

# REPORT ON USE OF FORCE

## Legal Analysis Surrounding the Death of Demario James Keyes on June 27, 2015

### Introduction

On June 27, 2015, at approximately 1100 hours, Witness #1, Witness #2, and several other family members were enjoying the evening at the Andover Place Apartments' community pool, located at 1600 E. Rochelle, Las Vegas, Nevada. The pool is surrounded by a perimeter fence, and the family and their friends were inside the fenced area. Demario James Keyes (hereinafter referred to as Decedent) approached the pool area, armed with a large butcher knife. Decedent yelled that someone was after him, had taken his child, and for someone to call the police.

Suddenly, Decedent jumped over the fence and approached the group. Witness #1, a 17-year-old girl, tried to calm Decedent down, but he became angrier. Decedent then grabbed Witness #1 by the arm and threatened to stab her. Witness #2, Witness #1's cousin, pleaded with Decedent to let Witness #1 go. Witness #2 tried to free Witness #1 from Decedent's grip by pulling Witness #1's other arm. Decedent fought back and grabbed Witness #1's hair. Decedent swung the large butcher knife at Witness #1, and Witness #2 let go of her arm.

Witness #2 then jumped on Decedent's back and began to choke him. Decedent again began swinging the butcher knife at Witness #1. While continuing to wrestle with Decedent, Witness #2, Witness #3, and other family members managed to take away the butcher knife from Decedent. Witness #1 sustained several lacerations to her left hand and fingers during this fight. Decedent fell to the ground with Witness #3 still on top of him. Witness #2, Witness #3 and several other family members began punching Decedent until he stopped fighting back. Several other individuals living in the complex entered the pool area during this time to assist in subduing Decedent.

Several people called 911 to report Decedent's erratic and violent behavior. Las Vegas Metropolitan Police Department (LVMPD) officers from the South Central and Southeast Area Command were dispatched to the call. Officer James O'Leary was the first officer to enter the pool area. Officer O'Leary found Decedent unconscious and restrained by several individuals. Officer O'Leary cleared the individuals and placed handcuffs on Decedent. Officer O'Leary rolled Decedent to his side and

conducted a pat-down search. He then summoned paramedics to transport Decedent to Sunrise Hospital.

Decedent never regained consciousness at Sunrise Hospital, and an emergency room doctor pronounced him deceased. The Clark County Coroner's Office conducted the autopsy on Decedent's body. Doctor Lisa Gavin found the cause of death to be methamphetamine intoxication along with civilian and law enforcement restraint. The manner of death was determined to be homicide.

The Clark County District Attorney's Office has completed its review of the June 27, 2015, 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 O'Leary 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 O'Leary. 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 1, 2016.

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 Demario James Keyes**

Decedent was born on July 27, 1977. A review of government records demonstrates that Decedent lived most of his life in and around Oakland, California. At the time of his death, Decedent was approximately 5-feet 10-inches tall, and he weighed 206 pounds. Records also reveal that Decedent worked sporadically as a laborer, roofer, and salesman.

Decedent had an extensive criminal record. At age 13, Decedent entered the juvenile criminal justice system in California. Once an adult, Decedent was arrested for numerous criminal mischief type offenses such as Battery - Domestic Violence, Driving Under the Influence, Possession of Stolen Property, Under the Influence of a Controlled Substance, Drug Possession, and many traffic violations. On all the misdemeanor cases, California courts either fined, granted probation, or jailed Decedent.



