



REPORT ON USE OF FORCE

Legal Analysis Surrounding the Death of Ryan Marone on June 11, 2014

Introduction

During the early morning hours of June 11, 2014, the Henderson Police Department (HPD) received numerous calls from concerned citizens reporting gunshots in the area of Flat Plains Avenue, Henderson, Nevada. HPD officers responded to the area and heard gunshots. They identified the gunshots coming from inside 489 Flat Plains Avenue (hereinafter referred to as the Target Home). Officers set up a perimeter around the Target Home. Officers Timothy Donnelly, Troy McDermed, Carlos Chorens, and David Woolman set up near the front of the Target Home.

The occupant of the home, Decedent Ryan Marone (hereinafter referred as Decedent), exited the home with a handgun and confronted officers. Decedent refused officers' commands to drop the weapon and returned inside. Decedent exited the Target Home a second time. Again, Decedent appeared to be armed with a handgun. He walked to the end of the driveway holding his hands up but hiding the handgun behind his head. Decedent refused all commands from officers to drop his weapon.

Suddenly, Decedent raised his handgun and aimed it toward HPD officers Donnelly and McDermed who were across the street sheltered by a Cox Communications utility truck. Decedent fired his handgun. Decedent shot Officer Donnelly in the left hip. HPD officers Donnelly, McDermed, Chorens, and Woolman returned fire, striking Decedent until he no longer posed a threat. Decedent died at the scene. Officer Donnelly was taken to Sunrise Hospital where he was treated for his non-life threatening gunshot wound.

The Clark County District Attorney's Office has completed its review of the June 11, 2014, death of Decedent and has determined that the actions of the officers were not criminal in nature. This review is based on all the evidence currently available and is subject to the discovery of any new or additional evidence.

This report explains why criminal charges will not be forthcoming against the officers involved. It is not intended to recount every detail, answer every question or resolve every factual conflict regarding this police encounter. It is meant to be considered in conjunction with the Police Fatality Public Fact-Finding Review which was held on March 9, 2015.

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

Decedent Ryan Marone

An examination into Decedent's life history sheds light into possibly understanding why he chose to take the course of action that he did in the early morning hours of June 11, 2014. Decedent did not have a criminal record. He was raised by a law abiding family. He was trained as a welder and as a heating and air conditioning technician (HVAC). He also maintained long-term employment as a long haul-truck driver. Important to note, however, Decedent had exhibited suicidal tendencies earlier in his life, he had a heroin addiction, and he had a chronic alcohol habit. In 2014, Decedent was the subject of a domestic violence investigation by the HPD, he was abandoned by his wife and child, and he remained unemployed.



Decedent Ryan Marone. Photo taken from Decedent's Commercial Driver's License dated June 3, 2011.

Domestic Violence Investigation

On January 15, 2014, at approximately 11:00 am, HPD received a 911 call from Victoria Marone. Victoria reported that her husband, Decedent, had just shoved her and damaged her vehicle. HPD officers responded to Victoria and Decedent's home located at 939 Palmetto, Henderson, Nevada.

When HPD officers arrived, Decedent was gone. Officers contacted Victoria. They noted that Victoria had bloodshot eyes and smelled of alcohol. Victoria informed the officers that she had stayed out all night at a friend's home. When she came home late that morning, Decedent was packing up items. Decedent yelled at her and followed her outside. According to Victoria, Decedent pushed her several times into the wall and her car. Victoria claimed that Decedent grabbed her cellphone and threw it on the street shattering the screen. Officers documented a small scratch on one of Victoria's right fingers.

HPD officers attempted to locate Decedent. Believing that Decedent had left to pick up his daughter, officers proceeded to the location of 180 Westminster. There, officers came in contact with Shires Thomas, Decedent's stepfather. Officers could not locate Decedent. Next, officers went to 489 Flat Plains Avenue, the home of Decedent's parents, where they located Decedent's Dodge truck. Officers obtained permission from Decedent's parents to search the home. Officers were not able to locate Decedent.

The next day, officers were able to contact Decedent at 489 Flat Plains Avenue. Decedent explained that he got into an argument with Victoria because she had stayed out all night. Decedent claimed that Victoria pushed him causing him to hurt his foot. Decedent admitted that he pushed back. Decedent claimed that Victoria threw her phone at him. The phone missed him. Decedent then grabbed the phone and threw it back at Victoria. Decedent showed a small cut to his right little finger.

Investigating officers administratively closed out the case. They had no eye-witnesses to verify either version of what happened. The officers also noted that neither of the two parties had any priors for domestic violence. Officers were unable to determine who the primary physical aggressor was.

Karen Thomas

Karen Thomas is Decedent's mother. She gave a statement to HPD detectives. As background, Karen stated that she is married to Shires Thomas, Decedent's stepfather. In 2014, she lived with her husband at 489 Flat Plains Avenue, Henderson, Nevada.

Karen indicated that Decedent was a quiet and caring son. She raised Decedent in Florida. While in high school, his life began to unravel. At the age of 15, Decedent began to experiment with drugs, and his drug of choice was heroin. Decedent dropped out of high school the following year when he was 16-years-old.

Karen stated that Decedent began showing promise when he turned 18-years-old. He earned a GED diploma and enrolled in a Florida community college. He obtained a welding certificate, and he worked as a welder for awhile. However, Decedent's drug use continued. Karen indicated that Decedent had tried to commit suicide twice because of a failed relationship: He tried to cut himself and attempted to hang himself. Frustrated, Karen managed to send Decedent to a drug rehabilitation facility in Hawaii when he was 25-years-old.

Decedent benefitted from this rehabilitation. He returned to Florida, but within a few months, he followed Karen and his stepfather to San Diego. In California, Decedent learned truck driving and became employed as a long-haul truck driver. He met and married Victoria Marone, and together they had a daughter.

Decedent moved his young family to Las Vegas. Karen and her husband then moved to Las Vegas to be near their grandchild. Karen indicated that her son's life began to unravel in Las Vegas. She stated that Victoria did not like living in Las Vegas, and that she did not like Decedent being away for long periods of time.

During this time, Karen stated that Decedent shattered his knee and he lost his job with USA Trucking. Decedent began drinking heavily. Eventually, Decedent came to Karen and asked for help. She and her husband sent Decedent to another rehabilitation facility in Las Vegas.

After attending the local rehabilitation facility, Decedent got training as a HVAC technician. However, he was not able to secure employment in the heating and air conditioning field. Karen indicated that in October of 2013, Victoria got a job. With Decedent now staying home, the relationship deteriorated. By January of 2014, Karen said that her son got into a shoving incident with his wife, which was investigated by the HPD. Decedent moved into his parents' home after the domestic altercation. Karen said that Victoria and her granddaughter left Las Vegas two weeks later, returning to San Diego, California.

Karen stressed that Decedent struggled with the separation from his daughter. Karen stated that her son went to San Diego once to visit his daughter and that he returned even more dejected. She opined that Decedent was slipping into depression because he was not seeing his daughter, his marriage had failed, and he remained unemployed.

Eventually, Karen and her husband decided to move to Texas. In the spring of 2014, they sold their home. She said that Decedent seemed positive about the move and that he was likely going to join them. On Saturday, June 7, 2014, she stated that Decedent dropped her and his stepfather off at the airport. She communicated with Decedent on Sunday and Monday of that week. She sent him a text message explaining that she was going to make an offer on a home. Decedent never responded, which she found odd. On Wednesday, she planned to call and check on Decedent. Before she did, however, she received a call from HPD and learned that her son had died.

