

# REPORT ON USE OF FORCE



## Legal Analysis Surrounding the Death of Isai Rodriguez on January 24, 2019

### INTRODUCTION

On January 24, 2019, 33-year-old Isai Rodriguez (hereinafter “Decedent”) was shot by Las Vegas Metropolitan Police Department (“LVMPD”) Special Weapons and Tactics (“SWAT”) Officer Levi Hancock and SWAT Sniper Officer Brett Brosnahan. After being shot by the officers, and fatally wounded, Decedent committed suicide by shooting himself. The incident took place at approximately 9:11 p.m. at a single-family residence located at 471 Macbrey, Las Vegas, Nevada 89123.

### SYNOPSIS

On January 24, 2019, LVMPD Repeat Offenders Program (“ROP”) and Criminal Apprehension Team (“CAT”) detectives were conducting an investigation in an attempt to locate and arrest Decedent, who had multiple active felony arrest warrants for the crimes of Attempt Murder with Deadly Weapon, two (2) counts Battery with Use of a Deadly Weapon, Discharging a Firearm From or Within an Occupied Structure or Vehicle, Stop Required On Signal Of Police Officer, and Attempt Grand Larceny Auto.

At approximately 12:33 p.m., detectives were conducting surveillance at Decedent’s parents’ residence at 700 Hermosa Palms Avenue. While conducting surveillance, detectives observed a two-door Mercedes-Benz, which was later determined to be stolen, arrive at the residence driven by a female juvenile, who was later identified as M.R., and occupied by Decedent as the sole passenger. Detectives positively identified Decedent as the wanted suspect shortly after he exited the vehicle. Decedent and M.R. stayed at 700 Hermosa Palms Avenue a short time before exiting and leaving in the Mercedes-Benz. With assistance from the LVMPD Air Unit, detectives followed Decedent and M.R. to 471 Macbrey, where the Mercedes-Benz was parked on the street in front of the residence.

At approximately 5:00 p.m., Decedent and M.R. entered 471 Macbrey. Detectives set up containment around the residence and utilized the public address ("PA") system on their vehicles to issue verbal commands for Decedent to exit the residence.

After several hours with no response from Decedent, detectives obtained a telephonic search warrant in preparation for LVMPD SWAT personnel to serve the warrant and arrest Decedent. SWAT officers, along with K-9 units, took over perimeter positions around 471 Macbrey. By approximately 9:00 p.m., SWAT officers had taken over the perimeter of the residence and positioned two armored BearCat vehicles in front of the residence. SWAT officers utilized the PA system on one of the two BearCat vehicles to repeatedly issue the following general verbal commands for Decedent to exit the residence: "Occupants of 471 Macbrey, this is the Las Vegas Metropolitan Police Department, we have a search warrant for your residence, you need to exit the residence immediately. Exit from the front door with your hands above your head." After receiving no response from Decedent, four (4) flash-bang distract devices were placed around the exterior of the residence and discharged.

Within two (2) minutes after the distract devices were discharged, Decedent used an AR-15 style firearm to shoot several rounds from his location inside 471 Macbrey toward SWAT Officers Levi Hancock and Kai Hoskins, who were positioned in the backyard of 481 Macbrey. Within seconds, Decedent turned around, opened the front door of the residence and fired several rounds toward the direction of multiple SWAT officers, including Officer Brosnahan, positioned in and around the BearCat vehicle positioned off the northeast corner of 471 Macbrey.

From his position, Officer Hancock returned fire through the now shattered rear sliding door of the residence. Officer Brosnahan, returned fire through the front entryway of 471 Macbrey. After the officers returned fire, Decedent fell to the ground inside of the residence and seconds later a single gunshot was heard coming from inside the residence.

Several minutes later, six (6) people exited the residence and were detained by SWAT officers. Decedent did not exit. Using tactical robots, officers discovered Decedent lying unresponsive inside the front entryway of the residence. Decedent was still holding the AR-15 style firearm and also had a handgun on the ground between his legs. A K-9 officer deployed a police K-9 to pull Decedent from the residence to the front yard where he could safely be taken into custody. At that time, Decedent's hands were placed into flex cuffs. SWAT doctors then examined Decedent on scene and pronounced him deceased.

Due to the fact that an officer-involved shooting occurred, the Force Investigation Team ("FIT") respond to the scene to assume responsibility of the investigation. FIT personnel arrived and assumed control of the scene.

The Clark County Coroner subsequently conducted an autopsy of Decedent and determined Decedent had suffered a gunshot wound to the abdomen that would have been fatal, however, Decedent survived long enough to shoot himself so the Coroner ruled Decedent's cause of death to be a gunshot wound of head and his manner of death a suicide.

This report explains why criminal charges will not be forthcoming against LVMPD Officers Hancock and Brosnahan. It is not intended to recount every detail, answer every question, or resolve every factual conflict regarding this police encounter. It is meant to be considered in conjunction with the Police Fatality Public Fact-Finding Review which was held on September 30, 2019.

This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of Officers Hancock and Brosnahan was not criminal. This decision, premised upon criminal-law standards, is not meant to limit any administrative action by LVMPD or to suggest the existence or non-existence of civil actions by any person, where less stringent laws and burdens of proof apply.

### **DESCRIPTION OF THE SCENE AND VISIBLE EVIDENCE**

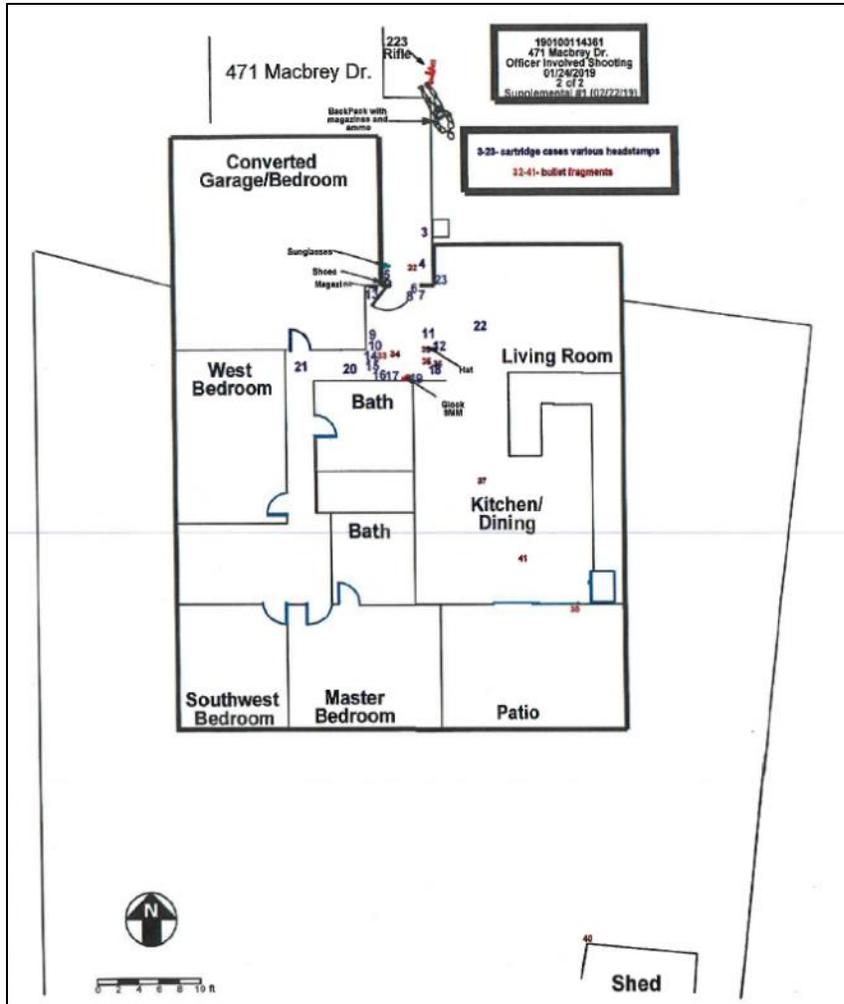
The scene consisted of 471 Macbrey Drive, which was the home in which Decedent barricaded; the rear-west yard of 481 Macbrey Drive, which is where Officer Hancock was positioned; 462 Macbrey Drive, which is a home across the street from 471 Macbrey Drive that was struck by Decedent's gunfire; and the two-lane residential street of Macbrey Drive, which is where Officer Brosnahan was positioned northeast of the residence in the BearCat turret.



Ariel photo of scene showing 471 Macbrey, 481 Macbrey, and 462 Macbrey.

#### **471 Macbrey Drive**

The residence at 471 Macbrey was a three-bedroom, two-bathroom single-level house on the south side of Macbrey. The front door was north facing and adjacent to the eastside of the attached garage. Apart from the main residence, a bullet fragment was located in a shed located in the backyard.



Crime scene diagram of the interior of 471 Macbrey.

The front door entered inward with the living room to the east and kitchen/dining area to the south.

Fourteen (14) pieces of bullet evidence (e.g. bullet fragments) were located throughout 471 Macbrey, including on the front walkway, the stoop, the interior entryway, the floor of the dining area, the walkway north of the shed, the converted garage bedroom, the shattered glass on the rear patio near the sliding glass door, and inside of the refrigerator.

Twenty-one (21) .223 caliber cartridge cases were located throughout the front walkway, front stoop, interior entryway, in the hall, and in the living room.

Located on the floor of the interior entryway were a 9mm Glock handgun containing an extended magazine, a Glock 9mm magazine loaded with ten (10) cartridges and pooling of apparent blood with drag marks leading out to Decedent's body in the front yard. In the pooling of apparent blood was a baseball cap with an apparent bullet hole in the right and left side of the cap.



Above left: The front entryway area of 471 Macbrey from the outside looking into the residence.  
Above right: Inside the front entryway area of 471 Macbrey looking towards the front door.

