

# REPORT ON USE OF FORCE



## Legal Analysis Surrounding the Death of Spurgeon Daniels, Jr. on August 6, 2018

### INTRODUCTION

On August 2, 2018, at approximately 12:40 pm, Las Vegas Metropolitan Police Department (hereinafter "LVMPD") dispatch initiated a suicidal person event at 2200 W. Bonanza Road, Apartment B-229. The person reporting was concerned after Spurgeon Daniels (hereinafter "Decedent") made comments about hurting himself and others. According to the caller, Decedent had been running around the Kensington Suites apartment complex in the nude. He then ripped the lock off his front door, barricaded himself inside, and proceeded to run water in an effort to flood the apartment.

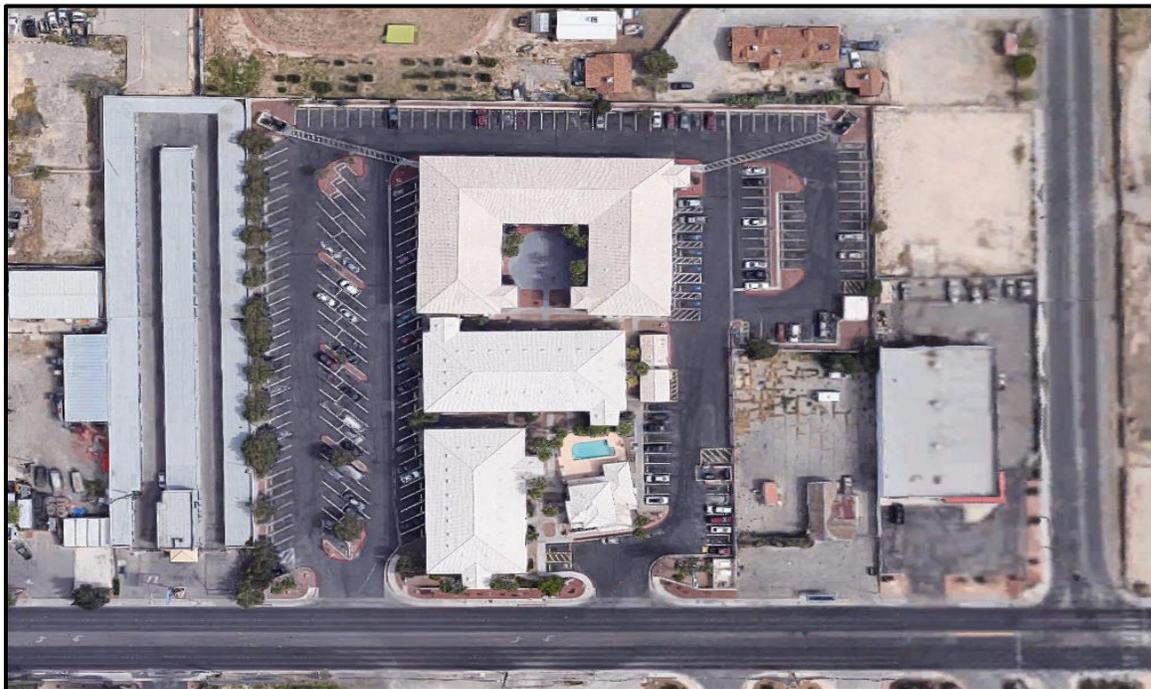
Officers arrived and attempted to contact Decedent. Officer Manuel Ruvalcaba could hear Decedent inside Apartment B-229. He knocked on the door but Decedent refused to answer. Eventually, additional officers gained entry into the apartment. There, they found Decedent standing in the kitchen concealing something in his right hand. Decedent began to move toward officers. At that point, Officer David Stockton deployed his Taser. The Taser malfunctioned. Sergeant Cord Overson immediately gave Officer Stockton his Taser. Officer Stockton deployed the second Taser, this time successfully striking Decedent. As soon as the Taser cycle ended, Decedent swung a knife, cutting Officer Heist in the process. Decedent then moved toward the other officers as they backed out of the apartment. As Decedent was moving forward, he was tossing the knife back and forth between his hands.

Once outside, Officer Ruvalcaba attempted to tase Decedent for a third time. The strike did not stop Decedent. Instead, he turned his attention to Officer Stockton, who was standing on the balcony just west of the doorway. At that point, Decedent made aggressive movements toward Officer Stockton, causing him to fire two rounds at and into Decedent's body. Decedent was taken to UMC Trauma Center where he was pronounced dead at 1:37 pm.

