

November 8, 2019

Manuel Gonzales III
Bernalillo County Sheriff
400 Roma NW
Albuquerque, NM 87102

Prosecution review of deputy-involved shooting of Miguel Ruiz by Deputy Paul J. Montoya on October 31, 2018

BCSO case # 18100007699, SO-724448
DA case # 2018-08331-1

Dear Sheriff Gonzales:

I have been assigned as a Special Prosecutor by Second Judicial District Attorney Raul Torrez to review the October 31, 2018, non-lethal shooting of Miguel Ruiz by Bernalillo County Sheriff's Deputy Paul J. Montoya. I have carefully reviewed all relevant evidence in the case, to include police reports, witness statements, criminalistics reports, and audio and video from the incident under review. I also visited the scene of the shooting.

I have concluded that the evidence shows that Deputy Montoya was in legitimate fear for the lives and safety of two civilians, as well as for the life and safety of himself and Deputy Valente Marquez. A jury would in all likelihood conclude that Deputy Montoya was acting in legitimate self-defense or defense of another, and would not find beyond a reasonable doubt that the shooting was *not* a legitimate use of deadly force by a law enforcement officer. This decision does not limit administrative or criminal proceedings by other agencies, or civil action by other agencies or parties.

RELEVENT FACTS

Sometime during the afternoon or evening of October 31, 2018, Miguel Ruiz met up with Myra Ochoa-- his on-again, off-again girlfriend, and mother of his two children. He also

met up with an acquaintance of Ms. Ochoa, Jeremiah Abalos. At approximately 9:20 pm the three of them went to the Dollar General store at 7615 Isleta Blvd. SW. Mr. Ruiz, Ms. Ochoa, and Mr. Abalos traveled to the Dollar General store in a dark purple GMC pickup truck that had been stolen at gunpoint earlier in the day from That Car Place on Wyoming Blvd. NE. Mr. Ruiz went into the store, pulled a revolver, and demanded money. He was wearing a dark-colored hoodie and a red-colored bandana over his face,. The store employees opened the cash drawer and gave him the cash it contained. Mr. Ruiz placed the money in a yellow Dollar General plastic bag. He demanded cigarettes. One of the store employees opened the cigarette case and gave him eight packs of Marlboro Red cigarettes. Before he left, Mr. Ruiz grabbed a package of Hostess cupcakes.

Mr. Ruiz, Ms. Ochoa and Mr. Abalos then drove across the street to the Chevron gas station at 7630 Isleta Blvd. SW. Miguel Ruiz got out of the pickup, still wearing the same clothing that he wore at the Dollar General. He went into the Chevron, pulled his gun, and demanded money. The clerk/owner of the store, Abul Azad, was reluctant to comply with Ruiz's demands. Mr. Ruiz became agitated and fired a shot into the ceiling. At that point, Mr. Azad opened the cash drawer and gave him the contents. As Ruiz was leaving, he grabbed a six-pack of Budweiser beer that was in a bag on the counter. A witness in the parking lot saw the robbery from that vantage point. The witness saw Ruiz leave the store and get into a dark-colored pickup that was parked on the side of the store with a female occupant. The truck went northbound on Isleta and then westbound on Los Padillas road.

Deputy Andrew Limon was in the area of the robberies. He observed a dark pickup matching the description of the robbery suspect's vehicle leaving the area. As Deputy Limon followed the truck, it went west on Los Padillas Rd. SW, and then northbound onto Coors Blvd. SW. Although Deputy Limon did not have his emergency lights or siren engaged at that time, it appeared that Mr. Ruiz knew he was being followed by law enforcement. The truck ran stop signs, and Deputy Limon was having a hard time keeping up. Mr. Ruiz circled back to Isleta Blvd. and headed south. As the truck reached the intersection of Isleta and I-25, Deputy Limon requested, and was granted, permission to initiate a pursuit. Mr. Ruiz headed north on I-25. He got off at the Broadway exit and headed north on Broadway. As the chase continued, speeds

reached and exceeded one-hundred miles per hour. Mr. Ruiz ran numerous stop signs. As the truck approached Rio Bravo Blvd. SW, a stop strip, or spike belt, was deployed to try to stop Mr. Ruiz. He was able to avoid the stop strip, and continued northbound.

