

REPORT ON USE OF FORCE



Legal Analysis Surrounding the Death of William Snider Sr. on August 23, 2015

INTRODUCTION

On August 23, 2015, Las Vegas Metropolitan Police Department Officers responded to a “Shots fired!” call at 412 Lakehurst Road, Las Vegas, Clark County, Nevada. Arriving officers saw William Snider Sr. (hereinafter “Decedent”) walking in and out of his residence at 416 Lakehurst Road, armed with a rifle. Officers directed Decedent to put his rifle down. Decedent responded, “I’m not going to do that.”

As a result of Decedent’s refusal to put his rifle down, officers requested that SWAT and the Crisis Negotiation Team respond. Upon arrival, SWAT officers took positions on rooftops at 409 Lakehurst Road and 413 Lakehurst Road, both directly across the street from Decedent’s residence of 416.

Negotiators approached Decedent with an armored vehicle in an effort to communicate with him. During negotiations, Decedent exited his residence and walked down his driveway. He disregarded repeated commands to drop his weapon and aimed the rifle in the direction of SWAT officers in the armored vehicle. Two SWAT officers in positions on rooftops fired their weapons, striking Decedent and ending the threat to officers and civilians in the area. Officers summoned medical assistance for Decedent and he was transported to UMC Trauma for treatment. He died from his injuries.

LVMPD Force Investigation Team (FIT) Detective Joseph Patton conducted the investigation of this incident with other members of FIT.

The District Attorney's Office completed its review of the August 23, 2015, death of Decedent. It was determined that, based upon the evidence currently available and subject to the discovery of any new or additional evidence, the actions of Officers Moser and Walters were not criminal in nature.

This report explains why criminal charges will not be forthcoming. 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 June 15, 2016. This report is solely for the purpose of explaining why, based on the facts known at this time, the conduct of the officers was not criminal.

The 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 apply.

INVESTIGATION DETAILS

INFORMATION FROM WITNESSES

I. CIVILIAN WITNESSES

A. Neighbor

Neighbor was home in bed with his wife when they both heard a firecracker or gunshot. Neighbor looked out his window and saw Decedent, standing three feet outside of Neighbor's front door. Neighbor exited and Decedent said, "This is your destiny [Neighbor]. This is your destiny. You're not welcome in my home." The statement made no sense to Neighbor. Neighbor could not see Decedent's lower torso or hands because there was a car between the two men, but he smelled gunpowder. Neighbor put his hands up and said, "Ok [Decedent]!" Neighbor walked back inside and called 911. Prior to this date, Neighbor had never seen Decedent with a gun nor been threatened by him. Decedent had filed several unsubstantiated reports against Neighbor in the past. Neighbor told police that he had not had any recent problems with Decedent, but they no longer spoke.

Detectives interviewed Neighbor's wife. She relayed the same information as Neighbor, but added that when police arrived, they asked her and her husband to evacuate their house. Once outside, she saw Decedent walk outside with what she believed was a rifle. Officers

then had the residents move to a safer location, and she did not see Decedent's interaction with police officers.

B. Roommate

Roommate and her boyfriend rented a room from Decedent.¹ Roommate had lived at the residence for one month before the incident.

When Roommate first moved in, she and Decedent got along well. She noticed Decedent took a lot of medication and had a morphine pump attached to his chest. About two weeks before the incident, Decedent had been acting odd and demanded Roommate and her boyfriend move out in two days. Roommate and her boyfriend were able to negotiate moving at the end of the month instead.

Roommate said Decedent's behavior was erratic. Decedent would complain about neighbors entering his residence and stealing his mail. Roommate did not believe this was actually occurring. Decedent installed surveillance cameras to monitor his neighbor. Roommate saw Decedent walk around his residence with an ax. Roommate believed Decedent suffered from mental issues.

Roommate told detectives that on the day of the incident, she awoke and then woke up her boyfriend (hereinafter "Boyfriend"). As Roommate and Boyfriend walked into the kitchen, Boyfriend pulled Roommate back because he saw Decedent sitting in the living room holding a rifle. Roommate called 911. Roommate and Boyfriend were unable to exit the residence through their bedroom window because Decedent had previously nailed the window shut. Ultimately, Roommate and Boyfriend ran through the residence, attempting to avoid being seen by Decedent. They exited the back door and made contact with Metro officers who assisted them over the backyard wall.

C. Boyfriend

Boyfriend told police that on the day of the incident, he was asleep until he heard a loud bang. He was unsure if it was a gunshot. Once his girlfriend (Roommate) woke up, the couple went to the kitchen for breakfast. When they left their bedroom, Boyfriend heard a loud noise coming from outside the front door of the residence. As Boyfriend walked into

¹ There was one additional housemate in addition to Decedent. See "Roommate 2" supra.

the kitchen, he saw Decedent in the living room holding a rifle. Decedent told Boyfriend to leave and get out of the house. He seemed calm to Boyfriend.

Boyfriend went into the kitchen and told Roommate that they needed to leave and pulled her into the bedroom. Roommate laid on the floor while Boyfriend called 911. The dispatcher told Boyfriend the police were at the house and to exit. Boyfriend went into the other housemate's room ("Roommate 2"), to wake him up. When Boyfriend told Roommate 2 that Decedent had a gun and that they needed to leave, Roommate 2 did not believe him and went to talk to Decedent. Boyfriend and Roommate left the residence and climbed over a rear wall where officers were located. Boyfriend assisted officers in providing a layout of the residence and details regarding the remaining occupants in the house. Boyfriend left the scene before the shooting involving the police.

Boyfriend stated that when he initially moved in, Decedent seemed normal; however, Boyfriend came to believe Decedent was a paranoid schizophrenic. Due to Decedent's behavior, Boyfriend and Roommate were moving out of the house at the end of August.

Previously, Decedent had told Boyfriend that a neighbor was coming into the house and moving household items like coffee mugs and replacing bolts on the house and Decedent's car. Decedent also said the neighbors were coming into the house and stealing his mail and medications. Boyfriend observed Decedent adding and changing locks and nailing doors and windows shut while he lived there. He also saw Decedent walking around the house carrying an ax.

Boyfriend knew that Decedent's son, who had lived in the house previously, had a gun, but he had never seen Decedent with a gun prior to the date of the incident.