Karen added that her son knew how to handle weapons. She pointed out that Decedent knew that he had to put his weapon down when told to do so by law enforcement. She opined that her son may have wanted to be shot by the police.

On November 21, 2014, the Clark County District Attorney's Office re-interviewed Karen. She provided the same information she previously provided to the HPD. Asked about Decedent's recent drug use, she indicated that she never saw her son doing any drugs in front of her during the months he lived in her house. She did not see any physical signs that Decedent was using drugs either. She did express shock to find out about the high level of methamphetamine and hydrocodone in Decedent's system. She added that Decedent did not have a prescription for hydrocodone. She admitted that Decedent consumed a lot of beer.

Karen stated that her son was very knowledgeable when it came to guns. He was familiar with different types of guns. She stated that Decedent was an excellent marksman and that he would practice target and skeet shooting. She added that Decedent "could shoot the head of a quail." Karen stated that Decedent loved watching the TV show "Cops," and she added that he knew very well what to do when confronted by police. She stated that Decedent would have dropped the revolver when ordered to do so by the police if he had been in the right frame of mind.

Karen cannot make sense why her son did what he did on the date in question. Karen pointed out that Decedent was looking forward to moving to Texas. She stated that Decedent had expressed optimism that he would be able to find work in Texas. She stated that Decedent sounded upbeat on Sunday, June 8, 2014, when she spoke to him for the last time. She learned from her credit card statement that Decedent had purchased new clothes and food on Tuesday, June 10, 2014. Karen admitted, however, that she knew Decedent was depressed because his daughter and wife had moved away. She knew that Decedent was depressed over the fact that he was unemployed and that he had no money.

Karen believes Decedent's judgment was impaired due to the drug use. Karen stated that it is possible that Decedent wanted to commit suicide when confronting the officers. Karen wanted to be clear that she did "not blame the Henderson Police Department" for her son's death.

Shires Thomas

Shires Thomas is Decedent's stepfather. HPD detectives interviewed Shires on June 11, 2014. Shires gave additional insight into Decedent's life. Shires mentioned that Decedent's first drug of choice was heroin and alcohol was his second. Shires stressed that Decedent loved beer and indicated that Decedent's drinking was problematic. He was aware of the domestic violence altercation that HPD investigated in January 2014. Shires pointed out that Decedent's wife, Victoria, moved out about a week after the domestic violence altercation. Shires added that Decedent seemed positive about the prospect of moving to Texas.

Shires stated that he owned handguns that he kept in his home. He owned a black .38 revolver with a two-inch barrel, which was capable of firing .357 cartridges. Shires said that Decedent owned a .45-caliber semi-automatic handgun. A year earlier, Shires gave Decedent a silver .38 revolver that also was capable of firing .357 cartridges. Shires added that Decedent did not exhibit any anti-government or anti-police attitudes.

On November 21, 2014, the Clark County District Attorney's Office re-interviewed Shires. Shires felt it important to add that Decedent was under a lot of stress to provide financial support to his daughter and that being unemployed compounded the stress. Shires stated that Decedent at one point pawned his .45-caliber handgun to send money to his daughter. Shires expressed his belief that someone may have said something either through electronic or telephonic means to upset Decedent right before the shooting incident.

Victoria Marone

Decedent met and eventually married Victoria Marone in San Diego. The couple moved to Las Vegas and had one child in common. The relationship was strained.

Victoria stated that Decedent had two jobs during their marriage. First, he worked for Lamb Fuels. Thereafter, Decedent worked for USA Trucking. She stated that Decedent quit that job and went to school to be re-trained in another field. After that, Decedent never was employed again.

Victoria stated that Decedent dealt with a lot of personal demons. She knew that Decedent was a heroin addict and enjoyed cocaine. When he broke his leg, she stated that Decedent became addicted to pain medication. She stressed that Decedent was “just an alcoholic.” Victoria opined that Decedent was depressed, because he was unemployed. She worried once when Decedent locked himself in a bathroom, saying he had “a gun pointed to (his) head, and (he was) going to kill” himself.

Victoria said that Decedent was very familiar with weapons. She went with Decedent to the gun range to target practice. She said that Decedent owned a shotgun and a silver revolver (weapon believed to have been used on June 11, 2014).



Ryan Marone in an undated Facebook photograph.

Victoria admitted that in January 2014, she and Decedent got into a “huge fight.” She stated that Decedent pushed her a couple of times. Victoria called the HPD. Decedent left before the police arrived. She did not know if Decedent ever was arrested. Victoria admitted that she packed up and left for San Diego four days later with her daughter.

During the separation, Victoria had minimal contact with Decedent. She stated that Decedent came to visit his daughter once. She was upset with Decedent that he did not express more interest in his daughter. Victoria said that Decedent texted her 2 weeks prior to his death and that it was an unpleasant exchange. Victoria expressed that she was upset with Decedent because he had not called his daughter in months.

On November 20, 2014, the Clark County District Attorney’s Office re-interviewed Victoria. Victoria stated that she was married to Decedent for five years. She pointed out that her relationship began to falter when Decedent shattered his knee. She said that he was unemployed and was drinking to excess. They had fights and, on one occasion, he threatened suicide. During this time, Victoria managed to get a job to help with the family finances, but this caused even

more problems in the relationship. Decedent began to worry about her whereabouts, and he was paranoid that she would meet someone else. She caught Decedent going through her purse once in the middle of the night. In early January 2014, she stated that Decedent “laid his hands” on her which caused her to finally leave the relationship four days later.

Victoria stated that Decedent did not seem troubled that she was returning to San Diego with their daughter. He did not try to stop her or convince her otherwise. Victoria encouraged Decedent to maintain a relationship with his daughter. Decedent only made one trip to San Diego, where he spent some time with his daughter. He also needed Victoria to sign a check.

Over the months, Victoria was upset that Decedent did not express much desire to call or visit his daughter. Victoria told Decedent that she needed him to be an emotional support for his daughter. She questioned why he would not call or visit more often. Decedent told her that his father was “distant” with him and that he did not know any different. Decedent wanted his daughter to call him instead. Just days prior to his death, Victoria had a text communication with Decedent about his unwillingness to see his daughter.

Victoria was asked about Decedent’s drug use. Victoria stated she was surprised to find out from the autopsy that Decedent had high levels of methamphetamine in his system. She knew that Decedent had used heroin and cocaine in the past. She was not aware of Decedent ever using methamphetamine. She stressed that she would not allow him to do drugs around her and that she never saw him doing any illegal drugs during their marriage. She was also aware that Decedent went into rehabilitation facilities more than once. She added that his drinking was problematic, and that he was taking pain prescription pills when she left him in January 2014.

Victoria stated that Decedent was not stupid. She pointed out that everything he did during the early morning hours of June 11, 2014, required him to think; he had to think about grabbing the revolver, he had to think about loading it, and he had to think every time he pulled the trigger. She believed he very well knew what could happen if one confronted the police with a weapon. She opined that Decedent committed “suicide by cop,” because he could not do it himself. She questioned in her mind if Father’s Day (June 15, 2014) and his birthday (June 13, 2014) were factors in his decision-making on June 11, 2014.

Crime Scene Description

The scene was located on Flat Plains Avenue, Henderson, Nevada. It is an east-west oriented road, located between Iridescent Street and Gamboge Street within the Eagle Crest subdivision. Four one-story single family homes are situated along the south-side of the avenue. From east to west, the homes are addressed 485, 487, 489 (Target Home), and 491 Flat Plains Avenue. On the north side of the avenue, a cinderblock property wall and a sidewalk run parallel from Iridescent Street to Gamboge Street.



