

January 16, 2020

Chief Michael Geier
Albuquerque Police Department
400 Roma NW
Albuquerque, NM 87102

RE: Prosecution review of use of deadly force by Albuquerque Police Officer Tavish Barnhill in the November 18, 2018, non-fatal shooting of Anthony Juarez at 3912 67th St. N.W.

APD case # 18-0110490
DA case # 2018-08332-1

Dear Chief Geier,

I have been appointed as a Special Prosecutor by Raul Torrez, Second Judicial District Attorney, to review the November 18, 2018, use of lethal force by Albuquerque Police Department (APD) Officer Tavish Barnhill. This incident occurred during the attempted apprehension of Anthony Juarez during a domestic violence incident to which officers were dispatched. I have reviewed all relevant evidence provided, including police reports, witness statements, photos, and numerous audio and video recordings. I also visited the scene where the incident took place.

RELEVANT FACTS

During the afternoon and evening of November 17, 2018, Anthony Juarez and his wife Brianna Juarez attended the wedding of a relative. They were accompanied by their four children, Elana, age 12; Ayden, age 9; Serenity, age 8; and Mila, 18 months. At the reception, Anthony drank a large amount of alcohol and became quite intoxicated. As Brianna drove the family home, Anthony indicated he wanted to go to an after-party, but Brianna was against that idea. Anthony took out a handgun he had in his pickup and began playing with it. He took the gun out of its holster, ejecting the magazine, and ejecting the bullet that was in the chamber. This scared Brianna and the older child. Mr. Juarez became agitated

and accused Brianna of caring more about the children than about him.

The argument continued as they arrived home. Anthony took the gun from the truck into the house. The argument escalated further and Brianna and Elana became increasingly concerned for their safety. Brianna told Anthony he was scaring her and the children. Anthony disassembled the gun and gave Brianna some of the pieces. Brianna in turn gave a piece of the gun to Elana to hide in her bedroom. Anthony became more agitated as time went by. At one point he said he was leaving and wanted the keys to the truck, which Brianna reluctantly gave him. He went out in the garage, and it sounded like he was throwing things around. At that point Brianna broke out a screen to the window in one of the children's bedrooms and told the three older children to go out the window and across the street to the home of a neighbor. She also told Elana to call police.

Brianna locked herself in Elana's room. Anthony came back in the house, and demanded to talk to Brianna. He eventually kicked in the door to the bedroom and confronted her. Mr. Juarez became even more agitated. Brianna told him she wanted to leave. Mr. Juarez refused to let her leave the bedroom and eventually put his hands on her neck. Anthony said he was going to go get his gun, and told her words to the effect of this would be the last night of her life. She was not sure whether he was threatening to shoot her or himself. Brianna knew that Anthony kept a rifle under their bed. When she heard him rummaging around in the bedroom, Brianna ran and grabbed the baby. She ran back to the bedroom with the open window, went out the window with the baby, and ran across the street to the neighbor's house. She called police from there and informed them Anthony was armed with a rifle.

Police officers were dispatched to the scene at 12:35 am. APD Sergeants Eric Nelson and Brock Knipprath, along with Officers Tavish Barnhill and Josh Trujillo were the first on the scene. The officers met a couple blocks away from the Juarez residence to discuss approach routes and a force array as they

moved in to try and make contact with Brianna Juarez as well as Anthony. After discussing an approach route and which officer would be armed with which weapon(s), the officers moved up along a wall on the opposite side of the street to a point where they were able to see the front of Mr. Juarez's house.

When the officers were in position to be able to see the front of the house, they saw Mr. Juarez come out of his house and walk toward his truck with what appeared to be a rifle in his hands. Officer Josh Trujillo, who is CIT (Crisis Intervention Trained) certified, was tasked with making verbal contact with Mr. Juarez. Officer Trujillo yelled across the street to Mr. Juarez to come out and talk with officers. He repeatedly asked Mr. Juarez to show his hands, and to put down his weapon. Officer Trujillo told him that they could not talk with him or have any meaningful discussion unless he put down his weapon. Mr. Juarez refused to comply with any of the requests or directives.

