

REPORT ON USE OF FORCE



Legal Analysis Surrounding the Death of Christopher Gatewood on March 29, 2018

INTRODUCTION

On March 29, 2018, 39-year-old Christopher Gatewood was shot and killed during an altercation with Las Vegas Metropolitan Police Department (hereinafter "LVMPD") Officers Rafael Camacho, Kenshin Rose, William Wilson, and Zachary Hibbert. The incident took place at approximately 12:01 p.m. in the doorway of an apartment located at 2000 Paradise Road, Las Vegas, Nevada 89104. Officers Rose and Camacho discharged their firearms, striking and killing Christopher Gatewood (hereinafter "Decedent").

SYNOPSIS

On March 29, 2018, at approximately 11:43 a.m., uniformed Patrol Officers Rose and Camacho from LVMPD's Downtown Area Command were dispatched to a domestic violence call at the Siegel Suites apartment complex located at 2000 Paradise Road, Building 3, #3310. Upon their arrival, Officers Rose and Camacho made contact with the person who reported the call, N.W., on the third floor of Building 3.

N.W. informed the officers that her boyfriend, Decedent, was armed with a knife and was inside their apartment. N.W. also advised the officers that Decedent had threatened to hurt himself and officers. As Officers Rose and Camacho spoke with N.W., other uniformed officers, to include Officer Hibbert and Sergeant Wilson, arrived on scene. The officers formulated a plan to make contact with Decedent. Officer Hibbert was assigned as the less-lethal officer, utilizing his Taser. Officer Rose was assigned as the contact officer, and Officer Camacho was assigned as lethal coverage.

Officers approached apartment #3310 and knocked on the door while simultaneously announcing themselves as police officers. They continued for several moments with no response from Decedent. As the officers were formulating another plan to contact Decedent,

Decedent yelled from behind the closed door, "I'm coming out!" Decedent then cracked open the door and officers observed him holding a large butcher knife to his throat with his left hand. Officers gave Decedent verbal commands to drop the knife. Decedent refused to comply with the officers' orders. Decedent exited his apartment and transitioned the knife from his left hand to his right hand.

Decedent yelled, "What are you going to do?" as he raised the knife and lunged toward the officers. Officer Hibbert fired his Taser as Officers Camacho and Rose simultaneously fired their handguns at Decedent. Decedent immediately fell to the ground while still holding the knife. Officers broadcast "shots fired" over the radio and requested that medical personnel respond to the scene. Officer Hibbert removed the knife from Decedent's right hand as Officers Rose and Camacho moved inside to clear the apartment.

After the apartment was cleared and the scene secured, medical personnel arrived and confirmed Decedent had died. Due to the fact that an officer-involved shooting occurred, the on-scene incident commander requested the Force Investigation Team ("FIT") respond to assume responsibility of the investigation. FIT personnel arrived and assumed control of the scene at approximately 12:30 p.m.

This report explains why criminal charges will not be forthcoming against LVMPD Officers Rose and Camacho. 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 February 26, 2019.

