

REPORT ON USE OF FORCE



Legal Analysis Surrounding the Death of Trent Leach on September 21, 2021

INTRODUCTION

On September 21, 2021, 30-year-old Trent Leach (hereinafter “Decedent”) was shot and killed after Decedent, who was in the midst of an hours-long barricade situation with Las Vegas Metropolitan Police Department Special Weapons and Tactics (hereinafter referred to as “LVMPD” and “SWAT”) and Crisis Negotiation Team (hereinafter referred to as “CNT”) personnel, pointed his handgun at SWAT officers. Officer Zachary Adam, a SWAT sniper, saw Decedent pointing his firearm at officers, fired his rifle and struck Decedent, killing him. The shooting took place at approximately 2:32 pm in Las Vegas, Nevada, at an unoccupied church located at 318 South 11th Street.

SYNOPSIS

On September 21, 2021, T.M. saw Decedent going through a dumpster that was on the property. T.M. knew Decedent from a previous encounter in which Decedent had been armed with a firearm. A verbal argument began between the two men because T.M. attempted to get Decedent to leave his property. Decedent produced a handgun and pointed it at T.M. Decedent then poked T.M. in the face with the barrel of the weapon. Decedent told T.M. that he “should shoot him.” Eventually, Decedent walked away and T.M. began to yell that Decedent had a gun.

Another nearby resident, E.H., heard the argument as well as T.M. yelling about the weapon. E.H. then witnessed Decedent and T.M. fight with each other. E.H. witnessed T.M. strike Decedent with a metal pole and Decedent draw a firearm and point it at T.M. At 9:23 am, E.H. called 911 to report what occurred.

Downtown Area Command patrol officers responded to the area and located Decedent and T.M. Officers activated their emergency lights and sirens and ordered the men to raise their

hands. T.M. informed police that Decedent had a gun. Decedent did not comply, kept his hands concealed, and told officers to shoot him. Decedent then fled on foot.

Patrol officers continued to look for Decedent and located him in an alley of South 11th Street. Officers exited their vehicle and repeatedly ordered Decedent to stop. Decedent entered the backyard of 318 South 11th Street and disappeared. Patrol officers set up containment around the building with responding officers.

Additional police responded to the scene including K9 Officers, LVMPD SWAT and CNT. Over the next several hours, repeated efforts were made verbally as well as over a Public Address (PA) system to have Decedent surrender peacefully. As police tried to get Decedent to surrender, SWAT officers heard Decedent yelling obscenities from within the building. This barricade situation developed over several hours.

At approximately 1:13 pm, SWAT officers heard apparent gunshots coming from within the building. At 1:18 pm, an unknown male, later identified as A.L., appeared in the open door near the northwest corner of the building and he was detained by SWAT officers. A.L. stated he saw Decedent inside with building with a firearm and noted he was saying "weird things." Subsequently, more gunshots were heard coming from within the building. Officers positioned on the 11th Street side of the building reported that they believed gunfire may have struck the BearCat, a police tactical vehicle, positioned in that location.

LVMPD deployed a robot and drone inside of the building and Decedent was heard yelling. The drone located Decedent inside a crawl space in the attic on the second floor of the building. Decedent fired multiple rounds at the drone. SWAT officers eventually deployed tear gas in order to get Decedent out of the crawl space.

At approximately 2:16 pm, Decedent exited the crawl space armed with a handgun. Decedent approached the drone and disabled it. The video from the robot located on the first floor of the building captured Decedent still armed with the handgun. Decedent pointed his handgun at the robot and then entered a room under the stairs on the first floor and closed the door. SWAT officers deployed more tear gas into the second story of the building to prevent Decedent from going back upstairs.

At approximately 2:28 pm, Decedent exited the room armed with the handgun. CNT continued to give verbal commands over the PA system for Decedent to exit the building unarmed. At approximately 2:32 pm, Decedent appeared in the open door near the northwest corner of the building. Decedent pointed his firearm directly at a BearCat where multiple officers were positioned. Officer Zachary Adam, a SWAT sniper, saw Decedent pointing the firearm in the officers' direction, and Officer Adam discharged his rifle, striking Decedent. Decedent fell to the ground and his handgun landed next to him. SWAT officers approached Decedent and confirmed him to be deceased.

Due to the fact that an officer-involved shooting ("OIS") occurred, the scene was secured and the Force Investigation Team ("FIT") was requested to assume responsibility of the investigation.

This report explains why criminal charges will not be forthcoming against LVMPD SWAT Officer Adam. 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 August 4, 2022.

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

FOOTAGE FROM THE BEAR, BEARCAT, DEPLOYED DRONE AND ROBOTS

Video footage was recovered from multiple sources including the SWAT Bear vehicle, the SWAT Red BearCat vehicle, a Lemur Drone, a Small Robot and a Big Robot. The Bear footage captured a dust plume and bullet hole fired from within the building in the direction of the stationed Bear. The Lemur Drone footage captured Decedent exiting the crawl space in the attic armed with a firearm. The Drone footage also captured a muzzle flash from within the attic crawl space when Decedent was hiding in that area. The Small Robot footage captured Decedent armed with the gun within the building pointing his firearm at the Small Robot. The Big Robot footage captured Decedent leaning out of the building doorway to point his firearm at the Red BearCat and the officers stationed behind it. The Red BearCat footage captured Decedent extending his arm out of the building and pointing his firearm at the Red BearCat and the officers stationed behind it.

The Bear Footage



Above left: The dust plume from Decedent firing in the direction of the Bear.

