

REPORT ON USE OF FORCE

Legal Analysis Surrounding The Death of Travis Jay Doering On April 8, 2014



Introduction

On April 8, 2014, at 03:21 hours, Concerned Citizen 1 (hereinafter referred to as CC1) called 911 via his cellular phone to report that his roommate, Travis, later identified as Decedent Travis Doering (hereinafter referred to as Decedent), was possibly under the influence of drugs and having a psychotic breakdown. CC1 informed the Las Vegas Metropolitan Police Department's (LVMPD) 911 operator that Decedent was pacing between the dining room and bedroom of the residence armed with an assault rifle. CC1 informed the 911 operator that the Target Residence in question was located at 5689 Maceta Avenue, Las Vegas, Nevada.

CC1 left the home and contacted responding LVMPD officers. Sergeant Brad Carlson arrived and established a Command Post one block west of the Target Residence. Sergeant Carlson directed the first arriving officers to set up a perimeter where they would be able to view the front of the residence and relay real-time information to the Command Post. Officer David Walker, who is a Crisis Intervention Team (CIT) officer, was assigned to call Decedent on the phone in an attempt to encourage him to exit the residence unarmed. Other arriving officers were directed to establish a perimeter to the east and rear of the Target Residence.

Officers observed Decedent exit the residence multiple times with an assault-style rifle. SWAT was requested and responded to assist. SWAT Officer John Wiggins, a sniper, arrived and proceeded across the street from the Target Residence. SWAT Officer Wiggins came in contact with Officers Alex Gonzales and Joshua McEwen, who were posted behind a parked minivan at 5720 Maceta Avenue. SWAT Officer Wiggins then climbed up onto the roof of 5704 Maceta, concealing himself on a rooftop behind an air conditioning unit.

SWAT Officer Wiggins observed Decedent exit the residence with the rifle, place a magazine into the rifle, work the action on the rifle to chamber a round, and point the rifle in the direction of Officers Gonzalez and McEwen. SWAT Officer Wiggins feared that Decedent was going to shoot at Officers Gonzalez and McEwen. SWAT Officer Wiggins fired one round at Decedent to protect the officers and to stop the threat. Decedent died of one gunshot to the head.

The Clark County District Attorney's Office has completed its review of the April 8, 2014, death of Decedent Travis Doering. It has been determined that, based on the evidence currently available and subject to the discovery of any new or additional evidence, the actions of the officer 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 the officer involved. 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 June 10, 2015.

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 LVMPD or to suggest the existence or non-existence of civil actions by any person where less stringent laws and burdens of proof apply.

Decedent Travis Jay Doering

Decedent Travis Jay Doering was a 41-year-old male originally from Minnesota. He worked setting up music equipment for local musicians. He had no significant criminal history, and nothing in Decedent's recent life gives an explanation for his behavior when he confronted LVMPD officers on April 8, 2014. However, witnesses pointed out that Decedent was exhibiting bizarre behavior days prior to the shooting. Witnesses described Decedent storing and retrieving personal belongings from a public storm drain, staying up for days without sleeping, pacing constantly, and possibly using drugs.



Decedent Travis Jay Doering

Parents of Decedent Travis Jay Doering

The Clark County District Attorney's Office interviewed Decedent's parents. Decedent's mother was interviewed by telephone on January 30, 2015. She is a resident of Minnesota. She indicated that Decedent had struggled with drugs since attending high school. However, she believed that Decedent had been doing well recently and that Decedent's employer was pleased with

Decedent's work. She was not aware that Decedent was using narcotics, and she was surprised to hear that Decedent's second toxicology report revealed methamphetamine in his urine.

Decedent's father was interviewed by telephone on February 3, 2015. He is also a resident of Minnesota. He stated that Decedent purchased the Norinco SKS rifle at a Las Vegas gun show. He indicated that he did not approve of Decedent purchasing and being in possession of such a high-powered rifle. He added that Decedent was familiar with guns and often went to an indoor gun range for target practice. He added that Decedent was a good shooter and an experienced hunter.

Concerned Citizen 1

CC1 rented a downstairs bedroom at the Target Residence, and it was there that CC1 met Decedent. Over the last six months, CC1 observed Decedent maintain a consistent work schedule and hadn't observed any issues. CC1 was unaware if Decedent had any medical or mental illness history. CC1 was also unaware whether Decedent had any thoughts of taking his own life. CC1 stated that Decedent did not appear to have a drinking problem, but said he believed Decedent used methamphetamine. CC1 added, however, that he had never personally seen Decedent use methamphetamine but had heard him "snorting" inside his bedroom, approximately two weeks prior to the incident. CC1 noted out that he has been around people that used methamphetamine and that he was familiar with the symptoms.

Two weeks prior to the incident, CC1 observed a substantial change in Decedent's behavior, which seemed consistent with someone using methamphetamine. CC1 pointed out that the change in behavior intensified over the last two or three days. CC1 had observed Decedent talking to himself, as well as addressing people who weren't present. CC1 also noticed that Decedent hadn't been working or sleeping. A day prior to the incident, CC1 observed Decedent walk from room to room for hours on end with only short ten-minute breaks. CC1 stated Decedent appeared to have become mentally unstable.

Concerned Citizen 2

CC2 also rented a room at the Target Residence. On April 7, 2014, Decedent asked CC2 to take him to a drainage canal to pick up some tools. At approximately 1730-1800hrs, CC2 drove to the area of Cameron Street and University Avenue, where he watched Decedent go under the road and into a tunnel. Decedent was gone for approximately five minutes. When Decedent emerged

out of the tunnel and returned to the car, he had a silver briefcase that had stickers on it. CC2 stated Decedent opened the case and showed him there were tools in it.

Also on April 7, 2014, CC2 took Decedent to the grocery store before returning to the Target Residence. Decedent, CC2, CC1, and another roommate were in the courtyard smoking before CC2 left for work at approximately 7pm. CC2 did not have any further contact with Decedent.

Concerned Citizen 3

CC3 is the homeowner of the Target Residence. CC3 stated that he and his wife reside in the east side of the residence. He rents out the remaining five bedrooms for \$350 a month per room. In April, CC3 rented rooms to Decedent, CC1, CC2, CC4, and CC5.

