

# REPORT ON USE OF FORCE



## Legal Analysis Surrounding the Death of Rodney Finch on November 4, 2022

### INTRODUCTION

On November 4, 2022, 62-year-old Rodney Finch (hereinafter “Decedent”) pointed a Winchester 12-gauge shotgun at Las Vegas Metropolitan Police Department (“LVMPD”) officers who responded to a person-with-a-gun call at his home, 8400 Shady Shores Circle, Las Vegas, Nevada 89128. Officer Jahmaal Crosby immediately fired his rifle three times at Decedent. Decedent was struck one time by the officer’s gunfire. Medical personnel responded to provide life-saving care to Decedent who died at the scene.

This report explains why criminal charges will not be forthcoming against LVMPD Officer Jahmaal Crosby. 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 July 31, 2023.

### SYNOPSIS

The events leading to Decedent’s encounter with police officers on November 4, 2022, began a week earlier.

#### **October 28, 2022**

On Friday, October 28, 2022, witnesses T.G. and J.M. arrived in Las Vegas for the SEMA auto show. T.G. and J.M. went to their short-term rental, located at 8404 Shady Shores Circle, and met with their car hauler driver, M.C., who was dropping off two vehicles at the residence for the SEMA show.

While dropping off the vehicles, the resident of 8400 Shady Shores Circle, Decedent, came outside and engaged in a conversation with T.G., J.M. and M.C. The conversation was about cars, and no one thought it was unusual. After the conversation, everyone went to their respective homes.

### **October 30, 2022**

On Sunday, October 30, 2022, J.M. stated he was at the residence when Decedent knocked on the front door. Decedent asked if J.M. saw anyone from the electric or water department on his property. J.M. said no, and Decedent left. J.M. believed Decedent's behavior was a little off during the conversation. J.M. later left his residence and saw Decedent outside holding a device with an antenna that was beeping.

At approximately 1430 hours, neighbor S.S. stated she was leaving her residence on Moon Shore Drive, and she saw Decedent staring at her. Decedent didn't say anything at that time.

Later in the evening, T.G. returned to the home and pulled in the garage. He looked in the rear-view mirror and saw Decedent standing behind his car. T.G. saw a device in Decedent's hand that looked like a metal detector. Decedent told T.G. that he knew who he was and who sent him there. Decedent also said that he worked for the DoD (Department of Defense) and had his hand on his hip as if there was a firearm; however, no firearm was seen. T.G. assumed Decedent was drunk and just closed the garage door. T.G. called J.M. and told him about the encounter. When J.M. returned to the home, Decedent was not outside. There was no further contact between Decedent, T.G. and J.M. for the rest of the week. Police were never notified of the encounters.

At approximately 2130 hours, S.S. stated she was loading items into her car and Decedent was staring at her again. Decedent asked S.S. if she was Russian and then started speaking to her in German. Decedent asked if she knew what was in his hands, but she couldn't see. As she was leaving, Decedent stated, "This is what I use to track you." S.S. then left her residence. S.S. also did not contact the police to report the encounter.

### **October 31, 2022**

On Monday, October 31, 2022, S.S. saw Decedent in his backyard at 8400 Shady Shores Circle. S.S. approached Decedent and asked if he was the one who approached her the previous night and showed her an object that he used to track her. Decedent said it was him and that it was just a toy. S.S. stated she recorded the conversation on her phone. Again, S.S. did not notify the police of the incident.

There were no further contacts or incidents with anyone in the neighborhood noted for the rest of the week.

### **November 4, 2022 – Prior to Police Response**

On Friday, November 4, 2022, M.C. and his girlfriend, J.P., drove to 8404 Shady Shores Circle to pick up two vehicles from T.G. and J.M. since the SEMA show had ended. M.C., J.P., T.G. and J.M. were outside loading the vehicles when Decedent came out of his garage and approached them. Decedent stated that he would be glad when they are gone, and he knew who they were and who sent them. Decedent yelled obscenities at them and had a cellular phone out to record them. Decedent then went inside of his garage and into the home. T.G. and J.M. returned to their home as M.C. and J.P. were getting ready to leave.

As M.C. and J.P. were inside of their vehicle, Decedent came outside and was holding a shotgun with the barrel pointed towards the ground. As M.C. and J.P. drove by, Decedent raised the shotgun and aimed it directly at M.C. and J.P. Decedent continued to aim the shotgun at them as they turned the corner and left the area. M.C. and J.P. called 9-1-1 to report the incident. They also called T.G. and J.M. to warn them.

### **November 4, 2022 – During Police Response**

On November 4, 2022, at approximately 1927 hours, LVMPD dispatch received the 9-1-1 call from M.C. who reported Decedent aimed a rifle or shotgun at him. M.C. provided a physical description of Decedent and his location. Uniformed patrol officers from Northwest Area Command as well as plainclothes officers responded to the call for service.

As officers were en route, T.G. and J.M. went outside after they received the telephone call from M.C. and J.P. warning them about Decedent being outside with a gun. Initially, T.G. and J.M. didn't see Decedent; however, Decedent suddenly exited his garage and was armed with a shotgun. Before Decedent saw them, T.G. and J.M. retreated into their residence. At approximately 1939 hours, J.M. called 9-1-1 to report Decedent was outside with a shotgun.

At approximately 1940 hours, the first marked patrol units started to arrive. A plainclothes officer in a plain car also arrived in the area. The plainclothes officer, Officer R.R., drove by Decedent's house and saw him outside. Officer R.R. stated over the radio that Decedent had his hands in his pockets and did not appear to be armed. Officer R.R. parked and established covert surveillance from a distance on Decedent's residence as uniformed officers continued to arrive and set up containment around Decedent's residence.

At approximately 1946 hours, Officer R.R. saw Decedent enter his garage and pick up what appeared to be a shotgun. Officer R.R. informed arriving officers over the radio of his observation. Decedent then closed his garage door. Several uniformed patrol officers and a patrol sergeant arrived and set up an Immediate Action Team (IAT) with lethal and less-lethal options.

At approximately 1950 hours, officers on scene made telephone contact with M.C. and confirmed Decedent pointed a firearm at him.

At approximately 1959 hours, J.M. re-called LVMPD dispatch to see if officers had arrived. J.M. was told officers were in the area, and he stated that he saw spotlights from police cars pointed towards Decedent's house.

At approximately 2004 hours, Decedent opened his garage door and exited while holding a long gun, either a rifle or shotgun. Decedent then walked towards his front door, which was on the east side of the house, and in the direction of the IAT. Around this time, Officer D.L., who was part of the IAT, started to yell verbal commands towards Decedent, directing Decedent to drop the item. Decedent looked at the officers and went back to the front of his house, where he entered the garage and closed the door.

At approximately 2010 hours, Decedent again opened the garage door and exited while holding the shotgun. Witnesses T.G. and J.M., who were watching from the second-floor window of their residence, saw Decedent exit the garage without hesitation and "appeared to be on a mission." T.G. and J.M. saw Decedent aggressively move to the front of his house, while holding the shotgun, and went to the side of his house where T.G. and J.M. knew officers were.

Officer R.R., who was south of Decedent's residence, stated over the radio that Decedent was coming towards officers and "has a shotgun he is pointing it in your direction." Officer J.G., who was watching from a second-story window of 2444 Moon Shore Drive, where the IAT was set up in the driveway, also saw Decedent come to the east side of his house with the shotgun. From their respective positions, both Officers J.G. and R.R. saw Decedent start to kneel and point the shotgun towards the IAT.



"OIS Location" - Decedent; "Officers Location" - Officer Crosby and IAT

Officer Crosby, who was assigned as the rifle officer on the IAT, was set up behind a vehicle parked in the driveway of 2444 Moon Shore Drive along with the rest of the team. When Decedent came to the east side of his residence, Officer D.L. started to give Decedent verbal commands again. As Decedent pointed his shotgun towards Officer Crosby and the IAT, Officer Crosby discharged his rifle three times at Decedent striking him. Decedent fell to the ground and did not move. Multiple officers broadcast over the radio that shots had been fired.



Over the next several minutes, officers formulated a plan for a second IAT to safely move up to Decedent and take him into custody. Officer R.R. maintained his position and provided updates about where Decedent was laying, his body position to include not being able to see his left hand, and that Decedent's firearm was not seen. At approximately 2017 hours, Sergeant E.F. led his IAT and made contact with Decedent who was taken into custody. Sergeant E.F. asked if there was anything that officers could do medically for Decedent, and officers started to assess him. While officers were assessing Decedent, the shotgun Decedent possessed was observed lying at his feet. Sergeant E.F. picked up the shotgun and moved it away from Decedent's body so the shotgun would not be disturbed. Officers saw that Decedent appeared to be deceased and recognized Decedent's residence had not yet been cleared. Sergeant E.F. then directed the officers with him to move behind a wall until the home was secured. As soon as the house was cleared and deemed safe, Sergeant E.F. and his officers returned to Decedent.

