

January 11, 2022

Manuel Gonzales III, Sheriff
Bernalillo County Sheriff's Office
400 Roma Ave. NW
Albuquerque, New Mexico 87102

Re: Prosecutorial Review of the January 31, 2021 shooting
of Ezekiel Meza by BCSO Deputies Jonathan Skroch and Lorenzo Herrera.
DA Case #2021-01801-1
BCSO Case # SO21020001282

Dear Sheriff Gonzales:

I have been appointed as a Special Prosecutor by Second Judicial District Attorney Raul Torrez to review the January 31, 2021 shooting of Ezekiel Meza by Bernalillo County Sheriff's Deputies Jonathan Skroch and Lorenzo Herrera for potential prosecution. After a review of all available evidence, including multi-agency police reports, witness interviews, body-worn camera videos, surveillance camera videos, photographs, a visit to the scene of the shooting, and a review of the evidence with Primary Agency Case Agent Detective Roger Garcia, I conclude that there is *not* sufficient evidence to prove, beyond a reasonable doubt, that Deputies Skroch and Herrera were *not* acting under a reasonable belief that they faced the threat of death or great bodily harm as a result of Mr. Meza's actions. Accordingly, criminal charges against Deputies Skroch and Herrera are not warranted and the case will be closed. This decision does not limit administrative or criminal action by other agencies, or civil actions by other parties.

RELEVANT FACTUAL BACKGROUND

On the night of January 31, 2021, at approximately 11:15 p.m., Bernalillo County Sheriff's deputies were dispatched to 1012 Atrisco Dr. S.W. in reference to a fight with weapons. According to the 911 caller, Annette Unale, an unknown male showed up at her and her boyfriend's residence, looking for a tenant of theirs who was not home at the time. The unknown male had a gun and was angry because the tenant had borrowed a tire iron and had not returned it. Ms. Unale's boyfriend, Hernando Quezada, argued with the unknown male and told him to leave. Alfonso Lujan, Ms. Unale's neighbor, heard the men arguing and decided to approach the men and assist Mr. Quezada. Mr. Lujan fought with the unknown male and tried to take the gun away. The unknown male fired two gunshots in the direction of the residence and in the direction of Mr. Lujan and Mr. Quezada and then fled the scene. Ms. Unale described the unknown male as an Hispanic man in his forties, about 5'8" tall, and wearing a plaid hoodie.

Bernalillo County Sheriff's Deputies Jonathan Skroch and Lorenzo Herrera were in the area of Atrisco Dr. SW and Rosendo Garcia Rd. SW, conducting a welfare check on an unrelated call for service, when they heard gunshots. While completing the welfare check, the deputies heard a call come over the radio that someone was firing a gun at people near a residence in the area of Atrisco Dr. and Bridge Blvd. SW. Deputies Skroch and Herrera also heard over the radio that two other deputies were dispatched in response to this call. Because Deputies Skroch and Herrera were only about a quarter mile away from the area of the 911 call, they quickly finished the welfare check and radioed the police dispatcher that they were in the area, that they had heard the gunshots, and that they were going to assist the deputies that were responding to the 911 call.

In their voluntary interviews, Deputies Skroch and Herrera stated that as they responded to the call, they were in their individual, fully-marked, patrol units and that they were wearing their

department-issued uniforms which displayed their badge of office. The deputies stated that they heard over the radio that the male suspect was walking southbound on Atrisco Dr. SW and that the suspect was wearing a blue, plaid shirt or sweater. The two deputies began driving north on Atrisco Dr., approaching San Ygnacio Rd. SW. Within a very short period of time, the deputies saw an individual walking southbound on Atrisco Dr., wearing a dark-colored hoodie with the hood covering the individual's head. The deputies could not see the individual's face, but the fact that the individual's clothing matched the suspect's clothing and the individual was within 150 to 200 yards away from where the 911 call originated, the deputies decided to engage their emergency lights and initiate a high-risk stop based on the fact that the suspect was reportedly in possession of a firearm. Deputy Skroch stated that the individual had his hands in his pockets, so as the deputy exited his patrol unit, he called out, "Sheriff's department, let me see your hands." The suspect, later identified as Ezekiel Meza, ignored the deputy's commands and immediately began to run in the opposite direction, northbound on Atrisco Dr. Deputies Skroch and Herrera gave chase and commanded Mr. Meza to stop. Mr. Meza ignored the deputies' commands and continued to run for about fifty yards and then he jumped over a fence and into the backyard of a residence located at 1130 Atrisco Dr. SW. The deputies also jumped the fence and continued chasing Mr. Meza along a dirt driveway next to the residence. Both deputies described seeing something metallic and shiny in Mr. Meza's right hand. Deputy Skroch stated that he had his gun out because he knew, based on the radio dispatch, that the suspect was in possession of a firearm. Deputy Skroch stated that, at one point, Mr. Meza started going to the ground as he extended his right arm outward. Deputy Skroch thought that Mr. Meza was possibly trying to take a positional advantage. Deputy Herrera stated that as Mr. Meza ran along the dirt driveway, he started to turn around towards the deputies who were about five to seven yards behind Mr. Meza. Both deputies

described seeing a muzzle flash and hearing a gunshot come from Mr. Meza's position. Both deputies immediately returned fire.

