



REPORT ON USE OF FORCE

Legal Analysis Surrounding the Death of Maurice Parker on October 27, 2020

INTRODUCTION

On October 27, 2020, at approximately 10:30 am, Las Vegas Metropolitan Police Department (“LVMPD”) Dispatch received a ShotSpotter alert in the area of 3341 Brussels Street. ShotSpotter is a computer system which locates and alerts police of gunfire within a particular area. After receiving the ShotSpotter alert, LVMPD’s Dispatch received several 911 calls from citizens reference a shooting at 3331 Brussels Street. Information through the 911 calls stated the passenger of a red sport utility vehicle (SUV) had fired shots in the alley. Patrol officers arrived on scene and contacted several witnesses to the shooting. Video surveillance was also obtained to help identify the suspects. Detectives from the LVMPD Gangs Investigations section assumed the investigation and conducted follow up for the case.

During the investigation, the suspects in the case were identified, along with the red SUV used in the shooting. Detectives responded to 2855 N. Walnut Road, apartment #297, and located Suspect #1, the driver of the red SUV. Detectives obtained a search warrant for the residence and recovered items of evidentiary value. Suspect #1 spoke to detectives and admitted to being involved in the shooting. Suspect #1 stated the motive for the shooting was a drug deal involving another gang member. Suspect #1 also informed detectives that her fiancé, Maurice Parker, hereinafter known as “Decedent”, was the shooter. Suspect #1 gave detectives details of the shooting and told them Decedent worked at the 7-Eleven on 2577 N. Pecos Road. Suspect #1 told detectives that Decedent was possibly armed with a firearm and was violent.

At approximately 11:30 pm on October 27, 2020, detectives responded to the 7-Eleven and visually identified Decedent. At the time, Decedent was working behind the front counter. Detectives requested uniformed patrol officers to assist, and a plan was formulated to take Decedent into custody. Detectives entered the 7- Eleven, along with patrol officers who activated their body worn cameras (“BWC”). Sergeant Steve Perry and Detectives Solon McGill and Eric Stafford were positioned at the front counter with their guns drawn. Detective Julien Pappas and Officer Ian Sommers positioned themselves at the east side of the front counter. Detective Pappas was armed with his handgun, and Officer Sommers was armed with his Taser. When detectives and officers walked into the 7-Eleven, they ordered Decedent to put his hands in the air. Decedent placed several items that were in his hands down on the counter and put both hands in the air as detectives had instructed. Sergeant Weirauch escorted another employee, E.L, from the counter area to the exit.

Sergeant Perry issued verbal commands to Decedent. Decedent placed both of his hands on his head as instructed and turned the front of his body away from detectives. Sergeant Perry continued to give Decedent instructions. As Detective Pappas and Officer Sommers approached Decedent, he quickly turned toward the detectives at the counter. Decedent moved both hands from his head to the front of his waistband and pulled out a firearm. Sergeant Perry, along with Detectives McGill, Pappas, and Stafford, fired their weapons at Decedent, striking him multiple times. Decedent fell to the ground and his firearm fell to the ground next to his right arm. Detectives broadcast that shots were fired and requested medical personnel to the scene.

Officers held their positions until a ballistic shield was obtained from a patrol vehicle that was parked in the parking lot. Once the ballistic shield was deployed, officers moved toward Decedent and secured his firearm. Officers reapproached Decedent and placed him in handcuffs. Once Decedent was in custody, officers searched him for any additional weapons. After the scene was secured, medical personnel entered the 7-Eleven to check Decedent's injuries and determined he had no pulse. The entire scene was secured, and Force Investigation Team ("FIT") detectives were summoned to the scene to conduct an Officer Involved Shooting ("OIS") investigation.

The Clark County District Attorney's Office has completed its review of the October 27, 2020, death of Decedent. It has been determined that, based on the evidence currently available and subject to the discovery of any new or additional evidence, the actions of Sergeant Perry and Detectives McGill, Stafford and Pappas were not criminal in nature. This review is based upon all the evidence currently available.

