

REPORT ON USE OF FORCE



Legal Analysis Surrounding the Death of William Konkol on December 30, 2022

INTRODUCTION

On December 30, 2022, William Konkol (hereinafter “Decedent”) was shot and killed during an altercation with Las Vegas Metropolitan Police Department (hereinafter “LVMPD”) officers. The incident took place between approximately 11:01 a.m. and 11:13 a.m. in a residential neighborhood near East Charleston and North Lamb, within Las Vegas, Nevada. LVMPD Officers Alberto Guzman, Fernando Sotelo, and Justin Terranova discharged their duty-weapons and Decedent died on scene.

SYNOPSIS

At 11:01 a.m. on December 30, 2022, LVMPD Dispatch received a call for service from a civilian, R.M., who reported that while he was driving, another driver, later identified as Decedent, had pointed a firearm at him while stopped at a red light at Washington Avenue and Nellis Boulevard. The caller was following Decedent, who was driving a red Nissan Rogue bearing Nevada license plate 5DG384. The dispatcher advised the civilian to stop following the suspect and to standby until patrol units arrived.

Officer Alberto Guzman responded and located Decedent’s vehicle on Navajo Lane, south of Harris Avenue. Officer Guzman followed Decedent eastbound on Harris Avenue then southbound on Christy Lane. As Officer Guzman followed Decedent on Christy Lane, they drove by R.M., who was parked on the side of the road with his vehicle’s hazard lights activated. R.M pointed to Decedent’s vehicle as Officer Guzman drove by.

Officers Fernando Sotelo and Justin Terranova followed behind Officer Guzman in their separate patrol vehicles to assist in conducting a vehicle stop. While driving eastbound on Charleston Boulevard at Prince Lane, Officer Guzman activated his emergency lights and siren to attempt a vehicle stop on Decedent. Decedent turned northbound on Prince Lane and was pursued by Officers Guzman, Terranova, and Sotelo. Decedent led the officers at

high speeds northbound on Prince Lane, west on Sunrise Avenue, south on Ronald Lane, and west on Park Street, which transitioned to Park Court.

While on Park Court, Decedent turned westbound and, in the process, collided with all three patrol vehicles. Officer Terranova then became the primary pursuing officer, followed by Officer Guzman, then Officer Sotelo. Officer Terranova followed Decedent westbound on Park Street across Sacramento Drive onto Colusa Circle, which was a cul-de-sac. As Officer Terranova arrived on Colusa Circle, Decedent's Nissan was in front of 4012 Colusa Circle. Officer Terranova drove his patrol vehicle into the rear driver's side quarter panel of Decedent's Nissan.

As Officer Guzman arrived on Colusa Circle westbound, his patrol vehicle faced head-on toward Decedent's Nissan, which faced eastbound. Almost simultaneously to Officer Guzman's arrival, Officer Terranova began exiting his patrol vehicle, and Officer Sotelo, who arrived immediately after Officer Guzman, parked his patrol vehicle in the middle of the street alongside Decedent's Nissan.

As Officer Guzman exited his patrol vehicle, Decedent fired a round toward him. Officer Guzman ducked behind the open driver's door, moved to the rear passenger side of his vehicle, and returned fire with his handgun at Decedent's Nissan. Officer Terranova moved to the rear passenger side of his patrol vehicle and discharged his handgun toward the driver's side of Decedent's Nissan. Officer Sotelo exited his patrol vehicle and fired his handgun toward the front side driver side door of Decedent's Nissan. Officer Guzman then moved back to his driver's door and discharged his handgun again. Officer Guzman retrieved his rifle from the rear hatch of the patrol vehicle and while positioned on the driver's side of his patrol vehicle, discharged his rifle at Decedent's Nissan while Decedent accelerated forward. As Decedent drove forward between Officer Guzman and Sotelo's vehicle, Officers Sotelo and Terranova discharged their handguns toward the Nissan.

After driving between Officer Guzman's and Sotelo's vehicles, Decedent crashed into a brick wall in front of 4017 Colusa Circle. Additional officers and resources were requested before officers approached the vehicle and cleared the scene for medical personnel to arrive. A Glock 23, .40 caliber handgun was located on the front passenger floorboard of Decedent's vehicle, and an expended .40 caliber cartridge case was in the front center console. Decedent died on scene and was not transported to the hospital.

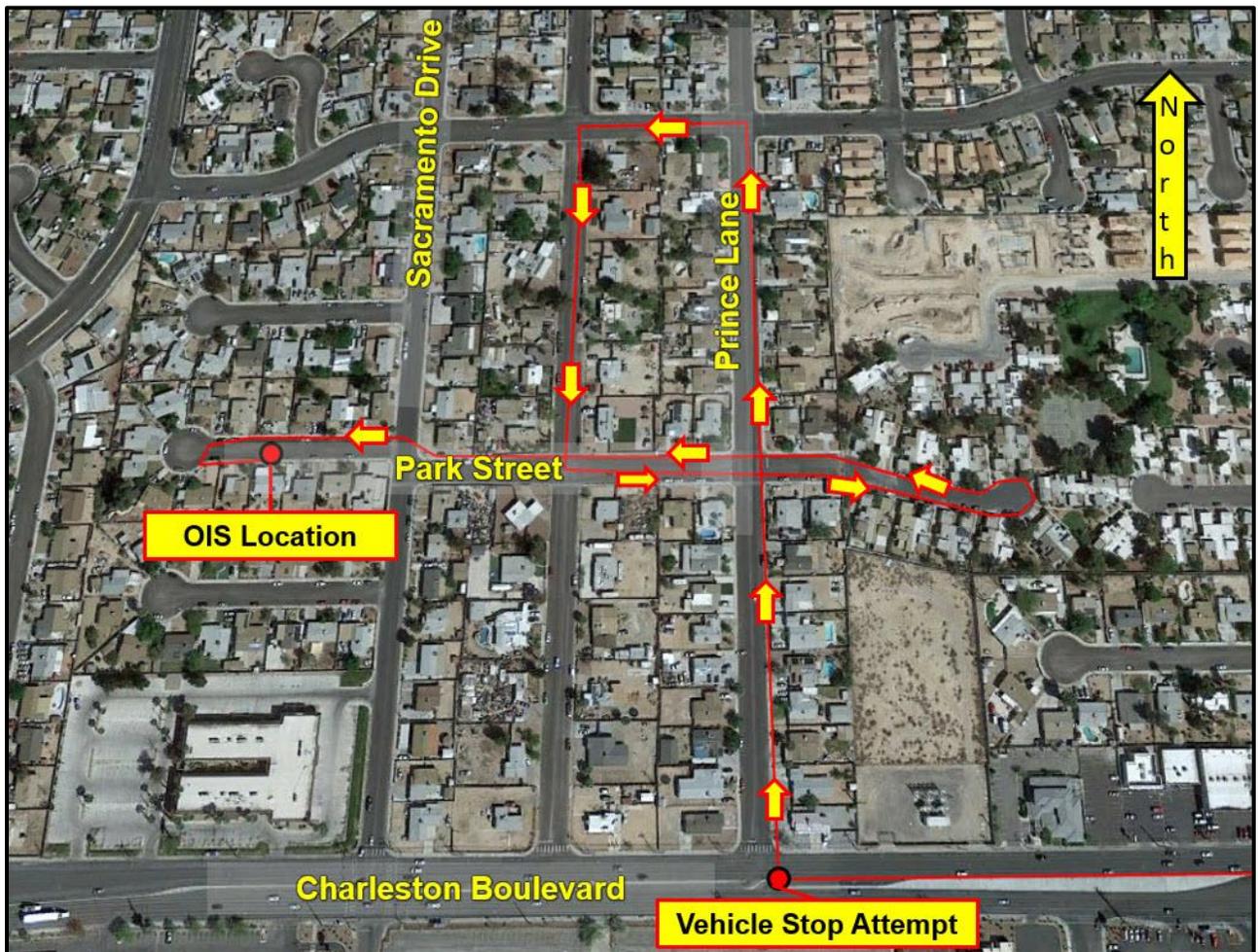
Due to the fact that an officer-involved shooting (hereinafter "OIS") occurred involving LVMPD personnel, the on-scene incident commander requested LVMPD Force Investigation Team ("FIT") Detectives respond to assume responsibility of the investigation. FIT Detectives arrived thereafter and assumed control of the investigation.