The District Attorney's Office has completed its review of the August 6, 2018, death of Decedent. It was determined that, based on the evidence currently available and subject to the discovery of any new or additional evidence, the actions of Officer Stockton were not criminal in nature.

This report explains why criminal charges will not be forthcoming against the officer involved. It is not intended to recount every detail, answer every question or resolve every factual conflict regarding this citizen-law enforcement encounter. The report is meant to be considered in conjunction with the Police Fatality Public Fact-Finding Review conducted on July 29, 2019. This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of Officer Stockton was not criminal.

This decision, premised upon criminal-law standards, is not meant to limit any administrative action or to suggest the existence or non-existence of civil actions by any person where less stringent laws and burdens of proof apply.



Overhead view of 2200 W. Bonanza Road, Las Vegas, NV.



Site map of the Kensington Suites complex.

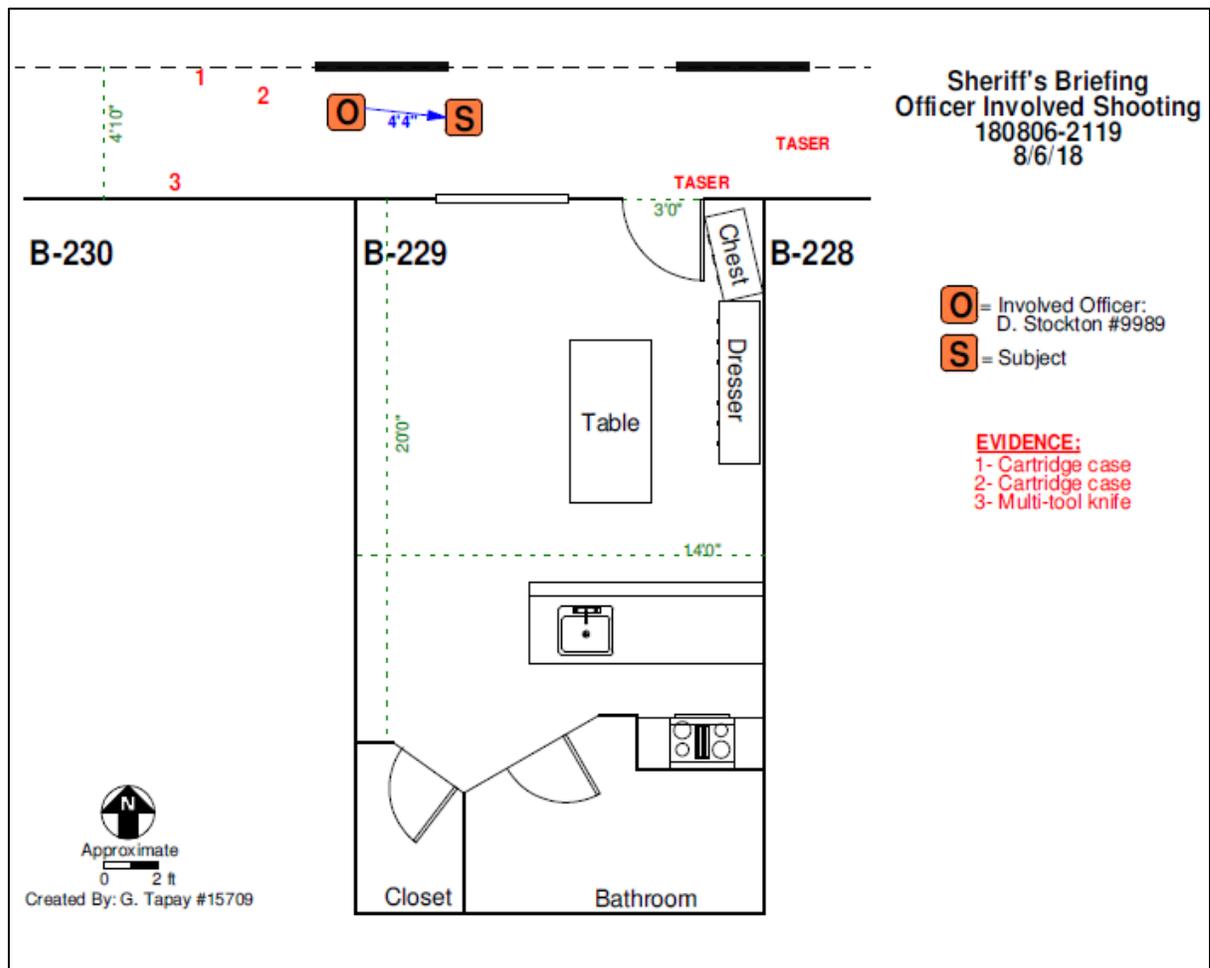


Building B, Kensington Suites.