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

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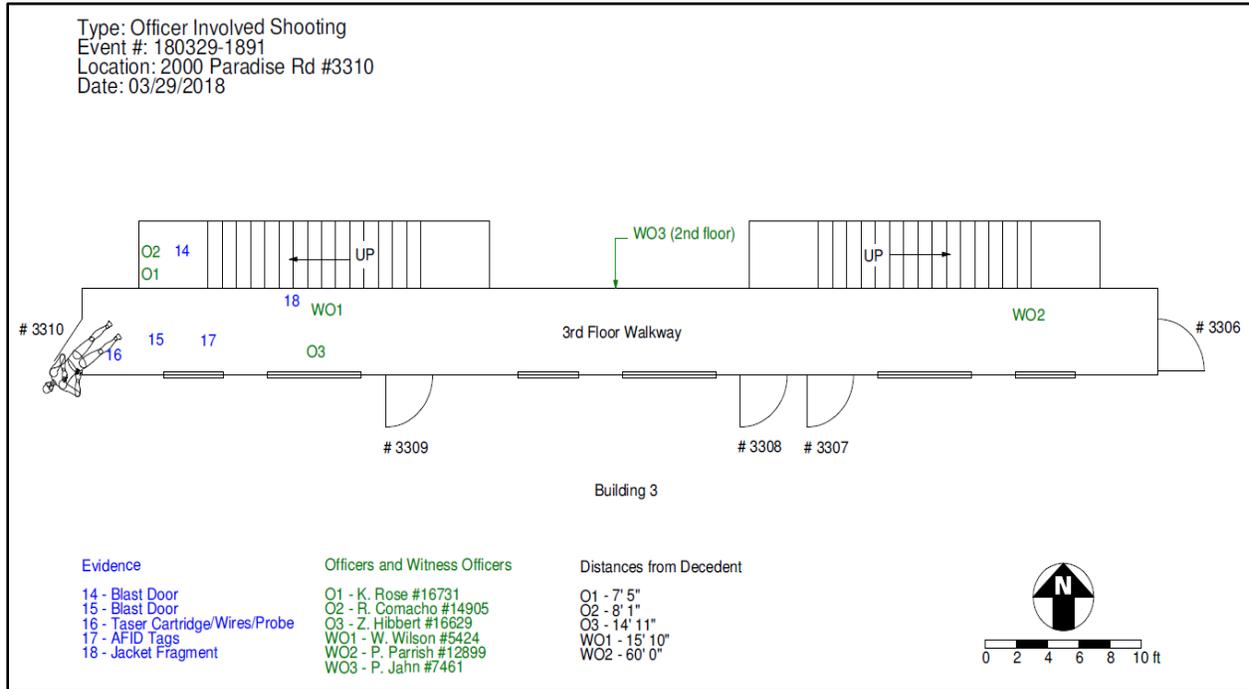
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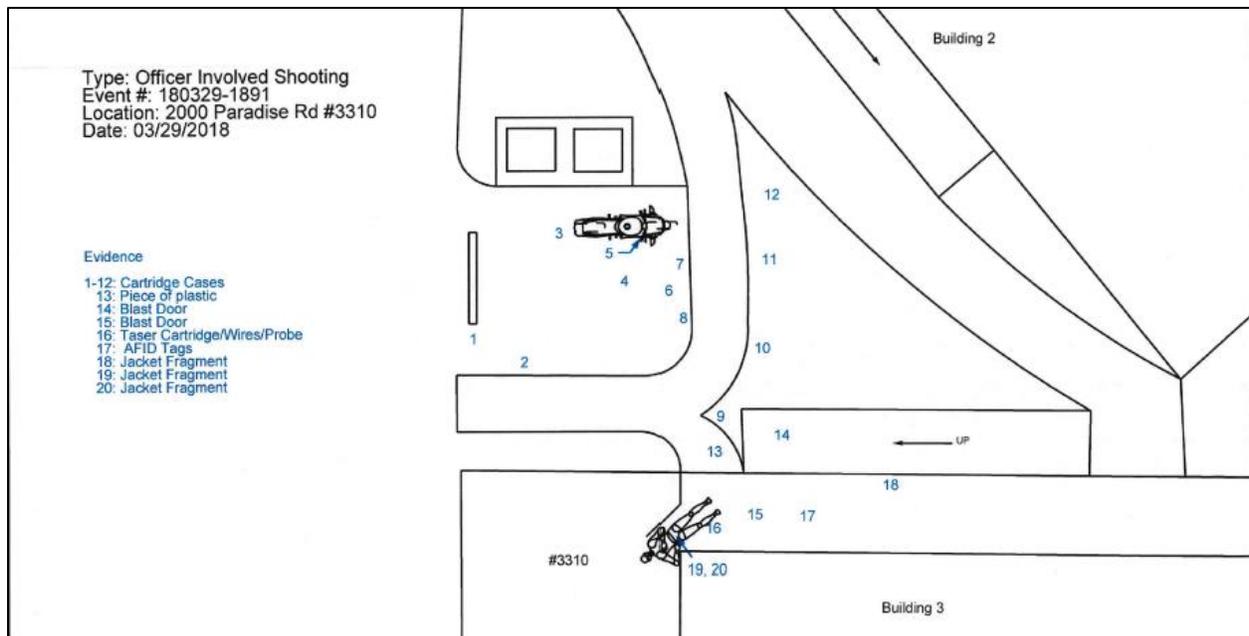
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DESCRIPTION OF THE SCENE

The main scene was located in a narrow walkway on the 3rd floor of Building #3. Five apartments were accessible from the walkway. Decedent was in the doorway of apartment #3310 – the westernmost apartment on the walkway. A stairway to the 2nd floor was adjacent to the doorway of apartment #3310.



