

# REPORT ON USE OF FORCE



## Legal Analysis Surrounding the Death of Seth Holliday on September 6, 2020

### INTRODUCTION

On September 5, 2020, at approximately 6:38 p.m., H.H. called 911 to request assistance at her home, located at 10357 Timber Willow Avenue. H.H. told dispatch that her husband, Seth Holliday (hereinafter "Decedent"), was threatening to kill himself. H.H. said Decedent was suffering from depression, anxiety, and panic attacks, and as a result wanted to stab himself. As officers and medical personnel arrived, they determined Decedent should be transported to the hospital for an involuntary psychiatric evaluation, known as a Legal 2000. Decedent was transported by ambulance to Summerlin Hospital Medical Center where he was placed on a medical hold until he could be evaluated.

On September 6, 2020, Doctor F.S. met with Decedent and conducted the psychiatric evaluation. Decedent informed Doctor F.S. of his condition and explained that his medication doses used for treating his anxiety and depression had recently been adjusted by his primary doctor. He further explained that the new doses had increased his anxiety and left him feeling trapped. Decedent also said that COVID-19 lockdowns, family issues, and the changes at his place of employment due to the pandemic had increased his anxiety. At the time of evaluation, Decedent denied having suicidal thoughts or thoughts of hurting others.

After the evaluation, Doctor F.S. contacted H.H. and discussed the situation regarding Decedent's behavior. Doctor F.S. informed H.H. he thought Decedent was fit to be released. H.H. agreed. Doctor F.S. prescribed Decedent medication for anxiety and released him. Doctor F.S. gave H.H. his cell phone number, so she was able to contact him if she had any

issues. Later in the evening, Doctor F.S. received a text message from H.H. stating Decedent was acting in the same manner as he did when she originally called the police.

Doctor F.S. contacted H.H. to obtain more details. As Doctor F.S. spoke with H.H., he heard Decedent yelling in the background. Decedent refused to speak with Doctor F.S., refused to take any medication, and refused to return to the hospital. During the phone call, Doctor F.S. heard H.H. yelling at Decedent to get away from her. Doctor F.S. asked H.H. if she wanted him to call the police and she said yes. After Doctor F.S. called 911, he sent text messages to, and called, H.H.; however, he was unable to contact her.

A call was generated at Decedent's residence, and Las Vegas Metropolitan Police (hereinafter "LVMPD") Officer Adams was the first to arrive. As he approached the front door, he heard H.H. inside yelling. Officer Adams tried to open the front security door, but it was locked. Officer Adams went to the rear of the residence to locate another point of entry. Sergeant King arrived on the scene and approached the front door. The metal security door and the front door were locked. The front door was eventually opened, whereupon Sergeant King saw Decedent standing behind H.H. while holding a knife. Sergeant King instructed Decedent to drop the knife, at which time Decedent stated, "Shoot me!". Decedent did not comply with commands to drop the weapon; thus, Sergeant King fired one shot through the security door, striking Decedent in the chest. H.H. then unlocked the security door and exited the home.

Sergeant King was met by arriving officers who cleared the residence and located the Decedent's son in his bedroom. Officers verified there were no other subjects or victims inside the residence. Officer Hafen covered the juvenile's head with a towel, so he was not able to see the crime scene, and carried him out of the residence. Medical personnel arrived and transported H.H. to the hospital for treatment of the multiple stab wounds she sustained during the incident.

The Clark County District Attorney's Office has completed its review of the April 19, 2020, 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 Sergeant King 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 September 14, 2021. This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of Sergeant King 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.

## **THE EVENTS AT 10357 Timber Willow Avenue, Las Vegas, NV**

The below timeline is based on computer aided dispatch (“CAD”) provides a reconstruction of events which transpired on Sunday, September 6, 2020, in relation to the fatal officer-involved shooting (“OIS”) that occurred at 10357 Timber Willow Avenue.

