



REPORT ON USE OF FORCE: Legal Analysis Surrounding the Death of Robert Wenman on June 22, 2020

I. INTRODUCTION

On June 22, 2020, citizen C.F. observed Robert Wenman (hereinafter “Decedent”) fire a handgun into the air while standing in a parking lot of Craig Ranch Park, located at 628 W. Craig Road, North Las Vegas, Clark County, Nevada. Decedent asked another citizen, B.H., to call 911 for him, claiming that he had been shot by someone else. B.H. called 911 and reported that Decedent had a gunshot wound to the hand.

Officer Teodoro Mendez was the first officer to arrive at the park. He observed Decedent exit a white car while holding a black pistol. As Officer Mendez approached, Decedent walked away from the officer in the direction of a grass area south of the parking lot. The officer communicated with Decedent from 70 feet away. Decedent indicated an intention to commit suicide and referred Officer Mendez to a note he left on his car. Decedent refused to drop the gun or surrender.

The note on his car listed his name, address and girlfriend’s phone number.

Officer Ashley Bertschy, a Crisis Negotiation Officer, arrived in less than 15 minutes. Officer Bertschy engaged Decedent in conversation.

Other officers arrived, including Officer Denise Aguilar, who attempted to contact Decedent’s family members at his residence. Officer Aguilar reached Decedent’s girlfriend and daughter by phone. Both indicated that Decedent had expressed suicidal ideations in the past but did not believe he was serious.

Decedent told officers that he had shot himself in the hand.

A team organized to deliver a cell phone and water to Decedent via a robotic vehicle. At times, Decedent refused to communicate with Officer Bertschy.

NLVPD SWAT responded and set up positions north and south of Decedent. Negotiations lasted over four hours.

SWAT snipers Robert Jameson and Skyler Lee were positioned in the Community Garden. At 1946 hours, Decedent pointed a handgun at officers located 15 yards north of him. Officer Jameson fired a single shot from his rifle, striking Decedent, causing Decedent to drop his gun.

Officers approached Decedent and commenced first aid. Ultimately, he was transported to University Medical Center where he was pronounced dead.

The Clark County District Attorney's Office has completed its review of the June 22, 2020, death of Decedent. 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 Officer Jameson 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 Officer Jameson. 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 May 24, 2021.

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

II. INCIDENT DETAIL

On June 22, 2020, citizen C.F. observed a man (Decedent) discharge a gun into the air while standing in a parking lot at Craig Ranch Park. C.F. hid behind a tree to avoid being seen. Eventually, C.F. heard the man talking to another person in a car.

B.H. was driving in the park, playing the Pokémon hunting game on her phone. At one point, she parked in the north parking lot and ate her lunch. She left that area and returned a few minutes later and saw a white Honda Civic parked in the lot.

B.H. observed a white, male in his 50s or 60s, wearing khaki pants standing by the vehicle. Decedent flagged her down as she passed. She stopped and Decedent asked her to call 911, telling her that someone was shooting in the park. He said he had been shot.

B.H. thought Decedent's behavior was odd, but she called 911. The time of the call was approximately 1534 hours. She described Decedent's behavior as "off" and "erratic." She noticed blood on his thumb and pants.

Decedent told B.H., “You need to get out of here” and “it’s gonna get bad around here.” He repeated these warnings four to five times. B.H. heard sirens and left the area.

Officer Mendez responded to Craig Ranch Park at 1539 hours. He arrived in the north parking lot. Officer Mendez exited his vehicle as Decedent was facing him. Officer Mendez told Decedent that he would not approach him until Decedent put his gun down. Decedent did not comply.

Officer Mendez offered Decedent help, medical attention and water. He warned Decedent not to point the gun at anyone. He was engaged with Decedent for 18 minutes, until Officer Bertschy, a Crisis Negotiation Officer, arrived.

Officer Bertschy asked Decedent to put the gun on the ground. He did not comply. Officer Bertschy offered Decedent medical treatment, but Decedent refused. Officer Bertschy cautioned Decedent not to raise the gun or move his hand multiple times.

She directed Decedent to put the gun down multiple times. Decedent responded, “You need to come get it.”

