

# REPORT ON USE OF FORCE



## Legal Analysis Surrounding the Death of George Tillman on June 25, 2017

### INTRODUCTION

On June 25, 2017, 56-year-old George Tillman (hereinafter “Decedent”) was shot and killed by Las Vegas Metropolitan Police Department (hereinafter “LVMPD”) SWAT Officers Theodore Carrasco and Cody Thompson. The incident took place at approximately 12:04 a.m. on June 25, 2017, at Decedent’s home located at 1928 Bookbinder Drive in Las Vegas, Nevada. SWAT Officers Carrasco and Thompson fired six rounds at Decedent, striking him in the chest, forearm and hands.

This report explains why criminal charges will not be forthcoming against Officers Theodore Carrasco and Cody Thompson. 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 April 27, 2018.

This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of Officers Theodore Carrasco and Cody Thompson were not criminal. This decision, premised upon criminal-law standards, is not meant to limit any administrative action by the Las Vegas Metropolitan Police Department or to suggest the existence or non-existence of civil actions by any person, where less stringent laws and burdens of proof apply.

### OVERVIEW OF SURROUNDING FACTS

Decedent and his girlfriend, T.R. lived at 1928 Bookbinder Drive with their four-year-old daughter, L.T. Decedent and T.R. had children from prior relationships and those kids also resided in the home. The house located at 1928 Bookbinder Drive belonged to T.R.’s ex-husband, J.M. T.R. rented the home from J.M.

Trouble between Decedent and T.R. started approximately two weeks prior to the shooting. Decedent's 10-year-old son was at the home when Decedent accused T.R., of not going to work and cheating on him with another man. During the argument, Decedent stood in front of T.R. and told his son that he was going to get a gun from the garage to, "kill this bitch" for cheating on him.

As Decedent entered the garage, T.R. grabbed Decedent's 10-year-old son, ran into a bedroom and locked the door. Decedent broke open the bedroom door and took his son. Decedent told T.R. he was taking his son back to a family member's house and coming back to kill her. As soon as Decedent left, T.R. called 911. Police responded to the scene and completed a report. Approximately two hours after the police officers left, Decedent returned to the house and stayed in their backyard.

Decedent called T.R. from the backyard. He told her he had six guns and he was going to shoot everyone. Decedent threatened to kill T.R., T.R.'s two other kids and L.T. T.R. locked herself in a bedroom with L.T. and Decedent fell asleep in the backyard.

After that incident, Decedent asked T.R. to give him two weeks and everything would end peacefully. Decedent remodeled the house by installing new hardwood floors and bought a new washer and dryer.

On the evening of June 24, 2017, Decedent approached T.R. and told her she needed to pay him \$11,000 for the remodel of the house. T.R. told Decedent she didn't have that kind of money, which upset Decedent.

L.T. was in their bedroom when Decedent yelled at T.R. reference the money she owed him. Decedent left the living room and entered the garage. Decedent then returned to the living room with a handgun. Decedent forced T.R. to sit down on a small sofa in the living room. Decedent slapped/punched T.R. twice on the left side of her face. Decedent then struck T.R. with his gun on the left side of her head.

Decedent pulled T.R.'s hair as he stated, "Bitch, aren't you afraid? I am going to kill you." After pulling T.R.'s hair, Decedent brought her a bag of ice for the redness and swelling on her cheek. Decedent became upset again when the ice did not reduce the redness or swelling on T.R.'s face. Decedent stated, "You are a dead woman." Decedent pointed his gun at T.R.'s head and fired a round, but he missed.

After Decedent fired the round, L.T. ran out of her bedroom and went to T.R.'s side. L.T. hugged her mom as Decedent told T.R., "Hug your daughter because it is the last hug you will ever give her." Decedent told L.T. to go back in her bedroom and L.T. complied. Decedent threatened to kill her, L.T. and T.R.'s other children. Decedent also threatened to shoot at police officers if T.R. called the cops.

Decedent grabbed T.R. and dragged her toward the garage. As they entered the garage, T.R. broke away from Decedent and made it back into the house. T.R. quickly locked the door. Before T.R. could retreat into the house, Decedent began shooting through the door. T.R. was struck once in the right arm. The round went into her arm, exited and entered her

abdomen. After being shot, T.R. ran out of the house through the back glass sliding door. T.R. climbed over walls and ran through backyards before she made her way down the street to get help.

At approximately 21:49 hours on June 24, 2017, T.R. knocked on M.R.'s front door located at 6505 Assembly Drive. T.R. asked M.R. for help. M.R. called 911 but refused to open his front door for T.R. M.R. listened as T.R. explained that Decedent was trying to kill her. T.R. told M.R. that Decedent shot her, but M.R. misunderstood her and thought T.R. said Decedent chewed her.

At approximately 21:58 hours, M.R. called 911 a second time and told the call taker he let T.R. inside of his house. M.R. also told the call taker that T.R. had a large chunk of skin missing from her arm, was bleeding a lot, getting dizzy and needed an ambulance.

At approximately 22:31 hours, M.R. called 911 a third time and told the call taker T.R. was shot in the arm, not chewed on by Decedent as he originally thought. Patrol officers were dispatched to 1928 Bookbinder Drive.

At approximately 22:35 hours, patrol officers arrived at 1928 Bookbinder Drive. As they started setting up containment around the house, Decedent exited the door wearing a gun belt. The gun belt had a holster and spare magazines. Decedent quickly slammed the front door and remained inside the residence. A couple of minutes later Decedent again opened the front door to 1928 Bookbinder Drive. Decedent stepped out of the house, closed the security door that was attached to the front door, reentered the house and closed the front door.

Less than a minute after Decedent re-entered the house, two officers located on the south side of 1928 Bookbinder Drive reported over the radio they heard two gunshots fired from inside of the house. They believed the gunshots were directed at them. Both officers retreated from the south side of the house and found a new position of cover. The sergeant on scene requested SWAT to the scene.

At approximately 23:12 hours, and prior to SWAT's arrival on scene, Decedent fired five rounds at the officers who were positioned near the front of the house. The rounds exited the kitchen window that faced west and traveled west down Lombard Drive and struck a mailbox, a tree and two vehicles.

SWAT Sergeant Andrew Pennucci received the request for his unit to respond to 1928 Bookbinder Drive due to a domestic related attempted murder shooting that involved a hostage situation. The details stated a female [T.R.] was shot and the suspect [Decedent] had their four-year-old [L.T.] child hostage inside of the residence. Sergeant Pennucci was also aware that Decedent shot at patrol officers.

Upon arrival, Sergeant Pennucci set his team up near the northwest corner of the residence. Sergeant Pennucci directed SWAT officers to set up explosive charges on the front door, garage door and a pedestrian access door on the south side of the garage at the residence.

Due to there being a hostage, additional SWAT officers responded and formed another team that would enter through the pedestrian access door of the garage.

SWAT obtained information from T.R. that her daughter L.T. was inside of 1928 Bookbinder Drive and was in grave danger. Sergeant Pennucci established two entry teams to conduct a crisis entry. After all the charges were set, Sergeant Pennucci advised the SWAT commander that his teams were ready to make entry. At approximately 00:04 hours on June 25, 2017, the SWAT commander gave the order to make entry into 1928 Bookbinder Drive. Sergeant Pennucci then gave the order to detonate the charges. The SWAT Team breached the front door with explosives and made entry into 1928 Bookbinder Drive.