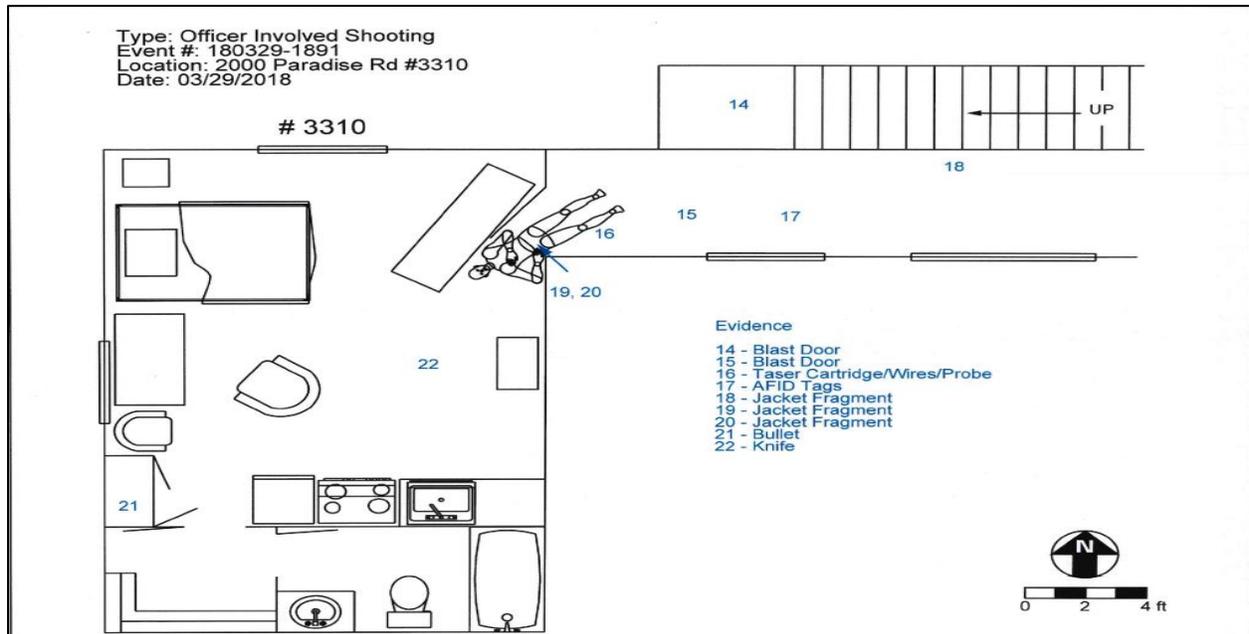
Spillover from the main scene was located on the ground level underneath apartment #3310.



VISIBLE EVIDENCE

Decedent and Interior of Apartment #3310

Decedent was lying on his back in the partially open doorway of apartment #3310. Decedent's upper body was within the apartment, and his lower body was outside the apartment. Decedent had multiple apparent gunshot wounds to his body. There was a Taser probe attached to Decedent's shorts and there were bullet fragments on top of and underneath Decedent's body (Items 19 & 20).



Apartment #3310 was a one-room efficiency unit. Inside, there was a single bed, two chairs, two dressers, a desk, an end table, a file cabinet, a closet, a kitchen, and a bathroom. There was a single bullet impact on the exterior side of the entry door. Behind the door was a long dresser positioned to block the door. A TV was lying face-down on top of the dresser blocking the door. A silver-colored butcher knife was on the floor southwest of Decedent's head (Item 22). There was a defect to the desk chair in the center of the room. A bullet was recovered from within a wall cabinet in the same trajectory path as the desk chair and Decedent (Item 21). Apparent narcotics paraphernalia was located in the file cabinet, on the desk, and inside the closet. Within the kitchen, there were multiple prescription pill bottles in Decedent's name for antidepressants and antipsychotics. There were also loose pills sitting on top of the refrigerator.

3rd Floor Walkway and Stair Landing

On the 3rd floor walkway and the stair landing just outside the door of apartment #3310, there was a Taser cartridge with attached wires and one probe (Item 16), two Taser blast-doors

(Items 14 & 15), and pink and yellow AFID tags (Item 17). There was also a bullet fragment on the walkway (Item 18).

Ground Level Underneath Apartment #3310

There were twelve cartridge cases bearing headstamp "SPEER 9mm LUGER" scattered on the ground level beneath apartment #3310 and around the stairwell.

