

March 12 , 2019

Manuel Gonzales III
Bernalillo County Sheriff
400 Roma NW
Albuquerque, NM 87102

Re: Prosecution review of officer-involved shooting of Adrian Chacon by Sgt. Chris Starr

BCSO case #18-619959; DA case #2018-01098-1

Dear Sheriff Gonzales:

I have been assigned as a Special Prosecutor by Second Judicial District Attorney Raul Torrez to review the February 20, 2018, non-lethal shooting of Adrian Chacon by Bernalillo County Sheriff's Sergeant Chris Starr. I have carefully reviewed all relevant evidence in this case, including police reports, witness statements, criminalistics reports, audio and video from the scene. I also visited the scene with lead Detective Samuel Rodriguez.

I have concluded that the evidence shows that Sgt. Starr was in legitimate fear for his life and safety at the time he fired shots at Mr. Chacon. A reasonable jury would in all likelihood conclude that Sgt. Starr was acting in legitimate self-defense, and would not find beyond a reasonable doubt that the shooting was *not* a legitimate use of deadly force by a law enforcement officer. No criminal charges are warranted against Sgt. Starr. This decision does not limit administrative or criminal action by other agencies, or civil action by other agencies or parties.

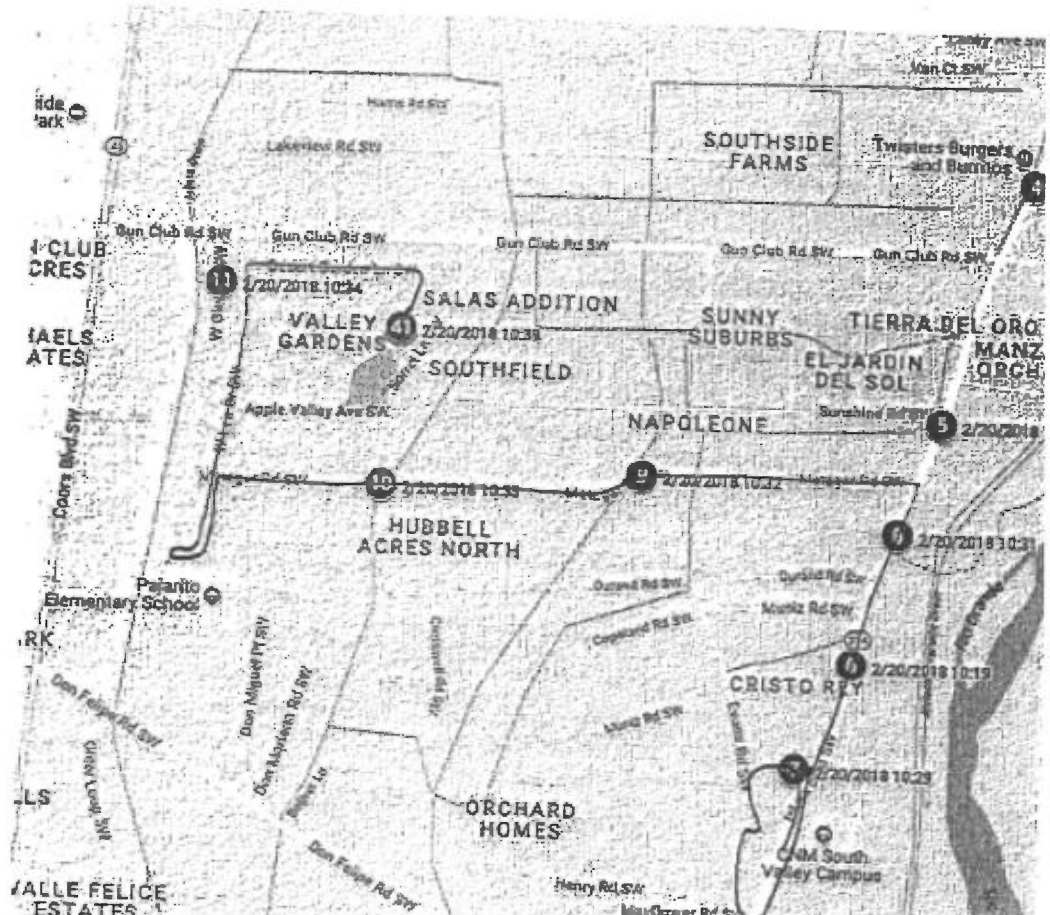
RELEVANT FACTS

On February 20, 2018, Adrian Chacon was driving a stolen white Ford pickup truck which he claimed he obtained from a location on 98th Street where he knows stolen vehicles are abandoned. At approximately 10:00 am, Mr. Chacon, who was apparently high on heroin, pulled into the parking lot of the CNM South Valley Campus at 5816 Isleta Blvd. S.W. Initial calls from citizens indicated Chacon was yelling and causing a disturbance. He drove through the parking lot, but did not pull into a parking space. He stopped in the middle of the parking lot and appeared to fall asleep. Sheriff's deputies were dispatched. Deputies parked a police vehicle in front of his truck and behind it to prohibit Chacon from trying to escape. As deputies approached Chacon and gave him orders to get out of the truck, he woke up and tried to drive off. He put the truck in reverse, almost hitting Deputy Patrick Rael, who had to jump out of the way to avoid getting hit. Deputy Rael deployed his tazer on Mr. Chacon, and struck him in the chest through the open driver's side window. The tazer seemed to have no effect. Chacon continued in reverse, pushing Deputy Rael's vehicle until he was able to create enough space to escape.

