



REPORT ON USE OF FORCE

Legal Analysis Surrounding the Death of Matthew Patton on September 9, 2020

INTRODUCTION

On September 9, 2020, Las Vegas Metropolitan Police Department (LVMPD) Officers Gregory Hilton, Francisco Mazon, Shaun Ward, and Nicholas Grazioso discharged their firearms toward 37-year-old Matthew Scott Patton (Decedent) who later died from gunshot wounds. The use of force occurred in the southbound lanes of Las Vegas Boulevard near the center median and south of the Sahara Avenue intersection.

SYNOPSIS

At approximately 11:09 p.m. on September 8, 2020, LVMPD Officer Dustin Ketring conducted a traffic stop on Joe W. Brown Drive north of Karen Avenue after observing a red Pontiac G6 nearly impact another vehicle while making an unsafe lane change. When Officer Ketring approached the vehicle, the driver refused to roll his window down more than one to two inches; eventually, he provided a Utah driver's license and vehicle registration. The license identified the driver as Matthew Patton.

Officer Ketring returned to his patrol vehicle to run standard records checks on Decedent and the vehicle. Records indicated that Decedent had an active full-extradition warrant from Utah for burglary. Additionally, it noted that Decedent was to be considered armed and dangerous, had violent tendencies, was known to abuse drugs, and was a sexually violent predator. Officer Ketring requested additional units respond to his location to assist.

Officer Ketring briefed the officers who arrived and formulated a plan to take Decedent into custody. Officer Ketring approached Decedent again at the driver's side window, and fellow officers provided cover around the vehicle. Officer Ketring directed Decedent to exit the vehicle, but Decedent refused. He stated he would go to jail for a long time if he got out of the car. Officer Ketring calmly engaged Decedent in conversation to convince him to exit the

vehicle. At one point, Officer Ketring observed a silver clip on Decedent's pocket which Officer Ketring recognized as a pocketknife. He broadcast over the radio that Decedent had a weapon.

At times during the nearly 20-minute, and ultimately unsuccessful, effort to convince Decedent to exit his vehicle, Officer Ketring observed Decedent utilizing a cellular phone. Subsequent investigation revealed that Decedent was using his cellular phone to livestream video of the event over Facebook. In the video, Decedent stated, "Here I am, I don't know what to do now," as he adjusted his phone to show police lights behind him. Decedent then stated "(unintelligible)...in front of me, coming to block me in...what do I do now?" Decedent asked for commenters to give him advice on what to do. Decedent narrated for the video at times but mostly sat in silence.

Decedent's statements in the video appear to have been referencing the moment when officers attempted to use an arriving patrol vehicle to block Decedent and prevent him from driving away. However, just as that occurred, Decedent placed his vehicle in gear and fled the scene.

Officers Kevin Samuels and Tyler Cooney, who were approaching the traffic stop location just as Decedent drove off, initiated a vehicle pursuit. Decedent appeared to drive at normal speeds but ran several red traffic lights. Approximately one minute later, as the officers drove east on Oakey Boulevard, Sergeant Ronald Theobald ordered Officers Samuels and Cooney to discontinue their pursuit.

LVMPD Air Unit 5 arrived in the area, located Decedent's vehicle, and maintained surveillance. With assistance from Air 5, other officers "bubbled" Decedent, a tactic which creates a mobile perimeter surrounding the suspect while being out of the suspect's view. During that time, Decedent traveled south on Maryland Parkway and eventually turned westbound on Desert Inn Road. Sergeant Theobald broadcast permission for officers to use a Stop Stick to attempt to stop Decedent's vehicle. As Decedent reached westbound Desert Inn Road near Tenaya Way, Officer Quinn Lamboo deployed a Stop Stick and successfully deflated two of Decedent's tires. Decedent, however, continued traveling westbound until reaching Fort Apache Road where he turned north. Decedent reached Sahara Avenue and turned east as officers in the area observed sparks from Decedent's passenger-side wheels. Decedent continued traveling east on Sahara Avenue with two flat passenger-side tires, running several red traffic lights, while he made his way to Las Vegas Boulevard.

As Decedent approached Las Vegas Boulevard, Lieutenant Gregory Phenis ordered via radio broadcast that, should Decedent turn on Las Vegas Boulevard, units were to PIT Decedent's vehicle if conditions were safe for such action. A precision intervention technique (PIT) is a specific manner of intentional contact using a police vehicle against a fleeing vehicle to cause an abrupt stop. After approximately 21 miles of total travel, Decedent turned southbound on Las Vegas Boulevard. Officer Hilton positioned his patrol vehicle with lights and sirens activated behind Decedent and attempted a PIT which was unsuccessful. Officer Hilton immediately re-engaged and performed a second and successful PIT which caused

Decedent's vehicle to spin and come to a stop on southbound Las Vegas Boulevard just south of the Sahara Las Vegas resort property.

Officer Hilton's vehicle and Decedent's vehicle both faced south on Las Vegas Boulevard when they came to a stop. Officer Hilton's vehicle was in the far left or #1 travel lane, and Decedent's vehicle was in the far right or #3 travel lane. Decedent's vehicle was slightly in front of Officer Hilton's. As Officer Hilton exited his vehicle, Decedent quickly moved toward him causing Officer Hilton to draw his firearm. Decedent appeared to stop his forward momentum and back up before turning and running south, away from Officer Hilton. Decedent dropped a coat and then picked up speed for a few feet before turning his body back toward Officer Hilton. Decedent brandished a knife as he turned to face Officer Hilton, then slowed his speed as he walked backward. Officer Hilton yelled commands for Decedent to drop the knife as they walked south on Las Vegas Boulevard, but Decedent did not comply. As additional officers moved toward Decedent, he picked up speed and moved south, increasing the distance between himself and the officers.

As Decedent continued walking backward while facing the officers, he removed his shirt and exposed a yellow tank top that was underneath. Officers continued to yell commands to Decedent, including via the public address system of a patrol vehicle, to attempt to get Decedent to stop and get on the ground. As Decedent moved from the #3 travel lane across the street toward the #1 travel lane where Officer Hilton was walking, Decedent reached with his right hand into the top of his shirt where a sheath containing a second knife was located and pulled out the knife. One nearby officer deployed his Taser, but Decedent was out of range, so it was unsuccessful. As Decedent continued to get closer to Officer Hilton, Officer Hilton released his two-handed grip on his firearm and used his right hand to retrieve a Taser, which he pointed toward Decedent. As Officer Hilton pointed the Taser toward Decedent, however, Decedent abruptly charged toward Officer Hilton.

Officer Hilton backed up as he, along with Officer Mazon, who had arrived to assist, discharged their firearms at Decedent. Decedent quickly moved east toward the center median and ran behind a large metal power box. As he moved behind the power box, additional officers, including Sergeant Eric Hutchason and his K-9 partner, Arco, moved to Officer Hilton's location. Decedent continued running north toward the median, and Sergeant Hutchason deployed Arco to assist with taking Decedent into custody. Arco ran behind several palm trees and bushes toward Decedent who pushed through the trees and ran toward officers. As Decedent was running, he dropped his knives at the same time officers standing in the street next to the median discharged their firearms at Decedent.

Decedent fell face forward into the street as he was struck by gunfire, and Arco latched onto Decedent's body. Sergeant Hutchason secured Arco as officers moved in and took Decedent into custody. Officers called for medical assistance and attempted life-saving measures immediately, but Decedent succumbed to his injuries.

Due to the officer-involved shooting (OIS) aspect of the incident, detectives from LVMPD's Force Investigation Team (FIT) responded to the scene to conduct the investigation.

This report explains why criminal charges will not be forthcoming against LVMPD Officers Hilton, Mazon, Ward, and Grazioso. 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 July 26, 2021.

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

TIMELINE OF EVENTS

The following table, based on computer aided dispatch (CAD) records, provides a timeline of events which started on Tuesday, September 8, 2020, and continued into Wednesday, September 9, 2020. The timeline starts with the vehicle stop that occurred at Joe W. Brown Drive north of Karen Avenue, continues with the approximately 21-mile pursuit, and ends with the fatal OIS near 2650 South Las Vegas Boulevard.

Time (hours)	Description of Event/Action
11:09 p.m. (09/08/20)	Officer Ketring initiated a vehicle stop near Joe W. Brown Drive and Karen Avenue.
11:16 p.m.	Officer Ketring advised Dispatch the driver (Decedent) refused to roll down his window. A record check confirmed Decedent had a full extradition warrant for burglary out of Utah.
11:25 p.m.	Decedent refused to exit the vehicle and was noncompliant.
11:26 p.m.	Decedent was considered armed and dangerous based on his extradition warrant for burglary and was noncompliant for a sexual assault notification.
11:33 p.m.	Officer Ketring advised Dispatch that Decedent had a knife and stated he was not going back to prison. Officer Ketring broadcast Decedent was fleeing in his vehicle. Officer Ketring requested a Code Red.
11:34 p.m.	Officers Cooney and Samuels, riding as a two-man unit, were behind Decedent's vehicle and in pursuit. Sergeant Theobald advised them to discontinue the pursuit.
11:45 p.m.	Sergeant Theobald authorized the use of a Stop Stick device.
11:50 p.m.	A Stop Stick was deployed and the tires on Decedent's vehicle were deflated.
11:55 p.m.	Lieutenant Phenis stated over the police radio that Decedent was considered armed and dangerous.
11:56 p.m.	Major sparks were seen coming from Decedent's vehicle and it was possibly losing a tire on the passenger side.
12:08 a.m. (09/09/20)	Lieutenant Phenis broadcast over the police radio, "If he turns either way on Las Vegas Boulevard, I want someone to PIT him."
12:14 a.m.	A PIT was conducted on Decedent's vehicle. Decedent exited his vehicle armed with a knife.
12:15 a.m.	Shots fired was broadcast, and medical assistance was requested.