<b>Time (hours)</b>	<b>Description of Event/Action</b>
21:08:59	Doctor F.S. was on the phone with H.H. and heard her screaming. She asked him to call 911, which he did.
21:11:20	H.H. called 911. The call taker could hear her screaming, and information was obtained that H.H.'s husband had stabbed himself.
21:12:20	H.H. could be heard yelling for help.
21:14:09	H.H. stated, “He’s trying to kill me.”
21:15:31	The first patrol unit (Officer Adams) arrived and broadcast the door was locked; a Code Red was requested.
21:16:18 - 21:16:29	Sergeant King broadcasted that shots were fired. Sergeant King updated the dispatcher that Decedent had a knife and was actively stabbing H.H.
21:17:21	Officers updated that a juvenile was upstairs. Officers were with H.H., and Decedent was in the foyer area.
21:17:23	The Clark County Fire Department (CCFD) was advised of the call.
21:17:40 - 21:17:48	Officers advised that Decedent was bleeding heavily but was still breathing.
21:18:05	Officers requested that medical personnel expedite to the scene.
21:20:07	Sergeant King broadcast that H.H. had been stabbed multiple times.
21:22:47	Sergeant King advised the dispatcher that CCFD and American Medical Response (AMR) personnel had arrived on the scene.
21:24:00	CCFD Engine #28 personnel confirmed the husband was deceased.
21:26:52	H.H. was transported to University Medical Center (UMC) Trauma Center by AMR #139.

At approximately 9:08 p.m. on September 6, 2020, officers were dispatched to 10357 Timber Willow Avenue, Las Vegas, Nevada, reference a suicidal 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 LVMPD. This section highlights the statements of the pertinent officers involved in the use of force resulting in Decedent's death.

## **WITNESS OFFICER STATEMENTS**

### **Officer Jacob Adams**

On September 6, 2020, Officer Adams was dispatched to 10357 Timber Willow Avenue reference a family disturbance involving a suicidal subject. Based upon the nature of the call, Officer Adams requested medical respond to the scene to stage at a nearby location. While en route, Officer Adams heard from dispatch that the suicidal subject was actively using a knife against a female.

Upon arrival, Officer Adams ran to the front door and heard a female screaming. Officer Adams tried opening the door, but it was locked. He updated Sergeant King that the door was locked and then went to the rear of the residence, where he scaled two walls to access the backyard. There, he attempted to enter the back door, when he heard a gunshot. He then heard Sergeant King advise over the radio that shots had been fired. Unaware of who had fired the shots, Officer Adams went back to the front of the residence. There, he met with Sergeant King and Officer Hafen. He then entered the home and took Decedent into custody.

### **Officer Cody Hafen**

On September 6, 2020, Officer Hafen responded to 10357 Timber Willow Avenue reference a family disturbance involving a suicidal subject who was stabbing himself. While on his way to the scene, Officer Hafen heard Officer Adams broadcast over the radio that he heard screaming inside the residence. When Officer Hafen arrived, he deployed the low lethal shotgun from his vehicle and approached the residence. As Officer Hafen approached the front door, he heard one gunshot from inside the residence. He then saw a female exit the home, while Sergeant King remained inside.

Officer Hafen then went inside to help secure the scene. Once inside, he saw Decedent on the ground. He then went upstairs and entered a bedroom where he contacted an eight-year-old juvenile. The juvenile told Officer Hafen he was scared and that he was recently at a friend's house because his father was not acting right. Officer Hafen placed a blanket over the juvenile to prevent him from seeing the crime scene or Decedent and escorted him out of the residence.

## **PUBLIC SAFETY STATEMENT**

### **Sergeant Douglas King**

On September 6, 2020, at approximately 11:28 p.m., Detective Alsup interviewed Sergeant Donaldson in reference to the Public Safety Statement (PSS) he obtained from Sergeant King. Also present during the interview was LVPMSA representative Troyce Krumme. Below is the transcript of the interview. Note: Detective Alsup is designated by (TA) and Sergeant Donaldson is designated by (MD).

*TA: This is Detective Trever Alsup, A-L-S-U-P, P# 5782, with the Las Vegas Metropolitan Police Department Force Investigation Team, conducting a recorded Public Safety Statement, uh, interview under event number 200900027699. Interview's being conducted with Sergeant Matt Donaldson, D-O-N-A-L-D-S-O-N. His P# is 12935. His call sign is 802. His date of hire is 12-05 of 2007. He's assigned to Summerlin Area Command, and his squad is SU36. His RDOs are Thursday, Friday, Saturday, and his shift hours are 1630 to 0230. His vehicle number today is 20418. This, uh, is in reference to an officer-involved shooting that occurred on September 6, 2020. Sergeant Donaldson, you understand this is being recorded?*

*MD: Yes.*

*TA: And did you conduct the, uh, PSS today?*

*MD: Yes, I did.*

*TA: And who was that with?*

*MD: The sergeant, uh, Doug King, P# 8467.*

*TA: And what time...*

*MD: Call sign...*

*TA: Oh.*

*MD: ...820.*

*TA: Okay. And what time did you conduct that at?*

*MD: Uh, Public Safety Statement was read at 2129 hours.*

*TA: Okay. What I'd like you to do is, um, read the questions and then after each question his response.*