Officer Bertschy asked Decedent to at least put the gun in his pocket, if not on the ground. He stated, “I can’t go home now” and “it’s over with.”

Officer Bertschy reminded Decedent that he was not going to jail and asked him to surrender. Decedent stated, “I’m gonna stay here a minute.”

Negotiations lasted over four hours. At one point, a robot brought Decedent water.

During the negotiations, Decedent commented to Officer Bertschy that “there’s nothing I can do about it now” and “I can’t go back home now.” Officer Bertschy asked Decedent not to make any sudden movements and he replied, “I can’t promise that.”

Decedent refused to put the gun down after Officer Bertschy’s multiple requests. When asked why, he stated, “Because, it’s too late (unintelligible)” and “I can’t go back home.”

Decedent explained, “I planned this out before” and talked about putting his girlfriend through difficulties with all his surgeries. He mentioned the letter he placed on his car and his inability to care for his pets. He refused medical attention for his hand.

At 28:05 into the Bodycam video, Decedent stated, “I gotta switch hands with the gun.” Officer Bertschy told Decedent not to do that and, if the gun was getting too heavy, he needed to set it on the ground. Decedent responded, “No, then you’re gonna come get it.”

Officer Bertschy said she was not going to move toward him.

A little over two (2) hours into the negotiations, Decedent stated, "I wanna die." He also said he did not want to hurt anybody.

At close to three (3) hours into the encounter, Decedent retrieved the water from the robot. Officer Bertschy made another concerted effort to get Decedent to surrender. He said he needed a minute. Officer Bertschy assured Decedent he was not going to jail. Decedent stated that he knew the police were not just going to let him go. Officer Bertschy proposed to Decedent that a robot bring him a phone so they could communicate without yelling to one another.

The robot travelled from Officer Bertschy's location southbound to Decedent and dropped off a phone. Officer Bertschy asked Decedent to put the gun in his pocket before opening the box with the phone. Decedent said, "Oh man. I can't do all that." Officer Bertschy suggested he set the gun down instead. Decedent said, "I can't go home" and expressed concern about being put in handcuffs and going to jail.

Over three (3) hours into the encounter, the CAT2 vehicle arrived at the scene. Officer Bertschy got inside and continued speaking with Decedent. She kept asking him to use the phone. He refused. He stepped toward the CAT2. Decedent walked eastbound and refused to return to his initial location. He stood under a tree and held the gun in front of him, and Officer Jameson fired a single shot.

III. DECEDENT

Decedent was 63 years old.

Officers interviewed Decedent's daughter. Daughter stated that Decedent had numerous health issues which had diminished his quality of life. Daughter was unaware of Decedent's current desire to commit suicide. She was unable to provide a reason why he would be in a park with a gun.

Officers also spoke with Decedent's girlfriend. Girlfriend stated she had been involved with Decedent since 2011. She explained that their relationship was difficult due to his health issues. She stated that he had recently lost weight so he could have surgery on his shoulder. He suffered from chronic pain and fatigue.

She explained that, earlier in the year, Decedent had seen a psychologist at her suggestion. He attended one appointment and described the visit as a waste of time.

Girlfriend also explained that due to Covid-19, Decedent was more isolated and alone. He took their dog for walks at the park but had recently been concerned about his safety. He began carrying a box cutter with him and, at some point, got a gun.

Girlfriend stated that on June 18, 2020, Decedent was admitted to a hospital, claiming to have lost consciousness earlier in the day. He believed he had lost consciousness because a screw from his neck surgery had dislodged. A CT scan indicated that this had not taken place. He was released on June 20, 2020. When girlfriend picked Decedent up from the hospital, he asked to go home. When he got home, he gathered his pain pills and asked girlfriend to take him to the pharmacy so he could dispose of the pills properly. When they arrived, the pharmacy was closed. Decedent threw the pills into a dumpster.

On June 21, 2020, Decedent visited with his daughter for Father's Day. He did not express any intention or desire to commit suicide on that date.

On June 22, 2020, girlfriend went to work. It had been her habit to call Decedent over her lunch hour. When she called, he did not answer.