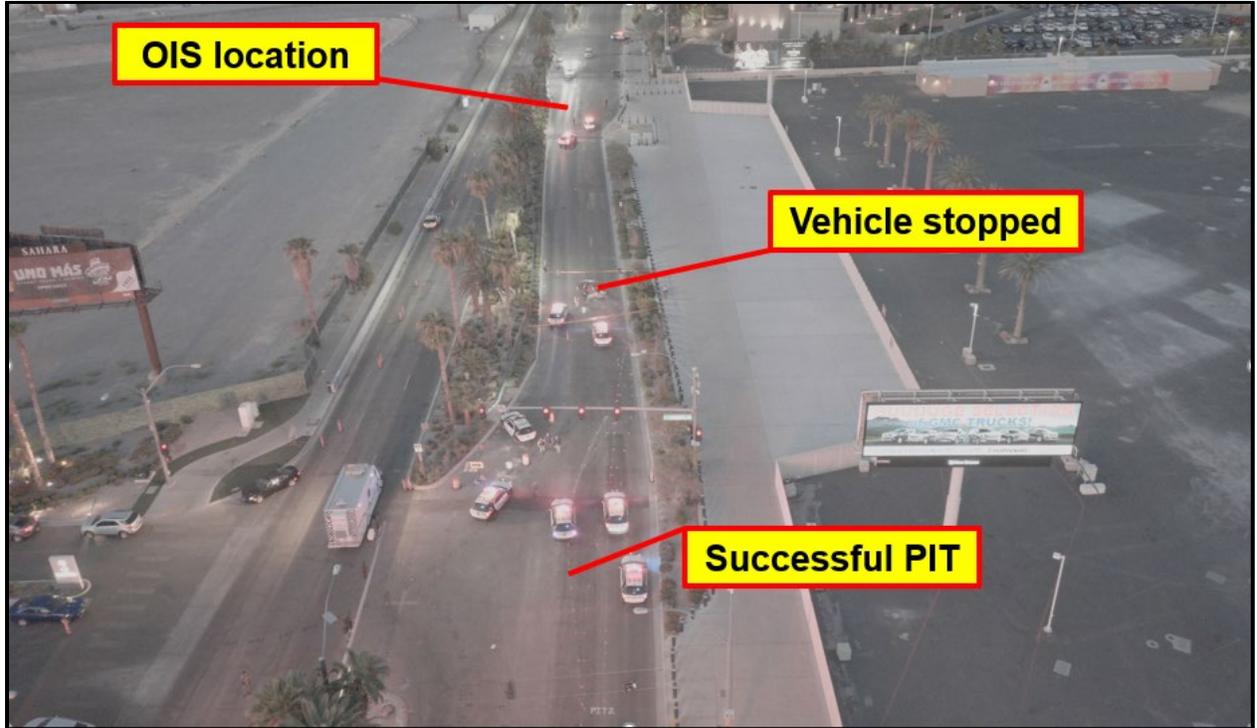
DESCRIPTION OF THE SCENE

Overview

The use of force event occurred in the southbound lanes of Las Vegas Boulevard near the center median south of Sahara Avenue, south of the Sahara Las Vegas and north of Hilton Grand Vacations.



Satellite map of location.

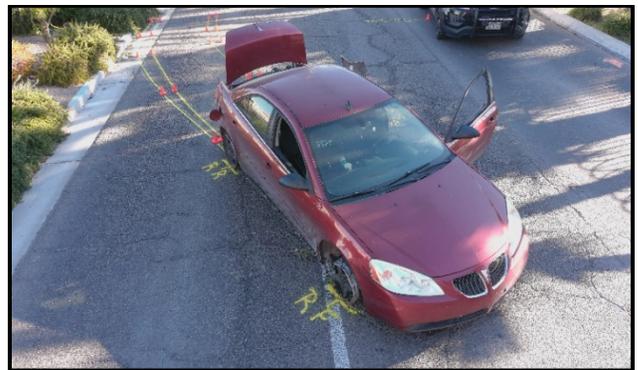


Drone aerial view of OIS location looking south.

Vehicle PIT



Impact location for successful PIT.



Decedent's Pontiac G6 after successful PIT.

Power Box & Trees/Brush



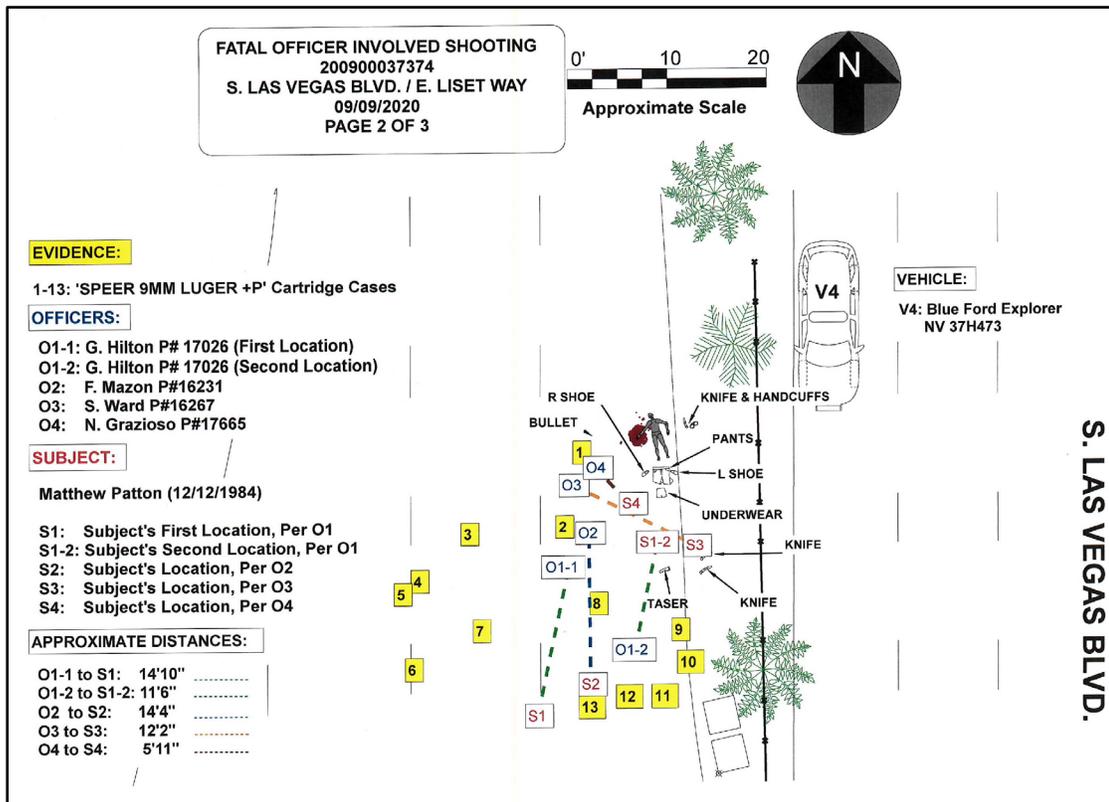
North-facing view; Decedent abruptly charged north/northeast toward officers, then moved behind the power box as first shots were fired.



South-facing view; Decedent emerged from behind the power box and through the trees/brush as second group of shots were fired.

Visible Evidence

On September 9, 2020, at approximately 1:10 a.m., Senior Crime Scene Analyst Caitlin King responded to Sahara Avenue and Las Vegas Boulevard to photograph and document the scene and photograph and collect evidence. SCSA King also created a diagram to note distances and the location of items of potential evidentiary value.



Decedent's Knives

SCSA King located, photographed, and impounded the two knives that Decedent dropped in the median close to the curb. The first is an unknown brand folding knife with a checker-patterned black handle and an approximate blade length of 3 ¼ inches. The second is an unsheathed "CRKT/FOLTS MINIMALIST/2387" knife with an approximate blade length of 3 ½ inches. A sheath attached to a lanyard was removed from around Decedent's neck prior to autopsy.



DNA ANALYSIS

LVMPD Forensic Scientist Kimberly Dannenberger performed DNA analysis using samples taken from each of the two knives recovered from the scene and a reference sample taken from Decedent. Per her report dated October 20, 2020, Forensic Scientist Dannenberger concluded that, statistically, Decedent's DNA was included in the DNA mixture present on both the handle and blade of the black folding knife, and it was included in the DNA mixture present on the handle of the CRKT knife.

Results, Opinions, and Interpretations:

DNA STR Processing

The following items were subjected to PCR amplification at the following STR genetic loci: TH01, D3S1358, vWA, D21S11, TPOX, DYS391, D1S1656, D12S391, SE33, D10S1248, D22S1045, D19S433, D8S1179, D2S1338, D2S441, D18S51, FGA, D16S539, CSF1PO, D13S317, D5S818, and D7S820. The sex-determining Amelogenin locus was also examined. Where applicable, STRmix was used for interpretation.

Lab Item 9.1: swabbing from the handle of the black folding knife

Number of contributors: 2 males
Individually included: Matthew Patton (Item 11) LR = approximately 36.6 octillion (36.6×10^{27})

The probability of observing this mixture DNA profile is approximately 36.6 octillion times more likely if it originated from Matthew Patton (Item 11) and an unknown random contributor than if it originated from two unknown random contributors.

Lab Item 9.2: swabbing from the blade of the black folding knife

Number of contributors: 2 males
Individually included: Matthew Patton (Item 11) LR = approximately 37.2 octillion (37.2×10^{27})

The probability of observing this mixture DNA profile is approximately 37.2 octillion times more likely if it originated from Matthew Patton (Item 11) and an unknown random contributor than if it originated from two unknown random contributors.

Lab Item 10.1: swabbing from the handle of the "CRKT" knife

Number of contributors: 3 (at least two males)
Individually included: Matthew Patton (Item 11) LR = approximately 177 trillion (177×10^{12})

The probability of observing this mixture DNA profile is approximately 177 trillion times more likely if it originated from Matthew Patton (Item 11) and two unknown random contributors than if it originated from three unknown random contributors.

Lab Item 10.2: swabbing from the blade of the "CRKT" knife

Number of contributors: 3 (at least two males)
Uninformative: Matthew Patton (Item 11) LR = approximately 5,070 (5.07×10^3)

The likelihood ratio noted above for Matthew Patton (Item 11) is within the uninformative range. Therefore, this does not provide sufficient support for whether Matthew Patton (Item 11) is included or excluded as a contributor to this sample. Internal validations and published studies help to inform the limits of STRmix to where a false positive or false negative result may possibly arise. Likelihood ratios with exponents between 10^{-3} to 10^3 have the potential to support false inclusion or exclusion based on LVMPD internal validation studies.

