

March 10, 2020

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

Prosecutorial review of the April 18, 2019 shooting of
Dominic Detwiler by APD Officers Vince Salas, Andrew
Hinkle, and Pete Tartaglia.

APD # 19-0035838; DA case# 2019-04083-1

Dear Chief Geier:

I have been appointed as a Special Prosecutor by Raul Torrez, the Second Judicial District Attorney, to review the shooting of Dominic Detwiler on April 18, 2019, for potential prosecution. After a review of all available evidence, including police reports, witness statements, videos, photographs, and a visit to the scene of the incident, I conclude that there is not sufficient evidence to prove, beyond a reasonable doubt, that APD Officers Vince Salas, Andrew Hinkle, and Pete Tartaglia were not acting under the reasonable belief that they, or members of the public, faced death or great bodily harm as a result of Detwiler's actions. No charges will be filed: the case will be closed. This decision does not limit administrative or criminal action by other agencies, or civil actions by other parties.

STATEMENT OF FACTS

On the afternoon of April 18, 2019, Chris Sanders called 911 to report that a man with a gun had broken into his apartment at 524 Vermont St. NE, to steal things, and the man was still there. Sanders information was disjointed and confusing, but police eventually determined that the initial break-in had been the day before, when a group of people, led by Detwiler, armed with a pistol, had forced their way into Sanders apartment and stolen items, including jewelry, from

him. He was so intimidated by their threats that he left the apartment, spent the night at a motel, and didn't call the police because he feared retaliation against him or his family. When he returned to his apartment the next day, Detwiler was there with several other people. Detwiler told him it was no longer his apartment. Sanders called the police and gave them a description of Detwiler and told them he was armed with handgun. The group then started to leave the apartment.

By the time Officers Vince Salas, Andrew Hinkle, and Pete Tartaglia arrived at the apartment two people had left the scene, and two others, Leonard Espinosa, and Savannah Garcia were waiting in the parking lot for Detwiler, who was walking down the stairs from the second-floor apartment. He matched the description, so the officers ordered him to show his hands and continue down the stairs. He refused, sat down on the stairs, and said "I'm not moving." They told him again to show them his hands and he responded, "You're gonna have to shoot me." Officer Hinkle told him, "I don't want to shoot you." Detwiler then pulled his pistol and fired at the officers, who scattered and took cover behind the cars in the parking lot. Detwiler ran down the stairs and started running through the parking lot, gun in hand. All three officers returned fire. Officer Hinkle fired several shots; he said later, "so in order to stop him from shooting and



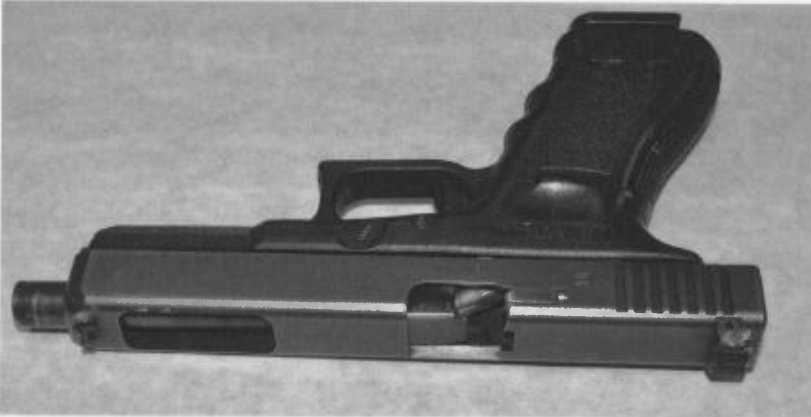
Detwiler's pistol: a Glock 34 semi-automatic

and killing us, um, I raised up and my handgun and fired back." After Detwiler had fired twice at him, Officer Salas fired multiple shots with his rifle. He said, "I was in fear of my life." Officer Tartaglia also returned fire with his pistol.

Detwiler was struck by at least one shot and fell, dropping his gun. Paramedics were called in, rendered first aid and transported him to the hospital. He survived but was paralyzed from the waist down.

Investigation revealed that Detwiler's gun, a Glock 34 semi-automatic pistol, had

jammed after he had fired four shots at the police, preventing him from being able to fire the



Pistol with cartridge jammed in the ejection port

remaining six cartridges remaining in the pistol. Between them, Officers Hinkle and Tartaglia fired 9 times, while Officer Salas fired three times. Eleven bullet impact points were located on the cinder block wall and the apartment wall directly behind where Detwiler had fallen indicating that all but one

of the twelve shots fired by the officers had missed him- the twelfth, which struck him and lodged in his body, was recovered from the hospital after surgery.

In the area where Detwiler fell, police recovered drugs and drug paraphernalia, including syringes, a small torch, and doses of Suboxone, a drug often used to counter overdoses, and treat drug addiction. At the time he was shot, Detwiler was on probation for a conviction in Sandoval County on September of 2018 for Trafficking in methamphetamine and carrying a deadly weapon. A similar case, involving charges of Trafficking in methamphetamine in Bernalillo County had been dismissed for procedural reasons in July of 2018. His girlfriend, Susannah Garcia told investigators that Detwiler was continuing to use methamphetamine while on probation. In Detwiler's car, parked in the parking lot, police found items of jewelry, including two gold pocket watches and a gold chain, and when shot, Detwiler was wearing a gold chain and gold Nixon wrist watch, similar to the one that he'd taken from Chris Sanders the day before.

On June 14, 2019, Detwiler was indicted, based on the incident on April 18, 2019, for three counts of Aggravated Assault on a Peace Officer with a deadly weapon, one for each of the officers he fired at. Trial in the case is pending.

LEGAL ANALYSIS

APD Officers Vince Salas, Andrew Hinkle, and Pete Tartaglia were acting in the line of duty, attempting to arrest Detwiler for suspicion of armed robbery when they fired at him, they therefore would be entitled to raise the defense of Justifiable homicide by public officer, NMSA 1978, Section 3-2-6, under which a peace officer may justifiably use deadly physical force when they believed they or another is threatened with serious harm or deadly force. Under New Mexico law, the officer who uses deadly force need not prove that the suspect posed a threat of death or great bodily harm to another; he need only offer evidence that raises the possibility. The burden then falls on the prosecution to prove, beyond a reasonable doubt, that the use of deadly force was not justified. If the jury has any reasonable doubt as to whether the killing was justifiable, they must acquit the officer, Uniform Jury Instruction-Criminal: 14-5173 Justifiable.

CONCLUSION

The question presented in this case is whether, at the moment APD Officers Vince Salas, Andrew Hinkle, and Pete Tartaglia fired, were they acting under a reasonable belief that Detwiler presented a threat of death or serious harm? Evidence clearly shows that Detwiler fired multiple shots at the officers and they returned fire acting out of a reasonable fear for their safety; and in the absence of any evidence to prove, beyond a reasonable doubt, that they were not, there is no reasonable likelihood of a successful prosecution; therefore, no charges will be filed against APD Officers Vince Salas, Andrew Hinkle, and Pete Tartaglia. The case will be closed.

Very truly yours,



Michael Cox

Special Prosecutor

Cc: Raul Torrez, District Attorney, Second Judicial District

Chief Michael Geier, APD

Detective David Gonzales-Albuquerque Police Department

Luis Robles, Attorney for Officers Vince Salas, Andrew Hinkle, and Pete Tartaglia.

Marcus Cameron, attorney for Dominic Detwiler