This report explains why criminal charges will not be forthcoming against Sergeant Perry and Detectives McGill, Stafford and Pappas. 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 July 12, 2021.

This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of these officers was 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.



Aerial of the OIS location

I. DESCRIPTION OF THE SCENE AND VISIBLE EVIDENCE

On October 28, 2020, at approximately 12:49 am, Senior Crime Scene Analyst Kristina Thomas and Crime Scene Analysts Helen Ngo and Christie Thomas responded to 2577 N. Pecos Road to photograph, collect evidence and document the scene.



Outside the 7-Eleven located at 2577 N. Pecos Road



Inside the 7-Eleven located at 2577 N. Pecos Road

II. INVESTIGATION

Law Enforcement Witnesses

Detective Solon McGill

On October 30, 2020, at approximately 8:47 am, Detective Scott Mendoza conducted an audio recorded interview with Detective McGill.

Detective McGill assisted other Gang detectives with a shooting investigation that occurred in the morning of October 27, 2020. During the investigation, detectives contacted Suspect #1 who was also involved with the October 27, 2020 shooting. In the interview with Suspect #1, detectives learned the location of Decedent. Suspect #1 also confirmed Decedent was the shooter. Suspect #1 said Decedent was violent and possibly armed with a handgun.

Suspect #1 stated Decedent worked at the 7-Eleven store located at 2577 N. Pecos Road. Detective McGill and his squad, along with patrol officers, responded to the 7-Eleven and Decedent was positively identified inside the store by detectives. They formulated a plan and entered the store in an attempt to take Decedent into custody.

Detectives issued verbal commands for Decedent to put his hands up. Decedent initially complied, and then he stopped complying and lowered his hands toward the counter area. Again, detectives

instructed Decedent to put his hands up and attempted to de-escalate the situation. Detective McGill knelt below a clear plexiglass sheet that was positioned between Decedent and the detectives.

As the detectives positioned themselves to take Decedent into custody, Decedent suddenly moved his hands toward the front of his waistband. Decedent pulled a concealed firearm from his waistband as he simultaneously turned toward the detectives. Detective McGill stated he had no other option but to use deadly force at that moment and fired his handgun. Detective McGill believed he fired his weapon three to four times. Detective McGill stated that, if he did not use deadly force at that moment, he believed without a doubt that Decedent would use deadly force against them, and he or another detective would be killed.

Detective Eric Stafford

On November 2, 2020, at approximately 7:15 am, Detective Stafford provided a written voluntary statement to Sergeant Iacullo. Detective Stafford stated he and other detectives were investigating a shooting that occurred earlier in the day on October 27, 2020. During the investigation, through interviews, video evidence, and physical evidence, Decedent was identified as the suspect in the shooting. It was also learned that Decedent was violent, and likely still armed with a handgun. Decedent was also a multiple time felon. Suspect #1 told detectives that Decedent worked at the 7-Eleven located at 2577 N. Pecos Road. Detective Stafford responded to the 7-Eleven and visually identified Decedent as he worked inside the store.

Once the store appeared empty of any customers, detectives approached the entrance and attempted to take Decedent into custody. Detective Stafford entered the 7-Eleven armed with a shotgun and was readily identifiable as a police officer. Decedent quickly moved his hands toward his waist and turned toward the detectives. Detective Stafford stated that Decedent attempted to lift his shirt and grab an object from his waistband with his right hand.

Detective Stafford felt Decedent grabbed for a firearm and intended to use deadly force against him and the other detectives in order to escape. Detective Stafford fired his shotgun one time at Decedent to preserve his life and the lives of his fellow officers. As Decedent fell to the ground, Detective Stafford observed a handgun in a holster on the ground next to Decedent's right hand.

Sergeant Steve Perry

Sgt. Perry declined to give a statement to detectives.