*Decedent Demario James Keyes*

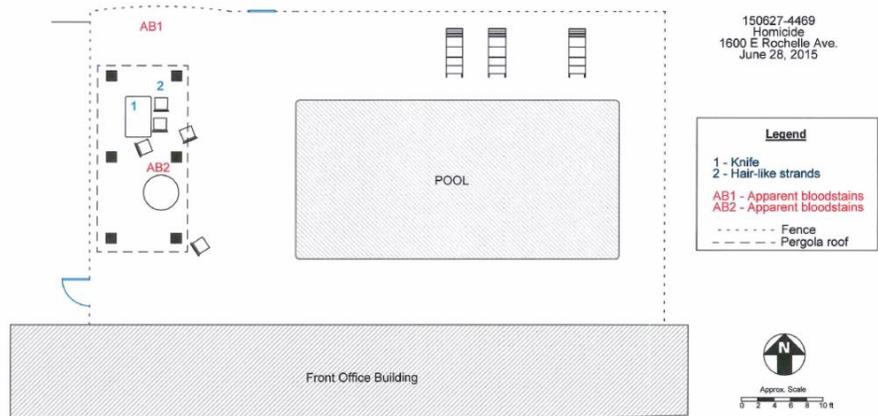
Decedent also had eight felony convictions from courts in Santa Clara, California. On August 8, 1998, Decedent was convicted of Transporting a Controlled Substance in Case No. C204772. Approximately three years later, on October 18, 2001, Decedent was convicted in Case No. CC111358 for Oral Copulation with a Person Under 18 Years of Age and Possession of Cocaine Base for Purpose of Sale. On August 29, 2007, Decedent was convicted of Possession of Marijuana for Sale in Case No. CC778069. One year later, Decedent was convicted for Felony False Imprisonment arising out of a domestic violence arrest in Case No. CC805433. On March 3, 2010, Decedent was convicted of Possession of a Controlled Substance in Case No. C1067893. Finally on November 17, 2013, Decedent was convicted of Second-Degree Robbery and Carrying a Loaded Firearm in Case No. C1369707.

The Clark County District Attorney's Office telephonically interviewed Decedent's mother, Ms. Bessie Green, on March 17, 2016. Ms. Green stated that Decedent had no known medical problems. Ms. Green admitted, however, that Decedent had a long history with law enforcement and opined that he went "haywire" when his father passed away. She stated that she last saw her son around February 2015, when he came to visit her with a female named Ashley and one of his sons. She added that Decedent fathered a total of six children.

According to Ms. Green, Decedent was set to travel to Louisiana to work with his older brother. She believes that someone in her family purchased a bus ticket for him. She was surprised to find out that Decedent ended up in Las Vegas, because he does not have any family or friends in Las Vegas. She added that her daughter, Mammie Purnell, would know more about Decedent, but she is currently estranged from her daughter and has no way to contact her. When asked if Decedent was employed, she answered, "Yeah, selling drugs on the corner."

## Overall Scene Description

The scene was located in the community pool area of the Andover Place Apartments located at 1600 E. Rochelle Avenue, Las Vegas, Nevada. The main office for the apartment complex was situated east to west, north of the front entry driveway. The pool area was north of the main office. The pool area was surrounded by a perimeter fence. A locking gate located at the south end of the pool area was propped open by a chair. A secondary gate, locked with a chain and padlock, was along the north end of the fence. A pergola was



Crime Scene Diagram detailing the pool area and location of evidentiary findings

situated north to south at the west end of the pool area. The pool was situated east of the pergola.



*Pool Area where Decedent was restrained*

A round table was underneath the south end of the pergola. Several pizza boxes and soda cans were on top of the table. A towel was on the seatback of a chair, southeast of the table. Another towel was on the ground, north of the table. Apparent blood was on the ground, northeast of the table.

A rectangular table was north of the round table. Three chairs were east of the table and one was south of the table. A towel and a hat were atop a chair to the east side of the table.

A clump of hair-like strands was on the ground, northeast of the table. A kitchen knife, with a napkin wrapped around the handle, was on top the northwest corner of the rectangular table. Apparent blood was on the ground, north of the rectangular table, in the northwest corner of the pool area. A vertical rail at the north end of the west side of the perimeter pool fencing was damaged. The rail was lying on the grass, west of the fence, but still attached to the bottom post.



*Table with Decedent's knife (1) and Witness #1's hair (2)*



*Decedent's knife used to attack Witness #1*

## Events of June 27, 2015

### Witness #1

On Friday, June 26, 2015, Witness #1, who was 17-years-old, came to Las Vegas from California to visit her aunt, who lived at the Andover Apartments. The next day, at approximately 2300 hours, she was swimming at the apartment complex pool with several of her siblings, cousins, and other adults and children. Suddenly, she witnessed Decedent walking around the outside of the pool fence holding a large knife in his hand. He was yelling that his child had been stolen or taken. Decedent then confronted an unknown Hispanic couple, who had been walking through the complex. Concerned, Witness #1 and several of her family members let this Hispanic couple into the locked pool area. She noted that the couple looked scared and nervous. She believed that Decedent was on drugs because he was "going crazy," and he smelled like alcohol.

