

REPORT ON USE OF FORCE



Legal Analysis Surrounding the Death of Roosevelt Brown on August 25, 2018

INTRODUCTION

On August 25, 2018, 18-year-old Roosevelt Brown (hereinafter “Decedent”) was shot and killed by Las Vegas Metropolitan Police Department (“LVMPD”) Special Weapons and Tactics (“SWAT”) Sniper Officer Jonathan Collingwood. The incident took place at approximately 07:21 a.m. on a sidewalk adjacent to 900 Doolittle Avenue, Las Vegas, Nevada 89106.

SYNOPSIS

On August 25, 2018, at approximately 05:00 a.m., LVMPD Dispatch received multiple calls reporting that a male had discharged a firearm inside an apartment complex located at 900 Doolittle Ave. The callers indicated that Decedent initially discharged one round inside apartment #116, then exited the apartment and discharged a second round outside. Callers also indicated that he had pointed the firearm at several people after exiting the apartment.

LVMPD patrol officers arrived on scene within five minutes of the initial call, but were unable to locate Decedent. Patrol officers contacted witnesses at the scene who advised Decedent had run eastbound and was still armed with a gun. Multiple patrol officers began to saturate the area in an attempt to locate Decedent, while other officers made contact with the occupants of apartment #116.

Upon their arrival at apartment #116, patrol officers located one cartridge case just outside the apartment, and one cartridge case inside the apartment. The occupants of apartment #116 confirmed that Decedent had discharged one round inside the apartment, exited, and discharged a second round just outside. The occupants also confirmed that Decedent had pointed the firearm at multiple people before running out of the apartment complex.

Officers continued to attempt to locate Decedent while witnesses reported conflicting information. One witness indicated Decedent may have gone to his girlfriend's apartment (#119). Another witness reported Decedent knew someone who lived at 1011 Doolittle and may have gone there. Yet another witness reported Decedent was hiding in a nearby dumpster. Officers conducted welfare checks on both apartments at approximately 05:35 a.m., to no avail. Between approximately 05:45 a.m. and 06:00 a.m., officers issued commands for anyone inside the dumpster to exit, but Decedent was not inside it.

At 06:01 a.m., officers located Decedent, who was standing in the middle of the street holding a gun to his head. Within three minutes of locating Decedent, patrol officers set up a perimeter and moved Decedent's family, who had gathered nearby, to a safe location. Officers ordered Decedent to drop his weapon multiple times, but he did not comply. At 06:15 a.m., Decedent placed the gun in his pocket and began walking westbound. Officers followed Decedent and continued to ask him to give up peacefully. Decedent refused to comply, took the gun out of his pocket, and continued to walk around on Doolittle Ave.

For the next twenty-five (25) minutes, Decedent refused to enter into a dialogue with officers, and instead verbally taunted them repeatedly while ignoring their commands. Citizens began to disregard officers' orders to stay inside their residences, and Decedent's family began to become agitated. At 06:39 a.m., SWAT units arrived on scene and took their positions. For forty (40) minutes following SWAT's arrival, Decedent continued to disregard officers' orders and walked around the neighborhood with the gun in his hand. Decedent taunted officers and citizens as he did so, intermittently placing the gun in his mouth. As Decedent moved, multiple patrol officers shadowed him from a distance behind ballistic shields. SWAT officers, including SWAT Sniper Officer Collingwood, shadowed Decedent as well.

At 07:20 a.m., SWAT Sniper Officer Collingwood observed Decedent raise his firearm and point it at a group of five patrol officers. Officer Collingwood discharged a single round from his rifle, striking Decedent in the chest. Decedent fell to the ground, and patrol officers moved in and took him into custody. Decedent was transported to University Medical Center, where he was pronounced dead at 07:35 a.m. Due to the fact that an officer-involved shooting occurred, the on-scene incident commander requested that the Force Investigation Team ("FIT") respond to the scene to assume responsibility of the investigation. FIT personnel arrived and assumed control of the scene.

This report explains why criminal charges will not be forthcoming against LVMPD Officer Collingwood. 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 May 17, 2019.

This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of Officer Collingwood 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

The scene was relatively large and spanned from apartment #116 in the apartment complex located north of Doolittle Ave. to a sidewalk southeast of apartment #1003 in the apartment complex located south of Doolittle Ave. East to West, the scene spanned from H Street to Weaver Drive.