Anthony Juarez had taken up a position at the front of his pickup truck, which was in the driveway facing the garage. Officers felt that Mr. Juarez purposely chose this position for tactical reasons, as they had received information that he was a correctional officer and a member of the National Guard, trained in firearm use. As Officer Trujillo's communication attempts with Juarez continued, Juarez appeared to become more agitated and confrontational. He told officers he was going to kill them, that he had a "bead" on them, and that he had them in his sights. The four officers at that point were behind a wooden fence approximately 70 to 80 yards from Mr. Juarez's location. There was extreme concern for their safety, as the wooden fence they were behind would offer no real protection from shots from a high-powered rifle. Sergeant Knipprath was instructed to retrieve Sgt. Nelson's Police SUV (Tahoe), and move it up to the officer's location for cover.

The Tahoe was moved up and parked near the intersection at an angle to the front of Mr. Juarez's home. This was approximately fifty to sixty yards from where Mr. Juarez was positioned at the

front of his truck. The officers took up positions behind the Tahoe. Officer Tavish Barnhill was in a kneeling position at the front of the Tahoe, armed with a Wylde brand, .223 caliber semiautomatic rifle. He was using the engine block for protection. Sergeant Nelson was to Officer Barnhill's immediate right, also armed with a rifle, and also using the engine block for protection. Officer Trujillo and Sgt. Knipprath were to Sgt. Nelson's right, and toward the rear of the SUV. Officer Trujillo was armed with a beanbag shotgun in case use of less-than-lethal force was called for. Sergeant Knipprath was armed with his duty handgun. Officers did not know from which side of his pickup Mr. Juarez might present a danger if he followed through on his threats to shoot officers, so Sergeant Nelson and Officer Barnhill decided that Officer Barnhill would cover the left (driver's) side of Mr. Juarez's pickup, and Sgt. Nelson would cover the right side.

When the SUV was moved up into position, Sgt. Knipprath turned the spotlight on Mr. Juarez's location. This seemed to aggravate him even more. He demanded that the spotlight be turned off. Brianna Juarez, listening from across the street, heard Anthony say that he would give officers three seconds to turn off the spotlight. Shortly thereafter, officers saw Mr. Juarez's feet moving to his right, or the driver's side of his pickup. Officer Barnhill saw Juarez crouching at the front driver's side of his pickup. It appeared that he took a shooting position toward officers. Officer Barnhill perceived Juarez raising the rifle with his hands. Officer Barnhill saw the rifle pointed directly at him. At that point he fired one shot—aiming at the arm holding the rifle Mr. Juarez had pointed at him. This shot was fired at approximately 1:05 am.

After firing the single shot at Mr. Juarez, Officer Barnhill paused to see what the reaction would be. Within about fifteen seconds of Officer Barnhill's shot, a volley of rapid-fire gunshots was fired by Mr. Juarez at the officers behind the SUV. The number of shots was indistinguishable. The volley lasted approximately seven seconds. The officers behind the SUV dove for cover behind the engine block.

Incoming shots shattered windows on the SUV and blew out one of the tires. Bullets also hit the ground under and around the SUV, causing debris to be kicked up, some of which struck at least one officer in the legs. Approximately one second after the volley stopped, Officer Barnhill peeked out over the hood of the SUV and returned fire toward Mr. Juarez. Officer Barnhill fired nine distinct shots from his rifle.

Anthony Juarez retreated into the house. Officers did not know whether he had been hit by Officer Barnhill's shots. The officers behind the Tahoe decided that the SUV did not offer sufficient protection from the weapon that Juarez had fired. They retreated to a position across the street behind a home and a wall that was approximately one hundred yards from Juarez's location. This location offered better protection while still allowing officers to watch the residence for any moves Juarez might make. Officers waited at that location for arrival of tactical units, which had been called out earlier.

