



# **REPORT ON USE OF FORCE**

## **Legal Analysis Surrounding the Shooting of Phillip Murry on January 3, 2017**

### **INTRODUCTION**

The Clark County District Attorney's Office has completed its review of the January 3, 2017, shooting of Phillip Murry by North Las Vegas Police Department ("NLVPD") Sergeant Michael Booker. Mr. Murry, while sitting in the driver's seat of his Toyota automobile, was shot as his car approached Sgt. Booker who was part of a perimeter containment on a residential street. It has been determined that, based upon the evidence currently available and subject to the discovery of any new or additional evidence, the actions of Sgt. Booker were not criminal in nature. This review is based upon all the evidence currently available.

This report explains why criminal charges will not be forthcoming against Sgt. Booker. It is not intended to recount every detail, answer every question, or resolve every factual conflict regarding this police encounter. This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of the officer was not criminal. This decision, premised upon criminal-law standards, is not meant to limit any administrative action by the NLVPD or to suggest the existence or non-existence of civil actions by any person, where less stringent laws and burdens of proof apply.

### **OVERVIEW**

On January 2, 2017, at approximately 11:30 p.m., the North Las Vegas Police Department Special Weapons and Tactics ("SWAT") team was activated due to a barricaded suspect at 2237 Statz, North Las Vegas, Nevada. Upon SWAT's arrival, they were informed that a female made it out of the residence; however, there was a Hispanic male suspect still inside with two children. SWAT also was advised that a neighbor had recently seen the Hispanic male with a firearm, and he was known to carry firearms. Additionally, the barricaded suspect reportedly had family who lived on the street.

At about 11:53 p.m., the NLVPD Immediate Action Team (“IAT”) was set up on the front side of the residence. The rear containment team was set up at 2240 Ellis Street, which was to the rear of the target address. Sergeant Michael Booker was assigned as the driver of Bearcat<sup>1</sup> 2, which was part of the rear containment. Bearcat 2 was facing south and parked in the middle of the street.

A little after 12:00 a.m. on January 3, 2017, Sgt. M. Booker<sup>2</sup> was sitting inside the Bearcat with his emergency lights activated. Sgt. Booker noticed a vehicle stop just south of 2240 Ellis. He continued to watch the vehicle and did not see anyone exit, nor did hear any movement inside. Initially, he thought perhaps the vehicle was picking up someone, but, as time passed, he suspected someone was trying to determine where the SWAT officers were located. Eventually, the vehicle began to creep forward.