As Sergeant Pennucci and his team entered the residence, he heard gunfire coming from the back of the residence. Sergeant Pennucci deployed a diversionary device [Flash Bang] that did not detonate. Sergeant Pennucci advised his team the device was not working and to continue into the residence. Sergeant Pennucci entered 1928 Bookbinder Drive and cleared the kitchen.

Sergeant Pennucci posted on the corner of the kitchen and observed Decedent's shadow in the rear of the residence. Sergeant Pennucci advised his team of Decedent's location. Decedent fired shots through the walls as SWAT officers entered the back bedroom. Sergeant Pennucci observed at least five or six shots strike close to his location in the front of the residence.

SWAT Sergeant John Wiggins believed Decedent fired at least ten times in their direction as he made his way toward the rear of the house where he cleared a large bathroom with a fellow officer.

Officers Carrasco and Thompson made their way toward the master bedroom. Officer Carrasco entered the master bedroom first, with Officer Thompson directly behind him. As soon as Officer Carrasco entered the bedroom, he saw L.T. laying on the bed and Decedent sitting on the bed against the wall holding a firearm.

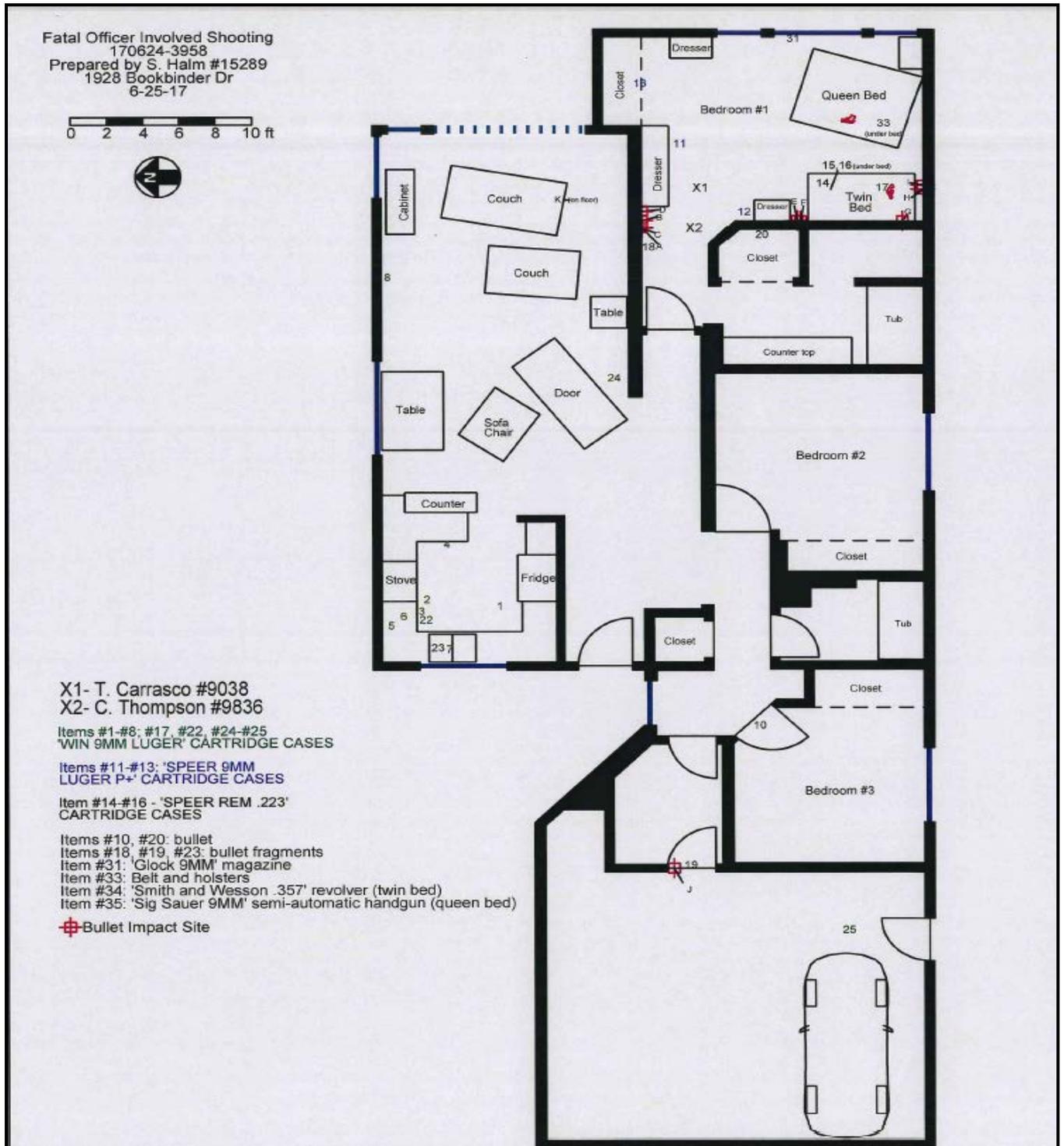




Decedent shot at Officer Carrasco who returned fire as he moved through the room. Officer Thompson observed the gunshots being fired at Officer Carrasco. He immediately entered the bedroom and fired his weapon at Decedent.

Decedent fell back on the twin bed he was sitting on after being shot by Officers Carrasco and Thompson. SWAT Officer Jacob Werner entered the bedroom, grabbed L.T. from the queen bed she was lying on (separate bed from Decedent) and quickly removed her from the house. L.T. was transferred to medical personnel waiting outside and was transported to the hospital. Medical personnel were summoned for Decedent. Decedent was transported to UMC and pronounced deceased at 00:44 hours.

# DESCRIPTION OF THE SCENE



## **EVIDENCE RECOVERED FROM THE SCENE**

A telephonic search warrant was obtained by Detective Jeremy Hendricks from the Honorable Judge Joseph Sciscento for 1928 Bookbinder Drive. The following items were photographed and impounded as part of the search warrant:

- 1) One (1) Sig Sauer Mag with (15) 9mm Luger WIN cartridges in backyard
- 2) One (1) Glock 9mm mag with (15) "Speer" 9mm cartridges
- 3) One (1) semi-auto Sig Sauer with (15) 9mm WIN Luger cartridges
- 4) One (1) revolver Smith & Wesson with snap cap and (5) .357 rounds
- 5) One belt with ammo holster and gun holster
- 6) Seven (7) bullet fragments
- 7) Three (3) bullets
- 8) Eighteen (18) 9mm cartridge cases
- 9) U.S. currency \$1301 – (13) one hundred-dollar bills, (1) one-dollar bill

## **SCENE WALKTHROUGH WITH SWAT OFFICER THEODORE CARRASCO**

On June 25, 2017, at approximately 05:00 hours, Officer Carrasco provided a walk-through of the scene. During the walk-through, Officer Carrasco relayed the following information:

Officer Carrasco was posted at 1932 Bookbinder Drive. Officer Carrasco rounded the corner of 1932 Bookbinder Drive to enter the residence located at 1928 Bookbinder Drive and heard gunshots. Officer Carrasco did not know where the gunshots came from, but he believed they were being fired from inside of 1928 Bookbinder Drive.