SCENE WALK-THROUGHS

Officer Kenshin Rose

On March 29, 2018, at approximately 3:19 p.m., Officer Rose relayed the following information during a walk-through of the scene:

Officer Rose stated there was one officer to his left and one officer behind him. Decedent was at the door of the apartment yelling when officers told him to show his hands. Decedent stated, "You want me to show my hands?" and raised two knives. Decedent was holding a knife in his right hand at shoulder level, and was pointing it at officers. Decedent began to approach the officers, and Officer Rose discharged his firearm out of fear for his life, as well as the lives of his partners. Officer Rose was approximately four feet away from Decedent when he discharged his firearm.

Officer Rafael Camacho

On March 29, 2018, at approximately 3:41 p.m., Officer Camacho relayed the following information during a walk-through of the scene:

Decedent was standing by his apartment door holding a knife in a threatening manner. Decedent was holding the knife in his right hand at shoulder level. Officer Rose was next to Officer Camacho, and Officer Hibbert was to his left. Officer Camacho discharged his firearm approximately seven times out of fear for his life, as well as the lives of Officers Rose and Hibbert.

PUBLIC SAFETY STATEMENTS

Officers Rose and Camacho provided Public Safety Statements. The questions asked of the officers are reflected in italics, and the officers' responses to those questions are reflected in bold italics.

Officer Rose

1. *"Did you discharge your firearm?"* ***"Yes."***
2. *"If so, in what direction?"* ***"South, towards the suspect."***
3. *"Approximately where were you located when you fired?"* ***"Stairs left of front door."***

4. "How many shots do you think you fired?" **"Two shots."**
5. "Is anyone injured?" **"Yes."**
6. "If so, where are they located?" **"Suspect, doorway."**
7. "Are there any outstanding suspects?" **"No."**
8. "Is it possible the suspect fired rounds at you?" **"No."**
9. "Do you know if any other Officers discharged their firearm?" **"Yes."**
10. "If so, who are they?" **"Officer Camacho."**
11. "Approximately where was the Officer located when they fired?" **"To my right."**
12. "Are there any weapons or evidence that needs to be secured/protected?" **"Yes."**
13. "If so, where are they located?" **"Two knives in suspect's hands."**
14. "Are you aware of any witnesses?" **"Yes."**
15. "If so, what is their location?" **"Officer Camacho, Sergeant Wilson, and the PR."**

Officer Camacho

1. "Did you discharge your firearm?" **"Yes."**
2. "Approximately...if so, in what direction?" **"Towards the suspect, at front, southwest."**
3. "Approximately where did...were you located when you fired?" **"Five to seven feet in front of suspect."**
4. "How many shots do you think you fired?" **"Eight shots."**
5. "Is anyone injured?" **"Yes."**
6. "If so, where were they located?" **"Suspect at front door."**
7. "Are there any outstanding suspects?" **"No."**
8. "Is it possible the suspect fired rounds at you?" **"No."**
9. "Do you know if any other Officer discharged their firearms?" **"Yes."**
10. "If so, who are they?" **"K. Rose, P# 16731."**
11. "Approximately where was the Officer located when they fired?" **"To the left of myself."**
12. "Are there any weapons or evidence that needs to be secured or protected?" **"Suspect's knife in apartment."**
13. "Are you aware of any witnesses?" **"Yes."**
14. "If so, where's their location?" **"Sergeant Wilson, uh Officer Hibbert, and apartment workers wearing blue shirts."**

SUMMARY OF RELEVANT WITNESS STATEMENTS

N.W.

On March 29, 2018, at approximately 2:30 p.m., Detectives Buford Kenton and Steven Keith attempted to conduct an audio-recorded interview with N.W. She was distraught and refused to cooperate with the recorded interview; however, detectives were able to speak with her briefly on scene.

N.W. stated Decedent was her boyfriend. N.W. stated she initially called police because they were in a domestic dispute. During the dispute, N.W. attempted to leave the apartment, but Decedent grabbed her by the left forearm and punched her. When officers responded, N.W. told them Decedent battled with psychosis and took Seroquel. N.W. stated that officers arrived and killed Decedent. N.W. then refused to give further details.

J.D.

On March 29, 2018, at approximately 2:57 p.m., Detectives Kenton and Keith conducted an audio-recorded interview with J.D.

J.D. was a maintenance worker for the apartment complex. J.D.'s wife, L.D., also works at the complex. J.D. stated the tenants at apartment #3310 were constantly having problems, and the police had been called to that apartment in the past. Decedent had brandished a knife on the apartment manager on one prior occasion. Police responded to that incident and took Decedent "to the hospital."