CC3 was asked questions about Decedent. CC3 stated that he knew Decedent owned a BB gun which he described as a handgun. CC3 pointed out that Decedent was normally late paying rent, and CC3 thought that Decedent may have used drugs regularly. CC3 stated that Decedent worked as a stage hand but did not know where Decedent worked.

Overall Scene Description and Visible Firearms Evidence

5720 Maceta Avenue (Location of Officers Gonzales and McEwen)



The home located at 5720 Maceta is shown on the left. It is the house with white stucco and red trim. 5704 Maceta is the single story home to the right.

Located at 5720 Maceta Avenue is a two-story residence with a white stucco facade and red trim. It is the first house from the west end of the street, positioned on the northeast corner of the intersection of Maceta Avenue and Jicama Street. The driveway of 5720 Maceta Avenue faces south and can accommodate parking for

three vehicles. Parked on the west side of the driveway was a white Dodge Caliber. The east side of the property has an RV parking spot which separates 5720 from neighboring 5704 Maceta Avenue. Parked in the RV parking spot at a slight angle facing north was a light tan Kia Sedona

minivan. Directly north of where the minivan was located is a closed wrought iron fence that restricts access to the backyard of the residence.

5704 Maceta Avenue (Location of SWAT Officer Wiggins)

Located at 5704 Maceta Avenue is a one-story residence with a beige stucco facade and brown trim. It is positioned on the north side of Maceta Avenue, and it is the second house east of Jicama Street. 5704 Maceta Avenue is separated from 5720 Maceta Avenue by an approximately three-foot-tall cinder block pony wall. The front door of 5704 Maceta Avenue faces south and the driveway can accommodate parking for two vehicles. No vehicles were parked in the driveway of the residence on the day in question.

The air conditioner unit and air handler system for the residence are located on the roof. Two LVMPD Sniper rifles were located on the air conditioning unit. A tan and black Desert Tactical model SRS bolt-action rifle, .308 caliber serial number SRS001881, with an attached variable power scope supported by a bipod, was located on the lower air handler section of the AC unit's duct work leading into the house. A second sniper rifle, a tan Desert Tactical model SRS, bolt-action, .308 caliber, serial number SRS002379, with an attached variable power scope, supported by a bipod was placed directly on top of the AC unit.

The rifle on top of the air handler unit's duct work was placed there by SWAT Officer John Wiggins (the shooting officer). The second rifle on the AC unit was placed there by SWAT Officer Bradley Cupp, who relieved SWAT Officer Wiggins.

SWAT Officer Wiggins feared that the expended case would either blow or roll off the roof. He collected his expended case and placed it in his pocket. He then released this cartridge case to Crime Scene Analysts so that it could be impounded.

Target Residence (Decedent's Location)



Target Residence located at 5689 Maceta

Exterior of Residence

The Target Residence is located at 5689 Maceta Avenue. The house is located on the south side of the avenue, and it is three houses east from the intersection of Jicama Street and Maceta Avenue. The house is a two-story residence with a white stucco facade and blue trim. The front door of the residence faces north and sits behind a large, enclosed courtyard. The courtyard's west wall is made of cinder blocks and is approximately six feet tall, with a top decorative course. The north wall of the courtyard is approximately five feet tall and made out of a white wooden material. The north wall is comprised of three sections. The two outer sections of the wall are solid and block the view of the roadway. The center section of the fence is a slotted design, allowing a view of the roadway.



View from Target Residence's front door looking north into the enclosed courtyard.

An approximate four-foot-wide sidewalk separates the courtyard from the west wall of the garage. The sidewalk leads from the driveway of the residence to four steps leading up to a landing outside the main entrance of the residence. The front entry is a double door and both

doors open inward. Attached to the west wall of the garage, just outside of the front entrance, is a large coach light. Just north of the light is a service entrance to the garage. The service entrance door opens into the garage and is covered by a security door. The security door opens outward, and it sustained damage when the SWAT Crisis Entry Team forced it open. The vehicle entrance into the garage is a two-car garage door. Centered above the garage door is a large light fixture. The light fixture appeared to have a motion sensor attached to it. Attempts were made to activate the motion sensor, but the light did not illuminate. Above each end of the garage door were coach lights with light sensors attached.

The driveway to the residence has the capacity to accommodate parking for five vehicles. At the east side of the property facing southbound was a maroon and beige Ford Expedition. In front of the Expedition was a locked wrought iron fence restricting access into the backyard. The next parking space to the west was unoccupied. A southbound-facing parked silver Chevrolet Impala occupied the next empty space. The space west of the Impala was empty, allowing a wide access path into the courtyard and front door of the residence. Parked on the west-end of the driveway was a black Scion XA.

At the Impala's passenger side, the body of Decedent was laying by the car's front wheel. Decedent was lying face up. He was clad in a black t-shirt, black jeans, a black belt, and black socks. West from the body, a Norinco SKS 762X39 7.62 mm, serial number 10179389, assault rifle with a plastic folding stock was located. The muzzle of the weapon pointed to the southwest and the grips extended to the north. A magazine was inserted into the rifle, and the bolt was locked to the rear. The magazine contained eight "Wolf 7.62 x39" cartridges. There were no expended cases found at or near Decedent's location.

Decedent had severe head trauma. The bullet perforated the right side of Decedent's head. The bullet fragmented during impact. A large exit wound was noted to the left side of Decedent's head. Two perforating bullet holes and non-penetrating impacts were noted in the exterior garage bay door south of Decedent's location. A bullet fragment was found in the garage's interior.

The far west-end of the property was finished with pavers. Parked on the pavers were two motorcycles. The motorcycles were parked one directly behind the other. The first motorcycle's front wheel was touching the white wooden fence of the courtyard. The rear motorcycle was parked directly behind the front. The motorcycles were covered with tarps that were not removed, so the makes and models of the motorcycles are unknown. Parked facing eastbound on Maceta, behind the motorcycles, was a green Ford Ranger extended cab pickup truck with a matching camper shell installed over the bed of the truck.

Interior of Residence

The entire residence has been converted for multiple tenants and has been separated into two main living spaces: one area for the landlord and one area for the tenants. The garage and the areas directly south of the garage, including a kitchen/living room and bedroom, had been converted into one main living space for the landlord, which was separate from the rest of the residence

The tenant area includes the remainder of the residence. The downstairs consisted of the entry foyer, the northwest bedroom, southwest bedroom, central kitchen, and south dining/living area. The upstairs consisted of the south master bedroom, west bathroom, east bedroom, northwest bedroom, and northeast bedroom. All bedrooms had numbered signs on the exterior of the doors. It should be noted that a rifle cartridge with head stamp "Wolf 7.62X39" was located at the threshold of the residence, covered by a chair cushion.



