

REPORT ON USE OF FORCE

Legal Analysis Surrounding the Death of Roberto Ortiz Sanchez on December 14, 2015

INTRODUCTION

On December 14, 2015, at approximately 8:20 p.m., G.P. called 911 to report he was the victim of an armed robbery. G.P. stated he entered a Lexus automobile to purchase Lortab pills from the occupants, later identified as Jesus Sanchez and Renee Martinez. This deal was arranged through a female acquaintance, Taylor Bailey, known to G.P. As G.P. entered the Lexus, Sanchez and Martinez pointed firearms at him and demanded his property. G.P. tried to exit the Lexus, but was forced to remain in the car as Sanchez drove away. Approximately two blocks east of Stewart Avenue and Nellis Boulevard, G.P. was able to exit the vehicle, get the rear license plate number, flee into the Chuck E. Cheese at Stewart Avenue and Nellis Boulevard, and call 911.

Las Vegas Metropolitan Police Department ("LVMPD") Officers Moore and McGill, who were riding together, heard officers assigned to the robbery broadcast the license plate number of the Lexus. Officers Moore and McGill determined the address associated with the license plate was 3869 King Palm Avenue. They responded to the 3800 block of King Palm Avenue and, when they arrived, Officer Moore observed a vehicle matching the description backing into the driveway of 3869 King Palm Avenue.

Officers Moore and McGill drove toward the Lexus and observed Sanchez, Martinez, and Bailey walking from the driveway of 3869 King Palm Avenue to the front door. Both officers exited their patrol vehicle and ordered Sanchez, Martinez, and Bailey down on the ground in front of the house. As Officers Moore and McGill gave Sanchez, Martinez, and Bailey verbal commands, Roberto Sanchez (hereinafter referred to as "Decedent") exited the front door of 3869 King Palm Avenue holding a firearm in his hand. Decedent yelled at Sanchez, Martinez, and Bailey. Officer McGill issued commands to Decedent to drop his gun. A neighbor, G.D., heard Officer McGill's verbal commands as he witnessed the incident from inside his residence.

Officer Moore observed Decedent raise his firearm in the direction of both he and Officer McGill and point it at them. Officer Moore heard Officer McGill discharge his firearm

toward Decedent. Decedent retreated into the residence and collapsed in the living room. D.S., who was inside 3869 King Palm Avenue with his little brother, I.S., called 911 and reported his dad, Decedent, had been shot by the police and was dead.

Officers who arrived on scene had D.S. and I.S. exit the residence, and officers subsequently entered 3869 King Palm Avenue to clear the house and render aid to Decedent. Medical personnel were called to provide medical aid to Decedent who was transported to UMC Trauma where he was pronounced dead at 9:34 p.m.

The Clark County District Attorney's Office has completed its review of the December 14, 2015, death of Decedent. It has been determined that, based on the evidence currently available and subject to the discovery of any new or additional evidence, the actions of Officer McGill were not criminal in nature. This review is based upon all the evidence currently available.

This report explains why criminal charges will not be forthcoming against Officer McGill. 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 October 3, 2016.

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

I. SCENE WALK-THROUGHS

Officer McGill

On the night of the incident at approximately 12:20 a.m., Officer McGill provided a walk-through of the scene. During the walk-through, Officer McGill identified the approximate location where he first fired his weapon, and the approximate location where he fired his last shot. A crime scene analyst marked the two locations with orange cones which were documented and photographed.



Officer Moore

At approximately 12:30 a.m., Officer Moore provided a walk-through of the scene. During the walk-through, Officer Moore relayed that on the evening of the incident, he was driving and Officer McGill sat in the front passenger seat of the patrol vehicle. As the officers approached 3869 King Palm Avenue, Officer Moore observed the suspect vehicle backing into the driveway.

As the officers exited the patrol vehicle, two of the suspects were at the rear driver's side quarter-panel of the Lexus, while a third suspect walked toward the rear of the Lexus on the opposite side. Officer Moore took a position by the driver's door of the patrol vehicle, while Officer McGill remained on the opposite side of the patrol vehicle.