Above right: The residual bullet hole from Decedent firing in the direction of the Bear.

Lemur Drone Footage



Above left: Muzzle flash from Decedent's firearm as he hid in the attic crawl space.
Above right: Decedent exiting the crawl space armed with his firearm.

Small Robot Footage



Above left: Decedent pointing his firearm at the Small Robot from within the building.
Above right: Close-up image of Decedent's firearm.

Red BearCat Footage



Above: Decedent Pointing Firearm at the SWAT Red BearCat with the Big Robot to the left of Decedent at entryway of building.

Big Robot Footage



Above: Decedent's pointing his firearm at the Red BearCat and stationed officers just prior to the OIS.



Above: Decedent holding his firearm as he fell after being struck during the OIS.



Above: Decedent's firearm next his body after he fell to the ground.

DESCRIPTION OF THE SCENE AND VISIBLE EVIDENCE



Above: Overhead view of 318 South 11th Street.

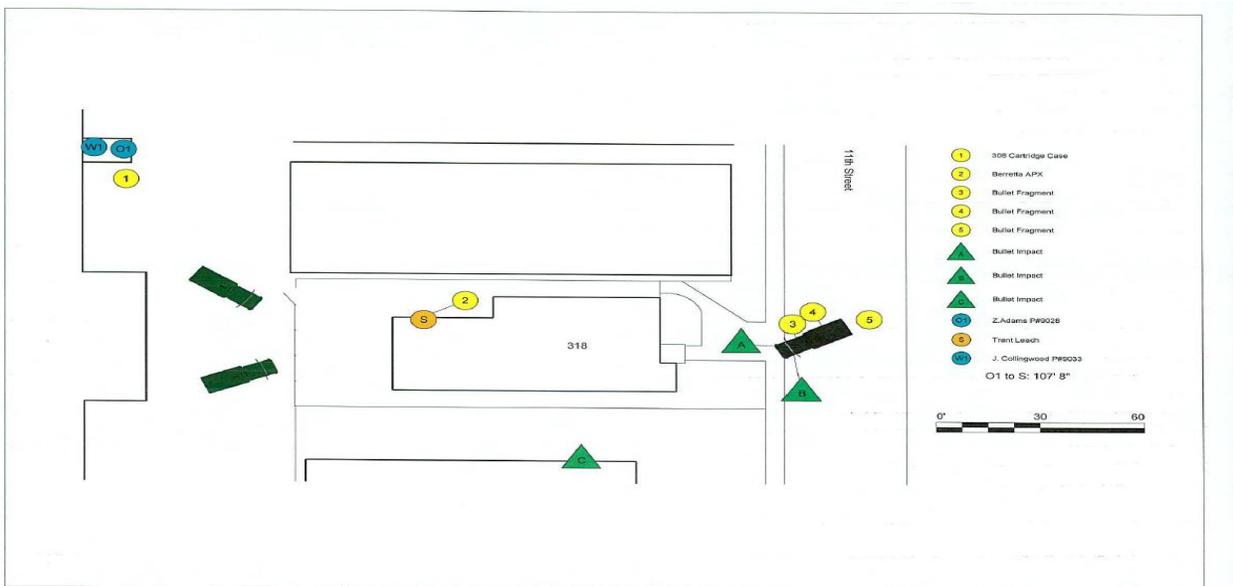
Red circle: The Red BearCat.

Green circle: The Green BearCat.

Blue Circle: The Bear.

Purple Circle: Decedent's location at time of OIS.

Yellow Circle: SWAT Officer Adam's location.



Above: Crime Scene Diagram

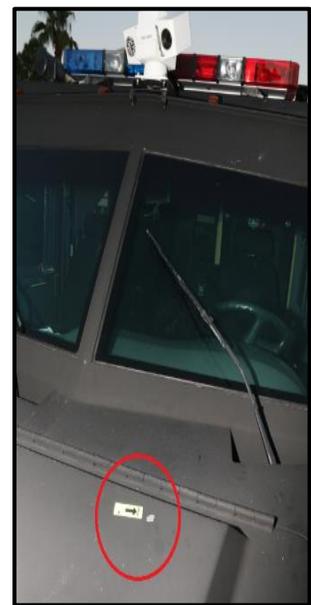
Vehicle Locations

The LVMPD SWAT Red BearCat was parked in the alley of the northwest corner of 318 South 11th Street.

The LVMPD SWAT Green BearCat was parked in the alley of the southwest corner of 318 South 11th Street.

The LVMPD SWAT Bear was parked at the front entrance of 318 South 11th Street.

Bullet Strikes to the Bear parked on 318 South 11th Street



Above: Bullet strikes to the Bear vehicle

Officer Positions at time of the Shooting

Officer Zachary Adam was positioned as a sniper in the alley to the northwest of the Red BearCat.

Officer Jonathan Collingwood was positioned with Officer Adam as a sniper team in the alley to the northwest of the Red BearCat.

SWAT Sgt. Garth Findley was positioned at the rear of the Red BearCat in the alley of the northwest corner of 318 South 11th Street.

SWAT Officer Benjamin Cobb was positioned at the rear of the Red BearCat in the alley of the northwest corner of 318 South 11th Street.

SWAT Officer Kai Hoskins was positioned at the rear of the Red BearCat in the alley of the northwest corner of 318 South 11th Street.

SWAT Officer David Tilley was positioned at the rear of the Red BearCat in the alley of the northwest corner of 318 South 11th Street.

