

June 25, 2019

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

RE: Prosecutorial review of the June 6, 2018 shooting of  
Yvette Curry by Bernalillo County Deputy Trevor Weeks.

BCSO case # 17-690032; DA case # 2017-08589-1

Dear Sheriff Gonzales:

I have been appointed as a Special Prosecutor by Raul Torrez, the Second Judicial District Attorney, to review, for potential prosecution, the shooting of Yvette Curry on June 6, 2018 by Bernalillo County Deputy Trevor Weeks. After a review of all available evidence, including police reports, witness statements, videos, and photographs, and a visit to the scene, I conclude that there is not sufficient evidence to prove, beyond a reasonable doubt, that Deputy Trevor Weeks was not acting in the reasonable fear that Yvette Curry was about to fire at other deputies. No charges will be filed: the case will be closed. My decision does not limit administrative or criminal action by other agencies, or civil actions by other parties.

#### STATEMENT OF FACTS

On June 6, 2018, Bernalillo County deputies Roman Eylicio and Steven Aldridge were scheduled to serve an order of eviction on Yvette Curry at the residence at 10 Ranier Court, in Cedar Crest. They first spoke with her ex-husband, Kent Curry, who had obtained the eviction order. He told them that he had been divorced from Yvette Curry for over three years and that she had been ordered to move out of the house so it could be sold, pursuant to the divorce decree, but she refused to leave. He said she had been addicted to painkillers and developed mental problems when she stopped taking them cold turkey, some five years earlier. She had become a doomsday prepper, armed herself with a handgun and a shotgun, and claimed that she had positioned gas cans and propane tanks around the house to use as explosives if she was attacked.

Based on this information, Eylicio and Aldridge asked two other deputies, Nathan Kmatz and Bradley Streiff to accompany them to the house. They arrived there about 9:00 a.m. and discovered that the gate to the property had been duct taped shut. As they approached the house they could hear Yvette Curry inside, although they couldn't see her, talking to them through a window. She refused to open the door and told them that she was an Interpol agent, that the house was a federal base that she would defend. She said, "if you guys want to have a shootout, we will have a shootout." They heard one muffled shot from inside the house, then Ms. Curry stepped out from the door with a handgun and fired several shots, angled over the deputies' heads. They took cover behind their cars, called for the SWAT team, set up a perimeter around the house, and waited.

During the two hours before the SWAT team arrived, Ms. Curry moved about inside the house and firing shots occasionally. She also stepped out and fired two shots at the police helicopter that was hovering overhead, fortunately, both shots missed. Ms. Curry also stepped out once and fired a flare toward a neighbor's house.

Eventually the SWAT team arrived and took up position on the hillsides around the house. Cover was sparse, consisting of bushes and small trees: Curry called out, I see you. I see you behind the trees." They also brought in a Bearcat, an armored vehicle which they drove up near the north side of the house and began calling to Ms. Curry, using the loudspeakers on the Bearcat. Ms. Curry did not respond. Not long after the announcements began, she stepped out on the deck, this time with the shotgun, took what appeared to be a shooters stance, and peered intently into the trees just below the deck where the Deputies were positioned. Deputy Trevor Weeks, believing she would shoot when she found a target, shot her once with his rifle. He said, "..I knew that the only choice that I had to save that deputy's life was to engage her with one round of my bolt gun." His shot struck her arm and the shotgun she was aiming. She immediately retreated into her home. After a short time, she called out that she was wounded and needed a cell phone, which was delivered to her by a small robot. She refused to use the phone provided and called 911 on her own cell phone.

She then was able to talk to the Crisis Negotiation Team members. She told them that she had 82 gallons of gasoline and propane scattered around the house and would blow up everybody if they tried to enter. She also said she had a razor knife and would cut them if they

tried to come in. After lengthy conversations with a crisis negotiator, she talked about surrendering and claimed she'd thrown away the shotgun, but the deputies were suspicious and sent in a robot with a camera, which showed her laying on the couch, with the shotgun nearby. She then claimed that she had been paralyzed by the shot and couldn't move, but she could be seen on the camera, moving around on the sofa, using her uninjured arm.

It was decided to send in tear gas. The first few cannisters had no effect, but when a later round of gas reached the part of the house she was in, she stood up and walked outside, without any apparent difficulty. She sat down in a chair on the deck, where she sat for a few minutes. Finally, the robot moved to her and nudged her, which annoyed or startled her and caused her to walk out to the waiting officers and surrender. She was handcuffed and searched. In her pockets were a number of 38. Caliber cartridges and shotgun shells. The ambulance took her to the hospital where she was treated for a wound to her arm. In the house, deputies found no gas cans or propane tanks rigged as explosives, but they did find a 38. Caliber handgun, a 12 gauge shotgun, and a razor knife, on the floor near the couch where she had been laying. Also found,



*Shot gun, pistol and razor knife*

scattered around the house, were large numbers of 38. caliber cartridges and shotgun shells. At the hospital, after being treated, she repeated her story about being an interpol agent defending her base, and admitted firing shots into the air with both the handgun and the shotgun to protect the base.

Ultimately she was charged with multiple counts of Aggravated Assault on a Peace Officer with a Deadly Weapon; the case is pending trial.

## LEGAL ANALYSIS

Deputy Weeks said that he shot Ms. Curry to prevent her from shooting or killing the other deputies in her range of fire, and would therefore be entitled to raise the defense of Justifiable homicide by public officer, NMSA 1978, Section 3-2-6. That statute establishes that a peace officer may justifiably use deadly physical force when he believes he or another is threatened with serious harm or deadly force. Under New Mexico law, the officer 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 unreasonable. If the jury has a reasonable doubt about any aspect of the prosecution claim that the killing was unjustified, they must acquit the officer, Uniform Jury Instruction-Criminal: 14-5173 Justifiable homicide; public officer or employee.

## CONCLUSION

Deputy Weeks said that he fired because he believed that Ms. Curry had stepped out on to the deck with the shotgun to shoot at the deputies surrounding her house, and expected her to fire the moment she spotted one of them in amongst the trees. There is no evidence to suggest, much less prove beyond a reasonable doubt, that he shot Yvette Curry for any other reason. In the absence of such evidence, a jury will almost certainly accept this element of the defense, which would lead them to the next question: was Deputy Weeks' fear unreasonable under the circumstances? Evidence establishes that Yvette Curry was under the influence of severe mental illness, was armed and angry and acting irrationally. She had threatened to "shoot it out" with the deputies, and to blow the up with gas, and shot twice at the deputies in the helicopter. At the time of the shooting, she had taken a shooter's stance on the deck, armed with the shotgun and appeared to be searching in the trees for potential targets: deputies to shoot. Under these circumstances, it is unlikely that any jury would conclude, beyond a reasonable doubt, that it would be reasonable to take no action and allow Ms. Curry to find her targets amongst the deputies surrounding her house and open fire. In the absence of sufficient evidence to prove, beyond a reasonable doubt, that the shooting was unjustified, there is no real likelihood of a successful prosecution; therefore, no charges will be filed against Deputy Weeks. The case will be closed.

Very truly yours,



Michael D. Cox

Special Prosecutor

Cc: Raul Torrez, District Attorney, Second Judicial District

Luis Robles- attorney for Deputy Trevor Weeks, Bernalillo County Sheriff's Office

Anne Keener, Attorney for Yvette Curry

Detective Mark Craver, Bernalillo County Sheriff's Office