



Attorney General Steve Marshall Announces Alabama Attorney General's Office to Prosecute Hoover Mall Shootings Cases

(MONTGOMERY) – Attorney General Steve Marshall announced during a press conference Thursday morning that his office will assume the prosecution of the November 22, 2018, shootings of E.J. Bradford, Brian Wilson and Molly Davis at Hoover's Riverchase Galleria Mall.

In a letter to Jefferson County District Attorney Danny Carr, Attorney General Marshall said he based his decision to assume prosecution of the cases after the admission by District Attorney Carr in a letter to Attorney General Marshall of the presence of potential conflicts between himself and key parties in the cases. Attorney General Marshall noted that the conflicts warrant recusal under the National District Attorneys Association's National Prosecution Standards.

"I have reviewed your December 11th letter regarding your prosecutorial role in the shooting death of Emantic 'E.J.' Bradford, Jr.," Attorney General Marshall wrote District Attorney Carr. "Based on the information you provided in that letter and our multiple conversations on the subject – particularly your acknowledgement that 'a fair-minded, objective observer could conclude that a conflict exists' – I have determined that the National Prosecution Standards dictate your recusal from the investigation of each of the shootings that occurred in the Riverchase Galleria on Thanksgiving night, not just E.J. Bradford's."

Marshall continued, "While I have no reason to believe that you are actually biased or compromised, I agree that other fair-minded persons might question your neutrality based on the information that you provided in the letter and during our private conversations. For example, you state that the officer who shot Mr. Bradford is either the charging officer or a witness in approximately 20 cases pending in your office. A fair-minded Defendant (or family member) in those cases could question whether you and/or your prosecutors are biased in favor of protecting the officer from prosecution because the officer's testimony may be important in his or her case. On the flip side, you acknowledge personal relationships with some of the protestors who are calling for the officer who shot Mr. Bradford to be criminally prosecuted, which could lead a fair-minded person to question your bias in favor of indictment. I have weighed these factors and others mentioned during our conversations and agree that, when taken as a whole, these factors warrant recusal under Rule 1-3.3(d)."

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National Prosecution Standards rule 1-3.3(d) dictates that:

The prosecutor should excuse himself or herself from any investigation, prosecution, or other matter where personal interests of the prosecutor would cause a fair-minded, objective observer to conclude that the prosecutor's neutrality, judgment, or ability to administer the law in an objective manner may be compromised.

Attorney General Marshall further noted that his office would also prosecute the shootings of Brian Wilson and Molly Davis.

"Your letter requests guidance on the 'officer-involved' shooting of E.J. Bradford; it does not mention the shootings of Brian Wilson and Molly Davis. However, it is my understanding that all three shootings were part of a single chain of events. Thus, the investigation of Mr. Bradford's shooting is inextricably intertwined with the investigation into the shootings of Mr. Wilson and Ms. Davis and must be conducted by the same entity. Accordingly, to guard against inconsistent prosecutorial decisions, you must also excuse yourself from those investigations."

A copy of Attorney General Marshall's December 13, 2018, letter to District Attorney Carr is attached.



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December 13, 2018

Via Electronic Mail

The Honorable Danny Carr
District Attorney, Tenth Judicial Circuit
801 Richard Arrington, Jr. Blvd. North
Birmingham, AL 35203-2320

Re: Investigation of the November 22, 2018 Incidents at the Riverchase Galleria

Dear District Attorney Carr:

I have reviewed your December 11th letter regarding your prosecutorial role in the shooting death of Emantic "E.J." Bradford, Jr. Based on the information you provided in that letter and our multiple conversations on the subject—particularly your acknowledgement that "a fair-minded, objective observer *could* conclude that a conflict exists"—I have determined that the National Prosecution Standards dictate your recusal from the investigation of each of the shootings that occurred in the Riverchase Galleria on Thanksgiving night, not just E.J. Bradford's.

1. Investigation re: the officer-involved shooting of E.J. Bradford

The National District Attorneys Association produces National Prosecution Standards ("NPS") that address various topics. NPS Section 1-3 governs conflicts of interest and, relevant here, dictates that you must recuse from the investigation of Mr. Bradford's death if either an actual conflict exists or if a fair-minded, objective observer could believe that a conflict exists. Your letter states that you are "confident" no actual conflict exists and that you could perform your duties "without bias in this case." I thus limit my inquiry to whether an objective, outside observer might question your neutrality and/or lack of bias.

NPS 1-3.3(d) dictates that:

The prosecutor should excuse himself or herself from any investigation, prosecution, or other matter where personal interests of the prosecutor would cause a fair-minded, objective observer to conclude that the prosecutor's neutrality, judgment, or ability to administer the law in an objective manner may be compromised.

You admit in your letter that this standard is met: "I also recognize that, based upon the above information provided, a fair-minded, objective observer *could* conclude that a conflict exists." This admission alone dictates that you excuse yourself "from any investigation, prosecution, or other matter" related to Mr. Bradford's death, regardless of my affirmance. NPS 1-3.3(d). That said, I agree with your assessment.

While I have no reason to believe that you are actually biased or compromised, I agree that other fair-minded persons might question your neutrality based on the information that you provided in the letter and during our private conversations. For example, you state that the officer who shot Mr. Bradford is either the charging officer or a witness in approximately 20 cases pending in your office. A fair-minded Defendant (or family member) in those cases could question whether you and/or your prosecutors are biased in favor of protecting the officer from prosecution because the officer's testimony may be important in his or her case. Conversely, you acknowledge personal relationships with some of the protestors who are calling for the officer who shot Mr. Bradford to be criminally prosecuted, which could lead a fair-minded person to question your bias in favor of indictment. I have weighed these factors and others mentioned during our conversations and agree that, when taken as a whole, these factors warrant recusal under Rule 1-3.3(d).

To reiterate, however, the most important factor in my decision is your candid assessment that "fair-minded, objective" members of your community could conclude that your neutrality "may be comprised." As district attorney, no one knows your constituents better than you.

2. Investigation re: the shootings of Brian Xavier Wilson and Molly Davis

Your letter requests guidance on the "officer-involved" shooting of E.J. Bradford; it does not mention the shootings of Brian Wilson and Molly Davis. However, it is my understanding that all three shootings were part of a single chain of events. Thus, the investigation of Mr. Bradford's shooting is inextricably intertwined with the investigation into the shootings of Mr. Wilson and Ms. Davis and must be conducted by the same entity. Accordingly, to guard against inconsistent prosecutorial decisions, you must also excuse yourself from those investigations.

3. Next steps for the Jefferson County District Attorney's Office

As noted in your letter, I must assume responsibility of these investigations upon your recusal. *See, e.g.*, Ala. Code § 36-15-14. Someone from ALEA-SBI will contact you shortly to set up a transfer of your case file. Please make sure that you turn over the file in its entirety. Furthermore, upon receiving this letter, your office must refrain from (a) releasing any information or evidence regarding any of the three shootings and (b) making any public statements about any of the three shootings. As you know, these restrictions persist until the investigations and any resulting criminal prosecutions are complete. During that time, all media inquiries should be directed to my communications director, Mike Lewis: mikelewis@ago.state.al.us.

Thank you for reaching out to me and for your frank assessment of the present situation. Rest assured that my staff and I will investigate these cases with the depth and commitment that the citizens of Jefferson County deserve.

Sincerely,



Steve Marshall
Attorney General