Approximately fifteen minutes after the shots were fired and officers retreated, they noticed movement inside the garage. It sounded like Mr. Juarez was yelling "help me". As Juarez moved toward the front of the garage, officers could not see both of his hands. They then noticed that Juarez was crawling from the garage into the driveway. Officers then saw him crawling on his back between his pickup and the other vehicle parked in the driveway. Officer Trujillo yelled to Juarez to show his hands, which he did. His hands were clear.

By this time, tactical officers from the Canine Unit had arrived. Canine officers took over the interaction with, and eventual apprehension of, Mr. Juarez. Juarez continued to crawl down his driveway toward the street, both on his back and on his stomach. When asked where the gun was, he replied, "in the house". Mr. Juarez replied affirmatively when asked if he was shot. When he reached the street, officers moved up and took him into custody. Mr. Juarez had a gunshot wound to his right shoulder, but no other apparent gunshot wounds. Rescue treated Mr. Juarez and transported him to UNMH. He survived his injury.

Officers entered the Juarez residence to clear it and make sure there was no other person inside or possible danger remaining. They noticed a black assault-style rifle laying on the floor at the end of hallway near the front door. Officer Barnhill and the other officers who were in the line of Juarez's fire were processed by A.P.D. crime scene investigators (CSI). Sgt. Knipprath had scratches and welts on the back of his leg from either bullet fragments, or debris kicked up by the shots. He also had a cut on his head from glass fragments from the shattered window of the Tahoe. Fragments also struck his boots. The other officers in the line of fire had no injuries.

OFFICER STATEMENTS

Tavish Barnhill

Officer Tavish Barnhill was the only officer who fired shots during this incident. He fired two separate times. The first time was a single shot when he saw Anthony Juarez pointing his rifle directly at him as he crouched at the front of the Tahoe covering the driver's side of the truck behind which Mr. Juarez had taken cover. A little over two minutes after Officer Barnhill's belt tape reveals one of the officers saying that Mr. Juarez said he would kill or shoot them, Officer Barnhill fired his first single shot. Officer Barnhill says on his belt tape: "He pointed the rifle. I got one shot. I don't know if I hit him." Approximately fifteen seconds later Juarez fired multiple shots at the officers. When there was a pause, Officer Barnhill popped his head up and fired nine distinct rounds back at Mr. Juarez.

On November 27, 2018, Officer Barnhill gave a formal statement to lead detective David Gonzales. He was accompanied by his attorney, John D'Amato. Officer Barnhill related the sequence of events involving Anthony Juarez as set out previously in this report. When discussing the first shot he fired, and what was going through his mind, Officer Barnhill stated the following:

[H]e took that shooting stance toward me and it looked like he raised

his hands like this, just like he's holding a rifle and pointing it right, right at us. Scared the crap out of me. Um, you know, and, and at that point you know, the only thing I could think of, I blinked, I think, the same time I shot. So I shot one bullet, um, at where I was aiming and where I saw the rifle point up at us.... [I]t scared the crap out of me to, to kinda realize like, I'm getting a rifle pointed, I felt like it was right at my....right on me. I imagine it still now to where I'm looking at the barrel of the gun. The barrel is this big, and it's two feet from my face. That's how I saw it. I mean we're 60, 70 yards away... [A]t that point the only option was to shoot...

It was the weirdest feeling. I mean, like, I felt, I felt like I saw death, really.... I thought that if I didn't pull the trigger first...he would have put a bullet right through my head. [I] felt the way he was aiming was, was directly at my face, and, so yeah, I thought I was gonna die. I mean, I mean, if I didn't act first and act the way I did, I thought I was dead.

Officer Barnhill went on to describe how Mr. Juarez opened fire on the officers and how he, along with Sgt. Nelson, ducked behind the engine block for cover. Officer Barnhill then described his next actions and state of mind:

[S]o I felt like it was ten, twelve, maybe fifteen bullets towards us. I'm gonna wait for a pause.... Um, 'cause I need this guy to not keep shooting at us. I need to do something. Can't just sit behind, behind the Tahoe, um, praying to God that, you know, this guy is not gonna kill us. He's obviously gonna kill...he's trying to kill us right now. The second I heard a pause, uh, in, in the shooting, I, I popped my head up, um, on top of the engine and I, all I see is his feet. I can't see anything else. I, I start shooting back at him in the direction of him, um knowing...he's right behind an engine block. You know, it's probably not gonna hit the guy, but I need to do something.. That was my only option.... I shot in my head about eight to ten...