Neighborhood overview surrounding Flat Plains Avenue.

489 Flat Plains Avenue (Target Home)

The Target Home is located second to last toward the west end of the street where a cul-de-sac is formed with Gamboge Street. The house faces north and is angled slightly toward the east. The house has a three-car garage which occupies the northwest corner of the house. A front bedroom occupies the northeast corner of the home. The front door is recessed in between the bedroom and garage.

There were two cars parked in the driveway. A 2010 Honda CRV was parked head-in on the east portion of the driveway. A 2006 Toyota Tundra pick-up truck was parked backed-in west of the Honda CRV. Several bullet holes, impacts, and strikes to the Honda and Toyota truck were observed. The garage door to the Target Home also had several bullet holes and impact marks. A secondary driveway is located on the eastern edge of the



Target Home located at 489 Flat Plains Avenue.

property where a 2009 Dodge Ram truck was parked back-in. Bullet holes and a ricochet mark were observed on the Dodge Ram truck.

The house has a front yard and back yard. The front yard has desert landscaping with rocks forming the ground cover. There are some plants, including a medium sized desert tree. The back yard is fenced-in. The eastern side block wall is shared with 487 Flat Plains Avenue and the western side wall is shared with 491 Flat Plains Avenue. The rear back yard block wall is shared with three homes located on Eveningside Avenue.

487 Flat Plains Avenue

The home located at 487 Flat Plains Avenue is the neighboring property to the east of the Target Home. The front of the home faces north. The home has a two-car garage that also faces north. A driveway leading to the garage had one silver 2007 Toyota FJ Cruiser that was parked backed-in.



House located at 487 Flat Plains Avenue. This house is located east of the Target Home.

CSAs documented blood drag marks located on the street northeast of 487 Flat Plains Avenue. These marks were created after the shooting, when HPD officers moved Decedent's body away from the front of the Target Home.

491 Flat Plains Avenue

The house located at 491 Flat Plains Avenue is the neighboring property to the west of the Target Home. It is positioned on the south-side of the cul-de-sac. The front of the house is angled towards the northeast. The house had a two-car garage in the northeast corner of the house. Two bullet holes were visible into the garage door. A black 2000 Ford F-250 was parked in the driveway, head-in. A bullet hole was observed in the front left quarter panel, adjacent to the driver's door.



House located at 491 Flat Plains Avenue. This house is west of the Target Home.

Cox Utility Truck

The Cox truck was parked on the north side of Flat Plains Avenue, almost directly in front of 487 Flat Plains Avenue and northeast of the Target Home. The Cox truck is a 2012 Ford F-550. It was



Cox Utility truck parked on northside of Flat Plains Avenue.

parked along the north-side curb, facing west, near the intersection of Gamboge Street and Flat Plains Avenue. There was visible evidence that the truck was hit by gunshots and that gunshots were fired near the vicinity of this truck. This is detailed more specifically under the Visible Firearms Evidence section of this report.

Events of June 11, 2014

In the early morning hours of June 11, 2014, numerous concerned citizens living in the Eagle Crest subdivision, located in Henderson, Nevada, called the HPD to report hearing repeated gunshots. One of the concerned citizens stated that the gunshots were coming from 489 Flat Plains Avenue. HPD officers responded to the area and also heard gunshots. A perimeter was established around the Target Home.

The following sections detail the events and actions of each officer responding to the Target Home. The Clark County District Attorney's Office (CCDA) has reviewed all police reports, statements, and crime scene analyst (CSA) reports submitted by the HPD. The CCDA has also listened to all 911 calls and officers' radio traffic. This section highlights the statements of the pertinent officers involved in the use of force, resulting in Decedent's death.



Overview photo showing the Target Home, neighboring houses, and the Cox truck. Photo also indicates the approximate location of HPD officers and Decedent at time of shooting.

Officer Timothy Donnelly

Officer Timothy Donnelly has been employed with the HPD as a police officer for 20 years. He was working the graveyard shift on June 11, 2014, and that night, he was the officer-in-charge (OIC) for the HPD's West Area Command. At approximately 4:00 am, he heard the police radio call that shots were being fired in the area of Flat Plains Avenue. Driving to the location, Officer Donnelly learned that one of the persons reporting the gunshots was calling from 487 Flat Plains Avenue and that the gunshots were coming from 489 Flat Plains Avenue, the Target Home. He then quickly did a historical search and learned that there was a prior domestic violence call for service at the Target Home.

Officer Donnelly parked his police car on the corner of Iridescent and Flat Plains Avenue. He planned on making contact with the next door neighbor who called 911. However, as he approached, he heard gunshots coming from the Target Home. He took cover along with Officers David Woolman and Carlos Chorens, behind a parked Toyota FJ Cruiser. Sergeant Eron Bushell arrived at the scene and set up a command post. Sergeant Bushell called SWAT.

Officer Donnelly continued to hear more gunshots. He ran back to his police car and retrieved his assault rifle. Upon returning to the parked FJ Cruiser, he heard Officer Troy McDermed radio that a shot had been fired through a window from the Target Home. Officer Donnelly grabbed a police shield and ran across Flat Plains Avenue to the parked Cox truck, where Officer McDermed was positioned. He gave the shield to Officer McDermed. Officer Donnelly then took a position of cover by the front passenger side of the Cox truck. Officer Donnelly now had an excellent view of the Target Home's front door.

Suddenly, Officer Donnelly saw Decedent exit the home. Decedent stayed by the foyer. He could see that Decedent had something in his right hand. He heard other officers order Decedent to "drop the gun." He heard Decedent respond that he needed a lighter. He observed Decedent return inside the home.

A moment later, Decedent returned outside. Officer Donnelly could see that Decedent had something in his hand. He heard Officer Woolman order Decedent to "drop the gun." Decedent replied that he had a lighter. Decedent walked down the driveway. Officer Donnelly began ordering Defendant to keep his hands up. Decedent appeared to comply but kept manipulating his right hand by dropping it behind his head. Decedent also yelled back that he didn't have a lighter and wanted to smoke.



Officer Donnelly's vantage viewpoint from the front right corner of the Cox truck at time of shooting.

All of a sudden, Decedent brought up a gun and fired it. Officer Donnelly saw the muzzle flash and immediately felt pain in his left hip. He thought that if he did not fire back, Decedent was going to shoot him again. Officer Donnelly fired his rifle multiple times at Decedent. Officer Donnelly stopped firing his rifle when he observed Decedent fall to the ground. Officer Donnelly got on the radio to report that he had been shot. He struggled to get up and then hobbled to seek medical assistance. Officer McDermed came off the Cox truck to assist his partner.



Officer Donnelly's police shirt revealing bullet hole marked by yellow arrow

Officer Donnelly was transported by ambulance to Sunrise Hospital. He was treated for the gunshot wound to his left hip. Doctors determined that the gunshot wound was non-life threatening. CSAs documented that a bullet penetrated Officer Donnelly's police uniform.

Officer Troy McDermed

Officer Troy McDermed has been employed as a police officer with the HPD for the past ten years. He was working the graveyard shift on June 11, 2014. At approximately 4:00 am, he heard the radio call that gunshots were being fired in the area of Flat Plains Avenue. He was the primary officer assigned to the scene.

Upon arrival along with other officers, Officer McDermed heard several gunshots coming from the Target Home. He estimated that he heard approximately 15 to 20 gunshots from inside the home. As he approached the Target Home, he was unable to see the front door. Officer McDermed decided to cross the street and position himself behind the parked Cox truck. This gave him an excellent view of the Target Home's front door.