Decedent then jumped over the fence into the pool area, and he continued to yell for someone to call 911. Decedent grabbed Witness #1 by her wrist and hair and said he was going to stab her. She feared for her life. Several of her family members surrounded Decedent. In an attempt to save her



*Witness #1's left palm laceration*

life, Witness #1 grabbed the knife with both hands as several people punched and kicked Decedent. At that moment, she thought that she was going to die. She witnessed her cousin, Witness #3, punching Decedent in an attempt to save her.

Witness #1 managed to escape, grabbed an infant from a stroller, and ran to her aunt's nearby apartment. She was later transported to Sunrise Hospital Pediatrics to be treated for the lacerations to her left palm and right fingers.

### Witness #2

Witness #2, who was 19-years-old at the time, was visiting Las Vegas to celebrate a cousin's birthday on June 27, 2015. Witness #2 stated that a group of his family, friends, and neighborhood children were in the gated pool area of the Andover Apartment complex at approximately 2300 hours. Suddenly, Witness #2 noticed Decedent holding a knife. Decedent came up to the pool fence and stated that someone was after him and that they were going to kill him. Decedent then jumped the fence and told them to call the police. Decedent also stated that someone had taken his child. Decedent then grabbed his cousin, Witness #1, by the hand and said if they did not call the police he was going to stab her. He knew that one of his cousins was calling 911.

Decedent then started “freaking out” and began motioning as though he was going to stab Witness #1; Decedent began raising the knife above his head and swinging it down toward Witness #1. Witness #2 got out of the pool and approached Decedent. Witness #2 grabbed Witness #1’s arm and tried to pull her away from Decedent. While this occurred, family members begged Decedent to calm down because the police were on their way.

Decedent responded to Witness #2’s attempt to pull Witness #1 away by grabbing Witness #1’s hair in order to maintain control of her. Witness #2 saw Witness #1 collapse to the ground. He then witnessed Decedent use both of his hands to pick up Witness #1 again by her hair. Witness #2 took the opportunity to get behind Decedent and placed Decedent in a choke hold. Meanwhile, Decedent continued to attempt to stab Witness #1. With his right arm, Witness #2 reached over and grabbed Decedent’s right arm to stop him from stabbing Witness #1. Witness #2 eventually grabbed the knife blade to try and control it. Family members ran over and helped get the knife away from Decedent.

Decedent then fell to the ground and Witness #2, Witness #3, and Witness #4 hit Decedent in the face until he stopped fighting. Other people from the complex came into the pool area to help. Witness #2 stated that someone sat on Decedent’s back, which allowed Witness #2 to get up. Witness #2 did not know who Decedent was.

After Decedent was subdued, a family member picked the knife up and placed it on a table between some napkins. Witness #2 stated that if he had not taken action against Decedent, he believed that his cousin, Witness #1, would have been injured or killed.

### Witness #3

Witness #3, who was 19-years-old, came to Las Vegas for the weekend to visit family. On June 26, 2015, at approximately 2300 hours, she was at the pool at the Andover Apartments with several family members. An unknown Hispanic couple walked up to the pool from the west. The couple looked nervous, as they were being followed by Decedent. Witness #3 saw that Decedent was armed with a large knife. At that time, she was in the pool with her sister, Witness #4, who motioned to her to relax. The couple was let into the pool area by her older sister, Witness #4. Suddenly, Decedent jumped over the gate behind them. Still armed with a large knife, Decedent stood in the pool area saying that someone had taken his baby and yelling for someone call 911.

Witness #3’s sister, Witness #4, called 911. Suddenly Decedent grabbed Witness #1’s arm and then her hair. Decedent began yelling that he was going to “kill this bitch,” while holding the knife over Witness #1’s head. Witness #3 saw her sister, Witness #1, try to grab the knife from Decedent, while her cousin Witness #2 jumped on Decedent. Witness #3 and Witness #4 raced to aid Witness #1 by grabbing Decedent and attempting to pry the knife out of Decedent’s hand. Witness #3 said that Decedent was very strong. She also admitted that she punched Decedent. When Decedent fell to the ground, Witness #3 immediately escorted the kids out of the pool area. She added that several men came into the pool area and held Decedent down.