On the day of the shooting, the manager of the apartment complex, J.D., and J.D.'s wife were at apartment #2206 because the tenants had recently moved out. While at apartment #2206, J.D. observed four police officers at the door of apartment #3310. J.D. observed Decedent open the door and put a knife to his own throat. J.D. observed the officers ordering Decedent to put down the knife. Decedent yelled obscenities at the officers and asked them, "What are you going to do about it?" J.D. then observed Decedent move toward the officers with the knife in his hand. J.D. saw the officers fire five or six times when the Decedent was within three or four feet of the officers.

L.D.

On March 29, 2018, at approximately 3:14 p.m., Detectives Kenton and Keith conducted an audio-recorded interview with L.D.

L.D. was a housekeeper for the apartment complex. L.D.'s husband, J.D., also worked at the complex as a maintenance worker. L.D. stated there were numerous prior domestic violence incidents at apartment #3310, and that there were constant problems with Decedent. On one prior occasion, Decedent had been taken to "get his head checked" after an incident with a knife.

On the day of the shooting, the manager of the apartment complex, L.D., and L.D.'s husband were at apartment #2206 because the tenants had recently moved out. While at apartment #2206, L.D. observed four or five police officers near the door of apartment #3310. L.D. observed one of the officers knock on the door of apartment #3310 and ask for the occupant to open the door. L.D. observed Decedent open the door and stand in the doorway with a knife in front of his chest. L.D. observed the officers ordering Decedent to drop his weapon. Decedent yelled obscenities at the officers and yelled, "What are you going to do?!" L.D. observed as the officers continued to issue commands to drop the weapon. L.D. then

observed Decedent walk toward the officers in an aggressive manner, as if he was going to swing the knife at them. L.D. then saw the officers fire upon Decedent.

J.S.

On March 29, 2018, at approximately 3:29 p.m., Detectives Kenton and Keith conducted an audio-recorded interview with J.S.

J.S. is the manager of the apartment complex. J.S. stated there were numerous prior incidents at apartment #3310. J.S. recalled an incident during the first week of March of 2018 in which the female tenant, N.W., had called the office and advised J.S. that Decedent was attacking and hitting her. J.S. told N.W. to hang up and call police. N.W. called back a few minutes later and advised J.S. that everything was okay. The police did not respond to that incident and J.S. believed N.W. did not call 911.

On the day of the shooting, J.S. and two of her employees, L.D. and J.D., were at apartment #2206 because the tenants were moving out. While at apartment #2206, J.S. observed four or five police officers near the door of apartment #3310. J.S. observed one of the officers knock on the door of apartment #3310 and announce himself as "Metro." J.S. observed Decedent open the door a few inches. J.S. observed the officers ordering Decedent to step out of the apartment. J.S. then saw Decedent brandish a six or seven inch kitchen knife in his right hand. J.S. observed Decedent hold the knife out at the officers as they repeatedly ordered him to drop his weapon. Decedent did not comply and yelled obscenities at the officers. J.S. observed Decedent walk toward the officers in an aggressive manner, as if he was going to stab them. J.S. noted that the officers did not have any avenue to escape Decedent's advance. J.S. then observed the officers fire five or six rounds at Decedent.

L.S.

On March 29, 2018, at approximately 3:59 p.m., Detectives Kenton and Keith conducted an audio-recorded interview with L.S.

L.S. resided at apartment #2205, which was located on the 2nd floor of the building adjacent to Decedent's. L.S. had a clear view of Decedent's apartment from the landing of his own apartment. L.S. indicated that the police had been called to apartment #3310 several times in the past.

On the day of the shooting, L.S. was sitting on his landing smoking a cigarette when he observed four officers on the 3rd floor of building #3 and two officers on the 2nd floor of building #3. L.S. observed one of the officers knock on the door of apartment #3310 and announce himself as a police officer.

L.S. observed Decedent open the door with a "big butcher style knife" in his right hand and a piece of paper in his left hand. The knife was down to Decedent's right side with the blade pointed toward the officers as if he was ready to stab someone. Decedent yelled obscenities at the officers. The officers repeatedly ordered Decedent to drop the knife. Decedent then

charged at the officers in an aggressive manner and the officers fired four or five gunshots from their handguns.

M.C.

On March 29, 2018, at approximately 4:11 p.m., Detectives Kenton and Keith conducted an audio-recorded interview with M.C.

M.C. resided next door to Decedent and N.W. in apartment #3309. M.C.'s apartment shared a wall with Decedent's apartment. M.C. often heard slamming noises coming from Decedent's apartment, and noted there had been several incidents of domestic violence associated with Decedent and N.W.

