

August 17, 2018

Chief of Police, Michael Geier
Albuquerque Police Department
400 Roma Ave NW
Albuquerque, New Mexico 87102

Re: Prosecutorial review of the shooting at Moses Hernandez by Albuquerque Police Officers Jeffrey Bludworth, Ross Vanderlip, and Detective Geoffery Stone.

APD Case # 17-0009028
DA Case # 2017-01465-1

Dear Chief Geier,

I have been appointed as a Special Prosecutor by Raul Torrez, the Second Judicial District Attorney, to review the January 26, 2017, non-lethal shooting at Moses Hernandez by Albuquerque Police Officers Jeffrey Bludworth, Chris Keeling, and Detective Geoffrey Stone for prosecution. I reviewed available relevant evidence, including police reports, witness statements, videos, and photographs. In addition, I visited the scene of the officer-involved shooting and the related scene of an earlier shooting during which Hernandez shot Christopher Altamirano in the leg. I also reviewed a related stolen firearm report.

My review reveals that substantial evidence exists to demonstrate that Hernandez fired a stolen handgun at Officers Jeffery Bludworth, Chris Keeling, and Ross Vanderlip, prior to the use of deadly force by Officers Bludworth, Keeling, and Detective Stone. Therefore, no reasonable jury would conclude that the use of deadly force by the officers in this case was unjustified. Accordingly criminal charges against Officers Bludworth, Keeling, and Detective Stone for firing their weapons at Hernandez are not warranted. My decision does not limit administrative or criminal action by other agencies, or civil action by other parties.

Relevant Factual History

The Attempted Homicide

On the afternoon of January 26, 2017, in Albuquerque, New Mexico, Christopher Altamirano, walked north on the east side of Rhode Island just north of Chico. Moses Hernandez was also walking north on Rhode Island, but on the west side of the street. Hernandez who was just ahead of Altamirano, suddenly ducked behind a short wall on the west side of the street. As Altamirano reached the area where Hernandez was located, Hernandez began yelling from across the street, "Come on! Come on!"

Altamirano did not recognize Hernandez and continued walking north. When Altamirano passed Hernandez, Hernandez began shooting at Altamirano. Altamirano ran into the parking lot of an apartment complex located on the east side of 328 Rhode Island and hid behind a parked truck. Hernandez, who was still on the west side of the street, fired three or four more rounds at Altamirano. Two of the rounds struck the truck Altamirano was hiding behind.

At approximately 5:52 p.m., Lloyd Venerable, called 911 to report a man (Hernandez) shooting a gun half-way up the block on Rhode Island between Copper and Central. Venerable was looking out the front window of his second floor apartment located at 304 Rhode Island NE. Venerable told the 911 operator that he could see Hernandez headed north on the west side of Rhode Island and that Hernandez had just crouched behind a tree and fired three more rounds towards the east side of the street. Venerable could not see who Hernandez was shooting at. Venerable told the 911 operator that the Hernandez was now at the corner of Copper and Rhode Island. Venerable described Hernandez as a male, approximately 5'9, heavy build, wearing dark clothing and wearing a big jacket.

Meanwhile, Altamirano, fearing for his life, ran to a nearby courtyard but quickly discovered there was no way out so he ran back to the parking lot, and then to the north side of the apartment complex. Once there he jumped over a wooden fence and into a backyard. However, there was no way out of the small yard so he kicked open the gate and ran back to the parking lot to look for somewhere to hide.



The backyard Altamirano jumped into hoping to hide from Hernandez.

Hernandez reappeared and aimed the gun at Altamirano. Altamirano picked up a piece of metal from the ground and threw it at Hernandez. Hernandez fired two or three rounds at Altamirano, striking Altamirano in the right leg and the rear window of a nearby van. Altamirano yelled for someone to call the police and tried to hide by a parked truck. Hernandez yelled at Altamirano "Now you better run! Now you better run!"