The police then arrived. Witness #3 realized that her sister, Witness #1, had been stabbed when she saw her sister's bloody hands. She also observed paramedics place Decedent into an ambulance, but she did not see the police arrest Decedent. She believed that Decedent would have killed her sister or someone else had the family not acted.

## Witness #4

Witness #4, who was 26-years-old at the time, came to Las Vegas for the weekend to visit family. On June 27, 2015, at approximately 2300 hours, she was in the pool area at the Andover Apartments with several family members. An unknown Hispanic couple walked up to the pool from the west. They appeared afraid because they were being followed by Decedent. She saw that Decedent was armed with a large knife. She told the couple to get in the pool area and motioned to her sister, Witness #3, to stay calm in the pool with the kids. The couple made it into the pool area. All of the sudden, Witness #4 witnessed Decedent jump over the gate behind them. Decedent kept saying that someone had taken his baby and to call 911. Witness #4 then called 911, but she had difficulties because she did not know the address to the apartment complex.

Decedent continued to be agitated. He suddenly grabbed Witness #4's sister, Witness #1, by the hair and said that he was going to "kill this bitch," while holding the knife over her head. Witness #4 witnessed Witness #1 grab the knife in an attempt to protect herself while Witness #2 jumped onto Decedent. Witness #4 grabbed Decedent and tried to get the knife away from him, so he could not hurt anyone else.

Decedent went down to the ground, and Witness #4 and Witness #2 got on top of him. Decedent tried to get up several times, but he was unsuccessful and he eventually stopped fighting back. She added that a male arrived and helped Witness #2 keep Decedent on the ground. Witness #4 ordered her siblings to get the kids out of the pool area while Decedent was restrained. She recalled seeing the knife on the table but did not know how it got there. Several police officers arrived and took Decedent into custody. Witness #4 added that she believed Decedent would have killed her sister if she and her family had not acted.

## Witness #5

Witness #5 lives at the Andover Apartments. On June 27, 2015, she was asleep in her bedroom when she was awakened by the sound of a young female's voice screaming for help. At first, she was not concerned because she had heard similar statements coming from the pool area in the past which were made jokingly. But then, she heard someone say, "Help, he's trying to kill me," and, "He has a knife."

Witness #5 looked out her bedroom window toward the pool area where she saw a black male with dreadlocks, later identified as Decedent, pulling the hair of a 17- or 18-year-old Hispanic female, Witness #1. Decedent was pulling Witness #1's hair with both hands. She witnessed several people surround Decedent, pleading with him to calm down, while others asked for someone to call 911. Witness #5 was concerned for Witness #1's safety, and she immediately called 911.

After calling the police, Witness #5 left her apartment and observed an unknown female enter the pool area and escort Witness #1 and a baby away from the pool. Witness #5 focused her attention back on Decedent and saw him lying face down on the concrete. A heavy-set Hispanic male was straddling Decedent as he was on the ground. The Hispanic male had his right arm around Decedent's neck in what she described as a "choke hold." She noted that Decedent was not moving.

Uniformed police officers arrived, and they ordered the Hispanic male off of Decedent. An officer handcuffed and searched Decedent. Witness #5 pointed out that the officer did not use any force on Decedent. She watched paramedics arrive and transport Decedent away from the scene by ambulance. Finally, Witness #5 added that she never entered the pool area, and she did not recognize anybody involved in the incident.

## Witness #6

On June 27, 2015, at approximately 2300 hours, Witness #6 was walking home through the Andover apartment complex when she heard what sounded like children screaming for help. The screams were coming from the pool area located next to the front office. Witness #6 ran to the pool area and saw a black male adult, Decedent, pulling the hair of a younger Hispanic female, Witness #1. She saw Decedent holding the young girl's hair in one hand and a knife in the other. Witness #6 watched Decedent swinging the knife at Witness #1, who was attempting to protect herself. Decedent was talking about someone having hurt his daughter.

