

# REPORT ON USE OF FORCE



## Legal Analysis Surrounding the Death of Michael Allensworth on March 28, 2022

### INTRODUCTION

On March 28, 2022, a civilian (hereinafter "R.D.") called 911 to report a male, later identified as Michael Allensworth (hereinafter "Decedent"), was attempting to break into R.D.'s mobile home through both a window and the front door. Additionally, R.D. reported that Decedent was armed with a firearm and was pointing the weapon at him from outside the mobile home. R.D. felt he could not leave his residence for fear of being shot by Decedent.

Las Vegas Metropolitan Police Department (hereinafter "LVMPD") officers responded to the Riviera Mobile Home Park, located at 2058 Palm Street, Las Vegas, Nevada. There, officers waited outside the complex to devise a plan of entry. Ultimately, officers decided to enter the complex in two vehicles and walk to the subject trailer, unit #277. As officers approached unit #277, they saw R.D. waving at them from inside the trailer. Officers asked R.D. to come outside. Officers then entered the home to do a safety sweep of the property. While inside, Sergeant Gallup saw Decedent, armed with a firearm, outside of unit #277. Sergeant Gallup immediately drew his weapon and notified his fellow officers that Decedent was present and armed. Officers positioned themselves to best keep eyes on Decedent while still protecting themselves from being shot. Officers gave continual verbal commands for Decedent to drop his weapon.

Officers exited the residence and repositioned themselves around the trailer. Officers continued to verbally engage Decedent, encouraging him to drop his weapon. Instead,

Decedent pointed the firearm at his own head. Decedent told officers, “I don’t like cops,” “I want to kill a cop today,” and “I don’t like dogs.”

Decedent advanced toward officers. Sergeant Gallup instructed the officers to continue to attempt to de-escalate the situation. As Decedent moved, officer repositioned themselves and took cover behind a blue sedan. Decedent then raised his gun and pointed it at officers. In response, Officers Cooley, Villarreal and Cole fired their guns at Decedent, shooting him in the process. Decedent was transported to University Medical Center where he was pronounced deceased.

The Clark County District Attorney’s Office has completed its review of the March 28, 2022, 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 Officers Cooley, Villarreal and Cole were not criminal in nature.

This report explains why criminal charges will not be forthcoming against the officers 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 December 13, 2022. This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of Officers Cooley, Villarreal and Cole were 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 2058 Palm Street, Las Vegas, Nevada**

The below timeline is based upon Computer Aided Dispatch (hereinafter “CAD”) records and provides a reconstruction of events which transpired on March 28, 2022, in relation to the fatal officer-involved shooting (hereinafter “OIS”) that occurred at 2058 Palm Street, Las Vegas, Nevada.

<b>Time (hours)</b>	<b>Description of Event/Action</b>
5:22 pm	R.D. called 911 to report a male (Decedent) armed with a gun, attempted to break into his residence.
5:24 pm	The event was updated that Decedent pointed the gun at R.D..
5:26 pm	LVMPD dispatch advised R.D. to leave his residence, but he did not because he feared Decedent would shoot him.

<b>Time (hours)</b>	<b>Description of Event/Action</b>
5:30 pm	The first LVMPD officer arrived and broadcasted he was waiting at the entrance of the complex for additional units.
5:37 pm	Officers arrived at R.D.'s residence.
5:43 pm	Officers cleared R.D.'s residence.
5:45 pm	A Code Red was initiated as Decedent put his gun to his head.
5:53 pm	Officers exited the residence and evacuated adjacent residences.
6:08 pm	Decedent waved his firearm around.
6:13 pm	Shots fired broadcasted.

At approximately 5:26 p.m. on March 28, 2022, officers were dispatched to 2058 Palm Street, Las Vegas, Nevada, reference a home invasion. The following section details the events and actions of officers responding to the address. The Clark County District Attorney's Office (hereinafter "CCDA") has reviewed all police reports, statements, and Crime Scene Analyst (hereinafter "CSA") reports submitted by LVMPD. This section highlights the statements of the pertinent witness officers involved in the use of force resulting in Decedent's death.

