

June 26, 2023

Chief Harold Medina
Chief of Police
Albuquerque Police Department
400 Roma Avenue, NW
Albuquerque, N.M. 87102

Re: Prosecutorial Review of the April 16 2021 fatal
shooting of Juan Cordova, APD case #21-0029185
DA case #2021-02985-1

Dear Chief Medina:

I have been appointed as a Special Prosecutor by Sam Bregman the Second Judicial District Attorney to review for potential prosecution the fatal shooting of Juan Cordova which occurred on April 16, 2021. After a review of all available evidence, including police reports witness statements, laboratory and medical reports, audio recordings, surveillance video, lapel video, photographs, search warrants, a review of the evidence with Case Agent David Gonzales and a visit to the scene of the shooting, I conclude that is not possible beyond a reasonable doubt that Officer Bryce Willsey was not acting under a reasonable belief of death or great bodily harm to himself or others as a result of Juan Cordova's actions. No charges will be filed. The case will be closed. This decision does not limit administrative or criminal action by other agencies, or civil actions by other parties.

Statement of Facts

On April 16, 2021 at 9:50 in the evening Susan Vasquez called 911 after being involved in a domestic dispute with her boyfriend Juan Cordova. Cordova had discharged his gun inside of Vasquez's home and told Vasquez he could "take them both out" Vasquez made the 911 call from a neighbors house after fleeing her home located at 10416 Coyote Canyon PL NW. Officers arrived at the location about twenty minutes later and found Cordova in the driveway of Vasquez's home pacing around with a gun. After an hour of repeated requests by police which included pleas to put the gun down and assurances that the police did not want to hurt Cordova, Cordova responded by saying "You're going to have to cause I'm gonna hurt you" Cordova then shot in the direction of the officers who had taken cover approximately one hundred yards from the residence. About 15 minutes later Cordova said "let's end this now," raised his gun up in the direction of the officers and said "shoot" four times. Officer Bryce Willsey then fired one shot at Cordova striking him in the chest. Officers advanced and found Cordova lying in the driveway with his pistol about one foot away. The hammer of the gun was in the firing position. Efforts to render aid were unsuccessful and Cordova died at the scene a short time later.

Legal

Officer Willsey was in the process of arresting Juan Cordova for the threats to Susan Vasquez, the discharge of a firearm inside the Vasquez home, criminal damage to property, and breaking and entering. This would allow Officer Willsey to raise the defense of Justifiable Homicide by a Public Officer, NMSA 1978 Section 30-2-6(A)(2). This section of the criminal code allows a peace officer to use deadly force when committed in overcoming actual resistance to the execution of a legal process or other legal duty.

Under New Mexico law an 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 of death or great bodily harm. The burden then falls on the prosecution to prove beyond a reasonable doubt that the use of deadly force was unreasonable. If the jury has a reasonable doubt about any aspect of the prosecution's claim that the killing was justified they must acquit the officer. The reasonableness of an individual officer's actions is an objective analysis evaluated from the perspective of the officer at the time of the incident and is necessarily a factual inquiry, *State v. Mantelli*, 2002 NMCA-033, 131 N.M. 692.

Analysis

Reasonableness of officers actions

Because the reasonableness of the officer's actions necessarily are a factor when a claim of Justifiable Homicide of a Public Officer is raised, information provided to the officers prior to the shooting would be admissible in court.

Shortly after Susan Vasquez called 911 four officers responded to the scene: acting Lieutenant Matt Chavez, Officer Kevin Beem, Officer Bradley Agner and Officer Bernadette Sanchez. As Officer Agner arrived dispatch put him in touch with Susan Vasquez via telephone. Agner learned from Vasquez that Cordova had a handgun and that he had fired a shot inside the home shooting his sunglasses off of his head. (An apparent attempt to commit suicide). At one point Vasquez was able to lock Cordova out of the house, prompting Cordova to break the door from the garage into the interior of the house. She also told Agner that he, Cordova, could take them both out, (meaning he could shoot both himself and Vasquez). When Vasquez said she would call the police Cordova told her he would engage the officers. Additionally when Vasquez was on the phone with 911 dispatch she is heard to say "he went crazy"

After arriving Officer Agner began giving Cordova commands to put the gun down and to surrender to police. Cordova responded by shouting profanities which culminated in Cordova

firing a shot possibly in the direction of the officers. (The true direction of the shot was never ascertained). After repeated requests to surrender Cordova was heard to respond by saying you're "going to have to take me out in a body bag." All of this information was being relayed to

officers at the scene in real time. It is significant that virtually every officer who responded to the scene had taken cover as a reasonable precaution against being shot by Cordova.

