



# **REPORT ON USE OF FORCE**

## **Legal Analysis Surrounding the Death of Claudia Rodriguez-Mendez on October 21, 2019**

### **INTRODUCTION**

At 12:14 pm on Monday, October 21, 2019, officers from the Henderson Police Department (“HPD”) were dispatched to the Equestrian Apartments located at 10701 South Eastern Avenue for a call for service. The initial caller told HPD dispatchers, “They are making us kill each other,” and a young child could be heard crying in the background.

At 12:26 pm, HPD officers Edward Little and Patrick McCarrick arrived at the apartment and knocked on the door. After several seconds, six-year-old W.B. opened the door. He was covered in blood and had several stab wounds to his neck and body. Immediately after Officer McCarrick removed W.B. from the apartment doorway, Claudia Rodriguez-Mendez (hereinafter “Decedent”) approached the officer and initiated a physical struggle. During the struggle, Decedent was able to take away Officer McCarrick’s firearm and fire a single round, which struck a piece of furniture inside the apartment. Decedent was moving the firearm toward Officer McCarrick when Officer Little, coming to his partner’s aid, fired at Decedent twice, striking her once in the head. Decedent was transported to Sunrise Trauma where she was pronounced dead.

The Clark County District Attorney’s Office has completed its review of the October 21, 2019, death of Claudia Rodriguez-Mendez. It has been determined that, based on the evidence currently available and subject to the discovery of any new or additional evidence, the actions of Officer Little were not criminal in nature. This review is based upon all the evidence currently available.

This report explains why criminal charges will not be forthcoming against Officer Little. 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 08, 2021.

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

## **INCIDENT DETAIL**

On Monday, October 21, 2019, at 12:09 pm, HPD dispatchers received a 911 call from phone number (725) 251-7187. The caller hung up before dispatchers were able to answer the call. A dispatcher immediately attempted to call the phone number back without success.

At 12:11 pm, HPD dispatch received another call from (725) 251-7187. Upon answering the call, the dispatcher heard what she believed to be a small child crying in the background. The dispatcher asked the caller for the address of the emergency and an adult female (believed to be Decedent) responded with, "2222 Sunridge Heights Parkway." The crying child was heard in the background saying, "My mommy is trying to kill me." Decedent told the dispatcher that "they" are "trying to kill us, they are making us do it." The dispatcher asked if the address was an apartment complex and Decedent answered, "2222 building 22" and eventually told the dispatcher it was the "Equestrian apartments, we gotta kill each other." The dispatcher asked Decedent for her name and she answered, "Nadia." The child was heard in the background crying out in a panicked voice, "Someone help me, she is trying to kill me, don't hurt me, please, don't hurt me." Decedent told the dispatcher, "No, they are making me kill" and the phone call abruptly disconnected. Dispatchers attempted to call the phone number back without success.

HPD was able to use the information from the call along with information derived from the phone number to link it with the Equestrian Apartments located at 10701 South Eastern Avenue and apartment number 2222. Officer McCarrick was dispatched to the call as the primary officer. Officer Little was also dispatched to the call to act as Officer McCarrick's backup officer.

Officer McCarrick arrived at the location at 12:23 PM. Officer Little arrived a short time later. Officer McCarrick approached the upstairs apartment while Officer Little waited near the bottom of the stairs where he was able to observe the patio door of the apartment. At 12:26 pm, Officer McCarrick knocked on the door and a shirtless male child

(later identified as 6-year-old W.B.) opened the door. W.B. appeared dazed, covered in blood and had numerous stab wounds on his body including a significant wound to his neck. Officer McCarrick quickly pulled W.B. out of the doorway area. He requested that Officer Little call for medical and removed his firearm from the holster.

Immediately afterwards, Officer McCarrick tried to talk with Decedent who was inside the front room area of the apartment. Officer McCarrick stepped into the doorway and Decedent started shouting at Officer McCarrick that, "They are making us kill ourselves." Decedent was completely naked, had blood on her and appeared to be in a frantic state. Decedent also appeared to have cuts to her body. Upon seeing this, Officer Little quickly moved up to the second floor to aid Officer McCarrick. Decedent yelled at Officer McCarrick that, "They are making us kill ourselves, we gotta do it" while quickly approaching him. Officer McCarrick ordered Decedent to "stop" numerous times. Decedent ignored his commands. Believing Decedent to be another stabbing victim, Officer McCarrick attempted to holster his firearm as she approached. Decedent reached Officer McCarrick by the doorway and a physical struggle ensued.

