



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

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**POLICE INVOLVED DEATH DECISION MEMORANDUM
DECEDENT: LUIS VASQUEZ**

I. OVERVIEW

This matter involved the fatal shooting of Luis Vasquez by Chicago Police Officer Michael Barton #8214. 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, video surveillance, and Body-Worn Camera (BWC) 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 Michael Barton.

II. STATEMENT OF FACTS

The evidence presented at any criminal proceeding resulting from this incident would show as follows: On July 8, 2019, Chicago Police Officers responded to a call of two people who escaped from a kidnapping. When they arrived on scene, officers observed the victims handcuffed to each other. The victims told the officers that the previous night the offenders had

kidnapped them at gunpoint, threatened to kill their family, and drove them to an apartment. In the morning, the victims heard snoring coming from the other room and were able to escape.

One of the victims then directed Officer Barton to the apartment location. When they arrived at the apartment, the victim informed Officer Barton that the offender, now known as Luis Vasquez, was asleep in the third bedroom on the left on the second floor. Officer Barton and two other officers climbed over a fence in the back of the building. They proceeded up a staircase to an open door on the second floor. Officer Barton entered the building first with the other two officers following. After he cleared one of the rooms, Officer Barton proceeded to the third door on the left. Through the open door, Officer Barton could see Vasquez lying on the couch with a gun next to him.

Officer Barton announced that he was the police and told Vasquez not to move. Vasquez woke up and reached toward the gun on the couch. In response, Officer Barton fired several shots at Vasquez. After the shots were fired, Officer Barton approached Vasquez who was on the ground and continued to struggle. When Vasquez fell off the couch, the gun also fell, and Officer Barton kicked it under the couch. While the officers were attempting to handcuff him, Vasquez was reaching under the couch toward the gun. Officer Barton moved the couch and was able to move the gun away with his foot. As Vasquez continued to struggle, another officer attempted to put handcuffs on Vasquez who then bit that officer on the right wrist.

Vasquez sustained multiple gunshot wounds and was transported to Illinois Masonic Hospital where he was pronounced dead. The Cook County Medical Examiner performed an autopsy and determined the cause of death to be multiple gunshot wounds and the manner of death to be a homicide. The Chicago Police Department Incident Response Team and COPA investigated the incident.

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 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 Vasquez. In other words, a judge or a jury would have to find that Officer Barton did not reasonably believe that he was in imminent danger of great bodily harm or death or that Vasquez was attempting to escape the commission of a forcible felony. In this case, however, the evidence shows that Officer Barton reasonably used deadly force in self-defense as well as to prevent Vasquez's escape from the commission of aggravated kidnapping. The victim had told Officer Barton that Vasquez had taken the victim from his home at gunpoint, handcuffed him to his wife, and transported him against his will to an apartment building. The victim also told Officer Barton that the kidnapers had threatened to kill his family. Additionally, when Officer Barton entered the building, Vasquez was in the room and on the couch just as the victim had

indicated. When Vasquez reached for the gun, Officer Barton reasonably believed that Vasquez would shoot. Thus, Officer Barton was justified in his use of deadly force in self-defense.

Additionally, Officer Barton was justified in using deadly force to prevent Vasquez from escaping. Vasquez had committed the offense of aggravated kidnapping, a forcible felony and was reaching for his handgun as Officer Barton announced his office and gave commands. As previously stated, Officer Barton's use of force was reasonable based upon Vasquez's actions in reaching for the gun.

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 Barton against Vasquez 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 on November 30, 2021, 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.