SWAT Officer Alex Gonzales was positioned at the rear of the Red BearCat in the alley of the northwest corner of 318 South 11th Street.

SWAT Officer James Ferrante was positioned at the rear of the Red BearCat in the alley of the northwest corner of 318 South 11th Street.

SWAT/K9 Officer Jeffrey Corbett K9 was positioned at the rear of the Red BearCat in the alley of the northwest corner of 318 South 11th Street.

Officer Jimmy Herrera was positioned at the rear of the Red BearCat in the alley of the northwest corner of 318 South 11th Street.

SWAT Officer Brent Brosnahan was positioned inside the Bear parked at the front entrance of 318 South 11th Street.

SWAT/K9 Officer Michael Marano was positioned at the rear of the Bear parked at the front entrance of 318 South 11th Street.

Witness SWAT Officer Blake Dixon was positioned at the rear of the Bear parked at the front entrance of 318 South 11th Street.

Witness SWAT Officer Dewane Ferrin was positioned at the rear of the Bear parked at the front entrance of 318 South 11th Street.

Witness SWAT Officer James Rothenburg was positioned at the rear of the Bear parked at the front entrance of 318 South 11th Street.

Decedent

Decedent was lying on his back, with his head to the southeast and his feet to the northwest. His right arm was slightly bent at the elbow with his hand on his right hip. His left arm was extended out from his body, bent at the elbow, and with his hand up by his head. His left and right legs were bent at the knee with feet inward. A black/grey "Beretta APX" 9mm semiautomatic handgun bearing apparent blood was in the doorway adjacent to decedent's body. A cartridge with headstamp "WMA21" was in the chamber and a black magazine containing sixteen cartridges with headstamp "WMA21" was seated in the magazine as well.

Coroner Investigator T. Brown arrived and observed traumatic injuries to the right sides of Decedent's face, neck and back of his neck. An injury was also noted to his torso under his left armpit.

BODY-WORN CAMERAS

There were an extensive number of police officers who responded to this hours-long barricade who were equipped with body-worn cameras (hereinafter "BWC"). This included Officer Adam and his sniper team partner Officer Collingwood as well as Officers Jimmy Herrera and his partner Brandon Lee who had initial contact with Decedent and followed him as he fled into the building located at 318 South 11th Street.

There is no BWC footage that shows Decedent exiting the building and pointing his firearm at the Red BearCat. However, as explained above, the footage from the Big Robot as well as the Red BearCat captured Decedent pointing his firearm at the Red BearCat and the officers behind it.

Officer Herrera's BWC footage began as he and his partner Officer Lee, responding to the call for service, located Decedent and T.M. in an alley. Both officers exited their vehicle with their weapons drawn. Both officers asked the men to "Come here." T.M. can be overheard saying "He's got a gun, man." In response, the officers issued out commands shouting, "Show me your hands!" to both men. T.M. immediately complied with police directions and laid on his back and raised both hands in the air. Decedent did not comply, kept his hands in his pockets and began to walk backwards away from officers. Officers repeatedly ordered Decedent to take his hands out of his pockets and Decedent replied, "Shoot me." Decedent took off on foot and fled from police. Officers relocated Decedent and again requested that he take his hands out of his pockets. Decedent responded "Nope" and continued to flee from the police. Decedent then entered into the rear entrance of the building located at 318 South 11th Street. The footage showed Officer Herrera remaining at the rear entrance of the building awaiting other officers to arrive. Eventually, SWAT and other officers arrived and Officer Herrera briefed them on what occurred. The footage, which lasted approximately 52 minutes, concluded with Officer Herrera driving a patrol vehicle over to the front entrance of the building on 11th Street and speaking with another officer.

Officer Adam's BWC footage provided the best vantage point of the number of officers on foot who were positioned behind the Red BearCat. The footage began as Officer Adam positioned his BWC on top of the roof and the camera faced the general direction of the building where Decedent barricaded himself. The camera angle also captured Officers Adam and Collingwood taking sniper positions. Over the next two hours and twenty minutes, the footage showed a large gathering of officers on foot taking positions behind the Red BearCat. The footage also showed the Big Robot as well as the Small Robot being deployed to the building. The footage also recorded the repeated requests by CNT negotiators to get Decedent to surrender peacefully. At the 21:32:27 time stamp on the BWC footage, Officers Adam and Collingwood notice Decedent exiting the building. Officer Adam fired one shot from his rifle and then Officer Collingwood announced "Shot out. Shot out. He's down. He's down."

Officer Herrera's BWC showing Decedent backing away and refusing to remove his hands from his pockets.



Green circle: T.M.
Purple Circle: Decedent

Officer Adam's BWC showing him discharging his rifle with numerous officers positioned behind the Red BearCat.



SCENE WALK-THROUGH

SWAT Officer Zachary Adam

On September 21, 2021, at approximately 6:39 pm, Officer Adam relayed the following information during a walk-through of the scene:

Officer Adam and his sniper partner, Officer Collingwood, were positioned on the roof of a storage unit. By the time he was positioned on that roof, Officer Adam had learned that Decedent was armed with a firearm and had pistol whipped a citizen earlier in the day. When patrol officers responded to that situation, Decedent fled from officers and barricaded himself in a building. When SWAT was called in, Officer Adam set up as a sniper at the location.