Officer Carrasco moved into the bedroom and saw the little girl, L.T. As Officer Carrasco moved across the room, he observed the Decedent in the corner. Officer Carrasco and Decedent made eye contact and Officer Carrasco started to raise his muzzle. Decedent raised his muzzle and Officer Carrasco saw muzzle flashes. Officer Carrasco moved laterally and fired at Decedent.

## **SCENE WALKTHROUGH WITH SWAT OFFICER CODY THOMPSON**

On June 25, 2017, at approximately 05:09 hours, Officer Thompson provided a walk-through of the scene. During the walk-through, Officer Thompson relayed the following information:

Officer Thompson was last in the stack at 1932 Bookbinder Drive. As he approached Decedent's house, Officer Thompson heard gunshots. Officer Thompson approached the front door and heard more gunshots. Upon entry into 1928 Bookbinder Drive, the gunshots stopped. Officers Thompson and Carrasco entered the bedroom. Officer Thompson saw Officer Carrasco round a wall and scan the bedroom.

Officer Thompson saw muzzle flashes illuminating Officer Carrasco and saw impacts into the wall to his left. Officer Thompson knew the muzzle flashes were not Officer Carrasco's and he knew Officer Carrasco was being shot at. As Officer Thompson entered the bedroom, he saw the girl, L.T. first. Officer Thompson cleared the corner and saw the Decedent's gun first, then his arm and finally his chest. Officer Thompson shot Decedent three times.

After he fired, Officer Thompson moved onto the bed and stood over Decedent. Officer Thompson observed a revolver by Decedent's head and a semiautomatic handgun in Decedent's right hand. Officer Thompson picked up the semiautomatic handgun and threw it on the adjacent bed. Officer Thompson said he was not wearing gloves when he picked up Decedent's gun.

### **AUDIO RECORDED INTERVIEW OF SWAT OFFICER THEODORE CARRASCO**

On June 27, 2017, at approximately 13:11 hours, Detective Patton conducted an audio recorded interview with SWAT Officer Carrasco at LVMPD headquarters. Also present for the interview was Sergeant MacDonald, Detective Penny, Lieutenant Eric Calhoun P# 4836, and LVPPA representative Scott Nicolas. Below is a summary of the interview:

Officer Carrasco and the other members of his SWAT team had just completed serving a search warrant for Bolden Area Command when they were made aware of a barricade/hostage event unfolding near their location. Officer Carrasco and his team learned there was an adult female [T.R.] who had been shot and the male suspect [Decedent] was still armed inside of 1928 Bookbinder Drive with their four-year-old daughter [L.T.].

Officer Carrasco, who was operating one of the two armored SWAT BearCats, and his team drove to 1928 Bookbinder Drive and prepared for a crisis entry. After the SWAT Lieutenant Tom Melton made the decision that the team was going to make entry into the residence to rescue L.T., Officer Carrasco exited his BearCat and joined the stack of fellow SWAT members on the north side of 1932 Bookbinder Drive.

Officer Carrasco was next to last in the stack with his partner, Officer Thompson, directly behind him. All entry points to 1928 Bookbinder Drive were breached by explosive devices once Lieutenant Melton gave the order to make entry.

As the team rounded the corner of 1932 Bookbinder Drive and made their way toward the front door of 1928 Bookbinder Drive, Officer Carrasco heard several gunshots coming from inside the residence and believed the team was being shot at by Decedent. Officer Carrasco made entry into 1928 Bookbinder Drive and heard SWAT Sergeant Pennucci yelling, "Suspect deep! Suspect deep!"

Officer Carrasco made his way into the master bedroom and as he turned the first corner he observed L.T. lying in a bed. Officer Carrasco made the decision to rescue L.T. from the bed

and remove her from the residence. However, Decedent, who was sitting on a different, smaller bed, began firing rounds at him.

Officer Carrasco returned fire, firing three rounds from his handgun as he moved laterally through the bedroom. Officer Thompson immediately entered the bedroom after Officer Carrasco and also fired rounds at Decedent. Decedent fell backward on the bed and Officer Carrasco moved toward L.T. but before he could get to L.T., a third SWAT officer, later identified as Officer Jacob Werner, entered the room, grabbed L.T. and removed her from the residence.

Officer Carrasco believed he had been shot in his right arm and leg, but after further inspection it was determined that Officer Carrasco had not been struck by Decedent's rounds. Officer Carrasco stated he was in fear for his life, the lives of his partners and the life of the hostage, L.T. when he used deadly force on Decedent. Officer Carrasco felt Decedent's actions are what led to the deadly encounter, not the actions of the SWAT officers. The SWAT officers' main goal was to rescue the child hostage.

### **AUDIO RECORDED INTERVIEW OF SWAT OFFICER CODY THOMPSON**

On June 27, 2017, at approximately 09:11 hours, Detective Patton conducted an audio recorded interview with SWAT Officer Thompson at LVMPD headquarters. Also present for the interview was Sergeant MacDonald, Detective Penny, Lieutenant Eric Calhoun P# 4836, and LVPPA representative Scott Nicolas. Below is a summary of the interview:

Officer Thompson and the other members of his SWAT team had just completed serving a search warrant for Bolden Area Command when they were made aware of a barricade/hostage event unfolding near their location. Officer Thompson and his team learned there was an adult female [T.R.] who had been shot and the male suspect [Decedent] was still armed inside of 1928 Bookbinder Drive with their four-year-old daughter [L.T.].

The SWAT team quickly returned to Bolden Area Command to get their vehicles and gear. They then caravanned to the 1900 block of Bookbinder Drive. Upon his arrival on Bookbinder Drive, Officer Thompson was made aware that the team would be doing a crisis entry into the residence to save L.T.

Officer Thompson, who was also one of the SWAT team's explosive breachers, built detonation devices to attach to all of the entry points at the residence. After all of the detonation devices were placed on the entry points, Officer Thompson joined the rear of the stack of other SWAT officers on the north side of 1932 Bookbinder Drive. Officer Thompson was directly behind his partner, Officer Carrasco, when the SWAT Lieutenant Tom Melton gave the order over the radio to make entry.

As the team rounded the corner of 1932 Bookbinder Drive and made their way toward the front door of 1928 Bookbinder Drive, Officer Thompson heard several gunshots from inside the residence. He believed the team was being shot at by Decedent. Officer Thompson made

entry into 1928 Bookbinder Drive right after his partner, Officer Carrasco, and heard Sergeant Pennucci yelling, "Suspect deep! Suspect deep!"

Officer Thompson followed Officer Carrasco into the master bedroom. As Officer Carrasco entered the room, Officer Thompson observed Officer Carrasco immediately taking gunfire from Decedent, who was out of Officer Thompson's sight. Officer Thompson saw Officer Carrasco's body illuminated by gunfire and drywall popping from the wall. Officer Thompson believed Officer Carrasco had been struck by rounds.

As Officer Thompson rounded the corner, he observed L.T. lying face up and motionless on a bed. He believed she was dead. Officer Thompson quickly made contact with Decedent who was pointing a handgun at him. Officer Thompson was in fear for his life when fired three rounds from his rifle at Decedent.

