



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

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**POLICE INVOLVED DEATH DECISION MEMORANDUM
DECEDENT: RAFAEL FLORES**

I. OVERVIEW

This matter involved the fatal shooting of Rafael Flores by Chicago Police Department Officer Ruben Flores #3689. During the course of the investigation, investigators interviewed civilian witnesses, law enforcement witnesses, the medical examiner and reviewed radio transmissions, photographs and processing 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 this officer.

II. STATEMENT OF FACTS

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

On the evening of December 9, 2020, off-duty Chicago Police Officer Ruben Flores was at his residence located at 5651 S. Nottingham Avenue, Chicago, Illinois. Also present in the residence was his wife, "CF", and their 23-year-old son, Rafael Flores. Rafael Flores was

previously diagnosed with mental health disorders and according to his mother had not taken his medication for several months. Instead, as his mother explained, Rafael was self-medicating with marijuana. CF related during her interview, several instances in which Rafael Flores threatened her life and her general fear of him. Chicago Police Department records reflect previous calls for service at the Flores residence for mental health related disturbances.

The night of the incident Officer Flores and CF went to bed around 8:00PM. During the night, while Officer Flores and CF were sleeping, Rafael Flores entered his parents' bedroom and demanded the keys to the family car. Officer Flores denied his son's request, as Rafael had previously been charged with a DUI in November 2020 and could not legally drive. That evening, Rafael came in and out of his parent's bedroom multiple time screaming and demanding the car keys. At one point, Rafael began to rummage through his parents' dresser looking for the car keys. Fearing that his son would find his firearm which was in the dresser, Officer Flores relocated his firearm under his pillow once his son had left the bedroom. Rafael returned to his parent's bedroom and began beating Officer Flores, striking him in the face and head multiple times causing visible physical injuries. Officer Flores took out his handgun from behind his pillow in order "to scare" Rafael. The physical altercation between Rafael and Officer Flores moved out of the bedroom into the hallway and the front living room area of their residence. During the altercation, Officer Flores fired his handgun at his son, who he reported was advancing upon him, nine times. Rafael Flores died as a result of the injuries sustained from the gunshots and was found lying face down in the front vestibule with his head facing into the house, towards the living room. CF informed that she did not witness the shooting.

After the shooting incident, Officer Flores was transported to McNeal Hospital where he received treatment for his injuries, which included a laceration above the right eye, a laceration on top of the left side of his head, and a swollen left hand. Officer Flores received three stitches and was released from the hospital. An evidence technician documented Officer Flores' injuries with photographs, and photographs of the scene and body worn camera footage depicted evidence of a struggle inside the Flores residence. Nine expended shell casings and Officer Flores' firearm were recovered from the scene. Rafael was not armed at the time of the shooting.

The Cook County Medical Examiner conducted an autopsy of Rafael Flores on December 10, 2020. Rafael Flores sustained multiple gunshot wounds which caused a laceration of the brain, skull fractures and a right humerus fracture. The Medical Examiner was not able to identify the sequence of the shots fired. The Medical Examiner's Protocol reported that Rafael was 5'11" and 377 lbs. Officer Flores' medical records from MacNeal Hospital noted his height at 5'6" and his weight at 215 lbs.

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).

IV. ANALYSIS AND CONCLUSION

A criminal prosecution for either first- or second-degree murder would require proof beyond a reasonable doubt that Officer Ruben Flores was not legally justified in using deadly force against Rafael Flores. In other words, a judge or a jury would need to conclude that Officer Flores did not reasonably believe that he or others were in imminent danger of great bodily harm or death. In this case, however, the evidence has established that the use of deadly force by Officer Flores was objectively reasonable. Officer Flores had a reasonable belief that his son's actions put him and others in imminent danger of great bodily harm or death. Additionally, there is not enough evidence to overcome a claim of self-defense by Officer Flores.