IV. INVESTIGATION

A. SUMMARY OF INTERVIEWS WITH INVOLVED OFFICERS

Patrol Officer Teodoro Mendez

Officer Mendez responded to the park in reference to an individual who had been shot in the hand. When he arrived, he saw a white Honda Civic related to the incident.

As Officer Mendez pulled into the parking lot, he saw Decedent exit the Honda, holding a gun. He saw Decedent move quickly to the bench at the park.

Officer Mendez told Decedent to drop the gun; Decedent refused. Decedent stated that he wanted to "end it all" and did not want to drop the gun.

Officer Mendez requested backup officer. When Officer Bertschy arrived, she took over negotiations with Decedent.

When CAT2 arrived, Officer Mendez drove out of the area.

Patrol Officer Ashley Bertschy

Officer Bertschy stated that upon being notified, she immediately responded to the scene and began negotiations with Decedent. She explained that he indicated a wish to commit suicide. Officer Bertschy worked to build a rapport with Decedent, even having a robot bring him water at one point.

Once CAT2 arrived at the scene, she asked Decedent to speak with her with the provided phone, but he refused. She sensed he was becoming more agitated. She told him to put the gun down multiple times. Ultimately, Officer Bertschy was in the CAT2, sitting between and slightly behind the two front seats of the vehicle when she saw Decedent holding the gun “almost in front of him.” At that moment, she heard the shot from the sniper.

Officer Benjamin Ferrell

Officer Ferrell was the Crisis Negotiation Team Leader for this event. Once he arrived at the park, he left Officer Bertschy in place as the negotiator because she had developed a rapport with Decedent.

Officer Ferrell developed the plan to drop a phone to Decedent. Decedent would not use the phone.

As Decedent continued to exhibit agitation, the officers decided they needed better cover and CAT2 arrived at the location. Officer Ferrell got into the back of the vehicle.

Officer Ferrell noted the Decedent moving at various times. At the time of the shot, Officer Ferrell saw Decedent holding the gun above his chest and heard the shot.

Reserve SWAT Officer Hayden Solis

Officer Solis was the driver of CAT2. Once he arrived, the occupants of CAT2 were Sergeant Taylor, Officers Arnold, Nelson, Hafen, Bertschy, Ferrell, Emry and Kepner.

Officer Solis observed Decedent becoming more agitated. Like other officers, he saw Decedent raise the gun and point it at CAT2 and subsequently follow instructions to lower the gun. He heard Officer Bertschy instruct Decedent multiple times not to point the gun at them. Officer Solis saw Decedent raise the gun again and a shot was fired.

SWAT Officer Richard Arnold

Officer Arnold was dispatched to Craig Ranch Park and was assigned to CAT2. His responsibility was east containment. Officer Arnold directed Officer Bertschy to get into the right front seat of CAT2 to continue negotiations.

Officer Arnold observed Decedent moving westbound until he was directly south of CAT2. Officer Arnold ordered the team into a different position so they could maintain cover. Officer Bertschy ordered Decedent back to a location and he complied. Decedent then moved further east, exposing officers on the east corner of the CAT. Officer Bertschy ordered Decedent back.

Officer Arnold and others on the team began formulating a less lethal plan. At some point while discussing the plan, Officer Arnold did not have his eyes on Decedent when he heard a shot. At first, Officer Arnold thought Decedent had shot himself, but then heard radio communication that snipers had fired the shot. The team approached Decedent and administered aid.

SWAT Sergeant Jason Lawrence

Upon being advised of the situation, Sergeant Lee advised two snipers to deploy to the park and set up in a position. Over time, Sergeant Lawrence observed Decedent becoming more agitated.

Sergeant Lawrence saw Decedent bring the gun he was holding up and point it to where officers were in CAT2. Sergeant Lawrence heard Officer Bertschy telling Decedent to put the gun down. Decedent complied but raised the gun a minute later. He switched hands and lowered the gun. He raised the gun again, pointing it at CAT2, as he moved to his right. At this time, a sniper fired a single shot and advised over the radio that he had fired.

SWAT Officer Peter Nelson

At the scene, Officer Nelson initially was deployed as a sniper. When CAT2 arrived, Officer Jameson relieved Officer Nelson. Officer Nelson got into CAT2 and proceeded to the location near Decedent.