VISIBLE EVIDENCE

Apartment #116, north of Doolittle Ave.

Apartment #116 was on the ground level of a mutli-unit apartment building. The door to apartment #116 faced west. In the landscaped area southwest of the apartment, there was a cartridge case bearing headstamp SPEER 9mm LUGER (Item 1). There was a penetrating bullet hole on the exterior south facing wall of apartment #116, just above and to the left of the exterior patio.



Inside apartment #116, there was a bullet impact on the rear bedroom door. In the kitchen, there was a cartridge case bearing headstamp SPEER 9mm LUGER (Item 2).



Sidewalk on the north side of Doolittle Ave.

There was a sidewalk on the north side of Doolittle Ave. which ran parallel to the street. There

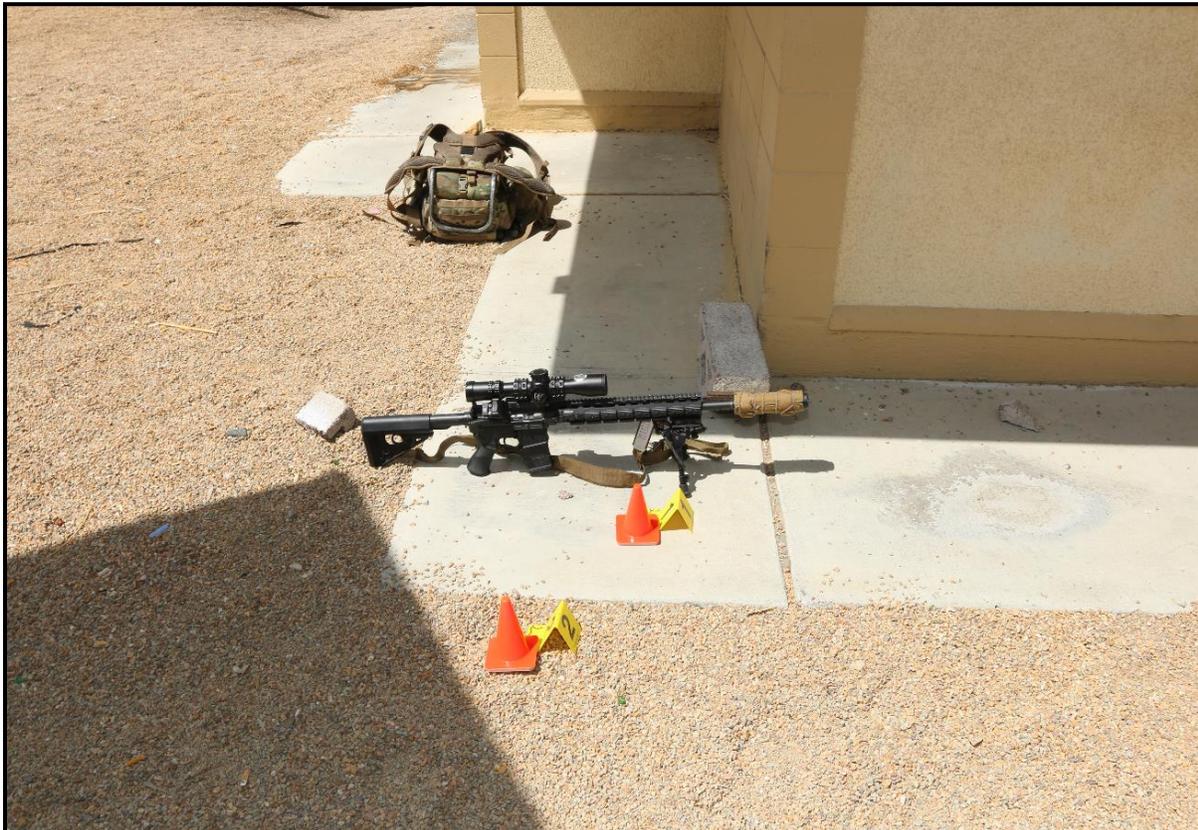


was a metal gate between the sidewalk and the apartment complex to the north of Doolittle Ave. At the time of Crime Scene Analysts' ("CSAs") arrival, Decedent had been transported to University Medical Center, but a pool of blood remained on the sidewalk on the north side of Doolittle Ave. A Zenith Firearms Girsan 9mm pistol with a seated magazine was located just east of the pool of blood. The magazine was empty, as was the chamber. The firearm was swabbed for DNA before being impounded. The firearm,

magazine, and two swabbings were impounded as Items 3, 3A, 5, and 6. There was a single bullet impact to the metal gate just above the pool of blood, approximately 5'2" off the ground. In the gutter just west of the firearm, there was a weathered and damaged .40 caliber cartridge case that appeared to be unrelated to the instant investigation.