Just up the street, brothers Victor and Daniel Lopez, were sitting in their parked car at 344 Rhode Island. Victor, looked at his rear view mirror when he heard the gunfire. He saw Hernandez shooting Altamirano. Hernandez ran up to Victor and Daniel, pointed a gun at them and demanded to know their names. Victor told Hernandez that they "didn't want no trouble". Hernandez replied "If you don't want no problems, get the fuck out of here." Victor started his car and drove up the street stopping at Copper and Tennessee. Once there, Victor turned around and began following Hernandez in the car.

Daniel called 911 and told the operator that Hernandez pointed a gun at them. He told the operator that Hernandez was wearing a black shirt, black pants, a black coat, and that he had a dark blue handkerchief bandana tied around his neck. Daniel described the gun Hernandez pointed at them as a silver 9mm.



Map showing: (1) both locations where Hernandez shot at Altamirano; (2) location of Venerable's second story apartment; and (3) where Hernandez pointed a gun at the Lopez brothers.

Maria Castillo, had been outside her apartment at 344 Rhode Island, working on her car with her son when they heard three gunshots and then five more. At first she thought kids were lighting firecrackers. When she and her son went to

confront the kids, they heard Altamirano screaming "Help! Help! Help!" "Don't come over here. He just shot me. He just shot me."

Maria dialed 911 at approximately 5:59 p.m. While she was on the phone with the operator, Hernandez walked in front of her and asked "Who you talking to? Who you talking to?" Maria told Hernandez she was talking to a friend. Hernandez opened his black coat and showed Maria and her son his gun.

Law Enforcement Response to the Shooting

The Southeast Area Command dispatcher informed Sergeant Johnny Yara that there were no officers available to send to Rhode Island. Officer Jeffery Bludworth advised that he and Officer Ross Vanderlip would meet at Rhode Island and Central in order to respond to the call. The purpose of meeting at Central and Rhode Island was to develop a plan to approach Hernandez who was firing a handgun.

The dispatcher advised that: (1) two more shots had just been fired; (2) a second call came in from the area of Rhode Island and Chico of an armed male in dark clothing walking north towards Copper; and (3) that the caller saw a male fall to the ground. Sgt. Diane Dosal advised dispatch to send her to the call. Additional units were dispatched to assist with the call.

Officers Bludworth and Vanderlip arrived at Rhode Island and Central. The operator advised that: (1) the shooter had been on the west side of the street shooting; (2) the shooter was walking north; (3) that an additional caller at 344 Rhode Island reported that a male pulled a gun on them; and (4) the caller described the man as 5'8, with a blue bandana on his neck, and wearing a black shirt and black pants. The operator then advised that the male was now headed west on Copper from Tennessee. Sgt. Dosal asked that a unit with a "40 Mil" (40 millimeter less than lethal launcher) be sent to the scene.

Officer Chris Keeling, who had a "40 Mill" and Officer Jacob Welch arrived at Rhode Island and Central as officers Bludworth and Vanderlip were putting on their plate carriers (a lightweight ballistic vest). Meanwhile Sgt. Dosal requested air support be sent into the area but was informed that air support was not available.

Detective Geoffery Stone, who was in the area in an undercover capacity and driving an unmarked pickup truck, asked the dispatch operator for a description of the shooter which was provided. Hoping to provide "Ground

Intelligence” to the responding uniformed officers, Detective Stone drove north on Tennessee and spotted Hernandez. Detective Stone advised over the radio that Hernandez was walking west on Copper from Tennessee and that Hernandez had a gun in his right hand.

At approximately 6:08 p.m. Detective Stone called out that he lost visual of Hernandez and that he had last seen Hernandez on the southeast corner of Copper and 346 Rhode Island. Detective Stone drove his pickup truck and pulled into a driveway at 405 Rhode Island. Once there he put on his tactical vest with police markings. He then drove south on Rhode Island looking for Hernandez.

