



**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: SHARELL BROWN

I. OVERVIEW

This matter involved the fatal shooting of Sharell Brown by Chicago Police Officer Robert Rhodes and Chicago Police Officer Joseph Lisciandrello after Brown pointed a gun at each of the officers during separate interactions. The Civilian Office of Police Accountability (COPA) conducted an investigation into Brown'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, video surveillance and Body-Worn Camera (BWC) footage. On January 21, 2021, 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 Robert Rhodes and Officer Joseph Lisciandrello.

II. STATEMENT OF FACTS

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

On May 11, 2019 at approximately 3:30 P.M., Chicago Police Officer Robert Rhodes #12625 and his partner were on patrol, in uniform in an unmarked police vehicle, in the area of 15th Street and South Lawndale Avenue. Officer Rhodes observed Brown walking with his right arm stiff holding his right side. Officer Rhodes briefly followed Brown in their police vehicle. Brown looked back at the officers and then approached their vehicle, which came to a stop. Brown put his hands up and stated that he did not have anything and was not from the area. Officer Rhodes noticed a bulge near the right side of Brown's waistband. Brown walked up to the driver's side door of the police vehicle and placed his hands on the door. Officer Rhodes reached through the open driver's side window and grabbed at the bulge near Brown's waistband, exposing a black handle of a gun that was in the right pocket of Brown's jacket.

Officer Rhodes exited the vehicle and Brown ran. Officer Rhodes followed on foot and saw Brown remove the gun from his jacket pocket, rack the slide of the gun, turn, and look behind him in the direction of Officer Rhodes, and then turn his body and point the gun directly at Officer Rhodes. Officer Rhodes then fired six shots at Brown and called for assistance. Brown ran to approximately 1439 South Lawndale and then into an alley. Officer Rhodes followed and saw Brown turn his body toward Officer Rhodes and lift his gun across his body, pointing it at Officer Rhodes. Officer Rhodes then fired four times at Brown. Brown continued to run and went out of Officer Rhodes's sight. There is no evidence that the shots fired by Officer Rhodes struck Brown.

A search for Brown ensued and additional police officers responded to the area, including Officer Joseph Lisciandrello #19362. Officer Lisciandrello was dressed in civilian clothing with a ballistic vest which was embroidered with a Chicago Police Star and his last name and a standard utility belt. Officer Lisciandrello and other officers searched yards, alleys, and gangways looking for Brown. Officer Lisciandrello came upon the gangway between 1421 and 1423 South Lawndale, where Brown was seated on the ground in a corner of an alcove. Brown leaned forward while pointing his black semi-automatic handgun with both arms outstretched at Officer Lisciandrello. Officer Lisciandrello fired approximately six gunshots at Brown, then paused and took cover behind a brick wall. When he peered back into the alcove, Brown was

seated upright with his gun extended in front of him still pointed at Officer Lisciandrello. Officer Lisciandrello fired approximately three additional gunshots and saw Brown slump down and his right-hand fall to his side still clutching the weapon. Brown's weapon was found to be a Sig Sauer P229, 9MM semi-automatic pistol. At the time of its recovery, the pistol did not contain a magazine or ammunition. A magazine marked, Sig Sauer P229, 9MM and containing twelve live rounds of ammunition, was found on Brown's path of travel as he fled from Officer Rhodes. Forensic testing showed Brown's gun and the recovered magazine were operable together.

Officer Rhodes's Body-Worn Camera was activated during this incident. Third party surveillance video captured Brown point his gun at Officer Rhodes. Officer Lisciandrello's Body-Worn Camera was not activated at the time of the shooting but was activated after he recovered Brown's gun. This video footage showed Brown's physical placement within the alcove. Although there is no video footage of the shots fired by Officer Lisciandrello, audio of the shots can be heard on the Body-Worn Camera footage from other officers on scene which also depicted video of the weapon recovery from Brown. Several civilian witnesses observed portions of this incident including Brown's initial encounter with Officer Rhodes, Brown pointing his gun at Officer Rhodes, and Brown running through the alley. Witnesses also reported hearing numerous gunshots separated by a pause of ten to fifteen minutes followed by an additional five to ten shots.

Brown was transported by Chicago Fire Department Ambulance to Mount Sinai Hospital where he was pronounced deceased at 4:07 P.M. On May 12, 2019, the Cook County Medical Examiner's Office performed an autopsy on Brown and determined the cause of death to be multiple gunshot wounds and manner of death as homicide. Brown sustained four gunshot wounds to the head and face and two gunshot wounds to the right arm. Bullet projectiles were recovered from Brown's brain and throat during the autopsy as well as within the material in which he was transported from the hospital to the Medical Examiner's Office. Post-mortem toxicology testing revealed the presence of marijuana metabolites.

Several ballistic items including eighteen shell casings were recovered and sent to the Illinois State Police Crime Lab for analysis. The weapon recovered from Brown as well as Officer Lisciandrello and Officer Rhodes's weapons were also submitted to the Lab for testing and analysis. The results of the Lab analysis revealed that three fired cartridge casings recovered from the sidewalk at 3700 W 15th St, three fired cartridge casings recovered in the street at 1458

South Lawndale, and four fired cartridge casings recovered from the mouth of alley at 1439 South Lawndale were found to have been fired from Officer Rhodes' weapon. The results further revealed that six fired cartridge casings recovered from the north gangway of 1423 South Lawndale and one fired cartridge casing recovered from the 1421 South Lawndale south gangway alcove were found to have been fired from Officer Lisciandrello's weapon. Two fired bullets recovered from the 1421 south gangway alcove, two fired bullets recovered during Brown's autopsy, and a fired bullet recovered from the material in which Brown's body was transported, were all determined to be 9MM/.38 class caliber and was inconclusive between Officer Lisciandrello and Officer Rhodes's guns and eliminated from being fired from Brown's gun.

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 Sharell Brown. In other words, a judge or a jury would have to find that Officer Rhodes and Officer Lisciandrello's belief that they or others were in imminent danger of great bodily harm or death -- was not reasonable. An analysis of the facts and evidence with applicable law shows that the involved officers were not unreasonably justified in their use of deadly force to defend themselves and others against the perceived deadly threat posed by Brown as Brown repeatedly pointed a gun in the officers' direction.

Officer Rhodes was justified in using deadly force in self-defense. During the two separate incidents in which Brown pointed his gun at Officer Rhodes as he fled from Officer Rhodes, he threatened the use of deadly force with his gun. Officer Rhodes reasonably believed that Brown would shoot the gun he had aimed at Officer Rhodes. Further, knowing of the threats of deadly force made by Brown to Officer Rhodes, Officer Lisciandrello encountered Brown pointing his gun at Officer Lisciandrello as Brown was cornered in the alcove. After firing the initial rounds of shots, Officer Lisciandrello paused and reassessed Brown's positioning, as Brown was still seated upright with his gun aimed at Officer Lisciandrello. Officer Lisciandrello fired additional shots at Brown until the threat from his gun pointed at Officer Lisciandrello subsided.

While the fatal shots fired by Officer Lisciandrello were not captured on video, Brown pointing the gun at Officer Rhodes was captured by third party surveillance and observed by two civilians that lived in the area. The corroboration of Brown's actions as described by Officer Rhodes, specifically pointing a gun and evading arrest, supports Officer Lisciandrello's assertion that Brown pointed his gun at Officer Lisciandrello as well.

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

Officer Rhodes and Officer Lisciandrello against Brown 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 August 11, 2021, 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.