately 8:30pm, Chicago Police Officers Adolfo Bolanos #16767 and Guillermo Gama #17268 were driving an unmarked police vehicle in the area of 16th and

Komensky. Both officers were dressed in civilian clothing but wore ballistic vests which were embroidered with the Chicago Police star and their last names on the front. The word "POLICE" was posted on the back of their vests. They both wore utility belts containing standard police equipment. They observed a silver Acura vehicle traveling westbound on 16th Street approaching Pulaski without its headlights or rear taillights illuminated despite it being dark outside. The officers followed the Acura and observed the driver (now known as "SL") make a turn without using a turn signal. When the Acura turned southbound on Keeler Avenue, Officer Gama activated the vehicle's emergency equipment to initiate a traffic stop. Rather than stop, the Acura sped off at a high rate of speed. Officer Gama extinguished the police emergency equipment and did not immediately pursue the Acura but the officers continued to follow the vehicle. The Acura then struck a passing vehicle driven by a female (now known as "BW") near 21st Street. The Acura did not stop. Rather, it continued on Keeler Avenue. As the Acura attempted to turn from Keeler onto 21st Place, it struck a raised curb and crashed into the wrought iron fence surrounding the residence at the corner of 21st Place and Keeler. It then bounced back leaving a few feet between the front bumper of the car and the fence.

After the Acura crashed, Officer Bolanos exited the front passenger seat of the police vehicle while Officer Gama continued to drive up closer to the crashed Acura. There was a total of four individuals in the Acura. Michael Elam was in the backseat behind the driver. Officer Gama focused on the male individual who exited the driver's seat of the Acura and ran eastbound on 21st Place while Officer Bolanos ran up to the passenger side of the Acura. A male individual remained inside the vehicle while a female individual exited the rear passenger side and ran across the street. Michael Elam then exited the rear passenger side armed with a Glock 19 handgun with a transparent extended clip. Elam had his right arm extended out and to the rear. Officer Bolanos gave verbal commands for Elam to drop the weapon and then fired four times at Elam. Elam ran in front of the smashed Acura and collapsed near the driver side of the vehicle. Elam's firearm was recovered on the street near the passenger side of the Acura. The gun had a long, extended clip that was clear in color. An additional firearm was recovered from the backseat floor of the Acura and was found to be a Sturm Ruger P95 semi-automatic pistol. Two black ski masks were also recovered; one was on the ground next to Elam and the other was inside the Acura on the floor of the front passenger seat.

Elam sustained three gunshot wounds to the back of his head and lower back. Officers rendered aid until Chicago Fire Department personnel arrived. He was then transported to Mount Sinai Hospital

where he was pronounced dead.

The unmarked CPD vehicle driven by Officer Bolanos and Officer Gama was not equipped with an in-car camera. Both officers wore functioning body-worn cameras. Officer Bolanos did not activate his BWC until after the shooting. Officer Gama's BWC did not capture the shooting itself but it did capture activities leading up to and following the shooting.

The three additional occupants of the vehicle were located by police within minutes of the shooting. Each of the individuals was interviewed but none of them saw the actual shooting.

A post-mortem examination performed by the Cook County Medical Examiner's Office revealed that Elam died from multiple gunshot wounds. Elam sustained three gunshot wounds including: one to the back of his head where a projectile fragment was recovered; two to the left lower back, one of which perforated the right side of the spinal column and had a pathway back to front and slightly left to right. None of the gunshot wounds reflected close range firing. Post-mortem toxicology testing revealed the presence of marijuana metabolites. The manner of death was homicide.