Deputy Herrera stated that he observed Mr. Meza slow down, saw a muzzle flash from Mr. Meza's position, and heard a gunshot. Deputy Herrera stated that he stopped running and "engaged the threat," because he feared for his own life and feared for his partner's life. He stated that Deputy Skroch was just to his left and to the rear. Deputy Herrera continued shooting until the threat was stopped.

Deputy Skroch stated that when he saw the muzzle flash and heard the gunshot, he was in immediate fear for his partner's life and for his own life. Deputy Skroch stated that he "engaged the target." Initially, Deputy Skroch believed that Mr. Meza was either high on some controlled substance or that he was wearing some type of body armor, because the deputies' gunshots were ineffective. Deputy Skroch acknowledged that he and Deputy Herrera may have just been missing the target with their gunshots. Deputy Skroch stated that he decided to slow down his shots and really focus on the target. Deputy Skroch described seeing Mr. Meza extend his arm again and point the gun in the direction of the deputies. Deputy Skroch clearly saw the gun in Mr. Meza's hand. Deputy Skroch took a couple of steps back and noticed that Deputy Herrera was without cover. Deputy Skroch decided to stop and reengage the target so his partner would not be shot. Both deputies stated that they continued firing until the deadly threat had been stopped.

Deputy Jonathan Aguilar also responded to the scene. In his voluntary interview, Deputy Aguilar stated that he responded to assist the two deputies that were on scene. Deputy Aguilar stated that as he approached the scene, he did not see the shooting, but as he exited his patrol unit, he heard the gunshots and he heard Deputies Skroch and Herrera give commands to the male suspect. As Deputy Aguilar approached, he observed the male suspect on the ground and he observed a silver revolver that was within a foot of the male suspect's hand. Deputies Aguilar, Skroch, and Herrera decided to

approach Mr. Meza, who was lying on the ground and not moving. As he approached Mr. Meza's body, Deputy Aguilar kicked the silver revolver out of Mr. Meza's reach. The deputies tried to render aid to Mr. Meza, but based on the severity of the injuries, there was not much they could do. The deputies placed Mr. Meza in a "recovery position" and waited for medical personnel to arrive. A photograph of the silver revolver that was in Mr. Meza's possession is provided below.



Photograph of silver revolver recovered from the scene of the shooting.

In the aftermath of the shooting, a multijurisdictional task force consisting of the Bernalillo County Sheriff's Office, the New Mexico State Police, and the Albuquerque Police Department conducted an exhaustive canvass of the residents of the neighborhood to determine if anyone had witnessed the shooting or the events leading up to the shooting.

Annette Unale and her boyfriend, Hernando Quezada, the residents of 1012 Atrisco Dr. SW, where the initial 911 call originated, provided statements. Ms. Unale stated that she lives with Mr. Quezada, and that they rent a room to Fernando. Ms. Unale stated that on January 30, 2021, the day before the 911 call, an unknown male, later identified as Ezekiel Meza, showed up at her residence looking for Fernando. Fernando had apparently borrowed a tire-iron from Mr. Meza, but had not returned the item. Fernando was not at home when Mr. Meza came calling. Mr. Meza showed up at Ms. Unale's residence again on the afternoon of January 31, 2021. Again, Mr. Meza was looking for Fernando, and again, Fernando was not at home. Mr. Meza showed up at the residence a third time in the late evening of January 31, 2021. Mr. Meza stated that he was going to kill Fernando and tried to enter the property through the front gate, but the gate was locked. Mr. Quezada heard Ms. Unale and Mr. Meza arguing, so Mr. Quezada went outside to speak to Mr. Meza. During Mr. Quezada's and Mr. Meza's confrontation, Mr. Meza pointed a gun at Mr. Quezada and stated that he was going to shoot everybody. Mr. Quezada told Ms. Unale to call the police. As Ms. Unale was about to call the police, she saw the neighbor, Mr. Lujan, arrive at the residence and run toward and grab Mr. Meza. Mr. Lujan struggled with Mr. Meza and tried to take the gun away. Ms. Unale heard a gunshot. She thought that Mr. Meza was going to shoot her boyfriend or Mr. Lujan. After firing the gunshot, Mr. Meza struck Mr. Lujan in the face with the gun, causing Mr. Lujan's nose to bleed. Mr. Quezada stated that he was scared and that he believed that he was going to be shot by Mr. Meza or that Mr. Meza was going to shoot Mr. Lujan. After firing the gun, however, Mr. Meza began walking away, south on Atrisco Dr. SW. Mr. Quezada described Mr. Meza as an Hispanic man wearing a hoodie with black stripes and described Mr. Meza's gun as a short-barreled revolver, black or chrome in color.