Wolf 7.62X39 cartridge located by the front door.



Decedent's bedroom depicting the condition of disarray it was in.

The downstairs northwest bedroom, which is where Decedent resided, was labeled with a number "1" decal on the exterior entry door. The room consisted of a dresser, built-in cabinets, and a bathroom door accessible along the west wall. A bookcase, table, and desk cabinets were located along the north wall, and a bed was located along the east wall. The mattress of the bed was overturned and rested against the east wall. The room was in disarray, with clothing, tools, and

baskets littering the floor. In the current condition, it did not appear that Decedent had a readily-available place to sleep.

The following items of evidence were located in Decedent's room: two "Wolf 7.62X39" rifle cartridges located in a plastic bin at the foot of the bed, a black SKS magazine located on top of the nightstand near the foot of the bed, and a green bandolier containing rifle cartridges and stripper clips that were located on the top of the east cabinet along the north wall. Inside a black case, a black Cobray M-119mm SWD Inc. semi-automatic handgun (9mm caliber), serial number 89-0070640, was located. Also located in this case were magazines, a brass catcher, a barrel extension or silencer, a laser sight, and ear plugs. The gun and accessories were located in the



Decedent's Cobray 9mm handgun and accessories located in his bedroom.



Additional ammunition located in Decedent's bedroom.

bottom storage area of the night stand at the foot of the bed. Plus, a variety of cartridges were also located in the nightstand.

Multiple pellet guns and ammunition were also located inside the northwest bedroom. An empty black Ibanez guitar case, lined with green foam, was located adjacent to the bed. An outline consistent with the SKS rifle was noted in the foam of the case.

Events of April 8, 2014

Overview

On April 8, 2014, at 0321 hours, CC1 called 911 via his cellular phone to report that his roommate, Decedent, was possibly under the influence of drugs and having a psychotic breakdown. CC1 described to Dispatch that Decedent was pacing back and forth between the dining room and bedroom of the Target Residence. CC1 reported that Decedent was talking to himself and was armed with a loaded rifle.

LVMPD officers responded to the scene. Dispatchers instructed CC1 to exit the residence and get as far away as possible from the home. Sergeant Brad Carlson arrived and established a Command Post behind a cinder block wall, a short distance west of the residence at the intersection of Jicama Street and Maceta Avenue. CC1 walked to the Command Post and informed officers that there were other occupants still inside of the residence.

Sergeant Carlson instructed Officer Alex Gonzalez, who was armed with a rifle, and Officer Joshua McEwen, who was to act as a spotter, to advance to a location where they would have a clear view of the front of residence. Sergeant Carlson directed other officers to establish a perimeter around the residence and to stop any vehicle or foot traffic from entering the area.



Aerial view showing the Target Residence, location of officers, and location of Decedent at the time of the shooting.

Officer David Walker, who is a Crisis Intervention Team (CIT) Officer, was directed by Sergeant Carlson to place a phone call to Decedent with the intent of convincing him to exit the residence without the rifle. Officer Walker was able to reach Decedent on the phone and initiated a brief conversation with him about resolving the situation; however, the cellular connection was lost. Officer Walker placed several calls to Decedent requesting that he exit the residence without the rifle and walk to their location. At one point, Decedent wanted to meet officers at a gas station a few blocks away located at Flamingo and Lindell.

Negotiations failed. Sergeant Carlson requested the SWAT team to assist in resolving the situation. SWAT members started arriving at the scene. SWAT Officer John Wiggins was directed to the area where Officers Gonzalez and McEwen were posted. SWAT Officer Wiggins made contact



Decedent's approximate vantage point from the Target Residence looking at the direction of the minivan where Officers Gonzales and McEwen were positioned.

with Officers Gonzales and McEwen. SWAT Officer Wiggins learned that Decedent had come out of the Target Residence with a rifle in his hands. Next, SWAT Officer Wiggins climbed onto the rooftop of 5704 Maceta Avenue and established a position behind the air conditioner unit.

SWAT Officer Wiggins observed Decedent exit the residence armed with an assault-type rifle. SWAT Officer Wiggins observed Decedent place a magazine into the rifle and work the action of the rifle to chamber a round into the rifle. SWAT Officer Wiggins observed Decedent take a tactical stance and saw Decedent move and aim the rifle towards Officers Gonzales and McEwen. SWAT Officer Wiggins fired one round at Decedent to prevent Decedent from shooting at the officers.

Concerned Citizen 1

CC1 lived at the Target Residence for approximately six months. The Target Residence is owned by CC3, who also lived in an attached structure on the east side of the home. CC3 rents out various bedrooms inside the residence. CC1 stated that three renters lived upstairs and that he and Decedent rented rooms downstairs.

At approximately 0300-0330 hours, CC1 heard Decedent enter the front door. CC1 heard Decedent talking to himself just outside his bedroom door. CC1 was able to see Decedent while looking out his bedroom door, which was cracked open (Decedent's and CC1's bedroom doors are located next to each other). Decedent went into the dining room and yelled to CC1, asking if he could watch his television in the dining room. CC1 replied "no."

Immediately after answering Decedent, CC1 heard his television turn on. CC1 exited his bedroom and entered the dining room. CC1 grabbed the remote control and turned off the television. CC1 observed all the lights were off in the dining room, but he could see Decedent sitting in a chair in

the northeast corner of the room, facing north, with his back to the television. CC1 told Decedent he wasn't allowed to watch his television. Decedent replied, "I'm not watching it." Decedent then began mumbling incoherently and appeared unhappy over not being allowed to watch the TV.

CC1 saw Decedent holding a black rifle in his hands. The barrel end was in Decedent's right hand and the stock was in his left hand. Fearing for his life, CC1 walked directly to his bedroom, locked the door, and called 911. After CC1 entered his room and shut the door, he heard Decedent's bedroom door shut. CC1 whispered to LVMPD Dispatch so Decedent would not hear that he was on the phone with the police. While talking to the dispatcher, CC1 exited his bedroom and went outside the residence where he waited until officers arrived. Approximately one to two hours later he heard a single gunshot.