*MD: Uh, question #1: "Did you discharge your firearm?" to which he answered, "Yes." Subsection A: "If so, in what direction?" He fired south.*

*"Approximately where were you located when you fired?" He was at the front door.*

*"How many shots do you think you fired?" He stated he fired one round.*

*Question 2: "Is anyone injured?" "Yes, one male."*

*"If so, where are they located?" and he explained that the male was in the foyer of the residence, the front door.*

*#3: "Are there any outstanding suspects?" "No."*

*Uh, "What direction and mode of travel?" Did not apply.*

*"How long have they been gone?" Did not apply.*

*"What crime(s) have they committed?" Was attempt murder or battery with deadly weapon.*

*Uh, "What type of weapon did they have?" which was, uh, a knife.*

*Question 4: "Is it possible the suspect fired rounds at you?" He answered, "No, the suspect had knives."*

*Uh, subsection A for #4 did not apply; "How many shots do you think the suspect fired?"*

*Uh, B: "Approx...Approximately where was the suspect located when they fired?" Did not apply.*

*#5: "Did you know of any other officers that discharged their firearms?" He stated, "No."*

*Um, "Approximately where were the off...officers located when they fired?" Did not apply.*

*#6: "Are there any weapons or evidence that needs to be secured or protected? And if so, where are they located?" And Sergeant King explained that there were, uh, knives in the front area or the front foyer of the home, as well as well one casing that had been, uh, discharged from his firearm located under doormat outside of the residence of the front door, as well as the, uh, the male who was down in the front of the house.*

*#7: "Are you aware of any witnesses? And if so, what was their location?" And he explained that only Officer Adams, P# 17155, his call sign was 3Robert4, was the only officer at the house he believed when he discharged his firearm, and he was located at the rear of the house.*

*TA: Um, just for the record, I forgot to mention that also present for this was LVPMSA Representative Krumme, um, and the statement was conducted on September 6, 2020. Do you have anything?*

*TK: No.*

*TA: All right. I'll go ahead and end the interview now. The same people are present, and the time is 2332 hours.*



Sergeant King's view as he approached the scene.

## **CIVILIAN STATEMENTS**

As part of the investigation, officers interviewed two lay witnesses regarding the events of September 6, 2020. The following section details a summary of those witnesses.

### **H.H.**

H.H. is Decedent's wife. On September 6, 2020, H.H. reported that the prior day, her husband, Decedent, had been feeling suicidal. In response, she called the police to assist. During that incident, Decedent was transported to Summerlin Hospital by ambulance for a psychiatric evaluation (Legal 2000). There, he was evaluated by Doctor F.S. After speaking with Decedent and H.H., Doctor F.S. determined that Decedent was fit to return home with a prescription for Xanax. H.H. said Decedent was remorseful for what had occurred, and they were able to have a normal evening together watching television and eating dinner. At approximately 8:30 p.m., H.H. said Decedent would not go to bed and instead stood in their bedroom. H.H. asked Decedent if he was okay, and he responded with conflicting answers. He then admitted to lying to Doctor F.S. about feeling better.

H.H. called Doctor F.S. for advice, and Doctor F.S. instructed H.H. to give Decedent his medication. Decedent refused to take any medication and refused to speak with Doctor F.S. H.H. asked Doctor F.S. to call 911. After H.H. hung up with Dr. F.S., Decedent ran into the kitchen and grabbed a large knife from the knife block and attempted to stab himself. H.H. grabbed the knife and a struggle ensued. Decedent then stabbed himself in the chest and lost consciousness. H.H. put pressure on Decedent's wound to stop the bleeding. When Decedent regained consciousness, H.H. said he grabbed the knife and attempted to stab her with it. As the two fought over the knife, Decedent grabbed another knife from the block and stabbed H.H. in her chest. At some point during the struggle, H.H. was able to contact a 911 call taker via her Apple Watch, and she informed the call taker that Decedent was trying to kill her. Decedent then stabbed H.H. in the back.

H.H. stated her eight-year-old son was upstairs, and she was afraid that Decedent would harm him. A few moments later, police officers arrived. H.H. could see an officer through the security door and yelled at the officer that Decedent was going to kill her. H.H. believed Decedent still had a knife in his hand. H.H. heard the officer instruct Decedent to drop the knife and Decedent stated, "Shoot me!" H.H. heard one shot fired, unlocked the security door, and exited the residence.

