

OFFICE OF THE RAMSEY COUNTY ATTORNEY

John J. Choi, County Attorney

345 Wabasha Street North, Suite 120 • St. Paul, Minnesota 55102
Telephone (651) 266-3222 • Fax (651) 266-3010



MEMORANDUM

DATE: August 10, 2017

TO: Ramsey County Attorney John Choi

FROM: John Kelly, First Assistant Ramsey County Attorney and
Richard Dusterhoft, Criminal Division Director

SUBJECT: In the Matter of the Investigation and Review of the Non-Fatal Shooting of
Castle Ahlbeck

CA FILE NO. 062-0392954

I. Summary

Castle R. Ahlbeck, age 24, was shot and wounded by Officer Brian Platz of the Coon Rapids Police Department ("CRPD") on November 17, 2016. The shooting occurred at approximately 12:45 p.m. in the backyard of a family residence near Highway 10 and 7th Avenue in Anoka during Officer Platz's foot pursuit of Mr. Ahlbeck.

Mr. Ahlbeck was a suspect in the shooting of a man approximately 25 minutes earlier in East Bethel. Following the East Bethel shooting, Mr. Ahlbeck fled the crime scene in a car resulting in an approximately 16-minute long high-speed car chase involving multiple law enforcement agencies. The car chase took place on busy residential streets and highways with the vehicle driven by Mr. Ahlbeck reaching speeds in excess of 120 miles per hour.

During the chase, Mr. Ahlbeck swerved his car in the direction of an officer placing spike sticks in a busy intersection forcing him to run to avoid being hit. Officer Platz was among the many police officers involved in the car chase. Throughout the chase, Officer Platz was aware that Mr. Ahlbeck was a suspect in the East Bethel shooting and the attempt to run over a police officer. Mr. Ahlbeck also swerved his car towards Officer Platz's car forcing him to drive into a ditch.

Mr. Ahlbeck's car collided with a squad car on westbound Highway 10 and he exited his vehicle near Officer Platz. Officer Platz observed Mr. Ahlbeck crouch behind his car similar to that of a person who was taking a defensive position from which to fire a gun. Mr. Ahlbeck then ran across the eastbound lane of that highway. The multiple orders to stop given by Officer Platz were disregarded by Mr. Ahlbeck who continued running first towards a busy highway exit ramp and eventually towards a nearby home.

Officer Platz chased Mr. Ahlbeck on foot, ordering him again numerous times to stop. As Mr. Ahlbeck was running between cars at the 7th Avenue exit ramp, Officer Platz observed a black object in Ahlbeck's hand. Officer Platz believed this object to be a gun and immediately yelled "gun" multiple times. Mr. Ahlbeck continued running toward a nearby house where he entered the backyard by jumping over an approximately five-foot high yard fence.

When Officer Platz arrived at the fence, Mr. Ahlbeck was approximately 25 feet into the backyard and approaching the house. During that time, Officer Platz did not observe any other officers in the vicinity. Officer Platz ordered Mr. Ahlbeck again to stop and Mr. Ahlbeck turned to his right in a manner that led Officer Platz to believe that Mr. Ahlbeck was preparing to shoot at him. Officer Platz fired one shot at Mr. Ahlbeck from his Glock 22 .40 caliber duty firearm, wounding him in the right buttock area. Mr. Ahlbeck went to the ground with his hands concealed beneath his chest. Officer Platz ordered Mr. Ahlbeck to show his hands and when he did, he had a black Samsung smartphone in his right hand.

This Memorandum contains a summary description of the relevant evidence gathered by the Minnesota Bureau of Criminal Apprehension ("BCA") during its investigation of the shooting of Mr. Ahlbeck. As set forth below, this evidence includes statements given by officers and other witnesses; physical, DNA and ballistics evidence; and audio and video recordings taken from police vehicles. There are no known video or audio recordings that captured the shooting.

Based on our review of all of the presented evidence, it is our opinion that the use of deadly force by Officer Platz in this incident was justified by Minnesota Statutes, Section 609.066, subd. 2(1)-(3). Accordingly, we recommend that no criminal charges be brought against Officer Platz related to this incident.

II. Events of November 17, 2016 and the Subsequent BCA Investigation

A. The Events of November 17, 2016

1. East Bethel Shooting and Subsequent Car Chase

On November 17 at approximately 12:22 p.m., the Anoka County Sheriff's Office ("ACSO") was called to 23705 Highway 65 N.E. in East Bethel, Anoka County, Minnesota, regarding a male who had been shot. The suspected shooter had left the scene in a black Audi convertible sports car. The suspect was described as wearing a black hooded sweatshirt. This information along with the suspect's direction of travel was broadcast to other area law enforcement agencies, including the CRPD. The weather on November 17 was partly sunny and approximately 57 degrees.