At approximately 2023 hours, the first ambulance arrived on scene and emergency medical personnel approached Decedent to attempt advanced life saving measures.

Medical personnel provided advanced medical care on scene to Decedent until he was pronounced deceased at approximately 2052 hours.

### **Force Investigation Team Response and Investigation**

Due to the officer-involved shooting, the LVMPD Force Investigation Team (FIT) respond to the scene along with Crime Scene Analysts (CSA). FIT Detective Penny was designated as the case agent.

Upon arrival at the scene, Detective Penny secured the inner scene with red crime scene tape. The secured scene was from the north of Decedent's residence where Officer Crosby was located to the area south of Decedent's residence. Once the scene was secured, FIT personnel were advised that Northwest Area Command Patrol Detectives (NWAC PD) had prepared a briefing which detailed the above listed information in reference to the pre-incident contacts with Decedent through the officer-involved shooting.

After the briefing, FIT detectives started interview of witness officers. At that time, NWAC PD detectives conducted an extensive canvass of the neighborhood for additional witnesses and potential video surveillance. Detective Penny obtained a telephonic search warrant for Decedent's residence and curtilage property for the recovery of evidence. A surveillance camera was observed above Decedent's front door which faced his location, however through an un-recorded interview with Decedent's wife (V.F.), she stated the camera was fake. This statement was verified during a visual inspection of the camera, which showed it did not appear to be a real camera., and the search of the residence, as no video surveillance equipment was located.

From citizen interviews, it was discovered Decedent had possibly recorded the encounter with M.C. and J.P. on his cellular phone. Decedent's cellular phone was located inside of his residence, photographed, and recovered by Detective Penny. The cellular phone was subsequently turned over to the LVMPD Digital Investigations Bureau (DIB) for a forensic examination. The data was downloaded, and a review of it found that Decedent did not record any videos during the neighborhood disturbances. The cellular phone was later impounded.

During the neighborhood canvass, no additional surveillance video was located that captured the officer-involved shooting. The only videos of the incident were recorded by LVMPD body worn cameras (BWC).

During interviews with victims M.C. and J.P., both stated to detectives that Decedent was armed with a shotgun and pointed it them as they drove away.

During the interviews with T.G. and J.M., both stated Decedent was armed with a shotgun and, just prior to the officer-involved shooting, Decedent quickly exited his garage with the shotgun and moved to the side of his house where the officers were located.

During an interview with civilian witness J.H., who watched the incident from his second-story window, J.H. also saw Decedent armed with a shotgun and point the shotgun at officers prior to the officer-involved shooting.

During interviews with several victim and witness officers, all the officers stated Decedent pointed the shotgun at officers prior to the officer-involved shooting.

During the documentation of the crime scene by CSA personnel, three cartridge cases from Officer Crosby's rifle were located, photographed, and recovered. Decedent was struck one time by gunfire. CSA personnel located and documented bullet impacts in the following locations: in a pillar near Decedent's front door, in a palm tree on the east side of the residence, and in the garage door of 8405 Shady Shores Circle.

On December 8, 2022, the Biology/DNA examination report was received. The swab from the shotgun showed the DNA recovered from the shotgun came from Decedent.

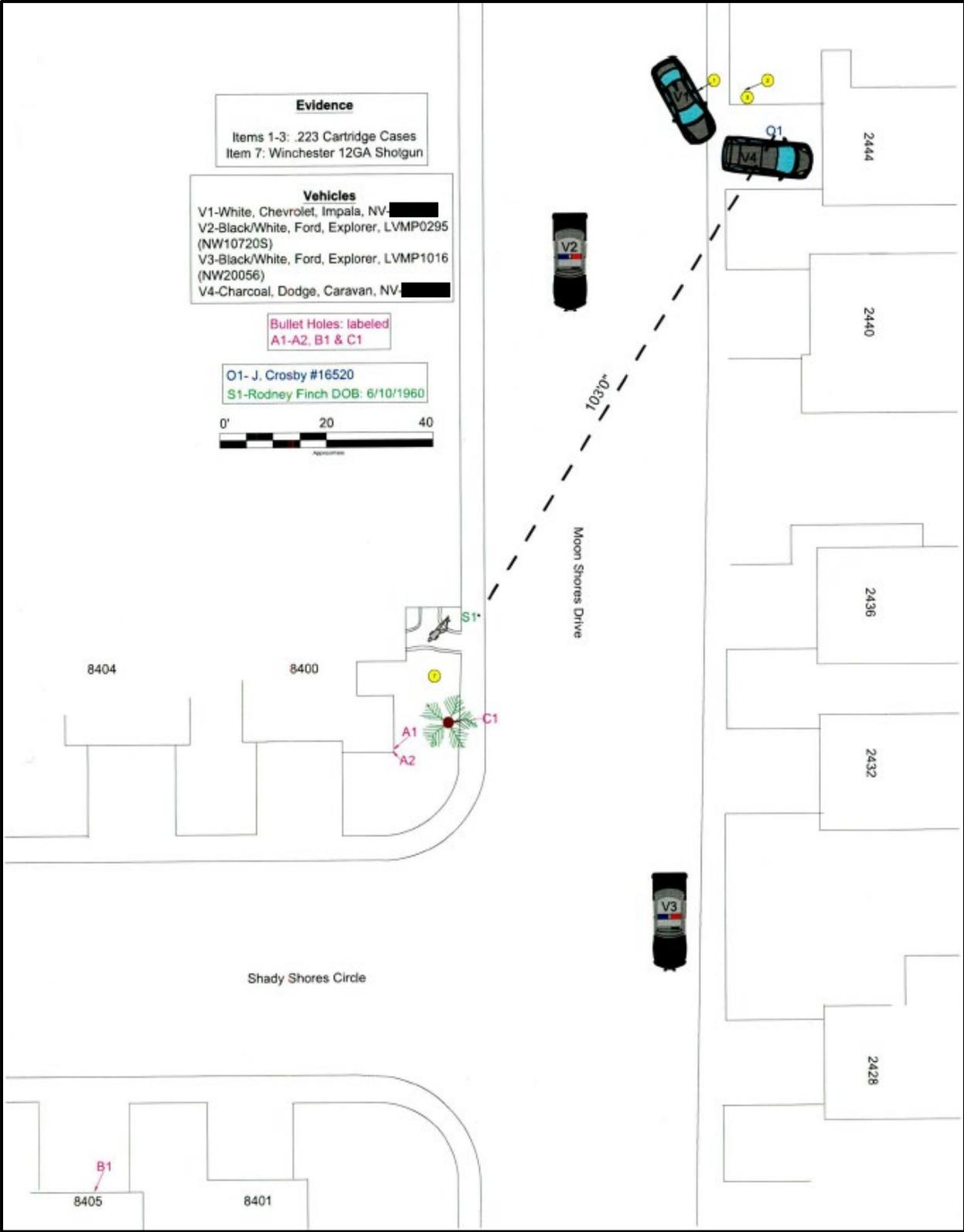
On December 13, 2022, the Firearms examination report was received. A 223 Remington cartridge case recovered from the scene was found to have been from Officer Crosby's rifle. Officer Crosby's rifle was also test fired and determined to be operational with no noted malfunctions. Decedent's Winchester shotgun was also test fired and determined to be operational with no noted malfunctions.

On December 14, 2022, the Firearms examination report for entry into the National Integrated Ballistic Information Network (NIBIN) was received. Decedent's Winchester firearm had been test fired and the test fired shotshell was entered into NIBIN. There were no associations noted in NIBIN.

## **DESCRIPTION OF THE SCENE AND VISIBLE EVIDENCE**

On November 4, 2022, beginning at approximately 2114 hours, CSA personnel photographed and documented the scene, and they collected evidence.

The CSA personnel prepared the below diagram of the scene, which includes the locations of Decedent and Officer Crosby. CSA personnel measured the distance between Officer Crosby and Decedent to be 103 feet.



The following are photographs and a still image taken of the overall scene and items impounded as evidence.



Above left: BWC still image from Officer D.F. showing the shotgun location under Decedent.  
Above right: Shotgun location after being moved.



Above left: Officer Crosby cartridge case #1.  
Above right: Officer Crosby's cartridge cases #2 and #3.



Above left: Photograph of the scene with bullet strikes circled.  
Above right: Bullet strike on a front porch pillar at 8400 Shady Shores Circle.



Above left: Bullet strike in a palm at on the east side of 8400 Shady Shores Circle.

Above right: Bullet strike in the garage door on the north side of 8405 Shady Shores Circle.