During the struggle, both Officer McCarrick and Decedent fell to the ground. Officer McCarrick was able to get on top of Decedent but was unable to restrain her arms. Decedent was able to take Officer McCarrick's firearm from his holster area and moved it toward the officer. Officer McCarrick alerted Officer Little, who was attending to W.B., that Decedent had his firearm. Officer Little unholstered his firearm and went to Officer McCarrick's aid. Decedent was able to fire one shot with Officer McCarrick's firearm, which missed the officers. Officer Little fired two shots at Decedent, striking her once in her head.

After making sure Officer McCarrick was unharmed, Officer Little advised dispatch over the radio that shots were fired and medical was needed. Officer McCarrick exited the apartment and attended to W.B.'s injuries while Officer Little watched the entrance of the apartment. Decedent still had Officer McCarrick's firearm in her right hand, but she was not moving. Officer Little provided Officer McCarrick with a blanket or towel from inside the apartment so he could apply pressure to W.B.'s wounded neck. Officer McCarrick, with great effort, was able to keep W.B. conscious as they waited for medical. At one point, W.B. threw up a white, foamy fluid from his mouth and appeared to be going unconscious until Officer McCarrick was able to stir him awake. Medical arrived and Officer McCarrick carried W.B. down the stairs and handed him over to the paramedics.

Backup officers arrived and were able to clear the apartment to ensure no one else was inside or harmed. Sergeant Youngblood removed the firearm from Decedent's hand, which was eventually placed back on the floor by the sergeant. While clearing the scene,

officers found blood in the kitchen, bathroom, and the master bedroom of the apartment. Officers also found a small dog with blood on him in the master bedroom. The dog had a stab wound to his stomach. A large knife with blood on it was also found in the master bedroom.

W.B. was taken to UMC Trauma where he underwent surgery for multiple stab wounds. Decedent was transported to Sunrise Trauma where she was pronounced deceased.

## **INVESTIGATION**

### **Information from Witnesses**

#### **I. Law Enforcement Witnesses**

##### **HPD Officer Edward Little**

Officer Little agreed to talk with investigators about this shooting. He told investigators that he was working as a patrol officer on October 21, 2019 and was wearing the standard HPD police uniform. On that date, he was dispatched to a call for service at 10075 S. Eastern #2222 as the backup officer. Officer Little arrived at the apartment just as Officer McCarrick was pulling into the complex.

Officer Little and Officer McCarrick went toward the apartment together. Officer McCarrick approached the door while Officer Little stopped halfway up the stairs to keep an eye on the balcony area of the apartment. Officer McCarrick knocked on the door. A young child (W.B.) exited the apartment, and Officer Little could see that he was covered in blood and was suffering from numerous stab wounds. Officer Little headed up the stairs while Officer McCarrick entered the apartment.

As he was attending to W.B., Officer Little looked into the apartment and saw Decedent covered in blood. Officer Little initially thought that she was also a victim, so he turned his attention back to W.B. Officer Little believed Officer McCarrick was in a conversation with Decedent but could not recall what was being said. He did not initially realize that they had gotten into a physical struggle inside the apartment.

While Officer Little attended to W.B., he noticed that Officer McCarrick and Decedent were now on the ground in a physical struggle. As Officer Little turned to assist, he heard Officer McCarrick shout, "she has my gun, she has my gun". Officer Little saw that Decedent had a firearm in her hand and Officer McCarrick was trying to prevent her from moving it. Officer McCarrick was on top of Decedent but was unable to stop her from moving the firearm

toward him. Officer Little leaned over the top of Officer McCarrick and fired his gun at the female's head. It appeared that he had missed because Decedent continued to move the firearm in her possession, so he fired a second round at her head.

Decedent stopped moving and Officer Little checked on Officer McCarrick. Officer Little helped Officer McCarrick up and Officer McCarrick turned his attention to W.B.'s injuries. Officer Little used his radio to advise dispatch that shots had been fired and to send medical. He took a position at the doorway of the apartment since Decedent still had Officer McCarrick's firearm in her hand. He grabbed a towel or blanket from inside the apartment to give to Officer McCarrick to apply pressure to the child's wounds.