Detective Stone saw Hernandez and realized that Hernandez was headed towards the location of where Officer Bludworth and the other uniformed officers were meeting. The area between the officers and Hernandez was poorly lit. In addition there were several yards, apartment complexes, bushes, and parked cars in the area. Detective Stone was very concerned that Hernandez could conceal himself and ambush the officers when they headed towards Chico. Detective Stone drove past Hernandez and parked in the driveway of 200 Rhode Island, so he could provide the officers with updated information on Hernandez’ movement.

Officer Bludworth asked Sgt. Dosal, who was in route to Rhode Island and Central, if they could start moving up (walking towards Hernandez’ location). Sgt. Dosal authorized the officers to move up and asked dispatch to have the Albuquerque Fire Department Rescue and the Albuquerque Ambulance to stand by at Rhode Island and Central because Hernandez was shooting a weapon.

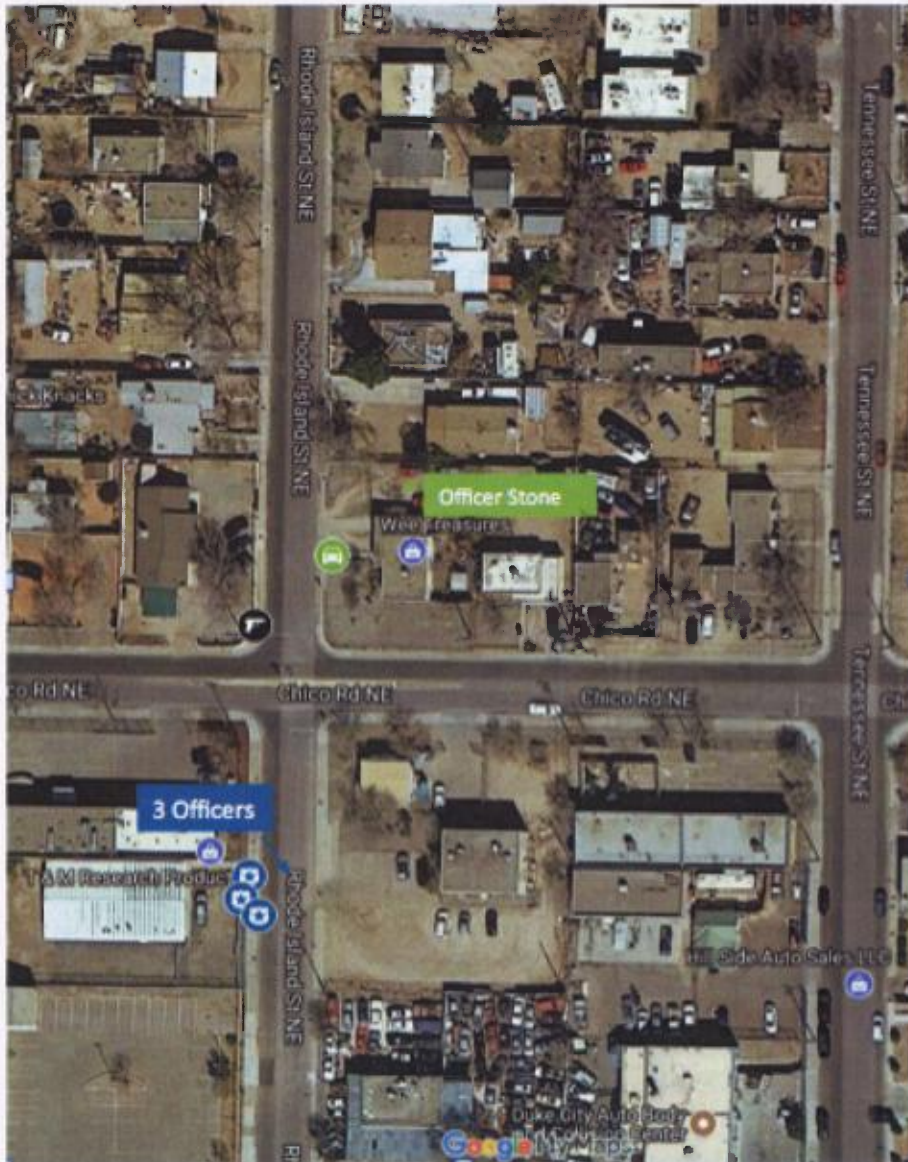
The officers walked north on the west side of Rhode Island towards Chico. Officer Bludworth walked in front of the “stack” with Officer Keeling slightly behind and to his right. Officer Vanderlip walked behind and to the left of Officer Bludworth. Officer Keeling deployed with his non lethal “40 Mill” and a holstered handgun. Officer Bludworth deployed with his long coverage rifle and a holstered handgun. Officer Vanderlip deployed with a handgun. The officers knew through Detective Stone’s communication, that Hernandez was headed south on Rhode Island towards Chico. The officers looked straight ahead for Hernandez.

