



**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: LUIS LLAMAS

I. OVERVIEW

This matter involved the fatal shooting of Luis Llamas by Chicago Police Officer Luis Molina after Llamas aimed his gun at Officer Molina and refused verbal commands to put it down, following approximately three hours of standoff negotiations between Chicago Police Officers and Llamas. The Civilian Office of Police Accountability conducted an investigation into Llamas' death. During the course of the investigation, investigators interviewed civilian and law enforcement witnesses and reviewed OEMC transmissions, photographs of the scene, police reports, medical records, the Cook County Medical Examiner Post-Mortem Report, the results of forensic examinations, third party video, In-Car Camera footage, Body Worn Camera footage, and Police Helicopter footage.

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 Luis Molina.

II. STATEMENT OF FACTS

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

At approximately 11:00 P.M. on June 15, 2018, Luis Llamas called 911. He reported that he needed police assistance as there were people at his home, in the vicinity of 9400 South Commercial Avenue, trying to kill him. Over the next twenty-minutes, Llamas placed four additional calls to 911. During the course of these calls, gunshots were heard in the background. Separately and simultaneously, one of Llamas' family members called 911 for assistance and explained that Llamas was suicidal and armed with a gun which he was shooting. Members of the Llamas family locked themselves inside the home to prevent Llamas, who was on the exterior rear porch of the residence, from entering with his gun. When the initial police officer responded, the family members exited from the front of the residence to meet the officer and take cover. Llamas remained at the rear of the residence. He eventually descended from the home's elevated porch to ground level and moved about the adjacent backyards and a vacant lot. Civilian witnesses and Police Officers saw, and In-Car Camera and Police Helicopter Camera footage captured Llamas pacing, switching his gun from hand to hand, and holding the gun to his head. As additional police officers responded, they initiated contact with Llamas from a distance and instructed him to put the gun down. Llamas did not comply with the officers' instructions. As the standoff continued, the Special Weapons and Tactics (SWAT) Team was activated. The SWAT team utilized two armored vehicles, one of which was equipped with a Public Address (PA) system with which a negotiating officer was able to communicate with Llamas from a distance. SWAT Team Officers were not equipped with Body-Worn Cameras. Chicago Police SWAT Officer Luis Molina was stationed in one of the armored vehicles, where he observed Llamas holding the gun to his head, switching the gun from hand to hand, and pointing the gun in the direction of police officers. The negotiating officer called Llamas by name and explained that they were there to help him, not to arrest him, and that his family was worried. The officer requested that Llamas put his gun down. Llamas did not respond or comply. The negotiating officer called the cell phone which Llamas had with him but Llamas did not answer it. For approximately two more hours, Llamas remained in the lot behind his home. He continued to pace, switch the gun from hand to hand, and put the gun to his head as the negotiating officer continued efforts to verbally connect with Llamas to no avail.

At approximately 2:00 A.M. on June 16, 2018, Llamas moved from the vacant lot to the eastern sidewalk of Commercial Avenue and then south toward 95th Street, under a viaduct. The armored vehicles followed. One vehicle took a position at the northern end and one vehicle

followed Llamas to the southern end of the viaduct. Officer Luis Molina was in the armored vehicle that followed Llamas to the southern end of the viaduct. Officer Molina's body was protruding from the turret on the roof of the vehicle. A fellow officer deployed a Noise Flash Diversionary Device, a loud and bright device meant to disorient and stop. Llamas stopped but did not drop his weapon. The negotiating officer utilized the PA system of the vehicle, positioned at the northern end of the viaduct, to communicate with Llamas, including giving Llamas orders to put the gun down, offering assistance, and referencing Llamas' concerned family. Llamas continued to pace while pointing his gun at his own head. For approximately fifteen minutes, the negotiating officer continued efforts to communicate with Llamas, however, Llamas was not receptive.

Next, Llamas outstretched his two arms and pointed his gun, which he held with both hands, toward Officer Molina while Officer Molina's body was protruding from the armored vehicle's turret hatch. The negotiating officer in the other armored vehicle ordered Llamas to drop his gun. Officer Molina also ordered Llamas to drop his gun but Llamas did not comply. Officer Molina then fired one round from his rifle, which struck Llamas in the abdomen and caused him to fall onto his back. Llamas lifted his head and upper body slightly and used his right hand, in which he held his gun, to shoot himself in the right temple. Unsure whether Llamas still posed a threat, Officer Molina deployed a bean bag round from a less than lethal weapon at Llamas' left leg. Llamas did not react.

The SWAT officers approached Llamas and an officer used his foot to move the gun away from Llamas' hand. The officers immediately began to render medical assistance. Emergency Medical Services were already on scene and then took over. Llamas was pronounced deceased at the scene at 2:31 A.M. A Cook County Medical Examiner performed an autopsy of Llamas and concluded that his cause of death was multiple gunshot wounds and the manner was undetermined. Llamas sustained a gunshot wound to the upper abdomen, which perforated several internal organs including his abdominal aorta. The bullet lodged in the soft tissue of his back and was recovered during the autopsy. Llamas also sustained a gunshot wound to his right temple which perforated his skull and brain. There was an exit wound on his left temple.

Six fired cartridge casings recovered from the rear porch of the residence and one recovered in close proximity to Llamas' head after he shot himself, were sent to the Illinois State

Police Crime Laboratory for analysis. The bullet recovered from the soft tissue of Llamas' back during his autopsy was also sent to the Lab for analysis. Additionally, the weapon Llamas possessed as well as Officer Molina's weapon, were submitted to the Lab for testing and analysis. The casings recovered from the rear of the residence and the one near Llamas' head were found to have been fired from Llamas' gun. The bullet recovered from the soft tissue of Llamas' back during the autopsy was found to have been fired from Officer Molina's rifle.

II. 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 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(a) (West 2018).

IV. ANALYSIS AND CONCLUSION

A criminal prosecution for either first- or second-degree murder would require proof beyond a reasonable doubt that the involved officer was not legally justified in using deadly force against Llamas. In other words, a judge or a jury would have to find that Officer Molina did not reasonably believe that he or other officers on scene were in imminent danger of great bodily harm or death. In this case, however, the evidence shows that Officer Molina reasonably used deadly force in defense of Llamas' threatened use of deadly force.

In this case, Officer Molina was justified in his use of deadly force because he had a reasonable belief that Llamas was threatening death or great bodily harm to Officer Molina and other officers on scene. Llamas had not complied with or responded to verbal commands or negotiation attempts during the three-hour stand-off. Through their communications with Llamas, the police officers made clear that they were trying to help Llamas and were not there to harm him or arrest him. Llamas aimed his gun at Officer Molina after he had fired the gun several times that evening. Llamas did not respond or comply with verbal commands from multiple officers to drop the gun. At that point, it was not unreasonable for Officer Molina to believe that Llamas would cause death or great bodily harm with the gun. Therefore, Officer Molina was justified in using deadly force in defense of Llamas' threat of deadly force.

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 Officer Molina was reasonable 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 January 24, 2021, 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 expressed no opinion regarding the propriety or likelihood of success of any such actions.