

April 24, 2017

Chief Gorden Eden
Chief of Police
Albuquerque Police Department
400 Roma Ave. NW
Albuquerque, NM 87102

RE: Prosecutorial review of the October 26, 2013 gun battle and car chase, during which Albuquerque Police Officers Matthew Hannum and Daniel Morales, and Bernalillo County Deputy Robin Hopkins were all wounded; which ended with the shooting death of Christopher Chase

APD case # 13-096751

DA case # 2013-06597-1

Dear Chief Eden:

I have been appointed as a Special Prosecutor by Raul Torrez, the Second Judicial District Attorney, to review the series of events on October 26, 2013 for potential prosecution. After a review of all available evidence, I conclude that it is not possible to prove, beyond a reasonable doubt, that any of the police officers were not acting under the belief that Christopher Chase actions posed a threat of death or great bodily harm to police officers or the public in general. My decision does not limit administrative or criminal action by other agencies, or civil actions by other parties. No charges will be filed: the case will be closed.

STATEMENT OF FACTS

On October 26, 2013, Christopher Chase initiated a shootout with the police in which he would force them to kill him, but not before he attempted to kill as many police officers as possible. The night before, he told a friend that he had been accused of child molestation by his ex-girlfriend, and that he would not go to prison. That same night, he said to another friend, "I'm not going out like a bitch," and that the friend could have all his possessions when he was gone. On the morning of October 26, 2013 at about 10:00 a.m., Chase texted his friend, "come get the dogs its over". Chase left a note in a prominent location in his apartment bequeathing all of his possessions and his car to his friend. Chase had a lifelong hatred of police and wore the tattoo, "cop killer" on his knuckles.

On the morning of October 26, 2013, Chase walked to a nearby carwash on Broadway Boulevard and Iron Avenue. He was wearing camouflage clothing, a bullet proof vest, and a black, bullet proof face mask. He was carrying a Cigur Mini Draco semi-automatic rifle, similar to an AK-47 rifle and a duffle bag holding hundreds of extra rounds loaded into magazines. He walked up to a man near the carwash and instructed him to call 911 and to tell the police he'd be waiting for them at the bus stop across the street, and that he was going to kill them all. Chase walked over to the bus stop and sat and waited on the bench for the first officer to arrive.

Officer Eric Martinez was the first to respond to the man with a gun call. He had mistakenly been given a location some six blocks south of the carwash and was therefore surprised to see Chase waiting for him when he turned onto Broadway from Coal Avenue. When Chase opened fire, Officer Martinez skidded sideways to place himself away from the shots. He jumped from his car and took cover behind cars parked along Broadway. He recognized the characteristic look and sound of an AK-47-like rifle, and knew that bullets from such a weapon could penetrate both his car and his body armor. He exchanged shots with Chase, retreating and firing, until Officer Robert Carlson approached from the opposite direction, heading north on Broadway towards Chase, at which point Chase turned his attention, and his weapon toward Carlson. Carlson saw the shots striking the roadway in front of his car and quickly reversed to a point further back down the road. Officer Steve Lowell then arrived north of the scene, left his car and ran toward the sound of gunfire. When Chase saw Lowell, he began firing at him.

One of Chase's south directed shots travelled several blocks to Avenida de Cesar Chavez and passed through a vehicle with a mother and her two children inside. The bullet went through the center of the windshield, passed between the mother and her son in the passenger seat, then just over the head of her other son sitting behind her, and exited out the back window. Fortunately, no one in the vehicle was injured.

There was a short lull in the shooting, during which Chase returned to the bus stop bench, retrieved something, perhaps a fresh magazine, from his duffle bag, and walked over to Officer Martinez' car, carrying his rifle and duffle bag. He got into the car and drove north on Broadway, passing another police car which was stopped on Broadway. Officer Sharon Saavedra and Recruit Officer Tracy Drager were crouched behind the car. As Chase passed, he fired at the two officers, striking their vehicle and flattening one of the tires; Officer Saavedra returned fire with her shotgun.

Chase next passed Officer Matthew Hannum who was taking cover behind his car. Chase stopped just long enough to fire four shots, one of which struck Hannum in the leg. Chase drove north on Broadway until he encountered Officer Daniel Morales, who was driving in from the north. Morales did not know that Chase had stolen a police car and assumed the car he saw was in pursuit of the shooter, so he passed slowly by, intending to join the car in the intersection of Broadway and Martin Luther King Boulevard. Chase opened fire, shooting through the driver's door of Morales car. Morales was shot in the foot and the lower leg.