D. Roommate 2

On the day of the incident, Roommate 2 was asleep when his housemate (Boyfriend) woke him. Boyfriend told Roommate 2 that the police were outside the residence and Decedent had a gun. Boyfriend also said they needed to leave. Roommate 2 did not believe Boyfriend and went to speak to Decedent.

Roommate 2 could hear the police calling to Decedent with a loudspeaker, asking him to come out with his hands up. Decedent was calmly sitting on the couch, holding a rifle. Roommate 2 asked Decedent why he was not putting down the rifle and going out with his hands up and Decedent replied, "I just want to go out" or, "It's my time to go out." Roommate 2 told Decedent that he did not want to see that and asked him to surrender.

Decedent took money out of his wallet and gave it to Roommate 2 and asked Roommate 2 to call Decedent's son. Decedent refused to surrender and told Roommate 2 to leave the residence.

Roommate 2 had been friends with Decedent's son for years, but only lived at the residence for a few months.

E. iPhone 6 Owner

On the morning of the incident, iPhone Owner noticed police activity outside his residence. He recorded the officers' actions with his iPhone. Officers noticed iPhone Owner recording outside his front door and directed him to go inside his residence. iPhone Owner complied, but propped up his phone in a window to continue recording. iPhone Owner provided the video he captured to Metro.²

F. Neighbor 2

On the day of the incident, Neighbor 2's daughter woke him up, reporting that she had heard robot voices coming from the front yard. Neighbor 2 exited his front door and discovered Metro officers using a public address system to communicate with his neighbor, Decedent. Neighbor 2 reported that officers said, "[Decedent] and the other occupants of 416 Lakehurst, please come out with your hands up and without any weapons. This is the Las Vegas Metropolitan Police Department. We want to talk to you about an incident earlier this morning."

Neighbor 2 saw Decedent exit his residence with a rifle on his shoulder. Neighbor 2 heard officers ask Decedent to put the rifle in the trunk of a vehicle. Decedent responded, "I'm not gonna do that." Decedent then went back into his house. Neighbor 2 explained that officers then continually asked Decedent to come out of his residence with no weapons and stated that he would not be hurt. Neighbor 2 saw a young man (Roommate 2) exit the residence. Officers escorted him away.

Neighbor 2 saw SWAT officers climb onto his roof and an armored vehicle in front of Decedent's house. Neighbor 2 then saw Decedent exit his residence, holding a rifle in a "ready position." Officers again instructed Decedent to put the rifle down, and Decedent

² This recording captured the shooting.

failed to comply. Instead of complying, Decedent shouldered the rifle and aimed it toward the street. Neighbor 2 then heard one shot fired and saw Decedent fall to the ground.

G. Neighbor 3

Neighbor 3 lived two (2) houses west of Decedent. Neighbor 3's residence had cameras that faced in the direction of Decedent's house. On the day of the incident, at approximately 0830 hours, Neighbor 3 woke up, went into his backyard and smoked a cigarette. Neighbor 3's wife told him that there was a lot of police activity going on, so Neighbor 3 went to his front yard and was told by officers to remain inside for his own safety.

Neighbor 3 stated he was able to hear officers address Decedent over the PA system for over an hour. The officers told Decedent over the PA to come out with his hands up because officers were there to help him. The last time he heard the officer say in a very calm voice, "Put the gun down." Neighbor 3 heard two (2) gunshots approximately one (1) second later. Neighbor 3 did not see any officers fire their weapon, but he was positive that they had given Decedent numerous chances to give up.

G. Canvass

On August 23, 2015, North West Area Command (NWAC) Patrol Division Detectives Morgan and O'Connell conducted a canvass in and around the area of Lakehurst Road and Pinelake Road for potential witnesses to the incident. The detectives spoke with several individuals; however, no new witnesses or leads developed.



II. POLICE OFFICERS

A. Scene Walk-Throughs

1. Officer Charles Moser

Officer Moser was the first sniper to arrive on the call. Officer Moser parked his vehicle near the 300 block of Lakehurst Road, grabbed his sniper gear, spoke briefly with the resident at 401 Lakehurst Road and made his way to the front yard of 405 Lakehurst Road.

Officer Moser took a ground position near a flower bed in front of 405 Lakehurst Road. A short time later, Officer Walters met with Officer Moser. Officer Walters decided to take a position on the roof of 409 Lakehurst. Once Officer Walters was in position, Officer Moser moved his position to the roof of 409 Lakehurst Road with Officer Walters.

Officer Moser again changed his position to the roof of 413 Lakehurst Road. Officer Moser stated his final shooting position was six (6) o'clock, fifty two (52) yards, level two (2) and he fired one (1) round.

2. Officer Michael Walters

When Officer Walters arrived at the incident, he parked near the 300 block of Lakehurst Road. Officer Walters briefly spoke with the resident of 401 Lakehurst Road and made his way to 405 Lakehurst Road.

Officer Walters went into the backyard of 405 Lakehurst Road, climbed the wall south into the backyard of 409 Lakehurst Road, and then climbed a ladder onto the roof of 409 Lakehurst Road. Officer Walters took a position on the south side of an electrical box on the roof for shade and cover. Officer Walters stated his final shooting position was five (5) o'clock, fifty two (52) yards, level two (2) and he fired one (1) round.

3. Officer Cory Mikkelson

Officer Mikkelson arrived at the scene and grabbed his sniper gear and responded to Officer Walters' location on the roof at 409 Lakehurst Road. Officer Mikkelson was acting as Officer Walters' spotter. Officer Mikkelson was in position for approximately five (5) minutes when Decedent exited his house, pointed his rifle at the BearCat and was shot by Officers Walters and Moser. Officer Mikkelson broadcast, "Shot out! Shot out!" over the SWAT radio.

B. Public Safety Statements

1. Officer Charles Moser

Detective Jex also interviewed Sergeant Calhoun in reference to the Public Safety Statement he obtained from Officer Moser. Below are the questions asked by Sergeant Calhoun and the answers provided by Officer Moser. (Officer Moser's answers are in ***bold italics***).

1) Did you discharge your firearm?

Yes.

a) If so, in what direction?

Directly west.

b) Approximately where were you located when you fired?

At the six (6) o'clock position approximately fifty two (52) yards away on level two (2), on a rooftop.

c) How many shots do you think you fired?

One (1) shot.

2) Is anyone injured?

Yes, the suspect, and he was transported by FD 44.