Apartment #1003, south of Doolittle Ave.

There was an apartment complex to the south of Doolittle Ave. Each building in the complex contained two apartments. The building which contained apartments #1001 and #1003 was positioned extending northwest and southeast. Apartment #1003 was the unit on the southern side of the building. On the sidewalk at the southeast corner of the building there was a LaRue Tactical LT-15 rifle, an LVMPD backpack, and one .223 caliber cartridge case.



SCENE WALK-THROUGH

Officer Jonathan Collingwood

On August 25, 2018, at approximately 01:30 p.m., Officer Collingwood provided his position and perspective during a walk-through of the scene. Officer Collingwood's rifle remained in place after he fired, indicating his position at the time of the shooting (see above). Officer Collingwood's position was approximately one-hundred seventy-six (176) feet away from Decedent's position.

Based upon Officer Collingwood's position at the time of the shooting, CSAs took perspective photographs to illustrate his perspective of Decedent.



Above: Officer Collingwood's perspective at the time of the shooting. The arrow indicates Decedent's position.

OFFICER COLLINGWOOD'S STATEMENTS

Officer Collingwood's Public Safety Statement

Officer Collingwood provided a Public Safety Statement to FIT Detective Blake Penny at approximately 09:56 a.m. on August 25, 2018. The questions asked of the Officer are reflected in italics, and the Officer's responses to those questions are reflected in bold italics.

1. *"Did you discharge your firearm?"* ***"Yes."***
2. *"If so, in what direction?"* ***"In a north-northeast direction."***
3. *"Approximately where were you located when you fired?"* ***"Prone, 60 yards to the south-southwest."***
4. *"How many shots do you think you fired?"* ***"One round."***
5. *"Is anyone injured?"* ***"The suspect."***
6. *"If so, what is their description?"* ***"At the hospital."***
7. *"What direction and mode of travel?"* ***"Ambulance."***
8. *"How long have they been gone?"* ***"A few minutes."***
9. *"What crime(s) have they committed?"* ***"Pointing a firearm."***
10. *"Are there any outstanding suspects?"* ***"No."***
11. *"What type of weapon did they have?"* ***"A handgun."***
12. *"Are there any outstanding suspects?"* ***"No."***
13. *"Is it possible the suspect fired rounds at you?"* ***"Not that I know of."***

14. *“Do you know if any other officers discharged their firearm?” “I don’t believe so.”*
15. *“Are there any weapons or evidence that needs to be secured or protected?” “My weapon and his.”*
16. *“If so, where are they located?” “Mine is at the final firing position, and the suspect’s is approximately 60 yards to the north.”*
17. *“Are you aware of any witnesses?” “Yes, several patrol officers and Sergeant Mueller.”*
18. *“If so, what is their location?” “[Sergeant Todd Mueller] was off to my right, and the patrol officers were in line to the south, I believe.”*

Officer Collingwood’s Recorded Voluntary Statement

On August 27, 2018, at approximately 08:59 a.m., FIT Detectives Marc Colon and Joseph Patton conducted an audio recorded interview at LVMPD headquarters with Officer Collingwood, who was accompanied by LVPPA representative Bryan Yant. The following is a summary of Officer Collingwood’s audio recorded statement.

On August 25, 2018, at approximately 06:20 a.m., Officer Collingwood, who was operating as a SWAT sniper, was notified that his SWAT team was being requested at 900 Doolittle Ave. Officer Collingwood was further advised Decedent was armed with a revolver which he had discharged and pointed at several people.

Officer Collingwood responded to the perimeter at 900 Doolittle Ave., and a patrol officer advised him of Decedent’s last known location. An additional SWAT sniper had also arrived around the same time. Standard procedure was for SWAT snipers to arrive first and take up positions to gather intelligence for both arriving SWAT officers and patrol officers in the area. Officer Collingwood maintained radio contact with the other SWAT sniper and travelled on foot southbound and westbound from his original location, taking up a position where he was able to observe Decedent from a distance.