Officer McDermed could see that the front door was propped open. He continued to hear gunshots inside the home. At some point, he heard a gunshot exit the Target Home. He heard the bullet strike the exterior landscaping rocks and zip past him. Concerned, he reported this gunshot over his police radio, and he requested a shield.

Officer McDermed got the requested shield from Officer Timothy Donnelly. He then observed Officer Donnelly take a position of cover at the front of the Cox truck. Shortly thereafter, Officer McDermed saw Decedent exit the Target Home and walk out to the foyer. He observed a gun in Decedent's hand. He ordered Decedent to drop the gun. Decedent yelled back that "it's a lighter." Decedent refused to obey any commands and returned inside.



Officer McDermid's vantage viewpoint from the top rear of the Cox truck at time of shooting.

Worried that Decedent had come outside to see where the officers were positioned, Officer McDermid decided he needed to move. Officer McDermid also worried that their position was compromised because the nearby street light illuminated him and Officer Donnelly. Officer McDermid changed position and climbed to the top of the rear of the Cox truck. Officer Donnelly stayed in his forward position.

Decedent exited the Target Home moments later for the second time. Decedent walked down the driveway. Officer McDermid saw that Decedent had a handgun in his right hand. Decedent refused all commands to drop the gun. Officer McDermid observed Decedent suddenly move his right arm, heard a bang, and saw an orange flash. Fearing for his and Officer Donnelly's life, Officer McDermid returned fire.

Decedent collapsed. Officer McDermid got off the Cox truck and approached Decedent. He had his rifle trained on Decedent. Next, he heard Officer Donnelly state that he had been shot. He raced to his partner and picked him up. He then helped Officer Donnelly down the street to an awaiting ambulance.

Officer Carlos Chorens

Officer Carlos Chorens, a seven-year HPD veteran, was working as a patrol officer on June 11, 2014. At approximately 4:00 am, he heard the police radio report that shots were being fired near the area of Flat Plains Avenue. Officer Chorens learned that there were multiple calls to 911 regarding shots being fired. He also learned that callers were localizing the gunshots to 489 Flat Plains Avenue, the Target Home.

Officer Chorens responded to the area. He parked his police car on Iridescent and approached on foot to Flat Plains Avenue. He deployed his rifle. He approached the Target Home and took up position behind a Toyota FJ Cruiser that was parked at 487 Flat Plains Avenue. He joined Officers Timothy Donnelly and David Woolman. He saw Officer Troy McDermid take a position across the street behind a parked Cox truck. Officer McDermid reported that he could see the front door and that it was open.

Officer Chorens started hearing gunshots coming from inside the target home. Officer Donnelly left his position behind the FJ Cruiser and ran across the street to the Cox truck. Officer Donnelly took with him a shield and gave it to Officer McDermid. Officer Chorens got into a prone position next to Officer Woolman.

Suddenly, Decedent came out of the target home. Officer Chorens heard both Officers Donnelly and McDermed giving Decedent commands to keep his hands up. Decedent responded with words to the effect that “it’s just a lighter” and that he wanted a cigarette. Decedent refused to comply with the commands, and he re-entered the Target Home.

Moments later, Decedent came out a second time. Officers Donnelly and McDermed reported that Decedent was armed with a handgun. They began issuing commands to drop the weapon. Officer Chorens heard a gunshot that sounded like it came from a handgun. He looked and saw Decedent standing at the end of his driveway firing at his partners. Officer Chorens returned fire. He fired his rifle five times, and he watched Decedent fall.



Officers Woolman and Chorens’ vantage viewpoint from front of parked Toyota FJ Cruiser parked at 487 Flat Plains Avenue at time of shooting.

Officer Donnelly reported that he was shot. Officer Chorens saw Officers Donnelly and McDermed retreat to seek medical assistance. Officer Chorens then ran and took a position behind the Cox truck, keeping a vigilant eye on the Target Home and its front door. He watched Officers Woolman, Mathew Brown, and David Fuentes secure Decedent and the handgun. He then observed his partners drag Decedent away from the Target Home towards the FJ Cruiser. Officer Chorens maintained his position until he was relieved by SWAT.

Officer David Woolman

Officer David Woolman has been a HPD police officer for approximately 12 years. He was working as a patrol officer on June 11, 2014. At approximately 4:00 am, he heard the radio alert that multiple people were calling 911 reporting that gunshots were being fired on Flat Plains Avenue. He was updated that the gunshots were coming from 489 Flat Plains Avenue. He responded to the area and parked his police car on Iridescent. He deployed his AR-15 rifle and approached Flat Plains Avenue on foot.

Using caution, Officer Woolman approached the Target Home. He began hearing gunshots being fired from inside the Target Home. Officer Woolman got behind a Toyota FJ Cruiser that was parked at 487 Flat Plains Avenue. He was joined by Officers Timothy Donnelly and Carlos Chorens. He saw Officer Troy McDermed take up a position across the street behind the Cox truck.

Officer Woolman continued to hear sporadic gunshots. A couple of times, he heard shots go out a window and whiz through the air. He heard approximately eight to nine gunshots since his arrival on scene. Officer Woolman saw Officer Donnelly run across the street to the Cox truck and join Officer McDermed. Officer Choren remained with Officer Woolman, positioned behind the CJ Cruiser.

Officer Woolman could not see the front door, but heard over the radio that Decedent was coming out of the Target Home. He saw Decedent approach the driveway. He saw that Decedent had a handgun in his hand. Decedent kept the gun down on his side. He heard Officer McDermed yell at Decedent to put the gun down. Decedent yelled back stating words to the effect that he needed a lighter. Officer Woolman noticed that Decedent was looking around and that he was not following officer commands. Decedent then returned inside the Target Home.

Believing that Decedent was conducting a reconnaissance, Officer Woolman cautioned Officers Donnelly and McDermed to move to different positions. Officer Woolman noted that Decedent's attention was focused only on the officers located by the Cox truck.

Within minutes, Decedent came out again of the Target House. Officer Woolman heard Officers Donnelly and McDermed issue commands to drop the gun. Decedent walked down to the end of his driveway. He saw that Decedent once again was armed with a handgun. Initially, Decedent had his hands in a semi-upward position. Decedent, however, refused to drop the gun. Officer Woolman noticed that Decedent's attention was on Officers Donnelly and McDermed.

Suddenly, Officer Woolman saw Decedent drop the arm with which he was holding the handgun and pointed it at his fellow officers. He heard Decedent's handgun fire, and he saw the muzzle flash. Knowing that Decedent fired at his partners, Officer Woolman returned fire. He fired his rifle at Decedent seven times, until he saw Decedent fall to the ground.

Sergeant Eron Bushell came up and said that they needed to secure Decedent and his handgun. Officer Woolman approached Decedent with Officers Fuentes and Matthew Brown. They secured the handgun, which was a silver revolver, and they handcuffed Decedent. They then dragged Decedent away from the Target Home. Officer Woolman, having previously been an EMT, could not feel a pulse on Decedent. He then covered Decedent with a blanket.

Officer Matthew Brown

Officer Mathew Brown was working as a field training officer (FTO) on the morning of June 11, 2014. He was training Officer Brett Anderson. Around 4:00 am, he heard a radio call that gunshots were being fired on Flat Plains Avenue. He and his trainee responded to the area.

Upon arrival, Officer Brown deployed his Colt M4 rifle. He started to approach the Target Home, 489 Flat Plains Avenue, and he heard gunshots coming from inside the residence. At the same time, Sergeant Eron Bushell was setting up a command post. Sergeant Bushell ordered Officers

Brown and Anderson to set up near a parked, backed-in Toyota FJ Cruiser, at 487 Flat Plains Avenue.