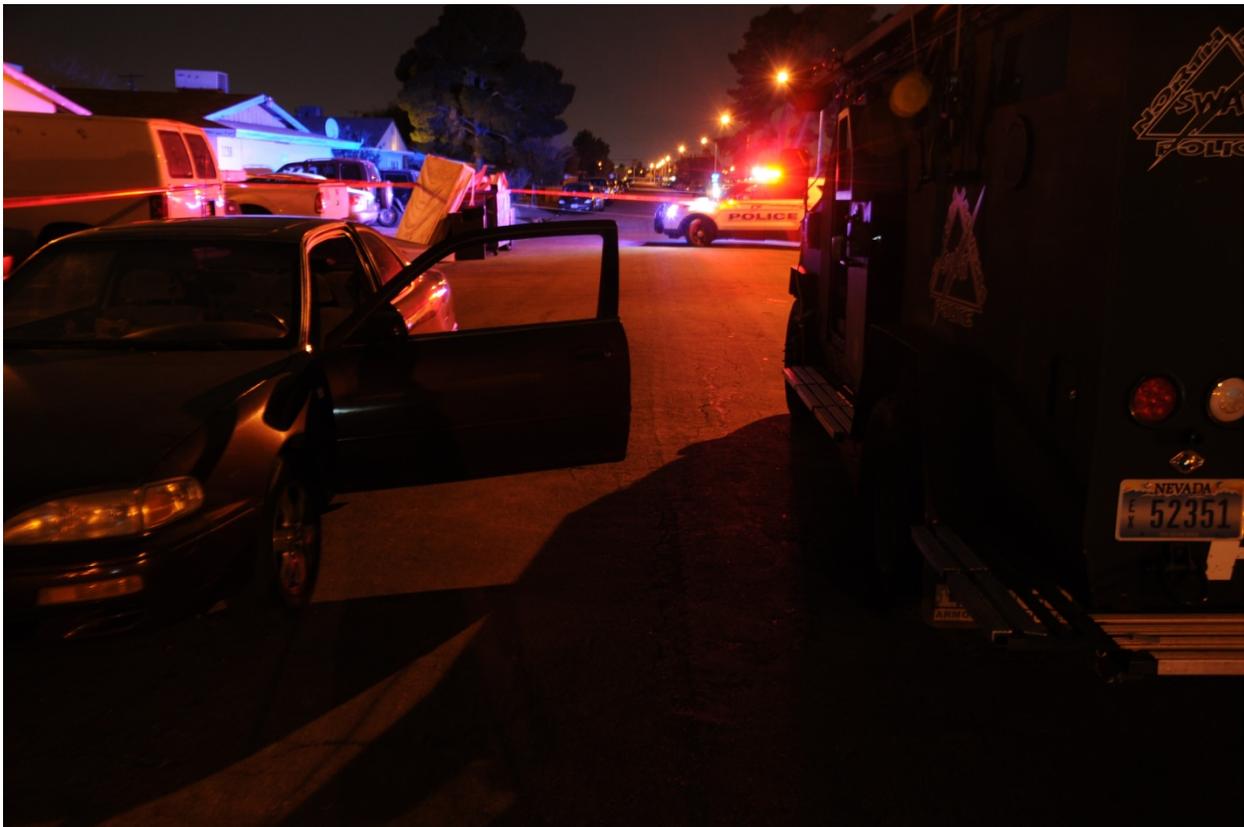


Figure 1: Sgt. Booker's Bearcat and Phillip Murry's Toyota parked on Ellis.

Sgt. Booker exited the Bearcat and stood between it and the east curb. According to Sgt. Booker, he motioned for the driver (later determined to be Phillip Murry) to turn the vehicle around; however, the driver did not comply. The car continued to move forward at which point Sgt. Booker commanded the driver, “Stop!” Sgt. Booker drew his weapon -- a Glock model 17, 9mm with a Streamlight TLR-1 tactical light -- had it in the low ready

---

<sup>1</sup> A Bearcat is an armored personnel vehicle designed for military and law enforcement use.

<sup>2</sup> This information was gleaned from a voluntary statement given by Sgt. Booker to NLVPD Detective Mark Suranowitz on January 11, 2017.

position, and stepped to the side while ordering the driver to stop. Sgt. Booker began to raise his gun in case the driver posed a threat. As the vehicle began to pass him, Sgt. Booker attempted to activate the tactical light that was mounted on the firearm. The light had a push button on the grip of the gun. As he attempted to activate the light, Sgt. Booker accidentally discharged the weapon. The round entered the front fender on the driver's side of the Toyota, just ahead of the door, and grazed Phillip Murry's right foot.



Figure 2: The footwell area of Murry's Toyota wear the round struck Murry's foot, and the fender where the round entered.

## **INTERVIEW OF NLVPD SWAT OFFICERS**

Officers Robert Knickerbocker and Kristen Bishop were part of rear containment for the original barricaded suspect call prior to being relieved by SWAT Officers Peter Nelson and Christopher Coloma. After relieving them, Officer Coloma requested that Officers Knickerbocker and Bishop find a way to turn off an exterior light attached to 2240 Ellis because it was backlighting their position. Officer Knickerbocker approached Bearcat 2, occupied by Sgt. Booker, and removed the ladder from its roof. Sgt. Booker was seated in the driver's seat. As Officer Knickerbocker removed the ladder, he noticed the Bearcats' emergency lights activate. Once he had the ladder, Knickerbocker and Officer Bishop returned to 2240 Ellis and began setting up the ladder. At that time, he heard a loud bang which sounded like a gunshot.

Officers Knickerbocker, Bishop and Nelson ran west toward the direction of the gunshot. When they arrived, they saw Sgt. Booker standing on the street between the Bearcat and a maroon colored vehicle with his firearm pointed at the driver, Phillip Murry, who was the only occupant of the maroon vehicle. According to Officer Nelson, Sgt. Booker stated, "He's reaching. He's reaching." Sgt. Booker directed the other officers to remove the sole occupant of the vehicle, Murry, whose hands were hanging out of the window and stating, "I'm not reaching, I'm not reaching." Murry was removed from the vehicle and placed in handcuffs. Officer Knickerbocker noticed a cartridge case near the left rear tire and then saw that Murry was bleeding from his right foot. That cartridge case subsequently was impounded by a Crime Scene Analyst.

