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COOK COUNTY, ILLINOIS

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## **POLICE INVOLVED DEATH DECISION MEMORANDUM** **DECEDENT: ANTONIO JUAREZ**

### **I. OVERVIEW**

On June 9, 2017, Antonio Juarez shot and killed his estranged wife in Sycamore, Illinois and fled toward Lyons, Illinois. Later that same day, after being informed of the murder and provided with a description of the suspect, Illinois State Police (ISP) Master Sergeant Steve Pryor, ISP Master Sergeant Matt Gainer, ISP Special Agent Jose Nevarez, Lyons Police Officer David Delesh, Lyons Police Officer Richard Brown, and Riverside Sergeant Leo Kotor converged on Juarez's vehicle at 8001 W. Ogden in Lyons. Juarez discharged his gun several times at officers. Each of the officers fired shots at Juarez, several of which struck Juarez, and he was pronounced dead on the scene. Investigators recovered a gun in Juarez's vehicle. None of the officers was injured. Dash camera video from two of the police vehicles captured the incident.

Illinois State Police Division of Internal Investigations (DII) investigated the police involved shooting incident. During the course of the investigation, investigators interviewed numerous law enforcement witnesses and civilian witnesses and reviewed dash camera video footage, Illinois State Police Emergency Radio Network (ISPERN) transmissions, photographs of the scene, police reports, medical records and the results of forensic examinations. On December 6, 2017, ISP-DII 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 the officers.

## **II. STATEMENT OF FACTS**

The evidence presented at any criminal proceeding resulting from this incident would show as follows:

On June 9, 2017, at approximately 2:07 p.m., Lidia Juarez was found dead from two gunshot wounds to the head in the driver's seat of a vehicle in the parking lot of her employer, the Department of Human Services, located at 1629 Afton Road in Sycamore, Illinois. Lidia Juarez's estranged husband, Antonio Juarez, was identified as a possible suspect by the DeKalb County Major Crimes Task Force. Investigators learned that Juarez had a history of domestic violence and also had two active warrants, one for Domestic Battery and one for Violation of an Order of Protection. They also discovered that Juarez drove a black Chrysler 300 vehicle. Investigators released an ISPERN dispatch with Juarez's vehicle description as well as information related to Juarez's cell phone to attempt to locate Juarez. Additionally, Sycamore police contacted ISP personnel to assist them in locating the homicide suspect and provided them with information including a physical description of Juarez, his vehicle description and information that Juarez was believed to be in the area of Lyons, probably armed.

At approximately 5:45 p.m. that same day, officers observed Juarez's vehicle travelling on 47<sup>th</sup> Street in Lyons and began to follow him. Juarez came to a stop at the intersection of Ogden and Joliet directly behind an ISP unmarked vehicle which blocked Juarez from moving. Additional police vehicles, including marked vehicles with activated lights and sirens and unmarked vehicles, surrounded Juarez at the intersection. ISP officers including Master Sergeant Pryor, Master Sergeant Gainer and Special Agent Nevarez exited their vehicles and moved toward Juarez's vehicle. The officers repeatedly shouted commands at Juarez to stop the car and put his hands up but Juarez did not comply. Juarez then fired his weapon through the open driver's side window. Master Sergeant Pryor, Master Sergeant Gainer and Special Agent Nevarez fired their weapons several times at Juarez through the rear window of Juarez's vehicle. Lyons Officers Delesh and Brown, as well as Riverside Sergeant Kotor also approached Juarez's vehicle and discharged their weapons at Juarez from their locations near the front driver and passenger sides of Juarez's vehicle. Juarez slumped and his vehicle rolled forward into the rear bumper of the unmarked ISP vehicle immediately in front of it.

Dash camera video from the police vehicles driven by Lyons Officer Delesh and Riverside Sergeant Kotor captured the incident.

Investigators executed a search warrant for Juarez's vehicle during which they recovered a silver Taurus 38 Special Revolver, a gun case, rifle ammunition, PMC 38 Special ammunition, and Order of Protection documents. Numerous fired projectiles were recovered from inside Juarez's vehicle. Additional fired projectiles were recovered from numerous police vehicles as well as the scene around Juarez's vehicle. All of the recovered ballistics evidence was submitted to the Illinois State Police

Crime Laboratory for examination. An ISP analyst concluded that two fired bullets, one recovered from the inside of a Lyons police vehicle's hood and one recovered from the rear passenger's side window of Juarez's vehicle were fired from Juarez's Taurus .38 caliber revolver. In addition, the fired bullets recovered from Lidia Juarez's head and two bullets recovered from her Nissan Sentra were also fired from Juarez's revolver.

The Cook County Medical Examiner's Office performed an autopsy on Antonio Juarez and determined the cause of death to be multiple gunshot wounds. An examination of Juarez identified ten gunshots and included wounds to Juarez's head, upper back, and shoulder.

The evidence at any trial would include evidence that all six officers' use of deadly force was objectively reasonable. Juarez used deadly force against the officers to evade arrest after he committed the forcible felony of murder. As the officers approached Juarez's vehicle, he drew his weapon and fired at the officers giving the officers reason to believe that Juarez was trying to kill, or cause great bodily harm, to the officers.

### **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 ISP Master Sergeant Steve Pryor, ISP Master Sergeant Matt Gainer, ISP Special Agent Jose Nevarez, Lyons Police Officer David Delesh, Lyons Police Officer Richard Brown, and Riverside Sergeant Leo Kotor were not legally justified in using deadly force against Juarez. In other words, a judge or jury would need to conclude that each of the officers did not reasonably believe that he or others were in imminent danger of great bodily harm from Juarez.

The uncontroverted evidence established that the officers’ use of deadly force was objectively reasonable. The weight of the evidence shows that after Juarez was established to be a suspect in the murder of his estranged wife, Sycamore Police reached out to ISP officers to assist in locating the murder suspect. An ISPERN dispatch was released with a description of Juarez and his vehicle, which included the fact that Juarez was a murder suspect and probably armed. This ISPERN dispatch was heard by the Lyons and Riverside officers. The officers located Juarez in his Chrysler 300 vehicle and attempted a traffic stop. Officers ordered Juarez to put his hands up and put the car in park. Juarez did not comply with the verbal commands and instead confronted the officers with deadly force when he pointed his gun and fired several times in the direction of the officers. Each of the officers was compelled to use deadly force to protect themselves, other officers, and innocent civilians near the busy intersection. Accordingly, 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 officers’ use of deadly force against Juarez 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 officers’ respective departments 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.