Officer Adam was aware that BearCats were set up on both sides of the building. Officer Adam could see that there were a number of SWAT and K-9 officers positioned behind the BearCat parked by the dumpster near his sniper position. Officer Adam recognized he was in charge of his side of the building. Additionally, Officer Adam was aware that patrol officers had attempted to evacuate citizens from surrounding buildings, however a blue building next to the scene was not evacuated and citizens were in danger.

Officer Adam stated that SWAT and CNT had attempted to contact the suspect, who was inside. He learned from information broadcast to the officers that the suspect was yelling

from inside. Officers then began to hear gunshots from inside, and shots were coming from all sides of the building. Additionally, there was a robot inside of the building providing intelligence to police.

At one point, an unknown male then exited the building and was detained. The unknown male stated decedent was still inside and had a gun. Officer Adam then learned from the police radio broadcast that decedent had moved to the ground level of the building as it was seen on the robot video feed.

Officer Adam then witnessed decedent come to an open door and pointed his gun outside. From his position, Officer Adam had a clear view of this through his rifle scope. Decedent pointed his gun in the direction of the BearCat, however there were multiple SWAT and K-9 officers exposed as they stood behind the vehicle. Officer Adam was also concerned for the safety of citizens who were sheltered in place nearby due to not being able to be evacuated. The suspect then briefly ducked back into the doorway before he reappeared and again pointed his gun towards the BearCat.

Officer Adam stated he discharged his rifle one time to protect the officers and citizens who were in danger.

PUBLIC SAFETY STATEMENT

Sergeant Garth Findley (GF) obtained a Public Safety Statement from Officer Adam. Detective Jason Leavitt (JL) interviewed Sgt. Findley who relayed the answers provided by Officer Adam. The questions asked of the officers are reflected in italics, and the officers' responses to those questions are reflected in bold italics.

Officer Adam

JL: *Officer J. Leavitt L-E-A-V-I-T-T, P# 5814 with LVMPD Force Investigation Team. I'll be conducting uh, one public safety statement interview with Sgt. Garth G-A-R-T-H Findley F-I-N-D-L-E-Y P# 8712. His call sign is 583 Zebra. Uh, also present for this uh interview, will be uh PMSA representative Jessie Wiggins. Uh, the event number this will be taking place under will be 210900089316. It was an officer involved shooting uh at 318 South 11th Street. Uh, time of the interview will be 1712 hours. Uh, Sgt uh Findley, you uh conducted the public safety statement with uh, one of your officers, is that correct?*

GF: *Yes.*

JL: *And was that with, uh, Zach Adams?*

GF: Yes.

JL: Umm, you read him the public safety statement is that from a card that you carry with you?

GF: Yes.

JL: Uh would you be able to go through uh that card and just read the question and the answer as he gave it for me?

GF: Will do. *All right, question number 1 that I read to Zach Adams did you discharge your firearm? **Yes.** If so, in what direction? **He stated in a southeast direction.** Approximately where were you located when you fired? **He stated, 30 yards north of the target location, elevated about a 7 o'clock position.** How many shots do you think you fired? **He stated one shot.** Number 2, is anyone injured? **He stated yes, the suspect, period. Hispanic male carrying a gun was the description.** And 3 are there any outstanding suspects? **He said no outstanding suspects.** And you go through all those? (inaudible)*

JL: If they're not applicable then no.

GF: *All those were not applicable. And number 4, is it possible suspect fired rounds at you? **He stated no. But he fired at other officers as the rounds were coming through the wall.** Umm, and if so, what direction was the rounds coming from? **He said all directions it seem like.** Uh, B, was how many shots did you think the suspect fired? **He stated at least 20 rounds that he knew of.** C, approximately where was the suspect located when uh, he fired? **And uh, he stated located upstairs in the crawl space, uh, the second floor.** Number 5, do you know if any other officers discharged their firearm. **He stated no.** And if everything else is not applicable. Number 6, are there any weapons or evidence that you need to be uh protected? **He said uh yes, he said my rifle and John's rifle are located on the roof and I ended up having uh a officer stay with those.** The follow up question, if so, where are they located? **He stated on the roof of the storage shed also***

the suspect's handgun was also uh next to his body and those were uh full secured by patrol. Number 7, are you aware of any witnesses and he stated yes, uh his partner who was right next to him John Collingwood and then again that follow up question was where was he located and he said right next to him.

JL: And was that the end of your public safety statement with uh, Officer Adams?

GF: Yes.

JL: And what time uh, was that completed at?

GF: I started it at 1513 hours, finished up at uh 15 uh 30 hours.

JL: Perfect. All right bro, and end our interview, uh, same persons are present. Time is now 1715.

OFFICER WEAPON COUNTDOWN



Officer Adam (.308 LaRue Tactical LT-10)

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

FIREARM EXAMINATIONS

On September 28, 2021, an LVMPD Forensic Laboratory Request was submitted by Detective Penny on Officer Adam's and Decedent's firearms for a function test and ballistic comparison evidence.

On October 28, 2021, Forensic Scientist Claudia Nolasco Inga, P# 17441, submitted the Report of Examination: Firearms.

Decedent's Beretta pistol was examined, test fired and found to be operational with no noted malfunctions. The submitted magazine had a capacity of 17 cartridges.

Officer Adam's .308 LaRue Tactical rifle was examined, test fired and found to be operational with no noted malfunctions. The submitted magazine had a capacity of 10 cartridges.

There were five expended cartridge cases with head stamp "WMA21" located on the floor of the south main room in the building where Decedent barricaded himself. There were also

three expended cartridge cases with head stamp "WMA21" located in the attic area of the same building. There were a total of eight expended cartridges cases located and impounded as evidence from within that building.