SCENE WALK-THROUGHS

Officer Hilton

On September 9, 2020, at approximate 6:20 a.m., Officer Hilton provided a walk-through of the scene. During the walk-through, which was not recorded, Officer Hilton provided the following information:

- He heard the watch commander broadcast not to let the vehicle get to the Boulevard (Las Vegas Boulevard) and, when safe to do so, PIT the vehicle.
- Officer Hilton positioned himself at Sahara Avenue and Las Vegas Boulevard. There were no pedestrians or vehicles around when he saw the suspect vehicle approaching Las Vegas Boulevard. He attempted a PIT, which was unsuccessful, and immediately went for a second attempt.
- On the second attempt the conditions appeared the same with regard to other vehicles and pedestrians.
- Officer Hilton stated the suspect (Decedent) ran in a southeast direction, and he gave him commands to drop the knife. Decedent held the knife in a threatening manner. Officer Hilton fired one to two times to save his life and other officers.
- Decedent still had the knife and posed a threat; Officer Hilton fired one more time.

Officer Mazon

On September 9, 2020, at approximate 6:42 a.m., Officer Mazon provided a walk-through of the scene. During the walk-through, which was not recorded, Officer Mazon provided the following information:

- He heard the watch commander give an order for the suspect (Decedent) to not be allowed to get on Las Vegas Boulevard.
- He observed the PIT and did not see any other vehicles or pedestrians in the area.
- Decedent was armed with a knife and had been given commands to drop it.
- Officer Mazon believed Decedent intended to use the knife on the officers.

Officer Ward

On September 9, 2020, at approximate 6:57 a.m., Officer Ward provided a walk-through of the scene. During the walk-through, which was not recorded, Officer Ward provided the following information:

- The suspect (Decedent) exited the vehicle and ran south on Las Vegas Boulevard.
- Officer Ward followed Decedent and observed him armed with a knife.
- Shots were fired and Decedent moved behind a power box.
- Decedent re-emerged from behind the power box and was still armed with the knife.
- Officer Ward fired to protect himself and other officers from immediate harm from the knife.

Officer Grazioso

On September 9, 2020, at approximate 7:11 a.m., Officer Grazioso provided a walk-through of the scene. During the walk-through, which was not recorded, Officer Grazioso provided the following information:

- He approached to help take the suspect (Decedent) into custody.
- Decedent exited the vehicle armed with a knife and was waving it.
- Decedent used the knife in a threatening manner.
- Officer Grazioso heard shots fired, and Decedent ducked behind the power box.
- Decedent came out from behind the power box still armed.
- Officer Grazioso fired to protect himself and others from the armed Decedent.

OFFICER PUBLIC SAFETY STATEMENTS

Officer Hilton

On September 9, 2020, at approximately 4:14 a.m., Detective Blake Penny interviewed Sergeant Morton regarding the Public Safety Statement (PSS) he obtained from Officer Hilton.

Note: Detective Penny is designated by (BP) and Sergeant Morton is designated by (LM).

BP: Operator, this is Detective Penny with the Force Investigation Team conducting a Public Safety Statement interview with Sergeant Larry Morton, uh, P# 13655, call sign 785. Date of hire 10-14 of 2008. Works out of Convention Center Area Command, squad CC11. RDOs Sunday, Monday, Tuesday, uh, shift 2200 to 0800. This interview's in reference to the Public Safety Statement he took, uh, reference an OIS that occurred on 09-09 of 2020, at 0015 hours, in the area of the 2600 block of S. Las Vegas Boulevard. Today's date is 09/09/20. Current time is 0414 hours. Statement is being conducted at the 2600 block of S. Las Vegas Boulevard. Also present is PMSA Sergeant, uh, Troyce Krumme, P...P# 7167. Uh, Sergeant Morton, can you go over the PSS for Officer Hilton?

LM: Sure. Officer Hilton, first question: "Did you char...discharge your firearm?" He responded with, "Yes."

Uh, "If so, in what direction?" Responded with, "South and then east."

Uh, "How many shots did you ff..." or, excuse me, "Approximately where you were located when you fired?" He said, "On Las Vegas Boulevard, closest to the suspect, in the T1 lane."

Uh, "How many shots did you fire?" He said, "Approximately two shots, I think."

Uh, second question: "Is anyone injured?" He said, "Yes, the suspect."

And, "If so, where are they located?" He said, "It was on scene."

3: Um, "Are there any outstanding suspects?" That was a no, so there are no follow up questions there.

Uh, #4 was, uh, "Is it possible the suspect fired rounds at you?" He said, "No," so no additional follow up questions for #4.

#5 was, uh, "Do you know if any other officers discharged firearm?" He responded with, "Yes, Officer Ward, but a total of four officers shot."

Um, "If so, who are they?" And he says, uh, "One was with me," uh, "when I fired." Or, excuse me, "If so, who are they?" "Officer Ward." Apologies.

And then of course, "Approximately," uh, "where was the officer located when they fired?" He said, "One was with me," uh, "when they fired."

And then #6: Um, "Are there any weapons or evidence that needs to be secured or protected?" He said, "Yes," um, "a knife." And he says it was...

"If so, where is it located?" He says, "It was with the suspect."

#7: "Are you aware of any witnesses?" He says, "A lot. Unknown who they are, but...or, uh, where," he says, "but it's all officers."

BP: All right. Thank you. This will be end of interview. Sa...time is gonna be 0416 hours.

Officer Ward

On September 9, 2020, at approximately 4:17 a.m., Detective Penny interviewed Sergeant Morton regarding the PSS he obtained from Officer Ward.

Note: Detective Penny is designated by (BP) and Sergeant Morton is designated by (LM).

BP: Operator, this is Detective Penny with the Force Investigation Team conducting a recorded Public Safety Statement interview with Sergeant Larry Morton, P# 13655, call sign 785. Date of hire 10/14/2008. Works out of Convention Center Area Command, squad CC11. Uh, RDOs Sunday, Monday, Tuesday, uh, shift 2200 to 0800. This interview's in reference to a Public Safety Statement, uh, for an OIS that occurred on 09/09/2020, at 0015 hours, in the area of the 2600 block of S. Las Vegas Boulevard. Today's date is 09-09 of '20. Time is gonna be 0417 hours. This statement is being conducted in the 2600 block of S. Las Vegas Boulevard. Also present is Sergeant Troyce Krumme, P# 7167. Uh, can you go over the Public Safety Statement for Officer Ward please?

LM: Yes. First question: "Did you discharge your firearm?" "Yes."

Um, "If so, what direction?" He said, "East."

Um, "Approximately where you were located when you fired?" He said, "On Las Vegas Boulevard in the northbound lanes."

Um, "How many shots do you think you fired?" He said, "Three or four shots."

Um, "Is anyone injured?" He said, "Yes."

Um, "If so, where are they located?" He said, uh, "In the lanes," uh, "on scene."

Uh, #3: "Are there any outstanding suspects?" "No." So, no additional follow up.

#4: Um, "Is it possible the suspect fired rounds at you?" "No." No additional follow up.

#5 was, "Do you know if any other officers discharged their firearms?" He said, "Yes."

Uh, "If so, who are they?" He said, "Mazon and Hilton and one other," that he can think of.

Um, "Approximately," uh, "where was the officers located when they fired?" He says, Uh, "Two were to my right," and the third is, "Unknown and not sure."

And #6: Uh, "Are there any weapons or evidence that needs to be secured?" He said, "There was a knife that was on scene."

Um, "If so, where," uh, "were..." excuse me, "Where are they located?" He says, "It was with the suspect."

Uh, #7: "Are you aware of any witnesses?" He said, uh, "Other than officers, no."

BP: All right. Thank you. Time will be 0419 hours.

Officer Mazon

On September 9, 2020, at approximately 4:20 a.m., Detective Penny interviewed Sergeant Morton regarding the PSS he obtained from Officer Mazon.

Note: Detective Penny is designated by (BP) and Sergeant Morton is designated by (LM).

BP: Operator, this is Detective Penny with the Force Investigation Team conducting a recorded Public Safety Statement interview with Sergeant Larry Morton, P# 13655, call sign 785. Date of hire 10-14 of '08. Works out of Convention Center Area Command, squad CC11. RDOs Sunday, Monday, Tuesday, shift 2200 to 0800. This interview's in reference to a Public Safety Statement for an OIS that occurred on 09/09/2020, at 0015 hours, in the area of the 2600 block of S. Las Vegas Boulevard. Today's date is 09-09 of '20. Time is gonna be 0420 hours. Uh, this statement is being conducted at the 2600 block of S. Las Vegas Boulevard. Also present is Sergeant Troyce Krumme, P# 7167. Uh, can you go over Officer Mazon's PSS please?

LM: Yes, sir. All right. "Did you discharge your firearm?" Response was, "Yes."

Um, "If so, in what direction?" He said, "East."

Um, "Approximately where were you located when you fired?" He said, "On Las Vegas Boulevard, uh, by the median."

Uh, C: "How many shots do you think you fired?" He said, "Three or four."

#2: "Is anyone injured?" He said, "The suspect."

Um, "If so, where are they located?" He says, "He was located on scene and on the ground."

Uh, #3: "Are there any outstanding suspects?" "No." No additional follow up.

#4: Um, "Is it possible the suspect fired rounds at you?" He said, "No, he had a knife." So, no additional follow up.

#5: Uh, "Do you know if any other officers discharged their firearm?" He said, "Yes." "If so, who are they?" He said, uh, "Hilton."

Um, and, "Approximately where was the officer located when they fired?" He said, "To my left."

Uh, #6: "Are there any weapons or evidence that needs to be secured?" He said, "No."

Uh, #7: "Are you aware of any witnesses?" He said, "Only officers."

BP: All right. Thank you. End of the interview. It's 0422 hours.

Officer Grazioso

On September 9, 2020, at approximately 4:22 a.m., Detective Penny interviewed Sergeant Morton regarding the PSS he obtained from Officer Grazioso.

Note: Detective Penny is designated by (BP) and Sergeant Morton is designated by (LM).