Concerned Citizen 4

CC4 also rented a room at the Target Residence. CC4's room is located on the second floor above the garage. CC4 knew Decedent, but did not associate with him much other than to say hello. CC4 knew that Decedent lived downstairs in a room next to CC1.

On April 8, 2014, CC4 said he was arriving home at approximately 0300 hours and saw Decedent walking north on Jicama Street towards Maceta Avenue. CC4 waved and said hello to Decedent before entering the Target Residence and made his way to his room. CC4 did not hear anything unusual until he was awakened by a single gunshot. CC4 stayed in the house until police officers entered and took him outside.

CC4 remembered seeing Decedent with a BB handgun a couple of months earlier when Decedent was in the backyard shooting birds. Other than that instance, CC4 had not seen Decedent in possession of any weapons.

Concerned Citizen 5

CC5 rented an upstairs room at the Target Residence. On April 8, 2014, between 0300 and 0400 hours, CC5 woke up by hearing Decedent talking loudly on his cell phone. CC5 did not make contact with Decedent and fell back asleep. CC5 woke up a second time from yelling outside the residence. CC5 looked out his window and saw police officers. CC5 got out of bed, put on his pants, and started to walk downstairs. CC5 heard police officers open the front door and yell, "Search Warrant," "Search Warrant!" CC5 told the police he was coming downstairs, and the police officers escorted him out of the house.

CC5 did not witness the shooting. He believed that Decedent abused illegal narcotics. CC5 stated that he had gone with Decedent to Decedent's storage shed and helped Decedent move some items to the house approximately two months prior to this incident. CC5 stated that he opened a gun case and saw a rifle with a "banana clip" in it.

Sergeant Brad Carlson

Sergeant Brad Carlson was on duty when a high priority call was broadcast over the radio advising officers of a possible suicidal person that was armed with a rifle. Sergeant Carlson assigned himself to the call and responded to the intersection of Jicama Street and Maceta Avenue. While enroute to the call, Sergeant Carlson requested medical personnel to respond and to standby in the area.

Arriving at the scene, Sergeant Carlson spoke with the person who called 911 (CC1), who was a roommate of the subject with the rifle. CC1 told Sergeant Carlson that his roommate was in possession of an AK-47 or AR-15 style rifle. CC1 stated that Decedent had been up for approximately four days straight and that he was high on speed.

After speaking with CC1, Sergeant Carlson began deploying officers to different locations around the Target Residence in an attempt to contain Decedent in and around his residence. Sergeant Carlson deployed a rifle certified officer, Alex Gonzales, and an observation officer, Joshua McEwen, to 5720 Maceta Avenue. Sergeant Carlson wanted to have visual contact with the front of the Target Residence and to have real-time information about Decedent's actions.

Sergeant Carlson was updated over the radio that Decedent was in and out of his residence, hiding behind a wall, and armed with a rifle. Sergeant Carlson learned that Decedent was manipulating the rifle by charging the handle. Sergeant Carlson also utilized the services of Officer David Walker, CIT officer, to negotiate with Decedent to surrender peacefully. However, CIT Officer Walker informed Sergeant Carlson that Decedent did not appear responsive to his attempt to surrender peacefully. Based on the actions of Decedent and the failed negotiations, Sergeant Carlson decided to call SWAT.

Once SWAT arrived, Lieutenant Peter Boffelli, the SWAT Commander, took command of the scene. Shortly after the arrival of SWAT snipers, Sergeant Carlson heard one gunshot. Sergeant Carlson was unsure who fired the gunshot until he was updated over the radio that the shot was fired by SWAT.

Officer David Walker

CIT Officer David Walker was on duty when the call of a suicidal subject at Target Residence was broadcast. When Officer Walker responded to the address, he parked north of the intersection of Maceta Avenue and Jicama Street and walked to the west side of the intersection where other officers were staging and setting up a perimeter.

CC1, who had called 911, had left the residence and walked to the corner of Maceta Avenue and Jicama Street. CC1 provided Decedent's phone number to Officer Walker. Officer Walker immediately called Decedent but received no answer.

Officer Walker continued to call Decedent. Eventually, Decedent answered the phone. Officer Walker identified himself and asked if he was talking to Decedent. Officer Walker stated that Decedent quickly disconnected the call. Officer Walker again called Decedent. This time, Decedent answered and, after a brief conversation, Decedent asked Officer Walker where he wanted to meet. Officer Walker informed Decedent that police officers were just west of him and asked him to go to them. Decedent told Officer Walker that he wanted to meet in a public place and that there was a taco shop near their location. Officer Walker told Decedent that they could meet up the street. Decedent informed Officer Walker that going to the nearby officers was not going to work.

Decedent hung up, and Officer Walker called back. Decedent told Officer Walker he would meet him in 22 minutes at the taco shop. Decedent further stated he would leave if Officer Walker did not show up. Decedent hung up. That was the last contact Officer Walker had with Decedent. Officer Walker called Decedent back approximately 50 to 60 more times trying to re-establish contact. Officer Walker stopped trying to call back only after the officer-involved-shooting occurred.

Officer Alex Gonzales

Officer Alex Gonzales was on a service call in the area of Hacienda Avenue and Tropicana Avenue when he heard an alert tone come over the radio. The dispatcher broadcasted that a possible suicidal subject was armed with a rifle. Officer Gonzales cleared his call and assigned himself to the suicidal subject call.

Officer Gonzales arrived on Jicama Street along with several other officers. Officer Gonzales spoke with the person who reported the call, CC1. Officer Gonzalez learned from CC1 that his roommate, Decedent, was upset about a TV. CC1 believed that Decedent was under the influence of methamphetamine, that he had not slept in a couple of days, and that he was armed with a rifle.

Officer Gonzales was ordered by Sergeant Carlson to deploy his rifle and to take a position where he could see the Target Residence. Officer Gonzales and Officer Joshua McEwen took a position behind the front of a minivan which was parked in the driveway of 5720 Maceta Avenue, across the street from the Target Residence. Officer Gonzales was armed with his rifle. Officer McEwen was the spotter and was in charge of relaying real-time information over the radio.



Photograph depicts Officers Gonzales' and McEwen's vantage viewpoint from their location behind the minivan at 5720 Maceta Avenue.