The 9mm Glock handgun was later determined to be stolen and contain an extended magazine loaded with thirty (30) 9mm cartridges. Within the fully closed chamber of the 9mm Glock handgun, CSAs located an expended cartridge case. FIT Detective Penny determined the cartridge case remained in the chamber of the firearm due to the upper/slide being out of battery (i.e. not fully closed) at the time it was fired. This is likely due to Decedent pressing the firearm against his head when he discharged the firearm.



Above left: The 9mm Glock handgun with a fully loaded thirty (30) round magazine.  
Above right: The cartridge case located within the closed chamber of the 9mm Glock handgun.

## Location of Decedent's Body

Decedent's body was located in the front yard of 471 Macbrey near the end of the concrete walkway leading to the front door. He was lying prone with his wrists flex-cuffed together behind his back. A gunshot wound was apparent to the right side of his head over the ear and to the left side of the head over the ear. Another gunshot wound was apparent to the front of his right side. Additional injury was visible to his mid-lower back. Abrasions consistent with the police K-9 deployment were noted to the outside of his right ankle and the back of the right upper leg.

Next to Decedent's body on the east side of his legs was an Anderson AM-12 .223 rifle with a mounted red-dot optic and loaded magazine within (pictured below). The firearm was in the fire position and the chamber was closed. The firearm contained one (1) cartridge in the chamber and thirty (30) cartridges in the magazine.



Decedent wore a backpack having visible apparent blood and a bullet hole through exterior middle travelling out the back. Inside the main compartment of the backpack, crime scene analysts ("CSAs") found five (5) fully loaded or nearly fully loaded magazines designed to fit inside the Anderson .223 firearm (pictured below). In total, those magazines contained one hundred forty-nine (149) .223 cartridges. One of those magazines had an apparent bullet defect in it. In the middle pocket, a sixth magazine designed to fit the same firearm was located and found to be loaded with two (2) .223 cartridges.



Within the pockets of the Decedent's jeans, CSAs located two (2) more fully loaded magazines designed to fit inside the Anderson .223 firearm. Those magazines contained a total of sixty (60) additional .223 cartridges. Also located in Decedent's pocket were two (2) plastic baggies containing white residue that later tested positive for Methamphetamine.

### **Evidence of Decedent's Bullet Strikes**

Twenty-one (21) unique bullet holes/defects and their corresponding trajectory paths were determined to be fired from inside the residence where Decedent was located. Those bullet holes/defects were located in the following locations: one (1) into the exterior south side of the west window pillar of the front of the residence at 462 Macbrey across the street from 471 Macbrey; two (2) into the south side of the column at the northeast corner of the exterior entryway cover; one (1) ricochet on the front walkway north of the column; two (2) ricochets on the front stoop; two (2) holes into and through the open front door passing into the entryway walls; one (1) hole into the exterior east side of the garage east wall; one (1) hole into the interior entryway's north wall; one (1) ricochet on the interior entryway floor; one (1) set of defects into the baseboard of the west wall of the entryway; two (2) holes into and through the south wall of the entryway that passed through the dining area, one of which exited the rear south wall of the residence; one (1) hole into and through the south wall of the dining area; three (3) impacts into the refrigerator; one (1) hole into and through the interior of the east side rail/jamb of the sliding glass door; one (1) hole into the lid of the trashcan on the rear patio; and one (1) hole into the exterior north wall west of the door of the shed in the backyard.



Above left: Bullet impacts from shots fired from inside 471 Macbrey; 462 Macbrey in the background.  
Above right: Interior bullet impacts towards the rear sliding door of 471 Macbrey; shed in background.

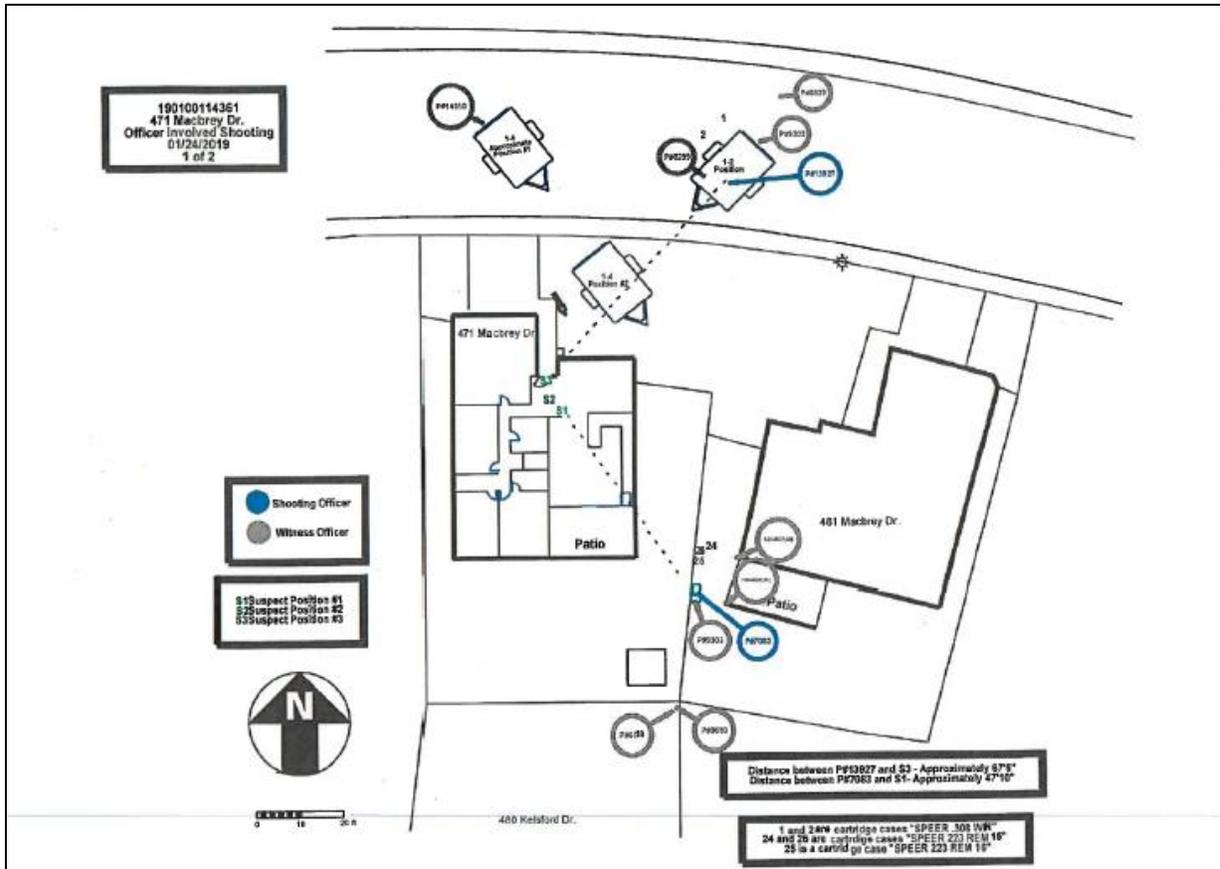
### **Officer Locations**

LVMPD SWAT officers, K-9 officers and detectives were positioned around the perimeter of 471 Macbrey at the time of the shooting.

The officers' locations to the southeast of 471 Macbrey at the time of the shooting included SWAT Officer Hancock in the rear west side yard of 481 Macbrey with SWAT Officer Kai

Hoskins and K-9 Officer Michael Marano. Additionally, Detectives Brian Jackson and Russell Backman were located in the backyards to the south of 471 Macbrey.

The officers' locations to the front of 471 Macbrey at the time of the shooting included SWAT Officer Brosnahan in the turret of the BearCat vehicle positioned on the street to the northeast of 471 Macbrey. Detective John Beckerle was seated in the front seat with K-9 Officer Sean Malia and SWAT Officer Alex Gonzales standing behind that same BearCat vehicle. Additionally, behind the other BearCat vehicle that was positioned to the northwest of 471 Macbrey, SWAT Officer Hamric Singh was standing in the street.



Crime scene diagram of the exterior views of 471 and 481 Macbrey. Officers Hancock and Brosnahan are represented in blue. Other officers are represented in gray, with the Officer Marano on the patio of 481 Macbrey being depicted in his two positions. The BearCat vehicle to the front/northwest of 471 Macbrey is also represented in the second position it took in the front yard of 471 Macbrey after the shooting.

### Officer Hancock's Position: 481 Macbrey Drive

The west perimeter wall of 481 Macbrey was shared with 471 Macbrey and stood 5'11" high on the 481 Macbrey side and 5' high on the 471 Macbrey side.

In rear of 481 Macbrey, there were two (2) chairs on the ground next to the west perimeter wall and two (2) ladders set up near the same wall. The chair seats were 1'2" up from the

ground. The distance from the top of the block wall above the north most chair, which is where Officer Hancock was located at the time of the shooting, through 471 Macbrey to the front door of the residence was approximately 47'10".

Three (3) .223 caliber cartridge cases were located in the backyard of 481 Macbrey.

Detectives later determined that Officer Hancock fired four (4) rounds in total, however, due to Officer Hancock firing his weapon over the cinder block walk, which was open at the top with a center void extending to the ground, the fourth cartridge case is believed to have fallen into the wall and could not be recovered without destroying the wall.

Three (3) bullet holes/defects and their corresponding trajectory paths were determined to be fired into the 471 Macbrey from the southeast where Officer Hancock was located. The first was bullet damage located in the exterior side of the eastside rail/jamb of the sliding glass door 4'7" up from the patio floor with damage to the next vertical rail to the north travelling from southeast to northwest and up to down. The next was a bullet hole in the exterior south wall of the house, east of the sliding glass door 4'6" up from the patio floor with corresponding protrusion on the interior of the south kitchen wall east of the sliding glass door travelling southeast to northwest, right to left and up to down. The last was a bullet hole in the exterior south wall of the house east of the sliding glass door 6'4" up from the patio floor passing through the wall on the interior kitchen side of the wall travelling southeast to northwest, up to down, and right to left.