Officer Flores provided a brief statement to the responding officers as to what occurred that evening. Because of the brevity of his statement, specific details regarding Officer Flores'

beliefs and perceptions at the time of the incident are not entirely clear. Additionally, there were no eyewitness accounts as to the shooting itself, other than the brief statement Officer Flores made to the responding officers. However, the physical evidence in this case supports the account of events provided by Officer Flores. Officer Flores told the officers on scene that the incident started in the bedroom he shared with his wife when Rafael came in to demand the keys to the car, which his parents refused to give him. After leaving and returning to his parents' bedroom to make the same demand multiple times, Rafael returned to his parents' bedroom and began to strike Officer Flores about the head and face. The power of the blows left Officer Flores with lacerations which bled down his face. The Evidence Technician photos depict blood left on the pillow in Officer Flores' bedroom and depict Officer Flores' bloody face at the hospital. Further, the pictures depict a blood trail from the bedroom to the living room, which showed signs of a struggle, with displaced furniture and lights. The Medical Examiner photographs depict bruises on Rafael's knuckles, consistent with someone striking another. Officer Flores explained to the officers on scene that the blows to his head made him feel like he was about to pass out. Officer Flores further explained to responding officers that he took his firearm, which he had placed behind his pillow, in order to scare Rafael and to get Rafael off of him. However, once his son came at him, Officer Flores discharged his weapon near the threshold at the bedroom door. Rafael ran toward the front door but then turned and came back at Officer Flores, prompting him to fire a few more shots at Rafael. The placement of the fired cartridge cases from the back hallway to the living room area depict a moving incident from the back to the front of the residence. Additionally, the placement of Rafael's body supports Officer Flores' account that Rafael had turned back towards him. Rafael's body was found by the responding officers to be face down with his feet towards the door and his head towards the living room.

Because the Medical Examiner is unable to determine the sequence of the gunshot wounds, it cannot be determined which gunshot wound was caused by each discharge. While the Medical Examiner described the gunshot wound to the head causing the injury to the brain stem as a "lights out" injury, causing the immediate ceasing of brain function, it cannot be said what effect that gunshot had to Rafael's positioning. It should also be noted that the post-mortem exam did not reveal any evidence of gun powder soot or gunpowder stippling, the presence of which would have suggested close range firing. The Medical Examiner was also unable to determine the trajectory of all the gunshot wounds. While three of the gunshot wounds (head, neck and back) were

identified as having a trajectory of back to front, the exact positioning of Officer Flores and Rafael when these shots were fired cannot be determined. During the Medical Examiner's interview with the Detective, she explained the trajectory of gunshot wounds are always described as if the decedent's body was standing, with his palms facing forward, in an anatomical position. However, without eyewitness testimony, we cannot establish whether that was Rafael's positioning, or what position Officer Flores was in when the shots were fired. Additionally, common sense and experience establish that when a physical altercation is occurring between two individuals, it involves movement of bodies, hands and heads rather than static activity. Therefore, while three of the gunshot wounds indicate a back to front trajectory, and the gunshot wound to the head was a "lights out" injury, those facts, in and of themselves, cannot determine the reasonableness of Officer Flores' shots.

The threat posed by Rafael's physical stature is significant. Rafael stood approximately 7 inches above Officer Flores. Rafael also weighted over 170 pounds more than his father. The size differential between the two men arguably factored into Officer Flores' assessment as to the type of threat Rafael posed. Furthermore, the fact that Rafael previously exhibited aggressive behavior, including threatening to kill his father that night, previously threatening to harm and kill his mother, and was not up to date on taking his medication, are all circumstances to consider when determining the reasonableness of Officer Flores' threat assessment. Officer Flores explained to officers on scene that he fired his weapon only after he had been beaten to such an extent that he thought he was going to "pass out" and Rafael was "coming at him."

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 Chicago Police Officer Ruben Flores was not unreasonable under the totality of the circumstances. The totality of the evidence in this matter suggests that Officer Flores had been attacked by his son while in his bedroom and feared for his life. Officer Flores discharged his service weapon in the direction of his son Rafael, to defend himself against the violent attack his son was waging upon him. The statements Officer Flores made to responding officers on scene, and captured on BWC footage, support the argument that Officer Flores was acting in fear for his own life and the life of his wife. Furthermore, based on the available evidence, or lack thereof, it would be difficult to prove otherwise. 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 18, 2022, 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.