One cartridge case from the south main floor and one cartridge case from the attic were taken as a representative sample of the cartridges located in those specific areas and ballistically compared. The "WMA21" cartridge cases from the south main floor and attic were identified as having been fired from Decedent's Beretta pistol.

One recovered 308 Winchester cartridge case was identified as having been fired from Officer Adam's LaRue Tactical rifle.

One bullet, which was located on the wall of the south main room, was examined and determined to be consistent with nominal .30 caliber, to include 308 Winchester ammunition. The bullet had similar rifling characteristics as the LaRue Tactical rifle but could not be conclusively identified or eliminated as having been fired from the LaRue Tactical rifle due to limited marks and damage.

One bullet, which was located in the west wall of the second-floor north room, was identified as having been fired from Decedent's Beretta pistol due to sufficient agreement of class and individual characteristics.

INVESTIGATION

Involved Officers

At the completion of the officer walk-through, Sergeant Michelle Iacullo asked Officer Adam if he would provide a voluntary statement to FIT investigators; Officer Adam declined.

Officer Brett Brosnahan

On September 21, 2021, at approximately 2:33 pm, Detective Alsup conducted an audio recorded interview with SWAT Officer Brosnahan, who relayed the following:

Officer Brosnahan received a notification of a barricade working in the Downtown Area Command at approximately 11:00 am. He learned Decedent was armed with a firearm and was inside a residence.

Upon his arrival, Officer Brosnahan loaded equipment into one of the armored vehicles. Officer Brosnahan recalled a small robot was deployed to look for Decedent. As the robot entered the building, Officer Brosnahan heard several gunshots.

A short time later, more gunshots were heard, and Officer Brosnahan observed rounds exiting the south and north exterior walls of the residence. Later, more gunfire was heard, and Officer Brosnahan believed the rounds were fired in his direction. He stated he

observed rounds exiting the residence and heard debris from the exterior residence wall strike the armored vehicle he was in. Later, the officers behind the armored vehicle located a deformed bullet laying on the ground near their location. Officer Brosnahan also located a possible impact to the armored vehicle near the passenger door.

SWAT officers deployed gas into the building to get Decedent out. A short time later, Officer Brosnahan heard over the radio that shots were fired and Decedent was down.

Officer Blake Dixon

On September 21, 2021, at approximately 5:41 pm, Detective Marc Colon conducted an audio recorded interview with SWAT Officer Dixon, who relayed the following:

Officer Dixon was an operator on the LVMPD SWAT team. Officer Dixon responded to the scene of a barricade involving Decedent. Officer Dixon was assigned to drive the Bear to the scene.

Upon arrival, Officer Dixon parked the Bear on 11th Street in front of the building and angled the nose in toward the door. Officer Dixon was assigned the 40mm multi-launcher.

Officer Dixon was advised of the tactical plan and took a position next to the driver's side of the Bear. Officer Dixon deployed a 470 flash-bang distract device at the residence as SWAT announced to Decedent the residence was surrounded.

Officer Dixon heard five to seven gunshots fired from inside the residence and requested the neighboring apartment building be evacuated.

A drone and two robots were deployed inside the building and their footage revealed Decedent's location within an upstairs crawlspace. Officer Dixon recalled Decedent fired additional rounds, which struck the Bear.

Officer Dixon stepped away from the Bear and utilized a ballistic shield that was held by another SWAT officer and fired three CS tear gas rounds into the front window. The robot's live video feed showed Decedent locate and destroy the drone, which was upstairs.

When Officer Dixon realized Decedent had then travelled downstairs to the ground floor of the building, he fired an additional eleven CS tear gas rounds into the upstairs window to prevent Decedent from going back upstairs.

Officer Dixon overheard on the SWAT radio broadcast that Decedent was at the front door. Officer Dixon then heard a sniper broadcast he had fired a shot.

Officer Dewane Ferrin

On September 21, 2021, at approximately 2:33 pm, Detective Trever Alsup conducted an audio recorded interview with Officer Ferrin, who relayed the following:

Officer Ferrin responded to a barricaded subject call and arrived at approximately 1:30 pm. He was advised Decedent was armed with a firearm inside 318 South 11th Street and refused to exit. Officer Ferrin made his way to an armored vehicle, which was parked to the west of the residence and joined other officers.

Officer Ferrin was near the rear of the vehicle when Decedent, from inside the residence, began discharging a firearm. Officer Ferrin stated the rounds exited the exterior wall of the residence and the officers were aware the rounds were fired in their direction.

Officer Ferrin left the vehicle area and assisted in the evacuation of citizens from other apartments in the area. After the evacuations, Officer Ferrin returned to the armored vehicle to provide cover for other officers when CS tear gas was introduced into the building.

Officer Ferrin heard a radio broadcast that shots had been fired and Decedent was down.

Detective Joshua Garber

On September 21, 2021, at approximately 6:08 pm, Detective Scott Mendoza conducted an audio recorded interview with Detective Garber, who relayed the following information:

Detective Garber was assigned with the Crisis Negotiator Team and informed of an incident in which Decedent was in a fight and pointed a gun at another subject. Decedent then ran from patrol officers and barricaded himself inside a vacant building. Detective Garber was assigned with SWAT officers inside of the armored vehicle that was positioned directly in front of the building and was tasked with contacting Decedent. Detective Garber assisted a Spanish speaking officer to utilize the P.A. system and inform Decedent the area was surrounded and they had a search warrant for the residence. The goal was for Decedent to exit the residence peacefully. The announcement was broadcasted in English and Spanish. This announcement was conducted over a span of two hours, but the Negotiators were never able to communicate with Decedent during the incident.

