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April 16, 2025

The Honorable Pamela Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Re: Referral for Civil Rights Investigation – Prosecution of Officer Brad Lunsford

Hon. Attorney General Pamela Bondi,

Greetings! I represent the National Police Association, herein (“NPA”), a 501(c)(3) not-for-profit organization whose mission includes the support of law enforcement officers nationwide through education, advocacy, and other mediums.¹ On behalf of the NPA, I write to you today regarding a deeply concerning matter that based upon the information, understanding and further beliefs of the NPA, amounts to a grave miscarriage of justice unfolding in New Mexico. As the United States Department of Justice (“USDOJ”), is reviewing cases across the nation for abuses of the criminal justice process, the NPA respectfully requests that the USDOJ consider, and if appropriate, institute a formal investigation into the actions of New Mexico Attorney General, Raúl Torrez’s, herein (“NMAG Torrez”), in carrying out the prosecution of former Las Cruces Police Officer, Brad Lunsford, herein (“Officer Lunsford”).

Being informed by those facts and matters available, supplemented by further information and belief, NMAG Torrez’s prosecution of Officer Lunsford constitutes a blatant violation of Officer Lunsford’s protections under the United States Constitution, specifically including those protections provided for under the Fifth and Fourteenth Amendment. The underlying facts of this infringement stem from NMAG Torrez’s insistence upon prosecuting an officer who not only acted in defense of himself and his partner against an armed threat, but was also determined to have acted in accordance with approved department policies concerning the use of deadly force.²

Now facing an immediate deprivation of liberty, Officer Lunsford appears to be a victim of an egregiously unfair application of the law without sufficient due process protections, including the foundational principles established in both the substantive and procedural due process requirements of the Fifth Amendment. The NPA believes so strongly that NMAG Torrez’s conduct in connection herewith requires the extraordinary request being made herein – the investigation and potential intervention of the USDOJ.

¹ <https://nationalpolice.org/>

² See Las Cruces Police Use of Force Review, Case No.: 2022-077621 (CONFIDENTIAL)

BACKGROUND & FACTS

On August 2, 2022, Officer Lunsford found himself in a life-or-death struggle at a Las Cruces gas station that would ultimately change the trajectory of multiples lives involved that late afternoon. Officer Lunsford was dispatched to address a 9-1-1 call concerning a theft, where the suspect – later identified as Mr. Presley Eze, herein (“Mr. Eze”) – had reportedly stolen beer from the connected store to the gas station. It was during this interaction with Mr. Eze that Officer Lunsford would be forced into a situation that every officer hopes to never be a part of – a sudden and immediate turn of events that were both deadly and unnecessary.

After a series of peculiar and suspicious actions on the part of Mr. Eze and the other individual present with Mr. Eze,³ Officer Lunsford in consultation with his partner, Officer Arbogast, determined that it was appropriate to detain Mr. Eze. It is at this point that when Officer Lunsford and his partner attempted to detain Mr. Eze, they were met with a violent level of resistance from Mr. Eze. More specifically, Mr. Eze in a matter of moments knocked Officer Lunsford’s partner – Officer Arbogast – to the ground, which later was determined to have caused a concussion, then while attempting to take possession of Officer Arbogast’s firearm, was ultimately able to take possession of Officer Arbogast’s department issued TASER. Mr. Eze’s conduct thereby escalated the immediate level of danger faced by Officer Lunsford and his partner to one involving a potentially deadly weapon, thus constituting additional aggravating circumstances of Mr. Eze’s resistance that required immediate recognition and reaction by Officer Lunsford.

Under these circumstances and relying upon the well-established trainings, policies, and procedures of the Las Cruces Police Department, Officer Lunsford made the fateful decision to draw his service pistol. Officer Lunsford discharged a single fatal round into Mr. Eze, thereby neutralizing the immediate and real threat posed by Mr. Eze. Officer Lunsford’s actions, while resulting in the tragic demise of Mr. Eze, also resulted in the preservation of life and prevented further harm to Officer Lunsford, his partner, and other members of the public present for this series of events.

When reviewing the statistics and well-researched authorities on these kinds of events, one can begin to truly appreciate the danger faced by Officer Lunsford, the dark potential of what *could* have also occurred had Officer Lunsford not acted, and importantly here why the law and those prosecutors who are faithful stewards of the law have chosen not to prosecute the law enforcement officer.⁴

³ These actions are highlighted in the Las Cruces Use of Force Review and include behaviors such as attempting to flee or escape, failing to accurately identify, providing false information during an investigation, and other generalized erratic behaviors.