BP: Operator, this is Detective Penny with the Force Investigation Team conducting a recorded PSS, uh, Public Safety Statement interview, uh, with Sergeant Larry Morton, P# 13655, call sign 785. Date of hire 10/14/2008. Works out of Convention Center Area Command, squad CC11. RDOs Sunday, Monday, Tuesday, 2200 to 0800. This interview's in reference to a Public Safety Statement for an, an OIS that occurred on 09/09/2020, at 0015 hours, in the area of the 2600 block of S. Las Vegas Boulevard. Today's date is 09-09 of '20. Time is 0422 hours. This statement is being conducted in the 2600 block of S. Las Vegas Boulevard. Also present is Sergeant Troyce Krumme, P# 7167. Uh, can you go over the PSS for Officer Grazioso [sic] please?

LM: Yes. Uh, "Did you discharge your firearm?" "Yes."

"Approximately where were you located when you fired?" Or...sorry, "If so, what direction?" "It was east." Apologies.

Uh, "Approximately where were you located when you fired?" He says, uh, suspect was to his front, uh, left side, um, and he was on Las Vegas Boulevard, uh, southbound side.

Uh, "How many shots do you think you fired?" He said, "Two shots."

"Is anyone injured?" He said, "No, just the suspect."

Um, "If so..." or..."Where are they located?" He says, "Suspect was on the ground." Um, he did see, he said, an un...an unknown officer fall and did not know if he had any injuries.

#3: Um, "Are there any outstanding suspects?" He said, "No."

Nn...for the follow-up, #4: "If the ss...ss..." "If it..." "Is it possible the suspect fired rounds at you?" He said, "No." No follow up.

#5: Uh, "Do you know if any other officers discharged their firearms?" He said, "Yes."

"If so, who are they?" He says, "I don't know who they are."

Uh, then, "Approximately where was the officer located when they fired?" He said, "Two to my left, unknown who," um, "and then to my right," uh, "but they were all around me on line," he described it.

#6: Um, "Are there any weapons or evidence that needs to be secured or protected?" He said, "Yes." It was, uh, the weapon. The weapon he described it as.

And then, "If so, where is it located?" He says, "It was in the hands of the suspect."

Um, "Are you aware of any witnesses? If so..." Uh, he says, "Other officers."

Um, "If so," uh, "what is their location?" And he said...I'm sorry, he said, "On scene."

BP: All right. This'll be the end of the interview. Time is gonna be 0424 hours.

OFFICER WEAPONS' COUNTDOWNS

On September 9, 2020, Officers Hilton, Mazon, Ward, and Grazioso had their duty weapons counted down at LVMPD headquarters as part of the investigation to determine the number of rounds each officer fired during the incident.

Officer Hilton

Prior to countdown, Officer Hilton stated that he carried sixteen (16) cartridges in the magazine loaded in his firearm and one (1) cartridge in the chamber for a total of seventeen (17) cartridges.

Officer Hilton's firearm was a Glock 17 Gen5 9mm handgun and was loaded with fourteen (14) cartridges in the magazine and one (1) cartridge in the chamber, all Speer 9mm Luger +P, for a total of fifteen (15) cartridges at the time of countdown. Officer Hilton also carried two (2) spare magazines each with a capacity of seventeen (17) cartridges, and each was at full capacity at the time of countdown.

At the completion of the countdown, it was determined Officer Hilton discharged his firearm two (2) times during this incident. Officer Hilton's firearm, magazine(s) used during the OIS, and cartridges were photographed and impounded by CSA Stephanie Chen-Huynh.

Officer Mazon

Prior to countdown, Officer Mazon stated that he carried seventeen (17) cartridges in the magazine loaded in his firearm and one (1) cartridge in the chamber for a total of eighteen (18) cartridges.

Officer Mazon's firearm was a Glock 17 Gen4 9mm handgun and was loaded with fourteen (14) cartridges in the magazine and one (1) cartridge in the chamber, all Speer 9mm Luger +P, for a total of fifteen (15) cartridges at the time of countdown. Officer Mazon also carried three (3) spare magazines each with a capacity of seventeen (17) cartridges, and each was at full capacity at the time of countdown.

At the completion of the countdown, it was determined that Officer Mazon discharged his firearm three (3) times during this incident. Officer Mazon's firearm, magazine(s) used during the OIS, and cartridges were photographed and impounded by CSA Chen-Huynh.

Officer Ward

Prior to countdown, Officer Ward stated that he carried seventeen (17) cartridges in the magazine loaded in his firearm and one (1) cartridge in the chamber for a total of eighteen (18) cartridges.

Officer Ward's firearm was a Walther PPQ 9mm handgun and was loaded with thirteen (13) cartridges in the magazine and one (1) cartridge in the chamber, all Speer 9mm Luger +P, for a total of fourteen (14) cartridges at the time of countdown. Officer Ward also carried three (3) spare magazines each with a capacity of fifteen (15) cartridges, and each was at full capacity at the time of countdown.

At the completion of the countdown, it was determined that Officer Ward discharged his firearm four (4) times during this incident. Officer Ward's firearm, magazine(s) used during the OIS, and cartridges were photographed and impounded by CSA Chen-Huynh.

Officer Grazioso

Prior to countdown, Officer Grazioso stated that he carried twenty (20) cartridges in the magazine loaded in his firearm and one (1) cartridge in the chamber for a total of twenty-one (21) cartridges.

Officer Grazioso's firearm was a Glock 17 Gen5 9mm handgun and was loaded with sixteen (16) cartridges in the magazine and one (1) cartridge in the chamber, all Speer 9mm Luger +P, for a total of seventeen (17) cartridges at the time of countdown. Officer Grazioso also carried two (2) spare magazines each with a capacity of twenty (20) cartridges, and each was at full capacity at the time of countdown.

At the completion of the countdown, it was determined that Officer Grazioso discharged his firearm three (3) times during this incident. Officer Grazioso's firearm, magazine(s) used during the OIS, and cartridges were photographed and impounded by CSA Chen-Huynh.

FIREARM EXAMINATIONS

LMVPD Forensic Scientist Stephanie Fletcher examined each of Officer Hilton's, Mazon's, Ward's, and Grazioso's firearms. Per her report dated October 6, 2020, all four firearms were examined, test fired, and found to be operational with no noted malfunctions.

SUMMARY OF RELEVANT WITNESS STATEMENTS

Subject Officers:

Officer Hilton

Officer Hilton declined to provide a voluntary statement to FIT investigators.

Officer Mazon

Officer Mazon declined to provide a voluntary statement to FIT investigators.

Officer Ward

Officer Ward declined to provide a voluntary statement to FIT investigators.

Officer Grazioso

Officer Grazioso declined to provide a voluntary statement to FIT investigators.

Witness Officers:

Officer Ketring

On September 9, 2020, at approximately 4:51 a.m., Detective Marc Colon conducted an audio recorded interview with Officer Ketring at 2650 South Las Vegas Boulevard.

Officer Ketring was working as a uniformed patrol officer and was responding to a call for service near Karen Avenue and Van Patten Street. While on the way to the call, Officer Ketring followed a red Pontiac G6, which started to move into the lane to his left which was already occupied. Officer Ketring activated his air horn to get the driver's attention and avoid a collision. Officer Ketring was informed he was no longer needed at the call to which he had been assigned, so he activated his emergency equipment and conducted a traffic stop on the Pontiac G6.

The vehicle stopped north of Karen Avenue on Joe W. Brown. Officer Ketring contacted the driver who was identified as Decedent via a Utah driver's license. Decedent would not roll his driver's side window down more than a couple of inches, and he informed Officer Ketring that he was from Utah and had been in Las Vegas for about a week. Officer Ketring took Decedent's information and returned to his vehicle to conduct standard records checks. A records check revealed that Decedent had a warrant from Utah for burglary, which stated Utah would extradite him. The records check also revealed Decedent was a noncompliant sex offender for forcible sexual assault, had violent tendencies and could be armed and dangerous. Officer Ketring requested additional officers to his location, and a plan was made to take Decedent into custody.

Officer Ketring approached Decedent, who still refused to roll the vehicle window down, and requested he exit the vehicle. Decedent refused to exit. Decedent made a comment to Officer Ketring that, if he exited the vehicle, he would go to jail for a long time. Officer Ketring

continued the conversation with Decedent to have him exit the vehicle, but Decedent would not comply. Officer Ketring observed a silver clip in Decedent's pocket which Officer Ketring recognized as a pocketknife. Officer Ketring broadcast over the radio that Decedent had a weapon.

A plan had been made to have a responding officer pull in front of Decedent's vehicle to block him in. As the patrol vehicle arrived and pulled in front of Decedent, Decedent put his vehicle in drive and sped away north on Joe W. Brown, leaving his license, insurance, and registration with officers. Assisting back-up units followed Decedent and initiated a vehicle pursuit. The pursuit was discontinued by supervisors shortly after it began.

Officer Ketring did not follow Decedent but left the area and went east where he observed Decedent, who appeared to be following traffic laws, drive by him to the south. Officer Ketring followed from a distance and updated dispatch of Decedent's direction via the police radio. The Air Unit was then able to locate and follow Decedent. Officer Ketring continued to bubble Decedent, as the Air Unit gave updated information. Decedent eventually was stopped after a successful PIT on Las Vegas Boulevard south of Sahara Avenue, which Officer Ketring heard over the radio.

When Officer Ketring arrived at the location, Decedent had been taken into custody after shots had been fired. He did not observe the PIT or the officer involved shooting.

Officer Mosqueda

On September 9, 2020, at approximately 5:21 a.m., Detective Gilberto Valenzuela conducted an audio recorded interview with Officer Marco Mosqueda at 2600 South Las Vegas Boulevard.

Officer Mosqueda advised he was the passenger of the vehicle that his trainee, Officer Savanna Sweet, was driving. They responded to the area of Joe W. Brown Drive and Karen Avenue to assist. They met up with officers at the location who advised him that the driver of the stopped vehicle, Decedent, had a full extraditable warrant out of Utah. Officer Mosqueda also learned that Decedent was to be considered armed and dangerous and was possibly on probation for rape.

Officer Mosqueda stated that officers were speaking to Decedent so he would exit the vehicle without incident, but Decedent refused. Officers formulated a plan to have a unit drive in front of Decedent's vehicle and box him in place. As soon as Decedent saw what was happening, he swerved left and sped north on Joe W. Brown Drive.

Officers Mosqueda and Sweet began following other officers who were behind Decedent's vehicle. Officer Mosqueda heard a sergeant discontinue the pursuit and he had Officer Sweet turn around and head the opposite direction. He instructed Officer Sweet to drive towards Maryland Parkway to see if Decedent would drive in that direction.

