



REPORT ON USE OF FORCE: Legal Analysis Surrounding the Death of Mario Martinez on October 12, 2021

I. INTRODUCTION

On October 12, 2021, at about 9:33 a.m., Las Vegas Metropolitan Police Department (“LVMPD”) patrol officers were dispatched to 5633 E. Lake Mead Boulevard in response to shots being fired. When patrol officers arrived, they learned that Mario Martinez (“Decedent”) shot into the residence shared by G.S. and A.O. G.S. told patrol officers that A.O. was Decedent’s ex-girlfriend, and that Decedent had abducted A.O. at gunpoint.

After learning that Decedent had taken A.O. at gunpoint, officers attempted to locate Decedent and A.O. Through the use of cellular data, LVMPD officers were able to determine that Decedent and A.O. were in the area of Charleston Boulevard and Sloan Lane. When patrol officers located Decedent, Decedent pointed his firearm back and forth between officers and A.O. while using A.O. to shield himself from officers.

Decedent then forced A.O. inside an Albertsons grocery store located in the shopping center on Charleston Boulevard and Sloan Lane. Patrol officers followed Decedent and A.O. into the Albertsons where Decedent pointed his firearm at A.O., officers, as well as patrons and employees of the Albertsons.

Decedent walked through the Albertsons to the back of the store and exited through the loading doors, while continually pointing his firearm at anyone near him. Once outside, Decedent shot into a box truck behind the Albertsons. As Decedent was attempting to leave the shopping center with A.O., patrol officers set up an action team to intercept Decedent, using a patrol vehicle parked on the southeast entrance on Sloan Lane to the shopping center as cover.

When Decedent and A.O. reached Sloan Lane, Decedent pointed his firearm at the patrol officers who made up the action team. At that point, Officer Ramon Hiestand, one of the officers in the action team taking cover behind the parked patrol vehicle, believed he had a clear shot at Decedent. Officer Hiestand shot at Decedent and missed. Decedent continued to walk with A.O.

to Sloan Lane. Officer Hiestand moved to the rear of the patrol vehicle and when Decedent reached Sloan Lane, A.O. broke away from Decedent. Officer Hiestand then shot at Decedent and Decedent fell to the ground. While on the ground, Decedent shot twice at officers and Officer Hiestand returned fire. When Decedent stopped shooting at officers, he was taken into custody. Officers called for medical assistance, but Decedent ultimately died at the scene.

A 9mm semi-automatic firearm was located next to Decedent along with two expended cartridge cases that a forensic examination later determined were fired from Decedent's firearm. Additionally, two expended cartridge cases recovered from A.O.'s and G.S.'s residence were also forensically determined to have been fired from Decedent's firearm.

The Clark County District Attorney's Office has completed its review of the October 12, 2021, death of Mario Martinez. 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 Hiestand were not criminal. This review is based upon all the evidence currently available.

This report explains why criminal charges will not be forthcoming against Officer Hiestand. 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 December 5, 2022.

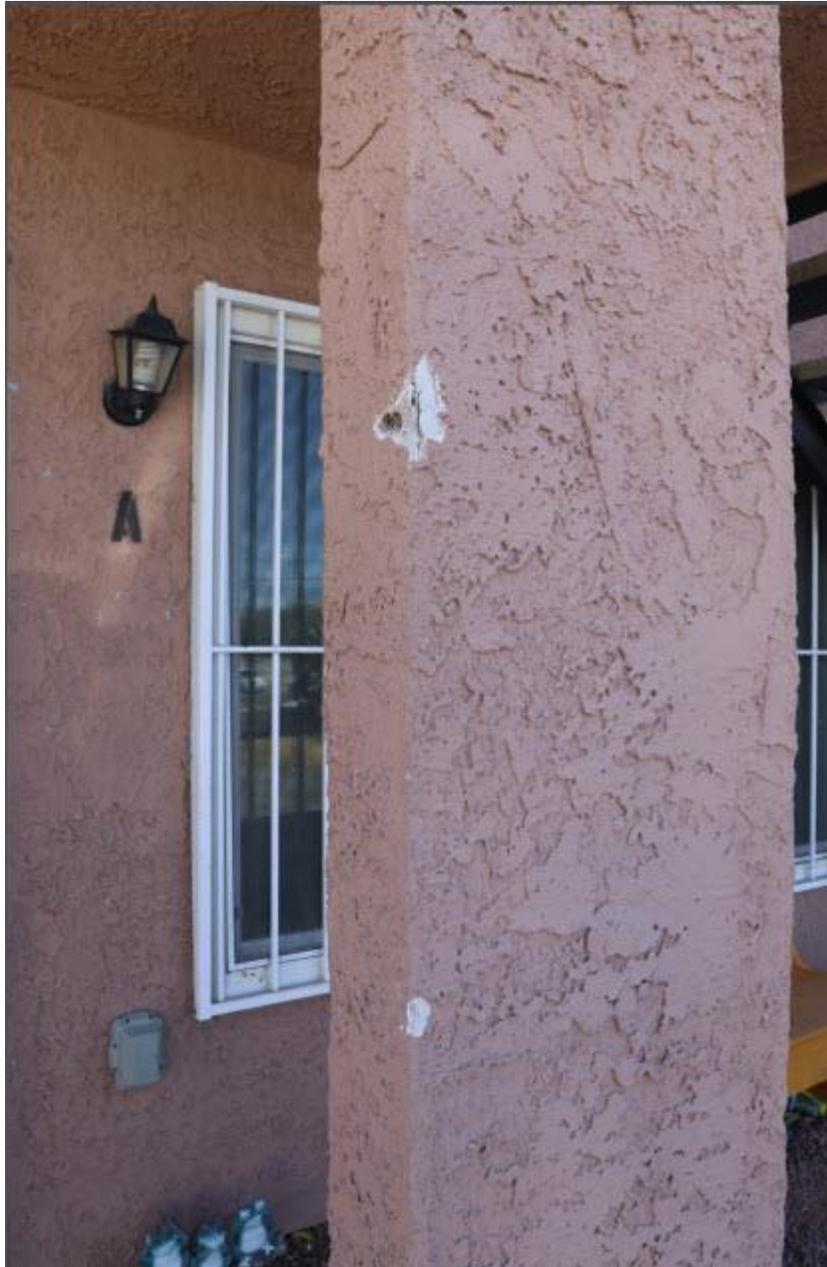
This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of the officer was not criminal. This decision, premised upon criminal-law standards, is not meant to limit any administrative action by the LVMPD or to suggest the existence or non-existence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

II. INCIDENT DETAIL

On October 12, 2021, at 5:31 a.m., G.S. called 911 to report that Decedent was banging and kicking the front door to his apartment. G.S. further explained to the 911 operator that that he shared the apartment with his girlfriend, A.O., who was Decedent's ex-girlfriend. By the end of the three-minute call, G.S. reported that Decedent had left the area in his white Nissan pick-up truck and that G.S. did not know which way Decedent was going. Because Decedent left, officers were not dispatched to the residence.