Decedent fell back onto the twin sized bed he was on and Officer Thompson jumped onto the bed to cover down and control Decedent. SWAT Officer Jacob Werner grabbed L.T. and removed her from the residence. Officer Thompson reached down and grabbed a black semiautomatic handgun from Decedent's right hand and tossed it onto the larger bed L.T. was lying on prior to the rescue. Officer Thompson felt Decedent's actions are what led to the deadly encounter, not the actions of SWAT officers. The SWAT officers' main goal was to rescue the child hostage.

## **BODY WORN CAMERA FOOTAGE**

Several officers who were involved in the incident activated their respective Body Worn Cameras (hereinafter "BWC"). However, only Officer Carrasco's BWC captured footage of the officer-involved shooting. Officer Werner's BWC captured the hostage rescue. The other officers who activated their BWCs did not witness the officer-involved shooting. Below is a brief description of what was captured by Officer Carrasco and Officer Werner's BWCs.

Note: All times listed below are approximate and represent how many minutes / seconds into the video the event occurred, not the actual time of day.

### **Officer Cody Thompson**

Officer Thompson was wearing a body worn camera at the time of the incident. The camera was not activated. The camera was collected by Sergeant MacDonald and secured.

### **Officer Theodore Carrasco**

Officer Carrasco was wearing a BWC at the time of the incident and his BWC was activated. The camera was collected by Sergeant MacDonald and secured. The video footage captured was later viewed by Detective Patton.

Officer Carrasco's BWC was activated on June 25, 2017, at approximately 00:03 hours and is 8 minutes and 5 seconds in duration. The camera footage depicts the following:

- 00 minutes, 01 seconds: Officer Carrasco is in the back of the stack waiting for the breach.
- 1 minute, 21 seconds: A SWAT officer says, "I hate to say this, but if somebody goes down, continue on. The last guys in line do the rescue."
- 1 minute, 29 seconds: Officer Carrasco says, "Copy that."
- 4 minutes, 12 seconds: Explosive breach is heard.
- 4 minutes, 15 seconds: Officers move toward 1928 Bookbinder Drive.
- 4 minutes, 34 seconds: Officer Carrasco enters 1928 Bookbinder through the front door.
- 4 minutes, 36 seconds: A SWAT officer is yelling, "Suspect deep! Suspect deep!"
- 4 minutes, 39 seconds: Officer Carrasco enters the master bedroom.
- 4 minutes, 40 seconds: Officer Carrasco rounds a corner wall and is face-to-face with Decedent who is pointing a gun at Officer Carrasco. Decedent shoots at Officer Carrasco. Officer Carrasco returns fire as he moves to his left. Officer Thompson enters the room right behind Officer Carrasco and fires at Decedent. Decedent falls back onto a bed.
- 4 minutes, 42 seconds: L.T. is lying on a second bed next to the bed Decedent is on.
- 4 minutes, 45 seconds: Officer Werner grabs L.T.
- 5 minutes, 04 seconds: Sergeant Pennucci is heard saying, "583; we have a suspect down GSWs. We are bringing the baby out to the 1 / 2 BearCat.
- 5 minutes, 12 seconds: Officer Carrasco looks at a mirror to see if he has been shot.
- 
- 5 minutes, 33 seconds: Sergeant Pennucci says, "Okay guys, the baby is Code 4. I want everybody to find their two and I want you guys to check and make sure you're good."
- 6 minutes, 36 seconds: Officer Carrasco exits 1928 Bookbinder Drive.

## **Officer Jacob Werner**

Officer Werner was wearing a BWC at the time of the incident and his BWC was activated. The camera was collected and secured by Sergeant MacDonald. The video footage captured was later viewed by Detective Patton.

Officer Werner's BWC was activated on June 25, 2017, at approximately 00:03 hours and is 21 minutes and 53 seconds in duration. The camera footage depicts the following:

- 0 minutes, 01 seconds: Officer Werner is standing in the middle of the stack waiting for the breach.
- 2 minutes, 10 seconds: Explosive breach occurs.
- 2 minutes, 20 seconds: Officer Werner enters 1928 Bookbinder through the front door.
- 2 minutes, 38 seconds: SWAT officers enter the master bedroom and gunshots are heard.
- 2 minutes, 40 seconds: Officer Werner enters the master bedroom.
- 2 minutes, 46 seconds: Officer Werner grabs L.T. who is lying on a bed.
- 2 minutes, 53 seconds: Officer Werner exits the master bedroom with L.T.
- 2 minutes, 57 seconds: Officer Werner exits 1928 Bookbinder Drive with L.T.
- 2 minutes, 59 seconds: Officer Werner asks L.T., "You okay sweetie?" L.T. says, "Yeah."
- 3 minutes, 18 seconds: Officer Werner transfers L.T. to a uniformed patrol officer.

## **SUMMARY OF RELEVANT LAW ENFORCEMENT WITNESS STATEMENTS**

### **SWAT Officer Jacob Werner**

On June 25, 2017, at approximately 03:20 hours, Detective Jex conducted an audio recorded interview with Officer Jacob Werner at West Lake Mead Boulevard and Bookbinder Drive. Below is a summary of the interview:

As Officer Werner finished serving a search warrant, his SWAT team learned of a hostage call in the area of West Lake Mead Boulevard and Bookbinder Drive. Officer Werner responded to the scene along with the other SWAT officers. Upon his arrival, Officer Werner dressed into his crisis gear. Officer Werner was assigned, along with other SWAT officers, to one side of the target residence to provide containment. Shortly thereafter, North Las Vegas Police Department SWAT members arrived and were assigned to replace Officer Werner. Officer Werner was then assigned to the crisis entry team and given the assignment of number seven in the stack.

The crisis entry team was given the order to enter 1928 Bookbinder Drive by the SWAT commander. As the SWAT officers entered, Officer Werner immediately heard several gunshots. Officer Werner observed SWAT officers being fired upon by the Decedent as they entered the master bedroom.

As Officer Werner entered the master bedroom, he observed a small girl [L.T.] on a bed. He immediately went to her and covered her by putting his body between her and Decedent. L.T. was holding an electronic tablet that was lit when Officer Werner grabbed her and immediately took her outside to the BearCat. Patrol officers who were waiting near the back of the BearCat took L.T. from him.

Officer Werner stated he did not fire his handgun during the incident.

### **SWAT Sergeant Andrew Pennucci**

On June 25, 2017, at approximately 03:42 hours, Detective Colon conducted an audio recorded interview with Sergeant Pennucci at West Lake Mead Boulevard and Jones Boulevard. The following is a summary of the interview:

Sergeant Pennucci was advised of a request for SWAT due to a domestic related attempted murder shooting that involved a hostage situation. The details stated a female [T.R.] was shot and the suspect [Decedent] had their four-year-old [L.T.] hostage inside of their residence. Sergeant Pennucci was also aware Decedent had shot at patrol officers.

Upon arrival, Sergeant Pennucci set his team up near the northwest corner of 1928 Bookbinder Drive. Sergeant Pennucci directed SWAT officers to set up explosive charges on the front door, garage door and a pedestrian access door on the south side of the garage. Due to there being a hostage, additional SWAT officers responded and formed another team that would enter through the pedestrian access door of the garage.