### **Officer Brosnahan's Position: The BearCat Vehicle Northeast of 471 Macbrey Drive**

The BearCat vehicle northeast of 471 Macbrey was parked in the street facing the northeast corner of 471 Macbrey. The height from the ground to the top of the open turret where Officer Brosnahan was located was 8'3". The distance from the front of the turret to the front door of 471 Macbrey was approximately 67'6".

Two (2) .308 cartridge cases were in the street to the northwest of the right rear corner of the BearCat vehicle.

Bullet damage into the exterior side of the front door was determined to be fired into the residence from the northeast, which is where Officer Brosnahan was located in the turret of the BearCat.

## **OFFICER WEAPON COUNTDOWN**

On January 25, 2019, Officers Brosnahan and Hancock had their duty weapons counted down at South Central Area Command.

### **Officer Hancock's Colt M4 .223 Rifle**



At the completion of the countdown, it was determined Officer Hancock discharged his rifle four times during the incident.

### **Officer Brosnahan's LaRue PredatOBR 762.308 Rifle**



At the completion of the countdown, it was determined Officer Brosnahan discharged his rifle two times during the incident.

## **FIREARM EXAMINATIONS**

LVMPD Forensic Laboratory Requests were submitted on the firearms of Decedent, Officer Hancock, and Officer Brosnahan. Including function testing and ballistic comparisons to the cartridge cases recovered from the scene. On April 8, 2019, Forensic Scientist Roy Wilcox submitted the Report of Examination: Firearms.

Decedent's Anderson Manufacturing AM-12 .223 was examined, test fired and found to be operational with no noted malfunctions. The barrel length of the firearm was 7 5/8".

Decedent's Glock 26 9mm Luger pistol was examined, test fired and found to be operational with no noted malfunctions. The magazine submitted with the Glock had a capacity of thirty-one (31) cartridges.

Officer Hancock's Colt M4 .223 rifle was examined, test fired and found to be operational with no noted malfunctions.

Officer Brosnahan's LaRue Tactical .308 rifle was examined, test fired and found to be operational with no noted malfunctions.

Samples of the cartridge cases recovered on scene were examined and microscopically compared to test fired cartridges from all four weapons. The lab results were consistent with other evidence recovered at the scene. The sample of the .223 cartridge cases found inside the home were determined to have been fired within Decedent's Anderson Manufacturing AM-12 .223 firearm. The cartridge case located inside Decedent's Glock 26 9mm Luger pistol was determined to have been fired within that firearm. The samples of the cartridge cases recovered from SWAT Officer Hancock's and Brosnahan's respective positions were determined to have been fired within their respective rifles.

A single bullet recovered from Decedent's lower back, as described below in the Autopsy section, was determined to be consistent with Officer Brosnahan's .308 Winchester bullets and shared rifling characteristics with bullets test fired from Officer Brosnahan's LaRue Tactical .308 rifle. The other three (3) firearms examined were eliminated as having fired the bullet.

## **BODY-WORN CAMERAS**

Eighteen (18) officers were equipped with body-worn cameras ("BWC") that were activated at the time of the shooting. The footage captured on the BWCs and reviewed by the District Attorney's Office was consistent with the witness officers' statements, victim officers'

statements, and Officer Brosnahan's and Officer Hancock's statements. The following is a summary of the BWC footage of Officers Brosnahan, Hancock and Hoskins, which captured Decedent's actions immediately before and during the incident.

### **Officer Levi Hancock's BWC Footage**

Officer Hancock was wearing a BWC at the time of the incident, and the camera was activated. Officer Hancock's camera footage depicts verbal commands being issued using the BearCat's PA system and the rear patio of 471 Macbrey with a view into the darkened residence. After the first flash-bang is discharged, glass is heard breaking and smoke is visible from under the rear patio cover of 471 Macbrey. Seven (7) seconds later, the second flash-bang is discharged and Officer Hancock turns on a weapon-mounted flashlight which illuminates a window under the patio cover. Upon the third flash-bang being discharged Officer Hancock illuminates the rear sliding glass door of the residence, and the interior of the residence is visible. Seventy (70) seconds later, the Decedent appears from behind a wall inside of the residence and the first volley of gunshots are fired through the sliding glass door towards Officers Hancock and Hoskins, who duck behind a wall. Officer Hoskins is heard saying, "Shots fired." Four (4) seconds later, Officer Hancock looks over the wall and illuminates the inside of the residence with his flashlight. Six (6) seconds later, Decedent opens the front door and starts shooting out of the open door. Officer Hancock then discharges his rifle towards Decedent. Fourteen (14) seconds after Decedent fired his first shot, he stops shooting. Three (3) seconds later a single gunshot is heard from inside of the residence. PA announcements and orders continue coming from the BearCat in front of the residence and Officer Hancock states over the radio, "I've got a visual on him. He's down at the front door." Several minutes later, the occupants inside of the residence are seen walking out of the front door with their hands raised. Officer Hoskins subsequently threw a Recon Scout® robot into the residence through the rear sliding door which allowed Officer Hancock, via the Recon Scout® display, to see that the gun was still in Decedent's hand.

### **Officer Brett Brosnahan's BWC Footage**

Officer Brosnahan was wearing a BWC at the time of the incident, and the camera was activated. Officer Brosnahan's camera footage depicts verbal commands being issued using the BearCat's PA system, then three flash-bangs discharge over the course of fifteen (15) seconds followed by the sound of gunfire from inside 471 Macbrey seventy (70) seconds after the third flashbang discharged. Eight (8) seconds later, the front door of 471 Macbrey is opened, followed two (2) seconds later by the sound of gunfire and visible muzzle flashes in the exterior entryway. Officer Brosnahan then fired two rounds at the front door area. Six seconds later, a single gunshot is heard from inside the residence. Thereafter, announcements and orders continue to be issued using the BearCat's PA system and approximately fifteen minutes later occupants start to exit the residence and are subsequently detained.

## **Officer Kai Hoskins' BWC Footage**

Officer Hoskins was wearing a BWC at the time of the incident, and the camera was activated. Officer Hoskins' camera footage is consistent with all other footage, including Officer Hancock, who he was next to when Decedent began shooting. Officer Hoskins' BWC footage also depicts Decedent as he appears from behind a wall inside of the residence followed by the first volley of gunshots being fired through the sliding glass door towards Officers Hancock and Hoskins, who duck behind a wall.

## **OTHER CAMERA FOOTAGE**

After the shooting and the subsequent exit of the occupants of 471 Macbrey, LVMPD All Hazard Regional Multi-Agency Operations and Response ("ARMOR") personnel deployed two robots and discovered Decedent lying inside the front door of the residence, unresponsive and still holding a firearm.



Above left: Decedent holding the AR-15 firearm in his right hand.  
Above right: The Glock handgun between Decedent's legs.

## **SCENE WALK-THROUGH**

### **Officer Hancock**

On January 25, 2019, at approximately 3:01 a.m., Officer Hancock provided a walk-through of the scene, placing an orange traffic cone on the chair he was standing on at the time of the incident.

### **Officer Brosnahan**

On January 25, 2019, at approximately 2:56 a.m., Officer Brosnahan provided a walk-through of the scene. Crime Scene Investigations (CSI) personnel placed an orange traffic cone on top of the BearCat to indicate Officer Brosnahan's position at the time of the incident. Officer Brosnahan agreed to the placement.

## OFFICER HANCOCK'S STATEMENTS

### Officer Hancock's Public Safety Statement

On January 25, 2019, at approximately 12:15 a.m., Officer Hancock gave a Public Safety Statement (PSS) to Sergeant Andre Bates. What follows is a summary with quotes of Sgt. Bates' recounting of the PSS to FIT Detective Patton. The questions asked of Officer Hancock are reflected in italics, and the officer's responses, if exact quotes, are reflected in bold italics.

1. *"Did you discharge your firearm?"* **"Yes."**
2. *"If so, in what direction?"* **"2-side containment wall, front door of the residence."**
3. *"Approximately where were you located when you fired?"* **"On the 2-side containment position, standing on a chair, uh, looking into the residence."**
4. *"How many shots did you fire...or how many shots do you think you fired?"* **"Two, possibly three."**
5. *"Is anyone injured?"* **"Suspect."**
6. *"If so, where are they located?"* **"Standing in the front of the door."**
7. *"Are there any outstanding suspects?"* **"No."**
8. *"What crimes have they committed?"* Um, already knew the answer to that, so, um, there...again, it's not applicable. We were serving a search warrant, so...for battery with a deadly weapon and an attempt 420.
9. *"What type of weapon do they have?"* **"Possibly a rifle or AR pistol."**
10. *"Is it possible the suspect fired rounds at you?"* **"Yes, very possible."**
11. *"If so, what direction were the rounds fired from?"* **"Initial volley of fire, uh, ss...the suspect was standing in the hallway by the door and ff...he fired ... He fired through...on the back...through the slider, at our position on the 2-side wall. A second volley of rounds fired as, uh, as he opened the fr...as he opened the, the front door and he fired at the 1-2 BearCat."**
12. *"How many shots do you think the suspect fired?"* **"Ten to twelve rounds."**
13. *"Approximately where was the suspect located when they fired?"* And he answered that in his previous, uh, statement so.
14. *"Do you know if any other officers discharged their firearm?"* **"Yes."**
15. *"If so, who are they?"* **"Brett Brosnahan."**
16. *"Approximately where was the officer(s) located when they fired?"* **"1-2 BearCat."**
17. *"Are there any weapons or evidence that needs to be secured or protected?"* **"Shell casings,"** his shell casings where he was standing.
18. *"Are you aware of any witnesses?"* **"Officer Kai Hoskins, and he was standin' on the 2-side, and Officer Mike Marano, and he was also standing on the 2-side,"**
19. And he was shooting an M4 rifle, he told me.

