STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS)
)
vs.) NO. 15 CR 2062201
)
JASON VAN DYKE)

RESPONSE TO THE PETITIONS TO APPOINT A SPECIAL PROSECUTOR

The PEOPLE OF THE STATE OF ILLINOIS, by their attorney, ANITA ALVAREZ, State's Attorney of Cook County, Illinois, respectfully respond to the petitions seeking the appointment of a special State's Attorney to prosecute this matter and to investigate and pursue any other criminal charges he or she deems appropriate arising out of the circumstances surrounding the October 20, 2014, shooting death of Laquan McDonald. The People state the following in support of their response:

1. Illinois law is clear that a Special Prosecutor can only be appointed over the State's Attorney's objection upon the demonstration of an "actual conflict of interest." 55 ILCS 5/3-9008(a-10) ("The court on its own motion, or an interested person in a cause or proceeding, civil or criminal, may file a petition alleging that the State's Attorney has an actual conflict of interest in the cause or proceeding."). Despite their claims that State's Attorney Alvarez suffers from a disabling conflict based upon allegations of closeness to the Chicago Police Department and political backing by the Fraternal Order of Police, petitioners are unable to make such a showing in this case. See McCall v. Devine, 334 Ill. App. 3d 192, 205 (1st Dist. 2002) (holding that the fact that "over 90% of the cases prosecuted by the Cook County State's Attorney's Office are investigated by the Chicago police department" and that there were conflicting police versions of what occurred was an insufficient basis upon which to remove the elected State's Attorney and appoint a special prosecutor to investigate and possibly prosecute a shooting by a Chicago Police Officer); Baxter v. Peterlin, 156 Ill. App. 3d 564,

567 (3d Dist. 1987) ("speculative and conclusory" allegations of a "political alliance" are insufficient to establish a disabling conflict of interest)).

2. Nevertheless, because the primary goal of State's Attorney Alvarez is, and has always been, to obtain justice for Laquan McDonald, and to ensure continuity in the handling of this important and complicated case, State's Attorney Alvarez has elected to recuse herself and her assistants from this matter pursuant to section 3-9008(a-15) of the Counties Code. That section provides:

> (a-15) Notwithstanding subsections (a-5) and (a-10) of this Section, the State's Attorney may file a petition to recuse himself or herself from a cause or proceeding for any other reason he or she deems appropriate and the court shall appoint a special prosecutor as provided in this Section.

55 ILCS 5/3-9008(a-15)

3. As a result of State's Attorney Alvarez's decision to recuse herself and her office, this Court should "contact public agencies, including, but not limited to, the Office of Attorney General, Office of the State's Attorneys Appellate Prosecutor, or local State's Attorney's Offices throughout the State, to determine a public prosecutor's availability to serve as a special prosecutor at no cost to the county and shall appoint a public agency if they are able and willing to accept the appointment." 55 ILCS 5/3-9008(a-20).

4. Once an appointment is made, the Cook County State's Attorney's Office will provide the entire case file to the special prosecutor and will remain available to further assist the Court and the special prosecutor in any way necessary.

Respectfully submitted,

Anita Alvarez
State's Attorney of Cook County