3) Are there any outstanding suspects?

No.

4) Is it possible the suspect fired rounds at you?

Not a hundred percent sure but he [sic] didn't think so.

5) Do you know if any other officer(s) discharged their firearms?

Yes, Officer Mike Walters.

a) Approximately where was the officer(s) located when they fired?

Officer Walters was twenty five (25) yards to his [sic] right, at the four (4) o'clock position and also at level two (2) on the rooftop.

6) Are there any weapons or evidence that needs to be secured/protected?

The suspect's rifle is down in the driveway.

7) Are you aware of witnesses?

Officer Mike Walters and Officer Cory Mikkelson were witnesses.

2. Officer Michael Walters

On August 23, 2015, Detective Jex interviewed Sergeant Calhoun in reference to the Public Safety Statement he obtained from Officer Walters. Below are the questions asked by Sergeant Calhoun and the answers provided by Officer Walters. (Officer Walters' answers are in ***bold italics***).

1) Did you discharge your firearm?

Yes.

a) If so, in what direction?

Southwest.

b) Approximately where were you located when you fired?

On the rooftop of 409 Lakehurst.

c) How many shots do you think you fired?

One (1).

2) Is anyone injured?

The suspect.

3) Are there any outstanding suspects?

No.

4) Is it possible the suspect fired rounds at you?

No, not sure.

5) Do you know if any other officer(s) discharged their firearms?

Yes.

a) If so, who are they?

Officer Charles Moser.

b) Approximately where was the officer(s) located when they fired?

Officer Moser was approximately thirty (30) yards to the south and also on a rooftop.

6) Are there any weapons or evidence that needs to be secured/protected?

The suspect's rifle was in the driveway.

7) Are you aware of witnesses?

Officer Cory Mikkelson was my spotter and I was with him at the time I fired.

C. Additional Witness Officers

1. Officer Michael Torsiello

On August 23, 2015, Detective Jaeger interviewed Officer Michael Torsiello.

Officer Torsiello stated that he heard Dispatch broadcast a call for service in reference to a shooting. The person reporting from 412 Lakehurst Road ("Neighbor") said his neighbor fired a shot at his house. Officer Torsiello assigned himself to the call and arrived in the area. Officer Torsiello parked his patrol vehicle to block vehicular traffic to the north and could see Officer Hager arrive on the call. Officer Torsiello told Officer Hager to park his patrol vehicle to block traffic from the south.

Officer Torsiello saw Neighbor exit 412 Lakehurst Road and Officer Hager directed Neighbor to walk over to Officer Torsiello's location. Neighbor directed Officer Torsiello's attention to 416 Lakehurst Road and said that was the target residence. Neighbor told Officer Torsiello he heard a loud bang outside his house and, when he walked outside to investigate the sound, he saw his neighbor, Decedent. Decedent was standing in Neighbor's front yard yelling. Neighbor stated he never had seen Decedent with a firearm. Officer Torsiello coordinated Neighbor and Neighbor's wife's evacuation from the area.

Several officers arrived on scene to assist. An officer used his vehicle's PA system to address the occupants of 416 Lakehurst Road. Decedent exited the residence with an object in his hands. The object appeared to be a broom or a bat. Officer Torsiello used a pair of binoculars to get a closer look at the object in Decedent's hands and observed Decedent armed with a rifle. Officer

Torsiello broadcast over the radio that Decedent was armed with a rifle. Decedent held the rifle with one hand as it rested on his shoulder like a soldier would carry a rifle.

Officers continued to give Decedent commands; however, Decedent did not follow any of the commands and instead walked back into the residence, still holding the rifle. After Decedent went inside his residence, the situation was deemed a barricade and SWAT was notified.

SWAT arrived and assumed control of the inner perimeter. Officer Torsiello moved his position; however, he was able to watch Decedent as he exited the front door of his residence armed with the rifle. Decedent stood behind a vehicle parked in the driveway for a few moments. Decedent then walked out from behind the car, held the rifle in a two-handed grip, pulled the rifle up to his cheek, and aimed the rifle at SWAT officers. Officer Torsiello heard at least two (2) gunshots and saw Decedent drop to the ground.

Once Decedent was on the ground, SWAT members advanced towards Decedent using a BearCat armored vehicle for cover. The BearCat was driven onto the driveway and SWAT officers pulled Decedent behind the BearCat and started performing lifesaving techniques on him.

2. Sergeant Michael Fletcher

Detective Jex conducted an audio recorded interview with Sergeant Fletcher on the day of the incident.

Sergeant Fletcher was at the NWAC and heard the broadcast of a person who had discharged a firearm. Sergeant Fletcher assigned himself to the call and went to the address. While en route, he made assignments to begin a perimeter and containment. Sergeant Fletcher arrived and made contact with Officer Torsiello, who was with the person reporting, Neighbor.

Neighbor told Sergeant Fletcher he had problems with Decedent for several years. Neighbor stated he heard a gunshot, exited the residence and smelled gunpowder. Neighbor stated he did not see a firearm in Decedent's hands. Decedent did state to Neighbor, "This is your destiny [Neighbor]. You are not welcome in my house anymore." Sergeant Fletcher continued to gather information about Decedent and learned there were roommates who lived with Decedent.

Sergeant Fletcher moved to the north and set up an arrest team and other officers on the perimeter. He assigned Officer John Abel as the CIT (Crisis Intervention Team) officer for the incident. Officer Abel attempted to make contact with Decedent over the PA system of the patrol

vehicle. Sergeant Fletcher received Decedent's phone number and called into the residence, but there was no answer.

Decedent exited the residence and an officer broadcasted that Decedent was holding a long rifle. Sergeant Fletcher could not see Decedent from his position and was relying on Officer Torsiello to give information on Decedent. Sergeant Fletcher advised officers to deploy their rifles. After Decedent came out of the house, Sergeant Fletcher had the perimeter officers move further back, due to Decedent having a rifle.

Sergeant Fletcher requested Dispatch contact the SWAT lieutenant. Lieutenant Pelletier contacted Sergeant Fletcher and, after receiving information and listening to the radio traffic, directed the SWAT team to respond. SWAT team members began to arrive and took over the inner perimeter and all of the patrol officers moved back from the residence. A short time later, Sergeant Fletcher heard two (2) shots fired and was advised via the radio that SWAT officers had fired at Decedent. Sergeant Fletcher did not see officers fire. Sergeant Fletcher did not have any further involvement with the incident.