Officer Brown and his trainee set up at the rear of the FJ Cruiser. Officers Carlos Chorens and David Woolman were set up by the front of the car. While posted at this location, Officer Brown heard more gunshots coming from inside the Target Home and at one point heard a gunshot ring out from the home and ricochet off the Target Home's front yard.

Although unable to see the front door, Officer Brown heard Decedent exit the Target Home. He heard Officer Troy McDermed yell orders to Decedent to drop the weapon and to keep his hands up. He heard Decedent respond with words to the effect that he wanted a cigarette. Decedent apparently refused to comply with the orders, and he returned inside the Target Home.

About 30 seconds later, Decedent came out a second time. Officer McDermed, who was posted across the street at a Cox truck, had changed positions. Officers again began ordering Decedent to drop the gun and to show his hands. Officer Brown was unable to see Decedent because bushes blocked his view. He heard his fellow officers continue to voice commands. Then, Officer Brown heard a gunshot that sounded like it came from a handgun, followed by multiple rifle gunshots. He noted that Officers Woolman and McDermed were firing their rifles. He leaned to the front of the FJ Cruiser just in time to watch Decedent, who was standing at the end of the driveway of the Target Home, fall to the ground. Seconds later, he learned that Officer Timothy Donnelly, who was also posted at the Cox truck, had been shot.

Sergeant Bushell determined that Decedent needed to be secured. He approached Decedent with Officer Woolman, with cover from Officer Michael Fuentes. He handcuffed Decedent and flipped him over. He was unable to get a vital sign from Decedent. He dragged Decedent away from the Target Home toward 487 Flat Plains Avenue. Officer Brown did not fire his rifle. He stated that he never had a clear view of Decedent when his colleagues returned fire.

Officer Brett Anderson

On June 11, 2014, Officer Brett Anderson was in his second training phase under the direction of his FTO Matthew Brown. He was working the graveyard shift. At approximately 4:00 a.m., he heard the radio report that gunshots were being fired near 489 Flat Plains Avenue. Officer Anderson and his FTO answered the call, and they responded quickly to the location.

Upon arrival, Officer Anderson parked his police car on Iridescent Street. He deployed his Colt M4 rifle. He spoke to Sergeant Bushell and received orders to set up a perimeter. He and Officer Brown proceeded to post behind a backed-in, parked Toyota FJ Cruiser at 487 Flat Plains Avenue. He and his FTO set up at the rear of the Toyota, while Officers David Woolman and Carlos Chorens were by the front of the car behind the engine block. While posted there, Officer Anderson began hearing gunshots coming from inside the Target Home. At one point, he heard a gunshot come out of the Target Home.

Officer Anderson knew that other HPD officers were posted across the street. Officer Anderson initially did not see Decedent come out of the Target Home, but he heard HPD officers yell commands at Decedent. Officers yelled “show me your hands” and “drop the weapon.” He heard Decedent respond that he “just got a lighter.” Decedent refused to comply with commands and turned back and re-entered the Target Home. Thereafter, Officer Anderson heard a few more gunshots inside the Target Home. He heard one officer (Officer Troy McDermed) exclaim that Decedent was shooting at them.

Within a minute, Decedent returned outside. HPD officers again yelled orders for him to drop the weapon and show his hands. He heard Decedent say that he had “one hand up” and that he “just wanted a cigarette.” Suddenly, Officer Anderson heard a gunshot that sounded like it came from a handgun. That gunshot was followed by a volley of rifle gunshots. Next, he heard Officer Donnelly over the radio reporting that he had been shot.

Officer Anderson noticed Decedent down on the ground. He remained in a position of cover while other officers proceeded to approach Decedent, handcuff him, and drag him toward 487 Flat Plains Avenue. He was relieved by SWAT. He never fired his rifle.

Officer Michael Fuentes

Officer Michael Fuentes has been a police officer for more than 11 years with the HPD. On June 11, 2014, he was working the graveyard shift. He was also working as a field training officer (FTO) training Officer Anthony Molinaro.

At approximately 4:00 am, Officer Fuentes received a priority-one call that gunshots were being fired in a nearby neighborhood. Officer Fuentes and his trainee, Officer Molinaro, raced to the area of Flat Plains Avenue.

Driving into the residential neighborhood, Officer Fuentes parked his police car on Iridescent Street. Officers Fuentes and Molinaro proceeded on foot towards the Target Home, located at 489 Flat Plains Avenue. Officer Fuentes noticed Officer David Woolman arrive at the same time. Officer Fuentes approached the Target Home and positioned himself and his trainee near a neighbor’s garage. Officer Fuentes noticed Officers Timothy Donnelly and Troy McDermed take positions of cover across the street, behind a parked Cox truck.

Officer Fuentes could not see the front of the Target Home. However, he could hear what transpired. Officer Fuentes heard reports that the front door was open. Initially, he heard four shots being fired from inside the Target Home. Thereafter, Officer Fuentes kept on hearing sporadic gun shots coming from the Target Home.

After the shots were fired, Officer Fuentes heard that Decedent was exiting the Target Home. He heard officers challenge Decedent to drop the gun. He heard Decedent reply words to the effect

that he had a lighter. Officer Fuentes noted that Decedent refused officers' commands, and he returned inside the Target Home.

Within a minute, Officer Fuentes heard Decedent return outside. Decedent was yelling. Officers were commanding Decedent to "drop the gun." Suddenly, Officer Fuentes heard Officer McDermed yell, "He shot at us." Then, he heard commands again to drop the gun. Thereafter, Officer Fuentes heard rifles firing. Officer Donnelly shortly thereafter called out on the radio that he had been hit.

Officer Fuentes learned that Decedent was down. He observed Sergeant Eron Bushell and Officer Woolman approach Decedent and began to move him away from the open front door of the Target Home. Officer Fuentes covered for his fellow officers when Decedent was being moved. Officer Fuentes never fired his rifle.

Officer Anthony Molinaro

On June 11, 2014, Officer Anthony Molinaro had been working as a police officer for less than a year with the HPD. He was working the graveyard shift. He was working along with his Field Training Officer Michael Fuentes.

Around 4:00 a.m., Officer Molinaro heard on the police radio a report that there were gunshots being fired in the area of 489 Flat Plains Avenue. He heard that multiple people were calling 911 and reporting that gunshots were being fired. Officer Molinaro and Officer Fuentes raced to the area. He arrived and parked his police car on Iridescent Street. He, along with Officer Fuentes, began approaching the Target Home with caution.

Suddenly, Officer Molinaro heard gunshots. He retreated behind a parked Toyota FJ Cruiser with Officer Carlos Chorens. Thereafter, he heard gunshots every 30 seconds. Sergeant Eron Bushell ordered Officers Molinaro and Fuentes to retreat and take position at a neighboring house. Officer Molinaro continued to hear gunshots. Officer Molinaro retreated to his police car to get his and Officer Fuentes' police rifles.

Upon returning, Officer Molinaro heard Officer Timothy Donnelly report on the radio that Decedent was exiting the home. He heard reports that Decedent had a gun. He heard Decedent say words to the effect that "can't I just have a cigarette" and something about "a lighter." Officer Molinaro then heard a report that Decedent returned inside the Target Home. He heard more gunshots inside the Target Home, and he heard one shot shatter a window and hit landscaping rocks in the front yard of the Target Home.