Law enforcement officers initially spotted the suspected Audi at approximately 12:26 p.m. and they attempted to stop it using lights and sirens. The vehicle was occupied by a lone male who was subsequently identified as Mr. Ahlbeck. Mr. Ahlbeck refused to

stop and continued to flee from law enforcement. The ensuing car chase reached speeds of over 120 miles per hour on busy highways and roads through both residential and commercial neighborhoods.

Law enforcement officers made a number of unsuccessful efforts to stop Mr. Ahlbeck, including attempts to place stop sticks under his vehicle and ramming his vehicle. When officers attempted to place stop sticks at the intersection of 7th Avenue and Bunker Lake Boulevard, Mr. Ahlbeck approached the intersection at an extremely high rate of speed, crossed the lane of oncoming traffic and drove towards the officers. The officers were forced to run out of the way to avoid being struck by Mr. Ahlbeck.

Officer Platz was at his start of shift at a roll call meeting at the CRPD when he first heard the radio call of a male suspected in the East Bethel shooting, fleeing police while driving a dark colored Audi convertible. Very shortly thereafter, a request was made for additional officers in the area to assist in the pursuit. Officer Platz, wearing his CRPD patrol officer's uniform, promptly responded to the request for assistance by joining in the pursuit while driving his clearly marked CRPD Dodge Charger patrol car. During his involvement in the car chase, Officer Platz was also made aware of Mr. Ahlbeck's attempts at driving his car towards the officers at 7th Avenue and Bunker Lake Boulevard.

Officer Platz's first encounter with Mr. Ahlbeck during the chase occurred on 9th Avenue. Officer Platz was driving westbound when he saw Mr. Ahlbeck's vehicle fast approaching in the eastbound lane. Officer Platz slightly moved his car toward the eastbound lane in an attempt to get his attention so that he would stop his car. Instead, Mr. Ahlbeck veered his car toward Officer Platz's car in a head on fashion forcing him into a ditch as Ahlbeck sped past him. Officer Platz was able to return his car to the road and continue his pursuit of Mr. Ahlbeck.

On the Highway 10 overpass above 7th Avenue, Mr. Ahlbeck's vehicle finally came to a stop when he sideswiped the concrete barrier separating the east and westbound lanes of the highway. Officer Platz initially stopped behind Mr. Ahlbeck's vehicle and was the police officer nearest to him. Officer Platz saw Mr. Ahlbeck get out and take cover by crouching behind his vehicle's door. Platz believing Mr. Ahlbeck was taking a shooting stance to fire at him, repositioned his squad car in front of Ahlbeck's car. Mr. Ahlbeck suddenly jumped over the concrete median and ran across the westbound lanes of Highway 10. Officer Platz said he then began ordering the first of many verbal commands ordering Mr. Ahlbeck to "stop."

2. Foot Pursuit and Non-Fatal Shooting of Mr. Ahlbeck.

Mr. Ahlbeck ran between cars on Highway 10 and then down a steep embankment toward 7th Avenue, with Officer Platz in foot pursuit. By the time Officer Platz reached the top of the embankment, Mr. Ahlbeck was at its base approximately 75 feet away from him. Officer Platz said he again yelled at Mr. Ahlbeck to stop. When Mr. Ahlbeck

looked back at him, Officer Platz became aware that he was in a vulnerable position should Ahlbeck begin shooting at him. Mr. Ahlbeck continued to run toward the 7th Avenue exit ramp from Highway 10 and Officer Platz began his descent down the embankment by running diagonally so as to make himself a lesser target for Ahlbeck.

As Mr. Ahlbeck began running between the cars stopped on the exit ramp, Officer Platz saw a black object in Mr. Ahlbeck's hand at the side of his body that he believed was a gun. Officer Platz became concerned that Mr. Ahlbeck might carjack one of the stopped or slow-moving vehicles on the ramp and began yelling "gun, gun, he's got a gun." Mr. Ahlbeck then ran toward a house and jumped over an approximately five-foot-high yard fence into the backyard. Officer Platz had his firearm out when he reached the fence and ordered Mr. Ahlbeck to stop. At this point Officer Platz said that Mr. Ahlbeck was approximately 25-30 feet into the backyard and approaching the house.