Detective Julien Pappas

Detective Pappas declined to give a statement to detectives.

Witness Officers

Sergeant Theodore Weirauch

On October 28, 2020, at approximately 2:43 am, Detective Jason Leavitt conducted an audio recorded interview with Sergeant Weirauch.

Sergeant Weirauch was assigned as a uniformed patrol sergeant in the Northeast Area Command. Sergeant Weirauch was contacted by Gang Investigation's Sergeant Perry, who was conducting follow up in their area reference a shooting that occurred earlier in the morning.

Sergeant Perry informed Sergeant Weirauch they identified a suspect, Decedent, who worked at the 7-Eleven located at 2577 N. Pecos Road. Sergeant Weirauch met with Gang detectives, along with patrol officers, near the 7-Eleven. A plan was formulated to take Decedent into custody. Sergeant Weirauch approached the 7-Eleven parking lot and observed Decedent through the store window, standing behind the register at the front counter. Sergeant Weirauch acknowledged Decedent and waved at him. Decedent saw Sergeant Weirauch and waved back. While Sergeant Weirauch continued toward the business, plainclothes Gang detectives, wearing tactical vests with police insignias, also approached the 7-Eleven and entered.

As Gang detectives contacted Decedent and issued him verbal commands, Sergeant Weirauch entered the 7-Eleven with his firearm drawn. Sergeant Weirauch observed another 7-Eleven clerk who was also behind the front counter. Sergeant Weirauch approached the other 7-Eleven employee and moved him away from Decedent's location.

As Sergeant Weirauch moved the clerk away from the counter, his back was toward the detectives. Sergeant Weirauch heard Sergeant Perry issue commands to the Decedent and then heard gunfire. After Sergeant Weirauch moved the employee to a safe location, he turned toward the other officers to see what had happened. By this time, Decedent was already lying on the ground. Sergeant Weirauch instructed one of the uniform officers to use a shield as cover and moved toward Decedent to secure his gun which was on the ground next to him. The gun was moved away from Decedent and he was taken into custody.

Officer Ian Sommers

On October 28, 2020, at approximately 2:21 am, Detective Cesar Sedano conducted an audio recorded interview with Officer Sommers.

During the investigation, detectives developed Decedent as a possible suspect and subsequently served a search warrant at his residence. Decedent was not home when the warrant was executed; however, detectives learned Decedent worked at 7-Eleven. Detectives and uniformed officers responded to the 7-Eleven to locate Decedent.

Officer Sommers exited his patrol vehicle and walked to the front of the 7-Eleven store. As Officer Sommers approached the front doors, he recognized the individual standing behind the counter as Decedent and immediately drew his firearm. Officer Sommers observed several other detectives had their firearms drawn, so he holstered his firearm and drew his Taser as a low lethal option.

Officer Sommers positioned himself near the front counter as detectives issued Decedent verbal commands. Decedent disregarded the verbal commands and instead reached toward his waistband in an attempt to grab a firearm. In response, Officer Sommers discharged his Taser at Decedent. Officer Sommers initiated a second activation of the Taser as Decedent reached for the firearm a second time.

A team was assembled and utilized a ballistic shield to safely approach Decedent. Officer Sommers removed the firearm which was next to Decedent. The team approached Decedent and secured the firearm and retreated to a safe distance.

A second plan was formulated to place Decedent into custody. The arrest team approached, and Officer Sommers placed handcuffs on Decedent. Decedent was then placed on his side, in the recovery position. Medical personnel responded and provided medical assistance.

Civilian Witnesses

E.L.

On October 28, 2020, at approximately 2:29 am, Detective Marc Colon conducted an audio recorded interview with E.L. at 2577 N. Pecos Road.

E.L. worked as a cashier at 7-Eleven and worked with Decedent for two months. E.L. and Decedent spoke occasionally when they worked the same shift but weren't friends outside of the workplace. In the past, Decedent had mentioned to E. L. that he carried a Glock 40 handgun. E.L. assumed it was for protection because Decedent was a former gang member.