Officer Nelson exited and took a position to the left rear of CAT2. Officer Nelson was 30 to 40 feet from Decedent. Decedent made statements such as "just do it," "kill me," and "shoot me."

Officer Nelson also told Decedent to drop the gun. Decedent would move east, taking away Officer Nelson's cover. Officer Nelson would then move to maintain cover.

Officer Nelson believed Decedent was trying to get him to shoot at him. Decedent would make statements such as "Just shoot me. It's over."

As officers were discussing a less lethal plan, Officers Nelson was told that Decedent was repositioning. Officer Nelson began moving behind the CAT2, expecting to see Decedent come into view when he heard the sniper shot.

SWAT Officer Skyler Lee

Officer Lee received instructions to respond to the park and deploy as a sniper. When he got to the park, he positioned west of Decedent behind a block wall. Officer Jameson arrived shortly thereafter.

When Decedent walked west, Officer Lee believed his and Officer Jameson's position was compromised so they repositioned to the Community Garden, further west. The two officers were less than a foot apart.

On two occasions, Decedent raised up his gun at the CAT2. Officers Lee and Jameson set up for a shot on each of these occasions but did not fire because Decedent quickly lowered the weapon. The third time, he kept the gun up and Officer Lee heard over the PA, "Stop pointing the gun at us!"

Officer Lee was trying to adjust his line of sight when he saw Decedent raise the gun a final time at the CAT2. He told Officer Jameson, "Gun, gun, gun, gun." Officer Jameson took the shot at that time.

Officer Lee said he would have shot if Officer Jameson had not.

Officer R. Jameson

Officer Jameson explained that he was deployed as a sniper to provide cover for other officers. When he saw Decedent raise a gun in the direction of the officers positioned by CAT2, he perceived him to be a threat of death or substantial bodily harm and fired one shot.

LVMPD Armor Officer

Metro Officers R. Haskins, S. Solorio, and R. Orth responded to the scene with the LVMPD robot. These officers delivered water and the phone to Decedent. None had a view of the scene when the shot was fired.

B. SUMMARY OF INTERVIEWS WITH CIVILIAN WITNESSES

C.F.

Civilian witness C.F. completed a voluntary statement. C.F. stated that she saw Decedent fire his firearm into the air. C.F. moved to avoid being seen by Decedent. While she hid behind a tree, she heard Decedent speaking to someone in a car.

B.H.

B.H. was driving in her car at the park. She was playing a Pokémon hunting game on her phone. At one point, she parked in the north parking lot of the park to eat her lunch. She left that area only to return a few minutes later. At this time, she saw a white Honda Civic parked in the lot.

A man (Decedent) was standing by the open driver's door of the Civic. When she passed, the man flagged her down and asked her to call 911. He said he had been shot. He said that someone was shooting in the park and they ran into the park.

B.H. noticed Decedent had blood on his thumb and pants. She thought he seemed “off” or “erratic” but she called the dispatcher. After she called 911, Decedent told her, “You need to get out of here” and “It’s gonna get bad around here” four to five times. B.H. heard sirens and left the area.

C. BODY WORN CAMERA

37 officers activated their Body Worn Cameras (BWC) during the incident. As snipers, Officers Jameson and Lee did not wear a BWC.

Most of the officers were too far away to show images of Decedent as he was shot. One showed Decedent with a gun in his hand prior to being shot. (Some of those images are included below).