They arrived near Karen Avenue and Maryland Parkway, and Officer Mosqueda observed Decedent driving north on Maryland Parkway. Officer Mosqueda updated the dispatcher via the radio. Officers Sweet and Mosqueda were stopped at a red traffic light on Karen Avenue, but they observed a traffic officer get behind Decedent's vehicle.

Officer Mosqueda instructed Officer Sweet to slow down and keep her distance from Decedent's vehicle. Officer Mosqueda observed numerous police vehicles following Decedent. He then had Officer Sweet make a right turn (north) on Paradise Road, away from the direction Decedent was traveling. Officer Mosqueda had Officer Sweet drive to the area of Sahara Avenue and Van Patten Street where they could set up in case Decedent turned back around.

Officer Mosqueda informed Officer Sweet to look for a good place to park their vehicle so that if Decedent did make his way back to that area, she could be in position to deploy Stop Sticks. Officer Mosqueda located a safe spot to park on Sahara Avenue just west of Las Vegas Boulevard. Officer Mosqueda had Officer Sweet pull out the Stop Sticks and wait behind an electrical pole. He instructed Officer Sweet to deploy the Stop Sticks as soon as she observed Decedent's vehicle.

Officers Mosqueda and Sweet then observed Decedent's vehicle traveling east on Sahara Avenue, approaching their location. Officer Sweet deployed the Stop Sticks, but Decedent managed to avoid striking them. Officer Sweet had a hard time pulling the Stop Sticks out of the middle of the road after Decedent passed them. Officer Mosqueda then grabbed the Stop Sticks and was able to pull them off the road. According to Officer Mosqueda, Decedent's vehicle had already been "spiked" by another officer. His goal was to spike the driver's side tires since the passenger's side tires already had been flattened.

Officers Mosqueda and Sweet did not make it to the culmination point prior to the OIS, and they never observed any portion of the officer involved shooting.

Officer Sweet

On September 9, 2020, at approximately 5:16 a.m., Detective Scott Mendoza conducted an audio recorded interview with Officer Sweet in the Sahara Hotel and Casino parking lot.

Officer Sweet was riding with her field training officer (FTO) when she heard an officer requesting assistance with a vehicle stop. They responded toward the officer's location and were informed the driver refused to exit his vehicle. Once they arrived, the driver fled the scene in the vehicle. Due to the circumstances, the supervisor did not approve a pursuit of the vehicle. Officer Sweet and her FTO conducted a bubble tactic as officers drove in the area where the suspect was located. Officer Sweet waited in the vicinity of Sahara Avenue to the west of Las Vegas Boulevard.

Information was received that the suspect was heading in their direction. Officer Sweet deployed a set of spike strips on Sahara Avenue in hopes of deflating the tires of the suspect's vehicle. The deployment was ineffective, and the suspect continued toward Las

Vegas Boulevard. As other officers followed the vehicle, Officer Sweet heard gunshots on Las Vegas Boulevard. Officer Sweet and her FTO responded to the termination point of the pursuit. Officer Sweet did not witness the shooting because she arrived after the shooting took place.

Officer Sarafin

On September 9, 2020, at approximately 4:52 a.m., Detective Gilberto Valenzuela conducted an audio recorded interview with Officer Nicholas Sarafin at the 2600 block of South Las Vegas Boulevard.

Officer Sarafin and his trainee, Officer Anthony Ferrendelli, responded to the area of Joe W. Brown Drive and Karen Avenue regarding an officer needing assistance. Officer Sarafin stated that Officer Ketring had conducted a vehicle stop and he asked for additional units to assist him. Officer Sarafin learned that the person in the vehicle, Decedent, had a full extraditable warrant for Burglary out of Utah. He also stated that Decedent was being uncooperative, refusing to exit his vehicle, and only lowering his driver's side window a few inches.

Officers formulated a plan to get Decedent to exit his vehicle. Officers spoke with Decedent and asked him to exit his vehicle, which he refused. He stated he was not going to exit his vehicle and he was not going to go back to prison.

Officer Sarafin drove his patrol vehicle northbound on Joe W. Brown Drive, made a U-turn and attempted to block Decedent's vehicle in place. Decedent then pulled away and drove northbound on Joe W. Brown Drive. A swing shift supervisor then got on the radio and asked for information about the vehicle stop. The supervisor then advised officers to terminate the pursuit of this vehicle. Officer Sarafin immediately discontinued, pulled over, and lost sight of Decedent's vehicle.

Officer Sarafin then heard the Air Unit come on the channel and ask for information on the Decedent's vehicle. Officer Sarafin heard officers had located Decedent's vehicle traveling on Maryland Parkway in front of Sunrise Hospital and Medical Center. Decedent travelled on surface streets, as the Air unit gave officers the direction of travel.

Officer Sarafin then heard a supervisor give a radio broadcast advising officers that if Decedent drove onto the Strip, either north or south, they must conduct a PIT maneuver to stop the vehicle. The suspect vehicle then travelled southbound on Las Vegas Boulevard where Officer Hilton completed the PIT maneuver.

Officer Sarafin observed Decedent's vehicle stop, and Decedent exited the vehicle and ran southbound. Officer Sarafin and Ferrendelli ran after him and Officer Sarafin noticed that Decedent was wearing a flannel shirt and black pants. At one point, Decedent took off his flannel shirt. Decedent then turned around and faced the officers in an aggressive posture while holding a knife in his hand. As Decedent approached the officers, Officer Sarafin heard

shots being fired. He then observed Decedent fall to the ground and then get bit by a police canine. Officers then rendered aid to Decedent.

Officer Ferrendelli

On September 9, 2020, at approximately 5:01 a.m., Detective Trever Alsup conducted an audio recorded interview with Officer Ferrendelli at Las Vegas Boulevard and Liset Way.

Officer Ferrendelli heard Officer Ketring conducted a vehicle stop and requested assistance with the subject who was non-compliant. Officer Ferrendelli and his FTO responded to Officer Ketring's location to give assistance. Officer Ferrendelli learned that the subject in the car, Decedent, had a full extradition warrant for burglary, and was listed as armed and dangerous with a sexual predator notification. Officer Ferrendelli contacted Decedent who was seated in his vehicle; however, Decedent would not cooperate or exit his vehicle.

Additional officers arrived to assist, including a patrol unit that pulled his vehicle in front of Decedent's. As the vehicle pulled in front of Decedent's vehicle, Decedent drove away, and a vehicle pursuit was initiated. Officer Ferrendelli was secondary in the pursuit and gave radio traffic reference the pursuit; however, the pursuit was terminated. Officer Ferrendelli and his FTO then began to "bubble" Decedent. Decedent drove around for approximately 30 minutes before eventually returning to the area of Sahara Avenue and Las Vegas Boulevard. Decedent was stopped on Las Vegas Boulevard, and Officer Ferrendelli observed Decedent out of the vehicle with a knife his hands. Officers gave Decedent commands to drop the knife, but he did not comply.

Officer Ferrendelli observed Decedent charge at Officer Hilton while holding the knife and then heard gunfire. Officer Ferrendelli then observed Decedent on the median close to the officers when more gunfire occurred. After the gunfire ceased, the K-9 dog bit Decedent. Officers, including Officer Ferrendelli, moved up and took Decedent into custody.

Officer Cooney

On September 9, 2020, at approximately 5:49 hours, Detective Penny conducted an audio recorded interview with Officer Cooney at the 2600 block of South Las Vegas Boulevard.

Officer Cooney heard police radio traffic regarding a traffic stop where the suspect (Decedent) did not want to exit his vehicle. Decedent had a full extradition warrant for burglary, was considered armed and dangerous, and had made a comment that he was not going back to jail. Officer Cooney responded to the traffic stop scene to assist. As he arrived at the scene, Decedent fled the scene in his vehicle. Officer Cooney initiated a vehicle pursuit.

As Decedent fled, he was driving normal speeds but was running red traffic signals and stop signs. As the pursuit continued, a sergeant broadcast over the radio to discontinue the pursuit due to Decedent being identified. Officer Cooney discontinued the pursuit and

advised the Air Unit of Decedent's last direction of travel. A short time later, another patrol officer saw Decedent on Maryland Parkway and the Air Unit began to follow him.

Decedent left South Central Area Command borders and drove into Spring Valley Area Command. Officer Cooney heard that Stop Sticks had been successfully deployed. As Decedent was driving on Sahara Avenue, Officer Cooney saw several patrol units following without lights or siren activated. Due to the number of patrol vehicles following Decedent, Officer Cooney moved to another road to bubble. An unknown lieutenant stated over the radio to PIT Decedent's vehicle if Decedent got to Las Vegas Boulevard. When Decedent drove southbound on Las Vegas Boulevard, a patrol officer conducted a PIT maneuver and Decedent's vehicle was stopped. Radio traffic indicated Decedent exited his vehicle and turned toward officers in a fighting stance while holding a knife. A short time later, it was broadcast that shots were fired.

Officer Cooney arrived on scene and ran towards the officers to render medical aid. Officer Cooney was previously employed as an Advanced Emergency Medical Technician (EMT) with American Medical Response. He saw that Decedent appeared to be deceased, but officers still performed cardiopulmonary resuscitation (CPR) and tourniquets were applied to him. Clark County Fire Department personnel arrived and took over Decedent's medical care.

Officer Samuels

On September 9, 2020, at approximately 5:52 a.m., Detective Christian Pastuna conducted an audio recorded interview with Officer Samuels at Las Vegas Boulevard and Liset Way.

Officer Samuels stated he was operating the tactical vehicle from South Central Area Command, when he heard a vehicle stop broadcast over the radio at Joe W. Brown Drive and Karen Avenue. The driver (Decedent) was refusing to exit the vehicle. Officer Samuels assigned himself to the call from the area of Tropicana and University Center. Officer Samuels and his trainee pulled up to the call as he heard radio traffic that the driver fled in the vehicle. He rolled his windows down and asked the officers for the description of the suspect vehicle. Officer Samuels' trainee saw the vehicle as Decedent was fleeing.