Decedent told E.L. that about 10:00 in the morning, he had to "show a guy what's up" and used his hand to simulate a gun. E.L. did not ask for further details. Later in the shift, Decedent observed the police in the 7-Eleven parking lot and told E.L. that someone must have gotten pulled over. While Decedent and E.L. were both behind the front counter, the police entered the store and ordered Decedent to raise his hands. E.L. walked away from Decedent while the police continued with their verbal commands.

E.L. was escorted by an officer away from the front counter as he retrieved his cell phone and attempted to call the manager. As he looked at his cell phone for the manager's phone number, he heard several gunshots and officers say Decedent had a gun on him. E.L. did not witness the shooting due to where he was standing in the store.

R.N.N.

On October 28, 2020, at approximately 2:14 am, Detective Colon conducted an audio recorded interview with R.N.N. at 2577 N. Pecos Road.

On the night of October 27, 2020, R.N.N. pulled into the 7-Eleven parking lot to get gasoline. After he filled his tank, R.N.N. decided to play the video poker machines inside the 7-Eleven.

While R.N.N. sat in the 7-Eleven, he observed police officers enter the store. He heard as they yelled commands at Decedent. R.N.N. was unsure what they were saying due to the language barrier. R.N.N. perceived Decedent was not taking the officers seriously, and Decedent appeared as if it was a joke.

R.N.N. turned his attention toward the video poker machine and shortly after heard several gunshots. R.N.N. did not witness Decedent's actions, and he did not witness the shooting.

III. BODY WORN CAMERA FOOTAGE SUMMARIES

Sergeant Weirauch

Sergeant Weirauch wore a body worn camera (BWC) at the time of the incident, and his camera was activated. It showed as Sergeant Weirauch met with Gang detectives just south of the 7-Eleven. The BWC showed Sergeant Weirauch as he approached the front of the store and drew his firearm and aimed it through the glass window at Decedent, who was positioned behind the front cashier counter. Sergeant Weirauch saw E.L. in the store, contacted him and escorted him towards the exit. Around this same time, gunshots are heard. Sergeant Weirauch redirects E.L. toward the east side of the store and remained with E.L. Sergeant Weirauch requested medical personnel and broadcasted via police radio that shots had been fired. Sergeant Weirauch also requested additional officers to the scene.

Sergeant Weirauch then took control of the scene and directed a patrol officer to retrieve a ballistic shield from a patrol vehicle. Sergeant Weirauch did this so they could approach Decedent safely as his firearm was still within his reach. Sergeant Weirauch approached Decedent with the officers who recovered Decedent's firearm. He updated dispatch that Decedent's firearm was recovered, and instructed a patrol officer to place Decedent's firearm near the condiment cart so they could approach Decedent again and secure him in handcuffs. Another patrol officer stayed with the firearm. The officers approached Decedent again and secured him in handcuffs and searched for additional weapons. Sergeant Weirauch started his administrative duties and delegated assignments to other arriving patrol officers. He also coordinated additional resources and updated the dispatcher with information related to the incident. His BWC shows medical personnel as they enter the store to treat Decedent for his injuries.

Officer Sommers

Officer Sommers met with the Gang detectives just south of the 7-Eleven. BWC then shows Officer Sommers as he followed the unmarked detective vehicle to the front of the store and parked his patrol vehicle at the front entrance. Officer Sommers then followed the detectives to the front doors. As detectives entered the store with their weapons drawn, Decedent was issued verbal commands to put his hands up and not move.

Officer Sommers positioned himself inside the store at the front door. He moved to the east side of the store so he could access the front counter area and joined Detective Pappas as Decedent was issued verbal commands. Officer Sommers drew his Taser and aimed it at Decedent. Decedent was

seen with his back toward the detectives and both hands on his head. Decedent immediately moved both hands from his head toward the front of his waistband and turned his body toward the detectives who were still positioned at the front entrance. Multiple gunshots were heard, and Officer Sommers discharged his Taser. Decedent then fell to the ground. Officer Sommers activated his Taser a second time.