## **WITNESS OFFICER STATEMENTS**

### **Sergeant Gallup**

On March 28, 2022, Sergeant Gallup was dispatched to 2038 Palm Street, Las Vegas, Nevada, reference an armed suspect attempting to break into a mobile home. While en route, dispatch updated that the suspect had made entry and was pointing a firearm at R.D.. Sergeant Gallup then learned that the suspect had left the mobile home.

Upon arrival, Sergeant Gallup noted five officers were present outside the mobile home park. Sergeant Gallup decided to move the officers into the mobile home complex in two cars, with two officers in one car and three officers in his car. Once inside the complex, both vehicles parked north of the target residence and approached on foot. As Sergeant Gallup walked up to the subject mobile home, he saw a male inside of the mobile home waving at officers.

Sergeant Gallup asked the male to exit the home. He and the officers then entered the home to clear the property and ensure no one else was inside. After being inside for approximately 20 seconds, Decedent came around the corner of a neighboring mobile home. Sergeant Gallup immediately noticed Decedent was armed with a gun. He drew his firearm in response. He then notified the other officers of Decedent's location. Sergeant Gallup described his backdrop as "terrible," noting it was made up of several trailers and he did not know if they were occupied. Additionally, he was immediately concerned that the trailer did not provide protection for the officers currently inside.

Officer Donegan, who was inside the mobile home, was able to open a window and take over verbal communication with Decedent. Sergeant Gallup ordered the other officers to position themselves both inside and outside of the mobile home to maintain visual contact with Decedent. Sergeant Gallup and his officers then exited the mobile home and divided into three teams to triangulate the containment of Decedent. Officers Cooley, Villarreal and Cole stayed with Sergeant Gallup and continued to attempt to maintain a dialog with Decedent.

During discussions, Decedent moved the firearm over his head and into a low ready firing position. Sergeant Gallup noted the three following comments made by Decedent, "I don't like cops," "I want to kill a cop today," and "I don't like dogs." While a K9 officer was on scene, Sergeant Gallup decided the dog would not be a good tactic option at that time because there were not enough resources available to deploy a low lethal platform.

While Sergeant Gallup was determining the best course of action, Decedent started to advance toward the action team. Sergeant Gallup instructed the officers to de-escalate the situation if Decedent pointed the firearm at them. Because Decedent continued to advance on the officers, Sergeant Gallup moved the team behind a blue sedan. Sergeant Gallup noticed R.D. was in the direct line of sight of Decedent, so he instructed officers to move R.D. out of the area.

As Sergeant Gallup gave the officers instructions, he heard several rounds fired. Sergeant Gallup moved the action team toward Decedent, where he was taken into custody and given medical aid.

## **Officer Zendejas**

On March 28, 2022, Officer Zendejas was on his way to recover a stolen vehicle when he heard a call over his radio regarding an armed suspect attempting to break into a trailer at 2038 Palm Street, Las Vegas, Nevada. Officer Zendejas responded to the call. Upon arriving at the scene, Officer Zendejas met with Sergeant Gallup and other officers at the front entrance to the mobile home park. From there, officers drove to the subject trailer, #277, in two separate vehicles. They parked a few trailers before #277 and walked toward the scene. As officers approached #277, Officer Zendejas saw R.D. waving them down.

Sergeant Gallup contacted R.D. and asked him to step outside his trailer. Once R.D. was outside, Officer Zendejas and other officers entered and cleared the trailer to ensure no one was inside. R.D. then informed Officer Zendejas that the person trying to enter his home was a 5'8 to 5'9, 180 to 195 pound, 35- to 40-year-old white male adult, wearing all black clothing. R.D. also informed Officer Zendejas that the suspect had opened one of the windows to his trailer, snatched and removed the blinds to the window and then pointed a black firearm at him. While talking with R.D., Officer Zendejas heard yelling

coming from the other side of the trailer, to include officers shouting verbal commands. Officer Zendejas asked R.D. to wait across the street until officers secured the area.

Officer Zendejas then ran around to the rear of the trailer where he could see Decedent, who was armed and matched the description R.D. had given him. Officer Zendejas immediately moved locations as he believed he may have been in the line of fire from the other officers. He then heard Sergeant Gallup ask for an officer with a rifle, at which point he went to his vehicle to retrieve his rifle. He, along with three other officers, then positioned themselves on the east side of the trailer. Officer Zendejas heard approximately 6 to 10 gunshots. He was unable to observe who shot their firearms. He then heard on his radio that officers were taking Decedent into custody. Officer Kyle took a medical kit from Officer Zendejas and ran to Decedent to perform life saving measures.