This report explains why criminal charges will not be forthcoming against LVMPD Officers Guzman, Sotelo, or Terranova. 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 November 13, 2023.

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

DESCRIPTION OF THE SCENE

The vehicle pursuit originated on Charleston Boulevard and terminated in a residential neighborhood. The OIS occurred in the cul-de-sac on Colusa Circle.



LVMPD Crime Scene Analysts (hereinafter “CSA’s”) were summoned and documented the scene under LVMPD event number LLV221200117596. The main scene was located on Colusa Circle. There were several civilian vehicles parked inside the crime scene, along with the three involved patrol vehicles (circled in yellow below) and Decedent’s vehicle (circled in red below).

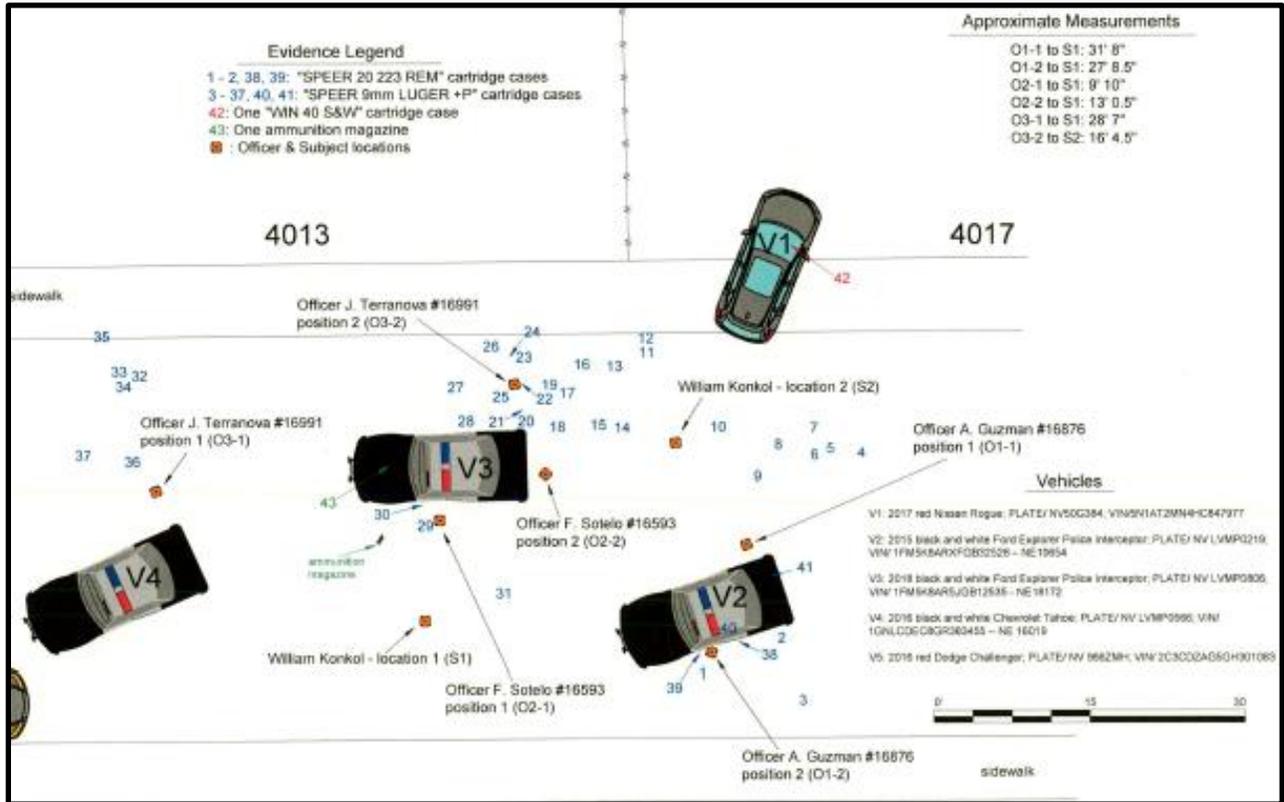


EVIDENCE

Decedent's 2017 Nissan Rogue (V1) crashed and came to rest against a brick wall in the front yard of 4017 Colusa Circle. V1's airbags were deployed and Decedent was in the driver's seat. There were several bullet holes in the windshield, hood, left side mirror, left front door, left rear door, left front quarter panel, and rear cargo door. The left rear and left front tires were both flat. On the front passenger floorboard, there was a black .40 caliber Glock Model 23 semi-automatic handgun bearing serial number BHET950 (Item 43). In the center console, there was a cartridge case bearing headstamp "WIN 40 S&W" (Item 42).