During the barricade, a subject (A.L.) later exited the building and was taken into custody. Officers debriefed A.L. who confirmed that Decedent was still inside and was armed with a firearm. Detective Garber was informed over the radio that officers heard gunshots within the residence. Detective Garber, who was positioned inside of the armored vehicle, had a clear sight of the door. Detective Garber saw Decedent approach an opened door and raised the firearm in his direction and the direction of the SWAT officers who were positioned behind the armored vehicle. Detective Garber saw Decedent go down, and SWAT officers approached the door and cleared the residence. Detective Garber thought

Decedent had fired a shot in their direction before Decedent was shot. Detective Garber stated that although he was inside the vehicle, he believed the armored vehicle was not bullet proof but was only bullet resistant and a round could still penetrate the vehicle and he could be hit.

Officer Jimmy Herrera

On September 21, 2021, at approximately 5:21 pm, Detective Gilberto Valenzuela conducted an audio recorded interview with Officer Herrera, who relayed the following information:

Officer Herrera and his partner, Officer Brandon Lee, conducted a Directed Patrol Activity at 318 South 11th Street. Officer Herrera advised they had previously assisted the owner of the property with boarding up the windows to prevent unhoused subjects from entering. The day before, on September 20, 2021, there had been a previous call at the location in reference to squatters being observed inside the residence. Since officers were unable to contact anyone the previous night, Officers Herrera and Lee followed up on the call that morning.

Officers Herrera and Lee arrived and checked the doors and windows but did not observe anyone inside. As they drove from the residence, they were hailed down by a male in a wheelchair, later identified as E.H. E.H. was on the phone and told the officers there had just been a fight at the intersection, between a black male (T.M.) and a Hispanic male (Decedent). E.H. told police that he saw Decedent brandish a black firearm during the fight. Both subjects walked eastbound on Lewis Avenue. Officers checked with LVMPD dispatch to see if a fight call had been generated and began looking for Decedent and T.M.

Officers Herrera and Lee saw both men in an alley just east of 11th Street and they matched E.H.'s description. Officers approached both subjects and exited their patrol vehicle with their firearms drawn. Officer Herrera yelled for both subjects to raise their arms above their head. T.M. raised his arms and stated, "He has a gun." Officer Herrera then yelled for Decedent to remove his hands from his pockets. Decedent never removed his hands from his pockets and yelled for officers to shoot him. Decedent then turned and ran away from the officers onto Bridger Avenue, then westbound towards 11th Street.

Officers Herrera and Lee followed Decedent to the rear gate of 318 South 11th Street. Officer Herrera tried to verbally engage Decedent again, but Decedent entered the back door to the property. Officer Herrera coordinated with other officers to set up containment.

Officer Herrera stated that he later took a position in the BearCat and assisted SWAT with giving verbal commands in Spanish. Officer Herrera added that a SWAT officer advised him that a drone was inside the residence, and he was asked not to give further verbal commands. Officer Herrera then heard numerous gunshots coming from inside the residence. Officer Herrera later observed a black firearm come out of the door, and it was

pointed towards the BearCat where he and other members of SWAT were located. Officer Herrera then heard a gunshot, and at the time he did not know who had fired it.

Officer James Rothenburg

On September 21, 2021, at approximately 5:48 pm, Detective Christian Pastuna conducted an audio recorded interview with Officer Rothenburg, who relayed the following information:

Officer Rothenburg stated he was called in to supplement the SWAT Silver Team for a barricade at 318 South 11th Street. Officer Rothenburg ended up being assigned to the front of the building on 11th Street and he stayed there until the Bear arrived. There were three officers with him which were Officer Dixon, Officer Brosnahan and Officer Ferrin.

SWAT officers deployed a flash-bang distract device on their side. Officers then deployed the robot and drone. Once they deployed those devices, he stated he heard Decedent start shooting randomly from inside the structure. The drone located where Decedent was hiding. He stated he heard about 20 to 25 shots. He also observed multiple shots coming out of the walls of the building. Some of the rounds came out while they were standing behind the Bear. He also heard one shot ricochet from the Bear and saw some debris come up and hit the back of a K9 truck. Later, he saw they were bullet fragments.

He stated their plan was to deploy tear gas in the crawl space, where Decedent hid to get him out of the area. Officer Rothenburg stated Officer Dixon deployed initially three tear gas rounds, and then he deployed 12 more tear gas rounds. At that point, Decedent came to the door and then he was shot.

Witness Officers

Officer Jonathan Collingwood

On September 21, 2021, at approximately 5:44 pm, Detective Mendoza conducted an audio recorded interview with Officer Collingwood, who relayed the following information:

Officer Collingwood was notified of a barricade situation occurring at 11th Street and Lewis Avenue. He learned that Decedent threatened a neighbor with a handgun and pistol whipped him. Decedent had also run from officers and barricaded himself in an abandoned building. When Officer Collingwood arrived, he and Officer Adam positioned themselves on a roof as a sniper team. The officers traded positions every 30 minutes as the sniper officer and overwatch officer. Officer Collingwood heard possible gunshots during the barricade incident. During this barricade, a subject (A.L.) exited the building and informed the officers that Decedent was inside and armed with a gun.