## **Officer Scheeler**

On March 28, 2022, Officer Scheeler was working patrol in the Downtown Area Command when he heard his sergeant request a "Code Red" over the radio. Officer Scheeler immediately responded to 2038 Palm Street, Las Vegas, Nevada. Upon arrival, Officer Scheeler met with officers and learned a primary action team - tasked with contacting Decedent - had been formed. To assist, Officer Scheeler formed a secondary action team east of the suspect.

Once the officers were in place, Officer Scheeler observed Decedent pacing back and forth between the trailers with a firearm in his right hand. Decedent had his finger on the trigger and was repeatedly pulling back and then releasing the hammer. He was also readjusting his grip on the firearm. Officer Scheeler stated that when a K9 unit arrived, Decedent appeared more anxious and said, "Don't send the dogs, don't send the dogs." Officers gave continual commands for Decedent to put the firearm down, but he refused to comply. Due to Decedent refusing to comply with the commands, officers evacuated residents from their homes.

Officer Scheeler lost sight of Decedent and moved to a location where he could see Decedent's movements. Decedent continued to disregard the commands being given by the primary action team. Officer Scheeler then observed Decedent raise the firearm and point it in the direction of the primary action team. Officer Scheeler could not see the officers, but he knew they were standing exactly where Decedent was aiming his weapon. Officer Scheeler believed Decedent was going to shoot the officers. Officer Scheeler heard shots fired and observed Decedent go to the ground. Officers then provided Decedent with aid, until he was taken by medical personnel.

## **Officer Donegan**

On March 28, 2022, Officer Donegan heard a high priority call broadcast over the radio, reference an armed suspect that had entered a trailer and threatened the occupant. Officer Donegan responded to the location, where he met Sergeant Gallup and other officers at the front of the mobile home complex. A plan was devised that involved officers driving into the complex, parking, and walking to the subject trailer. Upon arriving at the trailer, Officer Donegan and other officers contacted R.D.. Officer Donegan and three other officers then cleared R.D.'s trailer to ensure officer and mobile home complex safety. As he and the officers were clearing the trailer, he heard Sergeant Gallup giving verbal commands and advising that Decedent had a gun. To see where Decedent was, Officer Donegan removed blinds from a window. He was then able to observe Decedent using his right hand to hold a black firearm to his own head. He then moved the firearm from his head area and then held it down on his right side. Officer Donegan exited the trailer and positioned himself east of the trailer.

From this new location, Officer Donegan could briefly see Decedent; however, he eventually moved and Officer Donegan lost sight of him. Officer Donegan then heard an unknown number of gunshots being fired. Officer Donegan was unable to see who fired their weapons. Officer Donegan then heard Decedent had been taken into custody.

## **Officer Byers**

On March 28, 2022, Officer Byers was dispatched to an armed burglary in progress at 2058 Palm Street, Las Vegas, Nevada. As Officer Byers arrived at the location, dispatch updated the event that the male with a gun had left the residence. Upon arrival, Officer Byers waited at the entrance of the mobile home park for additional officers. Once additional officers had arrived, the group responded to the area of unit #277 where the male with the gun had last been seen. There, R.D. exited his trailer and spoke with the officers.

Officer Byers, along with other officers, assisted with clearing the trailer. While inside, Officer Byers heard his sergeant yell "Gun, gun, gun!" Officer Byers looked outside and observed Decedent holding a firearm. Officer Byers watched as Decedent placed his gun to his own head. Officer Byers stated the officers were trapped inside of the trailer as the front door was directly next to Decedent. Officer Byers maintained a visual on Decedent and saw he had his finger on the trigger of his weapon. Officer Byers saw a blank stare in Decedent's eyes which caused Officer Byers to believe Decedent may possibly attempt to shoot him.