⁴ By way of example and as referenced in the Use of Force Review, one study found that out of the fifty-three (53) incidents similar to the one presented here, prosecutors declined prosecution in forty-two (42) of them. Furthermore, as of the date of the study’s publication, there had only been a single instance in which there was a criminal conviction of an officer, which came under the federal civil rights statutes. See *Kroll, M.W., Ross, D.L., Brave, M.A. et al. Police shootings after electrical weapon seizure: homicide or suicide-by-cop. Int J Legal Med* **135**, 2547–2554 (2021). <https://doi.org/10.1007/s00414-021-02648-2>

NMAG TORREZ'S EFFORTS

It is with this background and context that confoundingly Officer Lunsford, who again was determined to have ultimately acted in conformity with well-established police policies and procedures, was indicted by a grand jury through the proud efforts of NMAG Torrez under the charge of voluntary manslaughter. In a statement issued by NMAG Torrez, he suggested the following:

Our office is committed to upholding the principles of justice and accountability. It is our duty to ensure that law enforcement officers are held to the highest standards, that their actions are transparently examined, and that any misconduct is addressed with the utmost seriousness. This is not only an essential step in maintaining public trust but also a fundamental part of promoting safety, fairness, and the well-being of our community. We will continue to work tirelessly to foster a society where the rule of law is applied equally and without prejudice.”⁵

Removing the veil of these expressed sentiments, however, is a reality that belies the expression made that are truly pervaded by hypocrisy. In conformity with the foundational parable – ‘actions speak louder than words’ – NMAG Torrez’s actions do indeed suggest that the pursuit of Officer Lunsford through the grand jury process satisfied a political ideology masquerading behind the principles of justice. Stated more plainly, the circumstances surrounding this matter suggest that NMAG Torrez’s pursuit of a grand jury indictment of Officer Lunsford was not a matter of “committing to the principles of justice,” but was indeed both an “essential step” and a “foundational part” of furthering a grossly misguided notion of “safety, fairness, and the well-being of [a] community” through the politically motivated pursuit of diminishing the protections afforded to law enforcement officers.

Indeed, this matter was trumpeted as part of a broader narrative about “systematic brutality” in policing, explicitly tying Officer Lunsford’s prosecution to national controversies rather than the merits of his own actions. In the wake of high-profile incidents from other states, it appears that NMAG Torrez chose Officer Lunsford as a convenient scapegoat – a means to make a political statement that “no one is above the law.” Ironically, in doing so, based upon the circumstances of this case alone, it appears as though NMAG Torrez has placed himself above the law’s constraints and relegated Officer Lunsford beneath the law’s protections. Rhetorically, is Officer Lunsford no less deserving of having his civil rights protected by the laws he was sworn to protect and uphold? Does Officer Lunsford no longer deserve due process of law as a sworn police officer?

THE FOUNDATIONAL PROTECTIONS AFFORDED BY LAW MUST PREVAIL

Madam Attorney General, such a turn of events is not only disheartening – it is unconstitutional. I need not recite the protections afforded to all Americans under the Fifth and Fourteenth Amendments to the United States Constitution to such a learned attorney and dedicated protector of our freedoms. I must, however, insist upon reaffirming that these Constitutional protections are among the most sacred and unique protections that serve as part of the bedrock to our great republic.

As you know, sacred to our country’s existence are well-established and fundamental notions of fairness and justice. What is happening to Officer Lunsford is neither fair nor just. As we are sure you do as well,

⁵ See, <https://nm DOJ.gov/press-release/attorney-general-raul-torrez-announces-charges-against-las-cruces-police-officer/> (last accessed March 26, 2025).

the NPA recognizes that the appearance of due process is not the same as *actually* affording all Americans both substantive and procedural due process under the guarantees of our federal constitution and respective state constitutions. There is no question that prosecutors are granted broad latitude in determining what pursuits to endeavor upon and which ones they choose to decline. However, the law does reveal a distinct line between the prohibited “selective prosecution” and the permitted “prosecutorial discretion.”

It is upon the prohibited issue of “selective prosecution” that this matter raises additional concerns under the Equal Protection Clauses. In addition to substantive and procedural due process, all Americans must be able to rely upon equal protection and application of the laws existing in this country. The NPA believes that law enforcement officers enjoy these protections and expectations as well and should not be subject to arbitrary classification and pursuit.

While there is a strong presumption against a finding of selective prosecution, it is nevertheless true that selective prosecution based on an impermissible standards or arbitrary classifications – for example, targeting someone simply because of their role as a law enforcement officer in a politically charged case – is emphatically forbidden by the Equal Protection Clauses. *See gen., U.S. v. Armstrong*, 517 U.S. 456, 116 S.Ct. 1480 (1996) (standing for the proposition that prosecuting a law enforcement officer solely on the basis that the individual is a law enforcement officer would likely violate the Equal Protection Clause of the United States Constitution. The Equal Protection Clause prohibits selective prosecution based on arbitrary classifications such as race, religion, or other unjustifiable standards.). By way of comparable example, just as it would be unlawful to target an individual American on account of that individual’s race or religion, it must be unlawful to target Officer Lunsford because of an anti-police animus or a desire to appease the loudest voices of the day.