Officer Barnhill then described how Mr. Juarez ran back in the house, and the officers retreated to a safer location to see what Mr. Juarez's next actions would be, and to await the arrival of tactical officers. He also described the scene when Mr. Juarez came out of the house, surrendered, and was apprehended. Officer Barnhill had his lapel camera on during the incident.

Eric Nelson

Sergeant Eric Nelson gave a formal statement to lead Detective Gonzales on November 27, 2018. He appeared with his attorney, Luis Robles. Sergeant Nelson discussed the events surrounding the call that led up to the shooting. Sergeant Nelson described how Mr. Juarez was upset that the Tahoe's spotlight was turned on him, and threatened to shoot officers if they did not turn the spotlight off. Sergeant Nelson then described the following: "I was looking through my optic of my rifle, covering on the right, and I remember seeing Anthony move to his right, or to the left of the vehicle.... I remember seeing something black in Anthony's hands, um, that I perceived to be, uh, the rifle." Right after that he heard one shot. He was not sure who fired, until Officer Barnhill told him that it was he who fired. Sergeant Nelson got on the radio and announced that a shot was fired. Sergeant Nelson then described what happened next:

[R]ight after that, it was just, uh, we, lots of gunfire. A lot of gunfire and it was coming in our direction. The reason why I know it was coming at our direction is because I could hear impacts hitting my car. I remember my windows blowing out... I don't know how many rounds were fired. All I can say is it was a lot. It was rapid-fire. Um, and so I took cover behind the vehicle ducking to my right.... [A]nd then after that volley of fire was shot at us, I remember seeing, uh, Officer Barnhill come up and engage with gunfire. I don't know how many shots he fired. That's when I came up with my rifle to try to find where Anthony was at. I could not see him.... I remember seeing Anthony beeline, or run towards, from his truck to the garage door... [By] the time I had, um, a sight picture on him, he was halfway through the door.

Later, Sgt. Nelson shared his thoughts as he and the other officers were being fired upon:

I remember thinking in my head, you know, "stop. That's, that's enough." I really thought somebody was gonna be shot. Because that's a lot of people to take cover behind one car taking that much, um, that many rounds with a rifle, knowing that the rifle's gonna go straight through, you know, a car window, a car...door. The only thing that is really good cover is the engine. You can't put five people behind an

engine.... I think he was, he was showing us that his statement that he was going to kill us, he was, he was trying to, uh, follow through with that statement. He was trying to kill us.

Sergeant Nelson went on to describe the officers' actions following the exchange of gunfire and the eventual arrival of Canine Unit tactical officers and the apprehension of Anthony Juarez. Sergeant Nelson had his lapel camera turned on during the incident

Brock Knipprath

Sergeant Brock Knipprath gave a formal statement to detectives on November 21, 2018.

Sergeant Knipprath described what happened the night of the incident under review. The overall description was as described above. When asked how he felt at the point shots were being fired, he answered as follows:

[I]nitially the, the first round, you know, I ducked down and knew that he was shooting and I just thought maybe he had killed himself. Uh, it's not uncommon in that situation... And then as multiple rounds started coming through, uh, in our direction, uh, I felt what I believed to be fragments, or kind of pepper the back of my legs. It was just all up and down the back of my legs. Based on information I felt, uh, very unsafe and very afraid that I was going to take an actual round, so I tried to move to a better cover behind the actual wheel.

Sergeant Knipprath later described the injuries and damage to his uniform he sustained from the impacts in more detail as outlined above. Sergeant Knipprath had his lapel camera running during the incident.