Officer Samuels and his trainee followed the vehicle and initiated a vehicle pursuit. Once they entered DTAC (Downtown Area Command), they were advised to discontinue the pursuit, which they did and conducted a bubble tactic. From the radio traffic broadcast they heard the vehicle was turning east on Sahara Avenue. Officer Samuels stated he wanted to continue the bubble tactic in an effort to maintain a visual of the vehicle. Officer Samuels saw the vehicle, followed by several patrol vehicles, go east to Las Vegas Boulevard. Once the vehicles turned onto Las Vegas Boulevard, it was broadcast over the radio that shots were fired.

Upon arrival, Officer Samuels ran toward the shooting location and noticed the suspect vehicle was not cleared. Officer Samuels cleared the interior of the vehicle and asked

another officer to help him clear the trunk of the vehicle. Officer Samuels then walked towards Officer Hilton to make sure he was okay.

Officer Samuels stated the suspect vehicle was initially described as a red Chrysler Sebring, but all he saw was a red vehicle and its' taillights. Officer Samuels did not see Decedent. He stated the pursuit was initiated because Decedent had an extraditable warrant for burglary and was considered armed and dangerous.

Officer Lamboo

On September 9, 2020, at approximately 6:14 a.m., Detective Colon conducted an audio recorded interview with Officer Lamboo at 2650 South Las Vegas Boulevard.

Officer Lamboo was assigned to uniform patrol within Spring Valley Area Command. He had finished up a call for service when he heard officers from another area command were following a vehicle that was headed in his general direction. Officer Lamboo and the officer he was with decided to head toward the other officers' location and possibly get ahead of them. Officer Lamboo heard a request for spike strips and positioned himself at Desert Inn Road and Rainbow Boulevard with Stop Sticks. As Decedent approached, Officer Lamboo deployed the Stop Sticks on Desert Inn Road and observed Decedent drive over them and heard Decedent's tires lose air.

Officer Lamboo believed Decedent would stop his vehicle after the tires deflated and followed for a short time. When Decedent did not stop, Officer Lamboo assisted with the bubble tactic and listened to updated information on Decedent's location but did not follow Decedent. Officer Lamboo heard over the radio that Decedent had been stopped after a successful PIT, and that there had been an OIS but did not witness either the PIT or OIS.

Officer Conaway

On September 9, 2020, at approximately 5:45 a.m., Detective Valenzuela conducted an audio recorded interview with Officer Kevin Conaway at 2600 South Las Vegas Boulevard.

Officer Conaway heard the dispatcher advise over the radio that the Air Unit was following a suspect vehicle (Decedent). Officer Conaway, who was driving an unmarked vehicle, made it to the area of Jones Boulevard and Sahara Avenue and observed Decedent's vehicle traveling eastbound on Sahara Avenue. He observed the vehicle to have two flat right (passenger-side) tires. He heard the Air Unit advise over the radio that patrol officers were a distance behind Decedent's vehicle. The patrol officers were stopped at a red traffic signal, so Officer Conaway made a left turn onto eastbound Sahara Avenue and got behind Decedent.

Officer Conaway informed Dispatch that he was driving an unmarked vehicle and following Decedent's vehicle. Officer Conaway followed all traffic laws, and he observed Decedent's vehicle drive through numerous red traffic signals. As Decedent was driving towards Las Vegas Boulevard, Officer Conaway heard a lieutenant advise officers that it was "ok" to PIT

the vehicle. Officer Conaway stated that once he passed Interstate 15, he started letting marked patrol vehicles pass him.

He then heard that Decedent's vehicle had been immobilized and that Decedent was fleeing south on foot. Officer Conaway and two other officers drove onto Las Vegas Boulevard and into the northbound lanes, going southbound as they paralleled Decedent. Officer Conaway parked his vehicle and observed and heard officers speaking with Decedent. As Officer Conaway began exiting his vehicle, he heard numerous gunshots being fired and ducked behind his vehicle. When he was able to look again, he noticed officers were tending to Decedent. He believed he heard more than ten rounds fired.

Officer Graves

On September 9, 2020, at approximately 6:02 a.m., Detective Valenzuela conducted an audio recorded interview with Officer Kyle Graves at 2600 South Las Vegas Boulevard.

Officer Graves was assigned to Spring Valley Area Command and was driving a tactical vehicle when he heard his dispatcher advise that there was a vehicle pursuit in progress. Officer Graves utilized the bubble technique traveling just north of where the pursuit was taking place. He drove to the area of Sahara Avenue and Las Vegas Boulevard, and then heard police radio traffic advising that the suspect vehicle (driven by Decedent) had been immobilized. Officer Graves parked his vehicle and ran south past patrol vehicles. He came up to Decedent's vehicle and cleared it of any other occupants.

Officer Graves heard gunshots and turned towards where the officers were located. He observed Decedent take a fighting posture, run towards the median, and then charge towards the officers while holding an unknown object in his right hand. Officers fired their weapons and Decedent then staggered. Officers requested a shield, so Officer Graves ran back to get one and, when he returned, Decedent was already in custody.

Officer Hawkins

On September 9, 2020, at approximately 5:35 a.m., Detective Alsup conducted an audio recorded interview with Officer Ernest Hawkins at the intersection of Las Vegas Boulevard and Liset Way.

Officer Hawkins heard radio traffic regarding a vehicle stop where the suspect (Decedent) did not want to exit his vehicle. Decedent had a full extradition warrant for burglary, was considered armed and dangerous, and had violent sexual priors. Officer Hawkins was driving the tactical vehicle, so he went toward the vehicle stop location; however, Decedent had fled from the scene prior to his arrival.

Officer Hawkins continued to monitor the radio traffic and details regarding the pursuit but did not join. When Decedent went back toward Las Vegas Boulevard and Sahara Avenue, Officer Hawkins travelled toward that location. Officer Hawkins exited his vehicle and moved

toward officers when he observed Decedent near the bushes. He heard a loud pop, which he believed to be a Taser discharge and then gunshots.

Officer Hawkins took cover behind a vehicle when he heard the gunshots. He grabbed a medical kit from one of the patrol vehicles and approached officers with Decedent where he assisted with rendering medical care until paramedics arrived.

Officer Huber

On September 9, 2020, at approximately 6:11 a.m., Detective Penny conducted an audio recorded interview with Officer James Huber at the 2600 block of South Las Vegas Boulevard.

Officer Huber heard over the police radio about a vehicle pursuit involving a red Pontiac that was coming toward his area. The driver (Decedent) had a felony warrant and was considered armed and dangerous. The Air Unit was in surveillance mode following Decedent. Officer Huber was in an unmarked vehicle and decided to assist with the surveillance.

Officer Huber observed Decedent near Desert Inn Road and Durango Drive and utilized the bubble tactic at a safe distance. Officer Huber heard radio traffic directing patrol officers to PIT Decedent's vehicle, so he backed off and a patrol officer conducted a successful PIT. He observed Decedent exit his vehicle and run with a knife in his hand. Decedent then took a fighting stance and was not listening to verbal commands from officers.

As a sergeant arrived and was trying to coordinate a plan, Decedent charged at officers and shots were fired. Decedent then ran behind a power box and possibly threw the knife he had been holding. He then ran out from behind the power box and charged at officers who fired a second volley of shots. The sergeant deployed his dog, who bit Decedent. Officers were then able to take Decedent into custody and render medical aid.

Officer Hunter

On September 9, 2020, at approximately 6:43 hours, Detective Pastuna conducted an audio recorded interview with Officer Raymond Hunter at Las Vegas Boulevard and Liset Way.

Officer Hunter stated the sergeant asked units to bubble the area due to the suspect vehicle being in Bolden Area Command, so he was assigned to the event as he was leaving Bolden Area Command. Officer Hunter was monitoring Spring Valley Area Command radio channel due to the pursuit.

Officer Hunter stated that he saw the suspect vehicle (driven by Decedent) traveling east on Sahara Avenue while he was parked in the driveway of the Palace Station Hotel and Casino. Officer Hunter stated the vehicle traveled through the red traffic signal at Sahara Avenue and Palace Station. He then followed Decedent's vehicle from behind another patrol vehicle. Officer Hunter stated there was a broadcast from the Watch Commander that allowed officers to PIT. Decedent's vehicle turned right (south) on Las Vegas Boulevard and the unit ahead

of Officer Hunter attempted to PIT Decedent's vehicle. The PIT was successful, so Officer Hunter and another unit attempted to do a felony stop on Decedent. Officer Hunter stated there were no other people or vehicles in the street while that was occurred.

Officer Hunter retrieved a lethal shotgun from his vehicle. As he was grabbing the shotgun, Officer Hunter observed Decedent walking backwards (southbound) on Las Vegas Boulevard with a knife in his right hand.

K-9 personnel were taking control of the incident and requested a 40mm (40mm Specialty Impact Weapon). Officer Hunter believed an officer discharged a taser because he saw the lasers. Decedent continued to walk southbound, and it appeared he lunged at the K-9 officer with the knife and several shots were fired. Decedent ducked behind the power box and officers moved in on him. Decedent reemerged from behind the power box and lunged at officers, and several more shots were fired. The K-9 officer deployed his dog, and that was when they took Decedent into custody. Officer Hunter stated he did not fire his weapon.

Officer Bowen

On September 9, 2020, at approximately 5:36 a.m., Detective Mendoza conducted an audio recorded interview with Officer Joshua Bowen in the Sahara Hotel and Casino parking lot.

Officer Bowen was at the Convention Center Area Command when he was informed of the call. Officer Bowen self-initiated on the call and utilized a bubble tactic near the suspect's (Decedent's) vehicle location due to the pursuit being discontinued by the watch commander. As Officer Bowen utilized the bubble tactic, he was able to locate Decedent's vehicle near Sahara Avenue and Durango Drive. Officer Bowen joined the other patrol vehicles that were already following Decedent. Officer Bowen noticed the tires of Decedent's vehicle had been "spike stripped" and showed damage to the tread of the tires. Officer Bowen followed the vehicle to Las Vegas Boulevard. Officer Bowen heard over the radio that Decedent's vehicle had been disabled (PIT) and Decedent fled on foot on Las Vegas Boulevard.