Above left Decedent's shotgun with shotgun shells removed.

Above right: Extra shotgun shells located in Decedent's left front jeans pocket.

## **FIREARM COUNTDOWNS AND EXAMINATIONS**

On November 5, 2022, at approximately 0100 hours, Officer Crosby had his duty weapon counted down at Shore Breeze Drive and Moon Shore Drive. The countdown is a process used to determine the number of rounds an officer fired during an incident.

### **Officer Jahmaal Crosby**

Weapon

Make: Smith and Wesson

Model: M&P-15

Caliber: .223



Officer Crosby was dressed in a standard LVMPD long sleeve uniform. He wore LVMPD patches on each shoulder and an LVMPD badge over his left breast. Officer Crosby wore a black duty belt with attached tools and equipment as part of his position in patrol. Officer Crosby's handgun was carried on the right side of his body and secured in a holster. During this incident he was armed with a rifle and carried a bag that contained additional rifle magazines.

Upon review of the countdown, detectives determined Officer Crosby discharged his rifle three times during this incident. CSA personnel photographed and impounded Officer Crosby's rifle, magazine, and cartridges.

FIT detectives confirmed that the findings of the firearm countdown were correct when compared to the evidence at the scene.

Officer Crosby's rifle was then sent to the LVMPD Forensic Laboratory for forensic examination. Forensic Laboratory personnel examined, test fired and found the rifle to be operational with no noted malfunctions.

## **BODY-WORN CAMERAS**

Officer Crosby and other LVMPD officers were equipped with body-worn cameras ("BWC")<sup>1</sup> that were activated during this incident. The footage captured on the BWCs and reviewed by the District Attorney's Office was consistent with the witnesses' and officers' statements and the evidence recovered during this investigation.

The following is a summary of the BWC footage, which captured Officer Crosby and the other officers' actions. Due to the positioning of the officers and the lighting, clear footage of Decedent's actions at the time of the OIS was not captured.

### **Officer Jahmaal Crosby**

Officer Crosby's BWC was activated and displayed the time stamp of 2022-11-05 T02:29:42Z (1929:42 hours). The video was 51 minutes and 26 seconds in length.

Officer Crosby responded to the call and was driving normal (no lights or siren). While en-route to the scene, Officer Crosby called victim, M.C., and spoke to him on speaker phone. M.C. confirmed that the suspect (Decedent) was aggressive and yelling at him and others. As M.C. was pulling out, he saw Decedent standing at the end of his driveway with a shotgun aimed at him. Officer Crosby told M.C. that he would call him back in a little bit.

Radio traffic could be heard in the background updating responding officers of what was occurring on scene. Officer Crosby arrived at approximately 1945 hours and exited his vehicle. The video showed Officer Crosby parked north of Decedent's residence, where other uniformed officers were already on scene.

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<sup>1</sup> It must be noted that the Axon Flex BWC time stamps videos in Zulu Time, also known as Greenwich Mean Time (GMT), which is the world time based on a 24-hour clock. The time is based on the Prime Meridian, which is zero degrees longitude and passes through Greenwich, England. There is a seven-hour negative difference between the event time (Pacific Daylight Time) and displayed Zulu Time. Officers activated their BWCs at different times during the incident. Axon BWCs also have a "time drift" where the camera's internal clock drifts from actual time based on when the cameras are synced when the camera is docked. Each BWC can display a slightly different time based on a time drift.

At approximately 1946 hours, officers were notified via radio that Decedent had a shotgun. Shortly after that radio broadcast, Officer Crosby retrieved his rifle from the back of his marked patrol vehicle. Officer Crosby then moved behind a vehicle parked on the west side of the street, north of Decedent's house. Officer Crosby, and the officers who were with him, later moved further away from Decedent's residence, behind marked patrol vehicles, creating distance. Officer Crosby relayed to the other officers that he called the victim and was told that Decedent pointed a gun at him. That information was broadcast to other officers via radio. Officer Crosby remained positioned behind a patrol vehicle for several minutes.

At approximately 2002 hours, Officer Crosby and other officers in the IAT moved to the east side of the street to a position behind a vehicle parked in a driveway. While moving locations, Decedent's residence could be seen illuminated with patrol vehicle spotlights. Officer Crosby positioned his rifle over the roof of the civilian vehicle parked in the driveway and aimed it in the direction of Decedent's residence. At approximately 2004 hours, an officer could be heard saying the garage was opening.

At approximately 2005 hours, radio traffic was heard that Decedent was armed. Shortly after that, an officer near Officer Crosby stated he could see Decedent's shirt. An officer started to yell to Decedent, "Sir, police department! Drop what's in your hand! This is the Las Vegas Metropolitan Police Department! Drop what's in your hand!" Radio traffic was then heard that Decedent had moved back to his driveway and went back inside.

At approximately 2008 hours, another patrol car was moved closer to Decedent's residence and additional spotlights were pointed toward the direction of the front door. At approximately 2010 hours, officers stated the garage was again opening. Radio broadcast was relayed to Officer Crosby that Decedent was seen exiting, had a firearm in his hands and was coming towards the front door.

At 2010:26 seconds, an officer yelled, "This is the Las Vegas Metropolitan Police Department!" Shortly after that, an officer yelled, "He's got a gun! Gun!" and Officer Crosby discharged his rifle three times.

Officer Crosby's BWC did not capture what he saw as the camera was blocked by the vehicle he was using for cover. As depicted below.



After the final shot, an officer yelled, “He’s down. He’s down.” Officer Crosby then moved positions to the rear of the vehicle. The IAT then moved positions and formulated a plan to approach.

The custody plan relayed to the officers was to give Decedent verbal commands to see if he moved. If he didn’t, officers would then plan to approach behind shields. Officers started to give verbal commands at approximately 2012 hours. Radio traffic indicated to the IAT that Decedent was laying down and there was no movement seen. At approximately 2016 hours, Officer Crosby joined an LVMPD K9 officer who arrived on scene. Officers then moved to a different position in an attempt to see Decedent and stated they saw blood. A second IAT then moved towards Decedent.

After the second IAT made contact with Decedent, Officer Crosby approached and briefly illuminated Decedent with a flashlight. Decedent’s shotgun could be seen near Decedent’s feet. Officer Crosby was then directed to secure his rifle. He directed other officers to lock down the driveway area where the officer-involved shooting occurred and make sure no one went there. Officer Crosby placed his rifle in his patrol vehicle and stated he left it in the same condition, just on safe.

Officer Crosby deactivated his BWC at 2021:08 hours.

### **Sergeant T.H.**

Sergeant T.H.’s BWC was activated and displayed the time stamp of 2022-11-05 T02:47:51Z (1947:51 hours). The video was 34 minutes in length.

Sergeant T.H. responded to the call and arrived at the scene at approximately 1953 hours. Sergeant T.H. met up with officers on scene, coordinated containment, and came up with a plan and set up an IAT. Sergeant T.H. positioned patrol vehicles to illuminate the rear of the suspect's (Decedent's) residence. Sergeant T.H. then moved his IAT to the driveway of 2444 Moon Shore Drive behind a vehicle parked in the driveway. Sergeant T.H. also made contact with the resident who stated officers could use his second story windows as a vantage point.

Sergeant T.H. then re-joined the IAT and gave each officer instructions for their role. Radio traffic could be heard that stated Decedent opened his garage door. Sergeant T.H. was standing behind the group of officers when he said he saw Decedent's shirt. An officer started to yell commands to Decedent, however Decedent went back inside his home. Sergeant T.H. stated over the radio that Decedent came out, looked at officers, and went back inside. Another patrol car was positioned closer to Decedent's house and illuminated it with more spotlights.

Additional radio traffic was heard when Decedent exited his garage again and was armed with a firearm. An officer started to give additional verbal commands towards Decedent as Sergeant T.H. was standing behind several officers. An officer said, "He's got a gun!" and Sergeant T.H. ducked down as gunfire was heard. Sergeant T.H.'s BWC did not capture Decedent at the time of the shooting.

Sergeant T.H. coordinated with officers and a K9 officer that arrived on scene to come up with a plan to approach Decedent and get him into custody. When the K9 officer moved positions, Sergeant T.H. stayed with his IAT. He also coordinated with a second IAT that was led by Sergeant E.F.

Sergeant T.H. then led his team closer to Decedent's residence on the east side of the street. Sergeant E.F. then let his team to Decedent and took him into custody. Sergeant T.H. then led a team of officers inside of Decedent's residence to clear it.

Sergeant T.H. deactivated his BWC at 2021:52 hours.

### **Officer J.J.**

Officer J.J.'s BWC was activated and displayed the time stamp of 2022-11-05 T02:42:22Z (1942:22 hours). The video was 43 minutes and 33 seconds in length.