As he approached the fence, Officer Platz realized that he was the only police officer in the vicinity. Officer Platz again ordered Mr. Ahlbeck to stop and he turned to his right in a manner that led Officer Platz to believe that he was preparing to shoot at him. Officer Platz fired one shot at Mr. Ahlbeck from his Glock 22 .40 caliber duty firearm. Believing that his shot missed Mr. Ahlbeck, Officer Platz saw Ahlbeck go to the ground on his stomach side with his hands concealed beneath his chest. Officer Platz described Mr. Ahlbeck as then quickly looking in both directions as if he was trying to locate the officer.

Concerned that Mr. Ahlbeck was waiting for him to jump the fence and create a moment when he would not have access either to his firearm or police backup, Officer Platz remained in a fire ready position outside of the fence. He ordered Mr. Ahlbeck to show his hands and he complied holding a large dark colored Samsung smartphone in his right hand. Additional officers arrived and assisted in handcuffing Mr. Ahlbeck. It was at that time that Officer Platz first realized that his shot had struck Mr. Ahlbeck near his right buttock. While medical assistance was provided to Mr. Ahlbeck, Officer Platz was escorted from the scene by another officer.

No other law enforcement or other civilian witnesses witnessed the shooting, although many did hear the sound of the firing of a single gunshot.

Because the Anoka County Attorney's Office (the "ACAO") charged Mr. Ahlbeck with four felony crimes related to the East Bethel shooting and the subsequent car chase, the review of Officer Platz's shooting of Ahlbeck was referred by the ACAO to this office for independent prosecutorial review to avoid any appearance of a conflict of interest.

B. BCA Interview of Castle Ahlbeck

On November 22, 2016, Mr. Ahlbeck agreed to be interviewed by BCA investigators. The role of the BCA in this incident was exclusively to investigate the circumstances related to Officer Platz's shooting of Mr. Ahlbeck and not the East Bethel shooting or subsequent car chase.

Mr. Ahlbeck told the BCA investigators that the Audi was owned by a man he initially identified only as "Greg." Mr. Ahlbeck said he was considering purchasing the car from Greg and took it for a test drive. Later during his interview, Mr. Ahlbeck said he wasn't even sure if Greg was the name of the Audi's owner.

As he began running from his crashed car, Mr. Ahlbeck said he heard Officer Platz order him to "stop or I will shoot." Mr. Ahlbeck then told the investigators that he kept running "saying I don't have anything in my hands, you can't shoot me unless he sees something (sic)." Mr. Ahlbeck told investigators that he kept his hands up in the air at all times while he was fleeing on foot including when he ran across Highway 10 and down the steep embankment and then jumped over the highway median wall and guardrails and the five foot chain-link fence into the residential backyard.

Mr. Ahlbeck also told investigators that after he jumped the fence he heard Officer Platz again order him to "stop or I will shoot." Mr. Ahlbeck then said, "I turn around and put my hands back in the air and start running again with my hands up. You know what I am saying, and he just shoots me (sic)." Mr. Ahlbeck further claimed that his cellphone was never in his hand but in a closed cellphone pocket on his sweatshirt. He stated that when he fell to the ground his hands were not under his chest but in plain view. While on the ground Mr. Ahlbeck said he first removed his cellphone in an attempt to call his mother.

When asked why he would not stop when repeatedly ordered by Officer Platz, Mr. Ahlbeck said that he did not want to be mistaken for the suspect in the East Bethel shooting and harmed by police. At the time he gave this answer, Mr. Ahlbeck had not spoken to any other investigators and the information he volunteered about the East Bethel shooting would not have been publicly known.

C. Evidence Gathered by the BCA at the Scene of the Shooting

The BCA processed the shooting scene and recovered a large black-colored Samsung smartphone owned by Mr. Ahlbeck. Although the gun used in the East Bethel shooting has not been recovered, a photo taken from Mr. Ahlbeck's smartphone shows a Glock handgun tucked into a red upholstered car seat similar to a seat in the Audi driven by him during the car chase. Two plastic bags containing methamphetamine were also taken from the Audi.

A Glock 22 .40 caliber duty firearm was collected from Officer Platz. Officer Platz voluntarily submitted to a toxicology test, which showed that he was not under the influence of any alcohol or controlled substances at the time of the shooting.

D. Audio and Video Evidence

There is no known audio or video evidence of the shooting of Mr. Ahlbeck or the relevant events immediately preceding or following it. There is audio and video evidence of the car chase caused by Mr. Ahlbeck, including video of Mr. Ahlbeck running across the westbound lane of Highway 10. Based on a review of that video and contrary to Mr. Ahlbeck's statement to the BCA investigators, his hands were not up in the air as he was running across the highway and jumping over its median wall.