SWAT obtained information from T.R. that her daughter L.T. was inside of 1928 Bookbinder Drive and was in grave danger. Sergeant Pennucci established two entry teams to conduct a crisis entry into the residence to rescue L.T. After all the charges were set, Sergeant Pennucci advised the SWAT commander that his teams were ready to make entry. Within a couple of minutes, the SWAT commander gave the order to make entry into the home. Sergeant Pennucci then gave the order to detonate the charges. SWAT officers breached the front door with explosives and made entry into the residence.

As Sergeant Pennucci entered the residence, he heard gunfire coming from the back of the home. Sergeant Pennucci deployed a diversionary device [Flash Bang] that did not detonate. Sergeant Pennucci advised his team the device did not work and to continue into the residence. Sergeant Pennucci entered the residence and cleared the kitchen.

Sergeant Pennucci posted on the corner of the kitchen and observed Decedent's shadow in the rear of the residence. Sergeant Pennucci advised his team of Decedent's location. Decedent fired shots through the walls as SWAT officers entered the back bedroom. Sergeant

Pennucci observed at least five or six shots strike close to his location in the front of the residence. Sergeant Pennucci heard suppressed gunshots followed by handgun shots, which he believed were fired by SWAT officers. Sergeant Pennucci expected to have a downed officer due to all the shots that were fired.

Sergeant Pennucci entered the rear bedroom and observed two beds in the room. L.T. was picked up by SWAT Officer Werner from a bed and escorted out of the residence. Decedent was down on the opposite side of the room with Officer Thompson standing over him. It appeared Decedent was shot multiple times. Sergeant Pennucci observed a semiautomatic handgun on the floor as well as a black revolver.

After L.T. was secured, Sergeant Pennucci summoned medical personnel to the scene to treat Decedent.

### **SWAT Sergeant John Wiggins**

On June 25, 2017, at approximately 03:42 hours, Detective Colon conducted an audio recorded interview with Sergeant Wiggins at West Lake Mead Boulevard and Jones Boulevard. The following is a summary of the interview:

SWAT Sergeant John Wiggins arrived on scene and posted near the northwest corner of 1928 Bookbinder Drive along with other SWAT officers. There were additional SWAT officers posted on the south side of 1928 Bookbinder Drive. SWAT received information that T.R. was at UMC Trauma Center. T.R. stated that Decedent was inside of their residence with L.T. and she believed Decedent was going to kill L.T.

Sergeant Wiggins entered the residence as Decedent fired numerous gunshots at them. Sergeant Wiggins believed Decedent fired at least ten times in their direction. Sergeant Wiggins made his way toward the rear of the house where he cleared a large bathroom with a fellow officer. As he secured the bathroom, Sergeant Wiggins heard what he believed to be gunshots fired from SWAT officers.

Sergeant Wiggins moved out of the bathroom and into the connecting bedroom where he observed a SWAT officer standing over Decedent who had been shot. Sergeant Wiggins also observed L.T. lying on the bed next to Decedent. Another SWAT officer picked up L.T. and evacuated her out of the residence. Sergeant Wiggins saw a pistol on the bed and in the vicinity of where L.T. had been lying.

SWAT officers requested medical personnel and secured the residence.

### **Patrol Sergeant Cord Overson**

On June 25, 2017, at approximately 04:05 hours, Detective Stearns conducted an audio recorded interview with Sergeant Cord Overson at W. Lake Mead Boulevard and Bookbinder Drive. Below is a summary of the interview:

Sergeant Overson was at Bolden Area Command when he heard Dispatch announce a shooting call over the radio. The details of the call stated a female [T.R.] was shot and she was at neighbor's house. The person who shot her was a Hispanic male and possibly still at their residence at 1928 Bookbinder Drive.

Sergeant Overson and several other patrol units arrived at 1928 Bookbinder Drive and set up containment around the house. Officers observed Decedent at the door of the residence armed with a handgun and what appeared to be a duty belt with additional ammunition.

As officers were setting up rear containment, Sergeant Overson heard two gunshots fired in the officers' direction. The officers relayed over the radio that they believed the shots hit the rocks in front of them or the wall right by them in the backyard. Those officers relocated to a different position.

Approximately 30 to 60 minutes passed when Sergeant Overson heard approximately five additional gunshots. Sergeant Overson believed the shots were fired at the officers positioned in the front of the house near his location. Sergeant Overson used the spotlights from the patrol vehicle in an attempt to locate where Decedent was shooting from, but was unsuccessful. Sergeant Overson stated after the second volley of gunfire, they kept containment on the house until SWAT arrived and took over.

### **Patrol Officer Blake Dixon**

On June 25, 2017, at approximately 04:22 hours, Detective Stearns conducted an audio recorded interview with Officer Dixon at W. Lake Mead Boulevard and Bookbinder Drive. Below is a summary of the interview:

Officer Dixon was operating as a marked patrol unit when he heard a shooting call come out over the radio. Officer Dixon assigned himself to the call located at 1928 Bookbinder Drive. Upon his arrival, Officer Dixon deployed his shotgun and approached the front of 1928 Bookbinder Drive. Officer Dixon decided to wait for back-up units to arrive when he observed that the front door of the house was open. When other units arrived, they took cover behind a nearby vehicle.

Officer Dixon observed a Hispanic male, later identified as Decedent, possibly wearing a duty belt, come to the front door. Decedent looked outside and quickly closed the door. A few seconds later, Decedent opened the front door again, shut the front security screen door and then the front door to the house. Officer Dixon believed he saw Decedent carrying a handgun.

As Officer Dixon returned to his vehicle to retrieve his rifle he heard gunshots. Officer Dixon returned to his previous position near the garage. Officer Dixon was not sure where the shots came from, but believed the first volley of gunshots was directed towards the officers doing the rear containment. The second volley of gunfire was at the officers near the front of the house.

At that same time, officers learned there was four-year-old child still in the house with Decedent. Sergeant Overson ordered all officers to pull back a little farther and wait for SWAT to arrive.

### **Patrol Officer Mike Nolan**

On June 25, 2017, at approximately 04:20 hours, Detective Leavitt conducted an audio recorded interview with Officer Nolan in his unmarked LVMPD vehicle at 6430 W. Lake Mead Boulevard. Below is a summary of the interview:

Officer Nolan worked in Bolden Area Command (BAC) as a uniformed patrol officer. Officer Nolan was at lunch at BAC when he heard a call of a domestic disturbance with shots fired come out over the radio. Officer Nolan immediately cleared from lunch and went to the call.

Officer Nolan arrived near 1928 Bookbinder Drive with another officer, Officer Dixon. Officer Dixon deployed a shotgun and they approached the front of 1928 Bookbinder Drive. Officer Nolan observed an open front door but he could not see inside the residence. Officer Nolan decided that due to the details of the call he should have a rifle deployed.

As Officer Nolan turned back toward his patrol vehicle to get his rifle, he heard Officer Dixon give verbal commands to an unknown person. Officer Nolan quickly returned to Officer Dixon's location and saw Decedent as he closed the front door. As Officer Nolan again turned to retrieve his rifle, he saw Decedent open the front door a second time. Decedent reached out and closed a metal security door before closing the interior front door.

Officer Nolan retrieved his rifle and put hard armor on over his uniform. He was headed back to Officer Dixon's location when shots were fired from inside of 1928 Bookbinder Drive. Officer Nolan took cover behind Officer Dixon's patrol vehicle which was parked near the residence. Officer Nolan was unable to determine where specifically the shots came from or where they were being fired toward.