The confrontation was occurring in the northwest corner of the pool enclosure, where approximately ten to fifteen other people were gathered, including small children. The children appeared scared. Witness #6 immediately called 911 and opened the gate with her key to free the children. At approximately the same time, three men from the complex ran over and entered the pool enclosure. One of the men jumped the gate, another entered through a small hole in the fence, which was on the west side of the gate near the northwest corner, and the third male entered through the gate Witness #6 had just opened. The men approached Decedent and managed to get him to relinquish his grip on Witness #1.

One of the men grabbed Decedent from behind and place his right arm around Decedent's neck. Witness #6 then witnessed this Hispanic male use his right hand to control Decedents arm holding the knife. Once freed, Witness #1 picked up a small baby from a stroller. She then ran toward Witness #6, screaming for help in a panicked voice, adding that, "He tried to kill me, he cut me." Witness #6 took the baby from Witness #1 and escorted them to a nearby apartment. Witness #6 noticed Witness #1 had several cuts to her hands that were bleeding.

Witness #6 returned to the pool area and saw that Decedent was now face-down on the concrete, and he was motionless. A Hispanic male was straddling Decedent, and he had Decedent's arms pinned down forward from his head. One of the males had propped the pool gate open with a chair. A uniformed police officer arrived in the apartment complex, and Witness #6 directed this officer

into the pool area. The Hispanic male got off Decedent's back, and the officer handcuffed Decedent. Witness #6 noted that the officer did not appear to use any force while placing handcuffs on Decedent. She observed that Decedent was out cold.

Witness #6 added that she never entered the pool area and that she did not recognize anybody involved in the incident. She also added that the force used by the men in the complex was appropriate because they saved the children's lives.

## Officer Christopher Necas

Officer Necas heard a radio broadcast regarding a person with a knife holding someone hostage. Officer Necas was close to the Andover apartments, assigned himself to the call, and raced to the incident location. Officer Necas arrived at the Andover Apartments, where the Air Unit guided him to the pool area. Officer Necas was the second officer to arrive after Officer O'Leary. Once in the pool area, he located Officer O'Leary with Decedent. He witnessed Officer O'Leary place handcuffs on Decedent.

Officer Necas saw that Decedent was on his stomach and that Officer O'Leary was kneeling at his side conducting a pat-down of Decedent for weapons. Decedent appeared unconscious and was spitting blood on the pool deck. Officer Necas assisted in controlling the crowd and in gathering witnesses to the incident. Officer Necas observed medical personnel arrive and render medical aid to Decedent and eventually transport Decedent to the Hospital.

## Officer Blake Dixon

On June 27, 2015, Officer Dixon was conducting a person stop when he heard a radio broadcast regarding a person with a knife holding a female hostage. Officer Dixon ended the person stop and responded to the call. Officer Dixon was equipped with a body-worn camera (BWC), and he was wearing it during the person stop. Officer Dixon kept the BWC on while racing with lights and sirens to the Andover Apartments.

Officer Dixon arrived at the apartment complex, and he went directly to the pool area where Officer O'Leary had broadcast his location. Officer Dixon stated that Officer Vincent Diasparra arrived at the same time he arrived. Several citizens, along with Officer Necas, were in the pool area. Officer Dixon located Officer O'Leary, who had Decedent on the ground in handcuffs. Officer Dixon observed that Decedent was bleeding from the face area.



*Photo taken from Officer Dixon's BWC showing Officer O'Leary apparently placing handcuffs on Decedent*

Officer Dixon learned from Officer O'Leary that a citizen was sitting on Decedent. He further learned that Officer O'Leary ordered the citizen off Decedent, placed handcuffs on Decedent, and conducted a pat-down of him for weapons. Medical personnel were already on scene at that time, and they moved into the pool area to begin medical intervention. Officer Dixon stated that Officer O'Leary took the handcuffs off Decedent, and medical personnel immediately began chest compressions.

Thereafter, Officer Dixon made contact with several people around the pool area, and he located witnesses to the incident.

## Officer Vincent Diasparra

On June 27, 2015, Officer Diasparra responded to the Andover apartment complex after hearing the call of a person with a knife. Officer Diasparra was equipped with a BWC, and he activated the camera while en route to the call.



*Photo taken from Officer Diasparra's BWC showing Officer O'Leary conducting a pat-down search on Decedent*

Officer Diasparra arrived at the Andover Apartment complex the same time as Officer Dixon. Officer Diasparra immediately went to the pool area and observed Officer O'Leary kneeling on the ground

next to Decedent. He noted that Officer O'Leary had Decedent in handcuffs. There were several citizens around the area, so he began to clear the citizens out of the pool area.