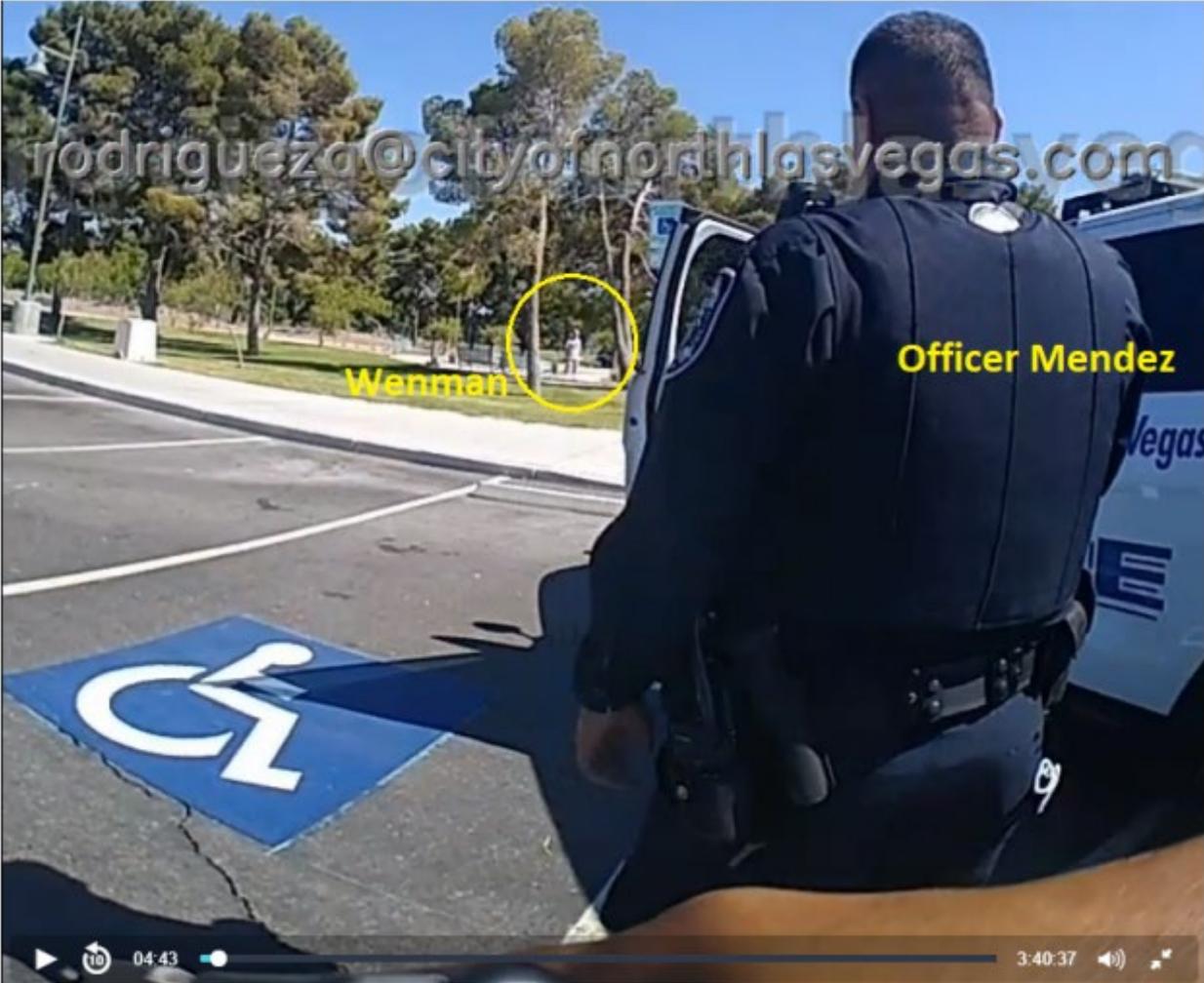
Some of the BWC’s recorded Decedent’s comments at various points throughout the negotiations. Those comments were consistent with the recollections of the officers.

The LVMPD Armor Unit did not have a video uplink at the scene so there is no video footage from the robot.