No American should be made a victim of the law’s ire due to prejudice or politics, and that includes the brave men and women of law enforcement. To do so otherwise is to create a two-tiered system of justice – one for the politically favored, and one for the politically inconvenient. Such a system is an anathema to our Constitution.

A REQUEST FOR ASSISTANCE & PROTECTION

Unfortunately, it appears as though NMAG Torrez believes there are different standards for disfavored groups or individuals whereby the law may be skewed or pursued differently in such circumstances. After all, it was NMAG Torrez who determined that the laws of self-defense did not apply to law enforcement when NMAG Torrez decided to pursue an indictment of Officer Lunsford. It mattered not what two independent reviews determined were an appropriate and just use of force under the unbiased facts of the event. Respectfully, there exists an inescapable conclusion that Officer Lunsford is being treated differently because of who he is – a police officer dedicated to protecting the public – and what this case signifies to certain political interests, rather than what he did or the justice of the matter.

The NPA suggests that should the USDOJ take a closer look at the facts, circumstances, and issues surrounding NMAG Torrez’s actions in connection with Officer Lunsford’s service to his community, you may find that NMAG Torrez has crossed the line into wielding the law as a tool of punishment and intimidation, rather than as an instrument of justice. This suspicion and concern are further informed by the environment for which this prosecution has occurred.

Madam Attorney General, as you are aware we live in an era where our law enforcement officers – the very people who stand as sentinels between civilized society and chaos – are too often vilified and scapegoated for society’s ills. There are powerful movements afoot that seize upon any incident involving police use of force to paint all officers as villains. From the outset, it appears NMAG Torrez was determined to cast Officer Lunsford as a symbol of “police brutality,” despite the statistical reality that the events of this tragedy were both a rare and equally grave situation of self-defense in the line of duty. The rhetoric surrounding the case, invoking the tragedy of George Floyd and “systematic” police misconduct, reveals a prosecution more concerned with sending a political message than shepherding justice and a relentless pursuit of the truth.

When did the aspirations of justice include political messaging efforts? Is the pursuit of justice no longer blind? Have we strayed so far from our system of justice that the prohibitions of political influence have now seeped so deeply as to perpetually be rooted?

This situation harkens back to the very abuses our Founding Fathers warned against post-Revolutionary War. When King George’s ministers misused courts to punish colonial patriots, future-Americans rose up and said, “no more!” – vowing that in this new nation, no free man would be subjected to arbitrary prosecution. That promise was later enshrined into the guarantees and protections of the Due Process and Equal Protection Clauses under both the Fifth and Fourteenth Amendments. These devoted promises have been defended by the brave, paid for in the greatest form of self-sacrifice, and done so through historical recitals of our country’s formation and continued development. We are a government of laws, not of men.

From the NPA’s perspective, what is at stake or at the very least called into focus here is more than one man’s fate (important as that is). Rather, it is the perspective that Officer Lunsford’s treatment by those charged with the blind and unbiased pursuit of justice, have selectively pursued it through means that have as its end to fit a political motivation and/or outcome. The result is a chilling wave that ultimately crashes over law enforcement agents throughout America.

If unchecked, it will signal that any officer, anywhere, could face prison for making the split-second decision to survive a violent encounter. The next time an officer faces an armed suspect, will he hesitate, fearing that his own government might turn on him if he defends himself? Such hesitation can be deadly – not only for the officer, but for innocent bystanders and the community at large.

The “Thin Blue Line” that separates order from anarchy depends on officers knowing that their good-faith actions in the line of duty will be given the benefit of the doubt, as opposed to being second-guessed with the benefit of hindsight and political theater. If officers come to believe that they will be abandoned and scapegoated, the consequences are not only foreseeable, but inevitable.

For all these reasons, the NPA reiterates its request and urges the USDOJ to consider this request as a request to review, and if necessary, to investigate and act. The NPA agrees with you as the chief law enforcement officer of the United States and as the ultimate guardian and enforcer of the United States Constitution that those who seek to do harm to our law enforcement officers should be met with the proverbial shield and sword of the USDOJ. The scales of justice must remain balanced and the pursuit of justice be blind to its offenders.

No officer should fear that he or she will be offered up as a political sacrifice or in furtherance of political messaging when he or she has committed no wrong. Likewise, no prosecutor should believe he can target someone with impunity for the sake of burnishing his own credentials or appeasing a crowd. Madam Attorney General, your leadership and willingness to speak out for what is right in this case will send a resounding message that the United States of America remains a nation of laws, where the law is a shield for the innocent, not a sword for the powerful. It will reassure the public that the United States Department of Justice stands for true justice, not transient politics.

Once again, on behalf of the National Police Association, I thank you for your consideration of the NPA's request and this letter. Should you have any questions or would like further information or input, we will not hesitate to respond to any such request.

Respectfully and Sincerely Submitted,



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