

**STATE OF NEW MEXICO**  
OFFICE OF THE ATTORNEY GENERAL



**RAÚL TORREZ**  
**ATTORNEY GENERAL**

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September 1, 2023

To: Stewart Steele, Rio Rancho Police Chief

[chiefofpolice@rrnm.gov](mailto:chiefofpolice@rrnm.gov)

Note: Letter sent by email

Re: Declination of Prosecution of Jonathan Harmon

Dear Police Chief Steele:

On December 8, 2021, four-year-old L.H. accidentally shot and killed his brother L.H. The firearm which killed L.H. belonged to his father Jonathan Harmon. Harmon had stored the firearm in a kitchen cabinet above the kitchen counters. The gun was loaded and was not otherwise safeguarded from the other occupants of the house.

Harmon and his wife were present in the house when L.H. was killed. Also present in the house was a newborn baby. Harmon, although employed by the Santa Fe police department, was on leave under the Family Medical Leave Act (FMLA) due to the recent birth of this child. At the time of L.H.'s death, the Harmons were trying to transition the older boys to their own room so that Mrs. Harmon could sleep with the newborn without disturbance from the boys. Harmon usually kept his off-duty gun on the highest shelf behind mugs in the kitchen if present at home. If going somewhere else that day, he would put the gun in a safe. There is no indication that the children ever took the firearm before or aimed them at any occupants of the home. Harmon did not secure any of his firearms with any type of trigger locking mechanism. Immediately after the shooting, the Harmons contacted 911 for emergency help in relation to their child. Resuscitation efforts were unsuccessful and the wound was mortal.

Last year, under the previous administration, this office assumed the review of this matter from the Thirteenth Judicial District Attorney's Office. After a complete review, the recommendation was a declination of any criminal charges.

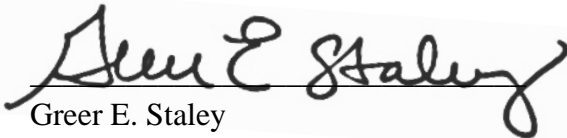
Since then, supervisors in the new administration have reexamined the case file. After independently evaluating the matter involving Jonathan Harmon we agree with the determination of the prior administration that any prosecution would be unable to meet the required burden of proof for a criminal case - the highest burden in our legal system - of beyond a reasonable doubt. Accordingly, we decline to bring criminal charges.

At the time of this shooting, there was no specific legal duty for parents to secure their firearms accessible to children beyond the difficult-to-meet reckless endangerment standard in the child abuse statute. Since the tragic death of L.H., with support from this administration, the Benny Hargrove Gun Safety Act was signed by the Governor and became law on July 1, 2023. That law created the crime of negligently making a firearm accessible to a minor if the person stores or keeps the firearm in a manner that negligently disregards a minor's ability to access that firearm, and the minor causes injury to another person. That new law may have applied to the facts presented in this case had it been in force at the time, but the law cannot be applied retroactively.

The passage of Benny's Bill highlights the inadequacies of the previously existing child abuse laws and the need for that specific statute to fill the unintentional void they created. After a review of other possible child abuse statutes, our office has determined that the facts here do not meet the elements required for prosecution under applicable laws.

This decision on criminal charges does not preclude further administrative and civil action for the matter involving the death of a child.

Thank you for your attention to this matter,

A handwritten signature in black ink that reads "Greer E. Staley". The signature is written in a cursive style with a horizontal line drawn through the middle of the letters.

Greer E. Staley  
Deputy Attorney General  
Criminal Division