Josh Trujillo

Officer Josh Trujillo was the officer assigned to communicate with Anthony Juarez during the standoff. He gave a formal statement to detectives on November 21, 2018. Officer Trujillo described in more detail the threat Anthony Juarez made toward officers: "He said something like, 'I'll fuckin' shoot you.' And I remember specifically him sayin', 'I have my front sight on your chest... front sight or front post on your chest'". At that point Sgt. Nelson's Tahoe was moved up for better cover. Officer Trujillo

was then toward the back of the Tahoe attempting to communicate with Mr. Juarez. Officer Trujillo described what happened next:

[I] stayed ducked down, doing a dialogue from cover. As I'm doing dialogue from cover, I hear a gunshot-- rifle. It was loud. Caught me completely off-guard... I didn't have eyes on. I didn't have any indicator of who shot or what—what was going on. Um, and then, after that first shot, all I heard was just continuous shots. It seemed like anywhere from, like, at least 5 seconds of just nothing but gunshots.... I was like, "These car doors aren't gonna stop rifle rounds." So I...try to get behind the rim of the rear tire for better cover, 'cause, uh, I remember thinkin', "they have the engine. They're good." I'm behind...an empty Tahoe with doors. I hear rounds hittin' the ground. I hear the tire, um, popping. I'm like, "Oh shit, I'm behind a tire." I didn't know if it was the tire I was behind... I go to stand up to see, see what's goin' on...when the back window goes off, or, doesn't go off, it breaks. It took a round. And I'm like, "Nope, stayin' down."

When asked later what was going through his mind at that point, Officer Trujillo described it as follows:

I was waiting to get shot, I thought. 'Cause I was trying to get behind that rim. And I hear the tire pop, and I was like, "Oh, he's close." And I was just expecting to feel a sharp something somewhere. Right then and there, with the amount of shots and how close they were to me and where I heard them hitting, I was just waiting to feel the pain.

Officer Trujillo went on to describe how Anthony Juarez was taken into custody, and how he assisted in clearing the house. Officer Trujillo had his lapel camera on for the duration of the incident.

Gabriel Copeland

Officer Gabriel Copeland arrived on scene just before the first shot was fired. He gave a statement to detectives within a couple hours of the shooting. Officer Copeland described how he got out of his vehicle and started to move up to where the other officers were located behind the Tahoe. As he did that, Officer Barnhill fired the first time. Officer Copeland did not know who fired the shot. He was between his vehicle and the Tahoe, and felt he had no option but to continue to cover behind the Tahoe. As he ran up to the Tahoe, the volley of shots from Anthony Juarez started. Officer Copeland described it as follows: "The glass was being broken out. I heard the tire get shot and deflate. I could

hear bullets going past me while I was running up. And once we gained cover, uh, I believe one officer returned fire. And then after that had to check each other..." Officer Copeland estimated there were thirty to forty rounds fired by Anthony Juarez at the officers. Officer Copeland said he was afraid he was going to be shot. He described the other officers as "pretty frightened". Officer Copeland did not turn on his lapel camera until after the shots were fired.

Other Officers

Numerous other officers were involved in different aspects of this incident. None of them had additional relevant evidence to provide on the officer-involved shooting aspect of the incident, which is the focus of this report.

OTHER WITNESSES

Brianna Juarez

Anthony Juarez's wife, Brianna, gave several statements to police over the course of this incident, culminating in a formal recorded statement at 4:20 am on the morning of the shooting. Brianna recounted their evening and the events leading up to the argument. She described the argument and Anthony's actions as set forth above. She described her fear for her safety and how she got the children, and eventually herself, out of the house and across the street to the neighbor's house.

When Brianna was at the neighbor's house, she was looking out an open window at the point shots were fired. She said she could not see Anthony at the front of his truck, but could hear him. She described hearing Anthony say words to the effect of, "I'll give you three seconds to shut your spotlight off". She then heard him count down, "three, two, one". She said there was silence for a second, and then a "bunch" of shots rang out. Brianna stated she could hear officers yelling to Anthony before the shooting, but said she could not make out what they were saying. After the shooting, Brianna did not see Anthony or know what happened to him until she saw him crawl out of the house and down the driveway.