About twenty minutes later, G.S. called 911 again to report that Decedent was kicking and banging the front door, trying to break into the G.S. and A.O.'s apartment. G.S. reported that he couldn't see if Decedent had a firearm on him, but that Decedent had threatened him with a firearm in the past. When patrol officers arrived at the apartment, Defendant fled in his white Nissan pickup truck and officers elected not to pursue the vehicle. Officers did take a report from G.S. and A.O. where they learned that Decedent was previously trespassed from the property.

Later that morning, at 9:33 a.m., N.A., who lived in the apartment above G.S. and A.O., called 911 to report that she heard arguing and gunshots from the apartment below hers. When officers arrived to G.S. and A.O.'s apartment, G.S. told officers that he heard three gunshots and then saw Decedent kick in G.S.'s bedroom door. According to G.S., Decedent pointed his firearm at G.S. trying to shoot G.S., but A.O. pushed Decedent out of the bedroom. While A.O. was pushing Decedent out of the room, A.O. also went out of the bedroom. G.S. further told officers that Decedent kidnapped A.O. at gunpoint. Two expended cartridge cases were recovered from just outside the front door of Apartment A.



Apparent defects caused by bullet strikes at A.O. and G.S.'s residence

Multiple officers then attempted to locate Decedent and A.O. At 10:14 a.m., Officer Jesus Jimenez and Officer James Close saw Decedent and A.O. at the southeast corner of Charleston Boulevard and Sloan Lane near McDonald's.



Map of the area of the Officer Involved Shooting

Officers Jimenez and Close observed Decedent holding A.O. at gunpoint. Officer Jimenez gave verbal commands to Decedent to stop walking and put the gun down. Decedent ignored Officer Jimenez's commands. Instead, Decedent pointed his firearm in the direction of Officer Jimenez and the other officers who had arrived. As the officers sought cover behind patrol vehicles, Decedent forced A.O. to continue to walk through the parking lot.



Decedent holding a firearm and pulling A.O.

While at the McDonald's drive-through entrance, Decedent attempted to open the driver's door of a car waiting in line. The car accelerated and collided with the vehicle waiting in front of it. Decedent then raised his firearm at A.O. and pulled her through the parking lot towards an Albertsons grocery store located in the same shopping center as McDonald's.

As Decedent pulled A.O. through the parking lot, Decedent unsuccessfully attempted to open the door of at least one other vehicle that drove past them. Decedent then continued to pull A.O., eventually forcing her into the Albertsons.



Decedent forcing A.O. through the Albertsons while holding a firearm

Responding officers followed Decedent and A.O. into Albertsons. Decedent, still armed with a handgun, held A.O. as they walked through the store. Decedent pointed his firearm at employees and customers as he brought A.O. to the rear receiving area of the store. They exited through the rear of the business and walked through a crowd of people that had just fled from Albertsons.

Decedent brought A.O. to a truck that was parked along the rear wall of the shopping complex. When Decedent approached the truck, he pointed his firearm at a male standing next to the truck, O.A., and demanded the keys. O.A. responded that he did not have the keys because the truck was not his. Decedent then continued to walk through the rear parking lot with A.O.

As Decedent and A.O. walked westbound along the rear of the shopping complex, Decedent shot the window of a Tapia Brothers delivery truck and got in the truck with A.O. Decedent attempted to start the truck but was unsuccessful. Decedent and A.O. then exited the truck and continued westbound. While walking, Decedent aimed his firearm at Lieutenant Daniel Alvarado, who had taken a position near the Tapia Brothers truck.

Decedent next approached a Toyota Corolla, belonging to J.D. J.D. had left his driver's door open while he was at the trunk of his car. Decedent attempted to enter J.D.'s Corolla. While Decedent was attempting to enter J.D.'s Corolla, A.O. was able briefly to get away from Decedent and ran westbound. Decedent chased A.O and grabbed A.O. by her left arm. Decedent then forced A.O. to continue to walk westbound.



Officers Hiestand, Close, Espinoza-Ramirez, Ricafrente, and Shott positioned behind the parked patrol vehicle

Officers Hiestand, Close, Christian Espinoza-Ramirez, Rockney Ricafrente, and Alexandra Shott were positioned at the southwest driveway of the shopping complex, which intersected with Sloan Lane. The officers had gathered behind a parked patrol vehicle and formed a team to attempt to intercept Decedent. As Decedent approached the officers, he continued to pull and drag A.O. while aiming his firearm at officers. As Decedent approached Sloan Lane, Officer Hiestand fired one round from his rifle at Decedent. Officer Hiestand's round did not strike Decedent and Decedent continued to Sloan Lane walking southbound.



Decedent with Firearm



Firearm at Scene

While Decedent was walking southbound on Sloan Lane, A.O. was able momentarily to create separation between herself and Decedent, who was still holding his firearm. Officer Hiestand then shot at Decedent. Decedent was struck by gunfire and fell to the ground. While on the ground, Decedent shot twice at officers; Officer Hiestand returned fire. During the exchange of gunfire, A.O. had the opportunity to cross the street and get away from Decedent. After Decedent stopped shooting at officers, officers approached Decedent, placed him in handcuffs, and requested medical aid. The Clark County Fire Department (“CCFD”) responded, and Decedent was pronounced deceased on scene.

III. INVESTIGATION

A. SCENE WALK THROUGH/PUBLIC SAFETY STATEMENT

Officer Ramon Hiestand

In his scene walk-through, Officer Hiestand stated that while operating his patrol vehicle he heard a radio broadcast of a hostage situation in which a male (Decedent) had a female (A.O.) at gun point and was entering an Albertsons. Officer Hiestand also heard over the radio that other officers were attempting to detain Decedent. He heard an update that Decedent shot at and attempted to steal a vehicle.

Officer Hiestand arrived at the back of the shopping center and retrieved his rifle and tactical vest from his patrol vehicle. He saw Decedent and A.O. approaching him and other officers from approximately 50 yards away.

While Officer Hiestand was positioned by the hood of his patrol vehicle, Decedent passed the vehicle and was positioned by a power box with A.O., utilizing A.O. as a shield. Decedent pointed the firearm at Officer Hiestand and as well as pointing at the other officers that were using the patrol vehicle as cover. Officer Hiestand did not believe A.O. was in the line of fire, so Officer Hiestand made the decision to shoot at Decedent. Officer Hiestand missed Decedent and Decedent continued to walk with A.O. past the patrol vehicle towards Sloan Lane.