On the street, there were three (3) marked patrol vehicles parked facing west/southwest (V2-V4). On the asphalt and north sidewalk, there were forty-one (41) cartridge cases. There were four (4) rifle cartridge cases bearing headstamp "SPEER 20 223 REM" (Items 1, 2, 38, 39). There were thirty-seven (37) cartridge cases bearing headstamp "SPEER 9mm LUGER +P" (Items 3-37, 40, 41).



Decedent's vehicle was towed to the LVMPD Forensic Laboratory for further documentation and processing. One of the impacts in the windshield (YY2) protruded outward, indicating the bullet causing that particular defect was shot from inside the vehicle and exited through the front windshield.



OFFICER PUBLIC SAFETY STATEMENTS

Officer Sotelo

On December 30, 2022, at approximately 2:03 p.m., FIT Detective Blake Penny interviewed Sergeant Brian Penhall in reference to the Public Safety Statement (“PSS”) he obtained from Officer Sotelo. Below is the transcript of the substantive portion of the interview. Note: Detective Penny is designated by (BL) and Sergeant Penhall is designated by (BP).

BL: Ok, can you go over the first Public Safety Statement for me please.

BP: Yes, uhh, first officer I interviewed was Officer Fernando Sotelo, P# 16593. Uhh this interview occurred at approximately 1140 hours. Uhh, the first question, did you discharge your firearm? Uhh, Officer Sotelo ans—yes, answered yes, and that he fired it in a southwest direction. Next question was approximately where did you loc—uhh where were you located when you fired? And Officer Sotelo said that he was at the driver’s side of vehicle #18172. I asked Officer Sotelo, how many shots do you think you fired? He said a whole magazine, approximately 17 rounds. Uhh, I asked Officer Sotelo if anyone was injured? He just stated the suspect. I asked Officer Sotelo are there any outstanding suspects? And he said no. Then I asked is it possible the suspect fired rounds at you? Uhh, Officer Sotelo stated possibly and that he point—the suspect pointed a gun at the officers. I asked Officer Sotelo if the suspect had fired rounds, what direction did he fired them from? And Officer Sotelo said from west to east so the rounds would’ve travelled east. How many shots do you think the suspect fired? Officer Sotelo answered two or three. Approximately where was the suspect located when they fired? Umm, the vehicle that the suspect was driving was positioned near a parked vehicle which was described as a red Charger and the suspect was located inside of the vehicle that

he was driving. I asked Officer Sotelo do you know if any of the officers, if any other officers discharged their firearms? Officer Sotelo answered that Officer Guzman and Officer Terranova also discharged their firearms. I asked Officer uhh approximately where—uhh sorry I asked Officer Sotelo where was the officers located when they fired? And Officer Sotelo said Officer Terranova was at his patrol car when he shot and then Officer Guzman fired from near his vehicle. I asked Officer Sotelo are there any weapons or evidence that need to be secured or protected? He said there was a firearm in the suspect's vehicle and shell casings. I asked where those are located? He said obviously the firearm was in the car and then uhh, there's shell casings on the street. I asked Officer Sotelo if uhh—if he was aware of any witnesses? And he said no.

BL: Thank you this will be the end of the first PSS interview at 1406 hours.

Officer Terranova

On December 30, 2022, at approximately 2:08 p.m., Detective Penny interviewed Sergeant Penhall in reference to the PSS he obtained from Officer Terranova. Below is the transcript of the substantive portion of the interview. Note: Detective Penny is designated by (BL) and Sergeant Penhall is designated by (BP).

BL: Ok, can you go over the second PSS Statement with me please.

BP: Second PSS Statement was conducted by myself with Officer Justin Terranova, P#16991 at approximately 1150 hours. I asked uhh, Officer Terranova the following. Did you discharge your firearm? He said yes in a south direction. I asked Officer Terranova approximately where you were located when you fired? He said passenger side of Officer Sotelo's vehicle near the engine block. How many shots do you think you fired? Four or five. Is anyone injured? No. Are there any outstanding suspects? No. Is it possible the suspect fired rounds at you? No. How

many rounds do you think the suspect fired? Two. Approximately where was the suspect located when they fired? Driver seat facing east inside the vehicle that they were driving. Do you know if any other officers discharged their firearm? Yes, Officer Sotelo and Officer Guzman. Approximately where was the other officers located when they fired? Officer Guzman was next to his car facing west, Officer Sotelo was at the edge of his vehicle facing south. Are there any weapons or evidence that need to be secured or protected? The suspect's weapon and the shell casings. Where are those are located? In the street and in the suspect vehicle. Are you aware of any witnesses? No.

BL: All right, thank you this will be end of the second PSS interview at 1410 hours.

Officer Guzman

On December 30, 2022, at approximately 2:11 p.m., Detective Penny interviewed Sergeant Penhall in reference to the PSS he obtained from Officer Guzman. Below is the transcript of the substantive portion of the interview. Note: Detective Penny is designated by (BL) and Sergeant Penhall is designated by (BP).

BL: Ok, can you go over the third Public Safety Statement for me please.

BP: The third one was conducted by myself again, with Officer Alberto Guzman, P#16876 at approximately 1207 hours. I asked Officer Guzman the following questions. Did you discharge your firearm? Yes. If so in what direction? West. Approximately where were you located when you fired? Driver's side back corner panel of his own vehicle. How many shots do you think you fired? Five rounds rifle, eight handgun. Is anyone injured? Suspect only. Are there any outstanding suspects? No. Is it possible the suspect fired rounds at you? Unknown. If so, what direction were the rounds fired? It is also unknown. And how many shots do you think the suspect fired? Unknown. Approximately where was the suspect located

when they fired? Driver seat of the suspect vehicle. Do you know if any other officers discharged their firearms? Yes. If so, who are they? Officer Sotello and Officer Terranova. Approximately where was the officers located when they fired? Near Sotello's vehicle, near the front quarter panel uhh Terranova and Sotello were next to each other. Are any weapons or evidence that need to be secured or protected? The suspect's gun and shell casings. If so, where are they located? In the street. Are you aware of any witnesses? No.

BL: All right, thank you this will be end of the third PSS interview at 1413 hours.

SUMMARY OF RELEVANT WITNESS STATEMENTS

A.P.

On December 30, 2022, at approximately 7:18 p.m., FIT Detective Blake Penny conducted an audio-recorded interview with A.P. in North Las Vegas, NV. Below is a summary of the interview.

At approximately 10:29 a.m., A.P. was riding his motorcycle westbound on Ann Road and approached stopped traffic at Tenaya Way. A.P. split the lanes of travel to get to the front of the line of cars and stopped at the red light. A red Nissan Rogue driven by an older white male adult (Decedent), wearing a gold ring started to honk at him. A.P. ignored Decedent, however he looked over his right shoulder and saw that Decedent had moved his vehicle closer to him. Decedent stopped right next to A.P. and was so close that A.P. had to lean his motorcycle away from Decedent's vehicle.