Once in position, Officer Gonzales observed Decedent exit his residence several times holding a rifle. Decedent walked behind a brick wall located in the front yard. While Decedent was behind the brick wall, Officer Gonzales heard Decedent charging the rifle. Decedent paced back and forth from the driveway to the brick wall. Decedent would also go back inside of the house and then exit again. While pacing, Decedent talked to himself. Officer Gonzales believed that Decedent was under the influence of a narcotic. This pattern of behavior went on for a couple of hours.

A SWAT sniper arrived. Officer Gonzales briefed the SWAT sniper, SWAT Officer John Wiggins, on what he had observed. Next, Officer Gonzales watched SWAT Officer Wiggins climb up onto the roof of the house just east from his location. While the sniper was getting into position, Decedent exited the residence. Decedent was still holding the rifle and walked to the back of the parked silver Chevy Impala. Decedent placed the rifle on the ground by the rear tire of the vehicle and stepped away from the rifle. Decedent then picked the rifle back up and placed the magazine into the rifle's well. Decedent moved back towards the house and sat down in a cross-legged position on the driveway, by the front passenger side of the silver Impala.

Officer Gonzales stated Decedent began to charge the handle of the rifle. Officer Gonzales thought Decedent was going to shoot at him and Officer McEwen. Officer Gonzales began to slowly pull the trigger of his rifle when he heard a gunshot from the sniper's rifle. Officer Gonzales stayed in his position until SWAT officers cleared the house and rendered the scene safe. During a walk-through with investigating officers, Officer Gonzales opined that Decedent may have

spotted his location, because Decedent aimed the rifle towards his location and appeared to prepare to shoot.

Officer Joshua McEwen

Officer Joshua McEwen was working patrol in the Bolden Area Command near the intersection of Desert Inn and Lindell Road. Officer McEwen was equipped with a body camera. Officer McEwen heard the call regarding a suicidal person, who was walking back and forth in front of a house with a rifle. Officer McEwen assigned himself to the call and responded to the intersection of Maceta Avenue and Jicama Street. Officer McEwen made contact with Sergeant Brad Carlson.

At the scene, Sergeant Carlson was briefing officers about the incident. Officer McEwen and Officer Alex Gonzales advised Sergeant Carlson that they were both rifle certified. Sergeant Carlson ordered them to deploy only one rifle. Officer Gonzales retrieved his rifle, and Officer McEwen retrieved his tactical vest and binoculars from his vehicle. Officer McEwen became Officer Gonzales' spotter. Both officers moved to the first house on the north side of the intersection, using a parked mini-van in the driveway as cover.

Officer McEwen stated he heard the front door of the Target Residence open, and he then saw Decedent come out of the house and walk into the courtyard holding a rifle. Decedent was pacing back and forth. Officer McEwen heard Decedent talking on the phone, but he could not tell what Decedent was saying. Officer McEwen watched Decedent for approximately 30 minutes. During this time, Decedent went in and out of the residence several times holding the rifle. Officer McEwen saw Decedent manipulate the rifle's bolt, take out the magazine, and then repeat the process.

Officer McEwen described Decedent positioned at the corner of the residence with the rifle in his hands, in a ready position, doing a quick peek around the corner, looking east and west down the street. Decedent then went back into the residence.

Officer McEwen saw Decedent come outside again holding the rifle and sit on the steps of the house. After a few moments, Decedent quickly stood up, grabbed the rifle, and pressed himself against the wall of the house. Officer McEwen wondered if Decedent had seen him and Officer Gonzales. The subject quickly went back into the house. During this time frame, SWAT Officer John Wiggins contacted Officers McEwen and Gonzales and thereafter climbed on the roof of the house next door to the east.

Approximately 10 to 15 minutes later, Decedent came outside, placed the rifle down on the step, and placed his hands up like he was surrendering. Then, Decedent quickly picked up the rifle and walked down the steps into the courtyard area. Decedent placed the rifle on the ground and put his hands up. Decedent then picked up the rifle in the courtyard area and walked out into the

driveway. Decedent stopped halfway down the driveway, placed the rifle on the ground, and sat down next to it. Approximately ten seconds later, Decedent stood up, picked up the rifle, walked down the driveway to where it met the street, and turned to the east.

Officer McEwen believed Decedent was going to start walking towards the east. Officer McEwen requested permission over the radio to start giving verbal commands to Decedent. Officer McEwen got no response from the Command Post. The dispatcher also attempted to contact the Command Post but got no response.

Officer McEwen stated Decedent stopped at the bottom of the driveway, placed the rifle down, sat behind it, and began scooting back away from it. As he was scooting away, Decedent placed an object next to the rifle before quickly standing up. Officer McEwen stated that Decedent acted spooked and very paranoid. Decedent picked up the rifle again, inserted the magazine, took a tactical stance, and pointed the rifle toward Officer McEwen's position. He also noted that Decedent was backing up to the top of the driveway. Officer McEwen then observed Decedent charge the bolt of the rifle and then immediately heard a gunshot. Officer McEwen could see that Decedent was down. He confirmed that Officer Gonzales had not fired his rifle. Officer McEwen heard SWAT Officer Wiggins announce the he had fired. Officer McEwen observed the SWAT team move forward and clear the Target Residence. Officer McEwen stayed in his position until he was relieved. Officer McEwen gave his body camera to Lieutenant Robert Plummer. During the walk-through with investigating officers, Officer McEwen added that it appeared that Decedent may have seen him and that his location was compromised.

SWAT Officer John Wiggins

On April 8, 2014, SWAT Officer John Wiggins was off-duty when he was notified about a dispute between two roommates at the Target Residence. According to the notification, one of the roommates was armed with an assault-type rifle and was making threats. SWAT Officer Wiggins responded to the scene deploying as a sniper.

SWAT Officer Wiggins was the first sniper to arrive at the scene, and his responsibility was to find a position of concealment that would allow him a good vantage point of the Target Residence. Before heading into position, SWAT Officer Wiggins talked with patrol officers at the intersection of Jicama Street and Maceta Avenue and learned where the Target Residence was located. SWAT Officer Wiggins also learned that there was a two-man team of officers (Officers Alex Gonzales and Joshua McEwen) in position behind a tan minivan parked in the driveway of 5720 Maceta Avenue.