Officers were eventually able to retreat from the trailer by using another door. Officer Byers joined an action team on the southwest side of the trailers to keep containment on Decedent. Officer Byers assisted with evacuations as a separate group of officers gave

verbal commands to Decedent to drop his weapon. Officer Byers then heard gunshots but did not see the Decedent or the officers when the shots were fired.

## **PUBLIC SAFETY STATEMENT FROM INVOLVED OFFICERS**

### **Officer Cole**

On March 28, 2022, at approximately 9:18 pm, Detective Ubbens interviewed Sergeant Gallup in reference to the Public Safety Statement (PSS) he obtained from Officer Cole.

*AU: Operator, this is Detective A. Ubbens P# 13119, with the Force Investigation Team today is March 28, 2022, at 2115 hours. Conducting a public safety statement interview with Sgt. Brad Gallup, P# 8729. Under event # LLV220300117041. Sgt Gallup's call sign is 778. Date of hire June 27, 2005. Assigned to Downtown Area Command. Normal hours, 1500 to 0100 with Tuesday, Wednesday Thursday off. And vehicle number tonight is 18061. Also present for this interview is PMA--PMSA representative Sgt. Krumme and NDI investigator Jeremiah Tenant P# I568. OK Sgt. Gallup, did you do a public safety statement with Officer Cole?*

*BG: Yes, I did.*

*AU: And do you recall the date and time that you did that PSS?*

*BG: March 28, 2022, at 1828 hours.*

*AU: And can you please uhh, tell me what you asked Officer Cole and what his responses were?*

*BG: Yes. The first question was did you discharge your firearm? His reply was yes. If so, in what direction? His response was south. Approximately where were you located when you fired? His response was to the right of Officer Villarreal and Officer Cooley. How many shots do you think you fired? His response was approximately 3 rounds. Is anyone injured? His response was I'm not. The third question are there any outstanding suspects? He said he was not aware. The fourth question is it possible the suspect fired rounds at you? He said it was possible. If so what direction were the rounds fired from? He said from the South to the North. How many shots do you think the suspects fired? His response was maybe one. Approximately where was the suspect located when they fired? His response was directly in front of the northwest side of the nearest unit that he was facing. The fifth question, do you know if any other officers discharged their firearms? His response, yes. If so, who are they? His response, Officer Villarreal and Officer and Beau Cooley. Approximately where were the officers located when they fired? His response was to my left and then he described it went, Cooley, then Officer Villarreal then himself, Officer Cole, and that they were left of the sedan. Question*

*six, are there any weapons or evidence that needs to be secured and protected? Yes, the suspect's firearm is his response. If so, where are they located? And his response was where the suspect is at. Are- Seventh question, are you aware of any witnesses? His response was no.*

*AU: And those are all the questions?*

*BG: Correct.*

*AU: Anything else?*

*TK: Nothing.*

*AU: Time is 2118 hours.*

## **Officer Cooley**

On March 28, 2022, at approximately 9:21 pm, Detective Ubbens interviewed Sergeant Gallup in reference to the PSS he obtained from Officer Cooley.

*AU: Operator, this is Detective A. Ubbens P# 13119, with the Force Investigation Team today is March 28, 2022, at 2118 hours. Conducting a PSS interview with Sgt. Brad Gallup, P# 8729. Under LVMPD event #220300117041. Sgt Gallup's call sign is 778. He was hired in June 27, 2005. Assigned to Downtown Area Command. Normal hours, 1500 to 0100 with Tuesday, Wednesday Thursday off. And vehicle number tonight 18061. Also present for this interview is PMSA representative Sgt. Krumme and NDI investigator Tenant P# 1568. OK Sgt. Gallup, did you do a public safety statement with Officer Cooley?*

*BG: Yes I did.*

*AU: And can you recall the date and time that you did that PSS?*

*BG: March 28, 2022, at 1835 hours.*

*AU: And can you please tell me what you asked him and what his responses were?*

*BG: Yes I can. The first question was did you discharge your firearm? His response was yes. If so, in what direction? His response was south. Approximately where were you located when you fired? His response behind a blue vehicle. How many shots do you think you fired? His response 4. Is anyone injured? His response the suspect. If do where are they located? He said the hospital now but at the time of the shooting they were the west side of uhh, trailer 277. Question 3, are there any outstanding suspects? No. Question 4 is it possible the suspect fired rounds at you? His response yes. If so what direction were the rounds fired from? His response South to North. How many shots do you think the suspect fired? His response I don't know. Approximately where was the suspect located when they fired? His response on the west side of space 277. Question, do you know if any other officers discharged their firearms? His response, yes. If so, who are they? He said, his*

response was, Officer Cole and Officer Villarreal. Approximately where were the officers located when they fired? His response same location as me. Question six, are there any weapons or evidence that needs to be secured and protected? Yes, the suspect's weapon was his response. If so, where are they located? His response was west side of the trailer. Question 7, are you aware of any witnesses? His response no.