A.P. was open-carrying his .40 caliber Glock Model 23 handgun in a holster on his right hip. Suddenly, Decedent reached over and took A.P.'s handgun from the holster and tossed it on his passenger seat. A.P. stated there was no retention on his holster and Decedent took it so fast that A.P. was unable to stop him. Decedent then attempted to roll up his window, so A.P. put his hands on the window in an attempt to prevent the window from going up, to no avail.

When the light turned green, Decedent drove away westbound toward US-95. A.P. chased Decedent's vehicle. When Decedent stopped at the red light to get on southbound US-95, A.P. caught up to him and stopped his motorcycle in front of Decedent's vehicle. A.P. dismounted his motorcycle and stood in front of Decedent's vehicle and told Decedent he was calling the police. Decedent started to back up to flee but did not have enough room, so he accelerated forward and struck A.P.'s motorcycle, knocking it over before he fled southbound on US-95. A.P. did not follow Decedent and had no further involvement.

A.P. did not witness the OIS.

R.M.

On December 30, 2022, at approximately 2:14 p.m., FIT Detective Todd Fasulo conducted an audio-recorded interview with R.M. in Las Vegas, NV. Below is a summary of the interview.

At approximately 11:00 a.m., R.M. was driving home from work traveling southbound on Nellis Boulevard. R.M. arrived at the intersection of Nellis Boulevard and Washington Avenue where he stopped at the red traffic light, in the middle travel lane. While he was waiting at the red light, he looked at the vehicle stopped next to him in travel lane one, which he later identified as a red Nissan Rogue. R.M. noticed the driver of the Nissan Rogue, later identified as Decedent, staring at him. R.M. could not see Decedent clearly and initially believed he was a coworker of his who drove a similar vehicle.

R.M. rolled down his window to confirm if the driver next to him was his coworker. As R.M. rolled down his window, Decedent rolled down the front passenger window of his vehicle. Decedent then produced a black handgun in his right hand, reached across the front passenger seat and pointed the firearm at R.M. While the firearm was pointed at R.M., Decedent stated, "Roll your window up, roll your fucking window up right now!"

R.M. immediately rolled up his window and as he did so, the traffic light turned green. R.M. called 9-1-1 to report the incident and began to follow Decedent to Bonanza Road, where they both made an eastbound turn. Decedent began to accelerate, but R.M. was able to get close enough to recite the license plate information to LVMPD dispatch. After R.M. provided the information, LVMPD dispatch asked him to stop following Decedent and pull over to wait for an officer to respond. R.M. made a southbound turn onto Christy Lane from Bonanza Road, pulled over to the side of the road, turned on his hazard lights, and waited for officers to respond.

While R.M. waited for an officer, he observed Decedent drive past him southbound on Christy Lane from Bonanza Road while being followed by a marked LVMPD patrol vehicle. The patrol vehicle did not have the lights or siren activated when it drove past him. As Decedent drove by, R.M. signaled out of his window to the patrol officer indicating that the Nissan was the car involved. R.M. observed the patrol vehicle activate its emergency lights at the next intersection, Stewart Avenue and Christy Lane. R.M. did not know where the Nissan Rogue or the patrol vehicle went after he saw the emergency lights.

R.M. did not witness the OIS.

TIMELINE

Time (hours)	Description of Event/Action	Source
11:01:29	R.M. called 911 and reported a subject pointed a firearm at him. R.M. provided a license plate of 5DG384-NV.	Computer Aided Dispatch ("CAD")
11:03:59	Officer Guzman located Decedent's Nissan Rogue on Navajo Lane.	Officer Guzman Body Worn Camera ("BWC")
11:05:34	While Officer Guzman followed Decedent southbound on Christy Lane, R.M. pointed out Decedent's vehicle to Officer Guzman.	Officer Guzman BWC
11:11:16	Officer Guzman attempted a vehicle stop on Decedent's vehicle at Charleston Boulevard and Prince Lane.	Officer Guzman BWC
11:11:18	Officer Guzman initiated a pursuit of Decedent's vehicle northbound on Prince Lane.	Officer Guzman BWC
11:11:39	Decedent turned westbound on Sunrise Avenue from Prince Lane.	Officer Guzman BWC
11:11:46	Decedent turned southbound on Ronald Lane from Sunrise Avenue. Officer Guzman's patrol vehicle made contact with Decedent's driver side rear quarter panel.	Officer Guzman BWC
11:11:58	Decedent turned eastbound on Park Street from Ronald Lane.	Officer Guzman BWC
11:12:17	The front of Officer Guzman's patrol vehicle made contact with Decedent's driver side on Park Court as Decedent turned around westbound.	Officer Guzman BWC
11:12:20	The front of Officer Terranova's patrol vehicle made contact with Decedent's passenger side rear quarter panel on Park Court.	Officer Terranova BWC
11:12:24	The front of Officer Sotelo's patrol vehicle made contact with Decedent's passenger side rear quarter panel on Park Court.	Officer Sotelo BWC
11:12:30	Officer Terranova became the primary pursuing officer westbound on Park Court.	Officer Terranova BWC
11:12:54	The front of Officer Terranova's patrol vehicle collided with the driver's side rear quarter panel of Decedent's vehicle in front of 4012 Colusa Circle.	Officer Terranova BWC
11:12:57	Officer Guzman parked westbound facing the front of Decedent's vehicle. Officer Guzman exited his patrol vehicle, deployed his handgun and issued a command to Decedent to, "Let me see your hands!". A gunshot can then be heard and Officer Guzman ducks and retreats to the rear of his vehicle.	Officer Guzman BWC
11:13:00	Officer Terranova exits his patrol vehicle and a gunshot can be heard.	Officer Terranova BWC
11:13:05	Officer Guzman yelled "Shots fired!" and discharged his handgun near the rear passenger side of his patrol vehicle.	Officer Guzman BWC