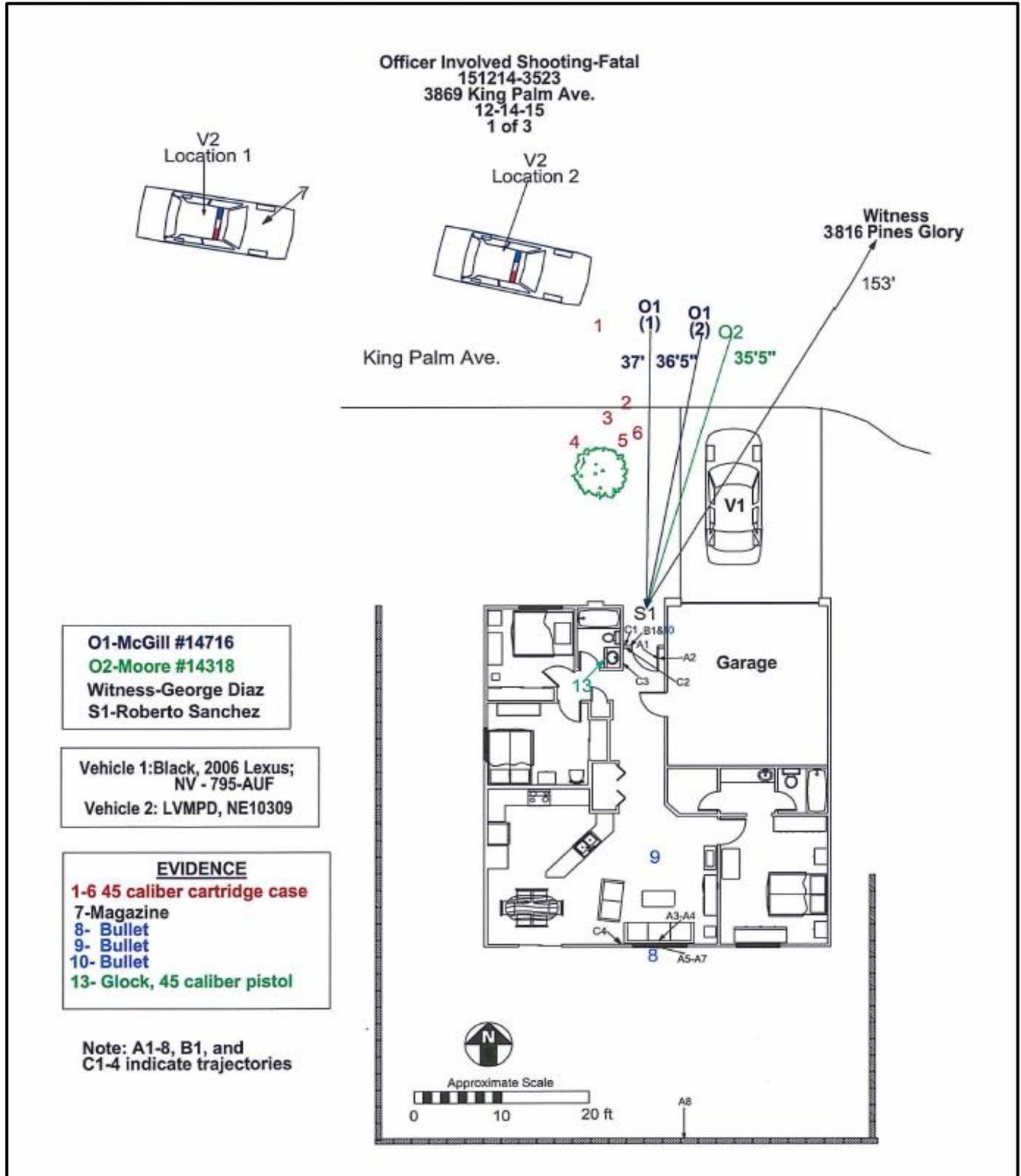
Officer Moore described the suspects as two males and one female. Officer Moore gave verbal commands to the suspects to lie in a prone position. The three suspects were positioned by the front porch of the residence; the female suspect was closest to the front door, while the two males were partially on the front lawn.

While the suspects were lying in a prone position, Decedent opened the front door of the residence. Officer Moore stated Decedent raised a firearm at which time Officer McGill fired his weapon. Officer Moore's focus remained on the three suspects.

Decedent went back into the residence and shut the door. Officer Moore deployed his rifle and individually instructed the three suspects to walk back to the patrol vehicle. When the three suspects were secured, the officers ordered any occupants to exit the residence. Two juveniles exited the home and made contact with the officers. Arriving units formed an arrest team and entered the residence.

