

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

December 30, 2022

Chief Harold Medina
Albuquerque Police Department
400 Roma NW
Albuquerque, NM 87102
hmedina@cabq.gov

Via Email

Dear Chief Medina,

On July 12, 2022, you asked my office to review the Albuquerque Police Department's handling of the events that led to the tragic death of Brett Rosenau on July 6, 2022. Specifically you asked that our office review the Department's use of a non-lethal intervention device in its attempt to apprehend suspect Qiaunt Kelley. This decision may have caused the home in which they were barricaded to catch fire, ultimately resulting in Rosenau's death.

As stated in your letter, a multiagency law enforcement task force was set up to review these actions for criminality. Our office has completed its review, and our conclusion is that the Department appears to have had the opportunity to use non-lethal force or alternative intervention measures prior to Kelley's barricading himself in the home where the Department subsequently used the device.

Pursuant to your request, our office reviewed all of the facts and circumstances surrounding the event. We also consulted with law enforcement experts, as well as use of force experts in forming our conclusion. In our review of the matter, we noted that prior to Kelley barricading himself in the residence, Kelley exited the residence into its backyard. There were apparently several Department officials, as well as Bernalillo County Sheriff's Office deputies, on the backside of the residence at that time. It is unclear from the incident reports why the Department did not attempt to apprehend Kelley then, but there does appear to have been communications with the sheriff's deputies and Department officials that indicate an intervention was possible at that time. Had the Department used non-lethal force then, for instance by deploying a canine officer, which appears to have been an option, then Kelley would not have been able to re-enter the residence. Unfortunately, that did not occur, which put the Department in the situation it ultimately found itself in.

While the subsequent use of the device itself may be compliant with the Department's obligations under its Court Approved Settlement Agreement with the United States Department of Justice, had the Department used alternative measures to apprehend Kelley prior to his barricading himself, then the need to deploy the device would have been obviated. Understanding that there are myriad factors that go into decision-making in a fast-paced, high-risk situation such as the one here, this conclusion is not intended to substitute the judgment of our office in hindsight. However, there does appear to have been an opportunity to avoid the need to use the force that occurred here; and so I encourage you to work with your agency, the Department of Justice, and both state and local stakeholders to ensure that the Department has all of the necessary processes, training, and resources needed in order to protect the community and fulfill your obligations under the Agreement.

If you have any questions about our review, please do not hesitate to contact our office.

Respectfully,



Hector Balderas