Officer J.J. was already arrived when he activated his BWC. Radio traffic was heard that stated the suspect (Decedent) was outside and had something long in his hand. Officer J.J. had a less-lethal shotgun deployed. Officer J.J. and another officer discussed how they need more resources and they're not going to approach Decedent's residence. Additional officers, and the Air Unit arrived on scene. Officer J.J. and the officers moved away from Decedent's residence, behind several parked patrol vehicles. The Air Unit then left the area.

After several minutes, patrol vehicles were moved and the back of Decedent's house was illuminated with spotlights. Officer J.J. later moved with the IAT to the driveway of 2444 Moon Shore Drive behind a vehicle parked in the driveway. When radio traffic was heard that Decedent came outside with a rifle or shotgun, an officer started to yell verbal commands toward Decedent. Decedent was not seen on BWC.

Another patrol vehicle was moved, and a spotlight was directed at the corner of the wall near Decedent's front door and the east side of his house. More radio traffic was heard that stated the garage door opened again and Decedent had a gun in his hand. The top of Decedent's head can be seen briefly as he moved towards the corner of the wall. An officer started to yell verbal commands at Decedent, who appeared from around the corner of the wall. An officer yelled, "He's got a gun!" and three gunshots were heard. Officer J.J. ducked down behind the vehicle that was being used for cover. Decedent's exact actions could not be clearly seen due to the distance.



Above: Officer J.J.'s BWC depicting the scene and Decedent (red circle) immediately before OIS.

When a K9 officer arrived, Officer J.J. joined him and moved south to try and see Decedent. Verbal commands continued from officers towards Decedent. The K9 officer then took over verbal commands challenging Decedent. The K9 officer stated he could not see Decedent. Officer J.J. then re-joined the IAT and approached Decedent while he was taken into custody.

Officer J.J. then joined the officers who entered Decedent's residence and made contact with Decedent's wife who had been detained. Officer J.J. escorted the female outside to other officers then walked back to his patrol vehicle to secure his less-lethal shotgun.

Officer J.J. deactivated his BWC at 2025:54 hours.

## **Officer D.L.**

Officer D.L.'s BWC was activated and displayed the time stamp of 2022-11-05 T02:45:43Z (1945:43 hours). The video was 50 minutes and four seconds in length.

Officer D.L.'s BWC footage began as he was responding lights and siren to the call. Upon arrival, Officer D.L. deployed a 40mm Specialty Impact Weapon and ballistic shield and joined officers who were already on scene. After several minutes and the arrival of other officers, Officer D.L. moved with the IAT to the driveway of 2444 Moon Shore Drive and behind a parked vehicle.

Radio traffic was heard that the suspect (Decedent) exited his home with a rifle or shotgun and an officer could see Decedent's shirt. Officer D.L. started to give verbal commands. At approximately 2005:27 hours, Officer D.L. yelled, "Sir, police department! Drop what's in your hand! This is the Las Vegas Metropolitan Police Department! Drop what's in your hand!" Radio traffic was heard that Decedent was back in his driveway. Officer D.L. then yelled, "Walk down the driveway!" Radio traffic then stated Decedent closed the garage door.

Several minutes later, radio traffic stated the garage door opened and Decedent came out with a firearm in his hands and was going towards the front door. At approximately 2010:26, Officer D.L. again yelled, "This is the Las Vegas Metropolitan Police Department." In the upper left corner of the video, Decedent could be seen as he looked around the corner of the wall. Decedent's arms moved and an officer yelled, "He's got a gun." Officer D.L. started to duck down, and gunfire was heard.

Officer D.L. moved positions and started to yell additional verbal commands and directions towards Decedent. After several minutes, an IAT approached Decedent and took him into custody. Officer D.L. then joined other officers and made entry into Decedent's residence. After the residence was cleared, Officer D.L. exited and an ambulance arrived. Officer D.L. stayed close to Decedent as medical personnel provided medical care. Officer D.L. was then directed to another location since he was part of the IAT.

Officer D.L. deactivated his BWC at 2035:46 hours.

## **Officer A.V.**

Officer A.V.'s BWC was activated and displayed the time stamp of 2022-11-05 T02:40:56Z (1940:56 hours). The video was 40 minutes and 12 seconds in length.

Officer A.V. arrived on scene and met with another officer. While discussing which house it was, an LVMPD plain car pulled up and the officer inside stated the suspect's (Decedent's) house was the first one and Decedent was seen in the garage. Officer A.V.

deployed a shotgun. As the plain car drove towards Decedent's residence, there was a radio broadcast that stated Decedent was outside and looking towards the patrol vehicles. Decedent had his hands in his pockets and did not have a firearm. Officer A.V. moved slightly closer to Decedent's residence and stopped behind a parked vehicle.

There was additional radio traffic that stated Decedent retrieved something long in his hands, unknown if it was a firearm though, and that he was outside. Officer A.V. stated they needed more resources. The officers stated they were going to wait for more units before they attempted to make contact with Decedent. Radio traffic continued that stated Decedent appeared to have grabbed a shotgun. Officers later moved away from Decedent's residence and behind several patrol vehicles.

Officer A.V. saw a white vehicle leaving Shady Shores Circle and made contact with the occupants. The passenger (S.H.) stated he saw Decedent holding something but didn't know what it was and told him to stay away. The driver (D.C.) didn't see anything.

As additional officers arrived, Officer A.V. used his patrol vehicle spotlights to illuminate the back of Decedent's residence. Officer A.V. later moved with the IAT to the driveway of 2444 Moon Shore Drive and behind a parked vehicle. From this location, he used a spotting scope to watch Decedent's residence. Officer A.V. was behind Officer Crosby and to his right. He was then directed to move his patrol vehicle to the middle of the street and pointed a spotlight at the corner of the wall next to Decedent's residence before moving behind Officer Crosby.

Officer A.V. started relaying what was being stated over the radio to the officers near him. Radio traffic stated Decedent was going towards the front door with a firearm in his hands. The top of Decedent's head was briefly seen over the wall. Decedent was then seen looking around the corner of the wall towards officers as verbal commands were being given. Officer A.V. then yelled, "Fuck. He's got a gun." Officer A.V. started to duck and there was gunfire. Officer A.V. was then handed a ballistic shield. BWC footage was later blocked by the ballistic shield.

When another IAT reached Decedent, Officer A.V. moved towards that group of officers. Officer A.V. was then directed to stay with Officer Crosby so he stayed with him as Officer Crosby secured his rifle in the back of the patrol vehicle.

Officer A.V. deactivated his BWC at 2021:08 hours.

### **Officer J.G.**

Officer J.G.'s BWC was activated and displayed the time stamp of 2022-11-05 T02:40:48Z (1940:48 hours). The video was 49 minutes and 54 seconds in length.

Officer J.G. was driving a covert LVMPD vehicle and arrived in the neighborhood where the suspect (Decedent) lived. He drove past Decedent's residence and the garage door

was open. Officer J.G. then pulled up to a parked patrol car and stated Decedent was in the driveway and didn't have anything in his hands. Officer J.G. then parked next to the patrol vehicles and joined the uniformed officers positioned north of Decedent's residence.

Officer J.G. then moved his vehicle to the opposite side of the street from the patrol vehicles and watched Decedent's residence with binoculars. When the IAT moved into the driveway of 2444 Moon Shore Drive, Officer J.G. moved his vehicle behind the civilian vehicle parked in the driveway.

Officer J.G. eventually entered the residence of 2444 Moon Shore Drive and made his way to the second floor. From there, Officer J.G. was able to look towards Decedent's residence from an elevated position. Officer J.G. was above the IAT that was positioned in the driveway. The video showed when patrol vehicles were moved into the middle of the street, however the camera angle did capture much of Decedent's residence.

There was radio traffic broadcast that Decedent's garage door was opening, and he was coming outside with the firearm in his hands. Decedent was also going towards the front door. Officer J.G. then broadcast that Decedent was coming towards officers and was kneeling down by the wall. Three gunshots were then heard, and Officer J.G. backed away from the window. His BWC was not pointed towards Decedent's residence at the time of the shooting.

After the shots were fired, Officer J.G. opened the window he was standing at and removed the screen. As Officer J.G. looked out of the window, he broadcast that Decedent was still up, however no firearm was seen. His BWC did not capture Decedent being up. Officer J.G. remained in the upstairs window as the two IAT's worked below him. When the IAT broadcast over the radio that they were hands on with Decedent, Officer J.G. went downstairs and exited the residence. He made his way to Decedent's location and remained there until medical personnel arrived. Officer J.G. then started to secure the scenes with yellow crime scene tape.

Officer J.G. deactivated his BWC at 2030:43 hours.