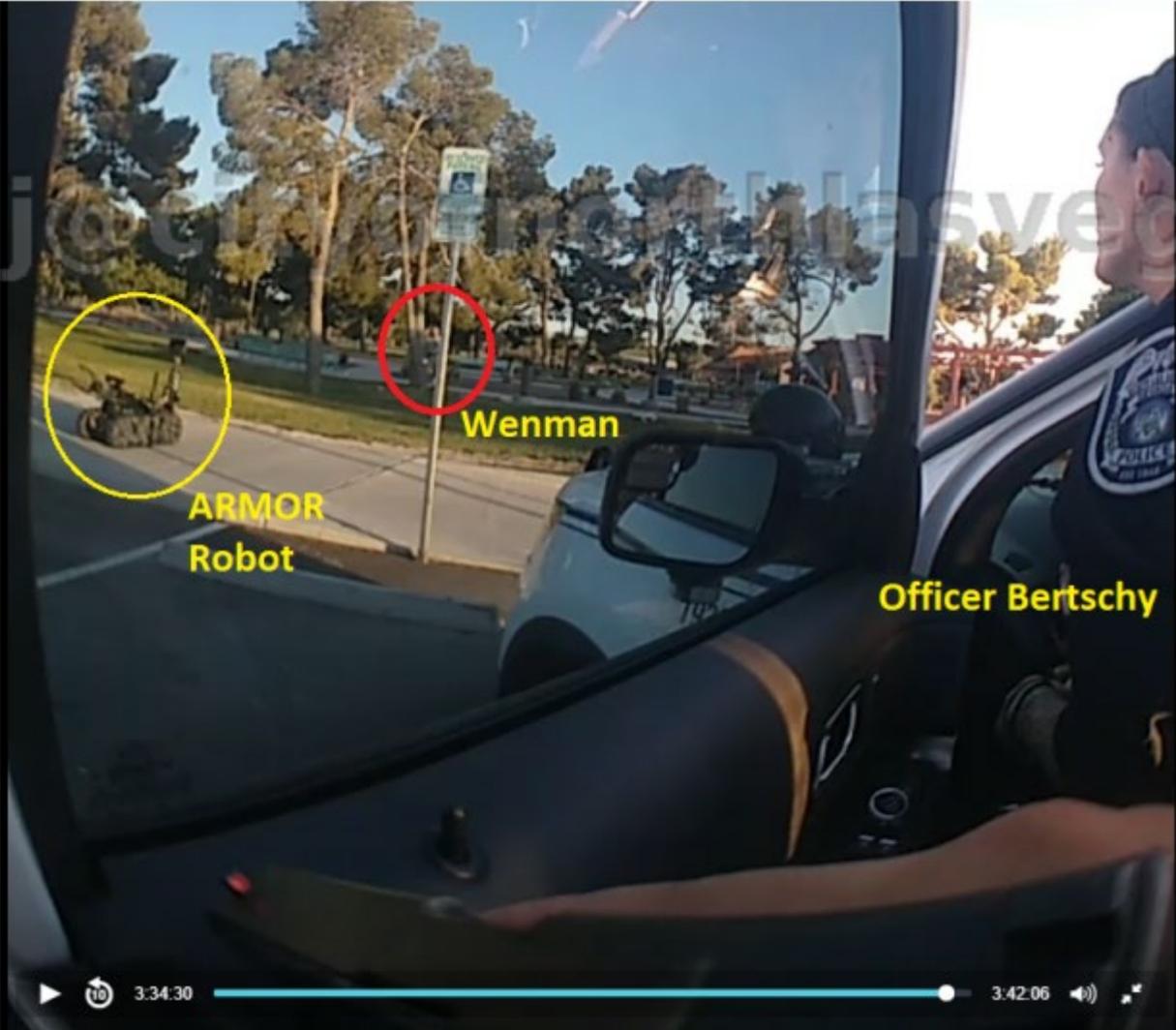
OFFICER TEODORO MENDEZ (INITIAL IAT/CNT/1ST OFFICER ON SCENE)



OFFICER OSCAR CONCHAS (INITIAL IAT/CNT/BEST BWC AUDIO OF WENMAN)