As the officers reached the north end of the Central Cabana’s parking lot, they saw a figure walking towards them. However it was dark and they couldn’t make out details of the person walking towards them. Officer Bludworth briefly stopped walking, shone the light on his rifle on the subject and then continued walking forward. The officers could now see that the subject was a male wearing a

black jacket but they could not see the subject's hands. As the officer reached the entrance to 129 Rhode Island NE, Officer Bludworth commanded "Hands Up! Hands Up!" Detective Stone, who was seated in his unmarked pickup truck at 200 Rhode Island, heard the command.

Hernandez did not raise his hands. Instead he quickly pulled out a gun, extended his right arm, and began shooting at Officers Bludworth, Vanderlip, and Keeling. The three officers saw the flash from the muzzle of the gun Hernandez was firing at them. Bullets whizzed by. Officer Keeling, who was armed with a less than lethal weapon, quickly dropped off the stack to look for cover so he could retrieve his handgun and respond to Hernandez, who was "actively trying to kill us". Officers Bludworth and Vanderlip returned fire. Officer Keeling would later recall "all I could think about was going home" and "making sure everybody else that I'm with is going home".

Detective Stone saw Hernandez shooting in the direction of the officers and at first believed Hernandez shot and possibly killed the officer who had given the command. When he saw Hernandez continue to shoot and move forward, Detective Stone believed Hernandez was going to: (1) "finish the job" of killing the officer(s); and or (2) shoot Altamirano again. Detective Stone was also concerned that with the multiple houses in the area, Hernandez was going to run into a house, or get into a car and put the public in danger. For those reasons Detective Stone got out of his truck and fired at Hernandez, who was almost at the corner of Rhode Island and Chico. Detective Stone hoped to stop Hernandez from shooting at the officer[s] and or place members of the public at risk.



Map showing: (1) approximate location of Hernandez when he starts shooting at Officers Bludworth, Vanderlip, and Keeling; (2) location of the officers when they saw Hernandez and he began shooting at them; and (3) Detective Stone's location when he hears the command for Hernandez to show his hands.

Hernandez, reached the intersection of Rhode Island and Chico, and ran west on Chico. Officer Keeling got on the air advising "shots fired!" Officers Bludworth, Vanderlip, Keeling, and Detective Stone, pursued Hernandez onto Chico. Hernandez ran into the front yard of a house located at 7921 Chico NE. Once there he tried to conceal himself in a corner of the yard. Officers Bludworth, Keeling, and Vanderlip, arrived in the yard and saw Hernandez.



Location of yard where: (1) Hernandez ran to and hid; and (2) presence of Officers Officers Bludworth, Keeling, Vanderlip.

The officers commanded Hernandez to show his hands and also to crawl out from where he was hiding. After a brief period of time Hernandez crawled out and was taken into custody.



Apprehension of Hernandez.