Sergeant Weirauch then directed Officer Sommers to assist the officers as they approached Decedent to secure Decedent's firearm. He retrieved the firearm that was positioned next to Decedent's arm, placed it on the ground and rejoined the officers as part of the arrest team. Another officer stayed with the firearm as Sergeant Weirauch formulated a plan to take Decedent into custody.

The stack of officers approached Decedent as Officer Sommers rolled Decedent over and secured him in handcuffs. Officer Sommers completed a pat down on Decedent for additional weapons. Medical personnel entered the store and treated Decedent for his injuries. Officer Sommers informed Sergeant Weirauch that he only tased Decedent. Officer Sommers exited the 7- Eleven and joined the detectives in the parking lot. Officer Sommers deactivated his BWC.



Officer Sommers BWC



Officer Sommers BWC

IV. THIRD PARTY VIDEO AND PHOTOGRAPHIC EVIDENCE

2577 N. Pecos Road (7-Eleven)

Detective Penny contacted the owner of the 7-Eleven, A.W., for access to the video surveillance system. A.W. informed Detective Penny the hard drive for the camera system was inoperable and only certain cameras within the store recorded the incident. Numerous video files were obtained from the surveillance system.

7-Eleven Front Entrance Camera

The camera was affixed on the ceiling and faced toward the front entrance doors and no audio was recorded. The footage revealed the detectives entering the 7-Eleven with their guns drawn. Officer Sommers entered with his yellow Taser in his right hand, with the Taser light illuminated. Decedent was not in camera view as the detectives faced toward the front counter. Officer Sommers was positioned out of camera view as Detective Stafford and Sergeant Weirauch entered the store.

7-Eleven Front Counter Camera

The camera was affixed on the ceiling above the register and pointed directly downward. No audio was recorded. This camera angle was a fisheye, or wide-angle view, that had to be adjusted by Detective Cody Arrendale, of the Digital Forensics Lab to view. The footage revealed Decedent and E.L. working behind the counter at the register. Decedent appeared to be holding a cell phone in his left hand and currency in his right hand. Detectives entered the front entrance with their firearms

drawn and pointed them at Decedent. Decedent raised his hands, then placed them on the back of his head and turned the front of his body away from the detectives. Approximately 26 seconds later, Decedent quickly put both hands at the front of his waistband and turned toward the detectives. Detectives fired their weapons and Decedent fell to the ground. A dark object fell to the ground and landed next to Decedent's right arm. Officers approached with a shield and secured Decedent's firearm. Decedent was then handcuffed, and medical personnel arrived.

V. PUBLIC SAFETY STATEMENTS

Sergeant Perry

On October 28, 2020, at approximately 2:11 am, Detective Jason Leavitt interviewed Sergeant Raymond Weaver in reference to the Public Safety Statement (PSS) he obtained from Sergeant Perry.

Note: Detective Leavitt is designated by (JL) and Sergeant Weaver is designated by (RW).

JL: Hello Operator, this is Detective J. Leavitt, L-E-A-V-I-T-T, with the LVMPD Force Investigation Team. I'll be conducting a Public Safety Statement interview with Sergeant Raymond Weaver. The date is October 28, 2020 at approximately 0211 hours. We're currently located at the corner of Pecos and Haddock. Uh, also present for the interview will be PMSA representative Will Huddler, as well as Detective B. Jackson, P# 9690. Uh, Sergeant, uh, Weaver, did you, uh, take a Public Safety Statement from the involved officers, uh, on this officer-involved shooting?

RW: I did.

JL: Uh, would you be able to give me the name of the person you took the statement from, as well as the time that you took that statement, and then just read the questions as you asked them with their answers.

RW: Yes. I rec...uh, Sergeant Steve Perry. Time of the interview was 2350 hours.