II. OFFICER POSITIONS, DESCRIPTION OF THE SCENE AND VISIBLE EVIDENCE

Diagram of Officer Positions and Evidence



IV. DESCRIPTION OF THE SCENE AND VISIBLE EVIDENCE

Exterior



3869 King Palm Ave. was a north-facing single-story residence on the south side of the street. The front door to the residence was located in a recess in the north side of the residence. A walkway, oriented north/south, connected the front door recess with the southwest corner of the driveway. The driveway was located at the east end of the north side of the residence. The vehicle Sanchez, Martinez, and Bailey had been driving was found parked facing north in the driveway.

The front yard was composed of gravel and a single tree was located in the front yard, north of the front door. The yard extended from the north side of the residence to the street curb. Multiple orange cones had been placed in the front yard and in the street marking the location of found cartridge cases.

The police vehicle was found parked facing east in the middle of the street to the west of the residence. A Wilson Combat .45ACP pistol magazine containing two cartridges with headstamp "SPEER 45 AUTO" was found on the hood of NE10309. Four cartridge cases with headstamp "SPEER 45 AUTO" were found in the gravel front yard by the curb and two cartridge cases with headstamp "SPEER 45 AUTO" were found in the street near the south curb.

The scene was processed and crime scene analysts located a wristwatch in the gravel front yard on the west side of the north/south walkway from the front door to the driveway. A silver color Samsung cell phone was found on the walkway, and a black Stussy hooded jacket was found in the front yard north of the walkway. Miscellaneous property was found in the pocket of the hooded jacket, including: a Bic lighter; a wallet; a Nevada Driver License in the name of G.P.; a Mexico Consular ID card in the name of Brian Faucher-Perez; a Visa debit card in the name of G.P.; an iPhone with a damaged screen; and a black Samsung cell phone. \$703.00 in US currency was found inside the wallet. Apparent bloodstains were observed on the north/south walkway, on the west door jamb of the front door, and to the west of the front door on the west wall of the recessed area.

Interior

The front door opened to a hallway, oriented north/south. A hallway, oriented east/west, intersected with the north/south hallway near the north end and extended to the west of the north/south hallway. A closet was in the west wall of the north/south hallway and a door to the garage was in the east wall. The living room was at the south end of the hallway and the kitchen was west of the living room. The master bedroom was east of the living room.

The east/west hallway had a bathroom to the north at the east end, a closet in the south wall at the east end, a north bedroom to the northwest at the west end, and a west bedroom to the south at the west end. The bathroom had a sink along the east wall at the southeast corner, a tub along the north wall, and a toilet along the east wall between the sink and the tub. A Glock 21 .45 caliber pistol was found on the sink counter. The Glock pistol was loaded with a magazine containing eleven cartridges and a cartridge in the chamber. Apparent bloodstains were observed on the bathroom floor, on the east/west hallway floor and walls, and on the north/south hallway floor and walls.

The living room, located at the south end of the north/south hallway, had an entertainment center along the east wall, a sofa along the south wall, a love seat at the west end of the room, and a coffee table in the center of the room. The kitchen had a table and chairs at the south end of the room and a sliding glass door to the back yard in the south wall. Apparent bloodstains were on the living room floor and a white shirt and a tank top with apparent bloodstains were found on the floor in front of the entertainment center. Paper towels with apparent bloodstains were on the floor and on a stand next to the entertainment center.

The master bedroom, located east of the living room, had a bed along the east wall with nightstands on both sides of the bed. A dresser was along the north wall, an entertainment center was along the west wall, and cabinets were along the south wall. The master bathroom was to the north. Apparent bloodstains were observed on the bedroom floor, the bathroom floor, and on the bathroom sink.

The west bedroom, located on the south side of the east/west hallway at the west end, had a bed along the south wall at the southwest corner with a nightstand on the east side of the bed. An entertainment center was along the north wall and a closet was in the east wall. A chair was along the north wall between the nightstand and the closet and a safe was located inside the closet.

A Russian M44 bolt action 7.62mm rifle was found hanging on the safe handle in the west bedroom closet. It was loaded with three cartridges in the magazine. A CAVtr Saiga-12 12GA semi-automatic shotgun was found across the arms of the chair along the north wall of the west bedroom. It was loaded with a magazine containing eleven shotshells. An empty 12GA drum magazine was found on the chair seat. Apparent bloodstains were observed on the bedroom floor and on the exterior of the bedroom door. The door frame of the bedroom was damaged.