D. OFFICER COUNTDOWN

Officer Jameson

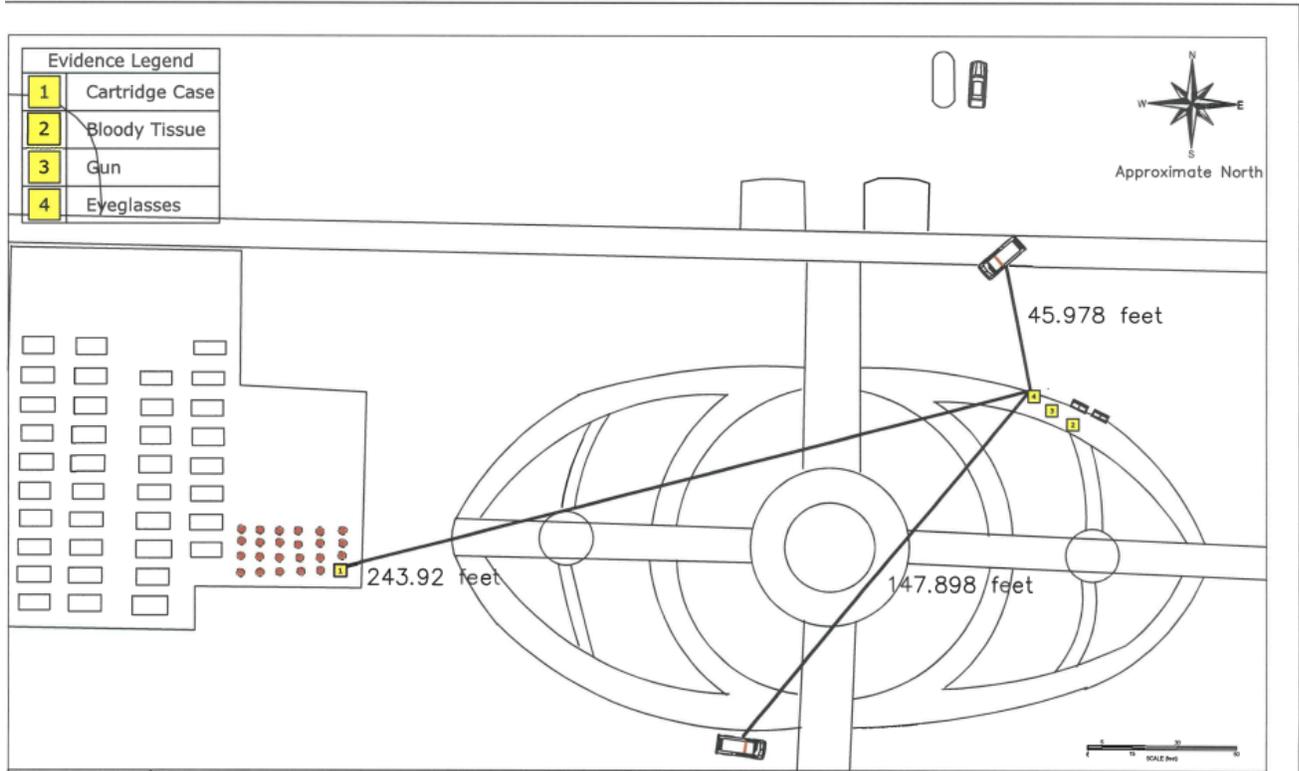
A crime scene analyst conducted an ammunition countdown of Officer Jameson's rifle. The magazine was still inserted in the officer's rifle and a live cartridge was in the chamber. There were no discrepancies in the countdown.¹

E. AUTOPSY

Dr. Lisa Gavin determined a single projectile entered Decedent's left torso, exited the right torso and re-entered the right inner upper forearm and exited at the elbow. The injury appeared consistent with Decedent's right forearm being parallel to the ground with his elbow bent at 90 degrees and against his body at the time of the bullet strike.

¹ An empty casing, a chamber cartridge, and a barrier cartridge, which was removed by Officer Jameson, plus seven cartridges in the magazine, totaling 10.

F. DESCRIPTION OF THE SCENE AND VISIBLE EVIDENCE



In the Community Garden area of the park, 243.92 feet from Decedent, investigators observed the two precision rifles on tripods utilized by the snipers. Investigators also found the empty cartridge cases associated with the round fired by Officer Jameson (item 1).

In the area of Decedent, investigators found the black semi-automatic handgun (item 3) that was in Decedent's possession, broken eyeglasses (item 4), and a bloody tissue (item 2).



On Decedent's vehicle, crime scene investigators found a handwritten note taped to the rear driver's side window. It identified Decedent and provided contact information.