First question was, "Did you discharge your firearm?" His answer was, "Yes."

A: "If so, in what direction?" Stated, "South."

B: "Approximately where were you located," uh, "when you fired?" "East of the suspect, inside the store."

Uh, "How many," um, "shots do you think you fired?" "One maybe."

#2: "Is anyone injured?" Stated, "Yes." Um, and it was the suspect inside the store.

#3: "Are there any outstanding suspects?" Answer was, "No," so I did not continue with A, B, C, D, or E.

Uh, #4: "Is it possible the suspect fired rounds at you?" The answer was, "No," so I did not continue with A, B, or C.

#5: "Do you know if any other officers discharged their firearms?" Answer was, "Yes."

"If so, who are they?" "Stafford, McGill, and Pappas."

Um, "Approximately where was the officer(s) located when they fired?" And he stated, "Inside the store, in front of the counter, outside of it. In front of the counter, outside of it." That's what he stated to me.

Uh, #6: "Are there any weapons or evidence that need to be secured or protected?" Stated, "No." Um, suspect, uh, weapon was secured.

And then, "Are there..." #7: "Are there any other witnesses?" He stated, "A Hispanic male, maybe another clerk," uh, "that's with the officers now."

JL: Okay.

RW: And that'll be it.

JL: Perfect. We'll go ahead and end the interview. Uh, time is now 0214.

Detective McGill

On October 28, 2020, at approximately 2:15 am, Detective Leavitt interviewed Sergeant Weaver in reference to the PSS he obtained from Detective McGill.

Note: Detective Leavitt is designated by (JL) and Sergeant Weaver is designated by (RW).

JL: Hello Operator, this is Detective J. Leavitt, L-E-A-V-I-T-T. I'll be conducting a Public Safety Statement interview with Sergeant Raymond Weaver. The date is October 28, 2020, and the time is 0215 hours. We are current locate...currently located at the corner of Pecos and Haddock. Uh, also present for this interview will be PMSA representative Will Huddler, as well just...as well as Detective B. Jackson. Uh, Sergeant Weaver, you, uh, conducted a Public Safety Statement interview...

RW: Correct.

JL: ...is that correct?

RW: Correct.

JL: Uh, if you could just, uh, give me the name of the person you conducted the interview with, the time you conducted that interview, and then read the questions as you asked them from the card and their response.

RW: Okay. It's gonna be Officer McGill, first of Solon. Time of his interview was 0001 hours.

First question was, "Did you discharge your firearm?" Answer was, "Yes."

A: "If so, in what direction?" "South."

B: "Approximately where were you located," uh, "when you fired?" "Directly in front of register, north of the suspect."

And how... C: "How many shots do you think you fired?" "About three."

#2: "Is anyone injured?" Answer was, "Yes."

A: "If so, where are they located?" Su...uh, ss... "Suspect's in the store."

#3: "Are there any outstanding suspects?" Answer was, "No," so I did not proceed with A, B, C, D, or E.

#4: "Is it possible the suspect fired rounds at you?" The answer was, "No," so I did not proceed with A, B, or C.

#5: "Do you know if any other officers discharged their firearm?" The answer was, "Yes."

A: "If so, who are they?" "Sergeant Perry, Stafford, and Pappas."

Um, "Approximately where was the officer(s)," uh, "located when they fired?" And he stated, "In front of the counter."

#6: "Are there any weapons or evidence that need to be secured or, or protected?" And he said, "No." And, uh, I said, "If so, where are they located?" And he stated, "Officers secured the firearm."

Uh, #7: Are there... "Are you aware of any witnesses? And if so, what are their locations?" He stated, "The 7-Eleven clerk and multiple officers."

And that'll be it.

JL: Okay. We'll go ahead and, uh, end the interview. The time is now 0218.

Detective Pappas

On October 8, 2020, at approximately 2:19 am, Detective Leavitt interviewed Sergeant Weaver in reference to the PSS he obtained from Detective Pappas.