AU: And those are all the questions?

BG: Correct.

AU: Sgt Krumme you have anything?

TK: Nothing.

AU: Time is 2121 hours.

## **Officer Villareal**

On March 28, 2022, at approximately 9:15 pm, Detective Ubbens interviewed Sergeant Gallup in reference to the PSS he obtained from Officer Villarreal.

AU: Operator, this is Detective A. Ubbens P# 13119, with the Force Investigation Team conducting a public safety statement interview with Sgt. Gallup. Today is March 28, 2022. Sgt. Gallup's P# is 8729, his call sign is 778. He was hired June 27, 2005. He is assigned to Downtown Area Command. Normal hours, 1500 to 0100 with Tuesday, Wednesday Thursday off. And tonight he was in vehicle number 18061. Also present for the interview is PMSA representative Sgt. Krumme and NDI investigator Jeremiah Tenant P# 1568. OK Sgt. Gallup, did you do a public safety statement with Officer Villarreal?

BG: Yes I did.

AU: Do you remember the date and time that you did the public safety statement?

BG: March 28, 2022, at 1815 hours.

AU: And can you please tell me what you asked him and what his responses were?

BG: Yes. The first question was did you discharge your firearm? He replied yes. If so, in what direction? He replied south. Approximately where were you located when you fired? His response 20 yards from the suspect. How many shots do you think you fired? His response is 2. Second question is, is anyone injured? His response was yes. If so where were they located? His response, in the crime scene. Are there any outstanding suspects? His response, not known. The fourth question is it possible the suspect fired rounds at you? Yes. If so what direction were the rounds fired from? North. How many shots do you think the suspects fired? I don't know if he fired. Approximately was there—where was the suspect located when they fired? His response, in the dirt lot 20 yards south. The fifth question, do you know

*if any other officers discharged their firearms? His response, yes. If so, who are they? His response, John Cole, P# 18305 and Beau Cooley, he did not know his P#. Approximately where was the officers located when they fired? His response both to the right of himself. The sixth question, are there any weapons or evidence that needs to be secured and protected? His response yes. If so, where are they located? His response suspect's last known location. The seventh question, are you aware of any witnesses? Yes, and he asked if I meant officers and I said any witnesses. He thought officers were included so—if so what is their location he said with him, in reference to the officers that were with him.*

*AU: And those are all the questions?*

*BG: Those are all the questions.*

*AU: Anything else?*

*TK: Nothing.*

*AU: Time is 2115.*

## **CIVILIAN STATEMENTS**

As part of the investigation, officers interviewed one lay witness regarding the events of March 28, 2022. The following section details a summary of the witness.

### **R.D.**

At approximately 5:20 pm, on March 27, 2022, R.D. was in his mobile home when he saw Decedent – who was armed with a black revolver handgun - attempt to open the front door. R.D. recognized Decedent from the previous evening, when the two men had had an argument. After Decedent tried to open the front door, he opened a window and pointed the handgun at R.D.. Decedent then asked R.D. who he was. R.D. answered and asked Decedent why he was there. R.D. remained inside his mobile home and called 911. Decedent continued pointing the firearm at R.D. as he called for help. While R.D. was on the call, Decedent attempted to crawl through the window. He also tried to open the locked front door a second time. He then paced back and forth in front of R.D.'s mobile home.

Once officers arrived, they instructed R.D. to exit his home. R.D. did not see Decedent at that time but could hear officers instructing him to drop the gun. After approximately 40 minutes of officers coaxing Decedent to drop his weapon, R.D. heard gunshots from the officers. He could not see Decedent prior to the shots being fired.