When Decedent reached Sloan Lane, Officer Hiestand moved to the rear of the patrol vehicle. While on Sloan Lane, A.O. broke away from Decedent and Officer Hiestand fired at Decedent. Decedent returned fire one time while Officer Hiestand was in the open and in the line of sight of Decedent. Decedent fell to the ground and pointed a firearm at the officers. Officer Hiestand felt Decedent was still a threat to A.O. and was aiming a firearm at officers, so Officer Hiestand shot at Decedent.



Officer Hiestand's perspective

Officer Hiestand also gave a public safety statement. During his public safety statement, Officer Hiestand stated that he believed Decedent shot his firearm at least two times and that Officer Hiestand believed he shot his weapon 5-6 times. He believed there were numerous witnesses to the incident to include multiple police officers and patrons of the Albertsons.

B. SUMMARY OF VICTIM/WITNESS OFFICER INTERVIEWS

Officer Christian Espinoza-Ramirez

Officer Espinoza-Ramirez was riding with his training officer when he was informed of a ShotSpotter call at the area of 5633 East Lake Mead Boulevard. The call was updated to an assault with deadly weapon incident. Officer Espinoza-Ramirez responded and located one expended cartridge case at the front door of apartment A (a second expended cartridge case was later recovered). Officer Espinoza-Ramirez then responded to the area of Charleston Boulevard and Sloan Lane. Officer Espinoza-Ramirez observed Decedent and A.O. in the McDonald's located on the southeast corner of Charleston Boulevard and Sloan Lane. As officers approached, Decedent grabbed A.O. and used her to shield himself. Officer Espinoza-Ramirez then saw Decedent produce a firearm and point it at the officers and then at A.O.'s head.

Officers gave Decedent verbal commands to drop the firearm, but he refused. Decedent forced A.O. from the McDonald's parking lot toward the Albertsons grocery store, and they then went inside. Officers surrounded the Albertsons and Officer Espinoza-Ramirez positioned himself at the rear of the store. Officer Espinoza-Ramirez saw citizens fleeing the Albertsons. Officer Espinoza-Ramirez then observed Decedent and A.O. exiting the rear doors of the Albertsons. Officer Espinoza-Ramirez heard one gunshot but did not see who fired.

Officer Espinoza-Ramirez re-positioned himself on Sloan Lane. Officer Espinoza-Ramirez saw Decedent walking towards Officer Espinoza-Ramirez while Decedent was holding A.O. by her shirt with one hand and holding a firearm in his other hand. Decedent waved his firearm at officers again and yelled that he was going to kill A.O. Officers could not fire their weapons as Decedent continued to use A.O. as a human shield. Decedent placed the firearm at A.O.'s head while he held her in front of him. Officer Espinoza-Ramirez believes that Decedent fired a shot at officers and an officer returned fire several times. Decedent fell to the ground and officers approached. At that point Officer Espinoza-Ramirez assisted A.O. as other officers took Decedent into custody.

Officer James Close

Officer James Close responded to the area of Sloan Lane and Charleston Boulevard to assist in locating a suspect (Decedent) who had kidnapped his ex-girlfriend (A.O.) via gunpoint. Officer Close teamed up with Officers Jimenez and Corbett when they discovered Decedent and A.O. walking south on Sloan Lane through the McDonald's property. The officers took positions in the parking lot south of McDonald's.

When Decedent saw officers, he raised a firearm toward A.O.'s head and then at the officers. Decedent continued walking east through the parking lot toward the Albertsons grocery store. Officers followed Decedent as he forced A.O. into the Albertsons. Officer Close, as well as other

officers on scene, attempted to evacuate employees and customers in the Albertsons while Decedent and A.O. walked to the rear of the store.

Officer Close observed Decedent walk through the back door exit of Albertsons. Officer Close then went through the parking lot to intercept Decedent behind the shopping center. Officer Close heard Decedent fire one shot while Decedent was outside the rear exit of Albertsons. Officer Close then joined a group of officers next to a patrol vehicle parked in the south alley of the shopping center located on Charleston and Sloan.

Officer Close saw Decedent walking on Sloan while holding a firearm and alternating between pointing the firearm at officers and at A.O. Based on Decedent pointing his firearm at officers, including Officer Close himself, Officer Close was in fear for his safety, the safety of his fellow officers, and the safety of A.O. But because Decedent was using A.O. as a shield, Officer Close could not use force to intervene. Officer Close took cover behind a patrol vehicle where an action team was formed. Officer Close heard gunshots but his view was obscured.

After the gunshots, Officer Close moved from cover and observed that Decedent was on the ground, and A.O. was running west from Decedent. While other officers approached Decedent, Officer Close contacted A.O. to check her welfare.

Lieutenant Daniel Alvarado

On October 12, 2021, at about 9:45 a.m., Lieutenant Alvarado responded to an assault with a deadly weapon call at 5663 E. Lake Mead Boulevard. Upon arrival, Lieutenant Alvarado set up near the apartment and kept observation until other units arrived. Officers contacted the remaining resident of the apartment, G.S., who stated his girlfriend's ex-boyfriend (Decedent) had kidnapped his girlfriend (A.O.). G.S. also stated Decedent had fired shots into his apartment and his girlfriend had her phone with her.

Lieutenant Alvarado contacted LVMPD dispatch and requested an emergency GPS ping on the phone. Officers were advised the phone was located near the intersection of Charleston Boulevard and Sloan Lane. Officers responded to the area in an attempt to locate Decedent and A.O.

Officer Alvarado, along with other officers, located Decedent and A.O. in the area of Charleston Boulevard and Sloan Lane. Decedent was holding A.O. around her neck and was pointing a handgun at her. Decedent then forced A.O. to enter the Albertsons grocery store. Officers set up a perimeter around the store and Decedent exited the rear doors while still holding A.O.

After exiting the backdoors of the Albertsons, Decedent attempted to steal a large box delivery truck but was unable to start it. Decedent then forced A.O. out of the truck and approached an occupied vehicle which sped away. Decedent then forced A.O. west through the alley. Lieutenant Alvarado observed a small access driveway to the alley and parked his vehicle. Decedent, while using A.O. as a shield, walked west through the alley and crossed the access driveway where

Lieutenant Alvarado was parked. As Decedent crossed in front of Lieutenant Alvarado's vehicle, Decedent pointed his firearm at Lieutenant Alvarado. Lieutenant Alvarado stated he was in fear of being shot by Decedent.