3. Officer John Abel

Detective Jaeger conducted an audio recorded interview with Officer John Abel.

Officer Abel assigned himself to the call and arrived on the south side of incident location with Officer Hager. Officer Abel stayed on the south side of the scene while Dispatch searched for a contact phone number for Decedent. After approximately fifteen (15) minutes, Officer Abel parked his patrol vehicle directly in front of the target residence at 416 Lakehurst Road. Officer Abel set the public address system on his patrol vehicle to broadcast all radio traffic. Officer Abel then set the police radio in his vehicle to the car to car channel. The car to car channel is a channel that is not monitored by a dispatcher. Officer Abel locked the doors to his patrol vehicle and switched his portable radio carried on his duty belt to the car to car channel which allowed Officer Abel to remotely speak through the vehicle's PA system at a safe distance away from the vehicle, out of the view of anyone exiting 416 Lakehurst Road.

Officer Abel requested the occupants of 416 Lakehurst Road exit unarmed. From Officer Abel's location, he was not able to see the front of 416 Lakehurst Road. Another officer on scene announced over the radio that Decedent had exited 416 Lakehurst Road armed with a rifle then retreated back inside his residence. Once Decedent went back into his residence, the situation was deemed a barricade and SWAT responded.

When SWAT arrived, Officer Abel was relieved of his position and moved to an outer perimeter location. While Officer Abel was moving to the outer perimeter he heard what he thought to be two (2) gunshots.

4. Sergeant Nate Chio

Detective Jex conducted an audio recorded interview with Sergeant Chio.

Sergeant Chio responded to the command post and was assigned as the primary negotiator with Sergeant Tavarez as secondary. He donned his tactical gear and responded to the BearCat where he met SWAT Officer Linebarger and Sergeant Tavarez. Sergeant Chio sat in the front passenger seat of the BearCat and Sergeant Tavarez sat on a box between him and Officer Linebarger.

Officer Linebarger drove the BearCat and they moved slowly up the street toward the target residence, 416 Lakehurst Road. The SWAT entry team moved along the side of the BearCat, using it for cover. They stopped approximately two (2) houses north of 416 Lakehurst Road. They were given information that Decedent was seen inside that residence holding a rifle. Sergeant Chio could see Decedent at the front door and began giving verbal commands over the BearCat's PA system to exit and put down the rifle.

Decedent exited the residence and began walking down the driveway, holding the rifle at a port arms position. Sergeant Chio called Decedent by his first name and told him to stop moving and to put the rifle down. When Decedent got to the end of the BMW vehicle that was in the driveway he stopped, shouldered the rifle and pointed it directly at the BearCat. Sergeant Chio heard the gunshots fired by the SWAT snipers. Decedent immediately fell to the ground. Sergeant Chio and the others stayed in the BearCat as a second armored vehicle (Bear) was moved forward. Decedent was moved out of the driveway to the rear of the BearCat where he received medical attention and was transported to the hospital. Sergeant Chio stated that he was in fear for his life and moved out of the line of sight when Decedent pointed the rifle in their direction.

5. Officer Johnathan Richter

Detective Jaeger conducted an audio recorded interview with Officer Richter.

Officer Richter was conducting radar speed enforcement near the intersection of Gowan Road and Torrey Pines Drive. Officer Richter heard an officer broadcast over the radio a male

(Decedent) exited a house holding a rifle or shotgun. Officer Richter knew he was less than a mile away from the incident so he assigned himself to the call.

Officer Richter arrived on the call from the north and took a position in an open garage with Officer Torsiello and another officer who was armed with a rifle. Officer Richter spoke to the homeowner and advised him of the situation. The homeowner was advised he should evacuate the area. The homeowner did not want to evacuate and requested to shelter in place. A SWAT sniper arrived at Officer Richter's position and he assisted the sniper into a backyard and onto a rooftop a few houses closer to the target residence at 416 Lakehurst Road. After the sniper was in position, Officer Richter was directed to move away from 416 Lakehurst Road. Officer Richter, Officer Torsiello and the officer with the rifle returned to the open garage. From inside the garage, they had a view of the front of 416 Lakehurst Road.

Officer Richter observed a SWAT officer drive an armored vehicle (BearCat) up to the front of 416 Lakehurst Road and use the PA to ask the occupants to come out. Decedent exited 416 Lakehurst Road armed with a rifle. Decedent held the rifle with one hand just above the receiver and the other hand on the fore grip up by the barrel. Decedent walked between two (2) cars, raised the rifle and pointed it at the SWAT officers standing next to the BearCat. Officer Richter feared there was going to be an exchange of gunfire and he was "down range" from where Decedent was aiming his rifle. Officer Richter backed a few steps into the garage and heard gunshots. Immediately after he heard the gunshots, Decedent went down on the ground in the driveway of 416 Lakehurst Road. SWAT officers moved the BearCat into the driveway of 416 Lakehurst Road and pulled Decedent to the rear of the BearCat where they rendered medical aid to him.

6. Sergeant Michelle Tavarez

Detective Jex conducted an audio recorded interview with Sergeant Tavarez.

Sergeant Tavarez responded to the command post and was assigned to be the secondary negotiator to Sergeant Chio. Sergeant Tavarez donned her tactical gear and met Sergeant Chio and Officer Linebarger at the BearCat. Officer Linebarger drove the BearCat and Sergeant Chio sat in the front passenger seat. Sergeant Tavarez sat on a box between them.

They drove toward the residence and parked the BearCat approximately two (2) houses to the north at an angle. Sergeant Chio gave verbal commands to Decedent to put the rifle down and come out of the residence. Sergeant Tavarez observed Decedent exit the residence holding a rifle. He walked down the driveway toward the BearCat, stopped and shouldered the rifle, and pointed it directly at the windshield of the BearCat. Instinctively, Sergeant Tavarez moved out

of the line of sight of the rifle. She heard one gunshot fired and observed Decedent fall to the ground. The second armored vehicle (Bear) pulled forward and SWAT officers moved forward and brought Decedent back behind the Bear where he received medical attention and was transported to the hospital.

7. Officer Christopher Kratsas

Detective Jaeger conducted an audio recorded interview with Officer Kratsas.