## THE EVENTS AT 2200 W. BONANZA ROAD, APT. B-229, AUGUST 6, 2018

At approximately 12:40 pm on August 6, 2018, officers were dispatched to 2200 W. Bonanza reference a possibly suicidal and/or homicidal individual.

The following section details the events and actions of officers responding to the address. The Clark County District Attorney's Office ("CCDA") has reviewed all police reports, statements, and Crime Scene Analyst ("CSA") reports submitted by the LVMPD. This section highlights the statements of the pertinent officers involved in the use of force resulting in Decedent's death.



Scene Diagram.

## **OFFICER STATEMENTS**

### **Officer Manuel Ruvalcaba**

On August 6, 2018, Officer Ruvalcaba was assigned as primary officer in a suicidal subject call. Upon arrival, he contacted apartment complex management, who was outside Unit B-229. While meeting with management, Officer Heist arrived to assist. Officer Ruvalcaba then watched as Officer Heist attempted to see inside the apartment. Officers waited for additional units, to include Sergeant Overson. Once Sergeant Overson arrived, Officer Ruvalcaba knocked on the apartment door. The lock to the door was damaged and as a result, the door swung open. Officer Ruvalcaba then watched Sergeant Overson and Officer Stockton enter the apartment. He briefly followed them inside. Sergeant Overson then asked for the low lethal shotgun, at which time Officer Ruvalcaba exited the apartment to allow Officer Moore to enter. Soon after, Officer Ruvalcaba heard a Taser deploy, followed by a struggle. He then saw officers exit the apartment and ask for another Taser. Officer Ruvalcaba looked back inside the apartment and saw Decedent holding a knife. Officer Ruvalcaba then deployed his Taser. After the cycle ended, he observed Decedent quickly advance toward Officer Stockton. Officer Stockton then fired his weapon at Decedent.

### **Officer Brian Heist**

On August 6, 2018, Officer Heist was second on the scene to assist Officer Ruvalcaba on a suicidal person call where the subject was barricaded inside his apartment. As Officer Heist arrived, he saw Decedent through the blinds and updated fellow officers as to what he observed. He watched as officers knocked on Decedent's door, causing it to open. He then observed Officer Stockton, Officer Moore and Sergeant Overson enter the apartment and begin speaking with Decedent, who appeared agitated and uncooperative. Officers issued commands for Decedent to show his hands, however, he refused to do so and instead kept them hidden behind the kitchen counter. Eventually, Decedent walked from the kitchen to the living room area while still concealing his right hand behind his back. Officer Heist then saw Decedent approach officers. In response, Officer Stockton deployed his Taser, causing Decedent to fall. As soon as the Taser cycle ended, Decedent swung his right arm toward Officer Heist. The officer attempted to block Decedent but was unsuccessful and instead, sustained a cut to his left hand. After cutting Officer Heist, Decedent refocused his attention on the front door to the apartment. Officers continued issuing commands to drop the weapon. Decedent refused and was eventually struck with another Taser. After the Taser cycle ended, Officer Heist observed Decedent turn and walk toward Officer Stockton. He then heard rounds fired, after which he exited the apartment and assisted his fellow officers.

## **Officer Brent Moore**

On August 6, 2018, Officer Moore arrived on scene with Officer Stockton. Upon arrival, he and Officer Stockton were directed to Unit B-229. As he approached, he was ordered to post at the apartment door with the low lethal shotgun. Soon after, he was ordered to enter the apartment to provide low lethal coverage. Once inside, he observed Decedent behind the kitchen counter with a knife in hand. Decedent was uncooperative and ignoring officers' commands. Officer Moore was then told to back out of the unit. As he did so, he saw Officer Stockton deploy his Taser. He then repositioned himself behind Officer Ruvalcaba. He then saw Officer Ruvalcaba deploy his Taser. Officer Moore then heard two gunshots.

