



*State of North Carolina  
General Court of Justice  
Prosecutorial District Four*

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**FOR IMMEDIATE RELEASE**

**FEBRUARY 26, 2021**

**DISTRICT ATTORNEY DETERMINES USE OF FORCE  
REASONABLE AND JUSTIFIED IN HAVELOCK POLICE INCIDENT**

**NEW BERN-** District Attorney Scott Thomas announced his decision today in a Havelock Police Department Officer Involved Shooting incident which occurred January 25, 2021. District Attorney Thomas determined the actions of the two police officers were reasonable and justified based upon the law and the facts. District Attorney Thomas wrote the attached letter to Havelock Police Chief Marvin Williams summarizing the investigative findings and his conclusion.

February 26, 2021

Chief Marvin Williams  
Havelock Police Department  
P. O. Drawer 368  
Havelock, North Carolina 28532

**RE: OFFICER INVOLVED SHOOTING**

**Sergeant Kimberly Tutwiler**  
**Officer Isrrael Carrillo**  
**Suspect: David Alvarez, Jr.**  
**Case Number: 2021-2934**  
**Incident Date: 1/25/202**

Chief Williams,

I have been briefed by the State Bureau of Investigation (SBI) regarding the above referenced officer involved shooting. The SBI was contacted to conduct an independent investigation, as is procedure. SBI Special Agent Nicholas Deming has briefed me on the findings of their investigation regarding the use of force by Sgt. Tutwiler and Officer Carrillo with suspect David Alvarez, Jr., 27, of Havelock, North Carolina. I have reviewed 911 calls, patrol car dash camera videos, statements from the four officers on scene, statement of roommate/911 caller, photograph of the gun used by the suspect, statement of suspect, medical information, as well as other investigative findings. Most of the incident described below was captured on the patrol car dash camera videos.

Havelock Police Department [HPD] responded to a call at Woodfield Cove Apartments on January 25, 2021 at 9:48 p.m. Responding officers were Tutwiler, Carrillo, Anderson, and Callaway. The female caller was the roommate of the suspect. She reported a dispute and that the suspect had what looks like a machine gun. The HPD had responded to two previous calls for service at this location earlier that same date. Upon arrival, the four officers discovered the female 911 caller was in her vehicle in the dimly lit parking lot of the apartment complex. The suspect was standing in the parking lot holding what appeared to be a black AR style rifle. Officers gave the suspect numerous commands to drop the weapon. Suspect ignored these commands and aimed the weapon at the officers and the female in the vehicle. Suspect disregarded all attempts by the officers to de-escalate the situation. Suspect aimed the weapon in the direction of one of the officers and made a movement towards that officer. At that time, Officer Carrillo discharged his duty weapon one time, a Glock 22 handgun, while shouting commands for suspect to drop his weapon. Suspect then aimed his weapon at another officer at which time Officer Carrillo discharged his weapon again, striking suspect. Suspect dropped to the ground

and eventually released the weapon from his hands. Officer Carrillo was at an approximate distance of 15 to 20 yards from suspect.

Sgt. Tutwiler, who was at a different location on scene, made similar observations as Officer Carrillo outlined above. Sgt. Tutwiler stated, “approaching the scene I saw a slender male wearing dark shorts and jacket with an AR-15 looking type weapon shouldered and taking aim. The weapon looked like an AR-15 type high velocity, semi-automatic rifle...completely black, pistol grip, retractable butt stock, handguards on the barrel and a high capacity magazine. It appeared the suspect was 10 – 15 yards from another officer who was located behind a car and the suspect was looking down his sights aiming at the other officers.” After Officer Carrillo fired the first shot [at the suspect], the suspect jumped, lowered his weapon, and then raised it again. At this time, Sgt. Tutwiler discharged her duty weapon, a Glock 23 handgun. She fired one shot and then four more shots before the suspect dropped his weapon. Sgt. Tutwiler was at an approximate distance of 20 – 25 yards from suspect. Upon the suspect dropping to the ground and releasing his weapon, the officers approached him and rendered first aid until emergency medical services [EMS] arrived to assume medical care of the suspect. No officers were injured. Sgt. Tutwiler stated, “As we were tending to the suspect’s wounds, I heard him mumble something. I asked him what he said. He then repeated, “It’s an Airsoft”, referring to the weapon he was aiming at officers.

Suspect was transported to CarolinaEast Medical Center and later transferred to Vidant Medical Center in Greenville, NC. Suspect received medical care and was later released. It was determined suspect had multiple non-life-threatening gunshot wounds, some of which entered his body and others that were graze wounds. The investigation revealed the suspect had consumed an excessive amount of alcohol prior to the incident.

The investigation revealed suspect possessed and aimed a Lancer Tactical Airsoft Rifle at the female 911 caller and the officers. An Airsoft rifle has the outward appearance of a traditional firearm, but shoots non-lethal, plastic pellets. They are used for target practice and games. These guns are sold with an orange tip on its’ muzzle to distinguish it from a lethal firearm.

Suspect had painted the orange muzzle tip of the gun black which, in addition to other factors, contributed to the appearance that the Airsoft rifle was a deadly weapon. Attached is a photograph of the actual Lancer Tactical Airsoft Rifle used by the suspect in this incident.

Based upon the facts outlined above, the SBI investigative findings, and the law, I conclude the lethal force used by Sgt. Tutwiler and Officer Carrillo in this incident was reasonable and justified. The officers reasonably feared death or serious bodily injury to the female 911 caller, residents of the apartment complex, other officers present and themselves. The fact that the suspect was using an Airsoft rifle was not discovered until after the shooting. The Airsoft rifle had the appearance of an actual firearm and the suspect used and presented it as such. The response by the officers was appropriate and reasonable based upon the totality of the circumstances. The suspect is fortunate he

survived a potentially deadly incident that he initiated and carried out. At this time, based upon his conduct, the suspect has been charged with Resisting a Public Officer. Other applicable charges will be considered.

Sincerely,

Scott Thomas  
District Attorney

SET/ndc

Attached: Photograph of Airsoft Rifle

cc: S.A. Nicholas Deming, NC SBI  
Sgt. Kimberly Tutwiler, HPD  
Officer Isrrael Carrillo, HPD  
David Alvarez, Jr.



