



**OFFICE OF THE STATE'S ATTORNEY
COOK COUNTY, ILLINOIS**

KIMBERLY M. FOXX
STATE'S ATTORNEY

LAW ENFORCEMENT ACCOUNTABILITY DIVISION
2650 SOUTH CALIFORNIA AVENUE
CHICAGO, ILLINOIS 60608

POLICE INVOLVED DEATH DECISION MEMORANDUM
DECEDENT: LOSARDO LUCAS

I. OVERVIEW

This matter involved the fatal shooting of Losardo Lucas by two officers assigned to the United States Marshals Service Great Lakes Regional Fugitive Task Force, Chicago Police Officer Michael Boccassini and United States Marshal Senior Inspector Michael Cundiff. During the course of the investigation, investigators interviewed civilian and law enforcement witnesses, photographs of the scene, police reports, medical records, the Cook County Medical Examiner Post-Mortem Report, and the results of forensic examinations.

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 Chicago Police Officer Michael Boccassini and United States Marshal Senior Inspector Michael Cundiff.

II. STATEMENT OF FACTS

The evidence presented at any criminal proceeding resulting from this incident would show as follows: Officers from the Great Lakes Regional Fugitive Task Force, which was comprised of officers from multiple law enforcement agencies, were searching for Losardo Lucas, who had four outstanding warrants for felony criminal offenses. On July 27, 2021, based on the Task Force's surveillance and tracking of Lucas, they believed him to be at Roc & Ro

Barbecue, a take-out restaurant located in a strip-mall in Calumet City, Illinois. None of the Task Force Officers were equipped with Body-Worn Cameras and they communicated on a radio frequency which was not recorded. Roc & Ro Barbecue Restaurant did not have internal surveillance cameras. The Task Force Officers were dressed in plain clothes, with ballistic vests, and police stars.

At approximately 3:00 P.M., a group of seven Task Force Officers, including Officer Boccassini and Senior Inspector Cundiff, entered the front area of Roc & Ro. The officers were allowed entry into the rear of the restaurant which was divided into two separate areas, a lounge and a kitchen, that were separated by a wall. The rooms were connected by an office at the rear of the building, with doors on either side of the office. At this time, the office door on the lounge side was closed and the office door on the kitchen side was open. Officer Boccassini and Senior Inspector Cundiff, along with two other officers, entered the kitchen area from the front of the restaurant. The three other officers entered the lounge area. Officer Boccassini and Senior Inspector Cundiff moved toward the rear of the kitchen and announced themselves as police. Officer Boccassini and Senior Inspector Cundiff unholstered their weapons and encountered Lucas who was in front of them at the back end of the kitchen. Lucas had the butt of a gun, with an extended magazine, sticking out from his waistband. Officer Boccassini observed Lucas's hands hovering over the gun. Officer Boccassini and Senior Inspector Cundiff ordered Lucas to show his hands and drop his gun and they raised their guns. Lucas did not comply. Lucas drew his gun from his waistband and pointed it toward the officers. Officer Boccassini and Senior Inspector Cundiff then fired their weapons multiple times at Lucas. Lucas made some movements and then fell back toward the office. Senior Inspector Cundiff saw Lucas turn to his left and hunch forward and then prop himself up with his left elbow and transfer the gun from his right hand to his left hand while continuing to point it at the officers. Senior Inspector Cundiff then fired additional shots at Lucas until Lucas fell back and went limp.

Officer Boccassini and Senior Inspector Cundiff moved closer to Lucas, whose left hand was still in contact with the gun. In addition to Officer Boccassini and Senior Inspector Cundiff observing this, one of the other officers who was part of the kitchen entry team saw Lucas's hand was still in contact with his gun. Officer Boccassini used his foot to move Lucas's gun away from his reach. Another Task Force Officer, who was a medic, was summoned to render aid to Lucas until Calumet City Fire Department Emergency Medical Services arrived on scene.

During the on-scene medical treatment of Lucas, a second gun was recovered from Lucas's pants pocket.

Lucas sustained six gunshot wounds, including an exit and reentry wound, and four graze wounds. All of the gunshot wounds were to the front of Lucas's body, with the exception of the reentry wound which entered his left upper arm and reentered into his left-side back. Calumet City Fire Department personnel responded to the scene and found Lucas laying on his back, unresponsive. Lucas was transported to Christ Medical Center where he was pronounced deceased. A Cook County Medical Examiner performed an autopsy on Lucas and determined the cause of death to be multiple gunshot wounds and the manner of death to be homicide.