Other miscellaneous items were found throughout the west bedroom including an empty unlabeled prescription bottle, an empty prescription bottle in the name of Taylor Bailey for "Hydrocod/Acetam," multiple revolver speed loaders with cartridges, various ammunition cartridges, business cards, glass pipes, a green leafy substance, and a DMV renewal card.

V. INTERVIEWS

Officer Moore

On the evening of the incident, Officer Bryan Moore was interviewed. Officer Moore stated that he and Officer McGill were riding together and responded to the area of Nellis Boulevard and Stewart Avenue in reference to a robbery that occurred. The victim, G.P., reported two males, Jesus Sanchez and Renee Martinez, with guns forced him into a dark blue or gray Lexus. G.P. provided a license plate to officers, and Officers Moore and McGill responded to the address of the registered owner, Jesus Sanchez. As they traveled west on King Palm Avenue, Officer Moore observed a vehicle matching Sanchez's vehicle backing into the driveway of 3869 King Palm Avenue.

As Officers Moore and McGill drove toward 3869 King Palm Avenue, Officer Moore observed Sanchez, Martinez, and Sanchez's girlfriend, Taylor Bailey, standing next to the Lexus.

The officers exited their vehicle, and Officer McGill began issuing verbal commands to them to get down on the ground. Sanchez, Martinez and Bailey slowly got down on the ground in front of the residence. Officer Moore believed they were stalling when they did not immediately obey the commands and continued to move closer to the entrance of the residence.

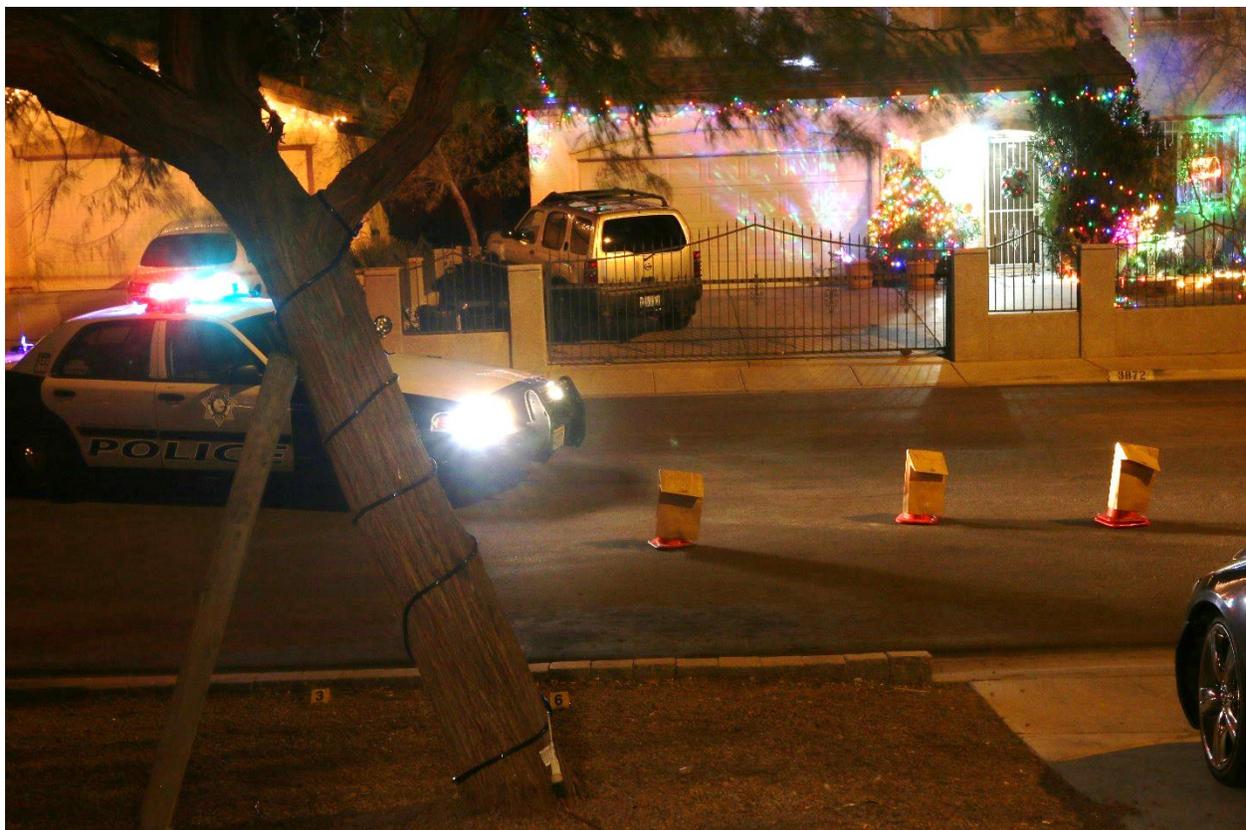
Once on the ground, the front door of 3869 King Palm Avenue opened and Decedent exited holding a dark grey semiautomatic firearm in his hand. Decedent said something