### Officer Hancock's Recorded Voluntary Statement

On January 27, 2019, at approximately 9:02 a.m., Detective Penny conducted an audio recorded interview with Officer Hancock.

Officer Hancock stated he was requested to assist on a SWAT service of a search warrant. Upon arriving at the briefing, he learned the warrant was for 471 Macbrey and they were looking for Decedent. Decedent was wanted for attempt murder related to a shooting and for the ramming of a patrol vehicle. Officer Hancock also learned Decedent was known to carry a firearm. After the briefing, Officer Hancock and the other SWAT officers went to 471 Macbrey.

Upon arrival, Officer Hancock went to his assigned containment position in the backyard of a neighboring residence. Officer Hancock used a chair to look over the cinder block wall towards 471 Macbrey. He could see inside of the residence through a sliding glass door, but did not see any movement. Once containment was set on all sides of the residence, announcements and orders were issued to the occupants inside the residence using the PA systems in the BearCats.

After there was no response from inside the residence, a plan was formulated to deploy flash-bang devices in the back and front yards. Officer Hoskins, who was with Officer Hancock, discharged his flash-bang in the yard which resulted in a lot of smoke that obstructed their view into the residence. Because of the smoke, Officer Hancock transitioned from using his night vision goggles to using a flashlight to see into the residence.

Approximately a minute later, Officer Hancock observed a shadowy figure appear in the hallway next to the front door. Before he could make an announcement over the radio, Officer Hancock saw muzzle flashes as Decedent started shooting in his direction. Officers Hancock and Hoskins ducked behind the wall until the gunfire stopped. After the gunfire stopped, Officer Hancock looked back over the wall in an attempt to locate Decedent. Officer Hancock saw the front door was open and Decedent was shooting towards the neighborhood and the BearCats. As Decedent continued to shoot, Officer Hancock shot at Decedent to stop him.

Officer Hancock saw Decedent go down to the ground, but was not sure if Decedent was moving into a crouching or prone position. Officer Hancock advised over the radio he fired shots and what he could see inside of the residence. After several minutes, several other occupants from inside of the residence exited out the front door.

As Officer Hancock continued to watch Decedent, Officer Hoskins threw a Recon Scout<sup>®</sup> robot into the residence and was able to get a better view of Decedent. Decedent was seen laying on his side and had a rifle cradled against his chest. Officers Hancock and Hoskins continued to watch Decedent with the Recon Scout<sup>®</sup> until additional resources arrived to the scene and they were relieved of the responsibility.

Officer Hancock stated he was concerned for the safety of officers, detectives, and civilians in the surrounding residences as Decedent fired his weapon. Officer Hancock remembered after the volleys of gunfire hearing a distinct, single gunshot from inside of the residence.

## OFFICER BROSNAHAN'S STATEMENTS

### Officer Brosnahan's Public Safety Statement

On January 25, 2019, at approximately 12:15 a.m., Officer Brosnahan provided a PSS to Sergeant Donald Fieselman. What follows is a summary with quotes of Sgt. Fieselman's recounting of the PSS to FIT Detective Patton. The questions asked of Officer Brosnahan are reflected in italics, and the officer's responses, if exact quotes, are reflected in bold italics.

1. *"Did you discharge your firearm?"* **"Yes."**
2. *"If so, in what direction?"* **"From the 1-2 BearCat, towards the front door."** He believed the direction was southwest that he fired in.
3. *"Approximately where were you located when you fired?"* **"In the turret of the 1-2 BearCat."**
4. *"How many shots do you think you fired?"* **"Two."**
5. *"Is anyone injured?"* **"The suspect."**
6. *"If so, where are they located?"* **"He was located in the doorway of the target structure."**
7. *"Are there any outstanding suspects?"* **"Not to my knowledge."**
8. *"What type of weapon do they have?"* He said he didn't know.
9. *"Is it possible the suspect fired rounds at you?"* **"Yes."**
10. *"If so, what direction were the rounds fired from?"* **"From the target structure out towards SWAT and SWAT Armor."**
11. *"How many shots do you think the suspect fired?"* **"First volley probably 10, the second volley probably 12."**
12. *"Approximately where was the suspect located when they fired?"* **"In the doorway of the target structure. That was the second volley. During the first volley I couldn't see him."**
13. *"Do you know if any other officers discharged their firearms?"* **"Yes."**
14. *"If so, who are they?"* **"Levi Hancock."**
15. *"Approximately where was the officer(s) located when they fired?"* **"He was on the 2-side."**
16. *"Are there any weapons or evidence that need to be secured or protected?"* **"Yes."**
17. *"If so, where are they located?"* He said his rifle was with him here in the TOC, and the shell casings...his shell casings would be by the 1-2 BearCat on the passenger side.
18. *"Are you aware of any witnesses?"* **"There are witnesses, but I don't know who they all are, except Mike Henry, who was in the front seat of the BearCat. I know he was one."**

### Officer Brosnahan's Recorded Voluntary Statement

On January 27, 2019, at approximately 10:02 a.m., FIT Detective Penny conducted an audio recorded interview with Officer Brett Brosnahan.

Officer Brosnahan was advised of a telephonic search warrant of a residence where ROP detectives had been attempting to make contact with the occupants via bullhorn for several

hours without success. Officer Brosnahan and his partner, Officer Werner, were assigned to conduct reconnaissance on 471 Macbrey and meet with ROP detectives. After completing the reconnaissance and speaking to ROP Sergeant Jesse Kommell-Bernstein, Officer Brosnahan went to the SWAT briefing location to draw up the plan for the search warrant service.

During the briefing Officer Brosnahan learned that the suspect, the Decedent, had a history of violence, was armed and would most likely fight or resist law enforcement officers. After the briefing, the SWAT team drove to 471 Macbrey. Officer Brosnahan was assigned as the sniper in the 1-2 BearCat and would be positioned in the turret. Upon arrival at the residence, SWAT officers took over containment positions on all four sides. Once containment was set, verbal announcements and orders were made to the occupants of the residence using the PA system in the 1-2 BearCat.

After not getting any response from anyone inside of the residence, SWAT officers deployed diversionary distract devices (flash-bangs) from four different positions around the residence. Even after the flash-bangs were discharged, there was still no response from anyone inside the residence. A short time later, Officer Brosnahan heard muffled gunfire from inside of the home. As Officer Brosnahan focused on the front door, he observed the reflection on the glass in the top portion of the front door change as the door opened. Officer Brosnahan saw the barrel of a gun pointing out from the front door, saw smoke and fire from the gun, and heard gunfire. Officer Brosnahan, who believed Decedent was shooting at the other BearCat, fired two rounds at Decedent. Shortly after the gunfire stopped, Officer Brosnahan heard one more final gunshot from inside of the residence.

Officer Brosnahan could not see Decedent from his position, but heard Officer Hancock state over the radio that Decedent was laying down near the front door. Officer Brosnahan maintained his position until additional resources arrived, and Decedent was eventually taken into custody.

Officer Brosnahan stated he feared his partners would be harmed or killed if he didn't intervene as Decedent fired. Officer Brosnahan was also concerned for the safety of residents in surrounding houses that he knew had not been evacuated.

## **SUMMARY OF RELEVANT WITNESS STATEMENTS**

### **Civilian Witnesses**

On January 25, 2019, at approximately 8:00 a.m., Detectives Mendoza, Sharp and Ubbens conducted a witness and surveillance-footage canvass at seven (7) residences on Macbrey. One (1) residence was found to have surveillance cameras, but the cameras were not directed at the scene. While multiple civilians heard the incident, only two (2) witnesses observed the incident, below is a summary of their interviews.

## **H.S.**

On January 25, 2019, at approximately 7:45 a.m., Detective Sharp conducted a verbal, non-recorded interview with H.S.

H.S. watched the incident take place from the time she heard officers make announcements and issue orders over a PA system. H.S. looked outside of her residence, which was located across the street from 471 Macbrey, and saw police cars. After an undetermined period of time, H.S. heard two loud bangs.

Approximately two minutes later she heard two additional loud bangs. H.S. again looked out front and saw the front door of 471 Macbrey was open. H.S. said she saw a hand extended out of the door holding something red in color. H.S. heard multiple gunshots which she believed to be an exchange of gunfire.

H.S. said she once again heard a voice over the PA system say, "Drop the weapon!" and, "We have a search warrant to enter the property." Shortly thereafter she saw approximately six to seven subjects exit the residence.

## **T.W.**

On January 25, 2019, at approximately 7:49 a.m., Detectives Ubbens conducted an audio recorded interview with T.W.

On January 24, 2019, at approximately 5:00 p.m., T.W. saw multiple unmarked police cars in front of 471 Macbrey, which was located diagonally across the street from her residence. Plainclothes officers used a bullhorn to make announcements and issue orders to the occupants of the residence to exit. The announcements identified the officers and advised they had an arrest warrant for a male who was inside the house. T.W. was sure the plainclothes officers were police officers because of the lights on the cars.

The officers stood by for approximately three hours with no activity from inside the residence. T.W. heard what she believed to be the racking of a shotgun, then heard a loud "boom" and glass break, and saw smoke come out of the house. There was no response from the occupants inside the house as officers continued to make announcements and issue orders. T.W. heard gunshots from inside 471 Macbrey, but did not hear the officers return fire. T.W. saw the front door open, saw muzzle flashes from the front doorway, and saw someone in the house shooting at officers.