A short time later, backup officers and paramedics arrived on scene. Backup officers helped secure the apartment including checking all the rooms, as the paramedics attended to W.B. and Decedent.

Officer Little told investigators that he discharged his firearm at Decedent because he felt that the Decedent was going to shoot Officer McCarrick with his own firearm.

#### **HPD Officer Patrick McCarrick**

HPD Officer McCarrick told investigators that on October 21, 2019, he was working as a patrol officer and wore a standard HPD police uniform. Officer McCarrick was eating his lunch when the call from 10701 Eastern came across the radio. The details of the call were that it was a family disturbance wherein a child can be heard in the background of the call saying his mother was trying to kill him. Officer McCarrick asked dispatch to assign him as the primary and drove to the apartment complex.

Officer McCarrick believed he arrived a few seconds before Officer Little and they walked toward the apartment together. As they approached the apartment, Officer McCarrick did not hear any sounds coming from the apartment. When they arrived at the apartment, Officer McCarrick knocked on the front door and stepped around the corner. There were still no sounds coming from inside the apartment. Several seconds later, the door opened, and a young child (W.B.) exited the apartment. The child appeared dazed, covered in blood, and had stab wounds to his neck and torso. Officer McCarrick unholstered his firearm, grabbed the child, pulled him out of the doorway area and requested medical be called to the scene.

Officer McCarrick peered into the apartment and saw Decedent, covered in blood, running toward him from inside of the apartment. Decedent had what appeared to Officer McCarrick

to be a knife in her hand and she appeared to be stabbing herself with the knife.<sup>1</sup> He also told investigators that she had a “thousand-yard stare” but with “determination.”

Officer McCarrick told investigators that he felt that he could not allow Decedent to exit the apartment and continue to attack the child. However, Decedent got to Officer McCarrick quicker than he expected and a physical struggle occurred. During the struggle, Decedent ended up on her back and used her legs to kick and push Officer McCarrick. Officer McCarrick had not been able to secure his firearm before the struggle and after Decedent kicked him, he noticed his firearm was on the floor to his right.

Officer McCarrick tried to pick up his firearm, but Decedent was able to reach down and grab the firearm first with her left hand. The female moved the handgun along the ground up towards him. Officer McCarrick grabbed Decedent’s wrist and yelled out that she had his firearm. He could see that Decedent put her finger onto the trigger of his firearm. He told investigators he thought he was going to be shot by Decedent. As Officer McCarrick tried shifting his left hand to get control of the handgun, Officer Little came along his left side and fired two shots.

Officer McCarrick checked to make sure he was not harmed and exited the apartment to attend to W.B. He applied pressure to the child’s wounds, attempted to keep him awake and eventually carried him to the paramedics.

### **Sergeant Youngblood**

Sergeant Youngblood (“Sgt. Youngblood”) was working as the patrol supervisor on October 21, 2019. He told investigators that he heard the initial call for service but did not originally respond until he heard Officer Little call out over the radio that shots had been fired. As the patrol supervisor, he immediately went to the scene at 10701 Eastern.

After he arrived, Sgt. Youngblood went up the stairs to the apartment and saw Officer Little standing near the doorway to the apartment with his firearm drawn and focused on the inside of the apartment. He also noticed that Officer McCarrick was on the ground providing first aid to an injured child.

Looking into the apartment, Sgt. Youngblood noticed Decedent lying on the floor with a firearm in her hand and her finger just outside the trigger guard. She was still breathing but not moving and had a gunshot wound to the head.

Sgt. Youngblood had officers clear the apartment and he removed the firearm from Decedent’s hand. He was concerned that there could be an additional victim, so Sgt.

---

<sup>1</sup> A knife was not found in the front room, but investigators did find a pair of scissors in that area.

Youngblood and other officers searched the apartment. He found a small dog suffering from a stab wound in the master bedroom and observed a large knife on the floor near the bed, which was covered in blood.

## **II. Civilian Witnesses**

### **J.J.**

Investigators talked with Decedent's older son, seventeen-year-old J.J. who was at school at the time of the incident. J.J. told investigators that he lived at 10701 Eastern, Apartment 2222 with his mother and his 6-year-old brother W.B.