After clearing the pool area, Officer Diasparra returned to Officer O'Leary. At that time, medical personnel were loading Decedent onto a gurney and performing CPR. Officer Diasparra followed medical personnel to the ambulance, and he was assigned to follow the ambulance to Sunrise Hospital. Officer Diasparra followed medical personnel to the Trauma Center where he observed medical intervention being performed on Decedent. A short time later, Decedent was pronounced deceased.

## Autopsy Findings

On June 29, 2015, Doctor Lisa Gavin, medical examiner for the Clark County Coroner's Office, conducted the autopsy on Decedent. She authored her report under Case No. 15-06479.

During her examination, Dr. Gavin noted some key pathologic findings. The first finding was methamphetamine intoxication. Dr. Gavin's second pathologic finding was civilian restraint of Decedent.

Methamphetamine is a stimulant drug capable of causing hallucination, aggressive behavior, and irrational reaction. Blood levels above 200 ng/ml have been reported in methamphetamine abusers who have exhibited violent and irrational behavior. Such high doses can also elicit restlessness, confusion, hallucinations, circulatory collapse and convulsions.<sup>1</sup> Decedent's toxicology report indicated that he had a methamphetamine level of 250 ng/ml and an amphetamine level of 17 ng/ml. Decedent also had a level of 6.6 ng/ml of Delta-9 THC, the active ingredient in marijuana, which produces depressive and reality-distorting effects, and he had a level of 15 ng/ml of Delta-9 Carboxy THC, the principle psychoactive ingredient of marijuana.

Dr. Gavin supported her finding of civilian restraint by noting the presence of asphyxia. She supported the finding of asphyxia by noting multiple areas of hemorrhages around the neck, brain swelling, and contusions around the neck. Dr. Gavin also found blunt force injury of Decedent's head and supported that with findings of multiple contusions and hemorrhages of the head. Dr. Gavin also found blunt force injury of Decedent's torso by noting multiple areas of abrasions, hemorrhages and contusions. She also noted blunt force injuries of Decedent's right bicep, left bicep, and left antecubital fossa.

After conducting the external and internal examination, Dr. Gavin reached an opinion as to Decedent's cause and manner of death. She opined that the cause of death was that this "37-year-old man, [Decedent], died of methamphetamine intoxication." Other significant factors include "civilian and law enforcement restraint."<sup>2</sup> Dr. Gavin opined that the manner of death was a homicide.

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<sup>1</sup> Information detailed in Decedent's toxicology report authored by NMS Labs report dated July 29, 2015.

<sup>2</sup> Dr. Gavin in her autopsy report comments that Decedent "was left prone and in handcuffs for a short period of time until rescue services arrived." She pointed out that the "role of law enforcement in the death of Mr. Keyes is

## Legal Analysis

The District Attorney's Office is tasked with assessing the conduct of law enforcement officers involved in any killing which occurs 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). Law enforcement's involvement in this case relates only to the restraint used on the Decedent, well after civilians had already subdued him. This report only discusses Officer O'Leary's limited contact with Decedent by placing handcuffs on him and conducting a pat-down search.

### 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 this instant case, Officer O'Leary's conduct was just and proper of an officer executing his duties. Officer O'Leary's contact with Decedent was minimal, by placing Decedent in handcuffs, rolling him onto his side, and conducting a pat-down search. Officer O'Leary did not use any additional physical force to complete his required actions. Decedent was not resisting and appeared to be unconscious. It would have been derelict for this officer not to take the actions he did in order to render Decedent safe so that medical personnel could come to Decedent's aid. It should be noted that Officer O'Leary's contact was far less forceful than the medical personnel that responded and administered CPR on Decedent. It is difficult to logically argue that Officer O'Leary's restraint of Decedent was a contributing factor in Decedent's death.

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very limited and somewhat passive." She concludes that "(c)onsequently, the civilian and law enforcement restrain raise the manner of death to homicide."

## 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 Officer O'Leary, 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 8, 2016

STEVEN B. WOLFSON

District Attorney

By

FRANK JOHAN COUMOU

Chief Deputy District Attorney