## **Sergeant Cord Overson**

On August 6, 2018, Sergeant Overson responded to a suicidal subject call where the person had barricaded himself inside an apartment. Upon arrival, Sergeant Overson contacted officers and management. He then approached the unit to determine if the door was indeed barricaded. As officers knocked on the door, the door swung open. Sergeant Overson then saw Decedent, who appeared to be in an agitated state, standing behind the kitchen counter hiding his right hand. Officers then began to engage Decedent, who refused to comply with officer commands and instead came out of the kitchen with the knife in hand. Sergeant Overson then observed Officer Stockton attempt to tase Decedent, however, the Taser malfunctioned. Sergeant Overson gave Officer Stockton his Taser. Officer Stockton deployed the second Taser, striking Decedent and causing him to fall. After the cycle, Sergeant Overson saw Decedent swing his knife. He and Officer Stockton then exited the unit. Decedent followed the officers toward the door while continuing to swing the knife. Sergeant Overson then called for a third Taser. In response, Officer Ruvalcaba deployed his Taser, striking Decedent for a second time. After the cycle, Decedent turned and advanced on Officer Stockton. Sergeant Overson then saw Officer Stockton discharge his firearm, striking Decedent and causing him to fall to the ground. Sergeant Overson then called for medical.

## **OFFICER PUBLIC SAFETY STATEMENT**

### **Officer David Stockton**

On August 6, 2018, at approximately 1426 hours, Detective Patton interviewed Sergeant Overson, who, following the shooting, had obtained a Public Safety Statement from Officer Stockton. During the statement, the following questions were asked and answers given:

1. Did you discharge your firearm?  
**Yes.**
- 1a. If so, in what direction?  
**East, center mass of suspect.**
- 1b. Approximately where were you located when you fired?  
**Second story stairwell railing of suspect's apartment.**
- 1c. How many shots do you think you fired?  
**Two.**
  
2. Is anyone injured?  
**Yes.**
- 2a. If so, where are they located?  
**En route to the hospital. Also, Officer Heist.**
  
3. Are there outstanding suspects?  
**No.**
  
4. Is it possible the suspect fired rounds at you?  
**No.**
  
5. Do you know if any other officers discharged their firearms?  
**Yes I do know; they did not.**
  
6. Are there any weapons or evidence that need to be secured/protected?  
**Yes.**
- 6a. If so, where are they located?  
Second story balcony, three (3) to five (5) feet from the suspect.
  
7. Are you aware of any witnesses?  
**Yes.**
- 7a. If so, what is their location?  
Officers



View into Decedent's apartment from the doorway.



View from inside Decedent's apartment looking toward the doorway.

## **CIVILIAN STATEMENTS**

As part of the investigation, officers interviewed three lay witnesses who were present on August 6, 2018. The following section details a summary of those witnesses.

## **Property Manager**

In August of 2018, Property Manager oversaw Kensington Suites. On August 5, 2018, Assistant Manager called Property Manager reference a water leak from Apartment B-229. Property Manager was told that the tenant, Decedent, would not answer the door for maintenance.

On August 6, 2018, at approximately 12:15 pm, Property Manager responded to Apartment B-229. There, he saw that the locking mechanism for the door had been damaged. He also noticed that the inside of the apartment appeared to be barricaded. Based upon the actions of Decedent, Property Manager called 311.

Once officers arrived, Property Manager escorted them to the apartment. Several officers stood on the landing and attempted to initiate contact by knocking on Decedent's door. One of the officers knocked harder, causing the door to open. Officers entered the apartment while Property Manager remained outside. Once inside, officers spoke to someone who Property Manager assumed was Decedent. Property Manager then saw the officers quickly exit the apartment, before quickly going back inside. Property Manager heard the officers become "more excited" and eventually run out of the apartment. He then saw the officers grab at their holsters. Property Manager then heard one of the officer's discharge his Taser. Immediately after hearing the Taser, Property Manager heard two (2) gunshots.