As more officers arrived on the call, they set up immediate action teams to address the threat. Officer Nolan eventually took up a position west of the residence with his rifle, as more shots were fired from inside of 1928 Bookbinder Drive. Officer Nolan heard the rounds "whizzing" past him and observed some of the rounds strike the landscaping near his location.

Officer Nolan believed Decedent was firing at him, even though he was unable to see Decedent or where he fired from. Officer Nolan held this position until SWAT arrived and took the inner perimeter.

### **Patrol Officer Gregory Anton**

On June 25, 2017, at approximately 04:15 hours, Detective Penny conducted an audio recorded interview with Officer Gregory Anton at 6480 West Lake Mead Boulevard inside of his unmarked LVMPD vehicle. Below is a summary of the interview:

Officer Anton was partnered with Officer Keller when they responded to a domestic related shooting at 1928 Bookbinder Drive. Officers Anton and Keller responded to the suspect's residence, 1928 Bookbinder Drive and approached from the south. Upon their arrival, Officer Anton observed other officers with their weapons drawn and yelling commands. Officer Anton was told Decedent entered his house after closing the security screen door and front door.

Officers Anton and Keller walked into Decedent's backyard from the south side of the residence and stopped at the southeast corner of the house. Officer Anton did a quick peek around the corner of the house and heard two gunshots from inside 1928 Bookbinder Drive. Officers Anton and Keller moved back and retreated into the backyard of the house to the south, 1924 Bookbinder Drive. While in the backyard, Officer Anton observed that the rear sliding door to 1924 Bookbinder Drive was broken and there was blood on the ground. Officer Anton did not know if there were additional suspects or victims at that residence, so he and Officer Keller moved out of the rear yard and returned to their patrol vehicle.

Officers Anton and Keller retrieved their rifles and went into the backyard of 1920 Bookbinder Drive. Officer Anton set up a position to watch 1928 Bookbinder Drive as Officer Keller watched the rear of 1924 Bookbinder Drive. Approximately 20 to 30 minutes after the initial gunfire, Officer Anton heard another five gunshots from inside of 1928 Bookbinder Drive.

Officer Anton heard SWAT breach the door as he continued to watch the residence. Officer Anton heard several gunshots inside of 1928 Bookbinder Drive and heard over the radio that a juvenile was taken out of the residence.

Officer Anton never saw Decedent, nor did he witness the officer-involved shooting. Officer Anton stated he did not discharge his handgun or rifle during the incident.

### **Patrol Officer Thomas Keller**

On June 25, 2017, at approximately 04:42 hours, Detective Penny conducted an audio recorded interview with Officer Thomas Keller at 6480 West Lake Mead Boulevard inside his unmarked LVMPD vehicle. Below is a summary of the interview:

On June 24, 2017, Officers Keller and Anton were riding together when they responded to a domestic related shooting at 1928 Bookbinder Drive. Upon arrival, Officer Keller learned that Decedent had closed the front door of 1928 Bookbinder Drive and he was armed with a firearm on his hip.

Officer Keller heard someone call for rear containment so Officers Keller and Anton went toward the rear of 1928 Bookbinder Drive. They stopped at the corner where Officer Keller observed a blood trail. Officer Anton did a quick peak around the corner of the house and immediately heard two gunshots. Officer Keller saw stucco and/or wood debris flying, but did not know where the shots came from.

Officers Keller and Anton retreated out of the yard and posted to the rear yard of 1924 Bookbinder Drive. While in the yard of 1924 Bookbinder Drive, Officer Keller observed blood

on the wall and noticed the rear sliding door was broken. Officers Keller and Anton returned to their patrol car and retrieved their rifles. Officers Keller and Anton went into the rear yard of 1920 Bookbinder Drive. Approximately 30 minutes after hearing the first two gunshots, Officer Keller heard more gunshots from inside of 1928 Bookbinder Drive.

Officers Keller and Anton held their position during the SWAT operation. Officer Keller did not see Decedent or witness the officer-involved shooting. Officer Keller believed he and Officer Anton were being shot at while they were in the backyard of 1928 Bookbinder Drive. Officer Keller stated he did not discharge his handgun or rifle during the incident.

## **SUMMARY OF RELEVANT CIVILIAN WITNESS STATEMENTS**

### **T.R.**

On June 25, 2017, at approximately 07:04 hours, Detective Stearns conducted an audio recorded interview with T.R. at UMC hospital. Also present during the interview was LVMPD Spanish interpreter Laura Esparza-Picos, P# 15124. Below is a summary of the interview.

T.R. stated everything started with her boyfriend, Decedent, approximately two weeks prior to the shooting when he accused her of not going to work and cheating on him with another man. T.R. and Decedent had been together for approximately four years and they had a four-year-old daughter, L.T., in common. T.R. and Decedent also had children from prior relationships.

Decedent's ten-year-old son was at the 1928 Bookbinder Drive address approximately two weeks prior to the shooting when they got into the argument reference Decedent accusing T.R. of cheating on him. As Decedent stood in front of T.R., he told his son he was going to go into the garage to get a gun to, "kill this bitch" for cheating on him.

As Decedent entered the garage, T.R. grabbed Decedent's ten-year-old son, ran into a bedroom and locked the door. Decedent broke open the bedroom door and took his son. Decedent told T.R. he was taking his son back to a family member's house and coming back to kill her. As soon as Decedent left, T.R. called 911 and a report was taken. Approximately two hours after the officers left, Decedent returned to the house and stayed in their backyard.

Decedent called T.R. from the backyard and told her he had six guns and he was going to shoot everyone. Decedent threatened to kill T.R., L.T. and T.R.'s two other kids. T.R. locked herself in a bedroom with L.T. and Decedent fell asleep in the backyard.

T.R. stated Decedent was bipolar and a frequent user of marijuana. Decedent also drank a lot of alcohol. T.R. said after that incident, Decedent asked her to give him two weeks and everything would end peacefully. T.R. stated Decedent remodeled the house by installing new hardwood floors and he bought a new washer and dryer.

On the evening of June 24, 2017, Decedent approached T.R. and told her she needed to pay him \$11,000 for the remodel of the house. T.R. told Decedent she did not have that kind of money, which upset Decedent.

L.T. was in their bedroom when Decedent yelled at T.R. reference the money she owed him. Decedent left the living room and entered the garage. Decedent then returned to the living room with a handgun. Decedent forced T.R. to sit down on a small sofa in the living room. Decedent slapped/punched T.R. twice on the left side of her face. Decedent then hit T.R. with his gun once on the left side of her head.

Decedent pulled T.R.'s hair as he stated, "Bitch, aren't you afraid? I am going to kill you." After pulling T.R.'s hair, Decedent brought her a bag of ice for the redness and swelling on her cheek. Decedent became upset again when the ice did not reduce the redness or swelling. Decedent stated, "You are a dead woman." Decedent pointed his gun at T.R.'s head and fired a round, but he missed.

After Decedent fired the round, L.T. ran out of her bedroom and went to T.R.'s side. L.T. hugged her mom as Decedent told T.R., "Hug your daughter because it is the last hug you will ever give her." Decedent told L.T. to go back in her bedroom and L.T. complied.