When the gunfire stopped, several women exited the house. After the females exited, T.W. saw SWAT officers surrounding the house, so T.W. assumed someone was still in the residence. T.W. saw a SWAT vehicle driven onto the front yard. T.W. also heard an officer yelling commands and a dog barking. The house was still dark, but T.W. believed she saw Decedent walking around the house.

T.W. did not have much prior interaction with the residents of 471 Macbrey other than them having been inconsiderate about where they parked their vehicles.

### **Civilian Witnesses from 471 Macbrey**

After the incident, six (6) people exited 471 Macbrey. Of those people, G.G., C.G., A.G. #1 and A.G. #2 were determined to be family members of Decedent, E.V. was the significant other of G.G. and M.R. was the female juvenile Decedent arrived with to 471 Macbrey. G.G. and E.V. refused to provide recorded statements to detectives, but did provide unrecorded statements to the LVMPD Crisis Negotiation Team. C.G., A.G. #1, A.G. #2, and M.R. provided audio recorded statements to detectives. Below is a summary of the interviews.

#### **G.G.**

On January 24, 2019, Crisis Negotiator ("CN") J. Contreras and CN J. Williams interviewed G.G.

G.G. is the sister of Decedent and the homeowner of 471 Macbrey. She lived at the residence with her husband E.V. and three daughters – C.G. (23 years old), A.G. #1 (16 years old), and A.G. #2 (21 years old). Her brother, Decedent, showed up to the house for a visit, which is not uncommon. Decedent had a female companion (M.R.) with him. G.G. had never seen M.R. before and did not know her relation to Decedent. Everyone sat down to eat dinner.

After about 10 minutes of eating, G.G. heard loud noises and announcements outside. G.G. could hear the announcements identifying the police and ordering them to come outside. After hear the announcements, Decedent immediately told everyone to not go outside, to get into the back bedroom and not come out. G.G. asked Decedent why and he replied because "the police are here and I have a warrant."

G.G. and her entire family, as well as M.R., went into the master bedroom closed the door and huddled together. While huddled with her family, she heard the announcements that it was the police and they had a search warrant. G.G. heard windows of the home breaking and believed it was the police throwing something inside but was unsure what. G.G. did not hear any movement from Decedent throughout the house. At some point, G.G. suddenly heard what she believed to be gunshots but was unsure if they came from inside or outside the home. G.G. was also unsure of how many shots she heard, only that there were multiple. After the gunshots, G.G. heard more announcements from the police to exit the residence. Eventually, G.G. made the decision to come out of the master bedroom and exit the front door. G.G. noticed Decedent laying on the ground just inside the front door to the residence but that she focused her eyes forward and did not look down at Decedent as she stepped over him to exit through the front door.

G.G. explained that she was scared because she has never been in any trouble with police and all her daughters are good kids. G.G. said that when she heard the initial

announcements from police to exit the residence, she wanted to go outside but did not because Decedent ordered them to not exit and go into the back bedroom. G.G. said while she huddled in the bathroom with her family, she wanted to leave the residence with her daughters like the police were ordering but stated she was scared to open the master bedroom door. G.G. said she does not know what Decedent would have done if she would have tried to come out of the bedroom. G.G. said her daughters were scared.

G.G. said she does not think Decedent drinks alcohol, does not know of any drug use, and does not believe he has ever been diagnosed with any mental illness. However, G.G. thinks Decedent needed mental health treatment because of strange things he would say on occasion.

#### **E.V.**

On January 24, 2019, CN DiPalma interviewed E.V. Below is a summary of the interview.

E.V. stated that he lives in 471 Macbrey with his girlfriend, G.G. E.V. and G.G. have been in a dating relationship for eight (8) years and do not have any children in common. E.V. came home from work around 4:00 p.m. or 4:30 p.m. and spoke to G.G. and got ready for dinner. Approximately ten minutes into dinner, G.G.'s brother, Decedent, who he knew as "Cheeto," came into the residence and ate with the family. After "a while" they heard voices outside of the house and Decedent told them to go hide in the back bedroom of the house. He said that he was not threatened by Decedent but that Decedent was trying to protect the family. E.V. said he doesn't remember a lot because everyone yelled and panicked and went to the bedroom and laid down. E.V. heard gunshots and yelling but was not sure what had happened. E.V. thinks he laid down in the bedroom area for two (2) hours. After a while they didn't hear any gunshots but heard voices yelling and they decided to run outside. When E.V. was leaving the house he saw Decedent laying down on the ground, holding a gun and bleeding from the head. E.V. could tell it was a gun but didn't know what kind or how big. E.V. said that he did not have a lot of contact with Decedent and does not know if he used drugs or what he does.

#### **C.G.**

On January 24, 2019, at approximately 11:33 p.m., Detective Alsup conducted an audio recorded interview with C.G.

C.G. had been taking a nap on the couch inside of her residence at 471 Macbrey when she was woken up and told to go to the bathroom inside the master bedroom. C.G. noticed her uncle (Decedent) and his girlfriend (M.R.) in the residence. C.G. went into the bathroom and was joined by her mother, mother's husband, both her sisters, and M.R.

A short time later she heard officers tell them to exit the residence, and that they had a search warrant to enter the residence. Shortly after that announcement, C.G. heard a "bomb" and then several gunshots. After she waited in the bathroom for a while, C.G. and

her family members decided to exit the residence. C.G observed Decedent laying on the ground near the front door as she exited.

C.G stated while she was in the bathroom neither she nor her family members had any conversation about what happened. She did not hear Decedent say or yell anything. C.G did hear someone yell, "Drop your weapon!" C.G did not observe Decedent with a firearm prior to the incident, or in the past.

### **A.G. #1**

On January 24, 2019, at approximately 11:56 a.m., Detective Patton conducted an audio recorded interview with A.G. #1.

A.G. #1 was in her bedroom watching television when her mother (G.G.) and sister opened her door and frantically told A.G. #1 to go to the master bathroom. A.G. #1 was unaware of what was occurring at the time. When A.G. #1 arrived in the master bedroom her father (E.V.), two sisters (C.G. and A.G. #2) and a female (M.R.) who she had never seen before were in the room.

A.G. #1 stated they sat in the bathroom of the master bedroom for three to four hours and never talked about what was occurring inside the house. A.G. #1 knew there were officers outside of her house because she heard someone speaking over a loud speaker, however, she could not make out what was being said.

As they were all in the master bedroom, A.G. #1 heard several loud bangs followed by gunshots. Shortly after hearing the gunshots everyone exited the room and subsequently exited the house through the front door. As she exited the house, A.G. #1 observed her uncle (Decedent) lying on the ground in a pool of blood and she believed he was dead.

After being taken into custody, A.G. #1 told an officer that she recorded the incident on her cell phone. Below is a summary of that recording.

#### *A.G. #1's Audio Recording*

A.G. #1's audio recording was recovered by detectives and reviewed. It sounds that the recording began after the shooting and captured audio of the family preparing to exit the residence and then exiting the residence, as well as the events after that point.

### **A.G. #2**

On January 25, 2019, at approximately 12:22 a.m., Detective Mendoza conducted an audio recorded interview with A.G. #2.

A.G. #2 stated she was at her residence located at 471 Macbrey with immediate family members and her mother's boyfriend (E.V.) when her uncle (Decedent), who she called

“Cheetos,” and a female she knew by a nickname (M.R.) arrived. Decedent and M.R. left the residence and returned at approximately 3:30 p.m.

A.G. #2 stated she was sitting with her mother, G.G., E.V., and Decedent at the dining table when she heard someone say, “Oh, they’re here. Go to the room, go to the room!” A.G. #2 believed the person was referring to the police due to seeing police vehicles in front of the residence. G.G. told A.G. #2 to gather her sisters and go to the room. Everyone entered the master bathroom and hid. Approximately five minutes later, G.G. and E.V. entered the master bathroom. A couple minutes later Decedent brought M.R. into the master bathroom and told her to stay there. That was the last time A.G. #2 had any contact with Decedent.

A.G. #2, her family, and M.R. remained in the bathroom for approximately four hours. They did not talk about what was happening, but G.G. did say police were probably looking for Decedent. While in the bathroom, A.G. #2 heard someone speaking over a PA system, but was unable to understand what was being said.

A.G. #2 heard a couple loud bangs followed by what she described as multiple gunshots. A.G. #2 did not know exactly where Decedent was located, but she thought he was by a window or by the front door. After the shooting stopped, A.G. #2 said she heard a helicopter and a voice over the PA system announce, “We have a search warrant. We’re coming inside. Come out with your hands on top of your head.” G.G. instructed everyone to exit the residence. As she exited the residence, A.G. #2 saw Decedent lying on the floor inside the house.

A.G. #2 stated she had never previously seen Decedent with any type of firearm.

## **M.R.**

On January 25, 2019, at approximately 2:12 a.m., Detective Ubbens conducted an audio recorded interview with M.R.

M.R. was advised of her juvenile Miranda rights, which she stated she understood and spoke to detectives. Initially, M.R. stated she was dropped off at her friend C.G.’s house around noon on January 24, 2019. Shortly after arriving, C.G.’s dad and uncle (Decedent) arrived. As M.R. and C.G. got ready to leave the house, Decedent saw the police outside and told everyone inside the house to go into the back bedroom. After approximately 30 minutes, M.R. heard police ordering the occupants to exit. She heard gunshots from the front of the house, and then everyone exited. As she was leaving the house, she saw Decedent laying face up on the floor holding a large black gun.

M.R. was questioned about how she arrived at the house and she changed her statement. M.R. admitted she was in a gold car with Decedent. She stated the car had a black leather interior and damage to the center console.

When M.R. was questioned about inconsistencies with her statement, she admitted she knew Decedent as “Cheetos.” She stated she had known Decedent for approximately three

to four months, and they had kissed in the past. Around December 2018 to January 2019, Decedent made sexual advances on M.R. by touching her vagina over her clothing while they kissed. M.R. told Decedent to stop because she did not want to have sex with him. M.R. stated Decedent knew she was 15 years-old because he had previously asked about her age.

