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The Chicago Police Department’s Murder of Adam Toledo Was Not Justifiable Self-Defense

Cruz Rodriguez

**Trigger Warning:** This article contains graphic descriptions of the shooting and killing of Adam Toledo, including a detailed description of the body worn camera of the shooting officer.

The shooting and killing of 13-year-old Adam Toledo by a Chicago Police Department (CPD) officer was not justifiable self-defense. The killing of a 13-year-old child by a police officer is not something we should be comfortable with or something we should permit. While legal justifications may exist, it does not serve as a moral justification, nor does it take into account the social conditions under which a crime like this can be committed by a CPD officer. In these discussions, we tend to forget to experience empathy and extend compassion to the family, friends, and community who experienced this traumatic loss. We are quick to ask: what was a 13-year-old doing outside so late at night? Where were his parents? Was he just another unfortunate young man lost to a gang? These questions only diminish the issue, and do not take into consideration the recent demonstrations across the country calling for a change in how policing is conducted in communities across the United States; for which there is evidence that indicates policing is racist and biased.¹ With these considerations, it is clear that CPD, without due process of law, murdered a 13-year-old child.

On March 29, 2021 at around 2:30 AM, CPD officers responded to a gunshot detection system and emergency calls at the 2300 block of South Sawyer Ave in the Little Village neighborhood.² The ShotSpotter alerts are from an audio gunfire detection system that deploys CPD officers into an area where there is apparent gunfire.³ When they officers responded to the alleged shoot-

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³ Chuck Goudie, Barb Markoff, Christine Tressel, Ross Weidner and Jonathan Fagg, No crimes reported by Chicago police after 86% of ShotSpotter gunfire alerts, ABC 7 Eyewitness News (May 03, 2021), https://abc7chicago.com/chicago-police-cpd-shotspotter-news/10575861/
ing area, they saw two suspects running into a nearby alley, one with a handgun. Immediately, the officers got out of their CPD squad car and pursued them on foot. Seconds later, Adam Toledo is fatally shot in the chest by officer Eric Stillman.

More context of the events that unfolded in those twenty-six seconds can be found in the CPD body worn cameras (BWC) and third-party recordings. In officer Stillman’s BWC, he is seen quickly getting out of his car. Six seconds later he apprehends one of the suspects, who barely ran (BWC 1 – Shooting Officer, Timestamps 1:50 – 1:52). Officer Stillman continues his pursuit of Adam Toledo for seven seconds, who had already ran a further distance (BWC 1 – Shooting Officer, Timestamps 1:53 – 1:58). Throughout his pursuit, we only begin to hear what is recorded after the audio recording is turned on (BWC 1 – Shooting Officer, Timestamp 1:53). Officer Stillman yells “Police! Stop! Stop-right fucking now!” (BWC 1 – Shooting Officer, Timestamps 1:53 – 2:02). At the end of the alley, Officer Stillman continues to yell “Hands! Show me your fucking hands! Drop it.” (BWC 1 – Shooting Officer, Timestamps 2:03 – 2:04). Half a second later, Toledo turns around while raising his empty hands and is fatally shot in the chest (BWC 1 – Shooting Officer Timestamp 2:05). A third-party camera shows Adam Toledo reaching the end of the alley where he quickly removes an object from his clothing and tosses it onto the ground behind a fence prior to being shot (3rd Party Camera 1, Timestamps 3:48 – 3:50).

The information the public received from city officials and CPD was confusing and suspicious about what had occurred and who the shooting victim was. In a tweet three hours after the shooting, CPD spokesman Tom Ahern called the incident an “armed confrontation” between an officer and an armed

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4 Treisman, supra note 2.
5 Id.
6 Id.
8 Id.
9 Id.
10 Id.
11 Id.
12 Id.
13 Id.
14 Id.
In an official press release twelve hours later, CPD removed the word “armed” and simply described what occurred as a “confrontation.” On April 01, 2021, CPD identified the shooting victim as 13-year old Adam Toledo. On April 05, 2021, Chicago’s Mayor Lori E. Lightfoot, along with CPD Superintendent David Brown, held a news conference where they stated Adam Toledo had a gun but would not go into the details as to whether or not shots were fired at the police officers. Additionally, they made a statement to “…correct the hurtful and false mischaracterization of Adam as a lonely child of the street who had no one to turn to.” They state “This is simply not true.” On April 10, 2021, a state prosecutor publicly stated during the bond hearing for Ruben Roman that Adam Toledo was holding a gun when Officer Stillman shot at him.