Officer Collingwood initially observed Decedent, who appeared to have a firearm in his pocket, standing on top of a car. Shortly thereafter, Decedent pulled the gun from his pocket and walked through a parking lot on the south side of Doolittle Ave. Decedent appeared to become increasingly agitated and aggressive toward patrol officers. Occasionally, he would charge at the officers, but he did not point the gun at them.

Decedent eventually noticed Officer Collingwood. Officer Collingwood advised he was “okay with that” because he believed it would take Decedent’s attention away from the patrol officers in the area. Decedent moved westbound around the building and appeared on the west side of the building. Decedent made visual contact with Officer Collingwood and gave Officer Collingwood a “thumbs up” to indicate he had seen him.

Decedent continued to move westbound through the neighborhood. Officer Collingwood was concerned there was not enough containment to the west and moved to parallel Decedent’s movements. While following Decedent, Officer Collingwood made contact with Sergeant Todd Mueller, who remained with Officer Collingwood thereafter as his spotter.

The pair followed Decedent south through the neighborhood. Decedent repeatedly stopped in the street and challenged officers by charging at them. Decedent appeared to become more agitated as time went on. Eventually, Decedent travelled around the neighborhood and made his way back to Doolittle Ave. Officer Collingwood observed Decedent either holding his gun down at his side or pointing it in the air as he would verbally challenge officers. At one point, Officer Collingwood observed Decedent pick up a handful of rocks and throw them at officers.

Decedent eventually walked to and stood on the sidewalk on the north side of Doolittle Ave. At that point, Officer Collingwood was southwest of Decedent's location. Officer Collingwood tried to find a concealed position so Decedent would not be able to see him again. Officer Collingwood found a cinder block and moved it against a wall. He then crawled behind the cinder block and set up in a prone position. Sergeant Mueller was still acting as his spotter.

Officer Collingwood observed Decedent raise his gun and point it at a group of five to eight patrol officers who had taken cover behind a single shield. Officer Collingwood then fired one shot, striking Decedent. Decedent fell to the ground and patrol officers moved in and took him into custody. After he fired, Officer Collingwood stood up and left his rifle in place.

SUMMARY OF RELEVANT WITNESS STATEMENTS

Civilian Witnesses

FIT Detectives attempted to interview several civilian witnesses who were present at the scene, all of whom refused to provide audio recorded statements. In addition, FIT detectives conducted a witness canvass of the residences in the surrounding area, but were unable to locate any eyewitnesses who were willing to provide audio recorded interviews.

Telephonic Interviews

LVMPD Crisis Negotiator Steven Hutchason was able to make telephone contact with Decedent's mother and girlfriend at the scene. The telephone conversations were not recorded, and are summarized below.

T.M.

On August 25, 2018, at approximately 07:15 a.m., Crisis Negotiator Hutchason spoke to T.M., who stated she was the mother of Decedent. T.M. advised Decedent was on some sort of drugs and alcohol and not acting like himself. Decedent was at their apartment earlier with his ex-girlfriend and got into a fight with his stepfather, D.H. Decedent pulled out a gun and fired one round inside the apartment and another outside of the apartment. Decedent had been in trouble before, and had not been diagnosed with any mental illness. Decedent hated the police, and went by the nickname "Boosie."

T.A.

On August 25, 2018, at approximately 07:35 a.m., Crisis Negotiator Hutchason spoke to T.A., who stated she had been in a relationship with Decedent. Earlier in the day, T.A. had been at Decedent's apartment when Decedent and his stepfather got into a verbal altercation. Decedent became angry, pulled out a gun, and fired one round inside the apartment and one round outside of the apartment. T.A. advised Decedent did not suffer from mental illness, but had threatened suicide on June 29, 2018, over the possibility of ending their relationship. T.A. believed Decedent was not acting normal and was possibly under the influence of drugs and alcohol. T.A. and Decedent's relationship had been very volatile and they had been involved in numerous domestic disturbances.

In addition to the two telephonic interviews, four civilian witnesses provided brief written statements to patrol officers. The following written statements, noted in italics, are transcribed verbatim (including any spelling and grammatical errors).

Written Statements

J.B.