## **Assistant Manager**

On August 5, 2018, Assistant Manager was notified of a water leak in Apartment B-229. The downstairs resident stated water was leaking into his apartment and appeared to be coming from the ceiling. Assistant Manager asked maintenance to respond to Apartment B-229 regarding the leak. Decedent would not answer the door for maintenance, so security was called. Maintenance and security went back to Apartment B-229 and knocked on the door. This time, Decedent answered. Maintenance and Security confirmed the water was coming from Decedent's apartment and left to get a wet-dry vacuum. When they returned, Decedent refused to answer the door. At this point, Assistant Manager left a 24 hour intent to enter notice on Decedent's door, and left the apartment.

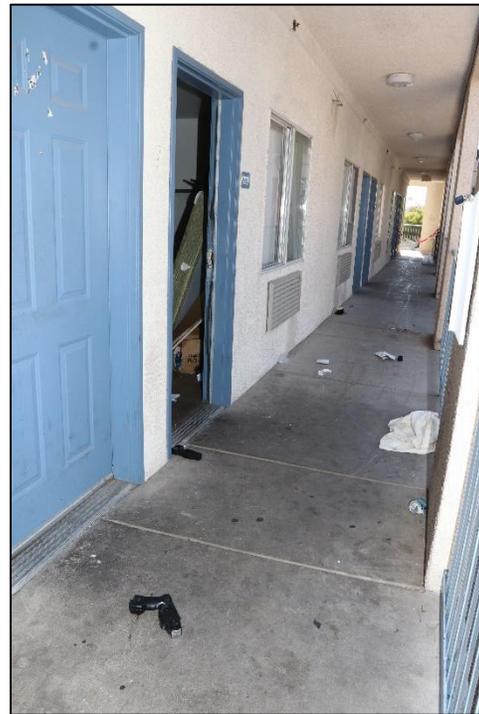
On August 6, 2018, just after 1200 hours, Assistant Manager and Property Manager went to Apartment B-229 to fix the leak. There, Property Manager noticed the damage to the door lock and decided to call 311. Once officers arrived, Assistant Manager and Property Manager escorted them to Apartment B-229. Assistant Manager watched as officers attempted to make contact with Decedent. He saw officers knock on the door, which caused the door to open. Assistant Manager then heard the officers begin speaking to someone inside. Shortly thereafter, Assistant Manager heard an officer

repeatedly yell “drop the knife.” Assistant Manager ran around the corner, where he heard two gunshots.

### **Apartment Complex Tenant**

Apartment Complex Tenant was walking up the stairwell with his small children when he saw multiple officers near Decedent’s apartment. As he stood at the top of the stairwell, he saw Decedent exit Apartment B-229 with a knife in his hand. He saw Decedent struggle with officers and then run away from the officers. Apartment Complex Tenant then lost sight of Decedent. He then heard shots fired. According to Apartment Complex Tenant, he had been living in the complex for approximately one month and only knew Decedent in passing. Based upon the limited interactions he had with Decedent, he described him as “crazy.”

### **THE INCIDENT SCENE**



The incident scene was at the Kensington Suites, located at 2200 W. Bonanza Road, Las Vegas, Nevada. Kensington Suites consists of three apartment buildings. Apartment 229 was centrally located along the north of Building B, which is in the middle of the three buildings. A narrow east/west walkway ran along the north side of Building B. Two cartridge cases bearing headstamp “SPEER 45 AUTO” were recovered from the walkway. Additionally, a Taser cartridge and attached wires and two Taser cartridge doors were recovered on the walkway.



Taser #2 and Taser #3

Cartridge Case #1 and Cartridge Case #2

Decedent's Knife



Taser #2 and Taser #3 found on the landing outside Decedent's apartment.

## **REVIEW OF THE WEAPONS**

### **OFFICER STOCKTON'S WEAPON**

Officer Stockton carried a Para-Ordnance, .45 caliber semi-automatic firearm. At the conclusion of the investigation, it was determined that Officer Stockton discharged his firearm two times during the incident.

### **DECEDENT'S WEAPON**

Decedent armed himself with a grey metal "Leatherman Wave" multi-tool utility knife. The knife was recovered from the walkway outside Unit B-229.



## **BODY WORN CAMERAS**

The following officers were wearing activated body worn cameras at the time of incident: Officer Heist, Officer Moore, Officer Ruvalcaba, Officer Stockton and Sergeant Overson. Body worn camera footage showed all officers in the same general vicinity during the incident. The officers were contacting Decedent, who was armed with a knife. Decedent was shouting back at the officers, indicating he was aware of their commands to drop his weapon. Decedent ignored the commands and proceeded toward officers. A Taser was deployed; however, Decedent was undeterred and continued toward officers. Decedent finally ran toward Officer Stockton, causing him to fire his weapon two times. Decedent then fell to the ground.