Officer Collingwood heard gunshots again from within the building. Officer Collingwood learned over the radio that other SWAT officers saw bullet holes in the building from Decedent firing out of the structure. During this barricade, Decedent fired approximately

15-20 rounds. SWAT officers deployed tear gas inside of the building and attempted to contact Decedent by bullhorn and the robots that were utilized. Officer Collingwood saw Decedent reach out of a door with the gun and aim at SWAT officers who were standing behind a SWAT vehicle. Officer Collingwood heard Officer Adam fire one shot. Officer Collingwood observed the entry team approach Decedent and attempt to render aid. The team then cleared the building of any other subjects inside.

Officer Brandon Lee

On September 21, 2021, at approximately 5:44 pm, Detective Valenzuela conducted an audio recorded interview with Officer Lee, who relayed the following information:

Officer Lee and his partner, Officer Jimmy Herrera, were conducting a Directed Patrol Activity at 318 South 11th Street. Officers Lee and Herrera were following up on a previous call from the night before on September 20, 2021, in reference to squatters being observed inside the residence. Since officers were unable to contact anyone the previous night, they followed up on that call that morning.

As Officers Lee and Herrera checked the residence they were hailed down by a black male in a wheelchair, later identified as E.H. E.H. informed Officer Lee that two subjects (Decedent and T.M.) were fighting and one had a firearm. Officer Lee also observed and heard that E.H. was on the phone with LVMPD Dispatch. E.H. gave officers the description of the persons involved and Officers Lee and Herrera then drove east on Lewis Avenue to locate them.

Officers Lee and Herrera located Decedent and T.M, who appeared to be in an argument. Officer Lee drove towards Decedent and T.M. Officers Lee and Herrera exited, drew their guns, and demanded both subjects put their hand up in the air. T.M. immediately complied and Decedent refused to remove his hands from his pockets and turned and walked away. Decedent began running westbound on Bridger Street and into 318 South 11th Street. Officer Lee then assisted in coordinating containment on the property with arriving units.

Detective Cesar Sedano

On September 21, 2021, at approximately 5:35 pm, Detective Jason Leavitt conducted an audio recorded interview with Detective Sedano, who relayed the following information:

On September 21, 2021, Detective Sedano responded to the area of 11th Street and Lewis Avenue reference a barricaded subject (Decedent) as a member of the Crisis Negotiation Team. He had been briefed that Decedent had pointed a gun at a property manager and threatened to shoot him. When officers arrived, Decedent ran from them and ran into an unoccupied church and barricaded himself. Upon arrival, Detective Sedano was assigned as the primary negotiator to contact Decedent and attempt to have him peacefully surrender.

Detective Sedano was positioned inside of the Tactical Operations Center (TOC) and used a drone to locate and contact Decedent. The drone was equipped with cell phone capabilities and had a microphone and speaker that allowed the user to talk and hear the person they are communicating with. Detective Sedano stated Decedent was very agitated and yelled, but never carried on a conversation with him.

During the incident, Decedent became agitated, grabbed the drone, and disabled it. Although the drone was unable to fly, Detective Sedano could still hear Decedent. Detective Sedano heard what he believed to be multiple gunshots fired inside the church where Decedent was located. Detective Sedano described Decedent as not making coherent statements.

Civilian Victims

M.C.

On September 21, 2021, at approximately 5:13 pm, Detective Pastuna conducted an audio recorded interview with M.C., who relayed the following information:

M.C. stated around 8 o'clock in the morning, closer to 9 o'clock, he saw police on the corner of 11th Street and Lewis Avenue. Police officers spoke to a man in the street. Within a matter of 15-20 minutes, six more police cars arrived and police gave verbal commands stating, "We know you are in the building. Come out. We are not going to do anything to you." A few hours later, police knocked on his door and asked him if he wanted to leave the apartment or shelter in place.

M.C. decided to shelter in the bathroom because it was too dangerous to exit the apartment. He stated while he was in the bathroom, he remembered he had some pork on the counter. He crawled on the floor very slowly to get the pork. As soon as he opened the fridge door, a gunshot and bullet came into his apartment shattered everything. He retreated to the bathroom and left everything behind. He waited until the SWAT team knocked on the door and told him it was safe. M.C. heard police repeatedly ask the person for about three hours to come out and informed him that nothing would happen to him. He stated the police began throwing the "booms" and that was when the suspect fired one round into his apartment.

T.M.

On September 21, 2021, at approximately 10:13 am, Detectives Valenzuela and Rachel Obasi conducted an audio recorded interview with T.M., who relayed the following information:

T.M. said stayed at 420 South 11th Street and acted as security for the property. At approximately 9:00 am, T.M. observed Decedent through the window going through the dumpster on the property. T.M. recognized Decedent as being the subject who pulled a firearm on him a year earlier. T.M. told him to leave, and Decedent became confrontational.

T.M. said for two to three minutes, Decedent remained in the front yard despite requests for him to leave. When Decedent finally left with T.M. still in the yard, Decedent turned and quickly pulled a pistol, pointed it at T.M. and simultaneously poked T.M.'s left eye with the barrel. Decedent then told T.M. he "should shoot him."

T.M. began to follow Decedent and yelled out that Decedent had a gun. Decedent placed the firearm back in his pocket. When officers arrived T.M. put his hands straight in the air, but Decedent kept his hands in his pockets and said to police, "Well shoot me then." When T.M. provided this statement to police, detectives taking his statement observed a small cut under T.M.'s left eye consistent with the shape of the barrel of a firearm.

Civilian Witnesses

E.H.