"My brother is being crazy and decides to grab a gun then shot inside to scare us and get out of his way."

D.H.

"I woke up to alot of noise to witness Roosevelt Brown with a gun pointing it then he fired a shot inside the house it carryied outside were he fired another shoot a the crowd outside."

A.M.

"I was in my bedroom when I heard the shots. I ran outside to see if my daughter was okay. She was in shock. I sat on the stairs with my daughter and he began pointing the gun at us telling us if we moved he would shoot us. He then pointed the gun at himself and stated he was not leaving until the police came. When the police arrived he took of running."

L.M.

"I heard alot of noise and gun shots. When I ran out the house he was pointing the gun at my mother and my sister stating that if they moved he would shoot them. He then pointed the gun at himself and stated he was not leaving until the police came. When the police arrived he took off running."

Witness Officers

Twenty-three (23) witness officers provided audio recorded statements to FIT Detectives. All of the witness officers' statements were consistent to the extent they observed the same

portions of the lengthy incident. The witness officers consistently stated that Decedent was in an agitated state while armed with a handgun, refused to comply with officers' commands to drop the weapon and give up peacefully, and continually taunted and yelled at the officers and civilians in the area. For those officers who witnessed Decedent's actions in the moments before he was shot, all stated that Decedent raised his firearm and pointed it at a group of officers the moment before Officer Collingwood discharged his rifle. Due to the duration of the incident and the number of officers on scene, this report includes only those statements which are not redundant or duplicative. The following summaries depict the relevant portions of those witness officers' observations.

Officer Blake Pfiffner

On August 25, 2018, Officer Pfiffner was working in a uniformed patrol capacity, and was partnered with Officer Lorenzo Sampson as a two-person unit. During their shift, a shooting call was broadcasted over the radio. The details of the call stated a male was shooting a gun in the area of 900 Doolittle Avenue. Officers Pfiffner and Sampson engaged their lights and siren and responded to the incident.

Prior to arriving in the area, Officer Pfiffner heard Officer Antonio Campanella broadcast over the radio that he had arrived on scene. Officers Pfiffner and Sampson positioned themselves on the west side of the property. They exited the patrol vehicle and began to walk north towards the rear of the property. Shortly after, they heard Officer Campanella yell out over the radio that he had encountered Decedent, who was still armed. In addition, Officer Pfiffner heard Officer Campanella issue commands to "drop the gun."

Officers Pfiffner and Sampson ran toward Officer Campanella's location and encountered him on the northeast side of the property. Officer Campanella advised them that he had lost visual of Decedent, who ran off with the firearm in his hand. Dispatch was advised and the request was made for units to set up a perimeter.

The Officers made their way to apartment #116 and came in contact with Decedent's mother, brother, and stepfather. They alleged Decedent had fired a gun inside the apartment. The family allowed the Officers to enter the apartment, where they observed an impact round to the interior structure. The Officers had the residents of the apartment exit and the property was secured.

While outside of the apartment, the officers came in contact with approximately six additional victims. The victims alleged Decedent had pointed a firearm at them and fired one round. The victims advised they were in fear for their lives. The officers then located a spent cartridge case outside of the apartment.

Due to the dynamic scene, the Officers were unable to obtain personal informational from the victims. Officers requested a K-9 unit to respond to the scene. As they waited for K-9 to arrive, a lieutenant advised over the radio that a possible suspect was hiding near a dumpster. Decedent then began to walk back and forth with a gun in his hand. The Officers remained on the property of the apartment complex. When Decedent neared the apartment

complex, Officers Pfiffner and Sampson ran to the south side of the property and pushed people away from the area and out of danger. Soon after, Officer Pfiffner heard the sound of a single gunshot. Throughout the incident, Officer Pfiffner heard officers issue verbal commands to Decedent in an attempt to de-escalate the situation.

Sergeant Todd Mueller

On August 25, 2018, Sergeant Mueller, who was assigned to the SWAT Sniper team, was requested to respond to an open-air barricade where the suspect was armed with a handgun and had shot into an occupied structure. Upon arrival, Sergeant Mueller met with patrol officers to receive updated information regarding the suspect and his location.

Sergeant Mueller observed Decedent walking in between several buildings. Decedent appeared to be agitated and was actively trying to bait officers. Decedent had his gun pointed down and was puffing out his chest. At one point, Decedent raised his gun and pointed it toward officers, but Sergeant Mueller was unable to take a shot at Decedent due to patrol officers being in his line of fire.