On April 15, 2021, Mayor Lightfoot had begun to change her narrative about Adam Toledo, at a news conference she stated he was a “child who was in contact with an adult who had a gun.” And confirmed that Adam Toledo never shot at officer Stillman, she stated “I’ve seen no evidence whatsoever that Adam Toledo shot at the police.” That same day multiple videos were released to the public by the Civilian Office of Police Accountability (COPA), which gave the public video recordings and documents of what occurred. In these videos of the foot pursuit, a viewer cannot see a gun in Adam Toledo’s hand. Adam Toledo complied with officer Stillman’s orders, he took a pause

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17 Id.


19 Hauck, supra note 16.

20 Id.

21 Id.

22 Id.

23 Id.

24 Id.

25 Id.

by the fence, dropped something out of his clothing, and turned around with

The shooting of Adam Toledo sparked many discussions about whether
the shooting was justifiable self-defense or not. Some argued that the shooting
was justifiable self-defense, such as Sun-Times columnist Mark Brown.\footnote{Id.}
Brown stated that while the shooting was grievous and a fatal error, Officer
Stillman was justified in believing he needed to defend himself by using lethal
force.\footnote{Id.} He reaches this conclusion by what he describes as applying
the human standard rather than the legal one, which is to “walk a minute in the
other man’s shoes.”\footnote{Id.} He proposed questions to readers: what would they do if
they were in the police officer’s position?\footnote{Id.} After responding to a ShotSpotter
alert and then pursing a person you saw with a gun down a dark alley?\footnote{Id.}

These readers are able to view in the video recordings that the alley was well lit and
the officer responded very quickly when he shot. Brown also suggests that as a
society, we expect police officers to have this responsibility, to respond quickly
to stop gunfire.\footnote{Id.} This is why we allow them to have guns, to protect them-
selves.\footnote{Id.} However, Little Village community members have expressed after the
shooting they do not feel safe with CPD officers with guns in their neighborhood.\footnote{Id.}

Another perspective is reflected in an article written by Chicago Tribune
columnist Eric Zorn.\footnote{Id.} Prior to the release of the videos by COPA, Zorn ar-
gued that we needed to wait for the facts to come out before turning Adam
Toledo into a martyr or an innocent 13-year-old.\footnote{Id.} He stated that we needed
to stop romanticizing and infantilizing 13-year-olds because they are capable of
doing harm.\textsuperscript{38} However, that rhetoric suggests that 13-year-old children and adults are comparable in terms of capability of committing crime and making rational judgements.\textsuperscript{39} This only affirms the problematic criminal justice system that already treats juveniles as adults.\textsuperscript{40} Zorn also suggests that the shooting of a 13-year-old child may have been legally justifiable self-defense, thus permissible.\textsuperscript{41}

The legal doctrine of justifiable self-defense in a police shooting of a civilian stems from a 1985 decision by the Supreme Court of the United States in \textit{Tennessee v. Garner}.\textsuperscript{42} The Court held that a police officer could shoot only if the they had probable cause to believe that a fleeing suspect posed a significant threat of bodily harm or death to an officer or others.\textsuperscript{43} While the holding set a clear standard for police officers of when lethal force could be used, the standard was expanded in a 1989 decision made by the Supreme Court in \textit{Graham v. Connor}.\textsuperscript{44} While this case did not address lethal force, the Court held that a police officer’s actions must only meet the standard of what a reasonable officer might do to be legal.\textsuperscript{45} In the majority opinion, Chief Justice William H. Rehnquist wrote “the calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments — in circumstances that are tense, uncertain and rapidly evolving — about the amount of force that is necessary in a particular situation.”\textsuperscript{46} The standard of reasonableness set in \textit{Graham} for split-second judgements made by police officers is now used by state legislatures, judges, and police departments to justify police interactions with civilians.\textsuperscript{47}

In the case of Adam Toledo, the shooting was not justifiable self-defense. Officer Stillman did not respond with the appropriate force in order to apprehend Adam Toledo. In the Tactical Response Report, within the box “Subject’s