J.J. previously lived with his father in California but had to recently move back to Las Vegas. He originally moved back with his older sister, but she left the apartment due to not getting along with Decedent. J.J. told investigators that he tried to avoid staying at his apartment because of difficulties with Decedent. He said that Decedent was paranoid and would never leave the apartment because she believed that there is someone out to get her. J.J. also told investigators that Decedent believed the apartment had hidden cameras inside, and that there were listening devices installed.

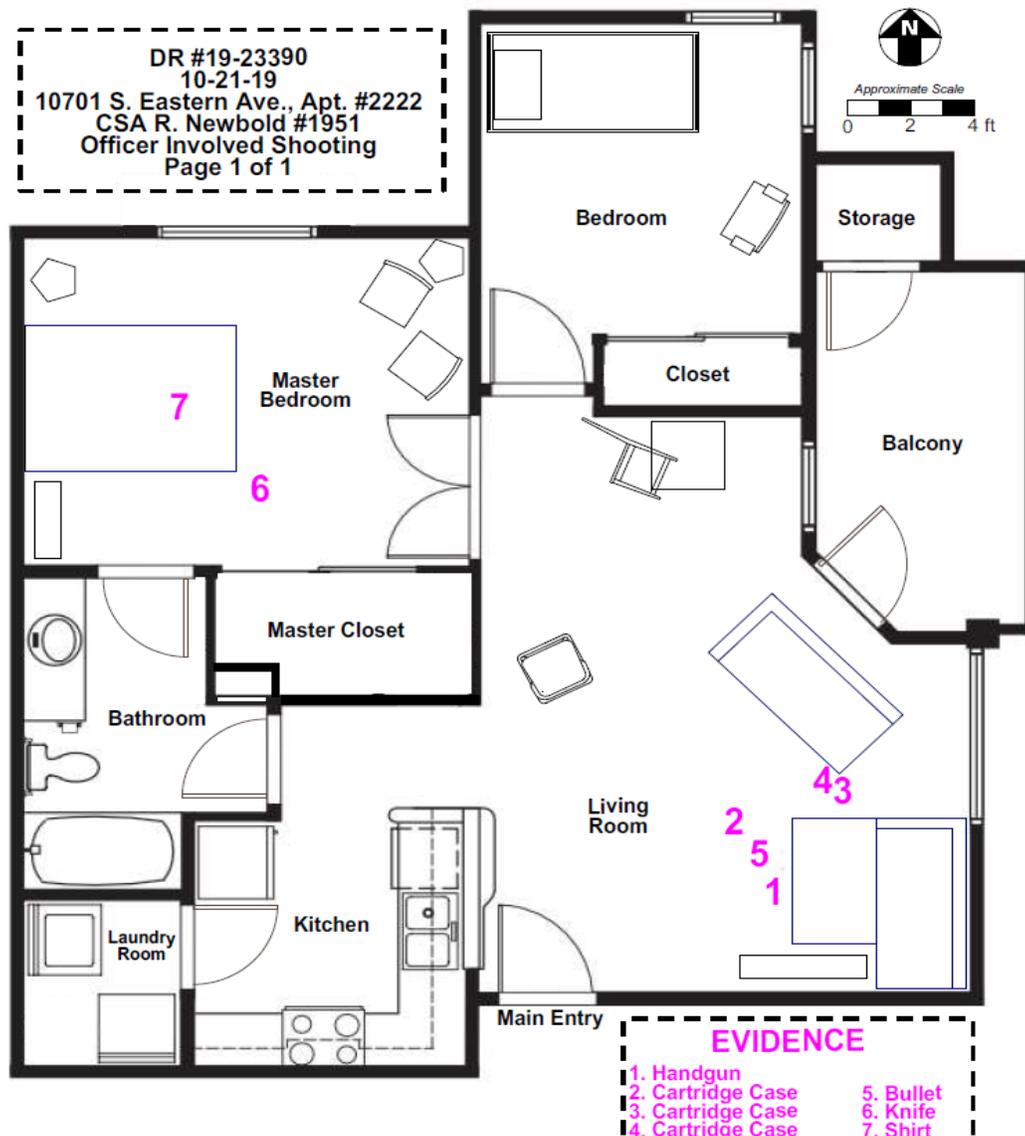
The day before the incident, J.J. left the apartment to be with his friends even though Decedent did not want him to leave. When he returned to the apartment later in the day, Decedent refused to let him in. Decedent even refused to open the door. J.J. left the area and stayed at a friend's house that night. In the morning, he went to school, where he remained until he was contacted by investigators for this case. J.J. noted that Decedent's paranoia had escalated recently, specifically in the past couple of days.