## INTERVIEW OF PHILLIP MURRY

Murry was transported to the hospital for medical treatment. Officer Knickerbocker accompanied him and was informed by the treating physician that the bullet grazed Murry's foot. Murry, who was interviewed by detective Mark Suranowitz, relayed that he resided at 2519 Ellis and was driving home at the time of the incident. According to Murry, he noticed the Bearcat parked in the middle of the street but did not recognize it as a SWAT vehicle. Murry continued to drive slowly forward and saw the emergency lights activate. He was in front of the Bearcat at that point, and he stopped on the side of the street once he saw the lights activate. Murry waited, did not hear any directions so began to slowly creep forward in his vehicle. Once his Toyota was almost directly beside the SWAT vehicle, Murry saw the driver's side door of the Bearcat open. Murry stopped because he thought the person was going to ask him something or give him directions. All Murry heard was, "Hey!" He then heard a gunshot and felt something on his foot; therefore, he started to reach down toward his foot and "freaked out." When he began reaching, the SWAT officer screamed at him to stop reaching and demanded that he exit the car. Murry put his hands up and told him to relax. Other officers responded to the street, removed Murry from the vehicle and placed him into custody.



Figure 3: Murry's Toyota and the Bearcat 2 parked on Ellis.

## WEAPON COUNTDOWN

A countdown of Sgt. Booker's firearm revealed that only one round was fired, which was consistent with his statement and physical evidence on scene. The tactical light, a Streamlight TLR-1, also was tested, was functioning properly, and contained two actuators. The light could be activated with a directional toggle located at the end of the light facing the officer, or by a pressure switch attached to the grip of the pistol. The pressure switch, attached to the front of the pistol grip, could be activated by applying pressure with the middle finger of the strong side hand and was operating as designed.

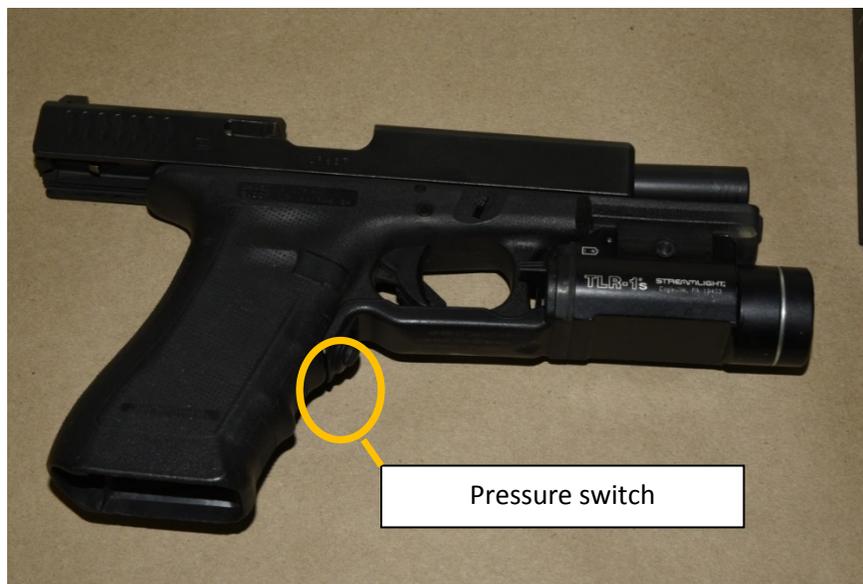


Figure 4: Sgt. Booker's weapon which depicts the tactical light and pressure switch.

## LEGAL ANALYSIS

Pursuant to NRS §194.010(7), all persons are liable to punishment unless the act was committed through "misfortune or by accident," and "it appears that there was no evil design, intention, or culpable negligence."

In the instant case, the information gathered during the course of the investigation, including the statements of Mr. Murry and Sgt. Booker, establishes that the shooting occurred by accident. Sgt. Booker explained that, as he attempted to activate the tactical light mounted on his gun, the weapon accidentally discharged. The physical evidence corroborates Sgt. Booker's explanation. The Streamlight TLR-1 light could in fact be activated by a pressure switch attached to the grip of the pistol.

Further, the location of the shot and trajectory of the round suggest the shooting was accidental. The round entered the front fender of the Toyota, just ahead of the door, traveled through the footwell and grazed Phillip Murry's right foot. Officers are trained to use deadly force to eliminate an imminent threat of death or great bodily injury; in this

case, therefore, an *intentional* shot presumably would have gone through the windshield or driver's side window in order to eliminate a threat posed by the driver of the vehicle. The placement and trajectory of the shot belie the notion that this was an intentional shooting; the round entered the footwell area of Murry's automobile and did little, if anything, to incapacitate the driver.

Thus, the investigation and evidence gathered is entirely consistent with - - and corroborates - - Sgt. Booker's statement that he accidentally fired his weapon during the activation of his tactical light. Because the discharge of the weapon was accidental, Sgt. Booker cannot be held criminally liable, pursuant to NRS 194.010(7), for the shooting of Mr. Murry.

## **CONCLUSION**

Based on the review of the available materials and application of Nevada law to the known facts and circumstances, the State concludes that the actions of North Las Vegas Police Department SWAT Sgt. Michael Booker were accidental and, therefore, not criminal. 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.