On the day of the shooting, M.C. peered out of the window of her apartment and observed police officers knocking on Decedent's door. M.C. could not see Decedent's door, but heard the officers announce that they were police. M.C. then heard the officers order Decedent to "drop a knife in his hand." M.C. heard Decedent yell obscenities at the officers, including, "Fuck you bitch!" M.C. then heard an unknown amount of gunshots.

Officer Peter Jahn

On March 29, 2018, at approximately 3:22 p.m., Detective Marc Colon conducted an audio-recorded interview with Officer Jahn, who relayed the following:

Officer Jahn responded to a domestic disturbance at apartment #3310 and was advised that the suspect was armed with a knife. Upon his arrival, Officer Jahn observed a group of officers on the 3rd floor balcony. Officer Jahn made contact with N.W. on the 2nd floor balcony, where she was standing with another officer. N.W. reported that she had been battered by her boyfriend, Decedent, and that she last saw him sitting on their couch with a knife. N.W. advised Officer Jahn that Decedent told her if the cops showed up, he would hurt the cops or himself. N.W. also advised Officer Jahn that Decedent did not have a phone in his possession.

As Officer Jahn spoke with N.W., he heard a door open on the 3rd floor, followed by Officers repeatedly yelling, "Drop the knife!" Officer Jahn heard Decedent yelling back at the officers while they continued to issue commands to drop the weapon. Officer Jahn then heard numerous gunshots.

Officer Stephan Parrish

On March 29, 2018, at approximately 4:00 p.m., Detective Colon conducted an audio-recorded interview with Officer Parrish, who relayed the following:

Officer Parrish responded to a domestic disturbance at apartment #3310 and was advised that the suspect was armed with a knife. Upon his arrival, Officer Parrish made contact with N.W. on the 2nd floor balcony as other officers proceeded to the 3rd floor to make contact with

Decedent. Officer Parrish attempted to obtain Decedent's cell phone number from N.W. when he heard Decedent and the officers yelling from the 3rd floor. At that time, Officer Parrish ran up the far staircase to the 3rd floor. As Officer Parrish reached the top of the stairs, he observed Officers Rose and Camacho fire their weapons. Officer Parrish was unable to see Decedent when the shots were fired because his view was blocked by Officer Hibbert.

Officer Zachary Hibbert

On March 29, 2018, at approximately 3:42 p.m., Detective Colon conducted an audio-recorded interview with Officer Hibbert, who relayed the following:

Officer Hibbert responded with Officer Parrish to a domestic disturbance at apartment #3310 and was advised that the suspect was armed with a knife. Other officers arrived on scene, and Officer Hibbert made contact with Officers Rose and Camacho. Officers Rose, Camacho, and Hibbert agreed upon a tactical plan and approached Decedent's apartment. Officer Hibbert was assigned to less-lethal coverage and deployed his Taser.

Officer Rose knocked on the door several times and announced "Metro Police." After several attempts at contact with no response from within the apartment, the officers decided to try calling Decedent on the phone. Before they were able to do so, officers heard Decedent yell at them from within the apartment. Shortly thereafter, Decedent partially opened the door and pointed a kitchen knife at the officers.

Decedent then opened the door further and took an aggressive stance as he held the knife in his right hand. Decedent ignored the officers' commands and focused his attention on Officers Rose and Camacho, who were to the right of Officer Hibbert.

Decedent ignored the officers' commands and moved toward Officers Rose and Camacho. Officer Hibbert fired his Taser at Decedent as Officers Rose and Camacho discharged their firearms. Decedent fell to the ground and Officer Hibbert broadcast "shots fired" over the radio. Officer Hibbert separated the knife from Decedent's hand as Officers Rose and Camacho cleared the apartment.

Sergeant William Wilson

On March 29, 2018, at approximately 3:31 p.m., Detective Breck Hodson conducted an audio-recorded interview with Sergeant Wilson, who relayed the following:

Sergeant Wilson was on another call when he heard a domestic violence call come out over the radio. LVMPD Dispatch indicated that the suspect was armed with a knife and upgraded the call. Sergeant Wilson immediately left the call he was on and responded.

Upon his arrival, Sergeant Wilson met with Officers Rose and Camacho, who had already met with N.W. Sergeant Wilson learned that the suspect was armed with a knife and made threats to harm himself and attack the police if N.W. called 911. Officers Rose and Hibbert

devised a plan to contact the suspect. Sergeant Wilson went over the officer assignments prior to the officers attempting to make contact with the suspect.