Decedent and A.O. continued west through the alley towards Sloan Lane where an action team had been formed. Decedent passed the officers on the action team and pointed his firearm at the officers. When Decedent reached Sloan Lane, he turned left and walked south. Lieutenant Alvarado heard one gunshot followed by several more. Officers later approached Decedent, handcuffed him, and called for medical assistance.

Officer Jesus Jimenez

Officer Jesus Jimenez was assigned to the Northeast Area Command as a Field Training Officer (FTO) and rode with his trainee. At the start of his shift, Officer Jimenez was assigned to a call in which a Nissan Frontier pick-up truck had gotten stuck in a ditch. The call was generated for LVMPD due to the suspicious activities of the person from the truck asking neighbors for a ride and checking doors. Upon Officer Jimenez' arrival the suspicious person was no longer in the area, but Officer Jimenez did locate the truck deep in a ditch. A records check revealed that Decedent was listed as a secondary registered owner.

Officer Jimenez cleared from this event and responded to other calls for service. While handling other calls, Officer Jimenez heard the broadcast of a kidnapping with shots fired event. LVMPD dispatch stated that a possible location of Decedent and A.O. was in the area of Charleston Boulevard and Sloan Lane, so Officer Jimenez drove to that location in his patrol vehicle with his trainee. Two other patrol units were also in the area when Officer Jimenez saw a male and a female together. At the time Officer Jimenez did not see the male holding a firearm.

Officer Jimenez got out of his patrol vehicle to address the male and female. Officer Jimenez, along with another officer, gave verbal commands to the male, but as soon as the officers gave commands to the male, the male pulled out a firearm and wrapped his arm around the female. The male was going back and forth between pointing the firearm at the female and at officers. Because of the way the male had positioned the female, officers did not have an opportunity to use force to defend themselves or A.O.

Decedent then went through the parking lot of the McDonald's located on the Southeast corner of Charleston Boulevard and Sloan Lane. It appeared that Decedent attempted to steal a car at gunpoint but was unsuccessful. As officers moved around the McDonald's, Decedent forced A.O. to walk with him towards the Albertsons, and the two entered the store.

Officer Jimenez followed Decedent into the Albertsons and told patrons to exit the business. Officer Jimenez observed Decedent continually pointing his firearm between A.O. and the officers. Decedent eventually exited out of the back doors of the Albertsons where he moved toward a group of citizens who had fled to the area immediately behind the back doors of the

Albertsons. When the citizens saw decedent, the citizens began to run away. Decedent, with A.O. in hand, began walking back toward Sloan Lane. Officer Jimenez and the officers with him followed from a distance. Officer Jimenez heard gunshots but did not observe the shooting.

Officer Jimenez eventually made his way to where the shooting had occurred and joined the group that placed Decedent in custody.

Officer Rockney Ricafrente

Officer Ricafrente was on a car stop and heard a radio broadcast of an assault with a deadly weapon call which was close to his location. During the call, Officer Ricafrente heard another radio broadcast which updated the call to a kidnapping. Officer Ricafrente cleared the car stop when he heard that another unit spotted Decedent and A.O. in the area of Charleston Boulevard and Sloan Lane.

While he was en route, Officer Ricafrente heard a radio broadcast which stated Decedent pointed his firearm at officers and entered the Albertsons grocery store with A.O. Officer Ricafrente arrived in the parking lot of the grocery store and was instructed to hang yellow police tape around the lot. As he was hanging the tape, Officer Ricafrente heard another officer state over the radio that Decedent had exited the rear of the store and attempted to steal a truck.

Officer Ricafrente was instructed by Lieutenant Alvarado to meet with officers at the west end of the alley behind the store and establish an action team. As he drove to the alley, Officer Ricafrente observed Decedent, who was holding A.O., point a firearm at Lieutenant Alvarado.

Officer Ricafrente met with other officers and established an action team. Decedent walked towards the officers, and after Decedent passed the patrol vehicle that the officers were using as cover, Decedent fired his firearm towards the officers. A short time later, Officer Ricafrente observed an officer fire his rifle. Officer Ricafrente then heard a radio broadcast that A.O. had managed to get free. Officer Ricafrente looked around the corner of the patrol vehicle and observed Decedent, lying on the ground, reaching for his handgun which was also on the ground. Officer Ricafrente heard more gunshots and then heard that Decedent was down.

Officer Alexandra Shott

Officer Shott was working as a patrol officer when a call came out reference a kidnapping. The details of the call were that a Hispanic male had fired several shots inside an apartment and kidnapped a female. The details of the call also stated the female's phone was pinged in the area of the Goodwill store in the area of Stewart Avenue and Nellis Boulevard. Officer Shott was dispatched to the area in an attempt to find the people that matched the description. Officer Shott knew the male was armed because of the prior call for service.

Officer Shott heard updates over LVMPD communications that officers located Decedent in the area of Charleston Boulevard and Sloan Lane. There were additional updates that Decedent and

A.O. went into an Albertsons. When Officer Shott arrived, she taped off the parking lot and waited for additional officers to respond. Officer Shott heard officers yelling and Officer Shott ran to where officers were yelling and joined an action team where an officer from Southeast Area Command deployed a rifle. Officer Shott saw Decedent walking towards the officers. Decedent continued to walk with A.O. towards Sloan Lane. Officer Shott then heard one gunshot towards the officers. The rifle officer moved to the front of the stack of officers and fired about four shots at Decedent.

C. AIR UNIT VIDEO

The air unit arrived while Decedent held A.O. and walked westbound along the south wall of the shopping center. As Decedent and A.O. walked, one of the pilots stated, "He's using the female as a shield." Prior to Decedent reaching Sloan Lane, he and A.O. were partially obscured by trees, but Decedent could be seen pointing a firearm at officers.



Decedent with A.O. pointing a firearm at the officers who formed the action team

When Decedent and A.O. started walking southbound on Sloan Lane, A.O. was able to create distance between herself and Decedent. Decedent then raised his right arm and pointed his firearm towards Officer Hiestand and the other officers who were using a patrol vehicle for cover. Decedent then fell to the ground. While on the ground, Decedent still pointed his firearm at officers and fired a round. Decedent then appeared to be stuck by gunfire and remained lying face down on the ground with the handgun in his right hand.

Multiple officers approached Decedent and took him into custody. While Decedent was being placed in handcuffs, three other officers ran across Sloan Lane and escorted A.O. northbound. A CCFD truck arrived, and the driver approached the sidewalk where Decedent was located. Additional CCFD vehicles arrived on scene shortly after.