My name is Robert Wenman
I Live at 313 Shady Morning
Ave N Las Vegas Nevada 89051
I Live Gloria Johnson my
GIRL Friend 702-525-6867

In the rock landscaping west of the vehicle, investigators found a tissue with blood.



Based on information provided by civilian witness, C.F., detectives searched for the cartridge case from Decedent firing his gun into the air. They did not find one. When investigators examined Decedent's gun, it was apparent the firearm had not properly cycled after being fired resulting in a spent casing remaining in the gun. This can happen if the slide's rearward travel is blocked after a shot is fired. If the handgun is not gripped properly, the slide will strike the supporting hand. At autopsy, investigators observed an injury to Decedent's left thumb, consistent with the thumb of his left hand supporting the right hand when he fired the gun.

The firearm had three remaining cartridges in the magazine.



G. SEARCH WARRANT AT DECEDENT'S RESIDENCE

At Decedent's residence, detectives found two handwritten notes: one to Decedent's girlfriend and one to his daughter. The notes stated that Decedent could no longer take

the pain. Decedent left instructions to his daughter regarding how to obtain his benefits with a death certificate.

V. LEGAL ANALYSIS

The District Attorney's Office is tasked with assessing the conduct of officers involved in any use of force which occurred during the course of their duties that may have contributed to the cause of death of a person (Clark County Ordinance §2.14.010). That assessment includes determining whether any criminality on the part of the officers existed at the time of the incident.

In Nevada, there are a variety of statutes that define the various types of justifiable homicide (NRS §200.120 – Justifiable homicide defined; NRS §200.140 – Justifiable homicide by a public officer; NRS §200.160 – Additional cases of justifiable homicide). The shooting of Decedent could be justifiable under one or both of two theories related to the concept of self-defense: (1) the killing of a human being in self-defense/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 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 to commit a crime of violence ..." against the other person.² 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 in *Runion v. State*, 116 Nev. 1041 (2000). The relevant jury instructions as articulated in *Runion* are as follows:

The killing of [a] person 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 or cause great bodily injury; and

² NRS 200.120(3)(a) defines a crime of violence:

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

2. That it is absolutely necessary under the circumstances for him to use force or means that might cause the death of the other person, for the purpose of avoiding death or great bodily injury.

A bare fear of death or great bodily injury is not sufficient to justify a killing. To justify taking the life of another in these 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. A person has a right to defend from apparent danger to the same extent as he would from actual danger. The person killing is justified if:

1. He is confronted by the appearance of imminent danger which arouses in his mind an honest belief and fear that he is about to be killed or suffer great bodily injury; and
2. He acts solely upon these appearances and his fear and actual beliefs; and,
3. A reasonable person in a similar situation would believe himself 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 of self-defense exists, the State must prove beyond a reasonable doubt that Decedent did not act in self-defense. *Id.* at 1051-52.

Therefore, in Nevada, the law is that if there is evidence of self-defense, in order to prosecute, the State must prove beyond a reasonable doubt that an individual did not act in self-defense.

The known facts and circumstances surrounding this incident indicate that Decedent posed an apparent imminent danger to all officers and civilians at the park. He had fired one round from his handgun, refused to drop his gun after repeated commands of officers, and he finally pointed a gun in the direction of several officers.

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, at the time Officer Jameson fired, he had probable cause to believe that Decedent posed a threat of serious physical harm to officers inside and in the area of CAT2, in addition to

everyone else at the park. He had fired one round from his handgun, refused to drop his gun after repeated commands of officers, and he finally pointed a gun in the direction of several officers. In light of this evidence, the actions of Officer Jameson were legally justified and appropriate “in the discharge of a legal duty.”

VI. CONCLUSION

Based on the review of the available materials and application of Nevada law to the known facts and circumstances, the State concludes that the actions of North Las Vegas Police Department Officer Robert Jameson were reasonable and/or legally justified. The law in Nevada clearly states that homicides which are justifiable or excusable are not punishable. (NRS 200.190). A homicide which is determined to be justifiable shall be “fully acquitted and discharged.” (NRS 200.190).

As there is no factual or legal basis upon which to charge, unless new circumstances come to light which contradict the factual foundation upon which this decision is made, no charges will be forthcoming.