Officer Kratsas was wearing a body worn camera affixed to his shirt collar under his right ear. Officer Kratsas was at the NWAC substation when he heard the call at 416 Lakehurst Road broadcast. Officer Kratsas assigned himself to the call and arrived from the north. Officer Kratsas positioned his patrol vehicle to stop vehicle traffic. Officer Kratsas was joined by Officer Gregorio and they blocked vehicle traffic from the north.

Officer Kratsas heard over the radio that a subject (Decedent) was seen with a firearm. Officer Kratsas moved from his position closer to the target residence, approximately three (3) or four (4) houses north of the target residence with his rifle.

SWAT was requested and responded. SWAT drove up to 416 Lakehurst Road with a BearCat armored vehicle. Decedent exited the front door of 416 Lakehurst Road armed with a “long gun.” Officer Kratsas could not tell if the gun was a rifle or a shotgun. Decedent raised his weapon and Officer Kratsas heard two gunshots. SWAT officers advanced to Decedent’s location and started to render medical aid. SWAT then sent in a robot to clear the inside of 416 Lakehurst Road.

8. Officer Mark Linebarger

Detective Jex conducted an audio recorded interview with Officer Linebarger.

After receiving notification of the incident via the communicator system, Officer Linebarger went to the scene. While en route, he was directed to bring the BearCat to the command post at Helen Marie Smith Elementary School. Officer Linebarger arrived and picked up equipment and SWAT entry team members as well as crisis negotiator Sergeants Chio and Tavarez. He then began a slow drive southbound toward the target residence at 416 Lakehurst Road and stopped two (2) houses north of the residence.

SWAT Sniper Officer Moser broadcasted that Decedent was moving around the front door of 416 Lakehurst Road and he was holding a rifle. Officer Moser advised not to move any officers forward. Officer Linebarger remained inside the BearCat with Sergeants Chio and Tavarez.

Sergeant Chio gave verbal commands to Decedent via the BearCat's PA system to come out of the house and put down the rifle.

Officer Linebarger observed Decedent at the front door holding a rifle at port arms as he looked around. Officer Linebarger believed Decedent was looking for the positions of the officers. Decedent walked down the driveway, stopped, and slowly brought the rifle to his shoulder. Decedent pointed the rifle at the BearCat and Officer Linebarger heard distinct gunshots being fired. Officer Linebarger knew the snipers had fired.

Decedent fell to the ground and the rifle landed at his feet. Officer Linebarger stated he was in fear for his life, but was confident that the armored vehicle would protect him. A second armored vehicle (Bear) moved forward and SWAT officers moved Decedent to the back where he received medical attention and was transported to the hospital. SWAT moved a robot up to the residence and utilized it to clear the house.

9. Officer Ciprian Arcalean

Detective Jex conducted an audio recorded interview with Officer Arcalean.

SWAT Sniper Officer Arcalean responded to the scene and was assigned to the roof of 412 Lakehurst Road. SWAT Sniper Officer Wiggins was also on the same roof, approximately fifteen (15) feet away from him. Officer Arcalean's responsibility was the number four side of the target residence, 416 Lakehurst Road. The back door in the backyard of 416 Lakehurst Road was open and a ladder was propped against the house that led to the roof. Officer Arcalean believed Decedent might come out of the residence, get on the roof, and possibly fire at officers. Officer Arcalean observed the BearCat approach 416 Lakehurst Road and the officer inside gave verbal commands to Decedent to exit the residence.

As he watched the rear of the residence, Officer Arcalean observed Decedent exit the residence holding a rifle. SWAT snipers across the street on Lakehurst Road broadcasted that Decedent was exiting with the rifle. Again, the officer in the BearCat gave verbal commands to Decedent to stop and put down the rifle. Officer Arcalean moved his rifle to a position where he could see Decedent and observed him walk down the driveway between two vehicles and point the rifle at officers. Before Officer Arcalean could acquire a sight picture and fire at Decedent, the snipers across the street fired, striking Decedent. Decedent immediately fell to the ground.

After Decedent fell to the ground, Officer Arcalean observed the two (2) armored vehicles move forward and bring Decedent back behind the Bear where he received medical attention and was transported to the hospital.

10. Officer John Wiggins

Detective Jaeger conducted an audio recorded interview with SWAT Officer John Wiggins.

Officer Wiggins was off duty when he received a call on his SWAT communicator and ultimately arrived and was directed to set up on the north side of 416 Lakehurst Road. Officer Wiggins joined fellow sniper Officer Arcalean on the rooftop of 412 Lakehurst Road. Officer Wiggins saw that the front door of 416 Lakehurst Road was open, but he could not see into the residence.

Officer Wiggins observed Decedent exit 416 Lakehurst Road with a rifle at port arms position. Officer Wiggins believed he was too close to Decedent's location and was afraid he would force a shooting if Decedent saw him. Officer Wiggins backed up to get below the pitch line of the roof to conceal himself. Officer Wiggins saw a BearCat armored vehicle move in front of 416 Lakehurst Road. Decedent walked down the driveway of his residence, shouldered his rifle and aimed it at the SWAT officers who were next to the BearCat. Officer Wiggins heard two (2) gunshots and saw Decedent fall to the ground.

11. Officer Cory Mikkelson

Detective Jex conducted an audio recorded interview with Officer Cory Mikkelson.

SWAT Sniper Officer Mikkelson responded to the scene and was assigned as the spotter for fellow sniper, Officer Walters. Officer Mikkelson got on the roof of 409 Lakehurst Road and positioned himself next to Officer Walters. Officer Mikkelson observed Decedent exit his residence holding a rifle. Decedent stopped by the door, leaned against the wall for a few seconds, then walked away from the house down the driveway. Decedent was initially between two (2) vehicles before he moved to the back of a BMW.

Decedent stopped, slowly shouldered the rifle, and pointed in the direction of the SWAT entry team as well as the BearCat. Officer Mikkelson heard Officer Walters and Officer Moser fire their rifles at Decedent. After the gunshots, Decedent fell backward and the rifle landed at his feet. Officer Mikkelson broadcasted, "Shot out. Shot out!" Officer Mikkelson remained in place and observed SWAT officers move Decedent back behind the Bear to receive medical attention then SWAT officers cleared Decedent's residence.

13. Officer Charles Moser

Detectives Patton and Colon conducted an audio recorded interview with Officer Charles Moser.