Mr. Chacon then led deputies on a high-speed chase through the South Valley. At one point Chacon drove through a gate and into a field at 5723 ½ Nicodemus Lane. He drove around the field looking for an escape point; not finding one, he drove through a fence onto Evans Rd. The chase continued onto Isleta Blvd. Chacon drove at speeds approaching 80 miles per hour, ran stop signs, and at times drove on the wrong side of the road. At one point he was observed extending his shirtless torso out of the driver's side window, waving his arms, and slapping the side of the pickup, as if taunting pursuing deputies. The chase continued into the Valley Gardens neighborhood. Pursuing Deputy Anthony Allen at one point attempted a P.I.T. (pursuit intervention technique) maneuver on Chacon's vehicle. A P.I.T. maneuver utilizes an officer's vehicle to make contact with a suspect's vehicle and block

it from being able to proceed. Chacon was somehow able to escape the P.I.T. maneuver, and continue his flight. When Chacon reached 4523 Valley Park Dr. S.W., Deputy Allen was able to complete a P.I.T. maneuver to the front of Chacon's truck. The truck struck a wooden utility pole going forward, and was wedged up against a three to four foot high cinder block wall on the passenger side. Sgt. Starr pulled his police vehicle behind Chacon's pickup, thereby boxing it in. The total time of the pursuit from the CNM campus to the truck's final resting place on Valley Park Dr. was approximately thirteen minutes. Below is a map diagramming the course of the chase.

- Starting Location: CNM South Valley
- NB Isleta to 5723 1/2 Nicodemus
- SB on Evans
- WB on Torres
- SB on Torres
- EB on Mayflower
- NB on Isleta
- WB on Metzgar
- SB W Lea Dr
- WB Isabel
 - Vehicle turns around
- NB on W Lea Dr
- EB on Desert Gardens
 - PIT on Desert Gardens
- SB on Valley Park
 - PIT on Desert Gardens
- Termination point 4523 Valley Park