### **Officer R.R.**

Officer R.R.'s BWC was activated and displayed the time stamp of 2022-11-05 T03:04:47Z (2004:47 hours). The video was 20 minutes and 16 seconds in length.

Officer R.R. was in a covert LVMPD vehicle and parked south of the suspect's (Decedent's) house and was conducting surveillance from a distance. At approximately 2005:25 hours, Officer R.R. broadcast over the radio that Decedent was walking towards the front door and had whatever weapon he had in his left hand. Shortly after, Officer R.R. stated Decedent had the weapon in both hands and was looking around. Decedent then walked back to the driveway and closed the garage door after going inside.

Through Officer R.R.'s windshield, the spotlights and take down lights of the patrol vehicles with the IATIAT were visible as the vehicles were being moved to illuminate Decedent's residence. At 2010:01, Officer R.R. was on the phone with Sergeant T.H. and stated Decedent's garage was opening. Officer R.R. then broadcast that information over the radio.

Officer R.R. then broadcast that Decedent was coming out again, had a firearm and was going towards the front door. Officer R.R. then broadcast, "He has the shotgun. He's pointing it in your directions." As this was broadcast, gunfire could be heard in the distance. Officer R.R. then broadcast shots fired.

Officer R.R. then exited his covert vehicle moved to a driveway closer to Decedent's residence. Officer R.R. then used his flashlight to illuminate Decedent's location and broadcast that Decedent was down and laying by the gate. Officer R.R. stated Decedent wasn't moving and he couldn't see anything in his hands. Officer R.R. continued to illuminate Decedent with a flashlight from his location as officers from the IAT yelled verbal commands.

Officer R.R. slowly moved north from house to house to get a better look at Decedent and provide updates. Officer R.R. was able to see that Decedent was on his back and his right hand was visible. Decedent had not moved while verbal commands were being given. When the IAT went hands on, Officer R.R. approached Decedent's residence and joined the team that entered the house.

After clearing the house, Officer R.R. walked north away from the residence while he talked to another officer. Officer R.R. stated he watched Decedent point the gun at officers and used his arms to mimic Decedent's actions.

Officer R.R. deactivated his BWC at 2025:03 hours.

### **Sergeant E.F.**

Sergeant Fincher's BWC was activated and displayed the time stamp of 2022-11-05 T03:01:26Z (2001:26 hours). The video was 35 minutes and 50 seconds in length.

Sergeant Fincher arrived on scene and joined Sergeant T.H. After several minutes, Sergeant Fincher moved to the west side of the street and formed a second IAT. At time of shots fired, Sergeant E.F. was along the west sidewalk, looking southbound. His BWC did not capture Decedent's actions.

After several minutes of coordinating with Sergeant T.H.'s team, Sergeant E.F.'s team moved towards Decedent's residence to take him into custody. Two of the officers moved forward to take Decedent into custody. Sergeant E.F. asked if there was anything officers could do for Decedent medically as officers assessed him.

An officer pointed to the shotgun on the ground near Decedent's feet and stated to watch it as it could be loaded. Sergeant E.F. then reached down and picked up the shotgun to move it. Sergeant E.F. was not wearing gloves. The shotgun could be seen at Decedent's feet when it was moved. Sergeant E.F. then laid the shotgun on the rocks just south of Decedent.

As officers entered the residence from the garage, Sergeant E.F. moved his team of officers behind the wall until the residence was cleared. Once the house was cleared, officers returned to Decedent as an ambulance arrived. Sergeant E.F. stayed close to Decedent's location as several medical personnel provided care. Medical personnel could be seen doing CPR and other lifesaving measures on Decedent. Sergeant E.F. stated that medical personnel said Decedent had a slight pulse.

Sergeant E.F. deactivated his BWC at 2037:16 hours.

### **SUBJECT OFFICER'S STATEMENT AND SCENE WALK-THROUGHS**

A subject officer is a peace officer or supervisor who participated in, directed, or influenced the application of the use of force. Here, Officer Jahmaal Crosby is the subject officer.

After an OIS, a law enforcement supervisor will obtain a public safety statement ("PSS") from the subject officer. The PSS consists of a series of questions which are asked to determine if the officer fired their weapon, how many times they believe they fired, where they were located when they fired, if anyone is injured, whether any other officers fired, whether a suspect fired, and whether any witnesses have been identified.

Thereafter, during the initial phase of the investigation, a subject officer conducts a scene walk-through with FIT investigators and CSA personnel. The purpose of the scene walk-through is to help investigators develop an understanding of the scene, including identifying officer locations at the time deadly force was used, identifying potential physical evidence, and re-creating a timeline of the incident.

Following the scene walk-through, a subject officer may provide a recorded or written statement to FIT investigators; however, since the statement is voluntary, a subject officer has the right to decline providing a statement to FIT investigators. If a statement, verbal or written, is provided to FIT investigators, it should be obtained from the subject officers at least 48 hours after the incident; however, the 48-hour waiting period may be waived by the subject officer. Here, Officer Crosby elected not to provide a voluntary statement.

## **Officer Crosby's Public Safety Statement**

On November 4, 2022, Sergeant J.V. obtained a Public Safety Statement (PSS) from Officer Jahmaal Crosby. Sergeant J.V. recounted that PSS to a FIT detective, which is quoted below:<sup>2</sup>

JV: So, I gave the Public Safety Statement from a printed copy, which I'm holding in my hand. The questions that I asked, A, did you discharge your firearm? He stated yes. If so what direction? I shot northwest. Approximately where were you located when you fired? Looking over the minivan, when I asked him, where's the minivan, he said northwest of our location, we were actually located down the street, umm, south of the target residence. Uhh, how many shots do you think you fired? Three rounds. Is anyone injured? The guy I shot. If so, where are they located? At his house. I asked, are there any outstanding suspects? He stated no. I also asked each and every question that is on the sheet and stated to him just tell me if these don't apply, but I'm gonna read them anyways. So, under are there any outstanding suspects? He stated no. I said if so, what is their description? Does not apply. What direction and mode of travel? Does not apply. How long have they been gone? Does not apply. What crimes have they committed? Does not apply. And what type of weapon did they have? Does not apply. Is it possible the suspect fired rounds at you? He stated no. Three questions underneath this questions, sub-questions, if so, what direction were the rounds fired from? Does no apply. How many shots do you think the suspect fired? Does not apply. Approximately where was the suspect located when they fired? Does not apply. Do you know if any other officer discharged their firearms? He stated no. Sub-question, if so, who are they? Does not apply. Second question, approximately where were the officers located when they fired? Does not apply. Are there any weapons or evidence that needs to be secured or protected? He stated, my rifle and suspect's long gun, shot gun. If so, where are they located? My rifle is in the back of vehicle 20056. The suspect's weapon is next to him. Are you aware of any witnesses? He stated yes. If so, what is their location? Officers on scene who were in the action team. I asked were there any citizen witnesses? He said I don't know personally. The time completed of the Public Safety Statement was at 2032 hours on today, November 4, 2022.

SM: And that is the conclusion of the questions that you asked Officer Crosby?

JV: That is correct.

## **Officer Crosby's Scene Walk-Through**

On November 5, 2022, at approximately 0046 hours, Officer Crosby provided a walk-through of the scene. During the walk-through, which was not video or audio recorded, the following information was relayed on behalf of Officer Crosby by his attorney:

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<sup>2</sup> Note: FIT Detective Mendoza is designated by (SM) and Sergeant J.V. is designated by (JV).

Officer Crosby was working as a marked patrol unit by himself, and he was also rifle certified. He heard a dispatch tone of a "413" call (Person with a Gun) and responded. He knew the suspect had a long gun, had threatened a tow driver, and was aggressive. The call details had also been updated that the two drivers had fled, and the suspect had threatened another victim.

Officer Crosby arrived with other units and a sergeant. He deployed his rifle along with a spotter, Officer A.V. Officer Crosby heard radio updates that the suspect was in and out of the house, and eventually came to the side of the house where officers were located.

The suspect had a long gun and raised it in the direction of Officer Crosby. Officer Crosby knew the suspect was a threat to himself and others and wasn't obeying commands. Officer Crosby fired three times to protect himself and other officers.

## **SUMMARY OF RELEVANT WITNESS STATEMENTS**

### **Victim Officers**

The following summaries depict the relevant portions of victim officers' statements.

#### **Sergeant T.H.**

Sergeant T.H. responded to a person with a gun call that developed into an Assault with Deadly Weapon incident. Details that he knew were that a subject (Decedent) had threatened citizens with a gun by pointing the firearm at them as they drove away from the residence. A 9-1-1 call had been generated to LVMPD.