Several ballistic items were recovered and sent to the Illinois State Police Crime Lab for analysis. Both recovered weapons were submitted to the Lab for testing including the Glock Model 19 Gen 4 semi-automatic pistol recovered from the street next to the Acura which contained an extended magazine loaded with a total of 27 live rounds, 1 in the chamber and 26 in the extended magazine, as well as the firearm recovered from the back seat of the Acura which was a Ruger P95 semi-automatic pistol loaded with a total of 27 live rounds, 1 in the chamber and 26 in the extended magazine. Four fired cartridge cases recovered from the street near the Acura were examined and found to have been fired from Officer Bolanos' weapon. Additionally, bullet fragments recovered from Mt. Sinai Hospital and the Medical Examiner's Office were examined and it was determined that several of the fragments and the fired bullets were fired from Officer Bolanos' firearm. Some bullet fragment comparisons revealed inconclusive results. An examination of the firearms recovered inside and next to the Acura vehicle revealed no suitable latent prints. Swabs were taken from the two weapons as well as each of the magazines from those weapons. The swabs taken on each weapon revealed biological materials, however, due to multiple contributors, the DNA profiles were inconclusive. The swab taken from the weapon recovered from the street contained at least 6 contributors and the swab taken from the weapon recovered inside the vehicle contained at least 3 contributors. Swabs were also taken of the front passenger and driver's side airbags which were compared to DNA profiles obtained from two of the

occupants; the results confirmed that those two occupants were the driver and front seat passenger at the time of the crash.

A review of social media records revealed a photograph of Michael Elam posted on Facebook approximately one hour prior to the shooting. Elam appears to be wearing the same clothing as he wore at the time of the shooting and is depicted holding a weapon which appears to have the same clear extended magazine as the weapon recovered on the street next to the Acura.

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 Michael Elam. 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 Elam. An analysis of the facts and evidence with applicable law shows that the involved officer was not unreasonably justified in his use of deadly force to defend himself and others against the perceived deadly threat posed by Elam as Elam exited the vehicle carrying a semi-automatic pistol with an extended magazine with his arm extended and pointed to the rear. Officer Bolanos and Officer Gama observed the vehicle, in which Elam was a passenger, traveling at nighttime without its headlights activated. When the officers attempted to perform a traffic stop of the vehicle, the driver failed to comply and instead sped off at a high rate of speed, crashed into another vehicle and continued to flee the scene of a traffic accident. After the Acura crashed into the curb and fence, the occupants began to exit the car and run. Officer Bolanos exited the passenger side of the police SUV and approached on the passenger side of the Acura. After the female individual exited the rear passenger side of the car and ran across the street toward a parked vehicle, Elam exited out of the same door behind her. After Officer Bolanos observed Elam holding a semi-automatic pistol with an extended magazine in his right hand with his right arm extended and pointed to the rear, Officer Bolanos fired his weapon at Elam four times in rapid succession. Elam ran around the front of the Acura before collapsing at the curb near the driver's side of the Acura. The semi-automatic pistol he held was recovered in the street within a few feet of the rear passenger side of the vehicle near where the female individual and Elam had exited the Acura. It is not known at what point Elam dropped or threw the weapon.

According to Officer Bolanos, after he discharged his weapon at Elam, he observed Elam run in front of the Acura before falling and landing near the driver side of the vehicle. This is corroborated by Officer Gama who related that he did not see the shooting because he was focused on the driver and after he heard the gunshots, he looked toward the Acura and observed Elam running in front of the Acura before falling to the ground and landing at the curb near the driver's side of the Acura. Even if Elam threw the weapon after Officer Bolanos observed the weapon, but prior to Officer Bolanos discharging his weapon, Officer Bolanos's actions are not unreasonable based on Elam's actions of continuing to run toward the driver's side where Officer Gama was located.

The shooting itself is not captured on any video surveillance cameras and none of the numerous residents who appeared after hearing the gunshots actually saw the shooting take place. Although there were four additional individuals at the scene of this shooting including Officer Gama and three additional occupants of the vehicle, none of them actually witnessed the shooting. Each of them

informed that they heard the rapid succession of gunshots but did not see the actual shooting. Therefore, there are no eyewitnesses who contradict Officer Bolanos' version of events that he fired at Elam and then Elam ran in front of the Acura and collapsed. Further, while the head injury was devastating, the order of Elam's gunshot wounds cannot be determined. Therefore, it cannot be definitively concluded or contradicted that Elam sustained the gunshot wounds to his lower back first and then stumbled as he continued to flee when he was struck in the head which caused him to ultimately collapse near the driver side of the vehicle.

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 Elam was not unreasonable under the totality of the circumstances based on Officer Bolanos' belief that deadly force was necessary to prevent imminent death or great bodily harm to himself, his partner, and others at the scene. 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.