D. BODY WORN CAMERA

Officer Ramon Hiestand

As Officer Ramon Hiestand's Body Worn Camera ("BWC") depicts Officer Hiestand leaving the Southeast Area Command Substation parking lot as a radio broadcast states that Decedent was dragging A.O. by her shirt. Officer Hiestand activated his lights and sirens as he responded. While Officer Hiestand drove with his lights and sirens activated, an officer updated over the radio that the male exited the rear of the Albertsons. An additional radio broadcast updated that Decedent was walking towards Sloan Lane and pointed a firearm at officers. An officer then broadcasted that Decedent shot the window of a truck and entered the truck.

Officer Hiestand arrived on the north side of the Albertsons parking lot and obtained additional information from an officer on the perimeter. He drove to the southwest corner of the shopping center parking lot where he parked facing southeast. Once in position, Officer Hiestand retrieved his rifle and tactical vest from the rear of his patrol vehicle. The rifle and tactical vest significantly obscured the view of Officer Hiestand's BWC.

Officer Hiestand positioned himself near the front driver side fender of his patrol vehicle. Officer Hiestand stated, "He's pointing the gun" as Decedent and A.O. walked along the south wall of the shopping center lot. While Officer Hiestand aimed his rifle over his patrol vehicle windshield, he fired one round.

Officer Hiestand then moved to the rear of his patrol vehicle as an apparent gunshot was heard. Officer Hiestand fired several more rounds. Another officer was heard announcing the suspect was down. Officer Hiestand and other officers communicated about A.O.'s location and that Decedent was still moving. Multiple officers gave commands for the male to stop moving. Officer Hiestand stated, "He fired in our direction also."

Ultimately, Officer Hiestand and other officers approached Decedent as instructions were given. Officers were heard stating the firearm was by Decedent's right hand and head. Officer Hiestand provided rifle coverage of Decedent as other officers took him into custody.

Officer Christian Espinoza-Ramirez

When Officer Christian Espinoza-Ramirez's BWC was activated, he was in a patrol vehicle. When he arrived at Charleston Boulevard and Sloan Lane, the patrol vehicle was parked southbound in the northbound lane. Officer Espinoza-Ramirez exited the vehicle with his firearm drawn and moved behind another patrol vehicle. Officer Espinoza-Ramirez stated Decedent was moving so he repositioned himself with another officer who was equipped with a rifle. Officer Espinoza-Ramirez drove a patrol vehicle with the rifle officer closer to Albertsons. He and the rifle officer approached Albertsons and ran to the rear of the business. They used a patrol vehicle as cover while the rifle officer covered a rear exit of the business.

Officer Espinoza-Ramirez continued on foot along the back of the business. He joined a group of officers and proceeded along the front of the businesses until they staged on the southwest corner of the shopping center. A marked patrol vehicle arrived and parked facing southeast. Officer Espinoza-Ramirez raised his firearm and issued verbal commands to Decedent. Officer Espinoza-Ramirez told another officer, "He's pointing the gun at us."

While Officer Espinoza-Ramirez was at the rear of the patrol vehicle several apparent gunshots were heard. Officer Espinoza-Ramirez pointed his firearm southbound on Sloan Lane and told Decedent not to move. After other officers approached Decedent, Officer Espinoza-Ramirez and other officers approached A.O. and escorted her northbound on Sloan Lane. Officer Espinoza-Ramirez was with A.O. as she was assessed by medical personnel.

Officer James Close

Officer James Close's BWC depicts Officer Close arriving at the intersection of Charleston Boulevard and Sloan Lane where Decedent and A.O. were standing on the sidewalk west of McDonald's. Officer Close parked his patrol vehicle southbound in the northbound lane. He exited his patrol vehicle with his firearm drawn and immediately gave verbal commands to Decedent. Officer Close announced to other officers he did not have a shot. Another officer was heard saying, "Get down," at which time Officer Close moved to the rear of his patrol vehicle, placing the vehicle between him and Decedent. Officer Close told Decedent to put the gun down. Decedent ignored the commands, grabbed A.O., and walked through the McDonald's parking lot.

Officer Close and other officers moved on foot into the parking lot and briefly stopped behind a block wall dumpster storage area. Officer Close and the other officers ran through the parking lot towards Albertsons. Officer Close entered the Albertsons with other officers. While in the floral section, Officer Jimenez attempted to verbally communicate with Decedent and told Decedent

to put the gun down, but Decedent ignored the commands. The officers continued through the store and told civilians to get out of the store.

Officer Close exited an emergency exit with other officers and staged at the rear of the store. Officer Close and other officers walked behind a slow-moving patrol vehicle along the rear of the business. Officer Close ran and joined another group of officers near the loading area of the store. An officer announced to other officers that Decedent was inside a truck.

Officer Close and a group of officers walked along the front side of the Albertsons to Sloan Lane. While on the southwest corner of the shopping center, a marked patrol vehicle parked in the driveway. Officer Hiestand retrieved his rifle from the rear of his patrol vehicle, and Officer Close assisted with securing Officer Hiestand's tactical vest.

While behind the vehicle, Officer Hiestand stated, "He's pointing the gun." Officer Hiestand aimed his rifle over the patrol vehicle's windshield. As Officer Close moved, an apparent gunshot was heard, followed by another. Officer Hiestand moved to the rear of the patrol vehicle and fired several more rounds from his rifle. An officer announced the suspect was down and another officer told Decedent not to move.

After Decedent was down, Office Close and other officers approached A.O. and escorted her northbound on Sloan Lane. Additional patrol vehicles arrived in the area and officers worked to secure the scene.

Officer Jesus Jimenez

Officer Jesus Jimenez's BWC depicts him in his patrol vehicle driving around the area of Stewart Avenue and Nellis Boulevard attempting to locate Decedent and A.O. Officer Jimenez, along with other officers, checked several businesses in the area of Stewart Avenue and Nellis Boulevard.

After updated cell phone information was received, Officer Jimenez drove to the area of Charleston Boulevard and Sloan Lane. While driving eastbound on Charleston Boulevard at Sloan Lane, Officer Jimenez saw Decedent on the north side of Charleston Boulevard. Officer Jimenez continued eastbound and turned around east of the intersection and parked facing westbound. Officer Jimenez's partner updated Decedent and A.O.'s location over the radio. While parked on Charleston Boulevard, an additional officer could be heard discussing a plan with Officer Jimenez.

Once additional officers arrived, Officer Jimenez's partner drove the vehicle southbound in the northbound lane of Sloan Lane. The officers exited the vehicle and can be heard ordering Decedent to, "Come here" and "Put it down." Decedent took A.O. and walked through the parking lot of the McDonald's in the direction of the Albertsons located in the same shopping center.

Officer Jimenez broadcasted over the radio that he lost sight of Decedent and A.O. He then moved behind a block wall and through the parking lot towards Albertsons. While officers moved across the parking lot an officer announced, "He's going in the car."