DNA testing was performed on samples taken from the gun recovered from Lucas's hand. The results of this forensic examination showed that Lucas's DNA was the only contributor to the samples.

This incident was not captured on video as none of the officers were equipped with Body Worn Cameras and there were no video surveillance cameras inside the restaurant. The other two officers who entered the kitchen heard Officer Boccassini and Senior Inspector Cundiff announce their office and give verbal commands to Lucas to drop the gun and show his hands. From their positions in the kitchen, behind Officer Boccassini and Senior Inspector Cundiff with kitchen equipment blocking their view, they could not see Lucas until after the officer involved shooting. Two officers that entered the lounge side of the rear of the restaurant and one officer that was stationed at the rear exterior of the restaurant heard verbal commands to show hands prior to the shots being fired. Law enforcement and civilian witnesses, from the area surrounding the shooting, heard a pause in the series of gunfire.

III. LEGAL STANDARD

In making any charging decision, the Office of the Cook County State's Attorney is bound by the Illinois Criminal Code in effect at the time of the incident. The Illinois Use of Force in Defense of Person statute provided 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) (West 2018).

The statute regarding an officer's use of force provided 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, based on the totality of the circumstances, to be necessary to effect the arrest and of any force which he reasonably believes, based on the totality of the circumstances, 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: (i) he reasonably believes, based on the totality of the circumstances, that such force is necessary to prevent death or great bodily harm to himself or such other person; or (ii) when he reasonably believes, based on the totality of the circumstances, both that: (1) such force is necessary to prevent the arrest from being defeated by resistance or escape and the officer reasonably believes that the person to be arrested is likely to cause death or great bodily harm to another; 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.

* * *

A peace officer is not justified in using force likely to cause death or great bodily harm when there is no longer an imminent threat of great bodily harm to the officer or another.

720 ILCS 5/7-5(a) (West 2021).

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 Losardo Lucas. In other words, a judge or a jury would have to find that Officer Boccassini and Senior Inspector Cundiff's beliefs that they or others were in imminent danger of great bodily harm or death -- was not reasonable. In this case, however, the evidence shows that Officer Boccassini and Senior Inspector Cundiff did have a reasonable belief that Losardo Lucas put Officer Boccassini and Senior Inspector Cundiff in imminent danger of great bodily harm or death.

The analysis for making a charging decision must look at whether Officer Boccassini and Senior Inspector Cundiff's decisions to use deadly force were reasonable under the totality of the

circumstances. Lucas had outstanding warrants for felony criminal offenses. When the Task Force Officers entered the kitchen of Roc & Ro, they made their presence known. Upon seeing Lucas with a gun with an extended magazine sticking out from his waistband and his hands near his waistband, both officers, with their guns drawn, ordered Lucas to show his hands and drop his gun. Lucas did not comply and instead drew his gun from his waistband and pointed it at the officers. At that point, it was not unreasonable for the officers to believe that Lucas was threatening the imminent use of deadly force against the officers. Both officers then fired shots at Lucas. Lucas fell toward the office. The officers pausing to reassess Lucas's threat was corroborated by civilian and other Task Force Officer witnesses' statements that they heard a pause in the gunfire. After the initial shots were fired, Senior Inspector Cundiff could still see Lucas's upper body and saw that Lucas propped himself up and continued to point his gun at the officers. At that time, it was not unreasonable for Senior Inspector Cundiff to believe that Lucas continued to pose an imminent threat of deadly force to the officers. Senior Inspector Cundiff fired additional shots at Lucas. Lucas fell backward. The location of Lucas's gunshot entry wounds in the front of his body and his hand still being in contact with his gun provide corroboration for the officers' version of events that Lucas was facing the officers when he pointed his gun at them. There is no video evidence or other eyewitnesses to this officer-involved shooting, and, therefore, no evidence that contradicts the involved officers' version of events that would support filing criminal charges.

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 uses of deadly force by Officer Boccassini and Senior Inspector Cundiff were not unreasonable under the totality of the circumstances. Therefore, the Cook County State's Attorney's Office will not pursue 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 on August 15, 2023, 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 United States Marshal Service or 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.