Brianna claimed that although she and Anthony in the past had arguments and fights, that Anthony had never been physically abusive to her before that night. She stated that even though Anthony had put his hand around her throat during the argument, that he had not obstructed her breathing. Eventually Brianna declined to press charges for any kind of domestic violence relating to what happened the early morning hours of November 18th.

Damien Nieto

Damien Nieto lived in the house across the street from the Juarez residence. It was to his house that Brianna Juarez and the children fled. Mr. Nieto watched most of the incident unfold from an open bedroom window in his house. He gave a recorded statement the morning of the shooting. He described how the children came running to his front door, crying and saying their Dad had a gun. He described Brianna and the baby following shortly thereafter, and Brianna calling 911 from his residence. Mr. Nieto described seeing Anthony Juarez walking back and forth on the sidewalk in front of the Juarez residence with a rifle before the police arrived. After the police arrived, he heard the officers trying to talk to Anthony. He then heard what he described as approximately ten gunshots. He did not see any more of Anthony until he saw him crawling out of the garage on his back and being taken into custody.

Mr. Nieto had a Ring camera at his front door. The footage showed the children and Brianna running up to his front door. It also showed officers moving up behind a police vehicle to take Anthony Juarez into custody.

Other Civilian Witnesses

Janice Leach, a neighbor of the Juarez's, leaves her patio door open at night. She heard officers tell Mr. Juarez to put the gun down during the standoff. She also heard Mr. Juarez say words to the effect of, "I'm gonna shoot you in the face". Other neighbors heard shots, and/or saw part of the events as they unfolded. None of them had significant relevant information to add to the subject of this report.

The three older children of Brianna and Anthony Juarez were interviewed at the Childrens Safehouse. They recounted the events of the evening in question, but did not provide any directly relevant information as to the officer-involved shooting aspect of the incident.

Detectives contacted Anthony Juarez at the hospital to attempt to get a statement from him. He declined to be interviewed without an attorney.

PHYSICAL EVIDENCE AND CRIMINALISTICS

Numerous items of evidence related to the shooting in this case were noted and collected by APD crime scene investigators. Anthony Juarez's disassembled 9 mm. handgun was recovered from the residence. In a hallway near the front door of the residence, officers located Mr. Juarez's Springfield Armory .223 caliber semiautomatic rifle. Blood was observed on the floor next to the rifle. An empty magazine was inserted in the rifle.

Outside the front of the house, near Anthony Juarez's pickup truck in the driveway, detectives located twenty-six .223 Hornady cartridge casings. Two unfired Hornady .223 bullets were located among the cartridge casings. Additionally, two unfired Hornady .223 bullets were found inside the garage. The APD Crime Lab performed testing on the twenty-six casings and determined they were fired from Mr. Juarez's Springfield Armory rifle.

In the roadway near where Sgt. Nelson's Tahoe was parked at the time of the shooting, detectives located eight .223 REM caliber, Speer brand cartridge casings. Two additional casings of the same type and brand were located on the windshield of the Tahoe. The APD Crime Lab performed testing on these casings and determined they were fired from Officer Barnhill's rifle.

As to the shots fired by Mr. Juarez, several impacts were located on Sgt. Nelson's Tahoe. In addition to the rear passenger side tire that was shot out, there were two impacts on the passenger side

door. There was also an impact on the passenger side rear window. A neighbor's truck across the street was struck by a bullet. A community mailbox across the street in the line of Juarez's fire was also struck.

Thirteen impact points were located on Anthony Juarez's pickup truck. Eight of the impacts appeared to be from incoming gunfire, according to CSI detectives. These impacts were on the tailgate, back window, side window, and driver side mirror. Five impact points appeared to be from outgoing gunfire. These were all located on the driver side quarter panel. Two additional impact points were located on a brick wall at the front of the house near where Anthony Juarez was located at the time shots were exchanged.