Officer Bowen arrived at the termination point and exited his patrol vehicle, saw the Decedent, and noticed assisting officers were already approaching him. Officer Bowen stated he did not deploy his firearm due to the officers that were in front of him. Officer Bowen joined the other officers who were following Decedent and saw Decedent lunge toward the officers in an aggressive manner while holding an edged weapon. Officer Bowen heard a shot, what he believed to be a Taser discharge, and stated he was approximately 50 to 60 feet away from Decedent. Decedent ran around a tree that was in the center median while still in possession of the weapon. As Decedent came into view from the tree, Officer Bowen heard gunfire and again saw Decedent armed with the edged weapon. Decedent fell to the ground and assisting officers took him into custody. Officer Bowen saw officers immediately render first aid to Decedent. Officer Bowen then stayed with one of the involved officers as a monitor officer.

Officer Alicastro

On September 9, 2020, at approximately 6:30 a.m., Detective Penny conducted an audio recorded interview with Officer Joseph Alicastro at the 2600 block of South Las Vegas Boulevard.

Officer Alicastro had just finished an unrelated briefing at South Central Area Command when he heard radio traffic about a traffic stop. The radio traffic indicated the driver (Decedent) had a felony warrant, was considered armed and dangerous, and had a violent sexual prior offense. Decedent had fled in his vehicle and officers were in pursuit.

A short time after the pursuit was initiated it was terminated, and officers started to bubble the area. While utilizing the bubble tactic, Officer Alicastro caught up to Decedent near Rainbow Boulevard and Sahara Avenue. Stop Sticks had previously been successfully deployed against Decedent's vehicle. As officers continued to follow at a distance, an unknown lieutenant broadcast over the radio that he authorized a PIT if Decedent got to Las Vegas Boulevard.

As the pursuit reached Las Vegas Boulevard, Officer Alicastro heard the PIT due to the sound of vehicles impacting. Decedent ran from his vehicle and Officer Alicastro followed along with Officer Grazioso. Officer Alicastro deployed his Taser; however, Decedent was out of range. He then transitioned to his handgun and moved behind cover on the sidewalk. Decedent was confrontational with officers, had a knife in his hand, and was puffing his chest out.

Officer Alicastro then heard gunshots and saw Decedent run to the center of Las Vegas Boulevard near a fence. Decedent then came out, there was a second volley of gunshots, and the K-9 dog bit Decedent on the arm. Officers placed Decedent in handcuffs and, once it was safe to do so, Decedent was removed from handcuffs and officers rendered first aid.

K-9 Sergeant Hutchason

On September 9, 2020, at approximately 4:43 a.m., Detective Penny conducted an audio recorded interview with Sergeant Hutchason at the 2600 block of South Las Vegas Boulevard.

Sergeant Hutchason was conducting K-9 training when he heard radio traffic about a vehicle pursuit. When he switched radio channels to monitor, he heard another sergeant discontinue the pursuit due to the suspect (Decedent) being identified. The Air Unit was following Decedent's vehicle, and Sergeant Hutchason assigned himself to the event and responded to the area.

While on the way to the area, Sergeant Hutchason heard that Decedent's vehicle had run over Stop Sticks which flattened some tires. He was also aware Decedent had a felony warrant, he was considered armed and dangerous, and was still fleeing officers. Sergeant

Hutchason arrived near Decatur Boulevard and Sahara Avenue as Decedent drove by him. He heard several other sergeant and lieutenant call signs over the radio and knew other supervisors were listening to the event.

As Decedent continued driving eastbound on Sahara Avenue, his vehicle was sparking because it was travelling on the tire rims. A patrol lieutenant advised over the radio to PIT the vehicle if Decedent got on Las Vegas Boulevard. Sergeant Hutchason was behind several patrol vehicles, who were following at a distance without any lights and siren activated. As Decedent approached Las Vegas Boulevard, he turned southbound with patrol vehicles behind him.

As Decedent drove southbound, a patrol unit conducted a PIT and stopped Decedent's vehicle. Decedent then exited his vehicle and started running southbound. Sergeant Hutchason stated he saw Decedent in a fighting stance with a knife in his hand and appeared to be agitated. Decedent was facing the officers while walking backwards and was ignoring all verbal commands. Sergeant Hutchason grabbed his K-9 dog and started to move forward to deploy his dog. Several officers were between Sergeant Hutchason and Decedent, so he could not deploy his dog. He told the officers to stop and requested a 40mm or less lethal shotgun.

While moving closer, Sergeant Hutchason saw officers to his left and instructed one of them to deploy a Taser. The goal was to release his dog and, once his dog was on the bite, a Taser be discharged to subdue Decedent. Sergeant Hutchason knew his dog would probably be stabbed by Decedent. Before he could release his dog, Decedent lowered his body and charged the officers on the left. Decedent was still armed with the knife and Sergeant Hutchason believed his intent was to stab them. The officers moved in front of him so he could not release his dog. Sergeant Hutchason then heard gunshots and Decedent ran behind a large power box.

Decedent then exited from behind the power box and ran towards officers. Sergeant Hutchason released his dog which went to bite Decedent. Decedent evaded the dog's first attempt to bite and continued moving towards officers. The dog then bit Decedent's calf area as officers simultaneously discharged their firearms again. While Decedent was on the ground, Sergeant Hutchason's dog moved to Decedent's arm to control him. He moved forward and took control of his dog while officers took physical control of Decedent and placed him in handcuffs.

Sergeant Hutchason placed his dog back into his vehicle and returned to Decedent's location. He saw Decedent wasn't doing well so he instructed the officers to take Decedent out of handcuffs and render first aid. He observed the knife Decedent had in his possession at the time of the OIS on the ground by his head.

AIR UNIT CAMERA AND BODY-WORN CAMERAS (BWC)

LVMPD Air Unit Camera (AIR 5)

Air 5 was equipped with a forward-looking Infrared (FLIR) camera at the time of the incident and the camera was activated.

AIR 5's camera recorded the following notable events:

- **23:42:14 hours:** The pilots, Officers Charles Ralyea and Ion Iliescu, operating as Air 5, were assigned to the call and activated the FLIR camera on the helicopter.
- **23:43:58 hours:** Air 5 located Decedent's vehicle as it traveled westbound on Desert Inn Road and approached the underpass of Las Vegas Boulevard. Air 5 broadcast Decedent's actions and took on the role as the primary surveillance unit.
- **23:44:01 hours:** Air 5 broadcast Decedent's vehicle exited the Desert Inn Road arterial and continued westbound.
- **23:50:19 hours:** Air 5 captured video footage of the suspect vehicle as it approached Rainbow Boulevard and ran over a Stop Stick device.



Sparks from damaged wheels after successful Stop Stick deployment on Desert Inn Road.

- **00:13:55 hours (09/09/20):** Air 5 informed the ground units that Decedent's vehicle was approaching Las Vegas Boulevard.
- **00:14:34 hours:** Air 5 captured video footage of the ground units as they performed the PIT maneuver on Decedent's vehicle.



- **00:15:30 hours:** Air 5 captured video footage of the foot pursuit and shots being fired at Decedent as he charged toward officers.



- **00:15:34 hours:** Air 5 captured video footage of Sergeant Hutchason releasing his K-9 partner, Arco, to assist in apprehending Decedent.
- **00:15:37 hours:** Air 5 captured video footage as Decedent exited the landscaping median and charged toward officers. Shots were fired at Decedent.



- **00:16:56 hours:** Air 5 captured video footage of officers providing Decedent with medical assistance.
- **00:23:07 hours:** Air 5 provided perimeter spots for ground units and maintained overhead surveillance of the immediate area. Air 5 assisted ground units with coordinating access for arriving medical personnel.
- **00:35:47 hours:** Air 5 turned off the camera.

BWC – Officer Ketring

Officer Ketring was wearing a BWC at the time of the incident, and the camera was activated. Officer Ketring's camera footage depicted the following:

Officer Ketring was working as a uniformed patrol officer in a marked patrol vehicle and was seated in the driver's seat of the vehicle. Officer Ketring initiated a vehicle stop on the suspect vehicle on Joe W. Brown Road just north of Karen Avenue. Officer Ketring approached the driver, Decedent, who refused to lower the window more than a few inches.



Officer Ketring received documents from Decedent and returned to his patrol vehicle. Officer Ketring conducted a records check and subsequently requested another unit to assist.

A second unit arrived on scene, and ultimately a total of four additional officers arrived. Officer Ketring briefed the other officers and discussed a plan to take Decedent into custody.

Officer Ketring approached Decedent's vehicle for a second time and engaged Decedent in conversation. Decedent refused Officer Ketring's requests for him to exit the vehicle and indicated he would go to jail for a long time if he got out. Officer Ketring continued to engage Decedent.

A second officer approached and engaged Decedent, but Decedent still refused to comply with instructions to exit his vehicle. While that occurred, Officer Ketring visually inspected the interior of Decedent's vehicle through the closed windows. Officer Ketring then returned to his vehicle and briefed an additional arriving officer before turning off his camera.

BWC – Officer Samuels

Officer Samuels was wearing a BWC at the time of the incident and the camera was activated. Officer Samuels' camera footage depicted the following:

Officer Samuels was working as a uniformed patrol officer in a marked vehicle along with his partner, Officer Cooney. Officer Samuels was seated in the passenger seat of the vehicle and assigned himself to the call.

Officer Samuels arrived on the scene of Officer Ketring's traffic stop just as a radio broadcast indicated that Decedent was fleeing, so Officers Samuels and Cooney initiated pursuit. Officers Samuels and Cooney located Decedent's vehicle as it turned northbound on Las Vegas Boulevard from St. Louis Avenue. Officers Samuels and Cooney were the primary unit directly behind Decedent's vehicle.

Officers Samuels and Cooney were instructed via police radio to shut down code (lights and siren) and discontinue the pursuit. Officers Samuels and Cooney disengaged and shut down. Decedent's vehicle continued eastbound on Oakey Boulevard from 5th Street. After pulling over to create distance from Decedent, Officers Samuels and Cooney joined other units in bubbling Decedent.

Officers Samuels and Cooney eventually arrived at the apprehension location after the radio broadcast that shots were fired. Officers Samuels and Cooney cleared Decedent's vehicle, and Officer Samuels removed the key from the ignition to open and clear the trunk. Officer Samuels then approached the OIS scene and turned off his BWC.