SWAT Officer Wiggins moved to the area where Officers Gonzales and McEwen were posted. SWAT Officer Wiggins talked with Officers Gonzales and McEwen. While the officers were

pointing to the Target Residence from behind the minivan, Decedent exited the residence, armed with an SKS-type assault rifle.

From the vantage point behind the minivan, SWAT Officer Wiggins noticed that a fence in the front yard of the Target Residence blocked his view of Decedent. SWAT Officer Wiggins needed a better view of the residence. So, he climbed onto the rooftop of the neighboring house to the east. He then established a tactical position behind a rooftop air conditioning unit. This location provided concealment from Decedent and offered a view of the entire front area of the Target Residence.



SWAT Officer Wiggins' Desert Tactical Arms rifle positioned on the rooftop air conditioning unit of 5704 Maceta.



SWAT Officer Wiggins' vantage viewpoint from the rooftop of 5704 Maceta.

SWAT Officer Wiggins notified the Command Post of his established position. SWAT Officer Wiggins' role as a sniper was to provide lethal coverage for the SWAT entry team and to provide real-time intelligence to the Command Post. SWAT Officer Wiggins used his laser range finder to determine the distance to the Target Residence's front door to be fifty yards. SWAT Officer Wiggins made the necessary

adjustments to his scope and charged his weapon with a bonded round. A bonded round was selected in case SWAT Officer Wiggins needed to penetrate some type of barrier like a fence, window, or door to hit his target.

SWAT Officer Wiggins saw Decedent standing in the driveway with something in his hand which he thought was a handgun, and he broadcast this information to the Command Post. SWAT Officer Wiggins saw the rifle on the ground at the end of the driveway near the street. Watching Decedent through his scope, SWAT Officer Wiggins could then tell that the item in Decedent's hands was not a handgun but a rifle magazine.

Next, SWAT Officer Wiggins observed Decedent move in a manner that concerned him. SWAT Officer Wiggins saw Decedent walk back to the rifle, slowly pick it up, insert the magazine, and backpedal toward the house in a crouched "combat style ready position." SWAT Officer Wiggins

described the ready position as one where Decedent had the rifle shouldered, cheek against the stock of the rifle, in a position ready to shoot. SWAT Officer Wiggins noticed that Decedent was scanning with the rifle to the east and west. SWAT Officer Wiggins particularly noted that Decedent moved and handled the rifle in a very smooth and precise fashion. He also studied how Decedent was able to load the rifle in a combat crouched stance by inserting the magazine without lowering the muzzle of the weapon. Decedent handled the rifle in such a confident fashion that SWAT Officer Wiggins believed Decedent had some type of tactical or military training.

Decedent crouched down next to the front right wheel of the parked silver Impala. According to SWAT Officer Wiggins, Decedent appeared to notice the officers hiding behind the minivan at 5720 Maceta Avenue, because Decedent stopped scanning and “bird dogged” (Decedent appeared to suddenly focus all of his attention including the rifle) in the direction of the officers. Decedent charged the weapon with his left hand while remaining locked on the officers’ position. SWAT Officer Wiggins feared for the lives and safety of the officers and the neighborhood residents, who had not yet been evacuated from the area. SWAT Officer Wiggins also knew that the type of ammunition the SKS rifle fired would be able to penetrate an officer’s body armor and/or the walls of the surrounding homes. SWAT Officer Wiggins fired one round from his .308 rifle, striking Decedent. Decedent dropped down on his bottom and sat against the front passenger tire of the vehicle.

Decedent still had the rifle across his lap, so SWAT Officer Wiggins worked the bolt on his rifle, chambering another live round in case he had to take a follow-up shot. SWAT Officer Wiggins broadcast over the police radio that Decedent had been shot. SWAT Officer Wiggins was the only sniper in place, so he stayed in position to provide cover for the responding entry team.

The entry team charged the Target Residence in an attempt to evacuate other occupants. While charging the Target Residence, SWAT Officer Wiggins observed Decedent’s body fall over to his right, and the rifle slid off his lap onto the driveway. The entry team evacuated the occupants of the house.

SWAT Officer Bradley Cupp, who is also a sniper, arrived at SWAT Officer Wiggins’ location and established a final firing position on the same air conditioning unit and relieved SWAT Officer Wiggins. SWAT Officer Wiggins kept his rifle in the position where he took the shot so it could be documented by investigators. SWAT Officer Wiggins grabbed his expended cartridge case from the roof fearing that the wind may blow it off, and then he turned the case over to crime scene analysts. In addition to a statement, SWAT Officer Wiggins provided investigating officers with a walkthrough detailing his actions.

Officer Derek Endelman

Officer Derek Endelman assigned himself to the call and was given the details of a suicidal subject armed with a rifle. Officer Endelman went to the intersection of Maceta Avenue and Calmosa Street which is east from the Target Residence, exited his vehicle, and moved behind a parked vehicle in the driveway of 5626 Maceta Avenue. Officer Endelman stated he only had a partial view of the Target Residence due to a large tree located near it. Officer Endelman was using



Approximate vantage viewpoint for Officers Endelman, Glover, and Loucks from 5626 Maceta. This location is approximately four houses east from the Target Residence.

binoculars to watch the residence. Officer Endelman was later joined by Officers Joshua Glover and Christopher Loucks.

Officer Endelman heard broadcast updates that Decedent was going in and out of the residence holding a rifle in his hands. Officer Endelman could hear Decedent yelling when he would come outside. He could also hear the sound of a round being chambered into the rifle, but he still could not see Decedent from his position.

Officer Endelman finally observed Decedent walk in a crouched position to the bottom of the driveway and set the rifle on the ground. Decedent sat down, scooted back from the rifle, and then leaned forward placing an apparent magazine on the ground.

Decedent suddenly stood up, picked up the rifle, inserted the magazine, appeared to chamber a round, and pointed the rifle straight forward. Officer Endelman saw Decedent back up toward the residence. Suddenly, Officer Endelman heard a single gunshot. Officer Endelman heard over the radio that SWAT had fired the shot. Officer Endelman observed SWAT team members approach the residence and a short time later exit with two occupants. Officer Endelman stayed at his location until relieved.

Officer Joshua Glover

Officer Joshua Glover was on duty and in the area of Twain Avenue and Fort Apache Avenue when a call regarding a person with a gun was broadcast over the radio. Officer Glover assigned himself to the call. While in route to the call, Officer Glover learned the person with the gun was a white male adult. He also learned that the white male adult was possibly high on

methamphetamine, had not slept for approximately four days, was agitated, and was armed with an assault rifle.