\textsuperscript{38} \textit{Id.}
\textsuperscript{40} \textit{Id.}
\textsuperscript{41} \textit{Zorn, supra note 36.}
\textsuperscript{42} \textit{Id.}
\textsuperscript{43} \textit{Id.}
\textsuperscript{44} \textit{Id.}
\textsuperscript{45} \textit{Id.}
\textsuperscript{46} \textit{Id.}
\textsuperscript{47} \textit{Id.}
Actions,” Officer Stillman indicated that Adam Toledo did not follow verbal direction, fled, was an imminent threat of battery with weapon, and used force likely to cause death or great bodily harm.48

(Tactical Response Report/Chicago Police Department # 2021-00729)49

Because of this conduct, within the box “Member’s Response,” Officer Stillman indicates he shot at Adam Toledo because it was in defense of self, in defense of a department member, was to overcome resistance or aggression, and because the subject was with a weapon.50

(Tactical Response Report/Chicago Police Department # 2021-00729)51

What is seen in the BWC videos of Officer Stillman tells a different story. While Adam Toledo did flee, he ultimately complied with verbal orders. He stopped running, he dropped what we now know to be a gun, and he raised his hands to Officer Stillman. Adam Toledo did not present an imminent threat of

49 Stillman, supra note 48.
50 Id.
51 Id.
battery with a weapon because at no point in the twenty-six seconds of the pursuit does he point the gun at Officer Stillman or others. When he turned to the officer with his hands raised, he no longer had the handgun in his possession.

The CPD De-Escalation, Response to Resistance, and Use of Force Policy states that “[t]he Department’s highest priority is the sanctity of human life. The concept of the sanctity of human life is the belief that all human beings are to be perceived and treated as persons of inherent worth and dignity.”52 CPD Officers are authorized to use deadly force when there is an objectively reasonable belief when there is an imminent threat.53 The CPD Policy defines an imminent threat to be objectively reasonable when “the person’s actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken; and the person has the means or instruments to cause death or great bodily harm; and the person has the opportunity and ability to cause death or great bodily harm.”54 In addition, the CPD Policy prohibits officers from using deadly force “on a fleeing person unless the person poses an imminent threat.”55

Officer Stillman indicated on the Tactical Response Report that Adam Toledo was armed with a semi-auto pistol.56 Did Officer Stillman see that Adam Toledo was in possession of a gun when he arrived? Or was that an assumption that was based on the reports of shots fired in the area and it just happened to be that Adam Toledo was carrying a gun? Or was that fact filled in after Officer Stillman reviewed the BWC recordings before completing the report, as indicated on the TRR.57 Answers to those questions provide insight to the Officer’s state of mind, however, it is still difficult to come to the conclusion that the shooting was justified.

Adam Toledo’s actions still did not meet the definition of being an imminent threat to authorize Officer Stillman to use deadly force. Adam Toledo was carrying an instrument that had the potential to cause death or great bodily harm. The object that Adam Toledo removed from his clothing was a handgun. However, Adam Toledo’s actions in turning around with his hands raised

53 Id.
54 Stillman, supra note 48.
55 Id.
56 Id.
57 Id.
does not constitute an action that is immediately likely to cause death or great bodily harm. Nor did Adam Toledo have the opportunity or ability to cause death or great bodily harm. He threw the gun onto the ground and complied with Officer Stillman’s verbal orders.

The shooting of Adam Toledo is still currently under investigation by the Civilian Office for Police Accountability. Officer Stillman has been placed on administrative duties for 30 days. However, with the information that has been released to the public, it can be determined the shooting was not justifiable self-defense under case law and it was not in compliance with CPD’s policy on use of deadly force.

Aside from these arguments on whether the shooting was justified or not, we need to remember who Adam Toledo was. He was a 13-year-old seventh grade student at Gary Elementary School. He was a son to a parent, a brother to sibling, a cousin and nephew to a family, and a friend to others.\(^{58}\) He enjoyed playing with Legos and cracking jokes to make others laugh.\(^ {59}\) He was a young community member whom we should have protected and cared for. He was entitled to the opportunity to enjoy the constitutional right of innocent until proven guilty by a judge or jury. Importantly, as a child, he deserved an opportunity to make mistakes and to learn from them, without criminalization and the threat of police violence and incarceration. He deserved many opportunities, even if that opportunity was to just to live.

*Since 1940, Adam Toledo is the 41st child under the age of 16-years-old to be killed by the Chicago Police Department.*\(^ {60}\)


\(^{59}\) Id.