Within a minute, Decedent returned outside. Officer Molinaro heard officers constantly command Decedent to drop the gun. He distinctly heard Officer Timothy Donnelly command Decedent to "put the gun down, put the gun down, raise your hands." Officer Molinaro could

tell that Decedent was not complying with the commands. Next, Officer Molinaro heard gunshots followed by a lot more gunshots. He heard Officer Donnelly report that he was hit.

Decedent was also shot. Sergeant Bushell ordered officers to drag Decedent away from the Target Home. Officer Molinaro witnessed three officers approach and drag Decedent toward the east of the Target Home.¹ Officer Molinaro remained in his posted spot until he was relieved by responding SWAT officers. Officer Molinaro never fired his rifle.

Officer Michael Sage

Officer Michael Sage is employed by the HPD as a police officer. He was working the graveyard shift on June 11, 2014. Officer Sage heard the radio call that numerous gunshots were reported being fired near the area of Flat Plains Avenue. He raced over to that location. Officer Sage received updated information that a man with a gun was seen at 489 Flat Plains Avenue, the Target Home.

Upon arrival at the location, Officer Sage and other responding police officers set up surveillance and a perimeter to the rear (south) of the Target Home. Officer Sage made contact with the residents at 366 Eveningside and received permission to enter their backyard. Officer Sage was able to look down into the backyard of the Target Home. Officer Sage noticed the lights were on, but he only saw a dog moving about. He did see fellow officers taking positions of cover behind a parked Cox truck across the street from the Target Home.

Officer Sage learned that Officer Troy McDermed made visual contact with Decedent and that Decedent was armed. Moments later, Officer Sage heard that Decedent was exiting the Target Home once again. He heard officers yelling “drop the gun.” He heard gunshots followed by a volley of more gunshots. He could see Officer Timothy Donnelly shrug and slump to his side. Officer Sage immediately took cover behind the backyard block wall. When the gunshots ended, he looked over the wall only to see Officer McDermed assisting Officer Donnelly, who was limping away. He heard Officer Donnelly report over the radio that he had been shot.

Officer Sage maintained surveillance on the rear of the Target Home. Moments later, he observed officers move Decedent eastward away from the Target Home. He observed SWAT officers clear the Target Home. Eventually, SWAT officers relieved him from his position. Officer Sage did not fire his weapon.

¹ Sergeant Bushell worried that the Target Home had other individuals inside that could pose a danger to the officers. Accordingly, Sergeant Bushell ordered officers to move Decedent away from the Target Home’s open front door.

Officer Martin Karlavage

Officer Martin Karlavage has been employed with the HPD for the past seven years as a police officer. He was working the graveyard shift on June 11, 2014. Around 4:00 a.m., he heard on the radio that there was a “shots fired” call in the area of 489 Flat Plains Avenue.

Officer Karlavage responded as a back-up officer. He heard first responding officers report that shots were being fired. Sergeant Eron Bushell ordered Officer Karlavage to go to the rear (south) of the Target Home to contain the area. He drove to the area of 364 Eveningside where he entered the backyard. Officer Karlavage could only see the rear patio of the Target Home. While in the backyard of 364 Eveningside, Officer Karlavage heard multiple random gunshots. He noted that they sounded close and loud.

Unable to see, Officer Karlavage heard other HPD officers have an initial confrontation with Decedent. He heard officers yell “get on the ground,” “show your hands,” and “drop your weapon.” He then heard over the radio that Decedent went back inside the Target Home. Just a few moments later, Decedent returned outside. He heard officers yell again at Decedent the same commands. Then, he heard a single gunshot followed by multiple gunshots. He remained in the backyard for approximately two hours until he was allowed to leave.

Sergeant Eron Bushell

On June 11, 2014, Sergeant Eron Bushell was supervising a graveyard patrol unit for the HPD’s North Area Command. He has been on the police force for over 20 years. Around 4:00 a.m., Sergeant Bushell heard the radio call that gunshots were being fired on Flat Plains Avenue. He proceeded to the area and parked north of the intersection of Iridescent Street and Flat Plains Avenue.

Upon arrival, Sergeant Bushell heard additional shots. He spotted three officers stacked behind a Toyota FJ Cruiser, which was parked in the driveway of 487 Flat Plains Avenue. He grabbed his shotgun and shield and joined the officers by the FJ Cruiser. Sergeant Bushell heard more gunshots coming from inside the Target Home. He ordered Officer Troy McDermed to post across the street behind a parked Cox truck in order to get a better view of the front door of the Target Home. He left his shotgun and shield with Officer Timothy Donnelly and retreated to his police car to set up a command post.

Sergeant Bushell began setting up a perimeter around the Target Home. He ordered officers to avoid coming up Gamboge Street since the Target Home had a view of the street. He ordered officers to post behind (south of) the Target Home on Eveningside. He also called the on-call SWAT team. Suddenly, he heard Officer Donnelly radio that Decedent was coming out of the Target Home. He heard his officers issue commands but learned that Decedent refused those commands and returned inside the Target Home.

Sergeant Bushell heard over the radio that Decedent was again coming out of the Target Home. He heard his officers scream commands. Next, he heard gunfire being exchanged. He ran up to the corner of Iridescent Street and Flat Plains Avenue. First, Sergeant Bushell spotted Decedent laying on the street. He then saw Officer Donnelly being assisted by Officer McDermed coming toward him. He learned that Officer Donnelly had been shot by Decedent.

Sergeant Bushell worried that the Target Home had other individuals inside that could pose a danger. He noted that the front door was still open. He ordered Officers Matthew Brown and David Woolman to approach Decedent, to cuff him, and to drag him away from the Target Home toward the FJ Cruiser. He believed that Decedent was dead. He also spotted a stainless steel or chrome revolver next to Decedent. He ordered his officers to hold the perimeter until SWAT arrived.

Thereafter, Sergeant Bushell turned his attention on Officer Donnelly. He learned that Officer Donnelly was shot in the left hip. The Target Home was eventually cleared by SWAT. He learned from the physical evidence inside and outside that Decedent had fired his gun multiple times.

Visible Firearms Evidence

Driveway, Front Yard, and Interior of 489 Flat Plains Avenue (Location of Decedent at Time of Shooting)



Decedent's HWM Model EA/R .38 Special/.357 Magnum Windicator Revolver.

HPD crime scene analysts located a HWM Model EA/R .38 Special/.357 Magnum Windicator Revolver, east of and adjacent to the main driveway. This revolver is capable of firing both .38 and .357 cartridges. The cylinder is capable of holding six cartridges. The cylinder rotated clockwise contained the following: An expended "GFL .357 Magnum" cartridge case in position 1; an expended "GFL .357 Magnum" cartridge case in position 2; an unfired

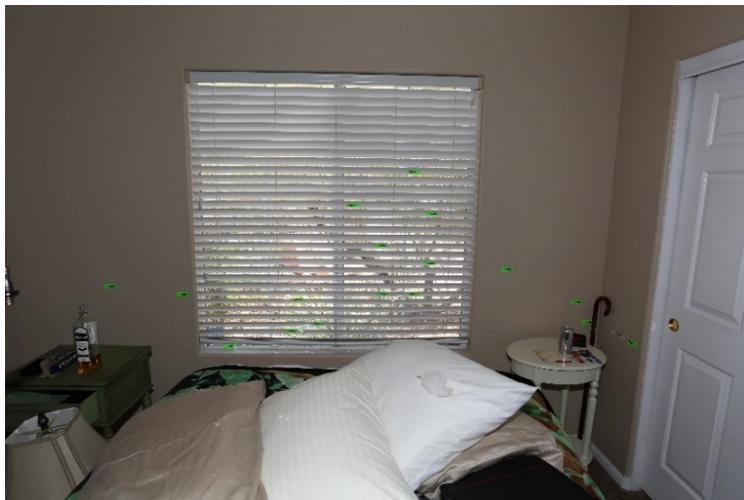
"GFL .357 Magnum" cartridge in position 3; an unfired "GFL .357 Magnum" cartridge in position 4; an expended "Winchester .38 SPL+P" cartridge case in position 5; and an expended "AP 00 .38 SPL" cartridge case in position 6. Apparent blood was visible on the revolver.