Time (hours)	Description of Event/Action	Source
11:13:06	Officer Terranova discharged his handgun while positioned at the rear of his patrol vehicle.	Officer Terranova BWC
11:13:10	Officer Guzman discharged his handgun near the driver's door of his patrol vehicle. Officer Sotelo parked facing westbound next to Decedent's vehicle and discharged his firearm after exiting the patrol vehicle.	Officer Guzman and Sotelo BWC
11:13:24	Officer Guzman retrieved his rifle from the rear hatch of his patrol vehicle.	Officer Guzman BWC
11:13:34	Officer Guzman discharged his rifle while positioned at the driver's door of his patrol vehicle. Decedent accelerated between Officer Guzman's and Sotelo's patrol vehicles. Officer Sotelo discharged his firearm while positioned at the rear of his patrol vehicle.	Officer Guzman and Officer Terranova BWC
11:13:35	Officer Terranova discharged his firearm as Decedent drove into the front wall of 4017 Colusa Circle.	Officer Terranova BWC
11:13:50	Officers Terranova and Sotelo joined Officer Guzman at the rear of Officer Guzman's patrol vehicle.	Officer Terranova BWC
11:31:28	Action Team of officers approached Konkol's vehicle.	CAD
11:33:39	Medical was advised it was safe to approach.	CAD

VIDEO FOOTAGE

LVMPD Body-Worn Camera Footage

Officers Guzman, Sotelo, and Terranova were equipped with BWC's which were activated during the incident. The videos are date-stamped in Zulu time, however the time-stamps exhibit a "time drift" where the cameras' internal clocks drift from actual time based on when the cameras are synced when the camera is docked. The three videos are consistent with one another and depict the following:

Officer Guzman's BWC

Officer Guzman's camera was activated and showed him conducting a U-turn at Owens Avenue from northbound Nellis Boulevard to southbound Nellis Boulevard. Officer Guzman turned eastbound on Harris Avenue then southbound on Navajo Lane. Officer Guzman drove by a red Nissan Rogue that was parked northbound on the east side of Navajo Lane. Officer Guzman then turned around to drive northbound.

The Nissan drove northbound on Navajo Lane as Officer Guzman followed it. Officer Guzman advised dispatch he located the suspect's vehicle, and that the vehicle was turning eastbound on Harris Avenue from Navajo Lane. Officer Guzman confirmed with dispatch that the suspect vehicle was described as a Nissan. The Nissan stopped at a stop sign at Harris

Avenue and Christy Lane before turning southbound on Christy Lane. Officer Guzman advised dispatch he located the suspect vehicle. While driving southbound on Christy Lane, Officer Guzman broadcasted on the radio he drove past the person reporting who identified the Nissan as the suspect vehicle. Officer Guzman continued to follow the Nissan as it turned westbound on Charleston Boulevard from Christy Lane.

As Officer Guzman continued to follow the Nissan and approached Charleston Boulevard and Marion Drive, an officer confirmed over the radio the person reporting was victim of an Assault with Use of Deadly Weapon and that a firearm was involved. While Officer Guzman approached Charleston Boulevard and Lamb Boulevard, he broadcasted over the radio that the officers would conduct a stop on the vehicle if the supervisor approved. While Officer Guzman was at Charleston Boulevard and Prince Lane, a Sergeant announced over the radio the officers were approved to stop the vehicle.

While eastbound on Charleston Boulevard at Prince Lane, Officer Guzman positioned his patrol vehicle to the left of center behind the Nissan and activated his lights and siren. The Nissan turned northbound on Prince Lane from Charleston Boulevard. As sirens could be heard, the Nissan turned westbound on Sunrise Avenue from Prince Lane. While the Nissan turned southbound on Ronald Lane from Sunrise Avenue, there was brief contact between the passenger side front fender of Officer Guzman's patrol vehicle and the driver's side rear quarter panel of the Nissan. From southbound on Ronald Lane, the Nissan turned eastbound on Park Street which transitioned to Park Court. While eastbound on Park Court, the Nissan drove over a drainage gutter on the roadway which caused the Nissan to elevate all four tires off the roadway.

While at the end of Park Court, the Nissan turned northbound then westbound through the cul-de-sac. While the Nissan was turning, Officer Guzman's patrol vehicle's front end made contact with the driver's side of the Nissan. The Nissan proceeded westbound on Park Court followed by Officer Terranova's patrol vehicle. Officer Guzman followed Officer Terranova westbound.

When the officers arrived on Colusa Circle, the Nissan was facing southwest on the southside of the street. Officer Terranova's patrol vehicle collided with the driver's side rear quarter of the Nissan which pushed the Nissan to face eastbound. Officer Guzman parked facing westbound in front of the Nissan which was facing eastbound.

As Officer Guzman exited his vehicle, ordered Decedent to, "Let me see your hands!" As Officer Guzman ducked behind his door, an apparent gunshot could be heard and Officer Guzman ran to the rear of his patrol vehicle. While next to the passenger side rear quarter panel of his patrol vehicle, Officer Guzman discharged his handgun in the direction of the Nissan. Another patrol vehicle arrived next to the Nissan as Officer Guzman moved around the rear of his patrol vehicle back to the front driver's door where he discharged his handgun again.

Officer Guzman moved to the rear hatch of the patrol vehicle and retrieved his rifle. While Officer Guzman was taking his rifle out of the back of the patrol vehicle an engine could be

heard as though the engine was accelerating. When Officer Guzman went to the front driver's door of his patrol vehicle, he discharged his rifle and the Nissan drove northbound across the street. Officer Guzman moved to the rear of the patrol vehicle and closed the rear hatch. The red Nissan could be seen after it collided into a wall at 4017 Colusa Circle.

Officer Guzman advised the other officers to stack up at his location and issued verbal commands to the driver. An officer asked Officer Guzman if there was any movement in the vehicle, to which Officer Guzman advised no. An officer asked Officer Guzman if he was hit and Officer Guzman responded, "He pointed the gun at me."

Officer Guzman remained at the rear of his patrol vehicle with his rifle pointed at the Nissan while more officers arrived. Discussion could be heard from other officers establishing a perimeter and a plan to address the occupant of the Nissan. An officer in the area was heard utilizing a public address system from a patrol vehicle giving the vehicle occupant instructions.

Officer Guzman moved to the hood of his patrol vehicle and used the hood to stabilize his rifle while he kept coverage of the Nissan. Due to his camera position the Nissan could not be seen on video. Officer Guzman advised it appeared the driver was slumped over. Officer Guzman moved his rifle down and several patrol officers could be seen at the passenger side of the Nissan opening the front passenger door.

As officers conducted crime scene preservation duties, Officer Guzman secured his rifle in the rear of his patrol vehicle. Officer Guzman remained with a monitor officer until his camera was deactivated.

Officer Sotelo's BWC

Officer Sotelo's camera was activated and the footage began showing him driving eastbound on Charleston Boulevard behind Officer Terranova and Officer Guzman. While Officer Sotelo drove behind Officer Terranova's vehicle, radio traffic could be heard of another officer confirming the crime of Assault with Use of Deadly Weapon and confirming a firearm was involved. As the officers approached Prince Lane on Charleston Boulevard, a Sergeant broadcasted over the radio approval for officers to conduct a stop on the Nissan Rogue.

