



July 18, 2024

Sheriff John Allen  
Bernalillo County Sheriff's Office  
400 Roma Ave NW  
Albuquerque, NM 87102

Sent via Electronic Mail: [jallen@bernco.gov](mailto:jallen@bernco.gov)

**RE: Prosecutorial review of February 17, 2024, traffic accident involving Chief of Police Harold Medina, Albuquerque Police Department**

Dear Sheriff Allen:

The New Mexico Department of Justice (NMDOJ) has conducted a full review of the February 17, 2024, traffic accident caused by Albuquerque Police Department Chief Harold Medina, which injured Mr. Todd Perchert, for potential prosecution. Our office undertook a comprehensive review of all available evidence in order to determine whether to charge Chief Medina with careless driving. The traffic offense of careless driving is a Motor Vehicle Code misdemeanor that requires proof of operating a motor vehicle in a careless, inattentive or imprudent manner. Based on our review of all available evidence, we conclude that, although Chief Medina's actions might satisfy the elements of careless driving, a prosecution would not be warranted because of substantial evidence showing that Chief Medina's actions were the result of duress. We decline prosecution and consider this matter closed.

On February 17, 2024, APD responded to an accident scene involving Chief Medina. Detectives and officers on scene conducted an investigation which included taking witness statements, collecting evidence and preparing a uniform crash report. Detective Jackson then prepared a report, and this office undertook a review of the incident to determine whether criminal charges should be filed.

With officer-involved criminal investigations, it is considered to be a best practice to enlist the assistance of an outside law enforcement agency. Based on concerns about the potential conflict of a law enforcement agency conducting a criminal investigation involving its chief of police, NMDOJ asked your office to conduct an independent investigation. Our analysis relies in part on two reports prepared by your office.

NMDOJ reviewed materials that included witness statements, surveillance videos, diagrams, photographs, and physical evidence. These materials show that on February 17, 2024, Chief Medina was driving his F150 Ford pickup with his wife as a passenger. Around 9:19 a.m., Chief Medina was headed southbound on Alvarado Drive and stopped at the red light at Central Avenue. While the Chief's vehicle was stopped, two males near the intersection became engaged in an altercation on the sidewalk. One of the males pulled out a handgun and fired near Chief Medina's vehicle, where a shell casing was later found. According to Chief Medina and his wife, they believed the shot to have been fired in their direction. Chief Medina said he believed he and his wife were in danger. In response to the gunfire, Chief Medina accelerated through the red light and struck Mr. Perchert's vehicle, which was traveling westbound on Central through the green light at Alvarado. The crash damaged both vehicles and seriously injured Mr. Perchert.

There is no dispute that Chief Medina ran a red light and caused the accident that resulted in Mr. Perchert's injuries. Chief Medina's driving in this manner meets the elements for careless driving because he operated his vehicle "in a careless, inattentive or imprudent manner, without due regard" for traffic. Running a red light and colliding with another vehicle has been upheld as conduct "prohibited by the [careless driving] statute." *State v. Baldonado*, 1978-NMCA-111. Further, as reflected in a report prepared by Sergeant Magee in your office, law enforcement officers responding to an emergency must slow down as necessary for safe operation through a red light.

However, it is undisputed that a shot was fired in close proximity to the intersection and that Chief Medina believed he and his wife were in immediate danger of death or great bodily harm. For these reasons, Chief Medina's conduct satisfies the requirements for the defense of duress. UJI 14-5130 NMRA reads as follows:

An issue in this case is whether the defendant was forced to [run a red light] under threats or out of necessity. The burden is on the state to prove beyond a reasonable doubt that the defendant did not act under reasonable fear. A defendant acted under a reasonable fear when: 1. The defendant feared immediate great bodily harm to himself or another person if he did not commit the crime; 2. The defendant's illegal conduct was directly caused by the threat of harm; and 3. A reasonable person would have acted in the same way under the circumstances.

Under the law in New Mexico, notwithstanding special requirements for responding to emergencies, law enforcement officers are entitled to act out of duress to the same extent as other individuals. The facts from your independent investigation strongly support the conclusion that Chief Medina acted under duress. Therefore, we have determined that no criminal charges can be sustained under these circumstances.

As such, the New Mexico Department of Justice considers this matter closed. However, our review is limited to potential criminal liability and does not address any potential disciplinary and/or civil liability issues.

Sincerely,

A handwritten signature in blue ink that reads "Greer E. Staley". The signature is written in a cursive style with a large, stylized initial "G".

Greer E. Staley  
Deputy Attorney General  
Criminal Affairs