## THE INCIDENT SCENE

The scene was located in the Riviera Mobile Home Park, located at 2038 Palm Street, Las Vegas, Nevada. The subject mobile home, unit #277, was in the middle of the mobile home park and was surrounded by other residential trailers.



Aerial overview of the OIS location.



Close-up aerial view of the OIS location.



Overview photo showing locations of officers, Decedent and bullet impacts.



Officers' locations at the time officers fired.



Impact locations of officers' shots.



Additional locations of officers' shots.



Decedent's location after shots were fired.



Officers' cartridge cases.

## **WEAPONS COUNTDOWNS**

On March 28, 2022, Officers Villarreal, Cooley and Cole had their duty weapons counted down at 2038 Palm Street, Las Vegas, Nevada, to determine the number of rounds each officer fired during the incident. Subject and witness officers were photographed by CSI personnel for appearance purposes, and their weapons were photographed for identification purposes.

### **Officer Villarreal**

Officer Villarreal's countdown occurred at approximately 10:49 pm. Officer Villarreal was dressed in a standard LVMPD long sleeve uniform. He wore LVMPD patches on each shoulder and an LVMPD badge over his left breast. Officer Villarreal wore a black duty belt with attached tools and equipment as part of his position in patrol. Officer Villarreal deployed his rifle during the incident. Prior to the countdown, Officer Villarreal stated he carried 28 cartridges in the magazine loaded in his rifle and no cartridge in the chamber (28+0, 28 total). At the completion of the countdown, it was determined Officer Villarreal discharged his rifle four times during this incident. When compared to evidence at the scene, detectives concluded Officer Villarreal discharged his rifle four times. Officer Villarreal's rifle, magazines used during the OIS, and cartridges were photographed and impounded by LVMPD Crime Scene Analysts (hereinafter "CSA").

## **Officer Cooley**

Officer Cooley's countdown occurred at approximately 11:11 pm. Officer Cooley was dressed in a standard LVMPD long sleeve uniform. He wore LVMPD patches on each shoulder and an LVMPD badge over his left breast. Officer Cooley wore a black duty belt with attached tools and equipment as part of his position in patrol. Officer Cooley's handgun was carried on the right side of his body and secured in a holster.

Prior to countdown Officer Cooley stated he carried 17 cartridges in the magazine loaded in his firearm and one cartridge in the chamber (17+1, 18 total). At the completion of the countdown, it was determined Officer Cooley discharged his firearm four times during this incident. When compared to evidence at the scene, detectives concluded Officer Cooley discharged his firearm four times. Officer Cooley's firearm, magazines used during the OIS, and cartridges were photographed and impounded by CSA.

## **Officer Cole**

Officer Cole's countdown occurred at approximately 11:18 pm. Officer Cole was dressed in a standard LVMPD long sleeve uniform. He wore LVMPD patches on each shoulder and an LVMPD black duty belt with attached tools and equipment as part of his position in patrol. Officer Cole's handgun was carried on the right side of his body and secured in a holster. Prior to countdown Officer Cole stated he carried 19 cartridges in the magazine loaded in his firearm and one cartridge in the chamber (19+1, 20 total). At the completion of the countdown, it was determined Officer Cole discharged his firearm three times during this incident. When compared to evidence at the scene, detectives concluded Officer Cole discharged his firearm three times. Officer Cole's firearm, magazines used during the OIS, and cartridges were photographed and impounded by CSA's.

## **DECEDENT'S WEAPONS**

Decedent was armed with a Model .314 revolver-style .22 caliber pistol with a 7-capacity cylinder. There were two cartridges in the cylinder. Decedent did not fire his weapon during the incident.



Decedent's pistol.

## **BODY WORN CAMERAS**

### **Sergeant Gallup**

Sergeant Gallup was wearing a Body Worn Camera (hereinafter "BWC") at the time of the incident, and the camera was activated. The camera was collected and secured by detectives. The video footage captured was later viewed by FIT detectives and depicted the following:

Sergeant Gallup responded to the front entrance of 2038 Palm Street, Las Vegas, Nevada, where a group of LVMPD officers were waiting. Sergeant Gallup briefed the officers that they would contact R.D. and clear his residence before attempting to locate Decedent. Sergeant Gallup and five officers utilized two vehicles to respond to R.D.'s residence.