Adjacent to the secondary driveway, crime scene analysts located nine expended cartridge cases. Five of these cartridge cases were marked "GFL .357 Magnum" and located on the ground at the base of the driveway. A "Winchester .45 Auto" cartridge case was located in the decorative rock landscape at the top of the retention wall east of and adjacent to the base of the driveway. Finally, three "GFL .357 Magnum" cartridge cases were located on the ground to the rear of the parked Dodge Ram truck. Apparent blood was observed on some of these expended cartridge cases.



Decedent's vantage viewpoint looking at Cox truck from the end of the driveway of the Target Home at the time of the shooting.

Inside the Target Home, HPD crime scene analysts discovered evidence that corroborated statements from officers and 911 callers that gunshots were being fired from inside the house. The Target Home is a single story, three bedroom home. Upon entry through the front door, a bedroom is located in the northeast corner of the home. Most of the pertinent evidence was located in this bedroom and a Jack-and-Jill bathroom connected to an empty bedroom in the southeast portion of the home.



Target Home's northeast bedroom indicating multiple perforating bullet holes (marked by green arrows) in window and surrounding wall. These gunshots were fired from inside and exited outside.

CSAs documented several items of evidence in the northeast bedroom. They located and impounded several .38 Special and .357 cartridges and expended cartridge cases. A plastic reload carrier containing .38 Special and .357 Magnum cartridges was located on the floor. An empty plastic gun case was located in the closet. The north facing bedroom window had ample signs of bullet holes. CSAs documented 11 perforating bullet holes through the window blind, window, and screen. Also, a perforating bullet hole through the north wall west of the window was documented.

CSAs documented other firearms evidence in the rest of the home. In the connecting bathroom from the northeast bedroom, two expended cartridge cases were located. An intact glass smoking device, along with pieces of another glass smoking device were found on the bathroom

vanity. Bullet holes and associated damage was visible and documented throughout the home. Bullet fragments were also located throughout the home.

Driveway of 487 Flat Plains Avenue (Location of Officers Woolman and Chorens)

At the base of the driveway of the home located at 487 Flat Plains Avenue, CSAs located 12 “Winchester .223 REM” cartridge cases. CSAs also discovered a bullet fragment on the ground at the base of the driveway.

Cox Utility Truck (Location of Officers Donnelly and McDermed)

CSAs documented visible firearms evidence at and around the Cox truck. CSAs located 10 “Winchester .223 REM” cartridge cases on the sidewalk on the north side of the truck. They located 10 “Winchester .223 REM” cartridge cases northwest from the front right corner of the Cox truck. Six bullet fragments were documented by the front of the truck where Officer Donnelly was positioned. Two bullet strikes were documented on the asphalt street surface by the front of the truck. Near the location where Officer McDermed was positioned, a bullet fragment was located by the truck’s right rear corner and another fragment was found just east from the truck’s rear. A bullet impact strike was observed to the orange safety light on the truck’s boom lift arm.



Cox truck's safety light indicating a bullet impact strike at time of shooting.

Review of Weapons

Analysis of Decedent's Revolver



Decedent's HWM Model EA/R .38 Special and .357 Magnum Windicator Revolver.

Decedent was armed with a HWM Model EA/R Windicator (.38 Special and .357 Magnum) Serial No. 1094418 revolver. After the shooting, Las Vegas Metropolitan Police Department Forensic Scientist Jonathan Fried examined Decedent's weapon, including the cases and cartridges inside the gun's cylinder. Fried opined that all four cases in the cylinder were fired by Decedent's HWM revolver. Fried also opined that a copper bullet jacket found scattered among the bullet fragments by the Cox truck had the same rifling characteristics as the test fired rounds from the HWM revolver. Insufficient detail existed on this

copper jacket to make a positive identification however. The recovered bullet fragments around the Cox truck could not be examined.

Countdown of Officer Donnelly's Rifle

Officer Timothy Donnelly deployed his department-issued Colt M4 LE 5.56, Serial No. LE287261 tactical rifle. Officer Donnelly kept 28 cartridges in the magazine. After the shooting, Detective Mark Hosaka did a countdown of the rifle that revealed 17 cartridges remained and 11 cartridges were missing. Accordingly, Officer Donnelly fired 11 times.



Officer Donnelly's Colt M4 rifle.

Countdown of Officer McDermed's Rifle

Officer Troy McDermed deployed his department-issued Colt M4 Carbine 5.56, Serial No. LE287135 tactical rifle. Officer McDermed kept 28 cartridges in the magazine. After the shooting, Detective Hosaka did a countdown of the rifle. Detective Hosaka learned that 17 cartridges remained in the rifle and 11 cartridges were missing. Accordingly, Officer McDermed fired his rifle 11 times.



Officer McDermed's Colt M4 rifle.

Countdown of Officer Choren's Rifle

Officer Carlos Chorens deployed his department-issued Colt M4 Carbine 5.56, Serial No. LE287133 tactical rifle. Officer Chorens kept his magazine ready with 28 cartridges. After the shooting, Detective Hosaka did a countdown of the rifle. He learned that 23 cartridges remained in the rifle and five cartridges were missing. Accordingly, Officer Chorens fired his rifle five times.



Officer Chorens' Colt M4 rifle.

Countdown of Officer Woolman's Rifle

Officer David Woolman deployed his department-issued Colt M4 LE 56mm, Serial No. LE231114 tactical rifle. Officer Woolman kept his rifle loaded with 30 cartridges. After the shooting, Detective Hosaka conducted the countdown and discovered that 23 cartridges remained in the weapon and seven cartridges were missing. Accordingly, Officer Woolman fired his rifle seven times.



Officer Woolman's Colt M4 rifle.

Autopsy of Decedent

On June 12, 2014, Dr. Timothy Dutra, with the Clark County Medical Examiner's Office (CCME), performed an autopsy on Decedent. The autopsy was reported under CCME case number 14-05473. Prior to the autopsy, technicians searched Decedent's body. Technicians found ten .38 caliber cartridges in Decedent's left front pocket.

Dr. Dutra located five gunshot wounds on Decedent. First, Dr. Dutra located a grazing gunshot wound to the left side of the Decedent's head. This gunshot was a grazing skin injury. Second, Dr. Dutra noted a gunshot wound to the right anterior neck. This gunshot coursed downward fracturing the first rib, perforating the right lung, transecting the aortic arch and esophagus. Third, Dr. Dutra found a gunshot wound to the right chest area. This gunshot perforated the liver and fractured ribs. Fourth, Dr. Dutra found a gunshot wound to the left chest. This gunshot perforated the left kidney. Fifth, Dr. Dutra observed a gunshot wound to Decedent's right lower extremity. This gunshot fractured the right femur and imbedded into Decedent's right hip.

After completing the autopsy, Dr. Dutra determined that Decedent's cause of death was multiple gunshots to the neck and chest. Dr. Dutra opined that the manner of death was homicide.

