

Albuquerque, New Mexico police murder case moves towards trial

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It has been nearly two years since the March 16, 2014 fatal shooting of homeless camper James Boyd by Albuquerque Police Department (APD) officers Keith Sandy and Dominique Perez. If their trial for second-degree murder and other charges, scheduled for fall of this year at the earliest, is not subject to any further delays, it will be held two and a half years after the killing took place.

In the meantime, there have been some developments. Last week, a Bernalillo County District Court judge ruled against a defense motion for change of venue.

The defense attorneys filed the motion before Judge Alisa Hadfield in December. The attorneys, Sam Bregman and Luis Robles, claimed that the extensive media coverage of the shooting, and of the protests that followed, make it impossible for Sandy and Perez to get a fair trial in Bernalillo County.

Perez and Sandy's attorneys argued that, in contrast to the many media reports aired or published on the case in the region served by Albuquerque news outlets, the southern city of Las Cruces, which gets most of its news from El Paso, Texas, received only a "handful." They also opposed special prosecutor Randi McGinn's suggestion that the trial be moved to Santa Fe, 55 miles north, saying that it was part of the Albuquerque media region.

Unmentioned by Bregman and Robles is the composition of Las Cruces. According to Wikipedia, "The city's major employer is the federal government on nearby White Sands Test Facility and White Sands Missile Range." Undoubtedly, they presume that there will be more pro-military, and by extension, pro-police, sentiments in Las Cruces.

McGinn argued that the Albuquerque region is populous and diverse enough to provide a fair jury pool, and that people can read the news and remain unbiased. She also mentioned that six trials of people shooting and killing police officers had been held in Albuquerque despite media coverage.

On January 29, Judge Hadfield ruled that the defense failed to demonstrate that pretrial publicity had made it

impossible for their clients to get a fair trial in Albuquerque. However, she told both sides to create a questionnaire next month for the prospective jury pool, leaving the door open for renewal of the change-of-venue motion if they can show that the survey validates their claim. Such a move, to a city 200 miles south of Albuquerque, apart from incurring additional expenses and inconvenience, would likely lead to further delays.

During the same week, special prosecutor McGinn filed two motions. The judge ruled in favor of her motion to compel William J. Lewinski, a professional "expert witness" who uses pseudo-psychological explanations in court testimony to justify police misconduct, to hand over his financial records to the prosecution. Lewinski's fee for servicing the police is \$1,000 an hour.

McGinn also filed a motion to seal motions regarding the histories of James Boyd and of the officers. That motion is still under consideration.

Meanwhile, the city and federal governments have engaged in a number of cosmetic measures, which have neither stopped officer-involved shootings nor done anything to remedy underlying conditions, as shown by a recap of events preceding and following the Boyd shooting.

In 2013, Chief of Police Ray Schultz announced his retirement amid a sharp rise in police violence during his tenure, some of which brought on lawsuits against the APD and the city. The year before, the US Department of Justice (DOJ) had begun an investigation into APD violence. Schultz's cozy relationship with Taser International further undermined his credibility.

He was replaced by Gorden Eden, who told reporters shortly after the James Boyd killing that video cam recordings justified the officers' actions. However, the appearance, and viral spread, of a YouTube video of the incident clearly belied Eden's claims and he and the city's mayor were forced to backtrack.

Meanwhile, outraged citizens, including relatives of victims, held a number of protests, some of which were broken up by SWAT team officers with tear gas and batons.

Undercover police have spied on demonstrators, and there is suspicion that provocateurs attended protests as well.

In April 2014, the DOJ released its report, which found that “APD engages in a pattern or practice of use of excessive force, including deadly force, in violation of the Fourth Amendment” and that “structural and systemic deficiencies—including insufficient oversight, inadequate training, and ineffective policies—contribute to the use of unreasonable force.” From a study of the 20 fatal shootings from 2009 to 2012, the report “concluded that a majority of these shootings were unconstitutional.”

Shortly after the report, three members of the six-member “independent” Police Oversight Commission (POC), using terms like “stymied” and “rubber stamp,” resigned, with one ex-member saying, “I cannot continue to pretend or deceive the members of our community into believing that our city has any real civilian oversight.” The city dissolved the POC and set up a Police Oversight Board and a nine-member Civilian Police Oversight Agency (CPOA), which held its first meeting in March 2015. Although the CPOA can now subpoena police officers, its function is still giving feedback and making recommendations, which APD does not have to act upon.

In May 2014, the DOJ held three highly controlled public hearings in Albuquerque community centers. Prosecution of any police officers was off the table from the start. Instead, DOJ reps formed “focus groups” with a few crowd members to discuss formulation of a “consent decree,” an agreement between the feds and police departments that has proven largely toothless in other cities in the US.

In July, the APD purchased 350 AR-15 assault rifles—the same type that killed James Boyd—at a cost of \$1,000 each, with plans to purchase more in the future. In August it announced its intention to purchase two military-grade armored vehicles at a cost of \$600,000.

The city followed up on the DOJ damage control gambits with a series of ten community meetings stretching from October 2014 to February 2015. A contingent of APD officers was always present at these meetings, and again, focus groups were restricted to a preselected topic, with an emphasis on “empathy, respect and greater understanding” between citizens and the APD.

November saw the reaching of a DOJ/APD “settlement agreement” that excluded any prosecutions and retained most of the “old guard” command structure. In fact, APD hired as deputy chief a man who, during his 2000-2010 stint as the SWAT team captain, had hired Keith Sandy and another officer who has shot three unarmed people. A local attorney who has been involved in officer misconduct cases said, “To me it just looks like more of the same.”

For the first time in its history, the Bernalillo County

District Attorney’s Office (BCDA) filed first-degree murder charges against Sandy and Perez on January 12, 2015. Under charges of conflict of interest, and allegations of bribery and witness tampering in a case involving her son, District Attorney Kari Brandenburg left the case, appointing private attorney Randi McGinn as a special prosecutor.

McGinn changed the charge to second-degree murder, under the view that it would be easier to convict the officers. However, the judge has the option of suspending the sentence in such a case, and the jury could also have the option of convicting the cops on lesser charges of aggravated battery and aggravated assault.

In January 2016, a former APD records custodian brought a lawsuit against the city and APD for his firing because he complained about their attempts to obstruct public records requests regarding high-profile cases, among them the James Boyd case.

As the WSWs has reported time and again, this is a nationwide trend. In Texas, New York, Illinois and across the US—and Canada as well—a clear pattern can be seen.

Just since the beginning of 2016, there have been a number of exposures—a fraction of the whole—of officers shooting, beating or otherwise committing violence against victims who posed no threat to them, and of falsifying accounts of incidents, while city governments—Democrat and Republican alike—have engaged in stonewalling, delays, cover-ups and repression. According to the *Guardian*, US police have killed at least 83 people since the beginning of this year.

As outrage and denunciations of police violence have grown, ruling class institutions have been forced to go through the motions of carrying out justice, while subverting it at every chance. Highly manipulated grand jury proceedings have overwhelmingly concluded with the exoneration of the police officers.



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