On the morning of the incident, Officer Moser received a call from the LVMPD SWAT communicator and was directed to respond to the area.

Upon his arrival on Lakehurst Road, Officer Moser parked on the north end of Lakehurst Road, deployed his sniper uniform and equipment, and made contact with SWAT Officer Walters, who was also deployed as a sniper.

Officers Moser and Walters made contact with patrol officers in the driveway of 401 Lakehurst Road. Patrol officers informed them they saw Decedent exit and re-enter his residence holding, what looked like a bolt-action hunting-style rifle.

Officer Moser took a position behind a brick planter box in the front yard of 405 Lakehurst Road and observed a ladder in the backyard of Decedent's residence. Officer Moser realized he needed a better position, so he advised Officer Walters to find a position on a rooftop. Officer Moser also observed a white male in his late teens to early twenties exit Decedent's residence. The subject made contact with patrol officers and advised them Decedent had stated, "Today was just his day."

Officer Moser heard patrol officers "bull horning" the residence. The officers advised Decedent to come out of the residence without his weapon. SWAT Snipers Wiggins and Arcalean arrived and were directed to cover the backside of the Decedent's residence.

Officer Walters advised Officer Moser he was in position on the roof of 409 Lakehurst Road and would provide cover for him to change locations. While Officer Moser moved to the rooftop of 413 Lakehurst Road, he observed there were citizens occupying both 409 and 413 Lakehurst Road. Officer Moser proceeded to the roof of 413 Lakehurst Road which was directly across from Decedent's residence at 416 Lakehurst Road.

Officer Moser used the optic on his rifle to see inside of Decedent's residence through the open front door. Officer Moser advised the SWAT commander he could see Decedent sitting on the couch, holding his weapon and appeared to be watching the police activity outside. Decedent continually walked around inside the residence and looked out of the windows.

Officer Moser observed the Bear, a SWAT armored vehicle, approach from the north and stop just southeast of the Decedent's residence. A second armored SWAT vehicle (BearCat) approached from the north, with a SWAT entry team walking behind it, and stopped north of the residence. Decedent moved into the doorway holding his weapon at a low ready position. Decedent moved the weapon to different positions in front of him.

Decedent exited his residence holding his rifle in both hands. He walked out and stood between two (2) vehicles that were parked in the driveway and looked toward the SWAT entry team. Decedent walked around in the area for a moment, turned towards the SWAT officers and shouldered his rifle, aiming it in their direction.

Officer Moser feared Decedent was going to shoot one of the officers or one of the citizens whose houses were in the line of fire, so Officer Moser discharged his weapon one time, striking Decedent in the chest. Officer Moser also heard Officer Walters fire his weapon about the same time.

13. Officer Michael Walters

Detectives Patton and Colon conducted an audio recorded interview with Officer Michael Walters.

Officer Walters was on his regular day off when he received a call via the LVMPD SWAT Communicator system. Officer Walters was given the address of the event and directed to respond.

Upon his arrival, Officer Walters parked his SWAT vehicle near the 300 block of Lakehurst Road, put on his sniper gear, met up with fellow sniper Officer Moser, and moved to 401 Lakehurst Road. Officer Walters spoke with three (3) uniformed patrol officers who were positioned at 401 Lakehurst Road. Officer Walters received information that Decedent had, in fact, exited his house holding a shotgun or rifle.

Officer Walters moved to the rooftop of 409 Lakehurst Road, which gave him a good view of Decedent's residence. Officer Walters took a position of cover next to a large metal air conditioning unit. Officer Walters set up his sniper rifle and advised Officer Moser it was safe to move. Officer Moser moved to the rooftop of 413 Lakehurst Road where he too took a position of cover next to an air conditioning unit.

Officer Walters gave real-time information of Decedent's movements over his SWAT radio. Officer Walters' radio traffic was being broadcast back to his SWAT commander who was located in the Tactical Operations Center (TOC).

A plan was devised by the SWAT commander to send a two-man negotiator team up to Decedent's house in an effort to make contact with Decedent via the PA system. The negotiators would be located inside one (1) of the armored SWAT vehicles also known as a BearCat, while a team of SWAT operators would follow behind the BearCat.