H.H. informed detectives that Decedent was taking medication for stress and anxiety and had smoked marijuana for approximately two years. She believed the medication had something to do with Decedent's change in behavior. H.H. stated that Decedent had never been violent in the past and he did not have violent tendencies or issues with suicide. H.H. said she feared for her life and believed Decedent was going to kill her. She also feared that her son would be harmed or injured. H.H. said she received multiple lacerations to her hands as she grabbed the knife while trying to protect herself as Decedent attempted to stab her.

## **Doctor F.S.**

Doctor F.S. is a psychiatrist on staff at the Summerlin Medical Center. On September 6, 2020, Doctor F.S. conducted a psychiatric evaluation on Decedent after he was brought to the facility and placed on a Legal 2000 hold due to anxiety and depression. At the time of the evaluation, Decedent appeared calm and pleasant and was forthcoming with information about his history with anxiety. Decedent told Doctor F.S. that while he had anxiety, he had never before experienced the symptoms that brought him to the hospital. Decedent explained that his medication doses had been adjusted by his primary doctor, and that since then, he had increased anxiety and felt trapped. Additionally, Decedent informed Doctor F.S. that other issues that were increasing his anxiety included COVID-19 lockdowns, family issues, and changes at his place of employment due to COVID-19. Decedent denied having any suicidal thoughts or thoughts of hurting others. Doctor F.S. stated there was nothing

abnormal about Decedent or his interview with him. Doctor F.S. contacted H.H. and discussed Decedent's behavior and the evaluation. H.H. agreed with Doctor F.S. that Decedent's behavior appeared normal and that he should be released. Doctor F.S. prescribed anxiety medication for Decedent and scheduled a follow up appointment. Doctor F.S. gave H.H. his cell phone number and encouraged her to contact him if needed. Doctor F.S. then signed the release which permitted Decedent to be released from the legal hold.

Later that evening, Doctor F.S. received a text message from H.H. which said that Decedent seemed normal when she picked him up from the hospital, but then started acting the way he had the previous evening. Doctor F.S. asked if Decedent had taken the medication that he prescribed, and H.H. stated they had not had the prescription filled because Decedent had been acting normally. Doctor F.S. then called to get more information. During the conversation, Doctor F.S. heard Decedent yelling in the background. Doctor F.S. asked to speak with Decedent, but he refused. Decedent then refused to take medication and refused to go back to the hospital.

While Doctor F.S. spoke with H.H., she began yelling for Decedent to get away from her. Doctor F.S. asked if she needed him to call 911, and she said yes. Doctor F.S. heard H.H. yelling again for Decedent to get away from her. The line was then disconnected. Doctor F.S. contacted 911. Doctor F.S. then called and sent text messages to H.H. but did not receive any responses.

## **THE INCIDENT SCENE**



Aerial overview of the OIS location.



Close-up aerial view of the OIS location.

The scene was a residential home on Timberwillow Avenue. The interaction between Decedent and Sergeant King occurred in the entryway of the home.



The entryway of the home where Decedent held H.H. at knifepoint.

## **REVIEW OF THE WEAPONS**

### **SERGEANT KING'S WEAPON**

On September 7, 2020, Sergeant King had his duty weapon counted down at Summerlin Area Command to determine the number of rounds he fired during the incident. Sergeant King and witness officers were photographed by CSI personnel for appearance purposes, and Sergeant King's weapon was photographed for identification purposes. Sergeant King carried a department issued Glock 21C. At the completion of the countdown of his weapon, it was determined Sergeant King discharged his firearm one time during this incident. This was corroborated with the evidence at the scene.

### **DECEDENT'S WEAPONS**



Eight (8) kitchen knives found at the scene.

## BODY CAMERA

Sergeant King was wearing a Body Worn Camera (“BWC”) at the time of the incident, and the camera was activated. The camera was collected by Sergeant Iacullo and secured. The video footage captured was later viewed by FIT detectives at 11:01 pm hours on September 6, 2020.

Sergeant King had three activations for this event. Sergeant King’s camera footage depicted the following:

**04:12:53 hours:** Sergeant King’s BWC was activated and began with him driving in a patrol vehicle.

**04:15:31 hours:** He arrived at the incident location (10357 Timber Willow Avenue) and exited his vehicle. Sergeant King asked Officer Adams what kind of door was at the front. Officer Adams stated it was a metal door. Sergeant King approached the front door.