Decedent grabbed T.R. and dragged her toward the garage. As they entered the garage, T.R. broke away from Decedent and made it back into the house. T.R. quickly locked the door. Before T.R. could retreat into the house, Decedent began shooting through the door. T.R. was struck once in the right arm and abdomen. After being shot, T.R. ran out of the house through the back glass sliding door. T.R. climbed over walls and through backyards before she made her way down the street to get help.

Prior to shooting T.R., Decedent threatened to kill her, L.T. and T.R.'s other children. Decedent also threatened to shoot at police officers if T.R. called the cops.

## **M.R.**

On June 25, 2017, at approximately 02:43 hours, Detective Stearns conducted an audio recorded interview with M.R. at West Lake Mead Boulevard and Bookbinder Drive. Below is a summary of the interview:

M.R. was at his house located at 6505 Assembly Drive with his eight-year-old son when he heard a knock at his front door. M.R. looked out of the peephole and observed T.R. T.R. would not stop pounding on his door. M.R., in fear for his son, put his son in the closet and grabbed his pistol before returning to the front door. M.R. feared T.R. could be a part of a scam and a guy would bum rush the door if he opened the door. M.R. spoke to T.R. through the door for a while and called 911 to report the suspicious activity.

M.R. eventually opened the door because he saw T.R. bleeding from her left arm. M.R. asked T.R. what happened to her arm and she told him her boyfriend had shot her. T.R. also

told M.R. that Decedent told her that if she called the cops, he would shoot at the cops and it would end violently. M.R. again called 911 and gave the call taker the new information reference Decedent. M.R. stayed with T.R. until officers arrived at his house and medical personnel transported T.R. to the hospital.

## **J.M.**

On June 27, 2017, at approximately 10:53 hours, Detectives Penny and Leavitt conducted an audio recorded interview with J.M. Also present for the interview was Nathalie Quinteros, P# 10212, to assist with Spanish translation. Below is a summary of the interview.

J.M and T.R. divorced in 2011 and they have two children in common. J.M moved out of 1928 Bookbinder Drive after the divorce. However, he still owned the home and T.R. paid him monthly rent to live there. J.M knew T.R. and Decedent had one child in common. J.M stated he met Decedent several years ago when he was still married to T.R. Decedent was installing surround sound inside of 1928 Bookbinder Drive. J.M stated he does not talk to Decedent, but knows Decedent did not like him.

On June 24, 2017, at approximately 21:45 hours, J.M received a voicemail from T.R. The voicemail stated T.R. had been shot and J.M was to pick their kids up from T.R.'s sister's house. T.R. also told J.M not to take the kids to 1928 Bookbinder Drive. J.M left work and as he was headed to pick up his children, T.R. called again and told J.M that Decedent had shot her and she was going to the hospital. After hanging up, J.M called 911 to report the incident.

After picking up his children, J.M received several text messages from Decedent. The text messages started shortly after 23:00 hours. The text messages were sent to J.M from his son's iPad located inside of 1928 Bookbinder Drive. In the messages Decedent admitted to shooting T.R. and told J.M he was lucky his kids were not there. Decedent also told J.M he would find him and kill him. J.M stated he went into hiding, for fear of Decedent finding him. J.M again made contact with police and with his daughter's help, shared the threatening text messages with police officers.

J.M never actually spoke with Decedent during the incident. All communication was through the iPad text messages. All messages were shared with police personnel the night of the incident.

## OFFICER WEAPON COUNTDOWNS / RESULTS OF FIREARMS ANALYSIS

### SWAT Officer Theodore Carrasco



On June 25, 2017, SWAT Officer Theodore Carrasco's weapon was counted down at the SWAT Command Post. His weapon was a Glock 17 9mm handgun bearing serial number BAGM983. It was loaded with Speer 9mm Luger +P ammunition.

Officer Carrasco was dressed in a standard LVMPD SWAT uniform. He wore LVMPD patches on each shoulder and an LVMPD badge attached to his load bearing vest. Officer Carrasco's carried his handgun on the right side of his body, secured in a holster.

Prior to countdown, Officer Carrasco stated he carried 17 cartridges in the magazine loaded in his firearm and one cartridge in the chamber (17+1, 18 total).

At the completion of the countdown, investigators were unable to determine the number of times Officer Carrasco discharged his firearm during this incident due to the magazine being left at the scene. Officer Carrasco's firearm, magazines, and cartridges were photographed and impounded by SCSA Thi.

Crime Scene Analysts located a Glock 9mm pistol magazine containing fifteen "Speer" 9mm Luger +P cartridges on the floor of the master bedroom of 1928 Bookbinder Drive, along with three "Speer" 9mm Luger +P cartridge cases.

Firearm Examinations revealed that the three cartridge cases (Lab Items 4 – 6 each described as "Speer" 9mm Luger +P cartridge cases) taken from the master bedroom of 1928 Bookbinder Drive were identified as having been fired in Officer Carrasco's Glock pistol.

Also, three of the bullets (Lab Items 13, 15, and 22) located inside of 1928 Bookbinder Drive were found to have similar general rifling characteristics as the test fired bullets from the Glock pistol. However, a conclusive identification or elimination as having been fired from this pistol could not be determined. These bullets were eliminated as having been fired from the Sig Sauer pistol, Smith & Wesson revolver or the Colt rifle.

## SWAT Officer Cody Thompson



On June 25, 2017, SWAT Officer Cody Thompson's weapon was counted down at the SWAT Command Post at the scene. His weapon was a Colt M4 .223 rifle bearing serial number A0375464. It was loaded with Speer 13 .223 Rem ammunition.

Officer Thompson was dressed in a standard LVMPD SWAT uniform. He wore LVMPD patches on each shoulder and an LVMPD badge attached to his load bearing vest. Officer Thompson carried his rifle on a sling across his body.

The countdown revealed that twenty-five (25) cartridges in the magazine and one (1) cartridge in the chamber of Officer Thompson's weapon. At the completion of the countdown, it was determined that Officer Thompson discharged his firearm three times during this incident. Officer Thompson's firearm, magazines, and cartridges were photographed and impounded by SCSA Thi.

Crime Scene Analysts located three "Speer 13" .223 Remington cartridge cases on the master bedroom floor of 1928 Bookbinder Drive.

Firearm Examinations revealed that the three cartridge cases (Lab Items 7 – 9 each described as "Speer 13" .223 Remington cartridge case) taken from the master bedroom of 1928 Bookbinder Drive were identified as having been fired in Officer Thompson's Colt rifle.

Also, two bullets (Lab Items 26 and 27) located inside of 1928 Bookbinder Drive were identified as having been fired from the Colt rifle.

## AUTOPSY



Medical Examiner Jennifer Corneal of the Clark County Coroner's Office opined that Decedent died as a result of multiple gunshot wounds. The manner of death was homicide.

The autopsy report noted multiple perforating and penetrating gunshot wounds to the torso, head and upper extremities.