As he arrived on the scene, he instructed officers to take positions around Decedent's residence. Sergeant T.H. gathered an action team and illuminated the residence with patrol vehicle spotlights. Officers also instructed the neighbors to stay in their residences for their safety. As the team discussed the plan Decedent exited his residence in the front yard. Officers who had a view of Decedent informed the team that Decedent had a possible rifle or shotgun in his hands.

Decedent later exited his residence and stood near a wall. Sergeant T.H. stated he saw Decedent appear to go to the ground in a prone position. Officers who had a clear view of Decedent informed the team via the radio that Decedent was holding a long gun. Sergeant T.H. heard three gunshots and Decedent disappeared behind the wall. Sergeant T.H. stated the shots were fired by Officer Crosby. Sergeant E.F. and his team approached Decedent and took him into custody.

Sergeant T.H.'s team of officers entered the Decedent's residence to clear it. They made contact with Decedent's wife who exited the upstairs bedroom. Decedent's wife informed officers that her husband was the subject who was outside. Officers escorted Decedent's wife from the residence and froze the premise as a crime scene.

### **Officer J.J.**

Officer J.J. was dispatched to an Assault with Deadly Weapon call. Details that he received were an older white male adult, armed with a rifle or shotgun, was outside of his residence. The suspect (Decedent) had pointed the long gun at the person reporting. A second call was generated from another caller who informed the dispatcher that Decedent was challenging him to a fight and Decedent was armed with a possible rifle or shotgun. Officers J.J. and A.V. arrived on the scene with several unmarked police vehicles who assisted.

Officer J.J. decided to deploy a less-lethal shotgun and positioned himself with Officer A.V. as they waited for additional officers to arrive. An IAT was formed, and they received their assignments. An officer in an unmarked patrol vehicle stated he had a visual of a white male wearing a red shirt, who was holding a long object, which appeared to be a rifle or shotgun. The action team repositioned themselves to the east side of the street. The officer who had the best view of Decedent informed the other officers that Decedent re-entered his residence with the possible long gun.

Decedent exited the residence again from the garage door side of the house with the long gun and made his way to the front door of his residence. Officer D.L. began shouting verbal commands to Decedent, identifying himself as a Metro police officer and instructed Decedent to show his hands. Decedent positioned himself against a wall and went from a standing position to a kneeling position, then appeared to go to a prone position. Officer J.J. saw Decedent point the long gun toward the officers. Another officer shouted that Decedent in fact had a gun and Officer J.J. heard three gunshots that were fired by Officer Crosby.

Officer J.J. and his team approached Decedent and officers took him into custody. Officer J.J. saw a shotgun next to Decedent when he approached. Officer J.J. continued into the residence to clear it and encountered Decedent's wife as she exited the bedroom. Officer J.J. stated that he felt that his life was in danger, and he could have been shot when Decedent raised his long gun toward him.

### **Officer D.L.**

Officer D.L. responded to a person with a gun call where the suspect (Decedent) had pointed a long gun at a victim. A plain clothes officer had arrived in the area and saw Decedent with a long gun. An IAT was established, and Officer D.L. brought a ballistic shield and a 40mm Specialty Impact Weapon to the team.

Radio updates stated that Decedent was coming in and out of his house with the firearm. During one of the times that Decedent was outside, Officer D.L. gave verbal commands to Decedent to drop whatever he had. Decedent did not follow the commands and went back into his garage and closed the door. Several minutes later, radio traffic stated the

garage re-opened and Decedent again came outside with the long gun. Decedent then moved to the side of the house and Officer D.L. again started to give verbal commands.

Another officer yelled, "Gun!" and Officer D.L. heard gunfire. Decedent went down and a group of officers moved up to take him into custody. Officer D.L. observed Decedent was on the ground, bleeding and unresponsive. He saw a chrome and brown shotgun next to Decedent.

### **Officer A.V.**

Officer A.V. said he was dispatched to assist units who had arrived at the location. Upon his arrival, Officer A.V. received information about a person (Decedent) with a rifle or long gun. That information came from a Flex team officer in a plain vehicle. Officer A.V. participated in developing an action plan and his role was to be a rifle spotter for the officer on rifle (Officer Crosby). Officer A.V. was able to place himself in a position of advantage and had an eye on the front of the residence but could not see where the front door was. Officer A.V. added that all officers involved were wearing readily identifiable LVMPD uniforms.

While positioned towards the east side of the residence, he overheard on the radio that Decedent exited his residence with a rifle and was in the vicinity of the front entrance to the residence. Utilizing his monocular, Officer A.V. saw Decedent in front of the residence, wearing camouflage. Officer A.V. saw that Decedent had a shotgun which was pointed up. Shortly after, Decedent began lowering the shotgun towards them and Officer Crosby fired three rounds from his rifle at Decedent.

After Officer A.V. received information from the Flex team officer that Decedent was down and unresponsive to officer commands, he transitioned to a shield. Once officers felt it was safe to do so, they approached Decedent. While approaching, another team also approached and went hands-on and secured Decedent.

Officer A.V. then transitioned to being a monitor officer for Officer Crosby and stayed with him. Officer A.V. added that there were several verbal commands that were announced to drop the weapon and that they were the police. Officer A.V. said the emergency lights to the patrol vehicles were on as well.

### **Witness Officers**

A witness officer is a peace officer or supervisor who did not participate in or directly influence the application of the use of force. The following summaries depict the relevant portions of witness officers' statements.

## **Officer J.G.**

Officer J.G. heard over the radio a call about a person (Decedent) pointing a firearm at the person who called it in. He responded to the area to assist since he was working in a plain clothes capacity and had a plain car. When he arrived, Officer J.G. saw two marked patrol vehicles parked north of the Decedent's residence. He drove his plain car past Decedent's house and saw Decedent inside of the garage. Decedent did not appear to have a firearm at this time. Officer J.G. did a U-turn and as he drove by again, he saw Decedent had exited the garage and walked to the street.

Officer J.G. met with the patrol officers and stayed with them while an IAT was set up. Officer Rodriguez drove his plain car south of Decedent's house to watch. The IAT was set up behind a van that was parked in a driveway of a house north of Decedent's residence and across the street. Officer J.G. was directed to go inside of the house the IAT was in front of to get a better vantage point.

While inside the house and looking out of the second-floor window, Officer J.G. heard radio traffic that Decedent had come outside. Officer J.G. saw Decedent as he moved to the side of the house, looked in the direction of the officers, and raised his firearm. The officer-involved shooting then occurred. Officer J.G. opened the window he was at and tried to push out the screen in case he also had to use force against Decedent. He then heard Decedent was down.

## **Officer R.R.**

Officer R.R. stated he was sitting in the office when he first learned of a call in reference to a male (Decedent) with a gun outside of his house. Officer R.R. assigned himself to the call and utilized his unmarked LVMPD vehicle to attain a "long eye" on the location and to verify if the information received was valid. Officer R.R. drove by the location and saw Decedent, who matched the description, holding what appeared to be a long object consistent with a firearm.

Officer R.R. drove past the location and met with arriving marked patrol units. He told the officers he was going to attain a "long eye" to confirm that Decedent had a firearm. Officer R.R. parked approximately one block south of the location and observed Decedent holding what appeared to be a shotgun. Officer R.R. said that due to the lack of lighting and darkness, he was not able to positively confirm the object was a firearm. Officer R.R. said the object appeared to be a shotgun or rifle, based on the manner Decedent was holding it. Officer R.R. was approximately 50 yards away from Decedent during his observation.

As Officer R.R. watched Decedent, he radioed his observations to the patrol units, developed a plan and had the LVMPD Air Unit dispatched. He observed Decedent go back into his residence and close the garage. Decedent then came back out shortly with his hands empty. Decedent also walked between the front door and the driveway then

went back into the house again. Shortly after, Decedent came back out holding a firearm. Decedent was initially wearing a red sweater and blue jeans, but he was now wearing a military fatigue jacket. Officer R.R. observed Decedent kneel and raise the firearm toward the officers. Immediately after, Officer R.R. heard shots fired and he announced shots fired over the radio.

Officer R.R. continued to give radio traffic that Decedent was no longer moving and was not complying with officers' commands. Officer R.R. was only able to hear two shots from the inside of his vehicle. An arrest team was then formed by patrol, which Officer R.R. was not a part of, and Decedent was secured. Officer R.R. said he was not using binoculars while he had the "long eye" but said he had a good view from where he was. Officer R.R. added that the arriving patrol officers were wearing readily identifiable uniforms identifying them as police officers.

### **Civilian Victims & Witnesses**

#### **M.C.**

M.C. arrived at 8404 Shady Shores Circle to meet with a friend for a vehicle exchange. When M.C. arrived, he was approached by an unknown male (Decedent) who M.C. believed to be his friend's neighbor. M.C. stated Decedent was upset about someone damaging his vehicle and was recording M.C. with a cellphone while yelling. M.C. stated Decedent was making comments that he was a brown belt in judo, worked for the DoD, and was a military veteran. M.C. thanked Decedent for his service and got back into his truck to leave the area.