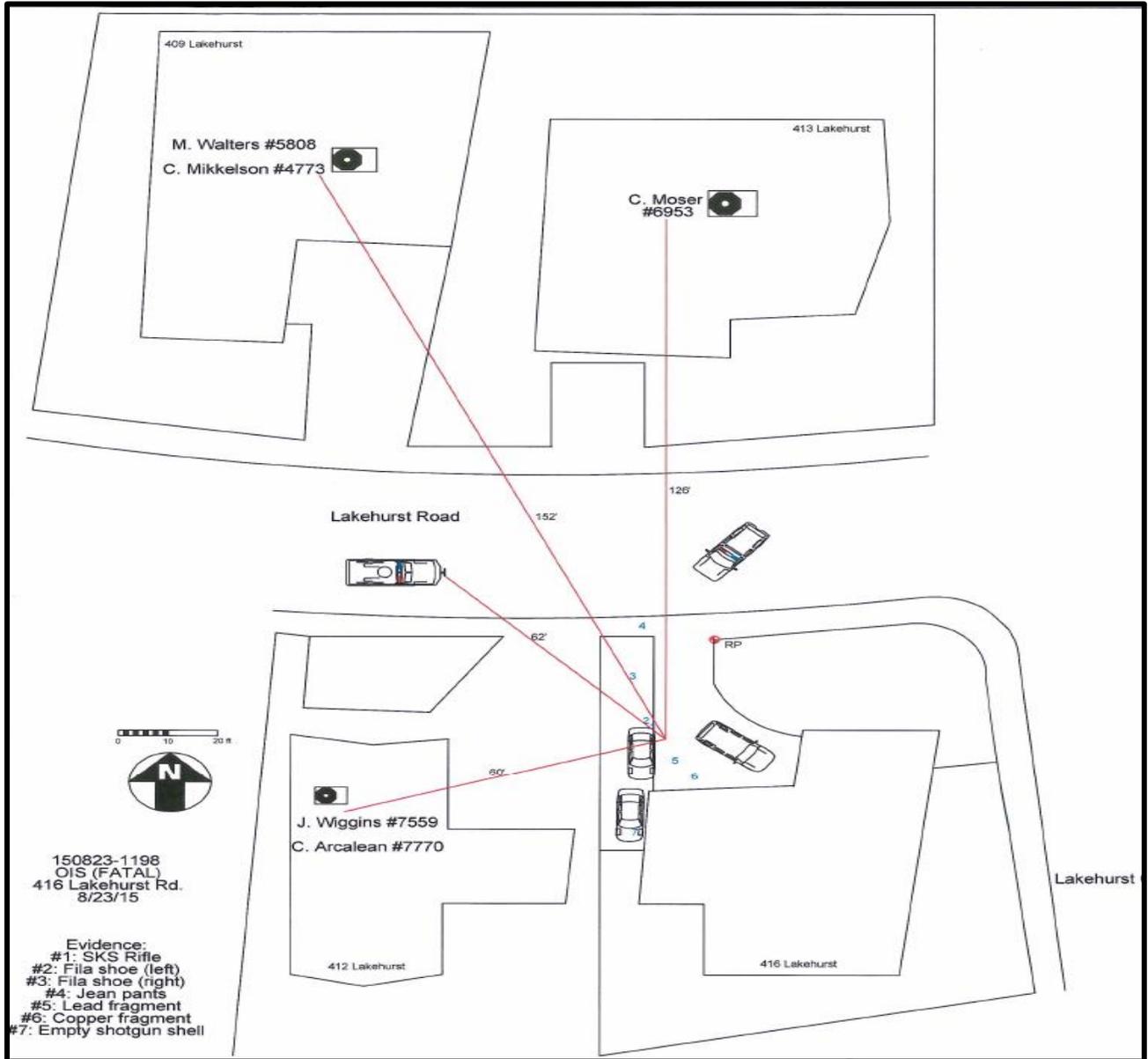
As the BearCat approached Decedent's residence, Decedent exited his front door and placed his back on a stucco wall while holding a rifle. Officer Walters immediately recognized Decedent's rifle as being an SKS style rifle. Officer Walters knew the rifle Decedent had was a high-powered rifle that carried a 7.62 x 39 caliber round. Officer Walters also knew that there were civilians in the house below him that were in serious danger as well as the SWAT operators using the BearCat for cover. Officer Walters knew if Decedent fired a round(s) from his rifle and struck the BearCat, those rounds could ricochet off of the BearCat and cause immediate bodily harm or death to the persons inside of the houses in the area and/or the SWAT operators behind the BearCat.

SWAT operators yelled at the occupants of 409 Lakehurst Road to return inside their house. Officer Walters watched Decedent slowly walk down his driveway and stop near the back of a BMW parked in the driveway. Decedent took a breath; raised and shouldered his rifle, and pointed it in the direction of the BearCat.

Officer Walters determined that several people were in imminent jeopardy of serious bodily harm and decided to fire his weapon. As Officer Walters was squeezing the trigger of his rifle, he heard the sound of Officer Moser's rifle fire. Officer Walters observed Officer Moser's round strike Decedent in the upper chest.

Officer Walters saw Officer Moser's round strike Decedent, causing Decedent to move. Officer Walters did not want to strike Decedent's rifle, so Officer Walters slightly dropped his sight toward Decedent's abdomen area. Officer Walters observed his round strike Decedent in the abdomen, which caused Decedent to fall immediately to the ground.

Officer Positions



TIMELINE

Time	Description of Event / Action	Source
07:31:59	Neighbor called 911 to report his neighbor, Decedent, fired a gun.	Computer Aided Dispatch (CAD)
07:34:59	The first patrol unit arrived on scene.	CAD
07:39:06	Officer's made contact with Neighbor.	CAD
08:01:14	Officers began Bull horning 416 Lakehurst.	CAD
08:04:39	Decedent exited 416 Lakehurst holding a rifle, he refused officers commands to drop the rifle and returned inside the residence.	CAD
08:12:51	SWAT was notified.	CAD
08:46:49	SWAT and CNT staged at Lakehurst & Pinedale.	CAD
09:00:00 to 09:15:00	SWAT snipers arrived and got into final shooting positions. All three (3) roommates inside of 416 Lakehurst exited the residence and made it safely to perimeter officers and were transported to the CP. Boyfriend briefed officers that Decedent was sitting on the couch with a rifle and stated, "It's my time to go out."	CAD Officer and witness statements
09:30:00 to 09:37:00	Two (2) SWAT armored vehicles the Bear and BearCat, and got into position. Negotiators were located inside of the BearCat.	Officer Kratsas BWC Surveillance footage from 408 Lakehurst
09:37:00 to	Decedent exited his residence holding a rifle.	Officers statements

Time	Description of Event / Action	Source
09:40:00	<p>Sergeant Chio used the PA system from the BearCat to give Decedent commands to put his weapon down.</p> <p>Decedent ignored all of Sergeant Chio's verbal commands, walked down his driveway and pointed his rifle toward the BearCat.</p>	Cellphone video from 409 Lakehurst
09:40:00	Shots were fired.	<p>Officers statements</p> <p>Cellphone video from 409 Lakehurst</p> <p>Officer Kratsas BWC</p>
09:57:03	Decedent transported to UMC by LVFD Rescue 44.	CAD
10:10:00	Decedent pronounced deceased.	Autopsy report

EVIDENCE

I. Body Cameras

A. Officer Christopher Kratsas

Officer Kratsas activated his BWC five (5) separate times during the incident and uploaded his BWC footage into evidence.com on 08/23/2015, at 1730 hours. The video footage was later viewed by Detective Patton. Listed below are the activation times, the length of each segment, and any significant events that occurred during the segment.

- 1) Activated at 08:08:37 and was 11 minutes, 49 seconds in length.
- 2) Activated at 08:28:41 and was 18 minutes, 03 seconds in length.
- 3) Activated at 08:57:00 and was 26 minutes, 52 seconds in length.

- 4) Activated at 09:25:30 and was 30 minutes, 11 seconds in length.
 - At approximately 09:30:00 the SWAT Bear and BearCat were seen getting into position.
 - At approximately 09:40:03 two gunshots were heard.
 - At approximately 09:52:17 LV Fire Rescue was seen leaving for UMC.
- 5) Activated at 09:55:43 and was 10 minutes, 17 seconds in length.