Officer Glover, along with Officer Derek Endelman, arrived at the intersection of Calmosa Street and Maceta Avenue, which is east of the Target Residence. Officer Glover called Sergeant Brad Carlson and asked if he should deploy his rifle. Sergeant Carlson told Officer Glover not to deploy his rifle at that time, but to stand by and await further instructions. Officers Glover and Endelman took a position of cover behind a truck that was parked in the driveway of 5626 Maceta Avenue.

After a brief time, Officer Joshua McEwen broadcast that Decedent, who was dressed in all black clothing, had exited the house. Officer McEwen also alerted that Decedent was holding a rifle and that he was pacing back and forth. After hearing the update, Officer Glover deployed his rifle for crisscross coverage. Officer Glover utilized Officer Endelman as his observation/spotting officer. Throughout the incident, Officer Glover could hear Decedent yelling and manipulating the rifle by charging the handle, but he could not see Decedent.

Officer Glover heard that SWAT arrived. A short time later, Officer Glover observed Decedent walk down to the end of the driveway. This was the first time Officer Glover saw the Decedent. Officer Glover observed Decedent crawl or scoot down the driveway, place his rifle on the ground, and throw his hands up. Officer Glover heard another officer over the radio ask if he should give the subject verbal commands. Decedent, however, reached back down and picked up the rifle, inserted the magazine, and chambered a round into the rifle. Decedent walked east and then returned to the top of the driveway. Seconds later, Officer Glover heard one gunshot. Officer Glover was unaware if a police officer fired the round or if Decedent fired upon himself. Officer McEwen advised over the radio shortly after hearing the shot that a SWAT officer was the one who fired. Officer Glover did not fire his rifle during the incident.

Officer Christopher Loucks

Hearing the broadcast regarding a suicidal subject, Officer Christopher Loucks assigned himself to the call and responded to the scene. Officer Loucks went to the intersection of Maceta Avenue and Calmosa Street. Officers Derek Endelman and Joshua Glover were already set up at the northeast corner house located at 5626 Maceta Avenue, positioned behind a vehicle in the driveway. Officer Loucks stated that he blocked the street to vehicle traffic and that he became the rear guard for Officers Endelman and Glover. Officer Loucks positioned himself behind a large tree approximately 20 yards behind Officers Endelman and Glover.

Officer Loucks could not see the Decedent from his position, but heard radio reports from the other officers stating that Decedent was going in and out of the house holding a rifle in his hands. Officer Loucks stated that he was aware SWAT was arriving and was taking position in the perimeter. Officer Loucks heard a broadcast that Decedent was again out of the house and that

he was walking to the bottom of the driveway. He heard reports that Decedent placed the rifle down on the ground, backed away, and sat down on the driveway. Approximately 30 seconds later, Officer Loucks saw Decedent scoot towards the rifle.

Officer Loucks stated Decedent then stood up and picked up the rifle. Officer Loucks heard a broadcast that Decedent was putting a magazine in the rifle and that they could hear Decedent working the bolt of the rifle. Decedent then returned toward the garage. Officer Loucks lost sight of him. Shortly after the subject moved, Officer Loucks heard a single gunshot and was immediately advised over the radio that a SWAT officer had fired the shot.

Officer Loucks stayed in his position and observed SWAT officers move forward and clear the Target Residence. He was later advised to stay at the east end of the street with his vehicle.

Autopsy

On April 9, 2014, Deputy Medical Examiner Dr. Lisa Gavin performed an autopsy on Decedent at the Clark County Coroner's Office. Dr. Gavin reported her findings under autopsy case number 14-03433. During the pre-autopsy examination, technicians and LVMPD crime scene analysts found a green narcotic smoking device and seven 7.62 X 39 Wolf cartridges on Decedent's person.

Dr. Gavin noted that Decedent had a gunshot wound to the right side of his head above and behind the right ear. Dr. Gavin detailed that Decedent had a corresponding large gaping gunshot exit wound to the left side of the head with a laceration gunshot wound to the left shoulder, breaking the skin but not penetrating muscle. Doctor Gavin opined the cause-of-death was a gunshot wound to the head and the manner-of-death was homicide. A blood toxicology screen for common drugs revealed that Decedent had delta-9 THC level of 6.5 ng/ml (active ingredient of marijuana) and delta-9 carboxy THC level of 22 ng/ml (inactive marijuana metabolite) in his system.

On December 10, 2014, the Clark County District Attorney's Office contacted Dr. Gavin to discuss her findings and the toxicology. Dr. Gavin noted that another screen for "designer drugs" can be done. She agreed to submit Decedent's urine sample, which was collected but not tested at the time of the autopsy, for a secondary toxicology.

On December 22, 2014, Dr. Gavin received the supplemental toxicology report. The report noted the previous marijuana, caffeine, and nicotine used by Decedent. Additionally, the report revealed amphetamine and methamphetamine in Decedent's body. Decedent had a level 53 ng/ml of amphetamine, a metabolite of methamphetamine. Decedent had a level of 62 ng/ml of methamphetamine in his system. Methamphetamine is an illegal stimulant drug capable of causing hallucinations, aggressive behavior, and irrational reactions.

Weapons Countdown

Decedent Travis Doering's Norinco SKS Rifle

Decedent was armed with a Norinco SKS 762X39 7.62 mm magazine-fed, semi-automatic rifle, serial number 89-0070640, with a folding stock. The magazine contained eight "Wolf 7.62 x39" cartridges. Crime Scene Analysts who impounded the rifle noted that the rifle did not have a



Decedent's Norinco SKS 762X39 7.62 mm magazine-fed, semi-automatic assault rifle.

chambered round and no expended cartridge case was located around Decedent. Crime Scene Analysts did note that the rifle's bolt carrier was in the back-locked position and that the magazine was not properly seated.

Forensic Firearms Examiner Anya Lester examined Decedent's Norinco SKS rifle and found it to be operational with no noted malfunctions. She determined that the magazine fits the rifle but that cartridges could not be fed from the magazine into the rifle for test firing. Ms. Lester opined that the magazine was not operational; it had a bent retaining lip that would not allow the bolt of the rifle to slide forward and chamber a round. This bent magazine retaining lip explains why Decedent was manipulating the bolt on the rifle numerous times and why he ejected a live cartridge.