Officer Jimenez then entered the Albertsons where he told citizens to exit the store. While in the floral section, Officer Jimenez attempted to communicate with Decedent. An officer said Decedent pointed the firearm at the officers. As officers attempted to follow Decedent through the bakery, Officer Jimenez told the officers to back up and that there were people in the back. Officer Jimenez and the officers exited an emergency exit. Officer Jimenez joined a group of officers behind a slow-moving patrol vehicle and moved along the rear of the store.

As Officer Jimenez ran westbound along the rear parking lot, an apparent firearm shot was heard, and an officer announced Decedent was carjacking a truck. Another officer deployed a set of stop sticks and Officer Jimenez moved behind a corner of the building.

Decedent and A.O. were briefly observed along the south wall when an officer announced Decedent pointed the firearm at A.O. After an apparent gunshot was heard, Officer Jimenez and a group of officers ran westbound along the south alley. While they ran, several more apparent gunshots were heard.



Officer Jesus Jimenez's BWC depicting a firearm next to Decedent

Officer Jimenez, along with several other officers followed behind an officer with a shield to approach Decedent. An officer announced there was a firearm by Decedent's hand and then the officers handcuffed Decedent. Two officers searched Decedent as additional patrol vehicles arrived in the area. As Officer Jimenez moved to the sidewalk, a handgun could be seen on the ground next to Decedent. CCFD arrived and assessed Decedent. Officer Jimenez was then assigned to secure evidence on the scene.

E. SUMMRARY OF CIVILIAN VICTIM/ WITNESS INTERVIEWS

A.O.

A.O. stated she was at home with her boyfriend, G.S. when, at approximately 5:00 a.m., they woke up to loud banging and someone shining a flashlight through their window. When she looked outside, she saw it was her ex-boyfriend, Decedent. She also saw that Decedent had

parked his pickup truck on the sidewalk near their front door. G.S. yelled he was calling the police which caused Decedent to leave. A few minutes later, Decedent returned to A.O. and G.S.'s home. G.S. called police again, and as patrol officers arrived, Decedent drove away before the police were able to contact him.

At approximately 8:40 a.m., G.S. left the apartment to take A.O.'s child to school. Shortly after they left, Decedent suddenly walked into the apartment through the unlocked front door. Decedent appeared to be searching the apartment, but A.O. was able to run outside. Decedent followed A.O. outside the apartment. At this point G.S. returned from dropping A.O.'s child at school. When Decedent saw G.S. arrive Decedent fled on foot.

After Decedent fled, A.O. and G.S. went into their apartment where A.O. was telling G.S. what happened while G.S. was away. G.S. called the police again, and while he was on hold, A.O. heard three gunshots just outside her apartment. Decedent then broke down the front door of the apartment and entered the apartment.

Decedent took A.O.'s keys and forced her to leave the apartment with him. Decedent took A.O. to her vehicle but her vehicle would not start. Decedent then forced A.O. to walk down the street. They walked through several alleys and main streets, throughout which Decedent held his firearm at A.O.'s back. When A.O. told Decedent she couldn't walk anymore, Decedent pointed his firearm at her head and threatened to shoot her.

Decedent forced A.O. to continue walking when they encountered a patrol vehicle. Decedent told A.O. that if he had to go to jail, they were both going to die. As they walked towards McDonald's, Decedent attempted to steal a vehicle in the drive-through line. The driver of that car accelerated and hit other cars in the drive-through. Decedent then continued to drag A.O. towards the Albertsons. While in the parking lot, Decedent attempted to carjack a black vehicle and a white van. Both of those vehicles were able to drive away.

Decedent pulled A.O. into the Albertsons grocery store. Decedent told A.O. that she was his human shield, and that they were going to die. As they walked through the store, Decedent pointed his firearm at several employees. When they exited the rear of the store into the alley, Decedent asked someone for their vehicle keys and was told they did not have any keys.

Decedent then approached a large truck and tried to enter it, but the doors were locked. Decedent shot out the windows and A.O. tried to run away. Decedent threatened to shoot her if she didn't come back and get into the truck. They both entered the truck, but the truck would not start. When they got out, Decedent tried to steal a white car, but that too was unsuccessful.

As Decedent continued to drag A.O. towards Sloan Lane, he stated again they were going to die. Decedent shot at the officers and A.O. was able to run away. She heard several gunshots but did not see that part of the shooting.

G.S.

At approximately 5:00 a.m., G.S. was at his apartment with his girlfriend (A.O.). G.S. and A.O. were sleeping when he heard banging at the front door. G.S. got up from his bed and saw what he believed to be a flashlight outside of his window. When G.S. looked outside he saw Decedent. G.S. called the police because Decedent had previously been trespassed but by the time officers arrived Decedent had already left.

Decedent returned a second time, banged on the front door, and flashed his light in the window again which caused G.S. to call police again. When officers arrived, Decedent was still at the apartment. As officers approached the apartment with their flashlights on, Decedent got into his truck, which was parked in front of the apartment, and drove away.

Later in the morning, G.S. took his son to school. When G.S. returned from taking his child to school he saw Decedent leaving G.S.'s apartment. Approximately thirty minutes later, G.S. was in the back bedroom and heard the front door get kicked in along with a loud bang. Decedent came into G.S.'s room and pointed a semi-automatic handgun at G.S. G.S. believed that Decedent was going to shoot and kill him. While Decedent was confronting G.S., A.O. pulled or hit Decedent which got Decedent to stop pointing the firearm at G.S.

After Decedent pointed his firearm at G.S., Decedent turned his attention to A.O. Decedent grabbed A.O. and dragged her out of the house to her vehicle. G.S. heard A.O. telling Decedent to leave her alone and that she did not want to go with him. Decedent could not get A.O.'s car to start so he grabbed A.O. and told her they were walking; they left on foot eastbound on Lake Mead Boulevard.

D.C.

D.C. is a manager at the McDonald's located at Charleston Boulevard and Sloan Lane. She was working inside the restaurant when she noticed what she believed to be a male holding a female hostage. D.C. observed the male holding an unknown object to the female's back as they walked eastbound through the parking lot towards Albertsons. The male was holding the female's upper arm with his left arm and forced her to walk eastbound. D.C. noticed the male attempt to open a door to a locked white van, but Decedent was unsuccessful. Both the male and female continued through the parking lot and then entered the Albertsons. D.C. also noticed two officers arrive at the location and they began walking south on Sloan. She then walked to the storage area of the McDonald's in order to stay safe.

J.A.

J.A. was in the Albertsons shopping for groceries when she saw a male in a blue shirt holding a female in a chokehold and waving a firearm. J.A. saw people running, so she grabbed her sister and ran to the emergency exit.

R.F.