CRIMINAL HISTORY AND CHARGES

Aside from a speeding ticket ten years ago, Anthony Juarez had no apparent criminal history prior to this incident. As relates to this incident, he was indicted on five counts of attempted first degree murder, or in the alternative, assault with intent to commit a violent felony upon a peace officer (firearm enhancement)—one count for each of the five officers who were behind the police Tahoe at the time Mr. Juarez opened fire. He was also indicted on one count of criminal damage to property (over \$1000) (firearm enhancement), and one count of negligent use of a deadly weapon. He is awaiting trial on these charges.

LEGAL FRAMEWORK

Under New Mexico law, a peace officer, acting in the course of regular duties, is entitled to legally use deadly force when the officer reasonably believes that the officer or another is threatened with serious harm or deadly force. NMSA 1978 § 30-2-6. An officer who uses deadly force does not have to prove that a suspect actually posed a threat of death or great bodily harm--only that the

suspect's actions would cause a reasonable person to believe there is the possibility of such.

Once an officer who uses deadly force raises the possibility that a suspect's actions posed a threat of death or great bodily harm, the burden is on the prosecution at the trial of an officer charged with a crime, to prove beyond a reasonable doubt that the use of deadly force was *not* reasonable. This inquiry is an objective standard, viewed from the perspective of the officer at the time, keeping in mind that officers often must make split-second decisions in difficult situations. It only requires a finding that a reasonable person in the same circumstance as the officer would have come to the same conclusion-- that the use of force was necessary because of the threat of death or great bodily harm posed by the suspect. *State v. Mantelli*, 2002-NMCA-033, 42 P.3d 272.

CONCLUSION

When Officer Tavish Barnhill fired at Anthony Juarez, he did so as a result in the first instance of Mr. Juarez pointing a rifle at him. When Officer Barnhill fired the second time, it was as a result of Mr. Juarez firing multiple rounds from his assault-style weapon at Officer Barnhill and other officers who were taking cover behind the APD police vehicle.


The officers were acting in the legitimate course of their duties by trying to contact and apprehend Mr. Juarez for a domestic violence incident. Officers had information that Mr. Juarez had possibly committed the offenses of false imprisonment, battery, and criminal damage to property. From the point that officers contacted Mr. Juarez, he was armed with an assault-style rifle. He was acting in an irrational and reckless manner, seemingly regardless of danger to human life. He refused to follow officers' directions to put down his rifle and show both of his hands, or to come out from behind his truck. He eventually threatened to shoot officers and told them words to the effect that he had them in his sights. Mr. Juarez was also apparently under the influence of alcohol.

Officer Barnhill perceived an imminent and real danger when Mr. Juarez first pointed his gun at Officer Barnhill. Given Mr. Juarez's words and actions up to that point, it was completely reasonable for Officer Barnhill to believe that he was about to be shot. Officer Barnhill showed restraint by only firing one shot when Mr. Juarez pointed his gun at him. Officer Barnhill's use of deadly force in the first instance was reasonable.

When Officer Barnhill fired nine shots in the direction of Anthony Juarez in the second instance in which Officer Barnhill shot, he was also acting reasonably. Mr. Juarez had just opened fire with a high-powered assault rifle on five officers who were taking cover behind a police vehicle. The danger to the life and safety of Officer Barnhill and the other officers was imminent and real. It is amazing that Juarez's volley of twenty-six rounds did not seriously injure or kill any officers. Officer Barnhill was in the best position to act to stop the assault and any further firing of shots by Mr. Juarez. He did what needed to be done at that moment to protect the life and safety of himself and other officers, and potentially civilians in the area as well. Officer Barnhill's use of deadly force in the second instance was reasonable.

If Officer Barnhill were to be prosecuted for using deadly force against Anthony Juarez, a jury would not be able to find beyond a reasonable doubt that Officer Barnhill's actions in attempting to stop Anthony Juarez's actions were *not* a reasonable and justifiable use of deadly force. There would be no reasonable likelihood of a successful prosecution. No charges will be filed, and this case will be closed.

Sincerely, \


Todd Heisey
Special Prosecutor

Cc: Raul Torrez, Second Judicial District Attorney
Detective David Gonzales, lead case detective
John D'Amato, esq., attorney for Officer Tavish Barnhill
Anthony Juarez, c/o attorney, Noah Gelb