## AUTOPSY OF DECEDENT

On August 8, 2018, at approximately 7:15 am, Clark County Medical Examiner Dr. Leonardo Roquero performed an autopsy on the body of Decedent. During the examination, Dr. Roquero noted Decedent was shot two (2) times. One (1) shot was a penetrating gunshot wound to the chest. The second shot was a penetrating gunshot wound to the abdomen. Additionally, Dr. Roquero noted Taser prong puncture injuries to Decedent's chest and abdomen, along with abrasions, lacerations, contusions and incised wounds to the hands.

At completion of the autopsy, Dr. Roquero determined Decedent's cause of death was multiple gunshot wounds and the manner of death was homicide. A postmortem toxicological analysis was completed with the following positive findings: Amphetamine, Methamphetamine, Benzoylcegonine, Phencyclidine, Delta-9 Carboxy THC and Delta 9-THC.

### Positive Findings:

Compound	Result	Units	Matrix Source
Amphetamine	26	ng/mL	008 - Chest Blood
Methamphetamine	120	ng/mL	008 - Chest Blood
Benzoylcegonine	98	ng/mL	008 - Chest Blood
Phencyclidine	52	ng/mL	008 - Chest Blood
Delta-9 Carboxy THC	25	ng/mL	008 - Chest Blood
Delta-9 THC	5.5	ng/mL	008 - Chest Blood

## LEGAL ANALYSIS

The District Attorney's Office is tasked with assessing the conduct of officers involved in any killing 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 killing. As this case has been deemed a homicide by the coroner, the actions of these officers will be analyzed under the State's jurisprudence pertaining to homicides.

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 was justifiable under two theories: (1) The killing of a human being in self-defense/defense of others; and (2) justifiable homicide by a public officer. Both of these theories will be discussed below.

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

The authority to kill another in defense of others is contained in NRS §§200.120 and

200.160. “Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of ... another person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony ...” against the other person. NRS §200.120(1). Homicide is also lawful when committed:

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

NRS §200.160(1).

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

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

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

A bare fear of death or great bodily injury is not sufficient to justify a killing. To justify taking the life of another in [defense of another], the circumstances must be sufficient to excite the fears of a reasonable person placed in a similar situation. The person killing must act under the influence of those fears alone and not in revenge.

....

Actual danger is not necessary to justify a killing in [defense of another]. A person has a right to defend from apparent

danger to the same extent as he would from actual danger.  
The person killing is justified if:

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

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

If evidence [that a killing was in defense of another exists], the State must prove beyond a reasonable doubt that the defendant did not act in [defense of another].

*Id.* at 1051-52.

The known facts and circumstances surrounding this incident indicate that Decedent posed an imminent danger to numerous officers. When contacted by officers, Decedent refused to comply with repeated orders to drop the knife. Instead, he confronted officers with the weapon, cutting Officer Heist and charging at Officer Stockton. Officer Stockton was confronted by an actual imminent danger of being killed or suffering great bodily harm, which created in his mind an honest belief and fear that he was about to be killed or suffer great bodily injury. Based upon those appearances, fears and actual beliefs, Officer Stockton eventually shot Decedent, ending the threat; as such, Officer Stockton's actions were justified.

## **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, Officer Stockton had probable cause to believe Decedent posed a threat of serious physical harm to himself and to other persons. Decedent brandished a knife, used it to cut Officer Heist, and ultimately charged Officer Stockton. Decedent refused to comply with orders to drop the weapon and instead continued toward officers. These circumstances created probable cause to believe in the officer's mind that the Decedent posed a threat of serious physical harm to himself and fellow officers. In light of all the evidence reviewed to date, the State would be unable to prove that the actions of the officer were in fact *unjustified* "in the discharge of a legal duty."

## **CONCLUSION**

Based upon the review of the available materials and application of Nevada law to the known facts and circumstances, it has been determined that the actions of law enforcement in response to being fired upon by the Decedent were reasonable and legally justified. The law in Nevada clearly states that homicides which are justifiable or excusable are not punishable. (NRS §200.190). A homicide which is determined to be justifiable *shall* be "fully acquitted and discharged." (NRS §200.190).

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