



OFFICE OF THE STATE'S ATTORNEY  
COOK COUNTY, ILLINOIS

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**POLICE INVOLVED DEATH DECISION MEMORANDUM**  
**DECEDENT: BRAYANT ALVAREZ**

**I. OVERVIEW**

This matter involves the fatal shooting of Brayant Alvarez by Chicago Police Sergeant Michael Keeney, Sergeant Scott Kravitz, Officer David Hardt, Officer Efrain Rodriguez, Jr., and Officer Erick Seng after Alvarez fired a gun at an officer, fled from police, and pointed his gun at another officer. The Civilian Office of Police Accountability (COPA) conducted an investigation into Alvarez's death. During the course of the investigation, investigators reviewed witness interviews, Illinois State Police Crime Lab analysis and reports, the Cook County Medical Examiner Post-Mortem Report, and Chicago Police Department reports including Crime Scene Processing reports, the witness officers' statements to detectives, civilian witness statements, and video footage. On September 2, 2019, 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 Sergeant Keeney, Sergeant Kravitz, Officer Hardt, Officer Rodriguez, Jr., or Officer Seng.

## **II. STATEMENT OF FACTS**

The evidence presented at any criminal proceeding resulting from this incident would show as follows: On the morning of July 9, 2017, Alvarez's parents entered the 25<sup>th</sup> District and informed officers that they needed help with their son because he had a gun and was threatening to kill himself. Alvarez was inside his apartment with his wife and their young son. At approximately 11:29 a.m., several Chicago Police officers including Sergeant Keeney, Sergeant Kravitz, Officer Hardt, Officer Rodriguez, Jr., Officer Seng, Officer Domnaill O'Kane, Officer Luis Lopez, and Sergeant Sonia Rios, responded to the domestic disturbance at 2739 N. LeClaire, Chicago, Illinois. Alvarez's parents entered the front door of the apartment. A few minutes later, Alvarez's mother exited with Alvarez's wife and her child and they took cover in the alley. Alvarez's wife informed Officer Lopez that Alvarez still had a gun in the house. A short time later, Alvarez put his head out the window and Officer Lopez spoke with him offering to get him help. A short time later, Alvarez exited the building and discharged his weapon at Officer Lopez, then ran north on LeClaire towards Diversey. Sgt. Keeney observed Alvarez discharge his weapon at which time Sgt. Keeney fired one shot at Alvarez as Alvarez ran north on LeClaire. Alvarez then turned onto Diversey and ran to Wolfram where he climbed onto a rooftop at 5037 W. Wolfram and jumped from rooftop to rooftop in a westward direction. Alvarez then jumped down from the roof at 5053 W. Wolfram and ran into the basement area of the building located at 5055 W. Wolfram. Officers pursued Alvarez and ordered him to come out. Alvarez then exited the basement stairs and entered an adjacent gangway at which time Officer Seng fired one shot at Alvarez. Alvarez continued to run north through the gangway at which time Officer Rodriguez fired one shot at Alvarez who lost his footing and fell. Officer Hardt then fired one shot, Officer Seng fired two more times and Sgt. Kravitz fired one time at Alvarez. Sgt. Rios who was in the front yard on Wolfram believed that she observed Alvarez point his weapon at her and fire one or two rounds at Sgt. Rios requiring her to move towards cover.

Alvarez was taken to Our Lady of the Resurrection Medical Center via ambulance but died a short time later from two gunshot wounds to his chest and arm.

Officers recovered Alvarez's Bersa Model 83, .380 caliber semi-automatic silver pistol with zero live rounds in the magazine next to Alvarez's body. A shell casing was jammed within the gun.

A post-mortem examination performed by the Cook County Medical Examiner's Office revealed that Alvarez died from a gunshot wound to the upper right chest with a lodged bullet and a gunshot

wound to the inner side of the left arm with a lodged projectile fragment. The manner of death was homicide.

Officers recovered one fired .380 cartridge case from the sidewalk at 2741 N. LeClaire. All ballistic evidence, including Alvarez's weapon, was sent to the Illinois State Police Crime Lab for analysis. An ISP forensic scientist concluded that the one fired .380 cartridge case recovered from the sidewalk at 2741 N. LeClaire and the spent shell casing found within the gun were fired from Alvarez's gun.

Additionally, video surveillance from a nearby building captured part of this incident. The video depicted Officer Lopez attempting to negotiate peacefully with Alvarez. After approximately ten minutes, Alvarez ran out of the building and the same video captured Alvarez firing his gun at Officer Lopez. The video also captured Sgt. Keeney firing his gun at the fleeing Alvarez.

### **III. LEGAL STANDARD**

In making any charging decision, the Office of the Cook County State's Attorney is bound by the Illinois Criminal Code. The Illinois Use of Force in Defense of Person statute provides 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).

The statute regarding an officer's use of force provides 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.

#### **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 Brayant Alvarez. In other words, a judge or jury would need to conclude that the involved officers did not reasonably believe that they or others were in imminent danger of great bodily harm from Alvarez. The uncontroverted evidence shows that the involved officers were justified in their use of deadly force to defend themselves and others against the deadly threat posed by Alvarez as he fired his weapon at Officer Lopez, fled the scene with his firearm, and pointed his gun at Sergeant Rios.

The evidence in this case demonstrates that the intent of the involved officers was to defend themselves and others. The physical evidence revealed that Alvarez fired his gun toward Officer Lopez after Officer Lopez was attempting to negotiate peacefully with Alvarez. After discharging his weapon, Alvarez took off running with his firearm and led the involved officers on a foot chase over rooftops and through backyards and gangways. During the foot chase, the involved officers observed Alvarez in possession of a gun which Alvarez fired at Officer Lopez and pointed at Sergeant Rios, thus posing a threat to the community. Alvarez ignored the involved officers’ verbal commands to stop and continued to run through the neighborhood where several individuals were out on the street. Several other civilians, including individuals who called 911, also observed Alvarez running with a gun. Further, the involved officers also provided radio communications during the chase indicating that Alvarez had a gun. The evidence demonstrates that the involved officers reasonably believed that Alvarez had a gun.

There is significant evidence to support the assertion that the recovered weapon was in Alvarez’s possession and had been fired by Alvarez at the time of the shooting. Alvarez’s gun was recovered from next to his body where he was shot. Furthermore, the recovered fired .380 cartridge case from the sidewalk at 2741 N. LeClaire, as well as the fired cartridge case jammed within the gun, was determined to have been fired from Alvarez’s weapon by the Illinois State Police Crime Laboratory.

Alvarez’s actions were such that the involved officers reasonably believed that the force used was necessary to prevent death or great bodily harm to themselves and any other individuals in the area. Further, Alvarez was fleeing the commission of a forcible felony, attempt murder of a police officer.

Accordingly, the involved officers' use of deadly force was necessary to prevent death or great bodily harm to themselves and others.

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 the involved officers against Alvarez was reasonable under the totality of the circumstances. Therefore, the Office is not filing 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 has 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.