While moving in between the buildings, Sergeant Mueller met up with Officer Collingwood. They observed Decedent on Doolittle Ave. Officer Collinwood got into a prone position with his rifle. Sergeant Mueller could see Decedent still appeared agitated, was still armed, and was focusing his attention on patrol officers. Sergeant Mueller started to move to the right of Officer Collingwood to get a different angle when he heard Officer Collingwood discharge his rifle.

Sergeant Mueller looked and saw Decedent was on the ground. He advised over the radio that shots were fired. Sergeant Mueller stated Officer Collingwood asked if he saw Decedent point the gun at officers. Because Sergeant Mueller was moving to a different location at the time Officer Collingwood fired his rifle, he did not see Decedent's actions just prior to the shooting.

Officer Joel Tomlinson

On August 25, 2018, Officer Tomlinson was leaving the Clark County Detention Center ("CCDC") when he heard the radio broadcast of a male with a gun in the area of 900 Doolittle Ave. Officer Tomlinson responded to the area and assisted with a group of officers who attempted to locate Decedent. While officers were spread out in the area searching, a K-9 unit located Decedent.

Officer Tomlinson responded to that location and observed Decedent behind a building with a gun to his own head. Decedent came out into the courtyard of 905 Doolittle Avenue and officers began to converse with him in an attempt to get him to put down the firearm. Decedent would converse with the officers, but would not put the firearm down and threatened to take his own life. This communication with Decedent lasted for approximately 45 minutes, with Decedent frequently getting excited and angry.

Decedent eventually got down onto his knees and Officer Tomlinson observed Decedent rack the slide of the gun, which locked back. Officer Tomlinson believed that the magazine and gun had to be empty for the slide to lock back into place. Decedent then pushed the slide-stop and the slide moved forward. Officer Tomlinson then yelled to Decedent, "Hey, you don't have any ammo in your gun." Decedent then started "talking shit" to Officer Tomlinson. Once Officer Tomlinson observed what he believed to be an empty gun, he became much more comfortable talking to Decedent. Officer Tomlinson broadcast over the radio that he believed the gun to be empty, and was advised by the watch commander to treat it as loaded.

Officer Tomlinson observed SWAT officers and other units deploy around the complex while he and other officers continued to talk to Decedent. Decedent began to move and Officer Tomlinson attempted to keep him positioned in the courtyard by moving with him. Decedent became more agitated as additional officers arrived, and he jumped on a car. As Decedent jumped on the vehicle, Officer Tomlinson heard citizens from the nearby apartments yell, "Hey, get off my fucking car!" Decedent screamed back at them. Officer Tomlinson realized he was directly in the SWAT sniper's line of fire, and moved east on Doolittle Ave. As Officer Tomlinson moved, it created an opening for Decedent to move out of the courtyard.

Decedent made his way through the neighborhood and eventually went back to the original courtyard off of 900 Doolittle Ave. Decedent moved to where Officer Tomlinson was positioned, saw Officer Tomlinson, and pointed his finger toward him and said, "Oh, it's fucking you again." Officer Tomlinson looked around and realized there were officers behind Decedent, and knew he was in their backdrops and in a crossfire situation if somebody had to fire. Officer Tomlinson moved his position to get cover when he heard a gunshot.

Officer Jonathan Solis

On August 25, 2018, Officer Solis heard the call on the radio while he was at CCDC. Upon leaving CCDC, Officer Solis responded to the area of 900 Doolittle Ave. After the perimeter was set up, there was radio traffic advising Decedent might have been hiding in a dumpster within the perimeter. Officer Solis was equipped with a ballistic shield, and a plan was established to check the dumpster. While officers were checking the dumpster, a separate call was received by Dispatch reporting Decedent had pointed a gun at another person. The K-9 officer left the area of the dumpster to search for Decedent.

Officer Solis' partner, Officer Joel Tomlinson, saw Decedent peak out from behind a wall, and Officer Tomlinson announced Decedent's location. Verbal commands were issued to Decedent, and he came out from behind the wall with a gun pointed to his head. Decedent began walking towards 900 Doolittle Ave. The officers continued to give Decedent verbal commands, but he disregarded them. Officers Solis and Tomlinson put themselves in a position between Decedent and his family to keep him from going toward them. Decedent stopped and stayed in the middle of the street.