On the morning of January 24, 2019, Decedent picked M.R. up in a gold Mercedes-Benz. Decedent told her not to worry about the car because it was his. The comment made M.R. question if the car was stolen. Decedent and M.R. drove to 471 Macbrey where they made plans to go to the mall and get drinks. As they got ready to leave, Decedent saw the police outside and got scared. C.G.'s mother told everyone to get into the back bathroom. C.G.'s mother stood in the doorway and spoke to Decedent, and Decedent was told not to shoot.

M.R. admitted she had driven the Mercedes-Benz from Decedent's house to 471 Macbrey. She also stated she had previously seen Decedent with a handgun, but did not see him with a gun that day.

### **Witness Officers**

Two (2) witness officers provided audio recorded statements to FIT Detectives. All of the witness officers' statements were consistent. The following summaries depict the relevant portions of those witness officers' observations.

#### **SWAT Officer Jacob Werner**

On January 25, 2019, at approximately 2:30 a.m., Detective Colon conducted an audio recorded interview with SWAT Officer Jacob Werner.

Officer Werner was advised by his team leader that ROP detectives were requesting SWAT assistance with service of a search warrant on a suspect (Decedent) wanted for multiple violent felonies, who was inside of a house that was surrounded by detectives.

Officer Werner responded to 471 Macbrey with his SWAT team where a plan was formulated. Officer Werner posted on the 1-4 BearCat, which was located at the northeast side of the residence. Flash-bangs were deployed and discharged by SWAT. Approximately 30 seconds after the flash-bangs were discharged, multiple rounds of gunfire were heard coming from inside the residence. There was an approximate two-second pause before another five to six gunshots were heard coming from inside the residence.

Officer Brosnahan, who was posted in the 1-2 BearCat, which was located at the northwest side of the residence, broadcasted, "Shot out!" which indicated he fired shots. Officer Hancock, who was posted with the containment team at the west side of the residence, also indicated he had fired shots.

Officer Werner saw Decedent down in the doorway of the residence. Since there was information that a female ran into the residence with Decedent earlier in the evening, the PA system inside of a BearCat was used to order any occupants inside the residence to exit. Five subjects exited the residence and were taken into custody. The subjects were uncooperative and would not provide officers with any information.

SWAT deployed a Recon Scout® robot to obtain a visual of the inside the residence. Through the use of the Recon Scout® camera, officers were able to see a long gun lying across Decedent's chest. ARMOR deployed a larger robot that showed the long gun as well as a smaller frame gun next to Decedent. The larger robot also cleared the residence for additional people.

SWAT developed a tactical plan to deploy Officer Malia's K-9 dog to retrieve Decedent. The BearCat was moved closer to the residence and the dog was deployed. The dog pulled Decedent away from the residence toward the SWAT officers. Officer Goodrich held a tactical shield toward the door, Officer Werner, who was wearing latex gloves, stood behind him and moved the rifle away from Decedent, and Officers Thompson and Bertuccini placed Decedent in custody.

### **SWAT Officer James Bertuccini**

On January 25, 2019, at approximately 2:29 a.m., Detective Alsup conducted an audio recorded interview with SWAT Officer James Bertuccini.

Officer Bertuccini stated that during the first and second volley of gunfire he was in fear for his life and the lives of the other officers on the scene.

### **Victim Officers**

Victim officers were SWAT Officers Kai Hoskins, Jair Brown, James Ferrante, Alex Gonzales, Michael Henry and John Susich, SWAT Sergeant Andre Bates, Detectives John Beckerle, Brian Jackson and Russell Backman, and K-9 Officers Sean Malia and Michael Marano. Detectives Beckerle, Jackson and Backman and Officers Hoskins, Gonzales, Henry, Malia and Marano provided recorded statements to FIT Detectives. The following summaries depict the relevant portions of those victim officers' observations in the moments leading up to the officer-involved shooting.

### **Detective John Beckerle**

On January 25, 2019, at approximately 3:23 a.m., Detective Alsup conducted an audio recorded interview with Detective John Beckerle.

In December 2018, Detective Beckerle, who was assigned to the Major Violator Section, was given information from Enterprise Area Command officers about a suspect (Decedent) who was wanted for several violent crimes. During the course of the follow-up investigation, detectives learned the location of the residence where Decedent was living.

On January 24, 2019, detectives from the Major Violator Section conducted surveillance at Decedent's residence at 700 Hermosa Palms Avenue. Detectives observed a gold colored Mercedes-Benz pull up in front of the house. A male matching Decedent's description and a female (M.R.) exited the vehicle and entered the residence. Detectives positively identified the male as Decedent from a picture they had of Decedent. A short time later, Decedent and M.R. exited the residence, got back into the Mercedes-Benz, and left.

With the assistance of the Air Unit, detectives conducted mobile surveillance and followed the Mercedes-Benz to 471 Macbrey. Detectives observed Decedent and M.R. exit the vehicle and go into the residence. Detectives positioned personnel and vehicles in various locations around the residence and utilized a PA system in an attempt to make contact with the occupants of the residence and have them exit. After numerous unsuccessful attempts to get Decedent out of the residence, detectives applied for and were granted a search warrant to enter the residence to arrest him. Due to Decedent's past criminal activity and the seriousness of the charges for which he was wanted, SWAT officers were called to serve the warrant.

Detective Beckerle met with SWAT personnel and assisted in giving them a briefing of the details pertaining to Decedent. Detective Beckerle rode in a BearCat with SWAT officers back to the residence. Again the PA system was utilized, along with several distract devices (flash-bangs) in an attempt to get Decedent to exit the house. A short time later, Detective Beckerle heard multiple gunshots come from the rear of the house, and then observed muzzle flashes come from the front doorway. Detective Beckerle also heard gunshots that coincided with the muzzle flashes. When the gunshots stopped, Detective Beckerle learned that SWAT officers had fired their weapons. A short time later, several other people exited the residence.

Detective Beckerle felt his life, as well as the lives of other officers, were in danger at the time shots were fired.

### **SWAT Officer Kai Hoskins**

On January 25, 2019, at approximately 4:07 a.m., Detective Colon conducted an audio recorded interview with SWAT Officer Kai Hoskins.

Officer Hoskins responded with his SWAT team to 471 Macbrey at the request of ROP detectives. The detectives had a suspect (Decedent), who was wanted for violent felonies, run into a house and was refusing to exit.

Officer Hoskins took a containment spot at the west side of the residence with Officer Hancock. After all SWAT officers were posted in their designated positions, flash-bangs would be deployed and discharged.

Officers Hancock and Hoskins were standing side-by-side; Officer Hancock was lethal coverage and Officer Hoskins provided low lethal coverage with a 40mm specialty impact

weapon. Officer Hoskins discharged a flash-bang into the rear yard of the residence. As the smoke settled from the flash-bang, Officer Hoskins saw a silhouette in the residence, observed muzzle flashes, and heard the rear sliding glass door shatter as Decedent fired 10 to 12 gunshots towards Officers Hoskins and Hancock.

Officer Hoskins moved to his left and transitioned to his firearm, and Officer Hancock returned fire. Officer Hoskins could not see Decedent, so he went back to Officer Hancock's location. The officers were standing on lawn chairs, but they had been damaged, so Officer Hoskins retrieved two ladders from an adjacent yard for them to use as a step.

The officers had a stable platform and better positioning from the ladders. The officers decided to send in a Recon Scout® robot equipped with a camera to gain a visual of the inside of the residence. Officer Hoskins successfully threw the Recon Scout® into the residence. Officer Hoskins saw Decedent down in the doorway of the residence with a rifle across his chest. ARMOR deployed a larger robot to gain better intelligence of the inside of the residence.

Officers Hoskins and Hancock remained in their positions until other SWAT officers took Decedent into custody.

#### **K-9 Officer Michael Marano**

On January 25, 2019, at approximately 3:36 a.m., Detective Ubbens conducted an audio recorded interview with K-9 Officer Michael Marano.

Officer Marano received a text message notification that ROP detectives were working to locate and arrest wanted suspect (Decedent). Officer Marano arrived in the area detectives were working, so he could assist. He was assigned on the east side of the target residence to assist with containment. Officers Hancock and Hoskins took a position with Officer Marano. SWAT officers deployed and discharged flash-bangs which caused residual smoke to fill the air. When the smoke settled Decedent fired multiple rounds in Officer Marano's direction. Officer Marano moved to the right of his position for better cover, and to have his dog ready to deploy as a less lethal option. One of the SWAT officers engaged Decedent with return gunfire. SWAT officers continued with their tactical plan until Decedent was taken into custody.

Officer Marano believed Decedent was trying to kill him, his two partners, and his police dog. Officer Marano did not physically see Decedent, but saw the muzzle flashes and heard Decedent's gunfire.

#### **Detective Russell Backman**

On January 25, 2019, at approximately 3:23 a.m., Detective Patton conducted an audio recorded interview with Detective Russell Backman.

Approximately two weeks prior to the OIS event, a member of Detective Backman's squad (Detective Beckerle) received a case from Enterprise Area Command Flex officers reference a male (Decedent) who had several active warrants for his arrest. Detective Beckerle advised the other detectives on his squad that Decedent was possibly armed with a firearm, known to drive stolen vehicles, and would more than likely flee from the police when contacted.

On the afternoon of January 24, 2019, ROP detectives set up surveillance on Decedent's house at 700 Hermosa Palms Avenue in an attempt to locate him and take him into custody. Detective Jackson had eyes on the house as other ROP detectives, which included Detective Backman, set up in various locations around Decedent's neighborhood.