Officers arrived in the area of R.D.'s residence and exited their vehicles. Sergeant Gallup assigned officers specific duties as part of the action team. Sergeant Gallup called R.D. out of his residence before the officers entered to clear the trailer. Sergeant Gallup stood

by the front door and waited as the officers cleared the residence. Decedent walked around the corner of the neighboring trailer and stopped while facing Sergeant Gallup. Sergeant Gallup immediately instructed Decedent to show his hands. Instead, Decedent held a gun in his right hand and pointed it at Sergeant Gallup. Sergeant Gallup backed into the trailer and announced Decedent had a gun.

Sergeant Gallup stepped back into the doorway with his gun drawn and commanded Decedent to drop his gun several times. Decedent then held the gun pointed at his own head as Sergeant Gallup continued urging him to drop his weapon.

Decedent stayed in the same general area for several minutes with his gun pointed to the ground. The officers remained in the residence as Sergeant Gallup attempted a conversation with Decedent who was mostly unresponsive. One of the officers opened a window to the residence and spoke to Decedent as Sergeant Gallup utilized his radio to set up containment with responding officers.

Officers exited the residence through the rear door of the residence. Decedent moved through the trailer park as officers followed. Officers told Decedent to drop his gun and told him they wanted to help him. Sergeant Gallup organized officers and assigned positions for them. Decedent ignored commands and advised the officers he did not like cops, and he felt like killing officers.

Decedent walked around the area ignoring officers. Sergeant Gallup positioned officers behind a vehicle for cover as they spoke to Decedent. Sergeant Gallup walked away from the officers to tell R.D. to move away when gunshots were heard.

Sergeant Gallup joined the officers as they approached Decedent. The officers walked toward Decedent who was on the ground with apparent trauma to his head. Officers placed handcuffs on Decedent as medical personnel responded.



BWC screenshot showing Decedent pointing his gun at Sergeant Gallup.

## Officer Cole

Officer Cole was wearing a BWC at the time of the incident and the camera was activated. The camera was collected by FIT detectives and secured. Officer Cole's camera footage depicted the following:

Officer Cole responded to 2038 Palm Street shortly after officers exited R.D.'s residence. Officer Cole joined a group of officers who were trying to establish a dialogue with Decedent. Officers continually advised Decedent to put his gun down. Decedent was heard telling officers he felt like killing a cop.

The majority of Officer Cole's captured video was blocked by a tactical shield, but audio was clearly heard. Officers told Decedent they do not want to hurt him, but he must put the gun down.

Officer Cole and the other officers followed Decedent as he moved through the trailer park. Officers took cover behind a vehicle as Decedent stood in front of them with his gun at his side. Officers were heard saying, "He's about to raise it." Ultimately, gunshots were heard.

Officer Cole approached Decedent with the tactical shield and Decedent was observed on the ground with apparent trauma to his head.



Left: BWC screenshot showing Decedent holding the gun in his right hand.

Right: BWC screenshot from a different angle showing Decedent with the gun in his right hand.

## **Officer Cooley**

Officer Cooley was wearing a BWC at the time of the incident and the camera was activated. The camera was collected by FIT detectives and secured. Officer Cooley's camera footage depicted the following:

Officer Cooley responded to 2038 Palm Street, Las Vegas, Nevada, where he met with other officers. Sergeant Gallup gave instructions to the officers and Officer Cooley travelled to R.D.'s residence in Sergeant Gallup's vehicle.

The officers approached R.D.'s residence on foot and contacted R.D. Officer Cooley spoke to R.D. who advised officers where he last saw Decedent. Officer Cooley and R.D. were behind R.D.'s residence when Sergeant Gallup was heard yelling, "He's got a gun."

Officer Cooley moved R.D. to a different location and moved to a position with Officer Zendejas where they were able to observe Decedent holding a gun.

The officers remained in that location for several minutes. Decedent eventually moved toward Officer Cooley's location as Officer Cooley instructed him to put his gun down. Other officers joined behind Officer Cooley.

Decedent was observed standing in front of Officer Cooley and holding a gun in his right hand. He told officers he felt like killing a cop, while ignoring numerous commands for him to put the gun down.