1. GRAZE WOUND OF HEAD
2. PENETRATING GUNSHOT WOUND OF CHEST
3. PENETRATING GUNSHOT WOUND OF MID-CHEST
4. PENETRATING GUNSHOT WOUND OF LEFT CHEST
5. PERFORATING GUNSHOT WOUND OF RIGHT HAND
6. PERFORATING GUNSHOT WOUND OF LEFT FOREARM
7. PERFORATING GUNSHOT WOUND OF LEFT HAND

Upon the completion of toxicology testing, the following results were noted:

<u>Compound</u>	<u>Result</u>	<u>Units</u>	<u>Matrix Source</u>
Ethanol	88	mg/dL	001 – Chest Blood
Blood Alcohol Concentration (BAC)	0.088	g/100 mL	001 – Chest Blood
Pseudoephedrine <sup>1</sup>	7800	ng/mL	001 – Chest Blood
Norpseudoephedrine <sup>2</sup>	79	ng/mL	001 – Chest Blood
Delta-9 Carboxy THC	7.5	ng/mL	001 – Chest Blood
Delta-9 THC	0.87	ng/mL	001 – Chest Blood

## **WEAPONS USED BY DECEDENT / RESULTS OF FIREARMS ANALYSIS**



Decedent fired a Sig Sauer P226 9mm handgun, bearing serial number U155474. Crime Scene Analysts located the Sig Sauer pistol on top of the queen bed near the west side of the bed. The Sig Sauer pistol was examined, test fired and found to be operational with no noted malfunctions. Firearms Examinations revealed that four bullets and two bullet jacket fragments (Lab Items 10, 11, 16, 17, 23 and 24.1) and three bullet jacket fragments from Lab item 25 have similar general rifling characteristics as the test fired bullets from the Sig Sauer pistol. However, a conclusive identification or elimination as having been fired from this pistol could not be determined. These bullets and bullet jacket fragments were eliminated as having been fired from the Glock pistol, Smith & Wesson revolver or the Colt rifle.



Decedent fired a Smith and Wesson 28-2 .357 Magnum handgun, bearing serial number N518053. Crime Scene Analysts located the Smith and Wesson revolver containing five cartridge cases on top of the twin bed in the master bedroom. The Smith & Wesson revolver was examined, test fired and found to be operational with no noted malfunctions. The submitted magazine (Lab Item 21) fits and functions in this pistol and has a capacity of fifteen cartridges. Firearms Examination revealed that a bullet (Lab Item 12) was determined to be consistent with nominal .38 caliber class, to include 38 Special and .357 Magnum. This bullet has similar general rifling characteristics as the test fired bullets from the Smith & Wesson revolver. However, a conclusive identification or elimination as having been fired from this revolver could not be determined. This bullet was eliminated as having been fired from the Glock pistol, Sig Sauer pistol or the Colt rifle.

<sup>1</sup> Pseudoephedrine is used for the temporary relief of stuffy nose and sinus pain/pressure caused by infection (such as the common cold, flu) or other breathing illnesses (such as hay fever, allergies, bronchitis). Pseudoephedrine is a decongestant (sympathomimetic). <https://www.webmd.com/drugs/2/drug-4908-821/pseudoephedrine-oral/pseudoephedrine-sustained-release-oral/details>

<sup>2</sup> L-Norpseudoephedrine, or (-)-norpseudoephedrine, is a psychostimulant drug of the amphetamine family. F.. Macdonald (1997). Dictionary of Pharmacological Agents. CRC Press. p. 121. ISBN 978-0-412-46630-4. Retrieved 18 May 2012.

## **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.

### **A. The Use of Deadly Force in Defense of Another**

The authority to kill another in defense of others is contained in NRS 200.120 and 200.160. "Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of ... person, against one who manifestly intends or endeavors 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 [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 [the other person] or cause [the other person] great bodily injury; and
2. That it is absolutely necessary under the circumstances for him to use in [defense of another] force or means that might cause the death of the other person, for the purpose of avoiding death or great bodily injury to [the person being defended].

A bare fear of death or great bodily injury is not sufficient to justify a killing. To justify taking the life of another in [defense of another], the circumstances must be sufficient to excite the

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<sup>3</sup> NRS 200.120(3)(a) defines a crime of violence:

"Crime of violence" means any felony for which there is a substantial risk that force or violence may be used against the person or property of another in the commission of the felony.

fears of a reasonable person placed in a similar situation. The person killing must act under the influence of those fears alone and not in revenge.

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

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

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

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

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

The known facts and circumstances surrounding this incident indicate that Decedent posed an imminent danger to SWAT Officers Theodore Carrasco and Cody Thompson, other SWAT officers entering the residence and the four-year-old hostage, L.T. Prior to the shooting which led to his death, Decedent had already beaten, pistol whipped and shot his girlfriend, T.R. Decedent had taken L.T. hostage and threatened to kill L.T., T.R., T.R.'s other children, J.M. and police officers who responded to the scene. Decedent had also already demonstrated his willingness to shoot and/or kill police officers when he shot at officers from inside the residence on four separate occasions. Decedent first shot at patrol officers who were staged in the backyard of 1928 Bookbinder Drive. Next, Decedent shot at patrol officers who were positioned toward the front of the residence. Third, Decedent shot at SWAT Officers as they entered the residence from the front door. Lastly, Decedent shot at SWAT Officer Carrasco when he entered the master bedroom to locate Decedent and rescue L.T. It was only after Decedent ambushed and fired rounds at Officer Carrasco that he returned fire, shooting at Decedent three times. Officer Thompson, fired at Decedent only upon seeing his partner, Officer Carrasco being shot at by Decedent.

Thus, the totality of the evidence, to include body worn camera footage and witness statements, illustrates that SWAT Officers Carrasco and Thompson were reasonable in believing that Decedent would cause great bodily harm or death to them, L.T. or other SWAT team members and their use of deadly force was absolutely necessary under the circumstances to avoid death or serious bodily injury to themselves and others. SWAT Officers Carrasco and Thompson were confronted with the appearance of imminent danger and they had an honest belief and fear that they were about to be killed or suffer great bodily injury at the hands of the Decedent. They also had an honest belief and fear that Decedent

would kill or cause great bodily injury to L.T. or other members of their SWAT team. The evidence further illustrates that Officers Carrasco and Thompson acted reasonably in reaction to the apparent and actual danger posed by the situation and the Decedent. Here, SWAT Officers Theodore Carrasco and Cody Thompson reasonably acted in self-defense and defense of others. Consequently, the shooting of Decedent is justifiable under this legal theory.

### **B. Justifiable Homicide by a Public Officer**

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

In this case, the known evidence illustrates that SWAT Officers Carrasco and Thompson had probable cause to believe that Decedent posed a threat of serious physical harm to them, the child hostage and other members of the SWAT team. Here, Decedent fired at the SWAT team as they entered the residence. As SWAT Officer Carrasco entered the master bedroom, he saw L.T. lying on the bed. When he walked toward the bed, Decedent fired at him multiple times. It was only then that Officer Carrasco shot at Decedent. At that point, SWAT Officer Carrasco had a reasonable belief that Decedent could cause serious physical harm to him, Officer Thompson, L.T. and other SWAT officers.

Officer Thompson fired at Decedent only upon seeing Officer Carrasco’s body illuminated by gunfire and bullets striking the drywall behind him. At that point, SWAT Officer Thompson had a reasonable belief that Decedent could cause serious physical harm to him, Officer Carrasco, L.T. and other SWAT officers. Thus, Officer Carrasco and Officer Thompson’s use of deadly force was legally justified and appropriate under NRS 200.140(2).

## **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 SWAT Officer Theodore Carrasco and SWAT Officer Cody Thompson 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.