As Deputy Limon was pursuing Mr. Ruiz' truck northbound on Broadway, he noticed that he was getting a low tire pressure warning in his police vehicle. He did not feel it was safe to proceed with the high-speed chase, and asked that someone take over for him. Deputy Valente Marquez was behind Deputy Limon as they pursued Mr. Ruiz, and took over as primary pursuing officer.

Another stop strip was deployed at Broadway and Gibson SW. Mr. Ruiz apparently hit the stop strip. Shortly thereafter Deputy Marquez noticed pieces of tire flying off of Ruiz's truck. During this part of the chase, Deputy Marquez noted that Mr. Ruiz was swerving all over the road and into oncoming lanes of traffic—still traveling at excessive speeds. Cars in oncoming lanes of traffic were having to swerve out of the way.

When Mr. Ruiz reached the intersection of Broadway and Central SW, he headed west on Central Ave. Deputy Marquez observed Ruiz nearly hit a man on a scooter, and almost collided with a vehicle at the railroad underpass. Although the front passenger tire was completely shredded, and he was driving on the rim, Ruiz continued westbound on Central Ave. in a reckless manner, endangering the numerous civilians and vehicles that were out on a busy Halloween night.

As Mr. Ruiz approached the roundabout at 8th and Central, he veered to the left (south) into the wrong way of the roundabout. At that point he collided head-on with a white Ford pickup truck that was entering the roundabout. The truck was driven by Manuel Mata, and was occupied by his three children, ages eight, eleven and thirteen. The Mata family was transported to the hospital. Although they suffered minor cuts and bruises, none of the injuries appeared to be serious. The following photo shows the crash scene looking west on Central.



After Miguel Ruiz crashed into Mr. Mata, Ruiz's truck was disabled. Ruiz, Ochoa, and Abalos got out of the truck and fled. Myra Ochoa fled west. Two deputies were able to pursue Ms. Ochoa and take her into custody just south of Central. Jeremiah Abalos was not observed running from the scene, although it appears he was still with Mr. Ruiz at the time of the crash. Abalos was not located that night, and Sheriff's detectives were unable to contact him through the course of the investigation into this incident.

After the crash, Deputy Valente Marquez, who was immediately behind Ruiz's truck, jumped out of his police vehicle and drew his gun. Miguel Ruiz had squeezed out of the damaged driver's side door, and began to flee westbound. Deputy Marquez gave commands for Ruiz to get on the ground. Mr. Ruiz ignored the commands and continued to flee. Deputy Marquez pursued him and re-holstered his gun, while continuing to give commands. Deputy Marquez was catching up to Ruiz and about to tackle him when he heard Deputy Paul Montoya say, "He's got a gun". Deputy Marquez looked down and saw a gun in Ruiz's hand. Deputy Marquez backed off and again drew his duty weapon.

At that time Mr. Ruiz put the gun to his head and said words to the effect of, "Stop chasing me or I'll shoot myself." Ruiz began walking backward away from the deputies while still holding the gun to his head. Deputy Marquez continued to give Ruiz commands, which were ignored. He noted that Ruiz was looking around as if searching for an escape route. As Ruiz reached the west side of the roundabout a car was parked on the side of the road, having pulled over when the chase was approaching the roundabout. The car was occupied by Janae Jackson and Kaleem Scott. As Ruiz reached the car, he dropped the gun to his side, and tried to open the driver' door, which was apparently locked. When the door would not open, Ruiz pointed the gun at the driver, yelling at her to get out. When that happened, Deputy Paul Montoya fired his pistol four times at Ruiz. Ruiz fell to the ground and his gun landed beyond his reach.

Deputies Marquez and Montoya moved in and took Mr. Ruiz into custody. Various deputies moved in and began to administer first aid to Mr. Ruiz. It was discovered that Ruiz was struck twice in the abdomen and twice in the legs. One of the gunshots to the abdomen exited near Ruiz's lower right back. Rescue arrived shortly thereafter, and Ruiz was transported to the hospital. He survived his injuries.

DEPUTY STATEMENTS

Paul Montoya

Deputy Paul Montoya was interviewed on November 5, 2018, by Bernalillo County Sheriff's Detective Mark Craver and A.P.D. Detective David Gonzales. Deputy Montoya was accompanied by his attorney, John D'Amato. After being given Miranda warnings, Deputy Montoya gave a statement detailing his involvement with this incident.