During the team's surveillance a tan Mercedes-Benz driven by a female (M.R.) and occupied by a male arrived and parked in front of Decedent's house. As the male exited the Mercedes-Benz, Detective Jackson believed it was Decedent, but was unable to make a positive identification. The male and M.R. walked into the house. A brief time later the garage door to the house opened and Detective Jackson was able to make a positive identification of Decedent, who was standing in the garage.

M.R. and Decedent entered the tan Mercedes-Benz (M.R. entered the driver's side), and left. With the use of surveillance techniques and assistance from the Air Unit, detectives were able to track M.R. and Decedent to 471 Macbrey. When M.R. and Decedent arrived at 471 Macbrey, they exited their vehicle and entered the residence. Detective Backman got out on foot and took a position of containment at the back of the house. ROP detectives asked for more resources to help at 471 Macbrey, and Detective Beckerle obtained a search warrant for the residence.

Eventually, LVMPD SWAT officers arrived at 471 Macbrey, and shortly after their arrival deployed flash-bangs in the yard. A short time after the flash-bangs were discharged, Detective Backman observed gunshots originating from inside the residence and towards officers. Detective Backman heard more gunshots toward the front of the residence as he took cover behind a block wall. After the shooting stopped, Detective Backman held his containment position until SWAT officers cleared the house. Detective Backman was told five other persons exited the residence after the shooting; however, due to them exiting the front of the house, Detective Backman did not take part in taking them into custody or interviewing them.

### **Detective Brian Jackson**

On January 25, 2019, at approximately 1:51 a.m., Detective Mendoza conducted an audio recorded interview with Detective Brian Jackson.

On January 24, 2019, at approximately 2:00 p.m., Detective Jackson arrived in the area of 700 Hermosa Palms Avenue to conduct surveillance for a suspect (Decedent) who had outstanding felony warrants. Assisting detectives also arrived in the area in an attempt to apprehend Decedent. After conducting surveillance on the residence, detectives followed

Decedent and a female, later identified as M.R., as they drove a tan Mercedes-Benz Benz to 471 Macbrey Avenue. Decedent and M.R. exited the vehicle and entered 471 Macbrey Avenue. Detectives surrounded the residence, and utilized a PA system to call the occupants out of the home. Detectives continued giving commands for approximately four and half hours before LVMPD SWAT personnel arrived to assist.

As SWAT officers arrived and took control of the scene, Detective Jackson, along with Detective Backman, took a position of containment at the rear of the residence. SWAT officers attempted to get the occupants of 471 Macbrey to exit the residence, but were unsuccessful. SWAT officers also utilized distract devices (flash-bangs) in an attempt to get the occupants to exit the premise. Shortly after, Detective Jackson heard several "pops" and heard glass breaking. Initially, Detective Jackson thought the sounds were the result of the distract devices, but realized the pops and glass breaking were the result of gunfire. Detective Jackson also heard what sounded like return gunfire during the incident.

Detective Jackson stated someone from inside the residence began firing toward his direction and felt the person was shooting at him. Neither Detective Jackson nor Detective Backman fired their weapons during the incident.

### **SWAT Officer Michael Henry**

On January 25, 2019, at approximately 4:12 a.m., Detective Ubbens conducted an audio recorded interview with SWAT Officer Henry.

Officer Henry was informed by Sergeant Bates of a search warrant to be served for the Criminal Apprehension Team. Officer Henry drove the tactical SWAT BearCat vehicle to the designated briefing location, and later was assigned to drive the BearCat to the target location, 471 Macbrey, and park at the 1-2 (northeast) corner of the residence. After SWAT officers cleared the parked vehicles in the area and in front of the target residence, they staged behind the BearCat. Officer Henry was tasked to use the BearCat PA system to announce LVMPD officers' presence and order the occupants to exit the residence. There was no reaction from the occupants inside the residence after several announcements and orders.

Distract devices (flash-bangs) were deployed and discharged by SWAT officers from several locations. Officer Henry made several more announcements and issued orders. Approximately four or five minutes later, Officer Henry heard gunshots. He saw the front door of the residence open, and someone extend their arm, which was covered in a black and red sleeve, through the open doorway. Officer Henry then saw muzzle flashes come from the front doorway. Officer Henry believed the occupant of the residence (Decedent) was shooting at him and other officers on scene, which posed a deadly risk to him and other officers.

Officer Henry heard the sniper, Officer Brosnahan, who was in the turret position of the BearCat, fire two rounds. After Officer Brosnahan fired there was no more gunfire from the residence. The front door was open and there was no other response from anyone inside

the house. Officer Henry ordered any other occupants to exit the residence. Eventually, a female showed her hands in the front entryway, and she was instructed to exit the residence. She and several other people exited the residence and were taken into custody.

A robot was deployed, which showed Decedent near the front door and unresponsive. Another robot was deployed into the residence to search for any other persons. The robot showed a rifle on top of Decedent and a handgun on the floor next to him.

Officer Henry said Decedent posed a threat to officers on scene, along with civilians in neighboring homes who had not been evacuated.

### **SWAT Officer Alex Gonzales**

On January 25, 2019, at approximately 2:55 a.m., Detective Alsup conducted an audio recorded interview with SWAT Officer Alex Gonzales.

Officer Gonzales was notified by his sergeant that members of the other SWAT team were going to need assistance with a search warrant. Officer Gonzales responded to the location he was given and attended the briefing. During the briefing officers received information about the location and the suspect (Decedent).

Officer Gonzales was given his position and responded to the 471 Macbrey with other SWAT personnel. After arriving at the residence, officers utilized the BearCat PA system in an attempt to get the occupants in the residence to exit. After several attempts, officers discharged flash-bangs.

Officer Gonzales heard several gunshots and believed they were coming from the backyard. Officer Gonzales was standing to the rear of the BearCat when he looked through the front windshield and observed several muzzle flashes coming from the front door of the residence. When the gunshots stopped, Officer Brosnahan advised he had fired shots.

Officers deployed a robot in an attempt to gather information on Decedent and the residence. Multiple people exited the residence a short time later and were taken into custody. Medical personnel was requested for Decedent, who was determined to be deceased.

Officer Gonzales believed Decedent was shooting in the direction of the officers on the perimeter of the residence, and believed the lives of the officers on the perimeter and the lives of residents in the area were in danger.

### **K-9 Officer Sean Malia**

On January 25, 2019, at approximately 2:56 a.m., Detective Colon conducted an audio recorded interview with K-9 Officer.

Officer Malia was requested by detectives for an incident where a wanted subject (Decedent) ran into 471 Macbrey and was refusing to exit. Officer Malia responded along with SWAT units to 471 Macbrey.

Upon their arrival, SWAT officers posted in positions surrounding the residence. Decedent fired shots from inside the residence toward Officer Malia's position in front of the residence. Officer Malia feared he or one of the officers near him were going to be shot. Decedent fired additional shots out of the rear of the residence.

Officer Malia heard over the radio that Officers Hancock and Brosnahan had returned fire. Officers were able to identify Decedent's location utilizing a robot equipped with a camera. Decedent was down in the front doorway and appeared to have a firearm in his hands.

A plan was devised where Officer Malia's K-9 dog, Bear, would be deployed and retrieve Decedent from the front doorway and drag him to the officers. A BearCat was moved onto the grass closer to the residence. Officer Malia attached Bear to a 25 foot leash and deployed him toward Decedent. Decedent appeared passive and was lying prone with a firearm across his chest. Bear dragged Decedent back approximately 15 feet to the position where Decedent was taken into custody by SWAT officers.

## **AUTOPSY**

Medical Examiner Dr. Jennifer Corneal of the Clark County Coroner's Office conducted an autopsy on Decedent. Dr. Corneal found the Decedent had one (1) gunshot wound to the head and two (2) gunshot wounds to the torso.

The gunshot wound to the head entered the right side of the head 3" below the top of the head and 5 ¼" right of midline. There was a rim of abrasion and soot on the edges of the wound. The bullet travelled through the right parietal and left parietal lobes, caused numerous skull fractures, and exited on the left side of the head 4 ¼" from the top of the head and 6 ¾" left of midline.

The first gunshot wound to the abdomen entered the left lower abdomen 31 ½" below the top of the head and 7" left of midline. No soot or stippling noted on the adjacent skin. The bullet remained mostly subcutaneous and injured the soft tissue and muscle of the left lower side, fractured the left ilium, and exited the left back, travelling front-to-back, left-to-right and upward.

The first gunshot wound to the abdomen entered the right side of the abdomen 29" below the top of the head and 5 ¾" right of midline. No soot was noted on the adjacent skin. There were four (4) punctate abrasions surrounding the wound, which may represent stippling. The bullet injured the mesentery, small and large intestine, and perforated the aorta just above the bifurcation causing significant bleeding within the abdomen. The bullet traveled front-to-back, right-to-left and downward. A deformed, jacketed bullet was recovered from the subcutaneous tissue of the lower back and impounded by a crime scene analyst.

Dr. Corneal concluded that based on the autopsy findings and the circumstances surrounding the death, as currently understood, the second gunshot wound of the abdomen would have been fatal, however, Decedent survived long enough to shoot himself in the head. Therefore, the cause of death is gunshot wound of the head, and the manner of death is suicide.

The toxicology results indicated Decedent had Amphetamine and Methamphetamine in his system. Decedent's blood results showed levels of 1800 ng/ml of Methamphetamine and 190 ng/ml of Amphetamine, which is a metabolite of Methamphetamine. It is significant to note that blood levels of 200 to 600 ng/ml of Methamphetamine have been reported in Methamphetamine abusers who exhibited violent and irrational behavior.

### **DECEDENT'S RECORD**

Police officers involved in this incident were made aware of Decedent's warrants and background prior to the officer-involved shooting. Records available to law enforcement indicate Decedent was a four-time convicted felon, having been convicted in 2011 of Attempt Robbery and in 2016 of three (3) counts of Possession of Stolen Vehicle. Detectives were investigating Decedent due to his outstanding felony arrest warrants, which stemmed from two (2) separate criminal cases and are discussed briefly below.