Officer Sotelo was the third patrol vehicle behind the Nissan when Officer Guzman activated his emergency lights at Prince Lane. The Nissan proceeded northbound on Prince Lane. Officer Sotelo advised the dispatcher of the pursuit. Officer Sotelo followed Officer Guzman and Officer Terranova as they pursued the Nissan westbound on Sunrise Avenue. They continued to follow the Nissan southbound on Ronald Lane then eastbound on Park Street. While at the end of Park Court, the Nissan turned around and the front of Officer Sotelo's patrol vehicle collided with the passenger side of the Nissan. Officer Sotelo used the radio to announce multiple vehicle collisions and update the Nissan was westbound. When the Nissan turned around on Park Court, Officer Terranova became the primary pursuing unit followed by Officer Guzman, then Officer Sotelo.

While on Colusa Circle, the Nissan faced northbound on the south side of the street. Officer Guzman was seen on video parked westbound facing the front end of the Nissan. Officer Sotelo updated on the radio that the vehicle was pinched in on Colusa Circle. As Officer Sotelo parked his vehicle westbound in the middle of the street, he was positioned next to the Nissan which faced eastbound on the south side of the street and several apparent gunshots could be heard.

Officer Sotelo exited his vehicle and discharged his handgun several times in the direction of the Nissan. While at the rear of his patrol vehicle, Officer Sotelo announced shots fired on the radio. Officer Terranova pulled Officer Sotelo to the passenger side of Officer Sotelo's patrol vehicle. Officer Sotelo continued to point his handgun at the Nissan and issued verbal commands to the driver to put his hands up. Officer Sotelo grabbed his radio microphone and stated, "We got multiple shots fired. Driver is still in the driver's seat." The Nissan drove forward in between Officer Sotelo and Officer Guzman's vehicles. Officer Sotelo discharged his firearm several times as the Nissan drove forward into a brick wall. Officer Sotelo stated, "He just tried to ram us."

Officer Sotelo moved towards the front of his vehicle, conducted a speed reload of his handgun, and dropped the magazine from the firearm onto the hood of the patrol vehicle. Officer Sotelo moved to the rear of Officer Guzman's vehicle, where Officer Guzman was positioned with a rifle. Officer Sotelo continued to aim his firearm at the Nissan while he was positioned next to Officer Guzman. Officer Sotelo used the radio to update dispatch the suspect drove into a wall and the engine was still running. Officer Sotelo remained with Officer Guzman while other officers arrived. Officer Sotelo stated over the radio the suspect pointed a gun at the officers and tried to run them over.

As Officer Sotelo and other officers waited by Officer Guzman's car, an officer approached Officer Sotelo and asked who shot. Officer Sotelo stated, "He had the 413 (gun) pointed at us I fucking started shooting. He tried to ram me again, so I shot again."

While Officer Sotelo and other officers stood-by at the rear of Officer Guzman's vehicle, an officer was heard on the public address system giving instructions to the vehicle occupant. The officers moved from the rear of Officer Guzman's vehicle to the front while a team of officers approached the Nissan.

Officer Sotelo was assigned a monitor officer then his camera was deactivated.

Officer Terranova's BWC

Officer Terranova's camera was activated while he followed Officer Guzman behind the Nissan turning westbound on Charleston Boulevard from Christy Lane. Officer Terranova followed behind Officer Guzman westbound on Charleston Boulevard. Radio traffic from another officer confirmed the victim reported an Assault With Use of Deadly Weapon involving a firearm. As the officers approached Prince Lane, a Sergeant broadcasted over the radio the Air Unit was still down and instructed the officers to conduct the stop.

The lights were activated on Officer Guzman's vehicle while it moved to the left of center behind the Nissan. The Nissan turned northbound on Prince Lane from Charleston Boulevard followed by Officer Guzman and Officer Terranova. Officer Terranova followed Officer Guzman behind the Nissan westbound on Sunrise Avenue then southbound on Ronald Lane. Officer Terranova continued behind Officer Guzman while they drove eastbound on Park Court. While at the end of Park Court, the Nissan turned around at the end of the street. When the Nissan turned around, the front of Officer Terranova's patrol vehicle made contact with the passenger side of the Nissan. Officer Terranova turned around and went westbound on Park Court as the primary vehicle in the pursuit.

Officer Terranova continued to follow the Nissan westbound to Colusa Circle. While on Colusa Circle, the Nissan was facing south on the south side of the street. As Officer Terranova drove towards the Nissan, the reverse lights were activated on the Nissan. Officer Terranova's vehicle struck the driver's side rear quarter panel of the Nissan. Officer Terranova pulled past the Nissan facing westbound.

As Officer Terranova exited his vehicle, an apparent gunshot could be heard. Officer Terranova ran to the rear of his patrol vehicle as more apparent gunshots could be heard. While by the rear passenger side of his vehicle, Officer Terranova discharged his handgun several times towards the Nissan. Officer Terranova proceeded to the rear of Officer Sotelo's vehicle where Officer Sotelo could be seen pointing his handgun toward the Nissan. Officer Terranova instructed Officer Sotelo to move positions.

While Officer Terranova stood behind Officer Sotelo, an engine could be heard accelerating. Several apparent gunshots could be heard as the Nissan drove between Officer Sotelo's and Officer Guzman's vehicles. Officer Terranova discharged his handgun again as the Nissan drove into a brick wall.

Officer Terranova conducted a speed reload as he moved around the front of Officer Sotelo's vehicle and repositioned behind Officer Guzman's vehicle. Officer Terranova removed the low-lethality shotgun from the front of Officer Guzman's vehicle. Officer Terranova checked Officers Guzman and Sotelo for apparent gunshot wounds and Officer Guzman stated, "He pointed the gun at me."

While Officers Guzman, Sotelo, and Terranova were positioned behind Officer Guzman's vehicle, additional officers arrived on Colusa Circle. Officer Terranova removed the tactical shield from Officer Guzman's vehicle and gave the low-lethality shotgun to another officer while he retained the shield. The officers remained at Officer Guzman's vehicle until a team was able to approach the Nissan.

Officer Terranova was assigned a monitor officer and his camera was deactivated.

LVMPD Air Unit Video Footage

The LVMPD Air Unit responded to the scene after the OIS. When the Air Unit arrived, several officers could be seen behind Officer Guzman's vehicle. The Nissan faced north, stopped

over the sidewalk and the front of the Nissan went through a wall in the front yard of 4017 Colusa Circle. As the Air Unit circled around the front of the Nissan, the camera was zoomed in to reveal several impacts on the front of the vehicle and the Nissan's airbags deployed. The Air Unit broadcasted over the radio that the driver was not moving.