Deputy Montoya was heading to work about 9:20 on the evening of October 31. He was a training officer at the time, and was on the last day of training with his cadet. As is customary for the last week of training, he was in plain clothes. As he was on the way to the substation to pick up his cadet, he heard the call about the robberies and the ensuing pursuit over the radio.

Deputy Montoya was near the intersection of Isleta and Rio Bravo SW at the time. When he reached the intersection of Rio Bravo and 2nd St., it became clear that the chase would be going near his location. He reached Broadway and Rio Bravo SW, and fell in behind Deputy Limon and Deputy Marquez as they pursued Miguel Ruiz.

Deputy Limon called out that he was having tire issues, and needed to drop out. Deputy Marquez took over primary pursuit. Deputy Montoya then moved up and took over as secondary, which meant he had responsibility for calling out the chase on the radio. As they headed north on Broadway SW, Deputy Montoya noted that speeds were often seventy to eighty mph, and at times reached over one-hundred mph. As the chase proceeded, it became clear that Ruiz was losing his tire. Deputy Montoya described how Ruiz exited Broadway at Central and headed west on Central until he crashed at the roundabout at 8th and Central.

As Deputy Montoya reached the crash site, he saw a female get out of the passenger side of Ruiz's truck and take off running westbound. Deputy Montoya jumped out of his vehicle to pursue the female. He stated that he had barely left his vehicle and started through the roundabout in pursuit of the female, when in his peripheral vision he saw a rather tall, slim Hispanic male coming at him. Deputy Marquez was pursuing the male, and was giving him commands to stop and get on the ground. Deputy Montoya and the male almost collided. At that time Deputy Montoya saw a gun in the male's hand, and yelled that fact to Deputy Marquez.

Deputy Montoya drew his gun at that point. Miguel Ruiz put the gun to his head and was saying "I'll fucking shoot myself" as he backed away from the deputies. Both Deputy Marquez and Deputy Montoya gave commands to Ruiz, which he refused to follow. When Ruiz reached the car occupied by Janae Jackson and Kaleem Scott, Deputy Montoya said: "I saw him approach the vehicle at the driver door, and he moved the firearm from his own head and he points it at.... [H]e points the gun at them, with the window up and he...I almost want to say he's tapping the window. He's like pointing at them, basically trying to, to rob them of the vehicle at gun point..." Later in the interview Deputy Montoya noted that Ruiz was ordering the occupants of the car to "get out".

It was at that point that Deputy Montoya fired his duty weapon at Miguel Ruiz. In Deputy Montoya's own words: "[A]nd at that point, I knew at that point he was either going to shoot these people or he was going to shoot Deputy Marquez or I. And at that point is when I pulled the trigger." Deputy Montoya was asked about his frame of mind during the time Ruiz had the gun pointed at his own head before he reached the car he tried to carjack, and while Deputies were pursuing him.

I'm thinking like, he's probably going to shoot himself. But at the same time I'm thinking, it doesn't take but a blink of an eye for him to turn the gun towards me and Deputy Marquez. So at that time I'm scared, like, is he going to try and shoot us. And like I said, I'm laser focused..... He's like running and like, kind of like blading himself to us the whole time. And that's like at that point I'm, I'm scared as hell that he's going to shoot me or Marquez. And my firearm is on him and ready to go, okay, if it comes to that.

After Mr. Ruiz was shot, Deputy Montoya helped Deputy Marquez take Ruiz into custody. Deputy Montoya is then directed away from the scene and told to wait in his patrol vehicle with a fellow deputy while waiting to be processed by criminalistics detectives.

Valente Marquez

Deputy Valente Marquez was interviewed by detectives several hours after the shooting. After Deputy Limon was unable to continue the chase, Deputy Marquez took over as primary pursuit officer as Miguel Ruiz fled from deputies. Deputy Marquez recounted details of the chase that are set out previously in this report.