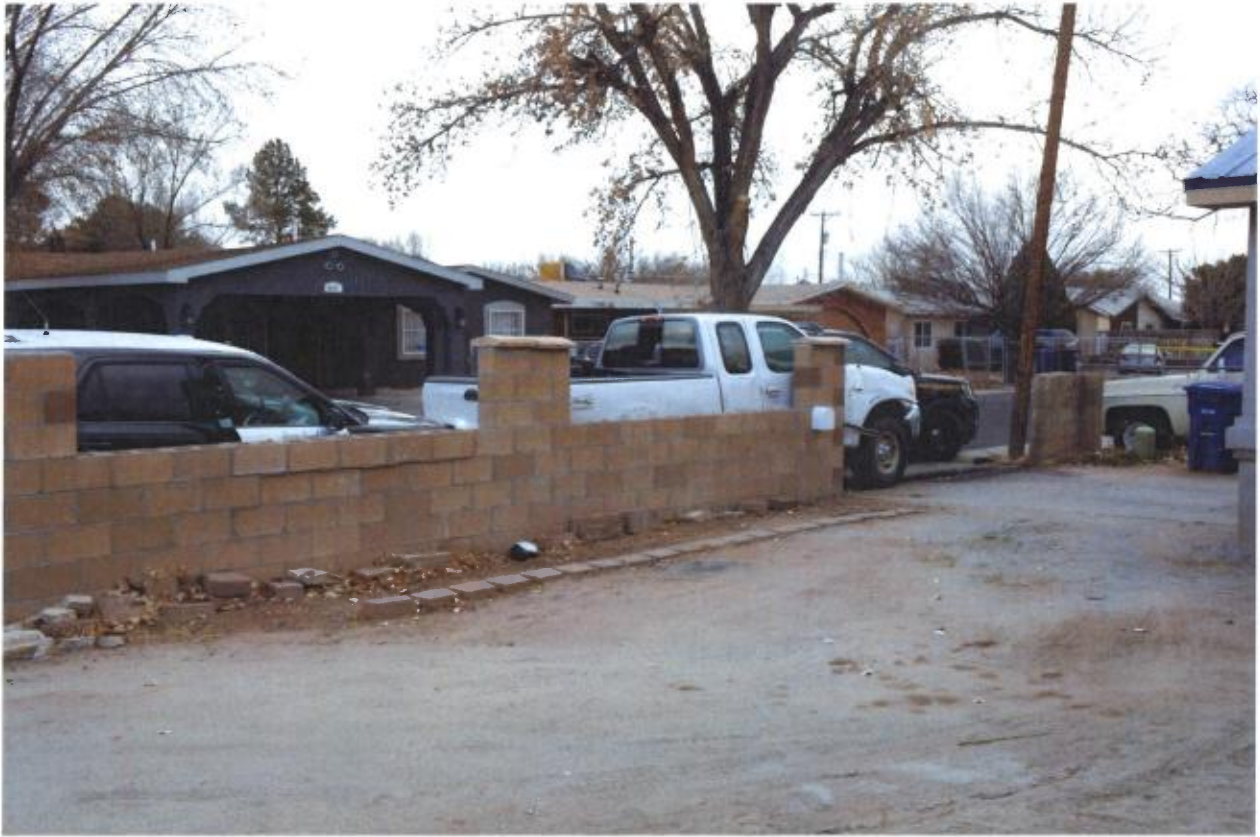


When the chase was over, Sgt. Starr's police vehicle stopped approximately seven to ten feet behind Mr. Chacon's truck, according to Sgt. Starr. Deputy Allen's vehicle was positioned against the front driver's side of Chacon's pickup truck, facing forward in the same direction as Chacon's truck.



Deputy Allen immediately got out of his vehicle and took a position behind the driver's side of his vehicle and to the left of Mr. Chacon. Deputy Allen drew his gun, and started giving Mr. Chacon orders to put his hands up and get out of the truck. Chacon did not comply, and was yelling at Deputy Rael: "Just kill me, Just kill me. I just want to die. I don't want to do this anymore."

At the same time this was going on, Sgt. Starr got out of his vehicle and decided to take a "high ground" position relative to Chacon. A high ground position places the officer at a higher elevation than the suspect, which gives the officer a better view of the suspect, and a tactical advantage over the situation. Sgt. Starr jumped up on the hood of his police vehicle, drew his gun, and started giving commands to Chacon to put his hands up and get out of the truck.



Mr. Chacon did not comply with the orders being given by the deputies. Instead, he pushed forward into the utility pole, and began accelerating the truck at a very high rev of the engine. The truck's tires were spinning for an extended period of time. Smoke from the spinning tires and burning rubber started filling the air to the point that the scene was enveloped in smoke and the officers' view of Chacon was obscured.