As the Air Unit camera zoomed out, multiple patrol vehicles and officers could be seen positioned on Colusa Circle. The Air Unit continued to hover over the scene as a team of officers approached the Nissan utilizing a shield and K9 vehicle as cover. The Air Unit camera was deactivated shortly after radio traffic indicated that it was clear for medical to approach, and the driver of the Nissan appeared to be deceased.

Real Time Crime Camera ("RTCC") – Washington Avenue and Nellis Boulevard

A Pan/Tilt/Zoom ("PTZ") capable camera operated by LVMPD Fusion Watch was located in the area of Washington Avenue and Nellis Boulevard. There is no time/date stamp on the RTCC video.

A red Nissan Rogue with a sticker located on the bottom center of the rear window drove southbound in the number one travel lane. A silver Mercury sedan was behind the Nissan in the number two travel lane.

RTCC – Charleston Boulevard and Nellis Boulevard

A PTZ capable camera operated by LVMPD Fusion Watch was located in the area of Charleston Boulevard and Nellis Boulevard. There is no time/date stamp on the RTCC video.

A red Nissan Rogue followed by three patrol vehicles drove westbound. The three patrol vehicles continued in a line behind the Nissan until they went out of camera view.

Civilian S.S. Cell Phone Video

The video depicted a red Nissan Rogue pull away from a black motorcycle. As S.S. drove, the camera briefly moved to show her hands on the steering wheel. She moved the camera up to show the motorcycle approach the Nissan at a red light. While at the red light, S.S. asked the motorcyclist for his phone number and the camera was turned off.

Civilian C.R. Cell Phone Video

The video showed the rear of a red Nissan Rogue with a motorcycle parked in front of the Nissan at a traffic light. The motorcyclist was off the motorcycle and the Nissan accelerated into the motorcycle which pushed the motorcycle into the middle of the intersection. The motorcyclist ran to the middle of the intersection to pick up the motorcycle and the camera was turned off.

4424 Park Court Surveillance Video

A surveillance camera was affixed to the exterior of 4424 Park Court at the end of the cul-de-sac. The Nissan drove to the end of the cul-de-sac to turn around. While the Nissan was turning around, all three patrol vehicles made contact with the Nissan. After contact was made with the third patrol vehicle, the rear of the Nissan turned into a garage door on the north side of the street. The Nissan and patrol vehicle proceeded westbound until they went out of camera view.

4024 Colusa Circle Surveillance Video

There were two exterior surveillance cameras affixed to the residence. The date and time stamp of the video were not accurate to the actual date and time.

On the camera labeled Channel 4, the Nissan turned from Ronald Lane eastbound on Park Street. The Nissan then drove westbound on Park Street and crossed over Sacramento Road onto Colusa Circle, followed by three patrol vehicles.

On the camera labeled Channel 2, the Nissan drove onto Colusa Circle and went westbound past 4024 Colusa Circle followed by three patrol vehicles. The camera was pointed in a slight eastward direction and did not have coverage of the OIS.

Nevada Department of Public Safety Parole and Probation

On December 30, 2022, at approximately 11:03 a.m., NV Parole and Probation Officer White, who was Decedent's Probation Officer, received a video sent via text message from Decedent's phone number. The video depicted a Glock 23 handgun being held inside of a vehicle. Decedent stated he just took the gun and claimed the gun belonged to a hitman. Decedent displayed a semi-automatic handgun magazine and explained the magazine had "hollow points" and claimed they were illegal in Nevada.

AUTOPSY

Medical Examiner Dr. Stephanie Yagi of the Clark County Coroner's Office conducted an autopsy on Decedent. Dr. Yagi observed gunshot wounds to Decedent's chin, head, and torso, and multiple intermediary fragment wounds. Dr. Yagi concluded Decedent's cause of death was a gunshot wound to the head.

OFFICER SCENE WALK-THROUGHS

Officer Sotelo

On December 30, 2022, at approximately 3:46 p.m., Officer Sotelo provided a walk-through of the scene.

Officer Sotelo was assigned to a road rage call involving an assault with a deadly weapon. While following the suspect vehicle, Officer Sotelo was approved to assist with conducting a stop on the vehicle. As officers attempted to stop the vehicle, the suspect vehicle fled. The suspect stopped when officers converged with the suspect vehicle on Colusa Circle. Officer Sotelo exited his vehicle and saw the suspect engage in a firefight with officers. Officer Sotelo gave verbal commands for the suspect to put his hands up. Officer Sotelo heard the suspect's engine revving, so Officer Sotelo took cover behind a patrol vehicle. The suspect vehicle drove between Officer Guzman's and Officer Sotelo's vehicles at a high rate of speed. Officer Sotelo shot at the suspect as he drove toward them.

Officer Sotelo believed the suspect was trying to ram him and fired to protect his life and the lives of the other officers. Officer Sotelo was also aware the suspect had already fired at officers.

Officer Terranova

On December 30, 2022, at approximately 4:00 p.m., Officer Terranova provided a walk-through of the scene.

Officer Terranova was assigned to a road rage call involving an assault with a deadly weapon. Officer Terranova followed the suspect to Colusa Circle during a pursuit and knew the suspect vehicle struck other patrol vehicles during the pursuit. The assault with deadly weapon victim had confirmed a firearm was brandished. Officer Terranova struck the suspect vehicle due to the suspect evading and driving recklessly in the neighborhood.

After Officer Terranova's vehicle made impact with the suspect vehicle, the suspect vehicle pulled forward. Officer Terranova exited his vehicle and saw slight explosions inside the suspect's windshield. Officer Terranova sought cover, returned fire, and ran towards Officer Sotelo's vehicle. The suspect drove between Officer Sotelo's and Officer Guzman's vehicles at a high rate of speed. Officer Terranova thought the suspect was trying to strike them with the vehicle before he crashed into the wall.

Officer Guzman

On December 30, 2022, at approximately 4:14 p.m., Officer Guzman provided a walk-through of the scene.

Officer Guzman was assigned to a road rage call involving an assault with use of a deadly weapon. Officer Guzman located the suspect vehicle and attempted to get the suspect's license plate. While following the suspect vehicle, Officer Guzman drove past the victim who pointed out and identified the suspect vehicle. When Officer Guzman activated his lights and sirens, the suspect took off at a high rate of speed.