## **OFFICER WEAPON COUNTDOWNS**

On October 21, 2019, Officers Little and McCarrick had their duty firearms counted down at the Henderson Police West Station. Officer Little's firearm magazine held eighteen (18) cartridges plus one (1) in the chamber of the firearm. At the end of the countdown, it was determined that Officer Little's firearm had sixteen (16) cartridges in the magazine plus one (1) additional round in the chamber of the firearm. The investigation revealed a total of two (2) rounds had been fired from Officer Little's firearm

Officer McCarrick's firearm held seventeen (17) cartridges in the magazine plus one (1) in the chamber in the firearm. At the end of the countdown, it was determined that Officer McCarrick's firearm had sixteen (16) cartridges in the magazine plus one (1) additional round in the chamber. The investigation revealed that a total of one (1) round had been fired from Officer McCarrick's firearm.

## DESCRIPTION AND EVIDENCE FROM THE SCENE



*Crime scene diagram for this incident created by Crime Scene Analyst R. Newbold*

Investigators documented the scene for this incident and the evidence impounded from it. They found the apartment to be complete disarray with broken items, trash, food, clothing, and paperwork scattered all over the residence. Blood was also found throughout the apartment.

The apartment was located at the top of the staircase, on the north side of the building. Blood was found just outside the front door and an additional area of blood was found on the walkway by the staircase.

The front door of the apartment had no apparent damage. The front room<sup>2</sup> area had sectional couch, an ottoman, a television on a stand, and a chair. Investigators found a black Glock 17 Gen 4, 9mm handgun (Officer McCarrick's firearm) on the front room floor next to the ottoman. One (1) cartridge bearing headstamp "Speer 9mm Luger" was in the chamber and a magazine containing sixteen (16) cartridges bearing the same headstamp was inserted in the magazine well. A pool of blood was on the floor next to the Glock 17 and a fired bullet was found just northwest of the blood pool. One (1) cartridge case bearing headstamp "Speer 9mm Luger" was on the floor northwest of the fired bullet. Two (2) additional cartridge cases bearing headstamp "Speer 9mm Luger" were on the floor between the ottoman and part of the couch.

Investigators found a bullet hole that went through the ottoman and into the couch. A fired bullet was recovered from the couch. A second bullet hole went through the living room carpet and the fired bullet was recovered from the downstairs apartment.



*Photograph of the front room area where the firearm evidence was recovered.*

West of the living room was the kitchen. Shards of glass with blood were found on the east counter and the floor of the kitchen.

---

<sup>2</sup> Marked as "living room" on the scene diagram.



*Photograph of kitchen countertop showing shards of glass with blood on it. Blood can also be found on the wall below the countertop*