During this time, Sgt. Starr was standing on the hood of his vehicle, with one foot on the hood of his vehicle, and one foot on the top of the cinder block wall against which his vehicle was resting. Eventually Mr. Chacon stopped revving the engine and spinning the tires in his attempt to push forward. The smoke started to clear. Suddenly, Chacon threw the truck in reverse, and accelerated it backward into Sgt. Starr's vehicle. As Chacon's vehicle started to reverse and hit Sgt. Starr's vehicle, Sgt. Starr, in

fear for his safety, fired three shots through the rear window of Chacon's truck. Sgt. Starr's shots hit Mr. Chacon. One shot struck him in the upper right arm, and went all the way through his arm, shattering the bone. A second shot struck Chacon in the right mid-abdomen area, toward the rear of his torso. The third shot appeared to be a grazing wound to the right stomach area. The picture below is taken from Sgt. Starr's vantage point looking into the truck.



After the shots were fired, Mr. Chacon was given commands to get out of the truck and put his hands up. Chacon said that he was shot, and that he could not move his right arm. He also made statements to the effect of: "You should have killed me" and "you should have shot me in the head". Eventually Chacon was able to open the truck door with his left hand and roll out onto the ground. He was then taken into custody. Deputies patted him down, but did not handcuff him due to the injury to his right arm. Deputies retrieved a medical bag and tended to Mr. Chacon's injuries until rescue arrived.

Mr. Chacon was then transported to the University of New Mexico Hospital for treatment. He survived his injuries.

Numerous officers and civilians were witness to parts of the events that led to the shooting of Adrian Chacon. Of particular note is a cell phone video taken by a neighbor at the location where the chase ended. This video was turned over to investigators. The video is a minute and a half long, and documents the end of the chase after Mr. Chacon was boxed in and ultimately shot. The video begins by showing billows of smoke emitting from Chacon's truck as he continuously revs the engine trying to accelerate into the utility pole. The smoke completely encompasses the scene, making it difficult to see into the truck. Eventually Chacon stops revving the engine and the smoke begins to clear. He then suddenly reverses toward Sgt. Starr's vehicle. As Chacon begins to reverse, Sgt. Starr, who had one foot on his vehicle, and one on the brick wall behind him, quickly moves his left foot onto the brick wall. At the same time, he fires one shot as the truck is accelerating backward. The final two shots are fired in rapid succession upon Chacon's truck striking Sgt. Starr's vehicle.

Sgt. Chris Starr gave a formal statement to investigators. He described his state of mind as Chacon's truck started to reverse toward him as follows: "I was afraid of being struck by his car...or him striking my car and causing me to fall into the void between the two." When asked what he was trying to do when he fired shots, Sgt. Starr responded: "[P]rotect myself, protect my teammates...on the scene, um, and to stop him from continuing to drive as aggressively into to my car as he did going forward."

On February 23, 2018, Adrian Chacon agreed to give a statement to lead investigator Samuel Rodriquez. Mr. Chacon admitted he had used heroin prior to the incident. Chacon admitted that he knew the truck he was driving was stolen, although he denied that he stole it. He admitted trying to

evade police after he woke up in the CNM parking lot, and to most of the details of the chase. He denied that he tried to strike any officer. He also denied knowing that he almost struck Deputy Rael at the CNM location. He additionally denied knowing that Sgt. Starr was behind him when he reversed the truck after he was boxed in and he denied knowing that he ever struck a Sheriff's Department vehicle. Mr. Chacon maintained that he drove responsibly and purposely took routes that kept him off main roads so as to not endanger citizens. When asked if he said anything to deputies before he was shot, Chacon said that he was basically telling them he wanted to die and that he was "giving them permission" to shoot him.