Any reasonable person at the scene would have reasonably believed that Juan Cordova posed a threat of death or great bodily harm not only to officers in the area but to innocent homeowners in a heavily populated subdivision. Cordova, having fired two shots, one inside the home and one outside of the home having stated he would engage police and insist on being taken out in a body bag would lead any reasonable person to believe that a third shot is a probability. Further evidence of the reasonableness of the officers actions can be found in the repeated requests by Officer Agner and Officer Bernadette Sanchez for Cordova to put the gun down and walk to the middle of the street. As stated by responding Officer Lea Lopez when asked during her interview why give public announcement for residents to stay in their homes: "Because there was an armed man in the neighborhood shooting a firearm and we wanted everybody to stay safe inside their homes."

Threat of death or great bodily harm

Eleven officers responded to the scene and took up defensive positions using vehicles for cover. Because of Cordova's menacing behavior with the use of the firearm several officers were at a great distance or had poor vantage points from which to view Cordova. Those who were in closer proximity to Cordova all felt fear for their lives or fellow officers.

The officer who had the clearest line of sight to Cordova was officer Willsey. He took up a position to the right of the majority of the officers who had taken cover behind a police vehicle.

Officer Leah Lopez: "I heard a shot. I don't know where it went but I did hear a shot. It was loud and it sounded very close to us... I was in fear for my life and I was in fear for everyone else's life on scene. I thought someone was going to get shot that night because there was a firearm being fired and I did not know where the heck those rounds were going."

Officer Matthew King: "I can see him pointing the gun at us, and I see the, the flash of the gun go off. And I even remember you know ducking down at just because I knew he was shooting at us... I was afraid I was going to be shot. That other officers were going to be shot. I was preparing myself that somebody was going to be shot. I felt somebody was going to take a round that day."

Officer Kevin Beem: "Uh so I mean we know he was armed with a firearm. He was moving around.... I heard one of the perimeter officers say he was pointing at our team. Uh and so

because of that I mean I did feel threatened by this guy with the firearm, that he was pointing it at us at certain points."

Detective Davis: "Okay, and you could actually see that he was pointing the gun at you?"

Officer Bernadette Sanchez: "Yes"

Detective Davis: "How did that make you feel?"

Officer Bernadette Sanchez: "Scared, yeah, I thought he was gonna shoot at us, but I thought he was shooting at us, and I knew we had officers who were kind of exposed over here in this intersection."

Officer Bryce Willsey: "Juan has the handgun in his right hand. Juan raises the gun up with his right hand and says "I have a 45 or 1911" and I believe he said in his other hand he said something about more rounds or another magazine. At this point, I'm still shaking trying to get my breath to calm down my heart rate to calm down because if Juan is going to end this I know for a fact that I can't let Juan fire off, I can't let John fire off another round toward these officers. John has made his decision at this point. Was I scared for my own life? 100 percent but I was more afraid of was one of these officers not going home at the end of the night... As Juan had the handgun...he makes this movement to where he's blading himself toward the officers with a one-handed shooting grip with the handgun. He points it at the truck of the officers and I knew I had that second; I had one opportunity, one opportunity to stop his actions and that was to take a shot with my rifle."

A review of the body cameras worn by these officers corroborates the statements above. Each officer is dutifully staying behind the cover of the police vehicle. When Cordova fires off his round each officer ducks in unison to the deadly threat they are facing. There can be no doubt Cordova's actions have produced the threat of death or great bodily harm. Were it not for the brave initiative by Officer Willsey the threat of death or great bodily harm could have been a reality for citizens and officers alike.

Cordova's State of Mind

Juan Cordova's state of mind on the day he was shot by Officer Willsey is relevant to show the motivation for his behavior. There is evidence to support Cordova was inducing a "suicide by cop" situation to facilitate his own death. There are several sources of evidence which serve to illuminate Cordova's state of mind.

First there are the statements relayed from Susan Vasquez to 911 dispatch, describing his behavior. Second there are the statements from Cordova himself at the scene heard by responding officers, and third and most telling is the Ring video footage collected from the home security system at 10416 Coyote Canyon NW.