Dr. Dutra also ordered a toxicology examination of Decedent's blood. The test results showed a high methamphetamine level of 2600 ng/ml and an amphetamine (a metabolite of

methamphetamine) level or 130 ng/ml.² Decedent's blood also showed a hydrocodone level of 21 ng/ml, a dihydrocodeine (hydrocodone metabolite) level of 6.6 ng/ml, and a hydromorphone (hydrocodone metabolite) level of 1 ng/ml. Decedent also had a .114 blood alcohol concentration, which is above the legal limit for driving in the State of Nevada.

Legal Analysis

The District Attorney's Office is tasked with assessing the conduct of officers involved in any killing which occurred during the course of their duties. That assessment includes determining whether any criminality on the part of the officers existed at the time of the killing. As this case has been deemed a homicide by the coroner, the actions of these officers will be analyzed under the State's jurisprudence pertaining to homicides.

In Nevada, there are a variety of statutes that define the various types of justifiable homicide (NRS §200.120 – Justifiable homicide defined; NRS §200.140 – Justifiable homicide by a public officer; NRS §200.160 – Additional cases of justifiable homicide). The shooting of Decedent was justifiable under two theories: (1) The killing of a human being in self-defense/defense of others; and (2) justifiable homicide by a public officer. Both of these theories will be discussed below.

The Use of Deadly Force in Defense of Another

The authority to kill another in defense of others is contained in NRS §§200.120 and 200.160. "Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of ... person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony ..." against the other person. NRS §200.120(1). Homicide is also lawful under NRS §200.160(1) when committed:

[I]n the lawful defense of the slayer, ... or of any other person in his or her presence or company, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished

The Nevada Supreme Court has refined the analysis of self-defense and, by implication, defense of others, in *Runion v. State*, 116 Nev. 1041 (2000). The relevant jury instructions as articulated in *Runion*, and modified for defense of others, are as follows:

The killing of [a] person in [defense of another] is justified and not unlawful when the person who does the killing actually and reasonably believes:

² Methamphetamine is a stimulant addictive drug capable of causing hallucinations, aggressive behavior and irrational reactions. Blood levels of 200-600 ng/ml have been reported in abusers who exhibited violent and irrational behavior. High doses can also elicit restlessness, confusion, circulatory collapse and convulsions.

1. That there is imminent danger that the assailant will either kill [the other person] or cause [the other person] great bodily injury; and
2. That it is absolutely necessary under the circumstances for him to use in [defense of another] force or means that might cause the death of the other person, for the purpose of avoiding death or great bodily injury to [the person being defended].

A bare fear of death or great bodily injury is not sufficient to justify a killing. To justify taking the life of another in [defense of another], the circumstances must be sufficient to excite the fears of a reasonable person placed in a similar situation. The person killing must act under the influence of those fears alone and not in revenge.

....

Actual danger is not necessary to justify a killing in [defense of another]. A person has a right to defend from apparent danger to the same extent as he would from actual danger. The person killing is justified if:

1. He is confronted by the appearance of imminent danger which arouses in his mind an honest belief and fear that [the other person] is about to be killed or suffer great bodily injury; and
2. He acts solely upon these appearances and his fear and actual beliefs; and
3. A reasonable person in a similar situation would believe [the other person] to be in like danger.

The killing is justified even if it develops afterward that the person killing was mistaken about the extent of the danger.

If evidence [that a killing was in defense of another exists], the State must prove beyond a reasonable doubt that the defendant did not act in [defense of another].

Id. at 1051-52.

In this case, Decedent posed an imminent danger to HPD officers. Decedent armed himself with a loaded revolver. He had been shooting multiple times inside the Target Home and many of those gunshots exited the home as officers began setting up a perimeter outside. Decedent was keenly aware that HPD officers were outside. This was evident when Decedent exited the home and had a verbal exchange with the officers. Decedent was refusing to comply with multiple orders to drop his weapon and to keep his hands up.

Decedent likely came outside the first time to conduct reconnaissance as to the location of the officers. Decedent kept his attention towards Officers Donnelly and McDermed who were across the street behind the Cox truck. These officers were also illuminated by the overhead street light. Upon returning outside the second time, Decedent walked down the driveway to get closer to the Cox truck. He again refused to drop his weapon as ordered to do so by Officers Donnelly and McDermed. He lied to the officers, saying words to the effect that he did not have a weapon and that it was only a lighter in his hand. He continued to manipulate his right hand by pretending to hold it up but in reality was trying to hide his revolver behind his head.

Officers continued to order Decedent to drop his weapon and keep his hands up. Decedent refused all orders. Suddenly, he dropped his right arm, which was holding the revolver, and aimed it at Officers Donnelly and McDermed. Decedent fired his revolver first at the officers. Decedent hit Officer Donnelly in the left hip. Decedent apparently fired more than once as evidenced by the bullet impact marks on the Cox truck. Officers Donnelly and McDermed recognized the threat, and they realized that if they did not fire back they were going to suffer substantial bodily harm or be killed. Officers Donnelly and McDermed returned fire, killing Decedent.

At the time of the shooting, all four officers had an objectively reasonable belief that Decedent posed an imminent danger, which created an honest belief that either the officers or another individual were about to be killed or suffer serious bodily injury. Primarily, Decedent posed a major threat to Officers Donnelly and McDermed. Officer Donnelly and McDermed were reasonable in their belief that Decedent was going to kill them.

Witnessing Decedent aim the handgun and firing it at Officers Donnelly and McDermed, Officers Woolman and Chorens were also reasonable in their belief that Decedent posed an imminent danger to their fellow officers. Officers Woolman and Chorens recognized that Decedent was firing at Officers Donnelly and McDermed. Officers Woolman and Chorens had to fire their weapons to prevent their fellow officers from sustaining substantial bodily harm or being killed. It was during this exchange of fire that Decedent was ultimately shot and killed, ending the threat.

Therefore, the police personnel were in actual imminent danger of being killed or suffering great bodily harm, which created in their minds an honest belief and fear that they, and/or others, were about to be killed or suffer substantial bodily harm. The officers were justified in acting upon those appearances, fears, and actual beliefs.

Justifiable Homicide by a Public Officer

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

In this case, the officers who fired at Decedent had probable cause to believe that Decedent posed a threat of serious physical harm either to themselves or other persons. Decedent had been firing his revolver multiple times inside the home. Officers recognized that gunshots being fired in a neighborhood posed a serious danger to all neighborhood residents. Officers even heard these gunshots themselves once they set up a perimeter. Officers noted that gunshots were exiting the house and hitting landscaping around them.

Compounding the danger, officers were dealing with Decedent who refused all police commands. He was armed with his revolver when he exited both times from the Target Home. Decedent refused to drop his revolver. He refused to show his hands. He refused to keep his hands up. He refused to stop and not move. Instead, he walked toward the nearest officers who were illuminated by the street light. He aimed and fired at these officers. He continued to fire the handgun, striking Officer Donnelly and hitting the Cox truck where Officer McDermed was also positioned.

These circumstances created probable cause in the officers' minds that the Decedent posed a threat of serious physical harm to the officers, residents, and/or witnesses in the area. In light of all the evidence reviewed to date, the State would be unable to prove that the actions of the officers were not in fact justified "in the discharge of a legal duty."

CONCLUSION

Based upon the review of the available materials and application of Nevada law to the known facts and circumstances, it has been determined that the actions of law enforcement in response to being fired upon by the Decedent 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 the officers, and unless new circumstances come to light which contradict the factual foundation upon which this decision is made, no charges will be forthcoming.

DATED April , 2015

STEVEN B. WOLFSON
District Attorney

By

FRANK JOHAN COUMOU
Chief Deputy District Attorney