R.F. was working in the meat department of Albertsons when customers and co-workers began yelling, "shooter." R.F. looked through the butcher door and saw a male holding a firearm to a female's ribs. R.F. ran out the rear receiving door. While R.F. was outside, the male walked down the ramp with the female. R.F. believed the male was trying to blend in with people leaving the store. When the firearm became visible, the male told everyone to move away or he would shoot. R.F. and others ran back inside the store and locked the door.

O.A.

O.A. was outside of the receiving area of Albertsons when a male, who was holding a female by the neck, walked towards him. The male pointed a firearm at O.A and asked if the truck next to them belonged to O.A. The male also demanded the keys for the vehicle. O.A. responded that the truck was not his and the male continued to walk with the female.

J.D.

J.D. was working at the shopping center, where he was employed to clean the parking lot. He arrived in the morning at 7:00 a.m. and began cleaning the parking lot. J.D. parked his white Toyota Corolla in the south alley of the shopping center. When J.D. completed his work, he walked back to his vehicle, opened his driver side door, left it open, and then walked to his trunk to place his dustpan and broom inside. As he was putting the items in the trunk, he noticed a male open his driver side door. J.D. turned to address the male but noticed he had a black firearm in his right hand. J.D. then ducked and moved to the rear passenger side of the vehicle. J.D. also noticed the male holding a female in a choke hold with his left arm tucked under her chin. The male attempted to force the female into J.D.'s vehicle.

J.D. believed he startled the male because the female was able to get away from the male. The female ran eastbound through the alley and the male chased after her. When the male caught up to her, he grabbed her by the left arm. The male began pulling her and guided her west down the alley. Once both the male and female passed J.D. and his vehicle, J.D. noticed officers east of the location waving for him to run towards them. J.D. ran towards the officers for his safety. As he got to the officers' location, he observed other officers moving westbound towards the male and female. J.D. heard two gunshots and noticed the window of a box truck break. He was unsure as to who may have fired the two rounds. A few seconds later he heard five to ten additional gunshots.

J.H.

J.H. was inside his bedroom, which is located on the first floor of a converted garage at 5781 Blossom View Avenue when he heard two pops (gunshots). After the two shots, J.H. went to his bedroom window at the top of his driveway and looked outside. J.H. observed approximately eight uniformed police officers with their guns drawn on Sloan Lane, near the corner of the

shopping center. J.H. saw a man armed with a black revolver on the east sidewalk of Sloan Lane near a no parking sign. The man had his arm around a woman and was dragging or pulling the woman. The male pointed the gun at the police officers and shot twice. The female broke away from the male and as soon as she got away from him the police fired upon the male. J.H. heard three shots from police and observed the male go down to the ground but he did not see which officer or officers fired.

The female ran across the street to a utility box in the neighbor's yard on the north side of Blossom View Avenue at the corner of Sloan Lane. After the male was down, a team of approximately 10 uniformed officers with a shield approached the male and handcuffed him. J.H. believed one of the officers kicked the gun away from the male. Later, J.H observed medical personnel from the fire department appearing to treat the male.

F. THIRD PARTY VIDEO EVIDENCE

5811 East Charleston Boulevard (McDonald's)



Decedent pointing his firearm while hiding being A.O.

An exterior camera from McDonald's recorded video of the parking lot where the drive-through lane exits to the parking lot. According to the timestamp of the video, Decedent and A.O. entered the camera's coverage area at 10:57:22. As they entered the coverage area, Decedent raised his right arm and pointed a firearm at a black sport utility vehicle that passed them through the parking lot. As they entered the McDonald's parking lot, and passed the drive-through exit lane, Decedent grabbed A.O. by her shirt and pulled her out of camera view. Several uniformed police officers entered camera view and went behind a block wall dumpster storage area. The officers continued past the dumpster storage and continued to walk as a group through the parking lot towards Albertsons. A marked patrol vehicle also entered the parking lot and drove towards Albertsons.

Another exterior camera from McDonald's recorded video of the drive-through area. According to the timestamp of the video, Decedent and A.O. were observed entering the camera's coverage area at 10:57:41. Decedent pulled A.O. by her clothing with his left arm towards a grey sedan which was waiting in the drive-through line. Decedent let go of A.O. and attempted to open the front driver side door of the sedan but was unsuccessful. The sedan accelerated and collided with a white pick-up truck, which was also waiting in the drive-through-line. As Decedent attempted to open the car door, A.O. walked away from the car towards the McDonald's building. After the collision, Decedent jogged towards A.O. and appeared to have a handgun in his right hand. Decedent and A.O. briefly stepped out of camera view near the building.

At approximately 10:58:05, Decedent held A.O.'s right arm as they walked towards Albertsons. At approximately 10:58:12, Decedent raised his right arm and aimed the handgun. A.O. briefly walked away in the opposite direction of Decedent until he grabbed her, put his left arm around the back of her neck, and continued to walk towards Albertsons.

5881 East Charleston Boulevard (Albertsons)



Decedent in Albertsons pointing firearm at patrons

Based on the timestamp of Albertsons video surveillance, Decedent and A.O. walked eastbound through the parking lot towards the Albertsons entrance and 10:59:02. Decedent pulled A.O. by her left arm through the parking lot. As they walked closer to the store, a white sport utility vehicle drove westbound through the parking lot. Decedent attempted to open the front passenger door but was unsuccessful as the vehicle drove away. Decedent continued to hold A.O. as he walked her to the front entrance of Albertsons.

At 10:59:46, Decedent and A.O. entered Albertsons. Decedent continued to hold A.O. while he waved and pointed a handgun. A uniformed officer entered the front entrance of Albertsons and moved to a position of concealment after he made visual contact with Decedent and A.O. Decedent walked through the store with his left arm around A.O., and a firearm in his right hand. He brought A.O. into the loading area and raised the gun, pointing it at several people. Decedent and A.O. exited the rear and walked towards a box truck. As Decedent and A.O. continued to walk through the rear parking area, a uniformed officer encountered them. Decedent raised his firearm and utilized a black sport utility vehicle as cover, while Decedent and A.O. continued to walk westbound.

G. OFFICER COUNTDOWN

Officer Ramon Hiestand

Officer Hiestand deployed his department issued Colt LE Carbine Patrol rifle. The countdown of Officer Hiestand's rifle's inserted magazine confirmed that Officer Hiestand fired a total of 8 rounds from his rifle.