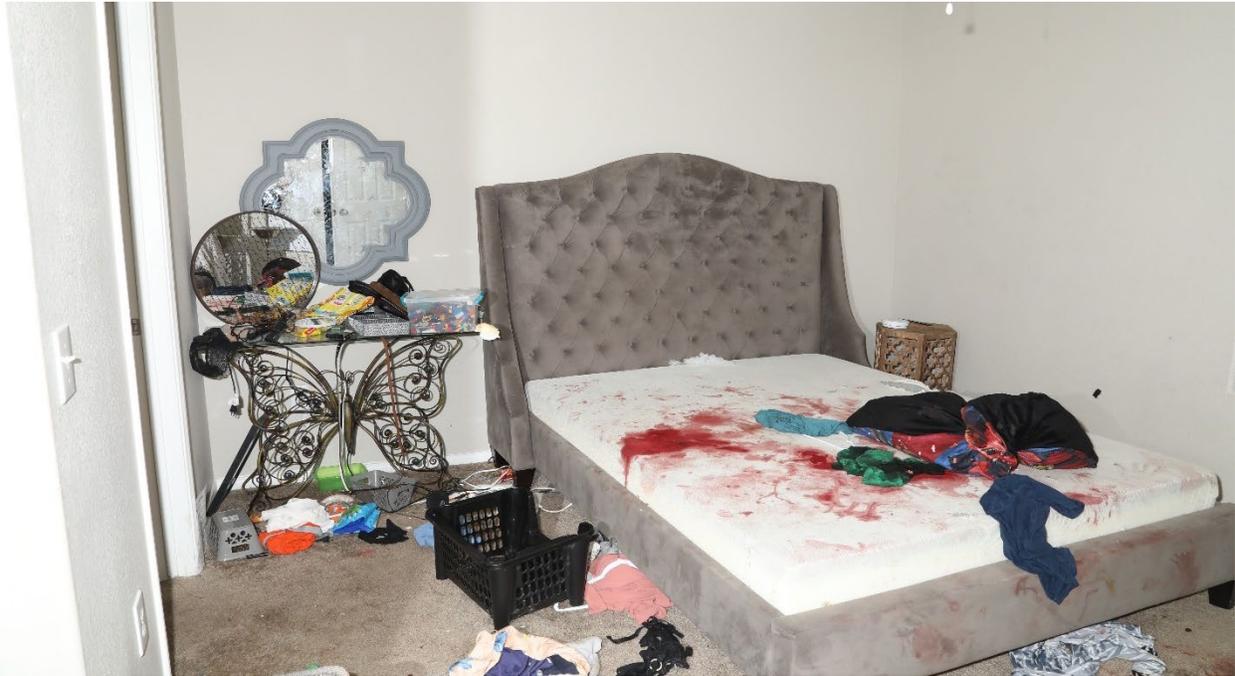
In the master bedroom located in the northwest part of the apartment, investigators found one (1) knife with a black and white handle on top of a pile of clothes near the southeast corner of the bed. The knife had significant amount of blood on the blade portion. Additionally, investigators also found a green 'Mojang' t-shirt, size M on top of the bed, which had numerous holes in it as well as blood.



*Photograph of a knife with blood on it that was recovered from the master bedroom*

Blood was found on numerous areas and surfaces of the apartment. This included a bloody handprint found on the corner of the mattress in the master bedroom, blood on the master

bedroom door, blood on the bathroom door and blood on the interior of the front door. There was also significant amount of the blood found on the master bedroom mattress and bed frame. Investigators even found blood on the lights attached to the ceiling fan in the master bedroom.



*Photograph of the master bedroom area including blood found on the mattress.*



*Photograph of blood found on the master bedroom's ceiling fan.*

## **FIREARM EXAMINATION**

On February 4, 2020, LVMPD Forensic Laboratory issued a ballistic report for this matter. Both Officer Little's and McCarrick's firearms were test fired with the submitted magazines and found to be in operating condition with no noted malfunctions. The three cartridge cases impounded from the scene were examined and microscopically compared to each other and to test fired cartridge cases from the officers' firearms. It was determined that two of the cartridge cases were identified as having been fired from Officer Little's firearm. It was also determined that one of the cartridge cases was identified as having been fired from Officer McCarrick's firearm.

## **BODY WORN CAMERA EVIDENCE**

All officers involved in this case had their Body Worn Cameras ("BWC") activated. This section sums up what can be seen upon view of the BWC.

### **Officer McCarrick Body Worn Camera:**

Officer McCarrick BWC was activated at 12:24 pm on October 21, 2019, as he was pulling into the Equestrian Apartments at 10701 S. Eastern.

Officer McCarrick is met in the parking lot by Officer Little and they approach apartment #2222 on foot. Officer McCarrick walked up the stairs and advised dispatch via his radio that he is attempting contact. At 12:26 pm, Officer McCarrick knocked on the door as Officer Little remained at the bottom of the stairs.

Fourteen (14) seconds later, the door opened, and W.B. appeared on the video. W.B. is wearing only a pair of jeans and can be seen covered in blood with injuries on his back. Officer McCarrick pulled W.B. out of the doorway area and told Officer Little to, "get medical."