When Mr. Ruiz crashed his truck at the roundabout at Eighth and Central, Deputy Marquez was the first officer behind him, and stopped his police vehicle immediately behind Ruiz's truck. Deputy Marquez jumped out of his vehicle and pursued Mr. Ruiz, as recounted above. When the chase reached the point at which Ruiz tried to carjack Janea Jackson and Kaleem Scott, Deputy Marquez described how Ruiz initially had the gun down at his side, but then brought the gun up and pointed it in the driver's side window, while trying to open the driver's door, and yelling for the occupants to get out. Deputy Marquez described his thinking at the point Ruiz pointed the gun into the car at the driver: "I didn't know what he was going to do. I

didn't know if he was getting ready to shoot the guy—or girl. I was thinking, 'He's getting ready to carjack this person', or I didn't know if he was going to shoot 'em... I thought he was going to shoot..." At that point Deputy Marquez made the decision to shoot to try and stop Ruiz's actions. Deputy Marquez got Mr. Ruiz in sight and started pulling back on his trigger. As he pulled the slack from his trigger, he heard four shots and saw Ruiz fall to the ground. Ruiz's gun fell away from him and out of reach. Deputy Marquez did not fire his weapon after he observed this.

After Mr. Ruiz was shot, Deputy Marquez moved in and handcuffed him. He then retrieved a medical kit and began to render first aid to Ruiz until Rescue arrived. Deputy Marquez noted two gunshot wounds to Ruiz's abdomen.

Other Deputies

Deputy Tyler Mirabal was interviewed regarding his involvement. He arrived on the scene after Mr. Ruiz was shot. He ran to try and locate the female who ran from the scene. Two other deputies were already taking her into custody, so he returned to scene where Ruiz was shot. He saw a black revolver at the feet of Mr. Ruiz. He described the gun as a sub-compact black revolver with a wooden handle. He also noted that the gun was cocked back, ready to fire. There were numerous people in the area and some were coming up to the scene. He felt it was not safe to leave the gun at that location. He put on gloves and moved the gun a short distance away at the roundabout. He then stood guard over the gun. Shortly thereafter, a sergeant directed him to lock the gun in his patrol vehicle. He carefully moved the hammer forward, placed the gun in a plastic bag, and locked it in his vehicle. The gun remained there until crime scene investigators retrieved it.

Interviews were conducted with various other deputies who were involved in the armed robbery investigations, the chase after the robberies, and the final scene where Mr. Ruiz crashed his truck and was subsequently apprehended. Relevant parts of their involvement are noted in previous portions of this report. Much of the involvement of other deputies had no direct bearing on the focus of this report.

MIGUEL RUIZ STATEMENT

On November 3, 2018, Miguel Ruiz was interviewed at the University of New Mexico Hospital. Mr. Ruiz acknowledged meeting up with Myra Ochoa on October 31st and renting a room at the Rodeway Inn near Coors and I-40. He said the Myra and a male friend of hers showed up with the pickup truck. He claimed he did not know the male's name. He said that at some point later in the day the male gave him vodka and a Xanax bar. Ruiz at first claimed he did not remember anything after that until he was shot.

As the interview progressed, Mr. Ruiz acknowledged that he handled the gun, and that he had it in his possession when he was shot. He claimed he was planning to buy the gun, so that is why his fingerprints might be on it. He also admitted that he was driving when he, Myra, and Myra's male friend were fleeing from the police. He remembered that the male in the car was communicating with him about where the cops were as the chase unfolded. He admitted that, "I was driving like a maniac." He remembered hitting someone, and he remembered being shot.

Mr. Ruiz continued to deny any memory or knowledge of committing any armed robberies. He did remember, however, there being a bag with money in the truck. He remembered that he gave the bag of money to Myra to take and use for their children. He also denied any memory of trying to carjack anyone.

OTHER WITNESSES

Myra Ochoa was interviewed by detectives after she was taken into custody. She initially denied any knowledge of robberies until they were being pursued by deputies, when Miguel told he had robbed the two businesses. She later stated that she did not know that Miguel robbed the Dollar General until he came out with cash in a bag and some merchandise. She also admitted that she knew Miguel was going to commit an armed robbery at the Chevron when they drove to that business. She said that Miguel was driving the truck as they fled from deputies. She stated that Miguel and Jeremy discussed how to evade the officers as they were fleeing. Ms. Ochoa described the crash, and her attempt to flee the scene.