In the first case, Decedent was wanted for Battery with Use of a Deadly Weapon on a police officer and Stop Required on Signal of Police Officer stemming from an incident that occurred on December 14, 2018. It is alleged that during that incident, uniformed LVMPD police officers conducted a vehicle stop on a stolen vehicle of which Decedent was sitting in the driver's seat backed into a parking spot at Walgreens. Decedent then placed the vehicle in drive, accelerated toward three (3) police officers, pinning one (1) police officer momentarily between Decedent's driver's door and the vehicle. Decedent fled westbound on Tropicana Avenue into oncoming traffic at a speeds reaching over 90 mph. Officers pursued the vehicle but terminated the pursuit due to the danger the pursuit posed to the community. The vehicle was later located unoccupied. During a search of the vehicle officer located stolen property from home invasions and burglaries.

In the second case, Decedent was wanted for Attempt Murder with Use of a Deadly Weapon, Battery with Use of a Deadly Weapon, Discharging a Firearm From or Within an Occupied Structure or Vehicle, and Attempt Grand Larceny Auto stemming from an incident that occurred on December 18, 2018. It is alleged that during that incident, Decedent and his female accomplice attempted to car jack a man near Buffalo Drive and Peace Way when Decedent shot the man's friend who was trying to intervene in the chest and the lower abdomen.

### **LEGAL ANALYSIS**

The District Attorney's Office is tasked with assessing the conduct of officers involved in any lethal use of force which occurred during the course of their duties. That assessment

includes determining whether any criminality on the part of the officers existed at the time of the incident.

In Nevada, there are a variety of statutes that define the various types of justifiable homicide (NRS 200.120 – Justifiable homicide defined; NRS 200.140 – Justifiable homicide by a public officer; NRS 200.160 – Additional cases of justifiable homicide). The shooting of Decedent could be justifiable under one or both of two theories related to the concept of self-defense: (1) the killing of a human being in self-defense or defense of others; and (2) justifiable homicide by a public officer. Both theories will be discussed below.

### **A. The Use of Deadly Force in Defense of Self or Defense of Another**

The authority to kill another in self-defense or defense of others is contained in NRS 200.120 and 200.160. “Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of ... another person, against one who manifestly intends or endeavors to commit a crime of violence ...” against the person or other person.<sup>1</sup> NRS 200.120(1). Homicide is also lawful when committed:

[i]n the lawful defense of the slayer, ... or of any other person in his or her presence or company, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished.

NRS 200.160(1).

The Nevada Supreme Court has refined the analysis of self-defense and, by implication, defense of others, in Runion v. State, 116 Nev. 1041 (2000). The relevant jury instructions as articulated in Runion and modified for defense of others are as follows:

The killing of [a] person in self-defense [or defense of another] is justified and not unlawful when the person who does the killing actually and reasonably believes:

1. That there is imminent danger that the assailant will either kill himself [or the other person] or cause himself [or the other person] great bodily injury; and
2. That it is absolutely necessary under the circumstances for him to use in [self-defense or defense of another] force or means that might cause the death of the other person, for the purpose of avoiding death or great bodily injury to [himself or the person(s) being defended].

A bare fear of death or great bodily injury is not sufficient to justify a killing. To justify taking the life of another in self-defense [or defense of another], the circumstances must be

---

<sup>1</sup> NRS 200.120(3)(a) defines a crime of violence:

“Crime of violence” means any felony for which there is a substantial risk that force or violence may be used against the person or property of another in the commission of the felony.

sufficient to excite the fears of a reasonable person placed in a similar situation. The person killing must act under the influence of those fears alone and not in revenge.

Actual danger is not necessary to justify a killing in self-defense [or defense of another]. A person has a right to defend from apparent danger to the same extent as he would from actual danger. The person killing is justified if:

1. He is confronted by the appearance of imminent danger which arouses in his mind an honest belief and fear that he [or the other person] is about to be killed or suffer great bodily injury; and
2. He acts solely upon these appearances and his fear and actual beliefs; and,
3. A reasonable person in a similar situation would believe himself [or the other person] to be in like danger.

The killing is justified even if it develops afterward that the person killing was mistaken about the extent of the danger.

If evidence exists that a killing was in defense of self [or defense of another], the State must prove beyond a reasonable doubt that person killing did not act in self-defense [or defense of another]. Id. at 1051-52.

Therefore, under Nevada law, if there is evidence that the killing was committed in self-defense or defense of another, the State at trial, must prove beyond a reasonable doubt that the slayer was not acting in self-defense or defense of another.

The known facts and circumstances surrounding this incident indicate that Decedent posed an apparent imminent danger to residents of homes surrounding 471 Macbrey, including H.S., as well as Officer Hancock, Officer Brosnahan, K-9 Officers Sean Malia and Michael Marano, and SWAT Officers Kai Hoskins, Alex Gonzales, Michael Henry, and Detective John Beckerle. Officers Hancock and Brosnahan had received briefing information regarding Decedent, the violent crimes for which he was wanted, and the fact Decedent was known to carry firearms. That information, in addition to information about the scene, was used to create a SWAT tactical plan. SWAT officers arrived at 471 Macbrey, surrounded the house, and used the PA to repeatedly announce they were the police and to come out of the home.

SWAT officers then deployed the flash-bang distract devices and, within seconds, Officer Hancock saw Decedent appear from inside the home and begin shooting through the residence at him and SWAT Officer Kai Hoskins, as well as in the direction of K-9 Officer Michael Marano, Detective Brian Jackson and Detective Russell Backman. Officer Hancock took cover behind the wall until the shooting stopped, which is when he looked back over the wall into the residence to see Decedent shooting out the front door at the officers and the unevacuated residences on Macbrey. Officer Hancock reasonably believed that those officers and civilians would be at risk of great bodily harm or death if struck by the

Decedent's high-power and rapid gunfire. It was in that moment that Officer Hancock fired at and struck Decedent.

During this same period of several seconds, Officer Brosnahan heard Decedent's gunfire inside 471 Macbrey and then witnessed the front door open, the barrel of a gun point out the front door as smoke and fire emitted from the gun and he simultaneously heard the gunfire. Officer Brosnahan reasonably believed that Decedent was shooting at the other BearCat where officers were located and the unevacuated residences across Macbrey. It was in that moment that Officer Brosnahan fired two rounds at the Decedent.

The totality of the evidence, to include BWC video, visible evidence on scene, and witness statements, illustrates that Officers Hancock and Brosnahan were reasonable in believing that Decedent would cause great bodily harm or death to the officers and any unevacuated civilians located north of 471 Macbrey. Officers Hancock and Brosnahan were confronted with the appearance of imminent danger to their fellow officers and had an honest belief and fear that their fellow officers were about to be killed or suffer great bodily injury at the hands of Decedent. The evidence further illustrates that Officers Hancock and Brosnahan acted reasonably in reaction to the apparent danger posed by Decedent. Here, Officers Hancock and Brosnahan reasonably acted in defense of others. Consequently, the shooting of Decedent is justifiable under this legal theory.

Furthermore, Officers Hancock and Brosnahan faced imminent danger of suffering death or great bodily harm due to the positions they were located within Decedent's line of fire. Both officers indicated they believed Decedent was shooting or had shot at them and was continuing to shoot. As such, Officers Hancock and Brosnahan were both confronted with the appearance of imminent danger to themselves and had an honest belief and fear that they were about to be killed or suffer great bodily injury at the hands of Decedent. Thus, Officers Hancock and Brosnahan reasonably acted in self-defense at the time they used deadly force against Decedent. Consequently, the shooting of Decedent is also justifiable under this legal theory.

## **B. Justifiable Homicide by a Public Officer**

"Homicide is justifiable when committed by a public officer ... [w]hen necessary to overcome actual resistance to the execution of the legal process, mandate or order of a court or officer, or in the discharge of a legal duty." NRS 200.140(2). This statutory provision has been interpreted as limiting a police officer's use of deadly force to situations when the officer has probable cause to believe that the suspect poses a threat of serious physical harm to either the officer or another person. See 1985 Nev. Op. Att'y Gen. 47 (1985).

In this case, Decedent died as a result of his self-inflicted gunshot wound to the head, however, the Coroner ruled that Decedent suffered a fatal gunshot wound by a bullet that was later forensically determined to be consistent with being fired from Officer Brosnahan's rifle. The known evidence illustrates that both Officers Hancock and

Brosnahan had probable cause to believe that Decedent posed a threat of serious physical harm to them and their fellow officers. Both officers had observed Decedent in fact discharged his firearm toward officers immediately prior to their using deadly force. Officers Hancock and Brosnahan only shot Decedent after Decedent began shooting in their direction and the direction of their fellow officers. At that point, Officers Hancock and Brosnahan had a reasonable belief that Decedent could cause serious physical harm or death to them and their fellow officers. Thus, the use of deadly force by Officers Hancock and Brosnahan was legally justified and appropriate under NRS 200.140(2). Therefore, had Decedent not taken his own life by shooting himself in the head, Decedent's homicide by either or both Officer Hancock and/or Officer Brosnahan would have been justified.

### **CONCLUSION**

Based on the review of the available materials and application of Nevada law to the known facts and circumstances, we conclude that the actions of Officer Hancock and Officer Brosnahan were reasonable and legally justified. The law in Nevada clearly states that homicides which are justifiable or excusable are not punishable. See NRS 200.190. A homicide which is determined to be justifiable shall be "fully acquitted and discharged." See NRS 200.190.

As there is no factual or legal basis upon which to charge, unless new circumstances come to light which contradict the factual foundation upon which this decision is made, no charges will be forthcoming against Officer Hancock or Officer Brosnahan.