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COOK COUNTY, ILLINOIS

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POLICE INVOLVED DEATH DECISION MEMORANDUM
DECEDENT: RICHARD GRIMES

I. OVERVIEW

On November 27, 2016, Chicago Police Officers responded to a domestic altercation during which Richard Grimes shot his pregnant girlfriend and fled the scene. Officer Thomas Surma located Grimes at which time Grimes fired his gun at Officer Surma causing a graze wound to the officer's forehead. Officers Surma, Monica Calixto, Miles Furlet, Sean Najm, and Curtis Wallace shot and killed Grimes after Grimes pointed his gun at officers. The Civilian Office of Police Accountability (COPA) conducted an investigation into Grimes' death. During the course of the investigation, investigators interviewed numerous law enforcement and civilian witnesses and reviewed body camera, dash camera, and POD camera videos, OEMC transmissions, photographs of the scene, police reports, medical records, and the results of forensic examinations. On June 12, 2018, 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 the officers.

II. STATEMENT OF FACTS

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

On November 27, 2016 at approximately 11:27 p.m., several Chicago Police Officers responded to a domestic incident at 4655 West Adams. During the altercation, Richard Grimes shot Ashley Williams, his 37-week pregnant girlfriend, in the stomach and neck. Grimes fled the apartment with the gun and Williams sought assistance from a neighbor who called 911. Several police officers arrived in the area in marked squad cars. Williams provided details of the incident and a description of Grimes and officers proceeded to patrol the area searching for Grimes. Chicago Police Officers Thomas Surma

and Ursula Karcz were seated in a marked squad car at 23 North Kenton when Grimes walked toward them with a gun in his hand. As Officer Surma exited the vehicle, Grimes fired his gun at Officer Surma, grazing Officer Surma on the left side of the forehead. Grimes then fled north on Kenton and east through the north alley of Madison. A squad car dash-camera captured this shooting.

Numerous additional officers arrived on-scene, including Officers Monica Calixto and Marcus Wallace, who encountered Grimes in the east gangway of 4529 West Washington which is directly adjacent to a vacant lot to the east. At the same time, Officer Surma, along with Officers Sean Najm and Miles Furllet arrived in the back of 4529 West Washington and located Grimes in the gangway. Officer Furllet then ran down the west gangway of the building to the front yard. Grimes pointed his handgun in the direction of officers in the front of the building and then he pointed it at officers in the rear of the building. Residents inside the building heard officers yelling at Grimes to put his gun down. Officers Calixto, Wallace, and Furllet then fired their guns at Grimes from the front of the building and Officers Surma and Najm fired at Grimes from the rear. Grimes was struck several times and fell to the ground. Grimes' Hi-Point 9mm semi-automatic was recovered next to his body in the gangway at 4529 West Washington. Officers later recovered one spent 9mm cartridge case at 23 North Kenton which was determined to have been fired from Grimes' 9mm pistol. Officers also recovered two spent 9mm cartridge cases in Williams' apartment at 4655 West Adams.

Richard Grimes was transported via ambulance to Stroger Hospital where he was pronounced deceased at 2:00 a.m. on November 28, 2016. A postmortem examination by the Cook County Medical Examiner's Office of Grimes revealed gunshot wounds to Grimes' upper left chest and abdomen. Officer Surma was taken to Loyola University Medical Center where he was treated and released for an abrasion to his forehead and chest pains. Ashley Williams was transported to Mt. Sinai Hospital where she was treated and released for multiple gunshot wounds to the abdomen and neck. She delivered a baby boy via caesarian section but the baby did not survive.

The evidence at any trial would include evidence indicating that Richard Grimes used deadly force against Officer Surma to evade arrest after he committed the forcible felonies of attempt murder and intentional homicide of an unborn child. As the officers approached Grimes in the gangway, he drew his weapon and pointed his gun at the officers. As a result, the officers shot Grimes.

III. 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.

IV. ANALYSIS AND CONCLUSION

A criminal prosecution for either first- or second-degree murder would require proof beyond a reasonable doubt that Officers Surma, Calixto, Furllet, Najm, and Wallace were not legally justified in using deadly force against Grimes. In other words, a judge or jury would need to conclude that each of the officers did not reasonably believe that he/she or others were in imminent danger of great bodily harm from Grimes. The uncontroverted evidence establishes that Grimes shot his pregnant girlfriend two times and then fled the scene with his gun. Officers observed Grimes with a gun in his hand and Grimes used deadly force when he shot at Officer Surma's head. The evidence further shows that Grimes confronted the officers with deadly force when he pointed his gun at several officers as he stood in the gangway of 4529 West Washington. Officer Surma, Calixto, Furllet, Najm, and Wallace fired striking Grimes multiple times. 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 officers' use of deadly force against Grimes was reasonable under the totality of the circumstances. Therefore, the Office is not filing 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.