LEGAL PROCEEDINGS

Adrian Chacon was charged with several crimes arising out of this incident. Indictment D-202-CR2018-001052, filed April 4, 2018, charged him with two counts of aggravated assault on a peace officer (deadly weapon), one count of aggravated fleeing a law enforcement officer, and one count of receiving or transferring a stolen motor vehicle. On May 16, 2018, Mr. Chacon entered into a plea agreement which disposed of the charges in the above-referenced indictment, as well as charges in two other pending indictments (D-202-CR-2018-00440; D-202-CR-2018-00784). He entered a no contest plea to one count of aggravated assault on a peace officer and to aggravated fleeing a law enforcement officer from the February 20, 2018, incident in which he was shot. He also pled to two counts of receiving or transferring a stolen motor vehicle from the other two indictments. With potential habitual offender time, Chacon's total exposure was twenty-six and one-half years. Mr. Chacon was immediately sentenced to three hundred sixty-four days in the Metropolitan Detention Center, followed by five years of supervised probation.

LEGAL ANALYSIS

Under New Mexico law, a peace officer, acting in the course of regular duties, is entitled to legally use deadly force when the officer reasonably believes that the officer or another is threatened with serious harm or deadly force. NMSA 1978 § 30-2-6. An officer who uses deadly force does not have to prove that a suspect actually posed a threat of death or great bodily harm, only that the suspect's actions raise the possibility of such.

Once an officer who uses deadly force raises the possibility that a suspect's actions posed a threat of death or great bodily harm, the burden is on the prosecution to prove beyond a reasonable doubt that the use of deadly force was *not* reasonable. This inquiry is an objective standard, viewed from the perspective of the officer at the time, keeping in mind that officers often must make split-second decisions in difficult situations. It requires only a finding that a reasonable person in the same circumstance as the officer would have come to the same conclusion that the use of force was necessary because of the threat of death or great bodily harm posed by the suspect. *State v. Mantelli*, 2002-NMCA-033, 42 P.3d 272.

CONCLUSION

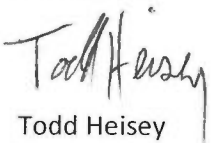
On the day of this incident, Adrian Chacon was driving a stolen vehicle in an extremely reckless manner that was endangering the safety of officers and civilians. As he escaped from the CNM campus, he almost struck Deputy Pat Rael. He then led deputies on a chase that lasted some thirteen minutes. He eluded deputies at various points throughout, while driving at speeds up to 80 miles per hour, driving on the wrong side of the road, and running multiple stop signs. When Mr. Chacon was boxed in on

Valley Park Dr. S.W., he still would not comply with officer's commands and surrender. He did everything in his power to escape once again, regardless of danger to officers.

When Mr. Chacon rapidly accelerated backward toward Sgt. Starr, he was posing a serious risk of death or great bodily harm to Sgt. Starr. The Sergeant was in a precarious position standing on his vehicle and the cinder block wall. He could have easily been knocked off his position, causing injury, or even fallen between his vehicle and Chacon's truck. Given Chacon's behavior, it would be perfectly reasonable for Sgt. Starr to fear that if he were to fall on the ground, Chacon would continue driving in a reckless manner to try to escape and likely run him over. There can be no question that an automobile can be a deadly weapon. Additionally, given Chacon's behavior, it was reasonable for Sgt. Starr to believe that if he did not stop Chacon's escape attempt, he would pose a threat of harm to other officers and civilians in the path of his possible escape. Finally, the fact that Adrian Chacon entered a plea to aggravated assault on a peace officer shows acknowledgment that he knew his actions were putting deputies in danger of serious harm or death from the deadly weapon he was driving. This makes it all the more reasonable that Sgt. Starr feared for his life and safety.

A jury in this case would agree that Sgt. Starr's actions under the circumstances were justified. There would not be evidence to show beyond a reasonable doubt that when Sgt. Starr reacted with deadly force to Chacon's action of reversing toward him, he was *not* acting reasonably. There would be no reasonable likelihood of a successful prosecution of Sgt. Starr. No charges will be filed, and this case will be closed.

Sincerely,

A handwritten signature in black ink that reads "Todd Heisey". The signature is written in a cursive, slightly slanted style.

Todd Heisey
Special Prosecutor

Cc: Raul Torrez, Second Judicial District Attorney
Detective Samuel Rodriguez, Bernalillo County Sheriff's Department
John D'Amato, esq., attorney for Sgt. Chris Starr
Adrian Chacon, c/o Jonathan See, attorney, NMPD