While Decedent was in the street he either sat down or went to his knees. Decedent locked the slide back on his gun, then released the slide. Officer Solis believed there was a possibility the gun could have been unloaded. Officer Carrington announced on the radio the

possibility of the gun being unloaded. However, Officer Solis could not tell if there was a magazine in the gun and was not completely confident the gun was unloaded. Officer Solis and his partners continued to try to communicate with Decedent. While they were talking to him, Decedent came close to pointing the gun at officers, but never did. At one point, Decedent, with both hands on the gun in a low-ready position, walked toward the officers.

Decedent walked toward the apartments and stopped in the courtyard. Sergeant Richard Rundell began giving verbal commands as SWAT officers were arriving. Officer Solis and his partners were advised by SWAT officers they were in a crossfire, so Officer Solis and his partners moved to the east. Decedent then moved west from their location.

Officers were able to cut off Decedent just before 1801 J Street, but Decedent then began walking east, then south. Officer Solis then lost sight of Decedent. Shortly thereafter, Officer Solis regained visual of Decedent, who was back in the middle of the street. Officers Solis and Tomlinson were warned again of a crossfire, so they moved back behind the complex. After moving out of the way of crossfire, Officer Solis heard a gunshot. He did not see Decedent get shot.

Victim Officers

Sergeant Russell Ellsworth led an arrest team that included Officers Christian Torres, Sean Cody, Brooks Fink, and Bryan Diaz. Sergeant Ellsworth's arrest team was equipped with a ballistic shield and was assigned to shadow Decedent as he moved throughout the neighborhood. All five of the victim officers 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 ("OIS").

Officer Bryan Diaz

In the moments leading up to the OIS, the arrest team took cover behind a black sport utility vehicle ("SUV"). Officer Fink had a ballistic shield and was standing to the left of Officer Diaz. Officer Diaz tried to get the whole team to take cover behind the engine block of the SUV. Officer Diaz glanced over at Decedent and saw him raise the gun in his direction. Officer Diaz heard a gunshot and Decedent fell to the ground.

Officer Diaz felt that if Decedent had not been shot, Decedent could have shot him. Based on Decedent's actions, Officer Diaz believed Decedent's intentions were either suicide by cop or to shoot at an officer.

Officer Christian Torres

In the minutes leading up to the OIS, Officer Torres' team encountered Decedent, who had a gun in his hand. Officer Torres' team attempted to communicate with Decedent. During the encounter, Decedent pointed the handgun toward Officer Torres. It was at that point a sergeant advised Decedent if he pointed the gun at officers again he would be shot.

Decedent made his way back to Doolittle Ave. where he stopped in front of 900 Doolittle Ave. Officer Torres and his team took cover behind a parked vehicle and maintained visual of Decedent. Officer Torres then yelled out to Decedent, but Decedent ignored Officer Torres. Shortly after, Decedent stopped, turned, and pointed the gun toward Officer Torres and his team. Officer Torres then heard a single gunshot, and observed Decedent fall to the ground.

Officer Sean Cody

In the moments before the OIS, Officer Cody observed Decedent raise his arm in a shooting movement. At that time, Officer Cody heard a gunshot. Officer Cody was unaware of who fired and checked with his team to see if it had been one of them. As he did, he heard, "Shots fired, shots fired. Subject's down." Officer Cody and a group of officers moved up to Decedent and took him into custody.

Officer Brooks Fink

Just prior to the OIS, Officer Fink, who was assigned to carry the ballistic shield, observed Decedent raise the firearm and point it toward him and the other officers on the arrest team. Officer Fink heard a gunshot and saw Decedent drop to the ground.

Officer Fink described Decedent's actions as sporadic. He would not respond to commands or engage in verbal communication. While pointing the firearm, Decedent was steady and not moving. Decedent's arm was extended straight as he raised it from his side and up towards the group of officers. Officer Fink felt his life was in danger when Decedent was pointing the gun at him.

Sergeant Russell Ellsworth

Just prior to the OIS, Sergeant Ellsworth had moved his team of officers directly south of Decedent when he heard a gunshot. Sergeant Ellsworth did not see Decedent's actions prior to the gunshot due to being focused on officer positions and making sure there was not a crossfire situation. When Sergeant Ellsworth saw Decedent was on the ground, he directed his team of officers to move forward and take him into custody.