Setting aside for a moment the statements by Cordova to the officers at the scene (already alluded to), the 911 call and the ring video provides an excellent window into Cordova's state of mind

911 Call

At 9:50 Susan Vasquez made her 911 call to Police Dispatch. In her call to 911, Vasquez explains the reason why she is calling. In her exchange with dispatch she describes Juan Cordova's behavior.

Vasquez: 8:13: He's not understandable. I've never seen him like this.

Vasquez: 10:15: He's psycho

Vasquez: 14:00: When I tried to get away he said I could take us both out.

Vasquez: 17:25: He fuckin busted the door down.

Juan Cordova was clearly in a troubled state of mind. It is significant that these statements as relayed to 911 dispatch were well before any police presence arrived at the scene. It is evident that Cordova had already formulated a plan to facilitate his own death and possibly that of Susan Vasquez. He was violent, he was enraged and he was determined. Despite repeated opportunities to put his weapon down and surrender peaceably Cordova facilitated his own death.

Ring camera video footage

Clip # 1 of the ring camera video footage shows Cordova in the foyer of the home talking to Susan Vasquez. Cordova is heard to say, "I'll just off myself and we'll be done with it." Cordova is then seen drinking from a bottle of presumably Crown Royal Whiskey. Vasquez can be heard pleading with Cordova to "go". "What is wrong with you."

Clip #2 of the ring camera video footage shows Cordova again in the foyer of the home with a handgun. Cordova appears to be taking bullets out of the gun then can be seen very clearly reloading the gun. He then points the loaded gun towards his chest then quickly points the gun towards Susan Vasquez in a threatening manner. Cordova is heard to say something but his words are inaudible. Vasquez is heard to say "get out" "get out" "go get in your truck and get out" "get out of here already." In response to Vasquez Cordova says: "Do you think I'm stupid?"

The 6th clip of the ring camera video footage shows the last 4:15 minutes before Cordova is shot. In a succession of exchanges with police Cordova very clearly heard to say "one more call then we'll fucking end it. "I have to make one more call to my sorry ass mother"

Police continue to make announcements asking Cordova to "put his hands up free and clear and come to the intersection so we can talk to you. We don't want to hurt you" Cordova responds by saying "You're gonna have to cause I'm gonna hurt you."

Cordova then says "shut up and leave me alone I'm gonna call my fucking mom and tell her what a cunt she was. Then were going to end this fuckin shit." "You hear me"? "Do you hear me"

Several seconds later Cordova is heard to say. "Give me a minute bitch then we'll end it." Police again respond by saying "I need you to put your hands up." Also significant in this exchange Cordova is heard to say: "Where's Susan?"

Cordova responds by saying I got a .45 a 1911 and critically raises the handgun in the air in the direction of police.

Within the next 10 seconds Cordova yells to police four times shoot, shoot, shoot, shoot while simultaneously pointing his gun in the direction of officers who are giving commands. One second after saying shoot for the 4th time Officer Willsey fires his rifle at Cordova, killing him.

The significance of this sequence of events depicts a highly disturbed individual who early in the evening had decided that he was going to take his own life. From the time that Cordova threatened Susan Vasquez in the foyer of her home until Cordova was shot, the ring camera footage shows a clear escalation of agitation and anger on the part of Cordova. Each response as



Cordova seconds before being shot by police.

heard is characterized by louder more hateful statements culminating in his demand for police to shoot him. It is noteworthy that Cordova is still asking where Susan is just before he is shot. This raises the possibility that Cordova was contemplating a murder suicide as documented earlier. Cordova' state of mind was clearly one of suicidal behavior.

Conclusion

If a prosecution of Officer Bryce Willsey for the death of Juan Cordova were to take place, the

prosecution would have to prove that virtually all of the evidence collected is false, that Cordova never raised his gun towards officers, that Cordova never threatened Susan Vasquez, that responding officers were not in fear of being shot and that Cordova did not seek his own death. Any attempt to prosecute Officer Willsey for the death of Juan Cordova would raise the specter of an unethical prosecution.

A jury confronted with overwhelming evidence that Cordova did threaten officers with his handgun and likely sought his own death by threatening officers with that handgun would be forced to acquit Officer Willsey. There is no chance of a successful prosecution. No charges will be filed. The case will be closed.

Sincerely,



Jody R. Curran
Special Prosecutor

cc: Sam Bregman, District Attorney, Second Judicial District
Detective David Gonzales, Albuquerque Police Department
John D'Amato Attorney for Officer Bryce Willsey
Susan Vasquez, next of kin.