H. EVIDENCE RECOVERED

The following items were recovered from the scene of the Officer Involved Shooting:

- SCCY CPX-2 9mm grey/black semi-automatic firearm (SN C204894) [Item 13] with a damaged ammunition magazine [Item 14] located in travel lane 3 of northbound Sloan Lane north of Decedent.
- One (1) "TECH 9mm LUGER" cartridge case [Item 12] located in the chamber of item 13 - gray/black SCCY CPX-2 semiautomatic firearm (S/N: C204894).
- One "AMMO INC 9mm LUGER" cartridge case [Item 9] located on the east sidewalk of S. Sloan Lane, north of Decedent.
- One "TECH 9mm LUGER" cartridge case [Item 10] located in travel lane 3 of northbound Sloan Lane, south of Decedent.
- One "AMMO INC 9mm LUGER" cartridge case [Item 11] located in the rear alleyway of 5841 E. Charleston Blvd, adjacent to the rear driver side dual tires of a Freightliner M2 Medium Duty Box Truck.
- Seven "SPEER 18 223 REM" cartridge cases [Items 1-7] located in travel lane 3 of northbound Sloan Lane, in front of the rear driveway to the plaza.
- One "SPEER 18 223 REM" cartridge case [Item 8] located in the rear driveway to the plaza, in front of a 2018 marked LVMPD Patrol Ford Explorer.

I. FORENSICS REQUESTS / RESULTS

Cartridge Cases

Cartridge cases recovered from the scene of the Officer Involved Shooting and the other relevant scenes were examined and microscopically compared to test-fired cartridge cases from Decedent's firearm as well as from the shooting officer's firearm.

1. Decedent

Forensic examination determined that the two cartridge cases found next to decedent on Sloan Lane were fired by the SCCY CPX-2 9mm grey/black semi-automatic firearm (SN C204894). Forensic examination also showed that the two cartridge cases recovered from A.O.'s and G.S.'s residence were fired by the same firearm.

2. Officer Hiestand

Forensic examination showed that the eight "SPEER 18 223 REM" cartridge cases recovered from the rear driveway of the plaza were fired from Officer Hiestand's Colt LE Carbine Patrol rifle.

J. AUTOPSY

On October 13, 2021, Dr. Timothy Dutra performed an autopsy on the body of Decedent at the Clark County Office of the Coroner/Medical Examiner. Dr. Dutra noted that decedent had three gunshot wounds to the chest, a grazing gunshot wound to his back, a gunshot wound to his back, and two gunshot wounds through his fingers. Dr. Dutra concluded that Decedent died as a result of gunshot wounds to his chest and that the manner of death was homicide.

A toxicology examination revealed that Decedent had 1900 ng/mL of Methamphetamine in his system; blood levels of 200-600 ng/mL have been reported in methamphetamine abusers who exhibit violent and irrational behavior.

IV. 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 may have contributed to the cause of death of a person. Clark County Ordinance §2.14.010. That assessment includes determining whether any criminality on the part of the officers existed at the time of the incident.

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

A. THE USE OF DEADLY FORCE IN DEFENSE OF SELF OR ANOTHER

The authority to kill another in defense of others is contained in NRS 200.120 and 200.160. "Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of ... person, against one who manifestly intends or endeavors to commit a crime of violence ..." against the other person.¹ 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

¹ 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.

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 in *Runion v. State*, 116 Nev. 1041 (2000). The relevant jury instructions as articulated in *Runion* are as follows:

The killing of [a] person in 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 or cause great bodily injury; and
2. That it is absolutely necessary under the circumstances for him to use force or means that might cause the death of the other person, for the purpose of avoiding death or great bodily injury.

A bare fear of death or great bodily injury is not sufficient to justify a killing. To justify taking the life of another in 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. 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 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 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 of self-defense exists, the State must prove beyond a reasonable doubt that Decedent did not act in self-defense. *Id.* at 1051-52.

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

The known facts and circumstances surrounding this incident indicate that Decedent posed an apparent imminent danger to A.O., Officer Ramon Hiestand, and Officers Close, Espinoza-Ramirez, Ricafrente, and Shott. At 9:33 a.m., Decedent shot at the residence of A.O. and G.S. and

then abducted A.O. at gunpoint. When officers initially located Decedent and A.O., just outside a McDonald's parking lot, officers instructed Decedent to drop his weapon and lay down on the ground. Rather than comply, Decedent pointed his firearm at officers and at A.O. At that time officers could not deploy any means of force because Decedent was using A.O. as a human shield.

In order to facilitate his escape, Decedent continued to hold A.O. at gunpoint while unsuccessfully attempting to steal multiple vehicles. Decedent then entered an Albertsons grocery store. In the Albertsons, Decedent continued to use A.O. as a human shield while also pointing his firearm at officers as well as patrons and employees of the Albertsons. When Decedent exited the rear of the Albertsons, Decedent pointed his firearm at officers who had congregated near the rear exit. Decedent also shot at a parked truck in an apparent attempt to steal the truck.

Decedent then walked toward Sloan Lane while again pointing his firearm at A.O. When he approached the area that Officers Hiestand, Close, Espinoza-Ramirez, Ricafrente, and Shott were congregated, Decedent pointed his firearm at the officers. As a result, Officer Hiestand shot at Decedent. Decedent continued to point his firearm at officers and when A.O. created some distance between herself and Decedent, Officer Hiestand again shot at Decedent who then shot at officers. Thus, the deadly force used by Officer Hiestand was justified under both the self-defense and defense-of-others doctrines, as Decedent posed an imminent threat to A.O., Officer Hiestand and Officers Close, Espinoza-Ramirez, Ricafrente, and Shott.

B. JUSTIFIABLE HOMICIDE BY A PUBLIC OFFICER

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

In this case, at the time Officer Hiestand fired his weapon, the facts demonstrate he had probable cause to believe that Decedent posed a threat of serious physical harm to A.O., Officer Hiestand, other members of LVMPD, and civilians within the immediate area. Officer Hiestand was aware that Decedent had taken A.O. from her residence at gunpoint, that Decedent had shot at a vehicle, and that Decedent had pointed his firearm at other officers. Officer Hiestand observed Decedent pointing his firearm at A.O. and Officer Hiestand observed Decedent pointing his firearm at Officer Hiestand. Thus, when Officer Hiestand fired his weapon, the facts demonstrate he had probable cause to believe that Decedent posed a threat of serious physical harm to A.O., Officer Hiestand himself, Officers Close, Espinoza-Ramirez, Ricafrente, and Shott, who were right next to Officer Hiestand, and any members of the public in Decedent's immediate vicinity. The circumstances indicate that Officer Hiestand had a reasonable belief that Decedent was an

immediate threat. Accordingly, the deadly force used by Officer Hiestand was legally justified and appropriate “in the discharge of a legal duty.”

V. CONCLUSION

Based on the review of the available materials and application of Nevada law to the known facts and circumstances, the State concludes that the actions of Las Vegas Metropolitan Police Department Officer Ramon Hiestand was 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.