**04:15:56 hours:** A female (H.H.) was heard yelling, and Sergeant King instructed her to exit the residence.

**04:15:59 hours:** Sergeant King arrived at the security door and H.H. yelled, “Oh, my God, help me!” Sergeant King drew his firearm and yelled at the male (Decedent) several times to drop it. The male yelled, “Shoot me!” Sergeant King fired one shot through the security door.

**04:16:07 hours:** Sergeant King informed the dispatcher that he fired a shot. H.H. opened the security door and exited.

**04:17:17 hours:** Additional officers arrived and formulated a plan to enter the residence. The team entered and took Decedent into custody.

**04:18:00 hours:** Sergeant King updated the dispatcher with Decedent's condition and asked if medical personnel had been expedited.

**04:18:32 hours:** Sergeant King responded upstairs with officers and cleared the residence. One officer remained with a juvenile.

**04:20:46 hours:** Sergeant King exited the residence as assisting officers secured the scene.

**04:21:14 hours:** As Sergeant King walked to the end of the driveway, medical personnel treated H.H. for her injuries and prepared her for transport to the hospital.

**04:26:00 hours:** Sergeant King continued to give direction to officers on the scene.

## **AUTOPSY OF DECEDENT**

On September 8, 2020, Dr. Satish Chundru performed an autopsy on the body of Decedent. The following wounds/injuries were noted on Decedent: (1) an indeterminate range penetrating gunshot wound of the paramedian left side of the upper chest; (2) a penetrating stab wound of the left side of the upper to mid chest; (3) a superficial incised wound along the lateral aspect of the right side of the neck; and (4) other minor sharp force injuries located on the face, torso, arms, and left hand. After a thorough review of the facts and circumstances surrounding the incident, and a complete autopsy, Dr. Chundru opined Decedent died as the result of a gunshot wound of the chest. The manner of death was homicide. It was determined that the stab wound, incised wound, and other sharp force injuries were self-inflicted.

Additionally, a toxicology test was completed, revealing positive results for Marijuana and Citalopram/Escitalopram. Citalopram / Escitalopram are antidepressants used to treat major depressive disorder, obsessive compulsive disorder, panic attacks and social phobia.

### **Positive Findings:**

<u>Compound</u>	<u>Result</u>	<u>Units</u>	<u>Matrix Source</u>
Caffeine	Positive	mcg/mL	001 - Peripheral Blood
11-Hydroxy Delta-9 THC	1.4	ng/mL	001 - Peripheral Blood
Delta-9 Carboxy THC	22	ng/mL	001 - Peripheral Blood
Delta-9 THC	7.4	ng/mL	001 - Peripheral Blood
Citalopram / Escitalopram	160	ng/mL	001 - Peripheral 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 this officer 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.

### 1. The Use of Deadly Force in Self-Defense or 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 his family. Immediately prior to the officers' arrival, Decedent grabbed a large knife from the knife block and attempted to stab himself. H.H. grabbed the knife and a struggle ensued. Decedent then stabbed himself in the chest and lost consciousness. When Decedent regained consciousness, Decedent attempted to stab H.H. As the two fought over the knife, Decedent grabbed another knife from the block and stabbed H.H. in her chest. At some point during the struggle, H.H. was able to contact a 911 call taker via her Apple Watch, and she informed the call taker that Decedent was trying to kill her. Decedent then stabbed H.H. in the back. When Sgt. King arrived at the front door, he was confronted by an actual, imminent danger of H.H. being killed or suffering great bodily harm. Based on Decedent holding H.H. at knifepoint and refusing to comply with commands to drop the weapon, Sgt. King held an honest belief and fear that H.H. was about to be killed or suffer great bodily injury. Based upon those appearances, fears and actual beliefs, Sergeant King eventually shot Decedent, ending the threat; as such, Sergeant King's actions were justified.

## **2. 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, Sergeant King had probable cause to believe Decedent posed a threat of serious physical harm to other persons. Before Sergeant King arrived, he knew that Decedent had armed himself with a knife and was stabbing himself. Upon arrival, Sergeant King saw that Decedent was holding a knife to his wife, H.H. He could also see blood, indicating someone already had been stabbed. Additionally, H.H. was asking for help and expressing her belief that Decedent was going to kill her. These circumstances created probable cause to believe in the officer's mind that the Decedent posed a threat of serious physical harm to H.H. In light of all the evidence reviewed to date, the State would be unable to prove that the actions of the officers 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 Decedent's use of force against another person 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 officer, and unless new circumstances come to light which contradict the factual foundation upon which this decision is made, no charges will be forthcoming against Sergeant King.