



**Charging Decision in the Death of Dion Johnson
New Conference Remarks by County Attorney Allister Adel on Monday, September 21, 2020**

Good afternoon. I am Maricopa County Attorney Allister Adel.

Thank you all for being here today and for those who are taking the time to watch this online.

Today, I will announce my charging decision in the death of Dion Johnson that occurred on May 25, 2020.

As County Attorney, I must make difficult decisions.

Mr. Johnson's friends and family have suffered a great loss. I know they grieve for the death of their loved one and there is nothing I can say, or do today, that will change that.

Please know that these decisions are not made lightly, and they are not, and never should be, made in haste or without empathy.

The announcement today is not an easy one, but as County Attorney, it is a decision that I must make and so I strive to make the right decisions for the right reasons – no matter how difficult they may be.

One of the most impactful things a government can do is charge someone with a crime and take away their freedoms.

I take that responsibility seriously.

In discussions about police brutality over the past several months, I have heard it said that prosecutors will not charge police officers with crimes.

I can't speak for every office, but in this office, that is absolutely not true.

When the facts and evidence justify a criminal prosecution against an officer, this office has charged those cases and we will continue to do so.

Officers do not get a greater benefit of the doubt than any other person facing criminal prosecution.

No one - no matter who they are - or what job they hold - is above the law.

When it comes to making a charging decision on a case such as this, I don't make the decision alone.

I consult with others who have a range of experience to fully explore and discuss the evidence and legal implications of the evidence.

In addition, and for this case specifically, four members of our community participated in the review of this case and their assessment was one of the items I considered when making today's decision.

However, after having those discussions and carefully considering all the information, I then make a decision.

When choosing to charge a person...any person...with a crime, our charging standard is that the prosecutor must believe there is a reasonable likelihood of conviction at trial.

That means there is a reasonable likelihood that we can prove that the person is guilty beyond a reasonable doubt based on the evidence that would be allowed in a criminal trial.

This standard protects everyone under criminal investigation equally.

Without it, people would have to spend time and money defending themselves against accusations that have little chance of resulting in a conviction.

And for each individual, charging someone with a crime is a life-altering event.

Understandably, this case is of great significance and this public announcement demonstrates my commitment to transparency in decision-making.

Let me be clear, the decision in these matters has nothing to do with civil liability or whether departmental policies and procedures were followed by the officers.

The decision today is whether this case belongs in the criminal justice system.

Turning now to this specific case...

The death of Mr. Dion Johnson was fully investigated by the Phoenix Police Department's Homicide Unit and submitted to this office for review on July 8, 2020.

I am going to start with a summary of what DPS Trooper Cervantes told Phoenix Police Detectives:

On the morning of May 25, Trooper Cervantes saw Mr. Johnson's car stopped in an area where traffic merged onto the freeway...this a narrow and often dangerous area referred to as the "gore point."

After initially passing the car, Trooper Cervantes circled back around and found the car still sitting in the gore point. He turned on his emergency lights and parked behind the vehicle.

Cervantes then approached the car from the passenger-side, and he smelled a strong odor of alcohol and saw open alcoholic containers. He also saw a gun on the passenger seat.

He reported that Mr. Johnson appeared to be asleep behind the wheel, so Trooper Cervantes reached into the vehicle and removed the gun, securing it in his DPS motorcycle saddle bag.

He then returned to the passenger side of the vehicle and tried to remove the key from the ignition but could not get the key out.

He knew he was going to arrest Mr. Johnson for driving under the influence, but he wanted to wait for a backup officer to arrive.

However, Trooper Cervantes noticed movement in the car and was concerned that Mr. Johnson was waking up and might try to drive away, which would put others on the road at risk.

So, Trooper Cervantes decided to make the arrest before the car could become a danger to others.

To do so, Cervantes approached the driver's side of Mr. Johnson's car, which placed him in a lane of traffic. He opened the door, placed one handcuff on Mr. Johnson's left wrist, and a struggle ensued.