Officer McCarrick ask someone in the residence, "What's going on?" and took out his firearm. Decedent can be heard screaming, "They are making us kill ourselves, we gotta do it." Officer McCarrick ordered Decedent to "stop" at least nine (9) times. Officer

McCarrick yelled out to Officer Little that, "She's got a knife, get medical and get me a red."

Decedent grabbed at Officer McCarrick's body and appeared to fall onto the floor pulling him down on top of her. Officer McCarrick appeared to re-holster his firearm and used his right hand to grab Decedent's left leg. Decedent screamed, "you gotta kill me."

Officer McCarrick struggled with Decedent who had her back on the floor with Officer McCarrick on top of her. Decedent reached toward Officer McCarrick's holster and as her hands comes back onto the screen, Officer McCarrick yelled, "She's got my gun." Decedent can be seen with Officer McCarrick's firearm in her left hand. She was holding the gun upside down. Officer McCarrick grabbed Decedent by her left wrist as they struggled over the gun. Decedent appeared to take her right hand and move it toward her left where the gun was located. Officer Little, off-screen, can be heard saying "move" as Officer McCarrick says, "I got it, I got it." Three distinct gunshots can be heard, and muzzle flash is seen in the area where Officer McCarrick and Decedent were struggling for the firearm.

Following the gunshots, the struggle stopped, and Officer Little, off-screen, can be heard advising dispatch that shots have been fired. Officer McCarrick exited the apartment and goes where W.B. is lying in the breezeway crying. Officer McCarrick applied pressure to a large wound on W.B.'s neck. W.B. can be heard saying, "I'm dying."

While administrating aid to W.B., Officer McCarrick told Officer Little, "She knocked the gun out of my hand." W.B. vomited a thick white liquid and is crying throughout the video. W.B. cried out several times, "I'm gonna die" as both officers try to comfort him. W.B. told Officer McCarrick that his mother, "tried to kill me." At one point, W.B. appeared to be falling unconscious until Officer McCarrick was able to stir him awake. W.B. also cried out that "She stabbed me in the heart." When paramedics arrived, Officer McCarrick picked up W.B. and took him downstairs into the parking lot and handed him off to medical personnel.

Officer McCarrick then again tells Officer Little, "She kicked it right out of my fucking hand." Officer MCCARRICK then tells Officer Little, "I owe you my life man." Officer McCarrick goes on to say, "She fucking kicked it and it just went flying."

#### **Officer Little's Body Worn Camera:**

Officer Little's BWC was activated at 12:25 pm on October 21, 2019. Officer Little exited his vehicle in the parking lot of the Equestrian Apartments at 10701 S. Eastern and met up with Officer McCarrick. They both walked through the parking lot toward apartment

2222. Officer Little waited part way up the stairs as Officer McCarrick went to the front door and knocked on the door.

An injured W.B. exited the apartment and Officer Little requested dispatch to "Give them a red, start medical." Officer McCarrick attempted to re-holster his firearm as he moved inside in the apartment. Officer McCarrick began to struggle with Decedent while Officer Little had his focus on W.B. Officer McCarrick yelled out that, "she's got my gun." In response, Officer Little took out his firearm and moved inside the apartment. Officer Little instructed Officer McCarrick to move, and then with his left-hand pushed Officer McCarrick to the right. Officer Little then fired his gun at Decedent's head. After the shots, Officer Little immediately radioed to dispatch, "shots fired, shots fired."

Officer Little pulled Officer McCarrick off the ground and moved him toward the front door area. Officer Little then instructed dispatch, "shots fired, we have a female down, officers are code 4, we have a juvenile with multi stab marks to his chest, female with a gunshot wound to her head."

Officer Little told Officer McCarrick to tend to W.B. and he remained at the doorway with his gun drawn on Decedent. Officer Little picked up a towel or blanket off the floor and gave it to Officer McCarrick to put on W.B.'s neck wound. Officer Little advised dispatch that he still had the female at gunpoint, that she has the gun in her hand and that the apartment has not yet been cleared. Officer Little tried to verbally comfort

W.B. as Officer McCarrick tended to him, while keeping his gun aimed inside of the apartment.

Eventually, backup officers arrived, and Officer Little helped them make sure that there were no one else in the apartment.