III. Recommendation

Minnesota Statutes, Section 609.066, subdivision 2(1)-(3) provide that the use of deadly force by a police officer is justified only when necessary, in the following three situations:

- (1) to protect the peace officer or another from apparent death or great bodily harm;
- (2) to effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force; or
- (3) to effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed.

After considering both the evidence presented in this case and the legal standard recognized by the U.S. Supreme Court in the seminal cases of Tennessee v. Garner, 471 U.S. 1, 11 (1985) and Graham v. Connor, 490 U.S. 386 (1989), we believe that Officer Platz's use of deadly force against Mr. Ahlbeck was objectively reasonable and therefore justifiable under all three of the circumstances set forth in Minnesota Statutes, Section 609.066 subdivision 2(1)-(3). Accordingly, for the following reasons we recommend that no criminal charges be brought against Officer Platz related to the non-fatal shooting of Mr. Ahlbeck.

Officer Platz was notified that Mr. Ahlbeck was the suspect in the shooting of a man in East Bethel that occurred less than thirty minutes earlier. Mr. Ahlbeck fled from the scene of the shooting leading police on a car chase at speeds exceeding over 120 miles per hour at midday on crowded highways and streets. He swerved his vehicle toward police officers including Officer Platz and his vehicle had collided with police vehicles.

Mr. Ahlbeck exited his vehicle after he collided with the median wall in the westbound lane of Highway 10. He then assumed a crouching position next to his car that Officer Platz reasonably believed was consistent with someone who was preparing to fire a gun. When ordered to stop by Officer Platz, Mr. Ahlbeck instead jumped the median wall and ran across the lanes of traffic on eastbound Highway 10. The video evidence of Mr. Ahlbeck running across the highway does not support his statement to investigators that his hands were up in the air during this time.

As Mr. Ahlbeck ran among the cars on the 7th Avenue exit ramp, Officer Platz said he observed a black object in Ahlbeck's hand that he believed to be a gun. Officer Platz was concerned that Mr. Ahlbeck's refusal to surrender peaceably might lead him to carjack a vehicle stopped at the exit ramp. His concern did not decrease as Mr. Ahlbeck left the exit ramp and headed toward a nearby house.

Mr. Ahlbeck jumped a five-foot high chain link fence to enter into the backyard of the house. He claimed that he jumped the fence with both of his hands in the air just as he claimed when he ran across Highway 10. In that instance, the video evidence refuted his claim. While there is no video or witness evidence to independently support or refute his claim that he jumped the fence with both of his hands in the air, it is not plausible that he could physically do so without dropping at least one hand to help him successfully make the jump.

At the fence, Officer Platz had to make a decision. He saw Mr. Ahlbeck approximately 25 feet away in the backyard approaching the house and he knew that he had no police back-up in the vicinity. He could place himself in a very vulnerable position by re-holstering his weapon in order to climb the fence in continued pursuit of Mr. Ahlbeck and risk being shot at by him, or he could fire at Ahlbeck to stop him from entering the house. As part of his decision, Officer Platz had to also consider the following additional factors: (1) that Mr. Ahlbeck appeared to turn to see what he was going to do at the fence; and (2) that the chain-link fence provided him with no defensive cover and that his climbing it would have created sufficient noise that would make his presence known to Ahlbeck. For these reasons, Officer Platz's belief that Mr. Ahlbeck would shoot at him if he re-holstered his gun in order to climb the fence was reasonable under the circumstances.

In addition to the foregoing facts, Officer Platz also knew that Mr. Ahlbeck had committed felonies involving the use of deadly force within the preceding 25 minutes and refused to surrender peaceably despite being given many opportunities to do so. Based on these considerations, Officer Platz made the decision to fire once at Mr. Ahlbeck. The shot struck Mr. Ahlbeck, and he was apprehended.

The black object in Mr. Ahlbeck's hand at the time he was laying on the ground was a cell phone. There is no independent evidence that can support or refute his claim that he did not have the cell phone in his hand until after he was shot. Mr. Ahlbeck's credibility on this claim becomes an issue given that video evidence presented to this office did not support his prior statement that he ran across Highway 10 with his hands in the air.

The gun that Mr. Ahlbeck is alleged to have used in the East Bethel shooting was not recovered. Although, police found a photograph on Mr. Ahlbeck's cell phone of a black semiautomatic handgun, concealed partially under the leg of a person who was seated in the driver's seat of the Audi he was driving when he fled from police. The face and upper torso of the person cannot be seen in the photo.

Under the above-described circumstances, it was also reasonable for Officer Platz to believe that Mr. Ahlbeck constituted a danger to the lives of persons he could have encountered as he fled from the police, including anyone who might have been in the house he was approaching.