Mr. Johnson quickly turned his body in a way that Trooper Cervantes feared that Mr. Johnson would either push or kick him into oncoming traffic and that he would be killed.

Fearing for his life Trooper Cervantes drew his firearm and told Mr. Johnson not to resist or he would shoot him.

Mr. Johnson appeared to relax at this point, so Cervantes decided to re-holster his weapon.

When Cervantes looked down at his holster to put the gun away, Mr. Johnson grabbed the Trooper's vest with one hand and used his other hand to grab Cervantes' wrist...right above the hand that was still holding the gun. Mr. Johnson then pulled Cervantes partially into the car and the struggle continued.

In the midst of this struggle, Trooper Cervantes said that he again feared for his life because he thought he would lose control of his gun, so he fired his weapon twice, with one of those bullets striking Mr. Johnson.

I want to be clear; this is not a case where we simply took the officer's word when determining what happened.

Instead, we had substantial corroborating evidence.

This included multiple eyewitnesses whose observations supported the account given by Cervantes. There was also physical and photographic evidence consistent with what the trooper described.

Because this is so important, I want to briefly discuss the corroborating evidence.

There were multiple eyewitnesses in this case, and they all describe seeing a struggle between an officer and the driver of a car along the freeway.

Two of the witnesses actually called 9-1-1 out of concern for the safety of the trooper.

During one of the 9-1-1 calls, a witness described an officer all alone and physically trying to restrain a driver. The caller also told the operator that they were concerned the officer did not have back-up.

One eyewitness believed the trooper was in distress and in need of assistance.

Another eyewitness described how during the struggle, the trooper's feet were exposed to oncoming traffic and believed the trooper was in a dangerous position. This witness also described an intense struggle where the trooper was either being pulled into the car or trying to pull the driver out.

Finally, there were two additional individuals who witnessed the incident from ADOT's Traffic Operations Center and they too corroborate the sequence of events as told by Cervantes.

According to police radio recordings, immediately following the shooting, Cervantes called for emergency medical services, and a back-up trooper arrived within moments of the shooting. The back-up trooper also called for the fire department to respond.

Both troopers then moved Mr. Johnson from his car and rendered aid, but unfortunately, Mr. Johnson later died from his injury at a nearby hospital.

Today, I want to comment on the fact that neither of these troopers who responded to this scene were equipped with body worn cameras.

As County Attorney, I believe this is a matter of public concern.

I fully support the mandated use of body worn cameras for uniformed officers in the field throughout the state.

While there are challenges with the cost associated with deploying body worn cameras widely, these are challenges that must be addressed and overcome.

When trying to determine what happens after an event like the one that ended in the death of Mr. Johnson, more information is always better – better for prosecutors – better for the public – and better for anyone who is committed to keeping our community safe.

Given the importance of these types of events where life and death decisions are made, having this additional information for those of us who must sit in judgement of someone's actions, is good public policy.

It is time for stakeholders to come together to make body worn camera deployment a reality across Arizona. As County Attorney, I pledge to use this office to advocate for the resources and funding needed to make this a reality.

And now, in closing, the legal analysis and decision in this case.

In Arizona, a person is legally justified in the use of deadly physical force if the person reasonably believed the force was necessary to protect their own life.

Under our law, if there is any evidence to support a self-defense claim, we as prosecutors are required to prove-beyond a reasonable doubt- that the person did NOT act in self-defense.

And that is something that cannot be done under the facts of this case.

Instead, the evidence in this case shows that the Trooper was attempting to effect a lawful arrest of an impaired driver who was passed out asleep behind the wheel of a car with the key in the ignition, stopped on a busy freeway.

While attempting to make that arrest, Mr. Johnson resisted and fought with the trooper...and Trooper Cervantes reasonably fearing for his life...shot and killed Mr. Johnson.

And while this is a tragic outcome, criminal charges against Trooper Cervantes are not warranted.