*Video frame from Officer McCarrick 's BWC showing Decedent with Officer's McCarrick's firearm.*



*Video frame from Officer McCarrick's BWC showing Decedent with Officer McCarrick's firearm in her right hand after shots were fired.*

## **AUTOPSY**

October 22, 2019, an autopsy was completed on the body of Decedent by Forensic Pathologist Jennifer Corneal. Dr. Corneal identified Decedent's injuries as a perforating gunshot wound of the head and superficial incised wounds and punctate wounds to the neck torso and upper extremities. After the completion of the autopsy, Dr. Corneal ruled the cause of death as a gunshot wound to the head.

## **LEGAL ANALYSIS**

The District Attorney's Office is tasked with assessing the conduct of officers involved in any use of force which occurred during the course of their duties. That assessment includes determining whether any criminality on the part of the officers existed at the time of the incident.

In Nevada, there are a variety of statutes that define the various types of justifiable homicide (NRS §200.120 – Justifiable homicide defined; NRS §200.140 – Justifiable

homicide by a public officer; NRS §200.160 – Additional cases of justifiable homicide). The shooting of Decedent could be justifiable under one or both of two theories related to the concept of self-defense: (1) the killing of a human being in self-defense/defense of others; and (2) justifiable homicide by a public officer. Both theories will be discussed below.

## **I. THE USE OF DEADLY FORCE IN SELF DEFENSE/DEFENSE OF ANOTHER**

The authority to kill another in self-defense or in the defense of others is contained in NRS 200.120 and 200.160. “Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of ... person, against one who manifestly intends or endeavors to commit a crime of violence ...” against the other person.<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 him [or the other person] or cause him [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 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

---

<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.

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
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 that a [killing was in self-defense or defense of another exists], the State must prove beyond a reasonable doubt that defendant did not act in self-defense [or defense of another]. *Id.* at 1051-52.

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

In this case, Officer Little reasonably perceived that Decedent posed an imminent, deadly threat to Officer McCarrick. The officers were responding to a 911 call wherein a young child could be heard crying that his mother was trying to kill him. Upon making contact at the residence, Officer Little was able to observe that six-year-old W.B. was violently attacked and seriously injured by a bladed weapon. Within seconds of making contact with Decedent, she attacked Officer McCarrick and pulled him down to the floor. Decedent made comments during the struggle indicating that she “needed” to kill W.B. and that officers needed to kill her. Moreover, Decedent was able to take Officer McCarrick’s firearm and move the barrel of the firearm toward McCarrick before Officer Little shot her. From the body worn cameras, it appeared that Decedent managed to fire a shot with Officer McCarrick’s firearm before Officer Little fired the fatal shot.

Based on Decedent’s actions, Officer Little had no choice but to fire his gun at Decedent in order to protect his fellow officer’s life. Further, Officer Little had to fire his gun at Decedent’s head to avoid striking Officer McCarrick. Without Officer Little’s timely

intervention, Decedent not only could have killed or seriously harmed Officer McCarrick with his own firearm, but she also could have continued her attack on W.B., who is extremely fortunate to be alive. Therefore, Officer Little's actions were justified under Nevada self-defense law.

## **II. JUSTIFIABLE HOMICIDE BY A PUBLIC OFFICER**

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

In this case, the facts demonstrate that, at the time Officer Little fired his duty weapon, he had probable cause to believe that Decedent posed an immediate deadly threat to Officer McCarrick. Decedent was armed with Officer McCarrick's firearm and was attempting to aim it at Officer McCarrick when Officer Little fired upon her. These actions were taken after Decedent had stabbed her own six-year-old son numerous times in the neck, back and torso area. Officer Little observed the child's injuries before engaging with Decedent, further highlighting the danger Decedent posed to Officer McCarrick. The circumstances demonstrate Officer Little fired his weapon with a reasonable belief that Decedent was a threat to Officer McCarrick's life. In light of this evidence, Officer Little's actions were legally justified and appropriate in the discharge of a legal duty.

## **CONCLUSION**

Based on the review of the available materials and application of Nevada law to the known facts and circumstances, the State concludes that the actions of Officer Prior were reasonable and/or legally justified. The law in Nevada clearly states that homicides which are justifiable or excusable are not punishable. (NRS 200.190). A homicide which is determined to be justifiable shall be, "Fully acquitted and discharged." (NRS 200.190).

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