to Sanchez, Martinez, and Bailey and then he raised the firearm and pointed it at Officers Moore and McGill. Officer McGill fired at Decedent when Decedent's firearm was almost at waist level.

Officer Moore maintained cover on Sanchez, Martinez, and Bailey due to the fact Sanchez and Martinez may have been armed with firearms. Decedent was struck several times before he turned around and ran back inside his residence. The door to the residence shut behind him. Officer McGill moved to a position of cover, reloaded, and provided cover while Officer Moore deployed his rifle.

Several officers responded and set up a perimeter around the residence. Officers called Sanchez, Martinez, and Bailey back to them and took them into custody. Officer Moore heard it broadcasted over the radio that someone inside the house called 911 requesting medical for his father [Decedent] who had been shot. Two juveniles, D.S. and I.S., exited the house and surrendered to police.

Officers entered the residence, located Decedent and requested medical personnel. Paramedics standing by on scene were brought into the residence, removed Decedent, and transported him to UMC.



View from the front door of 3869 King Palm Ave.

G.D.

A neighbor, G.D., was also interviewed on the evening of the incident. He stated that, at approximately 9:00 p.m., he was sitting inside his living room and heard a commotion coming from outside his residence. He believed it was his neighbors fighting, so he looked outside a small window next to the front door. He observed a marked police vehicle parked in the street facing his neighbor, Decedent's house. He believed the patrol vehicle had its overhead lights activated and he saw two uniformed patrol officers standing in the street with their guns drawn. G.D. also saw a blue car parked in the driveway of Decedent's house which he knew belonged to Decedent's son, Jesus Sanchez.

G.D. heard Officers Moore and McGill yell, "Drop the weapon!" approximately two or three times. Shortly after he heard Officers Moore and McGill yelling, he heard approximately four gunshots. The gunshots were fired by the officers, but he did not see who or what they were shooting. After the shooting, several more police vehicles arrived at the scene.

G.D. stated approximately a year prior there was a break-in at the Sanchez house, and Jesus shot one or both of the intruders who fled the scene. As a result of the break in, Jesus and Decedent began carrying handguns. G.D. had conversations with Decedent about gun safety, and Decedent knew if he was ever stopped by the police he was supposed to listen to the officers and put down his gun.

D.S.

On the evening of the incident, D.S. was also interviewed. D.S. and his younger brother, I.S., fell asleep as they watched a movie in their bedroom. D.S. was awoken by the sound of screaming outside his bedroom window. D.S. thought his brother, Jesus Sanchez, forgot his house key and was locked out of the house. D.S. looked outside his window and saw his brother Jesus, Renee Martinez, and Taylor Bailey lying down on the ground.

D.S. started screaming and it woke up I.S. D.S. ran and told his father, Decedent, who was asleep in his own bedroom, what was occurring outside.

Due to the fact their house was broken into in the past, Decedent grabbed his Glock handgun that he kept next to his bed and went outside through the front door. As Decedent stood outside the front door, he was shot by a police officer. Decedent came back inside the house and placed his gun in the bathroom sink.

Decedent ran to the living room and collapsed. Decedent's eyes rolled back into his head and it looked like he was dead. D.S. called 911 and asked for medical treatment for his father.

I.S.

The evening of the incident, Decedent's son, I.S., was interviewed. I.S. stated that he and his older brother, D.S., were asleep inside of their house at 3869 King Palm Avenue when they were awoken by someone shouting, "Get down!" outside in their front yard. I.S.

looked out of his bedroom window and saw police officers with flashlights. D.S. ran and told his father, Decedent, who was asleep in his own bedroom, what was occurring outside.