BODY-WORN CAMERAS

Ninety-eight (98) officers were equipped with body-worn cameras ("BWC") which were activated at the time of the incident. The footage captured on the BWCs is consistent with the witness officers' statements, victim officers' statements, and Officer Collingwood's statements referenced above. Officer Robert Wicks' BWC footage provides a side view of Decedent, and clearly depicts Decedent pointing the gun at the victim officers just before he was shot by Officer Collingwood.



AUTOPSY

Medical Examiner Dr. Chiara Mancini of the Clark County Coroner's Office conducted an autopsy on Decedent. M.E. Mancini concluded Decedent's cause of death was a single gunshot wound to the chest.

The toxicology results indicated Decedent had alcohol and THC in his system. Decedent's Blood Alcohol Concentration ("BAC") was .144.

OFFICER WEAPON COUNTDOWN



Officer Collingwood's LaRue Tactical LT-15 .223 Rifle

At the completion of the countdown, it was determined Officer Collingwood discharged his firearm one time during this incident.

FIREARM EXAMINATIONS

LVMPD Forensic Laboratory Requests were submitted on the firearms of Officer Collingwood and Decedent for function testing and ballistic comparisons to the evidence cartridge cases.

On October 31, 2018, Forensic Scientist James Krylo submitted the Report of Examination: Firearms.

Decedent's Girsan 9mm pistol was examined, test fired and found to be operational with no noted malfunctions. The submitted magazine had a capacity of fifteen (15) cartridges.

Officer Collingwood's LaRue Tactical rifle was examined, test fired and found to be operational with no noted malfunctions. The submitted magazine had a capacity of twenty (20) cartridges.

The three evidence cartridge cases were examined and compared to test fired cartridges from both weapons. The two SPEER 9mm Luger cartridge cases were identified as having been fired from the Girsan 9mm pistol. The .223 cartridge case was identified as having been fired from the LaRue Tactical Rifle.

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.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:

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.

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 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 Decedent 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 Officers Christian Torres, Sean Cody, Brooks Fink, Bryan Diaz, and Sergeant Russell Ellsworth. While there was some information broadcast over the radio that Decedent's weapon may have been empty, there was no way to confirm that information, and Officer Collingwood therefore could not treat it as such. Officer Collingwood was aware Decedent had discharged his firearm earlier that morning, and had been acting erratically for an extended period of time while refusing to put down the weapon. Officer Collingwood (and all of the other officers on scene) displayed significant restraint for an

extended period of time while Decedent refused to comply with commands and handled the gun in an unpredictable manner. It was not until Decedent raised the gun and pointed it directly at Officers Christian Torres, Sean Cody, Brooks Fink, Bryan Diaz, and Sergeant Russell Ellsworth that Officer Collingwood fired his weapon.

Thus, the totality of the evidence, to include BWC video and witness statements, illustrates that Officer Collingwood was reasonable in believing that Decedent would cause great bodily harm or death to the arrest team. Officer Collingwood was confronted with the appearance of imminent danger to his fellow officers and he had an honest belief and fear that his fellow officers were about to be killed or suffer great bodily injury at the hands of the Decedent. The evidence further illustrates that Officer Collingwood acted reasonably in reaction to the apparent danger posed by the situation and the Decedent. Here, Officer Collingwood reasonably acted in defense of others. Consequently, the shooting of Decedent is 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. See 1985 Nev. Op. Att’y Gen. 47 (1985).

In this case, the known evidence illustrates that Officer Collingwood had probable cause to believe that Decedent posed a threat of serious physical harm to his fellow officers. Officer Collingwood was aware that Decedent had threatened to shoot several civilians and in fact discharged his firearm earlier that morning. Decedent repeatedly refused to comply with officers’ lawful orders to drop the weapon. Although Decedent refused to drop the weapon and acted extremely erratically for an extended period of time, Officer Collingwood did not shoot Decedent until Decedent raised his weapon and pointed it directly at the arrest team. At that point, Officer Collingwood had a reasonable belief that Decedent could cause serious physical harm to his fellow officers. Thus, the use of deadly force by Officer Collingwood was legally justified and appropriate under NRS 200.140(2).

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 Collingwood 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.” 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 Collingwood.