M.C. waited for his girlfriend, J.P., to get back into the car, and once she did, they began to drive away. M.C. said once he began to leave the area, he observed Decedent standing in the driveway carrying a shotgun with both hands with the barrel pointing toward the ground. M.C. then saw Decedent raise the weapon and point it toward him. He ducked to the side to get below the line of sight of his vehicle window. Once down the road M.C. called the police, then called his friend to tell him to stay inside.

M.C. stated that he first had an interaction with Decedent about a week prior where Decedent was taking photos of M.C.'s vehicles that he was dropping off for SEMA. M.C. stated Decedent seemed strange during that interaction, but he didn't seem like a threat. Decedent owned a "green hotrod" and began to rev the engine over and over when M.C. began to drop off some of his cars.

#### **J.P.**

J.P. and her boyfriend, M.C., arrived in Las Vegas around Tuesday, November 1, 2022, and were at their friend's house on Shady Shores Circle. They were in town for the Las Vegas SEMA show. She and M.C. were with their show car in their closed box trailer when an older white male with thick scruff (Decedent) came out and started a

conversation with them about cars. Decedent also showed them his own car and talked about it. Decedent also started his car and revved the engine for them.

On November 4, 2022, J.P. and M.C. were strapping down a car in their trailer when Decedent walked up onto the trailer ramp. His chest was puffed up and his eyes were dilated. Decedent was standing over the top of M.C., in a show of dominance, as M.C. was strapping the car down. J.P. was towards the front of the trailer.

J.P. explained that she had several years of experience as medic and felt Decedent was not in his right mind due to his demeanor. J.P. exited her door and walked around to the back and started talking to Decedent about his car. Decedent broke his attention from M.C. and focused on J.P. Decedent dropped his defensive posture. M.C. then finished strapping the car down and closed the trailer as J.P. built rapport with Decedent. She ended their conversation and Decedent walked back towards his garage.

After approximately three minutes, J.P. and M.C. were driving away. They drove past Decedent's house and noticed he was standing in his driveway with a tan colored shotgun in his hand. Decedent then pointed it at them as they drove past. J.P. felt that she needed to report it to the police, and she called 9-1-1.

### **Civilian Witnesses**

#### **T.G.**

T.G. stated he arrived in town Friday night (October 28, 2022) and he was at his short-term rental. The suspect (Decedent) came outside and spoke to T.G. about a car. T.G. stated Decedent seemed normal and just had an interest in cars.

On Sunday (October 30, 2022), T.G. stated he got home and pulled into the garage. When he looked in his rear-view mirror, he saw Decedent behind his car. When T.G. exited his car, he saw Decedent had a "beeper" or metal detector in his hand. Decedent told T.G. that he knew who he was and who sent him. Decedent also claimed he worked for the "DoD" (Department of Defense). T.G. saw Decedent had his hand on his hip as if there was a firearm there, however none was seen. T.G. said Decedent was wearing an Army jacket and assumed he was drunk. T.G. was able to close his garage door and there was no further contact with Decedent for the rest of the week.

On Friday (November 4, 2022), T.G. left the SEMA auto show and returned to his residence to meet a car transport driver (M.C.). T.G. went outside and saw Decedent standing in his driveway. Decedent stated that he'd be glad when they were gone and how he knew exactly who they were and who sent them. Decedent was holding a phone and appeared to be recording them while yelling. T.G. then went back inside.

A few minutes later, M.C. called T.G.'s friend, J.M., and said Decedent had a shotgun and approached him. T.G. and J.M. then went outside to look and did not see Decedent

at first. Decedent then came out of his garage, holding a shotgun, and started to look around. T.G. and J.M. went back inside of their residence and called 9-1-1. T.G. went upstairs and looked out of the window since he was also expecting an Uber to pick him up. After several minutes, he re-called 9-1-1 and was told officers were in the area. He then heard yelling outside and believed someone said to come out. T.G. opened the window to hear better and saw a spotlight pointed at Decedent's house. T.G. then saw Decedent exit his garage and looked as if he was "on a mission". Decedent was holding a firearm and went to the side of his house where T.G. knew the cops were. T.G. did not witness the actual OIS.

#### **J.H.**

J.H. heard the police helicopter and when he looked outside, he observed officers in his driveway. He offered for them to use his second floor as a vantage point and an officer (Officer J.G.) went upstairs to the west bedroom. Officer J.G. broke off the screen on the window so he could see better. J.H. observed the suspect (Decedent) wearing a red sweater with a weapon that appeared to be a rifle. Decedent then pointed the firearm at the officers that were in J.H.'s driveway standing behind his vehicle. J.H. then heard a gunshot and believed Decedent fired first, and then the officers returned fire. After the shooting, he heard officers giving verbal commands to Decedent, who was down, and they approached Decedent with shields.

#### **S.H.**

S.H. stated the night of the incident, November 4, 2022, he parked his gray Honda Accord on the main street outside of his friend's street. The street where S.H. parked was identified as Moon Shore Drive, off Shady Shores Circle. S.H. stated he parked next to the corner house which was 8400 Shady Shores Circle.

As S.H. walked to his friend's house, he saw a trailer with a Corvette on it and several people standing around it. S.H. then saw an older male with gray hair (Decedent) walking toward the driveway of the house on the corner. Decedent told S.H., "You better get the fuck out of here."

Decedent then walked into his garage and S.H. continued to his friend's house. S.H. and his friend then left the neighborhood and didn't see or hear anything else.

#### **J.M.**

J.M. arrived at his short-term rental on Friday (October 28, 2022) where he met up with his transport driver, M.C., who was dropping off cars for the SEMA show. As M.C. unloaded the cars, J.M. was approached by a neighbor (Decedent). J.M. and Decedent had a conversation about cars and Decedent's hotrod in his garage. J.M. stated there was nothing unusual about Decedent.

On Sunday (October 30, 2022), Decedent knocked on J.M.'s front door. When J.M. answered, Decedent asked if J.M. had seen anyone from the electric or water department around his house. J.M. stated Decedent's behavior was a little off. A short time later, J.M. left his residence and he saw Decedent walking around his own house while holding a small device with an antenna that was beeping. Later that night, J.M. received a phone call from his friend, T.G., who stated Decedent met T.G. in the garage, he was drunk and said some crazy stuff. When T.G. eventually got home, he did not see Decedent. There was no further contact with Decedent for the rest of the week.

On Friday (November 4, 2022), J.M. left SEMA and met with M.C. who was outside to pick up their cars. While outside, J.M. saw Decedent in his own driveway as T.G. was by the car trailer. J.M. couldn't hear the conversation, and eventually Decedent went into his garage and into his residence through the interior garage door. J.M. also went inside his own residence.

Approximately 10-15 minutes later, M.C. called J.M. and stated Decedent had pulled a shotgun on him. J.M. and T.G. then went outside and saw Decedent exit his garage while holding a shotgun. Both J.M. and T.G. went back inside their own home and J.M. called 9-1-1. J.M. stated he was standing behind T.G. when Decedent came outside so he personally didn't see Decedent with the shotgun, however T.G. did.

Approximately 15 minutes later, J.M. called 9-1-1 again to check on the status of officers since he was expecting an Uber to arrive at his residence. He heard shouting outside and saw a spotlight, so he knew the police were there. While looking out of a window, J.M. saw Decedent aggressively run out of his house with the shotgun in his hand. Decedent then turned left, without hesitation, and towards where the police were. J.M. then heard three to four gunshots. A few minutes later, J.M. saw officers go into Decedent's house and pull a lady out.

## **S.S.**

S.S. said that shortly after arriving home, on November 4, 2022, at approximately 1900 hours, she heard three louds pops similar to gunshots. S.S. and her young son took cover on the ground and turned off her lights. S.S. said she then went upstairs and looked outside the window. S.S. said she heard two people screaming. S.S. said one looked like her neighbor but could not tell who the other was. S.S. said she saw a police car already outside as well. S.S. said she saw a long object on one of the two people but could not confirm if it was a firearm. Concerned for the safety of her son and herself, she called 9-1-1.

S.S. said there was another incident on Sunday, October 30, 2022. S.S. left her home at 1430, and a male (Decedent) was staring at her from across the street. Decedent said nothing, and she continued with her day, leaving to pick up her ex-husband. At approximately 2130 hours she was getting ready to leave and drop her ex-husband back off. As she was loading items into her vehicle, she saw Decedent across the street staring

at her again. Decedent asked her if she was Russian and she replied, "No. I'm Romanian." Decedent then began speaking to her in German and asked her if she knew what was in his hands. Because it was dark, S.S. could not see what he had. As they were leaving, Decedent told her, "This is what I use to track you." Decedent also asked S.S.'s ex-husband if he was in the military and if he knew what the object he was holding was. S.S. said her ex-husband's English was not good and could not tell what Decedent told him, and they left.