Officer Rose knocked on the door several times and asked Decedent to come to the door. Decedent eventually opened the door holding a large knife in his right hand. Sergeant Wilson observed blood trickling down one of Decedent's arms. Decedent raised the knife and moved toward Officers Rose and Camacho. Sergeant Wilson heard the popping sound of a Taser and gunshots being fired simultaneously.

After the shooting, officers removed the knife from Decedent's hand, and cleared the apartment. Sergeant Wilson instructed the officers to holster their weapons and secure the scene as they waited for medical personnel to arrive.

BODY-WORN CAMERAS

Several officers who were on the scene were equipped with body-worn cameras (hereinafter "BWC") which were activated at the time of the incident. The footage captured on the BWC's worn by Officers Rose, Camacho, and Hibbert provided the most detailed footage. The BWC footage depicts the following:

Officers Rose and Camacho arrive at the apartment complex in a marked LVMPD patrol vehicle. Officers Rose and Camacho park near Building #3 and exit their patrol vehicle. Officers Rose and Camacho proceed up the stairs of Building #3, where they make contact with N.W. In broken English, N.W. tells the officers that Decedent battered her in the face and is armed with a knife.

Officer Camacho has a two-minute conversation with N.W. in Spanish, and periodically conveys information to Officer Rose in English. Officer Camacho conveys to Officer Rose that Decedent told N.W. that if the cops come, he is going to hurt himself or the cops. N.W. indicates the last time she called police on Decedent, Decedent told her that if she called the police again, he was going to kill the police or kill himself.

Sergeant Wilson arrives, followed by Officer Hibbert, and both make contact with Officers Rose and Camacho, who are still talking to N.W. N.W. says in English that Decedent is going to kill himself. N.W. then says, "Please don't kill him guys," and Sergeant Wilson responds, "Trust me, that's the last thing we want to do."

Sergeant Wilson confirms the tactical plan with Officers Rose and Hibbert. Officer Hibbert is assigned to less-lethal coverage and deploys his Taser, while Officer Rose is assigned lethal coverage with his handgun. The officers approach apartment #3310 and Officer Rose knocks on the door several times. Officer Rose announces himself as a police officer and asks Decedent to come to the door, using Decedent's first name.

After knocking on the door a fourth time, Decedent yells from inside the apartment, "I'm coming out!" Decedent then cracks the door open. Officer Rose orders Decedent to show his hands, and Decedent yells, "Want to see my hands?" twice. Decedent holds a large knife to

his own throat using his left hand while standing in the doorway. Decedent opens the door further and yells, "Fuck you!" as he begins to exit the apartment.

As Decedent exits the apartment, he transitions the knife from his left hand to his right hand. Officers Rose and Camacho order Decedent to drop his knife. Decedent then raises the knife and lunges toward Officers Rose and Camacho as Decedent yells, "What are you going to do?!" Decedent's attention appears to be focused on Officers Rose and Camacho, who are approximately five to eight feet away from him.

Officer Hibbert's BWC showing positions of Officers Rose (right, foreground) and Camacho (right, background) when Decedent lunges at them with the knife



When Decedent lunges at Officers Rose and Camacho with the knife, the officers discharge their firearms multiple times. Officer Hibbert simultaneously fires his Taser. Decedent falls to the ground with the knife still in his hand. Decedent stops moving and appears to be deceased.

Officer Camacho tells Officer Rose that Decedent appears to be deceased and still has the knife in his hand. Officers Rose and Camacho step over Decedent and clear the apartment. Officer Hibbert clears the knife from Decedent's hand and places it on the ground inside the apartment.

Officers call out over their radios that shots have been fired, and request medical personnel. Multiple LVMPD units, as well as medical personnel, arrive on scene. Decedent is pronounced dead on scene.

Officer Rose's BWC showing Officer Rose's perspective of Decedent as he lunges at them with the knife



The BWC footage confirmed the officers' positions and perspectives at the time shots were fired. The entire contact (from the time Officer Rose knocks on the door the first time to when Decedent lunges with the knife and shots are fired) lasted four minutes and sixteen seconds.

AUTOPSY

Medical Examiner Dr. Leonardo Roquero of the Clark County Coroner's Office conducted an autopsy on Decedent. M.E. Roquero concluded Decedent's cause of death was multiple gunshot wounds.

The toxicology results indicated Decedent had Alprazolam in his system at a concentration of 100ng/mL. Alprazolam is a short-acting benzodiazepine – a minor tranquilizer – that depresses the central nervous system. It is used to treat anxiety and panic disorders. Therapeutic ranges vary depending on dosage and tolerance.