Due to the fact their house was broken into in the past, Decedent grabbed his Glock handgun and went outside through the front door. As Decedent stood outside the front door, he was shot by a police officer. Decedent came back inside the house and collapsed on the floor. I.S. placed a rag on Decedent's injuries to try to stop the bleeding.

D.S. called 911 and asked for medical attention. The police instructed D.S. and I.S. to exit the house one at a time. Medical arrived and Decedent was then transported to UMC.

I.S. knew his father kept his gun in the top dresser drawer next to his bed. He believed his father went outside with his gun because the two people who broke into their house last summer were armed with guns.

Taylor Bailey

On the evening of the incident, Taylor Bailey was interviewed. Bailey was inside of her boyfriend's (Jesus Sanchez) vehicle and they were headed to Sanchez's house located at 3869 King Palm Avenue. Sanchez's friend, Renee Martinez, was also in the vehicle, and as they entered Sanchez's neighborhood, Bailey noticed a vehicle following them. Sanchez stopped in front of 3869 King Palm Avenue and backed into the driveway. Bailey, Sanchez, and Martinez got out of the vehicle and walked toward the front door when a marked police vehicle stopped in front of the residence. Uniformed police officers gave verbal commands to them to go to the ground. Bailey, Sanchez, and Martinez went to the ground in front of the front door of the residence.

Bailey heard the front door open, but she could not see who it was. Bailey yelled at the person not to open the door. Sanchez's father, Decedent, opened the door and was carrying a handgun. Bailey heard several gunshots and the front door close. The officers ordered Bailey, Sanchez, and Martinez back to the patrol vehicle one at a time where they were taken into custody. She did not know why officers shot at Decedent.

Renee Martinez

On the evening of the incident, Renee Martinez was also interviewed. Martinez stated that he was inside of Jesus Sanchez's vehicle and was headed to Sanchez's house located at 3869 King Palm Avenue. Sanchez's girlfriend, Taylor Bailey, was also inside the vehicle. As they arrived at Sanchez's house, all three occupants exited the vehicle and waited at the front door to be let inside. While standing at the front door, they were contacted by uniformed police officers who instructed them to lie on the ground. While lying on the ground, Sanchez's father, Decedent, opened the front door and was holding a firearm in his hand. Martinez heard officers give Decedent verbal commands to close the door and drop the gun.

Martinez stated officers fired at Decedent approximately three times. He, Sanchez, and Bailey were then advised to walk back toward the police vehicle. They were placed in handcuffs and escorted out of the area.

VI. AUTOPSY

On December 16, 2015, an autopsy was performed on the body of Decedent by Doctor Lary Simms. After a complete autopsy, Doctor Simms opined that Decedent died as a result of multiple gunshot wounds. The manner of death was homicide. Decedent's toxicology was assessed and there were no findings of any alcohol or controlled substances in his system.

VII. OFFICER WEAPON COUNTDOWNS

On December 15, 2015, Officer McGill had his duty weapon, a Kimber .45 pistol, counted down at LVMPD Headquarters. At the completion of the countdown and based on examination of the evidence from the scene, it was determined Officer McGill discharged his firearm six times during this incident.

VIII. FORENSICS REQUESTS / RESULTS

DNA Examination

On January 19, 2016, Detective Patton submitted a LVMPD Forensic Laboratory Request to compare Decedent's DNA to the Glock 21 handgun located inside of 3869 King Palm Avenue.

On February 24, 2016 Forensic Scientist Allison Rubino submitted the DNA Results and Conclusions Report. The report stated that the DNA profile obtained from the swab from the grips, trigger and trigger guard of a Glock 21 handgun is consistent with a distinguishable mixture of at least two individuals with at least one being a male. The full major DNA profile is consistent with Decedent. The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the full major DNA profile obtained from the evidence sample is approximately 1 in 80.7 quintillion.

Additionally, the full DNA profile obtained from the swab from the base and feed gates of the magazine was consistent with Decedent. The probability of randomly selecting an unrelated individual from the general population having a DNA profile that is consistent with the full DNA profile obtained from the evidence sample is approximately 1 in 80.7 quintillion.