Sara and Paul Ray, the owners of the residence where the shooting took place, were also interviewed. Sara Ray stated that between 11:20 p.m. and 11:30 p.m. on January 31, 2021, she and her

husband were awakened by someone yelling "Put the gun down" and the sound of gunshots. She stated that she heard eight to 12 gunshots. The Rays informed police that their home has a surveillance system and that they reviewed the security camera footage of what occurred on their property. Mrs. Ray stated that the video showed a man being chased by deputies, that she saw a muzzle flash from the location of the offender, that the deputies were "ducking and dodging" to avoid being shot, and that the deputies returned fire. Ms. Ray stated that the offender fired his gun first. Mr. Ray stated that he watched his surveillance video and observed a man running and simultaneously reaching toward his waistband. Mr. Ray stated that the offender and the police shot at each other. Jocelyn Griego, the Rays' daughter also heard yelling outside the house between 11:20 p.m. and 11:30 p.m. She then heard approximately 20 gunshots. Ms. Griego stated that she watched the surveillance video with her parents and that she observed the male suspect fire one or two shots at the police.

A review of Deputy Skroch's and Deputy Herrera's body-worn cameras and the surveillance video from the residence where the shooting occurred, and a visit to the scene of the shooting, corroborate the deputies' voluntary statements. The video from the body-worn cameras show deputies driving toward the area in which the offender who fired a gun at the residents of 1012 Atrisco Dr. S.W. was reported to have been walking. The deputies stop and exit their vehicles, apparently spotting an individual who matches the description of the offender. Although it is extremely dark, the deputies can be heard identifying themselves as sheriff's deputies and giving commands to an individual to show his hands. Immediately, a chase ensues and the videos show the deputies running after someone in the dark. The surveillance video from 1130 Atrisco Dr. SW shows an individual in a blue, plaid jacket running alongside a garage-like structure. Two deputies are shown running after the individual in the plaid jacket. Although there is no audio in the surveillance video, a muzzle flash can clearly be seen coming from the position of the individual in the plaid jacket. The deputies stop and return fire while

simultaneously backing up and looking for cover. The deputies discharge their weapons only after being fired upon. The individual in the plaid jacket falls to the ground. Within seconds of the shooting, Deputy Aguilar arrives on the scene. Deputies Skroch, Herrera, and Aguilar approach the individual in the plaid jacket. Deputy Aguilar can be seen kicking the gun away from the individual on the ground. The deputies can then be seen tending to the body of the individual on the ground. An examination of the scene of the shooting revealed multiple bullet impacts. There were numerous impacts on a fence on the west side of the property, the direction the deputies were firing their weapons. There was one bullet impact on the house at 1130 Atrisco Dr., in the direction in which Mr. Meza was firing his weapon.

ADDITIONAL CONSIDERATIONS

An autopsy was conducted on the body of Ezekiel Meza. The autopsy revealed that Mr. Meza died of multiple gunshot wounds, including a gunshot wound to the head and neck, a gunshot wound on the left arm, a gunshot wound to the left armpit, a gunshot wound to the left chest, a gunshot wound to the torso, a gunshot wound to the left side of the back, and a gunshot wound to the left thigh. The office of the medical examiner determined that some of the wounds could have represented a single gunshot wound track. A screening of Mr. Meza's blood and urine indicated the presence of alcohol and multiple drugs. Mr. Meza had a blood alcohol content of .134 grams of alcohol per 100 milliliters of blood. The blood screen also indicated the presence of cocaine (25 ng/mL), Benzoylcegonine (850 ng/ mL), an inactive metabolite and chemical breakdown product of cocaine, Methadone (950 ng/mL), a Schedule II opioid analgesic used in the treatment of opiate addiction, and , multiple cannabinoids, the active constituents of marijuana.

Additionally, Mr. Meza's criminal history includes numerous drug charges, including two felony convictions for trafficking controlled substances, numerous convictions for possession of controlled

substances, a conviction for unlawful possession of a firearm by a felon, a conviction for assault against a household member, and a conviction for battery against a household member.

LEGAL ANALYSIS

The question presented in this case is whether Deputies Jonathan Skroch and Lorenzo Herrera, at the moment they fired their weapons, were acting under a reasonable belief that Ezekiel Meza presented a threat of death or serious harm? Under New Mexico law, a peace officer while in the performance of his or her lawful duties may justifiably use deadly force when the officer reasonably believes that the officer or another is threatened with serious harm or deadly force. § 30-2-6 NMSA 1978. An officer who uses deadly force need not prove that a suspect actually posed a threat of death or great bodily harm to another; he need only offer evidence that the suspect's actions raise the possibility of death or great bodily harm. 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 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 of the incident with the understanding that officers often must make split-second decisions about the amount of force that is necessary in a particular situation under circumstances that are tense, uncertain, and rapidly evolving. It requires only 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. If the jury has a reasonable doubt as to whether the shooting was justifiable, the jury must find the officer not guilty. Uniform Jury Instruction-Criminal 14-5173 NMRA.

Evidence shows that on January 31, 2021, at approximately 11:30 p.m., Bernalillo County Sheriff's Deputies Jonathan Skroch and Lorenzo Herrera were acting in the performance of their lawful duties when they proceeded to assist other deputies who were dispatched to 1012 Atrisco Dr. SW in