OFFICER WEAPON COUNTDOWNS



Officer Camacho (9mm Glock 17)

BWC depicted Officer Camacho conducting a tactical reload after discharging his firearm. At the completion of the countdown, it was determined Officer Camacho discharged his firearm eight times during this incident.



Officer Rose (9mm Sig Sauer P320)

At the completion of the countdown, it was determined Officer Rose discharged his firearm four times during this incident.

FIREARM EXAMINATIONS

On April 16, 2018, a LVMPD Forensic Laboratory Request was submitted on the firearms of Officers Rose and Camacho for function testing and ballistic comparisons.

On May 18, 2018, Forensic Scientist Roy Wilcox submitted the Report of Examination: Firearms & Toolmarks.

Officer Camacho's Glock pistol was examined, test fired and found to be operational with no noted malfunctions. The submitted magazine had a capacity of seventeen (17) cartridges.

Officer Rose's Sig Sauer pistol was examined, test fired and found to be operational with no noted malfunctions. The submitted magazine had a capacity of twenty-one (21) cartridges.

All twelve evidence cartridge cases recovered underneath apartment #3310 were microscopically compared to the test fired cartridge cases from the Glock and Sig Sauer pistols. Based on these microscopic comparisons, eight evidence cartridge cases were identified as having been fired by Officer Camacho's Glock pistol, and four evidence cartridge cases were identified as having been fired by Officer Rose's Sig Sauer pistol.

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 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.

¹ NRS 200.120(3)(a) defines a crime of violence:

"Crime of violence" means any felony for which there is a substantial risk that force or violence may be used against the person or property of another in the commission of the felony.

The killing 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 Officers Rose, Camacho, Hibbert, and Sergeant Wilson. Prior to officers' arrival, they were informed that Decedent had battered his girlfriend and was armed with a knife. Upon their arrival on scene, officers were advised by N.W. that Decedent was inside apartment #3310 armed with a knife. Officers were also advised by N.W. that Decedent had threatened to hurt or kill himself if she called police, and that if police responded, he would hurt or kill police. Not only did Officers Rose and Camacho have this information, but this information was conveyed to the other officers arriving on scene.

When Officers Rose, Camacho, Hibbert, and Sergeant Wilson made contact with Decedent, he had a large knife in his hand and yelled obscenities at them. Decedent failed to comply with officers' commands to exit the apartment, show his hands, and drop the knife. Due to the location of the apartment, Officers Rose, Camacho, and Hibbert were in close proximity to Decedent, and well within closing distance should Decedent attempt to stab them. In addition, the layout of the walkway and stairwell placed the officers in vulnerable positions had Decedent been able to close the distance between himself and officers. Decedent was ordered to drop the knife, and refused to comply. Decedent then lunged at Officers Rose and Camacho with the knife. It was then that Officers Rose and Camacho fired upon Decedent.

Thus, the totality of the evidence, to include BWC video and witness statements, illustrate that Officers Rose and Camacho were reasonable in believing that Decedent would cause great bodily harm or death to themselves or others. Officers Rose and Camacho were confronted with the appearance of imminent danger and they each had an honest belief and fear that they themselves, along with their fellow officers, were about to be killed or suffer great bodily injury at the hands of the Decedent. The evidence further illustrates that Officers Rose and Camacho acted reasonably in reaction to the apparent and actual danger posed by the situation and the Decedent. Here, Officers Rose and Camacho reasonably acted in self-defense and 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 Officers Rose and Camacho had probable cause to believe that Decedent posed a threat of serious physical harm to themselves and their fellow officers. Officers Rose and Camacho were aware that Decedent had threatened to hurt officers if they responded. When Decedent opened the door to his apartment, he was brandishing a large knife. Decedent refused to comply with officers' lawful orders to show his hands and drop the knife. Although officers were within closing distance of the armed Decedent, Officers Rose and Camacho did not shoot Decedent until Decedent raised his weapon and lunged at Officers Rose and Camacho. At that point, Officers Rose and Camacho each had a reasonable belief that Decedent could cause serious physical harm to themselves or their fellow officers. Thus, the use of deadly force by Officers Rose and Camacho was legally justified and appropriate under NRS 200.140(2).

CONCLUSION

Based on the review of the available materials and application of Nevada law to the known facts and circumstances, we conclude that the actions of Officers Rose and Camacho 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 Officers Rose or Camacho.