Firearm Examination

Officer McGill's Kimber pistol and Decedent's Glock pistol were submitted for a function test and ballistic comparison.

On March 23, 2016, forensic scientist Angel Moses submitted the Firearms and Tool Marks Report. The Kimber pistol was examined, test fired and found to be operational condition. The Glock pistol was examined, test fired and found to be in normal operation condition with no noted malfunctions.

The test and evidence cartridge cases recovered at the scene were microscopically examined in conjunction with one another. Based on these comparative examinations, it was determined that the six cartridge cases recovered had all been fired by the Kimber pistol.

IX. BODY WORN CAMERAS (BWC)

Officer McGill was wearing a BWC and activated his BWC during the incident; however, the BWC failed to record the incident due to a faulty wire that connected the camera to the base of the BWC.

X. UNDERLYING CRIMINAL CASE

A criminal complaint was filed against Jesus Sanchez, Renee Martinez, and Taylor Bailey for the crimes against G.P. Sanchez and Martinez both pled guilty to a count of Robbery and were sentenced in District Court XVII to a term of incarceration of 30-90 months and 28-90 months, respectively. Bailey pled to Conspiracy to Commit Robbery and was sentenced to probation by the Court.

XI. LEGAL ANALYSIS

The District Attorney's Office is tasked with assessing the conduct of officers involved in any 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/defense of others; and (2) justifiable homicide by a public officer. Both of these theories will be discussed below.

A. The Use of Deadly Force in Defense of Another

The authority to kill another in 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 ... person, against one who manifestly intends or endeavors to commit a crime of violence ...” against the other person.¹ 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 [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 [the other person] or cause [the other person] great bodily injury; and
2. That it is absolutely necessary under the circumstances for him to use in [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 [the person 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 [defense of another], the circumstances must be 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 [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 [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,

¹ 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.

3. A reasonable person in a similar situation would believe [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 [that a killing was in defense of another exists], the State must prove beyond a reasonable doubt that Decedent did not act in [defense of another]. *Id.* at 1051-52.

Therefore, in Nevada, the law is that if there is evidence of self-defense, in order to prosecute, the State must disprove an individual did not act in self-defense beyond a reasonable doubt.

Therefore, in Nevada, the law is that if there is evidence of self-defense, in order to prosecute, the State must prove beyond a reasonable doubt that an individual did not act in self-defense.

In this case, Decedent was perceived to pose an imminent danger to the officers in the area. Officers were attempting to take into custody three individuals who had just committed an armed robbery. The suspects were located in a car in the driveway of a residence. While the officers were actively securing the perpetrators, Decedent exited the front door of the residence while holding a firearm. Officers repeatedly instructed Decedent to drop the weapon, which was verified by multiple witnesses. Instead of dropping the weapon, Decedent began to raise it to a position where it could be fired at officers. Considering the circumstances of the situation – taking into custody perpetrators of a violent crime in front of their home, an armed man exits the house, the man does not drop the weapon on command but instead raises it towards a firing position – the officer was justified in using deadly force when he acted on his reasonable fear of a threat to himself and fellow officers.

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. See 1985 Nev. Op. Att’y Gen. 47 (1985).

In this case, the officers were trying to take into custody the perpetrators of an armed robbery. Officers were already on alert for firearms, as they had been used in the commission of the crime just a short time earlier. When Decedent exited the house that had been connected to the vehicle used in the robbery, the officers had no way of knowing at that moment if Decedent had been involved in the crime or were attempting to assist the perpetrators. Officers were plainly identifiable as police officers. They were in full uniform and their patrol car was in front of the house with red and blue lights flashing.

Decedent failed to comply with repeated orders to drop the firearm. Instead, Decedent raised the firearm towards officers, necessitating the officer to fire at Decedent to protect himself and the other officer on the scene. The circumstances indicate the officer had a reasonable belief that Decedent was a threat to the safety of the officer and his partner. In light of this evidence, the actions of the officer were legally justified and appropriate “in the discharge of a legal duty.”

CONCLUSION

Based on the review of the available materials and application of Nevada law to the known facts and circumstances, the State concludes that the actions of Las Vegas Metropolitan Police Department Officer McGill were reasonable and/or legally justified. The law in Nevada clearly states that homicides which are justifiable or excusable are not punishable. (NRS 200.190). A homicide which is determined to be justifiable shall be “fully acquitted and discharged.” (NRS 200.190).

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