S.S. said that the next day she saw Decedent in the back yard at 8400 Shady Shores Circle and confronted him. S.S. recorded the conversation and asked him if he was the one who tried to show her an object used to track her the night prior. Decedent said it was him and that the object was just a toy. S.S. played the audio and confirmed what she said.

S.S. added that she did not have surveillance cameras and that she has lived at her residence since April 12, 2022. S.S. said she had never met Decedent, who turned out to be her neighbor from across the street at 8400 Shady Shores Circle but described him as an older male with long unkept hair.

## **AUTOPSY**

On November 5, 2022, at approximately 0704 hours, Clark County Office of the Coroner/Medical Examiner ("CCOCME") Doctor Lisa Gavin performed an autopsy on the body of Decedent. A FIT detective and CSA were present.

The following items of evidence were impounded:

1. One (1) buccal swab kit (Decedent).
2. One (1) pair of 'Faded Glory' blue jeans, size 34x34 with apparent blood.
3. One (1) pair of tan 'DF by Dearfoams' slippers, size 11-12.
4. One (1) long sleeve camouflage jacket, unknown size and maker with apparent blood and a defect in the back.
5. One (1) long sleeve 'BAW Athletic Wear' shirt, size XL with apparent blood and a defect in the back.
6. One (1) white sheet with apparent blood.

During the autopsy, Dr. Gavin noted the following wounds/injuries on Decedent's body:

1. Gunshot wound of neck, which entered Decedent's left lateral lower aspect of neck near clavicle (in neck creases) with associated contusion. The bullet travelled anatomically left-to-right, front-to-back, slightly downward, and exited the posterior aspect of Decedent's right shoulder.
2. Blunt force injuries.

A toxicology report revealed the following:

**Positive Findings:**

<u>Analyte</u>	<u>Result</u>	<u>Units</u>	<u>Matrix Source</u>
Ethanol	166	mg/dL	001 - Peripheral Blood
Blood Alcohol Concentration (BAC)	0.166	g/100 mL	001 - Peripheral Blood
Caffeine	Presump Pos	mcg/mL	001 - Peripheral Blood
Cotinine	Presump Pos	ng/mL	001 - Peripheral Blood
7-Amino Clonazepam	11	ng/mL	001 - Peripheral Blood
Topiramate	13000	ng/mL	001 - Peripheral Blood
Hydroxyzine	80	ng/mL	001 - Peripheral Blood
Creatinine (Vitreous Fluid)	1.05	mg/dL	002 - Vitreous Fluid
Sodium (Vitreous Fluid)	147	mmol/L	002 - Vitreous Fluid
Potassium (Vitreous Fluid)	9.38	mmol/L	002 - Vitreous Fluid
Chloride (Vitreous Fluid)	126	mmol/L	002 - Vitreous Fluid
Urea Nitrogen (Vitreous Fluid)	5.10	mg/dL	002 - Vitreous Fluid
Ethanol	183	mg/dL	002 - Vitreous Fluid
Ethanol	199	mg/dL	003 - Urine

Decedent had a blood alcohol concentration (BAC) of 0.166%, which is slightly over double the legal limit for driving purposes. Decedent also had a “supratherapeutic/toxic level” of topiramate in his peripheral blood. According to Food and Drug Administration approved labeling, topiramate (brand name TOPAMAX®) is a medication used primarily to treat epilepsy and migraines. Topiramate includes label warnings for “increas[ing] the risk of suicidal thoughts or behavior in patients taking these drugs” and an adverse reaction associated with the use of the drug includes “[p]sychiatric/behavioral disturbances (e.g., depression or mood problems).”

Doctor Gavin concluded Decedent died as a result of a gunshot wound of the neck and that Decedent’s manner of death was homicide.

### **LEGAL ANALYSIS**

The District Attorney’s Office is tasked with assessing the conduct of officers involved in any lethal 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 or defense of others; and (2) justifiable homicide by a public officer. Both theories will be discussed below.

## A. The Use of Deadly Force in Defense of Self or Defense of Another

The authority to kill another in self-defense or defense of others is contained in NRS 200.120 and 200.160. “Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of ... another person, against one who manifestly intends or endeavors to commit a crime of violence ...” against the person or other person.<sup>3</sup> 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 self-defense [or 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 himself [or the other person] or cause himself [or the other person] great bodily injury; and
2. That it is absolutely necessary under the circumstances for him to use in [self-defense or 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 [himself or the person(s) 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 self-defense [or 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 self-defense [or defense of another]. A person has a right to defend from apparent danger to the same extent as he would from actual danger. The person killing is justified if:

1. He is confronted by the appearance of imminent danger which arouses in his mind an honest belief and fear that he [or the other person] is about to be killed or suffer great bodily injury; and

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<sup>3</sup> 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. He acts solely upon these appearances and his fear and actual beliefs; and,
3. A reasonable person in a similar situation would believe himself [or 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 exists that a killing was in defense of self [or defense of another], the State must prove beyond a reasonable doubt that the person killing did not act in self-defense [or defense of another]. Id. at 1051-52.

Therefore, under Nevada law, if there is evidence that the killing was committed in self-defense or defense of another, the State at trial, must prove beyond a reasonable doubt that the slayer was not acting in self-defense or defense of another.

The known facts and circumstances surrounding this incident indicate that Decedent posed an apparent imminent danger to Officer Crosby as well as members of his Immediate Action Team (IAT), Sergeant T.H. and Officers J.J., D.L. and A.V. Officer Crosby received information from radio dispatch, other officers and a civilian victim, M.C., about Decedent being aggressive, non-compliant with officer commands and armed with a shotgun or rifle. That information, in addition to information collected by other officers, was used to create tactical plan on scene, which included containing Decedent's residence, forming IATs with designated responsibilities, positioning multiple officers in several locations to discreetly surveil Decedent and his residence, and having officers maintain distance from Decedent's residence so as not to escalate the situation. During this event, officers continuously gave Decedent clear commands identifying themselves as the police and telling Decedent to drop his weapon. Decedent did not comply with the officers' commands. Ultimately, Decedent exited his garage armed with a loaded shotgun, continued to refuse to comply with an officer's commands, and walked toward and pointed his shotgun at Officer Crosby and his IAT. Officer Crosby reasonably believed that he and his fellow officers would be at risk of great bodily harm or death if struck by Decedent's gunfire. It was in that moment that Officer Crosby shot Decedent, killing him.

The totality of the evidence, to include BWC video, visible evidence on scene, officers' statements, and witness statements, illustrates that Officer Crosby was reasonable in believing that Decedent would cause great bodily harm or death to himself and his fellow officers. Officer Crosby was confronted with the appearance of imminent danger to himself and his fellow officers and had an honest belief and fear that he and his fellow officers were about to be killed or suffer great bodily injury at the hands of Decedent. The evidence further illustrates that Officer Crosby acted reasonably in his reaction to the apparent danger posed by Decedent. Here, Officer Crosby reasonably acted in defense of others. Consequently, the shooting of Decedent is justifiable under this legal theory.

Furthermore, Decedent raised his shotgun toward Officer Crosby. As such, Officer Crosby was confronted with the appearance of imminent danger to himself and had an honest belief and fear that he was about to be killed or suffer great bodily injury at the hands of the decedent. Thus, Officer Crosby reasonably acted in self-defense at the time he used deadly force against Decedent. Consequently, the shooting of Decedent is also justifiable under this legal theory.

### **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 person. See 1985 Nev. Op. Att’y Gen. 47 (1985).

In this case, the known evidence illustrates that Officer Crosby had probable cause to believe that Decedent posed a threat of serious physical harm to himself and his fellow officers. Officer Crosby was receiving real-time updates from other officers about Decedent being armed with a firearm and approaching the front door, which was toward his position. Officers indicated Defendant had a gun and raised it toward the officers and, further, it is reasonably inferred that Officer Crosby observed the same as he was observing Decedent through the optic of his rifle. Thus, the use of deadly force by Officer Crosby was legally justified and appropriate under NRS 200.140(2). Therefore, the killing of Decedent by Officer Crosby was justified.

### **CONCLUSION**

Based on the review of the available materials and application of Nevada law to the known facts and circumstances, we conclude that the actions Officer Jahmaal Crosby were reasonable and legally justified. The law in Nevada clearly states that homicides which are justifiable or excusable are not punishable. See NRS 200.190. A homicide which is determined to be justifiable shall be “fully acquitted and discharged.” See 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 against Officer Jahmaal Crosby.