Decedent moved away from officers. Officers followed and continued commanding him to put the gun down. He then partially raised his gun several times in the direction of the officers.

Officers moved to a different location behind a vehicle. Officers announced that Decedent had a "firing grip." Officer Cooley stood on the left side of the vehicle while pleading with Decedent to put his gun down.

Decedent raised his gun and pointed it toward Officer Cooley. In response, Officer Cooley and the other officers fired their guns. Decedent fell to the ground. Officers approached Decedent who appeared to have trauma to his head. Officer Cooley then moved Decedent's gun away from his immediate area, placed handcuffs on Decedent, and placed him on his side while waiting for medical personnel.



BWC screenshot showing Decedent raising his firearm.

## **Officer Villareal**

Officer Villareal was wearing a BWC at the time of the incident and the camera was activated. The camera was collected by FIT detectives and secured. Officer Villareal's camera footage depicted the following:

Officer Villareal responded to 2038 Palm Street, Las Vegas, Nevada. Officer Villareal deployed his rifle and joined other officers who were actively engaged with Decedent. Decedent was observed walking in circles holding a gun in his right hand. Officer Villareal continuously told Decedent to drop the gun.

For several minutes, officers verbally engaged with Decedent who told officers he didn't like cops and he wanted to kill a cop. Decedent moved and the officers followed as they gave him commands to put his gun down. Officers then moved to a position behind a vehicle. Officer Villareal's camera view was obstructed. Officers announced that Decedent had a "firing grip." Gunshots were heard.

Officers were heard discussing how to approach Decedent. Officers approached but Villareal's camera was obstructed.

## **AUTOPSY OF DECEDENT**

On March 29, 2022, Dr. Benjamin Murie of the Clark County Coroner's Officer performed an autopsy on the body of Decedent. After a thorough review of facts and circumstances and a complete autopsy, Dr. Murie opined Decedent died as a result of gunshot wounds. The manner of death was homicide. Additionally, a toxicology test revealed Decedent was positive for Oxycodone, Oxymorphone, Amphetamine and Methamphetamine.

Methamphetamine is a stimulant known to cause aggressive behavior and irrational reactions in the user.

**Positive Findings:**

<u>Analyte</u>	<u>Result</u>	<u>Units</u>	<u>Matrix Source</u>
Caffeine	Presump Pos	mcg/mL	001 - Cavity Blood
Cotinine	Presump Pos	ng/mL	001 - Cavity Blood
Oxycodone - Free	140	ng/mL	001 - Cavity Blood
Oxymorphone - Free	3.5	ng/mL	001 - Cavity Blood
Amphetamine	280	ng/mL	001 - Cavity Blood
Methamphetamine	3400	ng/mL	001 - Cavity 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.

### **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 a civilian and multiple officers. Prior to the officers' arrival, Decedent armed himself with a firearm and attempted to break into R.D.'s home. When confronted by officers, he refused to comply with multiple commands as officers pleaded with Decedent to drop his weapon. Instead, Decedent pointed the firearm at his own head and told officers he wanted to kill them. Ultimately, Decedent pointed his weapon at multiple officers who were immediately confronted by an actual, imminent danger of being killed or suffering great bodily harm. Based on Decedent refusing to comply with commands to drop the weapon, and instead pointing the firearm at officers, Officers Cooley, Villarreal and Cole held an honest belief and fear that they were about to be killed or suffer great bodily injury. Based upon those appearances, fears and actual beliefs, Officers Cooley, Villarreal and Cole eventually shot Decedent, ending the threat; as such, Officers Cooley, Villarreal and Cole'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, Officers Cooley, Villarreal and Cole had probable cause to believe Decedent posed a threat of serious physical harm. While engaging in a safety sweep of a residence, Officers Cooley, Villarreal and Cole learned that Decedent was present and had armed himself with a firearm. During the incident, Decedent pointed his firearm at multiple officers and expressed his desire to kill an officer. These circumstances created probable cause to believe in the officers' mind that the Decedent posed a threat of serious physical harm. 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 officers, and unless new circumstances come to light which contradict the factual foundation upon which this decision is made, no charges will be forthcoming against Officers Cooley, Villarreal and Cole.