As Chase drove north on Broadway, Sergeant Shawn Lockey was rapidly closing the distance from behind. When he heard the shooting at Martin Luther King Boulevard, he announced over the radio that he was authorizing the use of deadly force. Sergeant Lockey was soon joined by other officers in their cars, including Officer Simon Dobrik, Officer Dan Calt, and Deputy John Osborne. Chase drove on, making no attempt to evade the pursuers. He turned left on Griegos Road and drove west to Rio Grande Boulevard, where he turned north. He continued along Rio Grande until he turned right on Ranchitos Road to Fourth Street, at which point he turned right again, heading south on Fourth Street.

About a mile south, near Schulte Street, he encountered Deputy Robin Hopkins who was driving north to intercept him. Deputy Hopkins steered toward Chase, intending to ram him, but as soon as she began to veer his way, he fired on her car. One round pierced the driver's door and her left leg, shattering the femur just below her hip. She coasted to a stop, rapidly losing consciousness from the loss of blood. Sergeant Lockey stopped to help her as did Deputy Osborne. Fortunately, her car stopped in front of a fire station; paramedics from the station came to her aid immediately and transported her to the hospital, saving her life.

When Sergeant Lockey dropped out of the chase, Officer Dan Calt moved into the lead chase position. Soon, at Fourth and Solar Road, they encountered Sergeant Bruce Werley and Deputy Officer James Burton, who were positioned behind their cars, parked in the median, waiting for Chase, hoping to shoot him or his vehicle as he passed by. When Chase arrived at their position he opened fire, forcing them both to duck down. Officer Burton fired back with his shotgun at the car's tires, which had no apparent effect. Officer Calt, following close behind, saw Chase shooting at the officers and decided it was time to take action to either distract or slow Chase down. He set his AR-15 rifle on the dash of his car and fired through his own windshield at Chase, who did seem to slow. As Chase reached Montano, the heavy cross traffic blocked his path, so he attempted to swing through the Phillips 66 gas station on the corner, but failed to negotiate the curve and crashed into one of the metal barriers protecting a gas pump. Officer Calt rammed into him from behind so he couldn't back up.

Officer Calt leapt from his car and began firing rapidly at Chase who was still in the stolen police car, holding his rifle. Officer Calt emptied his rifle into the back of the seat in which Chase sat, hoping to wound or kill him before he could leave the car and initiate a firefight in the crowded gas station. Calt was soon joined by Officer Simon Dobrik who opened fire with his pistol and Officer Luke McPeck, who fired several rounds at Chase with a shotgun. They ceased fire when Chase stopped moving. Officer Calt walked to the car and opened the door. Chase was dead, slumped over on the steering wheel, still clutching the Cigur rifle in his hands. He'd been struck by a total of eight shots, in the head, neck, back and left arm.

LEGAL ANALYSIS

All of the law enforcement officers who exchanged fire with Christopher Chase (Officer Eric Martinez, Officer Sharon Saavedra, Officer James Burton, Officer Dan Calt, Officer Simon Dobrik, and Officer Luke McPeek), were responding to the threat of death or serious harm he posed for the officers and the public, and therefore would be entitled to raise the defense of Justifiable homicide by public officer, NMSA 1978, Section 3-2-6, which establishes that a peace officer may justifiably use deadly physical force when he believes he or another is threatened with serious harm or deadly force. Under New Mexico law, the officer need not prove that the suspect posed a threat of death or great bodily harm to another; he need only offer evidence that raises the possibility. The burden then falls on the prosecution to prove, beyond a reasonable doubt, that the use of deadly force was not justified. If the jury has a reasonable doubt as to whether the killing was justifiable, they must acquit the officer, Uniform Jury Instruction-Criminal: 14-5173 Justifiable homicide; public officer or employee.

CONCLUSION

The question presented in this case is whether, when the officers returned fire, were they acting under the reasonable fear that they, or others, would be killed or seriously injured by Christopher Chase's actions. Overwhelming evidence clearly establishes that Christopher Chase shot at the officer throughout the incident with the intent to kill them. He selected a weapon with the power to pierce the body armor worn by law enforcement officers; he covered himself in body armor to survive during the shootout he had planned; he specifically targeted numerous officer, wounding three. All of his actions suggest that he intended to live up to the name he had tattooed on his knuckles, "cop killer". The response of the officers, placing themselves in harm's way and returning fire, up to and including the final moments when the lethal threat Chase presented ended with his death, were reasonable and necessary under the circumstances; and in the absence of any evidence to prove otherwise there is no possibility of a successful prosecution; therefore, no charges will be filed against any of the officers involved; the case will be closed.

Very truly yours,



Michael D. Cox

Special Prosecutor

Cc: Raul Torrez, District Attorney, Second Judicial District

Sergeant Hollie Anderson, Albuquerque, Police Department