When the suspect vehicle eventually stopped, Officer Guzman exited his patrol vehicle. Officer Guzman saw the suspect brandish a firearm from inside the vehicle and point it in

Officer Guzman's direction. Officer Guzman went to the rear of his patrol vehicle and fired his handgun. He retrieved his rifle from the rear of the patrol vehicle, moved to the driver's side and fired his rifle.

Officer Guzman fired to protect the safety of his life and his partners' lives. The suspect then took off at a high rate of speed into a wall.

WEAPON COUNTDOWNS

Officer Guzman

Make: Glock
Model: 17
Caliber: 9mm
Serial number: BFKT635



Make: BCM
Model: MCMR 15
Caliber: .223
Serial number: A-061645



Officer Guzman carried 17 cartridges in the magazine and one cartridge in the chamber (17+1, 18 total). At the completion of the countdown, seven (7) rounds were in the magazine and one (1) was in the chamber. After the countdown and a review of the evidence on scene, it was determined Officer Guzman discharged his handgun ten (10) times during this incident.

Officer Guzman carried 28 cartridges in the magazine loaded in his rifle and zero (0) cartridges in the chamber. At the completion of the countdown, 23 rounds were in the magazine and one (1) was in the chamber. After the countdown and a review of the evidence on scene, it was determined Officer Guzman discharged his rifle four (4) times during this incident.

Officer Sotelo

Make: Glock
Model: 17
Caliber: 9mm
Serial number: VEE225



Officer Sotelo carried 17 cartridges in the magazine and one cartridge in the chamber (17+1, 18 total). At the completion of the countdown, zero (0) rounds were in the magazine and one (1) was in the chamber. After the countdown and a review of the evidence on scene, it was determined Officer Sotelo discharged his handgun 17 times during this incident.

Officer Terranova

Make: Glock
Model: 34
Caliber: 9mm
Serial number: ACUC302



Officer Terranova carried 17 cartridges in the magazine and one (1) cartridge in the chamber (17+1, 18 total). At the completion of the countdown, seven (7) rounds were in the magazine and one (1) was in the chamber. After the countdown and a review of the evidence on scene, it was determined Officer Terranova discharged his handgun ten (10) times during this incident.

Decedent

Make: Glock
Model: 23
Caliber: .40
Serial number: BHET950



The Glock 23 handgun located on the front passenger floorboard of Decedent's vehicle was documented and impounded by CSA's. There was a magazine seated in the handgun's magazine well. There were nine (9) .40 caliber cartridges in the magazine and one (1) in the chamber.

The Glock 23 handgun was examined and test-fired by LVMPD Forensic Scientist ("FS") Stephanie Fletcher, with no noted malfunctions. The .40 caliber cartridge case found in the center console of Decedent's vehicle was examined and microscopically compared to the test fired cartridge cases from the Glock 23 handgun. FS Fletcher determined the evidence cartridge case had been fired in the Glock 23 handgun.

LEGAL ANALYSIS

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

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

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

The authority to kill another in self-defense or defense of others is contained in NRS 200.120 and 200.160. “Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of ... another person, against one who manifestly intends or endeavors to commit a crime of violence ...” against the person or other person.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 slayer or to any such person, and there is imminent danger of such design being accomplished ...

NRS 200.160(1).

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

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

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

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

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

¹ 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.

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

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

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

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

The known facts and circumstances surrounding this incident indicate that Decedent posed an imminent danger to LVMPD Officers Guzman, Sotelo, and Terranova, as well as the multiple civilians inside their homes in the immediate area. Officers Guzman, Sotelo, and Terranova were aware that Decedent pointed a firearm at a civilian prior to their arrival, so they obtained permission from a Sergeant to stop his vehicle. After the lights and sirens were activated, Decedent fled, driving erratically through residential neighborhoods with multiple collisions occurring and Decedent's vehicle going airborne at one point.

After the pursuit, Officer Guzman exited his vehicle and ordered Decedent to, "Let me see your hands!" Decedent then brandished a firearm, raised it toward Officer Guzman, and fired a round at him. It was then that Officers Guzman, Sotelo, and Terranova fired upon Decedent. Decedent then revved his engine and accelerated toward the Officers, as well as a civilian's apparently occupied residence. It was then that the Officers fired another volley of shots.

Just prior to Officers Guzman, Sotelo, and Terranova discharging their respective weapons, Decedent raised his weapon toward Officer Guzman and fired a round. Officers Guzman and Terranova can be seen on BWC footage visibly reacting to the gunshot and taking cover prior to returning fire upon Decedent, with Officer Sotelo returning fire shortly thereafter. Upon Decedent revving his engine and accelerating toward them, officers fired upon Decedent again, ending the threat he posed to the officers and civilians in the area.

Thus, the totality of the evidence, to include BWC video footage, illustrates that Officers Guzman, Sotelo, and Terranova were reasonable in believing that Decedent would cause great bodily harm or death to themselves or others. Officers Guzman, Sotelo, and Terranova were confronted with the appearance of imminent danger and had an honest belief and fear that they themselves and the civilians in the area were about to be killed or suffer great bodily injury at the hands of Decedent's firearm and/or vehicle. The evidence further illustrates that

Officers Guzman, Sotelo, and Terranova acted reasonably in reaction to the apparent and actual danger posed by the situation and the Decedent. Here, Officers Guzman, Sotelo, and Terranova reasonably acted in self-defense and/or 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 Officers Guzman, Sotelo, and Terranova had probable cause to believe that Decedent posed a threat of serious physical harm to them and to the civilians in the area around and behind them. At the time of the OIS Officers Guzman, Sotelo, and Terranova were aware that Decedent had already pointed a firearm at a civilian, that he did not want to be captured, and that he was driving extremely erratically in order to evade police.

Decedent further refused to comply with Officer Guzman’s command to show him his hands, and instead brandished a firearm and fired at Officer Guzman. At that point, Officers Guzman and Terranova each had a reasonable belief that Decedent could cause serious physical harm to themselves or any civilians in the surrounding area, so they returned fire. Officer Sotelo arrived almost simultaneously and fired upon the suspect as well. Decedent then accelerated toward the officers and a civilian’s home. At that point, Officers Guzman, Sotelo, and Terranova each had a reasonable belief that Decedent could again cause serious physical harm to themselves or any civilians in the surrounding area. Thus, the use of deadly force by Officers Guzman, Sotelo, and Terranova 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, we conclude that the actions of Officers Guzman, Sotelo, and Terranova 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.” See NRS 200.190.

As there is no factual or legal basis upon which to charge, unless new circumstances come to light which contradict the factual foundation upon which this decision is made, no charges will be forthcoming against LVMPD Officers Alberto Guzman, Fernando Sotelo, or Justin Terranova.