B. Sergeant Charles Jenkins

Sergeant Jenkins responded to UMC and had interactions with Decedent's two sons. Sergeant Jenkins activated his BWC two (2) separate times during his interactions. Sergeant Jenkins uploaded his BWC footage into evidence.com on 08/23/2015, at 1619 hours. Listed below are the activation times and the length of each segment.

- 1) Activated at 12:38:28 and was 2 minutes, 35 seconds in length.
- 2) Activated at 12:45:56 and was 17 minutes, 56 seconds in length.

II. Physical Evidence at the Scene

In the driveway of 416 Lakehurst Road, crime scene analysts found and impounded Decedent's SKS rifle. There was one cartridge in the chamber of the rifle and 8 cartridges in the magazine. They also found a shotgun cartridge case (shot shell) atop a vehicle parked in the front yard of the residence. In addition, analysts found metal fragments in the driveway of the residence.

Crime scene investigators also found one cartridge case on the roof of 413 Lakehurst Drive and one on the roof of 409 Lakehurst Drive.



III. Search Warrants

On the day of the incident, officers obtained a search warrant for 416 Lakehurst Road from the Honorable Justice Court Judge Tobiasson.

Inside Decedent’s living room, crime scene analysts found a Remington shotgun. One cartridge was in the chamber and two were in the magazine. Near the rifle, analysts found a clip with nine cartridges and ten other cartridges in the area. In a bedroom, analysts found nine more rounds.



Officers also obtained search warrants to recover video surveillance from the following locations:

- 1) 409 Lakehurst Road
- 2) 7118 Pinelake Road
- 3) 412 Lakehurst Road
- 4) 408 Lakehurst Road

Video from 409 Lakehurst Road depicts Decedent pointing his rifle in a north east direction and snipers firing.

Video from 7118 Pinelake did not capture the incident because a tree blocks the view.

Video was not obtained from 412 Lakehurst because the system did not record.

Video from 408 depicts the police arrival, but not Decedent's actions nor the actions of the SWAT officers.

IV. WEAPON COUNTDOWNS

At the completion of the countdown, it was determined Officer Mikkelson did not fire his firearm during this incident.

At the completion of the countdown, it was determined Officer Moser discharged his firearm one (1) time during this incident.

At the completion of the countdown, it was determined Officer Walters discharged his firearm one (1) time during this incident.

V. DNA ANALYSIS

Forensic Scientist Allison Rubino conducted DNA testing on swabs taken from the Remington shotgun found in Decedent's living room. A profile from a swab of the Remington shotgun indicated "mixture of at least two individuals, with at least one being a male. The partial major component is consistent with originating from two individuals. The partial major component of this mixture DNA profile is 80,600 times more likely if it originated from [Decedent] and one

unknown individual rather than if it originated from two unknown individuals. No further conclusions can be made regarding additional contributor(s) at this time.”

VI. FIREARMS ANALYSIS

A. Officer Walters’ Firearm

Officer Walters’s gun was an Accuracy International, model AE308, .308 caliber sniper rifle.

The bullet jacket found at the scene bared the general rifling characteristics as the test bullet fired from Officer Walters’ rifle and Decedent’s Norinco rifle. However, there were insufficient microscopic details for a conclusive identification. The bullet jacket was not fired from Officer Moser’s rifle.

The cartridge case from the roof was fired from Officer Walters’ firearm.

B. Officer Moser’s Firearm

Officer Moser’s gun was a Desert Tech Arms, model SRS-A1, .308 caliber sniper rifle.

The two (2) bullet jacket fragments found at the scene bared the same general rifling characteristics as the test bullets fired from Officer Moser’s rifle. However, there were insufficient microscopic details for a conclusive identification. These bullet jacket fragments were not fired by either Officer Walters’ rifle or Decedent’s rifle.

The cartridge case found on the roof was fired by Officer Moser’s rifle.

C. Decedent’s Firearms

One of Decedent’s weapons was a Norinco, model SKS, 7.62x39 caliber, semi-automatic rifle. The other was a Remington, model 870 Wingmaster, 12 gauge shotgun.

The fired shot shell found at the scene bared the same general characteristics as the tested shot shells fired by the Remington. However, there were insufficient microscopic details for a conclusive identification.

VII. FINGERPRINT ANALYSIS

Forensic Scientist Gayle Johnson submitted the Latent Print Report, concluding that Decedent's fingerprint was on the Remington shot gun.

VIII. AUTOPSY

Dr. Jennifer Corneal concluded that Decedent died from multiple gunshot wounds.

The toxicology testing indicated that Alprazolam, Hydromorphone-Free and Oxymorphone Free were present in Decedent's system.³

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 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.

I. 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

³³ Alprazolam is used to treat panic and anxiety disorders. Hydromorphone and Oxymorphone are opioids used to treat pain. Cognitive dysfunction and mental clouding is sometimes a side effect of Hydromorphone.

of violence ...” against the other person.⁴ 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:

⁴ 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.

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 Decedent did not act in [defense of another]. *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 disprove that an individual acted in self-defense beyond a reasonable doubt.

In this case, Decedent was an imminent danger to all officers and civilians in the area. He had previously fired a weapon and was armed with a rifle, enabling him to fire additional times. Moreover, he repeatedly failed to comply with officer directions to simply drop the weapon. Finally, Decedent's last act was to aim his rifle at officers. Thus, the SWAT officers were confronted with imminent lethal danger and could act on their reasonable fear of a threat to their lives and use deadly force.

II. JUSTIFIABLE HOMICIDE BY A PUBLIC OFFICER

“Homicide is justifiable when committed by a public officer ... [w]hen necessary to overcome actual resistance to the execution of the legal process, mandate or order of a court or officer, or in the discharge of a legal duty.” NRS 200.140(2). This statutory provision has been interpreted as limiting a police officer's use of deadly force to situations when the officer has probable cause to believe that the suspect poses a threat of serious physical harm to either the officer or another. *See* 1985 Nev. Op. Att'y Gen. 47 (1985).

In this case, the facts demonstrate that Decedent posed a threat to all people in the area. Once he pointed the rifle at officers in the vehicle, the officers has a legal right to end the threat.

The circumstances indicate the officers had a reasonable belief that Decedent was a threat to their safety as well as any other people in the area.

In light of this evidence, the actions of the officers were legally justified and appropriate “in the discharge of a legal duty.”

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 Las Vegas Metropolitan Police Department Officers Walters and Moser 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.