On September 21, 2021, at approximately 10:15 am, Detective Ryan Kraft, conducted an informal interview with E.H., who relayed the following information:

E.H. sat in his wheelchair in front of his residence at 1018 Lewis Avenue and overheard two males, one black (T.M.) and one Hispanic (Decedent), arguing on 11th Street. The males walked northbound, and T.M. appeared to be following Decedent. T.M. verbally accused Decedent of pulling a gun on him previously. The subjects began to fight near the northeast corner of 11th Street and Lewis Avenue. T.M. hit Decedent with a pipe, and Decedent pulled out a black handgun and pointed it at T.M. E.H. called 9-1-1 and officers arrived shortly thereafter.

A.L.

On September 21, 2021, at approximately 2:07 pm, Detective Obasi, conducted an audio recorded interview with A.L., who relayed the following information:

A.L. was inside 318 South 11th Street and did not exit the property until approximately 1:20 pm. A.L. said he was inside the abandoned church and believed a male subject (Decedent) was already inside when he entered the property. A.L. saw Decedent was armed with a black semi-automatic handgun. A.L. said that although Decedent did not

threaten him or point the firearm at him, Decedent did point the firearm in the direction of Fremont Street. A.L. said Decedent said a lot of “weird things” but he could not remember what he said. A.L. did recall Decedent firing the gun while he was inside. A.L. heard the police outside and he eventually exited the residence.

J.R.

On September 21, 2021, at approximately 10:24 am, Detective Pastuna conducted an audio recorded interview with J.R., who relayed the following information:

J.R. met Decedent the previous night (September 20, 2021) and she gave him a cigarette. She has seen Decedent in the neighborhood in the past but last night was the only time they hung out. They smoked inside the abandon church. There was another unknown man inside the church, and they were talking. She heard Decedent say that he was suicidal. Both males began to argue and one of them stated he has a gun for protection. The guy with the gun stated he was suicidal and tired of life. Decedent told her that he was tired of people taking his stuff and tired of being punked around.

The morning of the incident, she saw Decedent with a gun arguing with a black male (T.M.). J.R. stated she saw T.M., approach Decedent aggressively, and Decedent pulled out the gun. Decedent stated, “Don’t make me shoot you man, I don’t want to do that.” J.R. stated someone called the cops and Decedent ran inside the church.

AUTOPSY

Medical Examiner Dr. Timothy Dutra of the Clark County Coroner’s Office conducted an autopsy on Decedent. Dr. Dutra concluded Decedent’s cause of death was a gunshot wound to the head.

The toxicology results indicated Decedent had Methamphetamine in his system at a concentration of 190 ng/mL.

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 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 imminent danger to numerous SWAT Officers positioned to the rear of a BearCat parked near the building where Decedent was located and to the unevacuated citizens in the nearby building. Officers were drawn to the scene initially because Decedent had been in an altercation with another civilian during which Decedent produced a firearm. When the patrol officers initially located Decedent, Decedent refused to comply with commands to show his hands, fled from police and barricaded himself within an unoccupied church.

During this barricade that lasted hours, police repeatedly requested that Decedent give himself up peacefully, but Decedent refused. During this barricade, Decedent shot at a deployed police robot and disabled a police drone within the building. Additionally, Decedent fired multiple gunshots at officers who were stationed outside this building. A BearCat was struck by this gunfire. Due to listening to the communications over police radio for hours while stationed in the sniper position, Officer Adam was aware of all of Decedent's actions up to that point.

After firing his weapon multiple times from within the building, Decedent eventually appeared in the doorway at the rear of the building and pointed a firearm in the direction of a BearCat and the multiple officers stationed behind it.

Given the fact that Decedent had refused to comply with repeated requests to surrender, and Decedent had previously fired his weapon multiple times in the direction of police officers, Officer Adam believed that Decedent posed a threat to the safety of his fellow officers and to the citizens located in the nearby building. Accordingly, Officer Adam fired his weapon in an effort to stop the threat posed by Decedent and to ensure the safety of his fellow officers and the citizens in close proximity.

Thus, the totality of the evidence - - including BearCat, Robot, Drone and BWC footage, as well as a multitude of corroborating statements from police officers and civilians - - illustrates that Officer Adam was reasonable in believing that Decedent would cause great bodily harm or death to his fellow officers positioned near the BearCat parked in the alley and/or to the nearby citizens. The evidence further illustrates that Officer Adam acted reasonably in reaction to the apparent and actual danger posed by the situation and the Decedent. Here, Officer Adam 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 Adam had probable cause to believe that Decedent posed a threat of serious physical harm to his fellow officers and to citizens located in close proximity. Prior to firing his weapon, Officer Adam was well aware that Decedent had been in a conflict with a citizen while armed with a weapon, had barricaded himself inside a building for hours, had shot at police officers while barricaded inside the building, and had shot at a deployed robot sent into the building as well as disabled drone sent into the building to surveil him. Furthermore, Decedent’s actions and statements made over the course of the hours-long standoff demonstrated that he was unwilling to comply with any of the officers repeated commands to exit the building and surrender peacefully.

Given Decedent’s repeated refusals to peacefully surrender, Decedent’s decision to previous fire at police officer and his subsequent decision to exit the building to point a firearm at a different group of SWAT officers, Officer Adam had a reasonable belief that Decedent could cause serious physical harm to his fellow officers and/or nearby citizens.

Thus, the use of deadly force by Officer Adam 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, the actions of Officer Adam 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 Adam.