BWC – K-9 Sergeant Hutchason

Sergeant Hutchason was wearing a BWC at the time of the incident, and the camera was activated. Sergeant Hutchason's camera footage depicted the following:

Sergeant Hutchason was working as a uniformed sergeant in a marked K-9 patrol vehicle with his K-9 partner, Arco. After monitoring the radio, Sergeant Hutchason joined the pursuit just as Decedent drove eastbound on Sahara Avenue and approached South Las Vegas Boulevard. Sergeant Hutchason followed the patrol vehicle that was positioned immediately behind Decedent. As Decedent turned south on Las Vegas Boulevard, Sergeant Hutchason gave instruction for officers to PIT Decedent's vehicle.

After the PIT, Sergeant Hutchason exited his vehicle and instructed officers to back away from Decedent because Sergeant Hutchason had a K-9 dog with him. Sergeant Hutchason further instructed officers to get a 40mm or low-lethal shotgun, then shortly after directed officers to deploy a Taser. Just as that occurred, Decedent charged toward Officers Hilton and Mazon who discharged their firearms.



Decedent abruptly charged toward Officers Hilton and Mazon just before they discharged their firearms.

Decedent ran into the landscape in the median and behind a utility box. As Decedent emerged from the other side of the utility box, Sergeant Hutchason deployed Arco. Decedent charged directly toward officers, and officers again discharged their firearms before Arco ultimately reached and bit Decedent. Sergeant Hutchason subsequently retrieved Arco, returned Arco to the patrol vehicle, and assisted with medical attention for Decedent. Shortly thereafter, Sergeant Hutchason turned off his BWC.

BWC – Officer Hilton

Officer Hilton was wearing a BWC at the time of the incident, and the camera was activated. Officer Hilton's camera footage depicted the following:

Officer Hilton was working as a uniformed patrol officer in a marked patrol vehicle seated in the driver's seat. Officer Hilton, after monitoring the radio, drove toward Sahara Avenue to assist in Decedent's apprehension. Officer Hilton parked on Sahara Avenue west of Las Vegas Boulevard, then joined the pursuit as Decedent entered his area.

Immediately after Decedent turned south on Las Vegas Boulevard, Officer Hilton attempted to PIT Decedent's vehicle. Officer Hilton's first attempt failed, but his second PIT was successful and both his and Decedent's vehicles stopped on Las Vegas Boulevard in the southbound lanes.

Decedent exited his vehicle and initially moved toward Officer Hilton's vehicle, and Officer Hilton exited and drew his firearm. Decedent then turned and ran southbound on Las Vegas Boulevard and reached into his waistband area. Officer Hilton followed Decedent and gave commands to drop the knife. Decedent then turned toward Officer Hilton while displaying a knife but kept moving to the south. Decedent then removed his outer shirt, displayed a second knife, and took an aggressive stance.

Officer Hilton maintained distance from Decedent, removed his right hand from his two-hand grip on his firearm, and drew his Taser with the free hand. Just as Officer Hilton raised the Taser, Decedent abruptly charged toward Officer Hilton. Officer Hilton discharged his firearm, and Decedent moved behind the large utility box on the median.



Officer Hilton raised his Taser with his right hand just before Decedent abruptly charged toward officers.



Immediately prior to Officer Hilton discharging his firearm.

Decedent emerged from behind the utility box and a large palm tree and charged toward officers who discharged their firearms. Officer Hilton assisted other officers in taking Decedent into custody, then turned off his BWC.

BWC – Officer Ward

Officer Ward was wearing a BWC at the time of the incident, and the camera was activated. Officer Ward's camera footage depicted the following:

Officer Ward was working as a uniformed patrol officer in a marked patrol vehicle and was seated in the driver's seat. Officer Ward assigned himself to the call and drove toward Desert Inn Road and Rainbow Boulevard.

Officer Ward assisted Officer Lamboo in deploying a Stop Stick in the #3 lane of westbound Desert Inn Road just before Rainbow Boulevard. Decedent's vehicle hit the stop stick which was promptly removed from the road.

Officer Ward returned to his vehicle and participated with other officers in bubbling Decedent, eventually joining pursuit on Sahara Avenue just before Las Vegas Boulevard and the second vehicle behind Decedent. After a successful PIT on Las Vegas Boulevard, Officer Ward exited his vehicle and aimed his firearm at Decedent who briefly moved toward Officer Hilton.

Officer Ward pursued Decedent on foot southbound on Las Vegas Boulevard. Decedent removed his shirt and continued southbound. Shots were fired and Decedent moved behind the utility box and trees on the median. Decedent emerged and charged toward officers. Officer Ward discharged his firearm toward Decedent. Other officers took Decedent into custody, and then Officer Ward turned off his BWC.



Immediately prior to Officer Ward discharging his firearm.

BWC – Officer Grazioso

Officer Grazioso was wearing a BWC at the time of the incident, and the camera was activated. Officer Grazioso's camera footage depicted the following:

Officer Grazioso was operating as a uniformed patrol officer in a marked patrol vehicle and was seated in the passenger's seat. Officer Grazioso discussed the ongoing event with his partner, Officer Hunter, who was driving. Officers Grazioso and Hunter staged their vehicle at the Palace Station Hotel ahead of the pursuit.

Officers Grazioso and Hunter eventually joined the pursuit, and after the successful PIT on Las Vegas Boulevard, Officer Grazioso pursued Decedent on foot.

Decedent charged toward officers who discharged their firearms. Decedent moved behind a large utility box and landscaping on the median, then emerged and charged toward officers. Officer Grazioso discharged his firearm as Decedent was moving toward him. Officer Grazioso assisted in taking Decedent into custody, then turned off his BWC.



Immediately prior to Officer Grazioso discharging his firearm.

BWC – Officer Mazon

Officer Mazon was wearing a BWC at the time of the incident, and the camera was activated. Officer Mazon's camera footage depicted the following:

Officer Mazon was operating as a plain clothes officer in an unmarked patrol vehicle and was seated in the driver's seat. Officer Mazon joined the pursuit behind patrol vehicles on Sahara Avenue just west of Las Vegas Boulevard. After the successful PIT, Officer Mazon pursued

Decedent on foot southbound on Las Vegas Boulevard, Officer Mazon was close behind Officer Hilton near the median.

Officer Mazon yelled “Taser” as they walked at pace with Decedent, but then Decedent abruptly charged toward Officers Hilton and Mazon. Officer Mazon discharged his firearm toward Decedent.



Immediately prior to Officer Mazon discharging his firearm.

Decedent ran into the landscape in the median and behind a large utility box. Decedent then emerged from the other side of the box and charged toward officers positioned in the street. Additional gunshots are heard, and Decedent fell into the street. The K-9 dog moved in, and then was retrieved by its handler as other officers took Decedent into custody. Officer Mazon turned off his BWC.

THIRD PARTY VIDEO

Surveillance Video

Hilton Grand Vacations - 2650 South Las Vegas Boulevard

The Hilton had a pan-tilt-zoom (PTZ) camera which was in its driveway. At the beginning of the video, time stamped at 12:22:59, the camera was stationary and faced east toward Las Vegas Boulevard. At 12:23:13, red and blue lights could be seen in the distance, but due to the distance, vehicles and specific actions could not be clearly seen.

At 12:24:12, an operator took control of the camera, repositioned it, and zoomed in toward Las Vegas Boulevard. Police vehicles had their emergency lights activated and numerous officers were observed. As the operator attempted to zoom in closer, the camera view became grainy and out of focus, although it appeared to show officers leaning over with Decedent on the ground. The video did not clearly show the officers or Decedent's actions from that distance.

AUTOPSY

On September 10, 2020, at approximately 9:10 a.m., under Clark County Office of the Coroner and Medical Examiner (CCOCME) Case 20-05329, Ben Murie, D.O. performed an autopsy on Decedent's body. Dr. Murie's report noted multiple blunt injuries and multiple gunshot wounds (nine total wound paths) to Decedent's body.

Upon the completion of toxicology testing, the following results were noted:

Positive Findings:

<u>Compound</u>	<u>Result</u>	<u>Units</u>	<u>Matrix Source</u>
Amphetamine	65	ng/mL	001 - Peripheral Blood
Methamphetamine	3500	ng/mL	001 - Peripheral Blood

After a complete autopsy, Dr. Murie opined that Decedent died as a result of multiple gunshot wounds. The manner of death was homicide.

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:

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

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 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 the slayer 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 imminent danger to Officer Hilton as well as the other police officers in the immediate area. Officers initially kept a safe distance from Decedent as they moved south on Las Vegas Boulevard as the officers sought to use less-than-lethal force to apprehend Decedent. Decedent, armed with multiple knives and at least one directly visible to the officers as it was positioned in Decedent's hand, abruptly altered the dynamic as he charged quickly in the direction of Officer Hilton. At that point, Officers Hilton and Mazon discharged their firearms.

Decedent then moved behind a large power box that was surrounded by palm trees and brush, out of officers' direct view. Officers again prepared to use less-than-lethal force to apprehend Decedent, specifically a K-9 dog and Tasers, but Decedent again abruptly changed the dynamic when he quickly emerged from behind the power box and trees carrying a knife in each hand. Decedent quickly moved toward numerous officers positioned in the street. As Decedent ran on the median toward the street, he dropped both knives at approximately the same time as officers again discharged their firearms. This time, Officers Ward and Grazioso also discharged their firearms.

The totality of the evidence, to include BWC video and witness statements, illustrates that Officers Hilton, Mazon, Ward, and Grazioso had a reasonable belief that Decedent would cause great bodily harm or death to themselves and/or other officers in the immediate area. The officers were confronted with the appearance of imminent danger and acted out of a reasonable belief that someone was about to be stabbed or cut by Decedent. The officers reasonably acted in defense of themselves and other officers. 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 evidence shows that Officers Hilton, Mazon, Ward, and Grazioso had probable cause to believe that Decedent posed a threat of serious physical harm to themselves and/or other officers in the immediate area. Immediately preceding the shooting, Decedent refused to comply with their lawful orders to drop the knives and instead charged toward the officers while brandishing his weapons. Officer Hilton and the other officers were in close proximity to Decedent who was moving quickly. Officer Hilton and/or other officers could have been seriously injured or killed. At the point that the officers fired their weapons at Decedent, all four officers had a reasonable belief that Decedent could cause serious physical harm to themselves or other officers in the immediate area. Thus, the use of deadly force by Officers Hilton, Mazon, Ward, and Grazioso is 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 Hilton, Mazon, Ward, and Grazioso were reasonable and/or 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.” 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 Officers Hilton, Mazon, Ward, and Grazioso.