

Dan K. Webb
Special Prosecutor for Cook County
In the Matter of Jussie Smollett

February 11, 2020

Information Release

Dan K. Webb, special prosecutor for Cook County, today announced that the Office of the Special Prosecutor (“OSP”) has now completed all of its investigative steps regarding Jussie Smollett, and has made the decision to further prosecute Mr. Smollett. Based on the recommendation of the OSP, a Cook County grand jury returned a six-count indictment charging Jussie Smollett with making four separate false reports to Chicago Police Department officers related to his false claims that he was the victim of a hate crime, knowing that he was not the victim of a crime.

The indictment results from an investigation that began on August 23, 2019, when Cook County Circuit Court Judge Michael Toomin appointed Mr. Webb as a special prosecutor. Judge Toomin directed Mr. Webb to conduct an independent investigation to determine the following: 1) should Jussie Smollett be further prosecuted for the alleged false reports he made to Chicago Police Department officers, and; 2) whether any person or office involved in the Smollett case engaged in wrongdoing, including the Cook County State’s Attorney’s Office (“CCSAO”) or individuals in that office.

Pursuant to the first part of Judge Toomin’s mandate, in connection with whether to further prosecute Jussie Smollett, the grand jury’s investigation revealed that Jussie Smollett planned and participated in a staged hate crime attack, and thereafter made numerous false statements to Chicago Police Department officers on multiple occasions, reporting a heinous hate crime that he, in fact, knew had not occurred. Therefore, Mr. Webb has determined that reasonable grounds exist to further prosecute Mr. Smollett.

In addition, in accordance with Judge Toomin’s mandate, Mr. Webb has also concluded that further prosecution of Jussie Smollett is “in the interest of justice.” Several factors went into this determination, including the extensive nature of Mr. Smollett’s false police reports, and the resources expended by the Chicago Police Department to investigate these false reports.

Another major factor in the OSP’s determination that further prosecution of Mr. Smollett is in the interests of justice is that the CCSAO has been unable to provide the OSP with documentary evidence that shows that, in dismissing the Smollett case on the terms presented in court on March 26, 2019, the CCSAO relied on other dispositions of similar cases prior to the Smollett case that would justify this disposition. This issue was important to the OSP because on the day the Smollett case was resolved in court, March 26, 2019, the CCSAO issued a written press release in which it told the public that the Smollett case was being resolved under the same criteria that would be available for any defendant with similar circumstances. As a result, the OSP sought to obtain all documentary evidence within the CCSAO that would identify prior similar case files

that were relied on by the CCSAO that would support this public statement. The CCSAO was unable to provide this documentary evidence.

In addition, the OSP has obtained sufficient factual evidence to determine that it disagrees with how the CCSAO resolved the Smollett case. On March 7, 2019, the CCSAO approved the filing of a 16-count felony indictment against Mr. Smollett based on evidence that Smollett planned and participated in a staged hate crime attack, and thereafter made numerous false statements to Chicago Police Department officers on multiple occasions. The OSP has obtained evidence showing that at the time of the approval of that indictment, the CCSAO had concluded that the evidence against Mr. Smollett was strong. Yet on March 26, 2019, just three weeks later, the CCSAO made the decision to resolve the charges under the following circumstances: 1) complete dismissal of the 16-count felony indictment; 2) only punishment for Mr. Smollett was to perform 15 hours of community service; 3) requiring Mr. Smollett to forfeit his \$10,000 bond as restitution to the City of Chicago (a figure amounting to less than 10% of the \$130,106.15 in police overtime pay that the City alleges it paid solely due to Mr. Smollett's false statements to police); 4) not requiring that Mr. Smollett admit any guilt of his wrongdoing (in fact, following the court proceedings on March 26, Mr. Smollett publically stated that he was completely innocent); and 5) not requiring that Smollett participate in the CCSAO Deferred Prosecution Program (Branch 9), which he was eligible to participate in, and which would require a one-year period of court oversight of Mr. Smollett.

The CCSAO decision-makers overseeing the Smollett resolution decision have not identified any new evidence they learned of between the time of indictment and dismissal of the indictment that changed their view that the evidence against Mr. Smollett was strong.

Regarding the investigation related to Judge Toomin's second directive to the OSP, to determine whether any person or office involved in the Smollett case engaged in wrongdoing, including the CCSAO or individuals in that office, the OSP has reached no conclusions. This aspect of the OSP's investigation continues, and the OSP's findings will ultimately be set forth in a final written report to the Court and for the benefit of the Cook County Board of Commissioners, pursuant to Judge Toomin's August 23, 2019, Order. In connection with Judge Toomin's second directive, Mr. Webb emphasizes that the OSP decision to further prosecute Mr. Smollett is not evidence in and of itself that any individuals within the CCSAO engaged in any wrongdoing in connection with the Smollett investigation.

Mr. Webb is the Co-Executive Chairman of the international law firm of Winston & Strawn LLP. "The firm's lawyers and staff, members of the Chicago Police Department, and Cook County Independent Inspector General Patrick M. Blanchard and his staff, have provided invaluable and continuing assistance in the investigation of this matter," said Mr. Webb.

Mr. Webb has arranged with counsel for Mr. Smollett, for Mr. Smollett to voluntarily appear for his arraignment, scheduled for February 24, 2020, at 9:30 a.m., Central Time, before the Honorable LeRoy K. Martin Jr., Presiding Judge Criminal Division, of the Circuit Court of Cook County, at which time a trial judge will be assigned to the case.

The public is reminded that an indictment is only a charge and the defendant is presumed innocent unless and until he is proven guilty beyond a reasonable doubt.

In consideration of Mr. Smollett's right to a fair trial, the OSP will not comment further about the indictment or the OSP's continuing investigation.

Attachment
Indictment,
People of the State of Illinois v. Jussie Smollett