Decedent's loaded magazine showing the bent retaining lip.

SWAT Officer John Wiggins' Desert Tactical Arms Rifle

SWAT Officer Wiggins deployed his personally-owned Desert Tactical Arms, SRS, .308 caliber rifle, serial number SRS001881, during the incident. Prior to his countdown, SWAT Officer Wiggins reported that he carried six cartridges in his magazine, and no cartridge in the chamber (6+0). The rifle was equipped with a Night Force 5-25 scope. SWAT Officer Wiggins had two spare magazines containing six cartridges each.



SWAT Officer Wiggins' Desert Tactical Arms, SRS, .308 caliber rifle.

On July 17, 2014, LVMPD Forensic Firearms Examiner Anya Lester, who examined the impounded firearms evidence, issued her findings. Ms. Lester opined that the Desert Technology & Manufacturing rifle was operational with no noted malfunctions. Ms. Lester examined the expelled cartridge case and the recovered bullet with test fired cartridge cases and bullets. The recovered bullet and cartridge case bear similar overall general characteristics to the test-fired cartridges from the Desert Technology & Manufacturing rifle; however due to damage and lack of microscopic information, these items could not be conclusively identified as coming from this rifle.

At the time of the countdown, SWAT Officer Wiggins' rifle had one cartridge in the chamber and four cartridges in the magazine which was inserted in the magazine well. SWAT Officer Wiggins collected his expelled cartridge case to prevent it from being blown off the roof by the wind and held it in his pocket until he released it to a Crime Scene Analyst. SWAT Officer Wiggins fired his weapon once.



SWAT Officer Wiggins' expelled cartridge case.

Legal Analysis

The District Attorney's Office is tasked with assessing the conduct of law enforcement 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.

The Use of Deadly Force in 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 ... 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 under NRS §200.160(1) 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

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.

In this case, Decedent posed an imminent danger to Officers Gonzales and McEwen and the residents of the neighborhood. Primarily, Decedent was armed with a high-powered rifle capable of penetrating bullet-proof vests and walls. Second, Decedent did not appear to be surrendering peacefully, even though he had been contacted multiple times by CIT Officer David Walker. And third, Decedent aimed the high-powered rifle at Officers Gonzales and McEwen, appearing to chamber a cartridge into the rifle and preparing to fire the high-powered rifle.

Officers Gonzales and McEwen feared that their location had been compromised. Officers Gonzales and McEwen saw the rifle aimed at their location. The officers saw Decedent insert the magazine and pull the bolt of the rifle loading a cartridge. Officer Gonzales feared that Decedent was going to fire at him and his partner. Perceiving this threat, Officer Gonzales began putting pressure on his trigger to counter the threat. At this very moment, Officer Gonzales heard SWAT Officer Wiggins fire a round.

As a sniper, SWAT Officer Wiggins picked up on Decedent's mannerisms which raised his concerns that Decedent was about to fire the rifle. SWAT Officer Wiggins, who had the best view of Decedent, saw that Decedent had taken a combat-style ready position. SWAT Officer Wiggins observed that Decedent had shouldered the rifle with his cheek pressed onto the stock. SWAT Officer Wiggins noted how precisely Decedent handled the rifle—he did not drop the rifle's muzzle when inserting the magazine. SWAT Officer Wiggins also noted the confidence with which Decedent handled the weapon, as if Decedent had some type of tactical or military training.

SWAT Officer Wiggins feared for the safety of Officers Gonzales and McEwen when Decedent suddenly locked his gun-sight onto the patrol officers. SWAT Officer Wiggins saw Decedent charge the rifle with his left hand while the rifle remained locked onto the patrol officers' position. SWAT Officer Wiggins feared for the officers' lives. He knew that this type of weapon could penetrate body armor. He also knew that this type of weapon could penetrate the walls of the surrounding residential homes. Accordingly, SWAT Officer Wiggins fired his rifle to stop the threat.

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 where 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. Atty. Gen. 47 (1985).

In the instant case, the officer was reasonable in his belief that Decedent posed a serious threat to the officers' safety and the surrounding residents. CC1 experienced first-hand Decedent's incoherent and threatening behavior, and he detailed this information to the responding officers. CIT Officer David Walker tried multiple times to communicate and reason with Decedent, but Decedent would not answer or would hang up the phone. CIT Officer Walker attempted to talk Decedent into surrendering himself and meeting officers peacefully on the street, but Decedent refused. At one point, Decedent claimed that he was willing to meet CIT Officer Walker at a nearby taco shop, but Decedent then hung up abruptly. Afterward, CIT Officer Walker tried to call Decedent back 50 to 60 times but to no avail.

Compounding the danger that Decedent posed to the officers, as well as people in nearby homes, was the fact that Decedent was armed with a high-powered rifle. He handled the rifle in a manner that raised concern, because he appeared to have been trained on the handling of the rifle. Decedent, who was aware that officers were present, appeared to toy with officers by laying the

rifle and magazine down only to pick it up again. Decedent did not appear to want to walk away from the rifle and make peaceful contact with the officers.

Instead of surrendering, Decedent picked up the rifle and took a combat stance. Decedent inserted the magazine into the rifle in a tactical manner. He scanned the muzzle back and forth until finally locking onto the location where Officers Gonzales and McEwen were posted. For the first time, Decedent aimed the rifle directly at these officers. Decedent had the rifle shouldered and his cheek pressed on the stock in a ready-to-shoot position. While using his left hand to chamber a cartridge into the rifle, Decedent kept the muzzle locked on the officers.

These circumstances created probable cause in the officer's mind that the Decedent posed a threat of serious physical harm to the officers, residents, and/or witnesses in the area. SWAT Officer Wiggins overcame the threat by firing a round at Decedent. In light of all the evidence reviewed to date, the State would be unable to prove that the actions of SWAT Officer Wiggins were not in fact justified "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, the Clark County District Attorney's Office has determined that the actions of law enforcement in response to Decedent's actions 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 SWAT Officer Wiggins, and unless new circumstances come to light which contradict the factual foundation upon which this decision is made, no charges will be forthcoming.

DATED June , 2015

STEVEN B. WOLFSON

District Attorney

By

FRANK JOHAN COUMOU

Chief Deputy District Attorney