Note: Detective Leavitt is designated by (JL) and Sergeant Weaver is designated by (RW).

JL: Hello Operator, this is Detective J. Leavitt, L-E-A-V-I-T-T, with the LVMPD Force Investigation Team. I'll be conducting one Public Safety Statement interview, uh, with Sergeant Raymond Weaver, P# 6367. The date is Wednesd...uh, October 28, 2020, with the time being 2019 [sic] hours. Uh, we're currently located at the corner of Pecos and Haddock. Also present for the interview will be PMSA representative Will Huddler, as well as Detective B. Jackson. Uh, Sergeant Weaver, did you conduct a Public Safety Statement with, uh, an officer tonight?

RW: I did.

JL: Uh, if you would give me that officer's name, as well as the time you conducted the interview, and then just read from your card the questions you asked and their response.

RW: It was, uh, Officer Julien Pappas. Time of the interview was 0006 hours.

First question was, "Did you discharge your firearm?" The answer was, "Yes."

"If so, in what direction?" "Westbound."

B: "Approximately," uh, "where were you located," uh, "when you fired?" Um, stated, "Behind the counter."

Um, "How many shots do you think you fired?" He stated, "Eight."

Um, #2: "Is anyone injured?" Stated, "Yes."

"If so, where are they located?" It was the suspect in the store.

Um, #3: "Are there any outstanding suspects?" The answer was, "No," so I did not continue with A, B, C, D, or E.

And #4: "Is it possible the suspect fired rounds at you?" The answer was, "No," so I did not continue with A, B, or C.

Uh, #5: "Do you know if any other officers discharged a firearm?" The answer was, "Yes."

A: "If so, who were they?" Uh, "Sergeant Perry, Stafford, and McGill." Um, he didn't...he...or...and B was, "Approximately where were the officer(s) located," uh, "when they fired?" He didn't know the answer to that.

Um, #6: "Are there any weapons or evidence that need to be secured or protected?" And the answer was, "Yes."

And, "If so, where are they located?" Uh, "The firearm with the suspect."

#7: "Are you aware of any witnesses? And if so, where are they located?" He stated, "The 7-Eleven clerk," and didn't know where the 7-Eleven clerk was.

And that was all.

JL: Okay. Thank you very much. We'll go ahead and end the interview. The time is now 0221.

Detective Stafford

On October 28, 2020, at approximately 2:07 am, Detective Leavitt interviewed Sergeant Weaver in reference to the PSS he obtained from Detective Stafford.

Note: Detective Leavitt is designated by (JL) and Sergeant Weaver is designated by (RW).

JL: Hello Operator, this is Detective J. Leavitt, L-E-A-V-I-T-T, P# 5814, with the LVMPD Force Investigation Team. Uh, I'll be conducting a Public Safety Statement interview with Sergeant Raymond Weaver, P# 6367. Uh, the date is October 28, 2020 at approximately 0207 hours. We're currently located, uh, at the corner of Pecos and Haddock. Uh, persons present will be, uh, PMSA representative Will Huddler, as well as FIT Detective B. Jackson.

BJ: Zero..

JL: Thank you. Um, Sergeant Weaver, you, uh, you conducted a Public Safety, uh, Statement with the involved officers, is that correct?

RW: That's correct.

JL: *Um, I know there's multiple. Can we start with the first officer you did a, uh, Public Safety Statement with? If you could just give me their name, the time you gave the interview if you have that, and then if you just read the questions as you asked them and give me their response.*

RW: *Yes. First one was Officer, uh, Stafford, first of Eric. Time of interview was 2345 hours.*

So, #1: "Did you discharge your firearm?" His answer was, "Yes."

"If so, what direction?" "South."

B: "Approximately where were you," uh, "located when you fired?" "Standing in front of cash register," um, "facing south."

And then, "How many rounds or shots do you think you fired?" Uh, C: "One round."

Uh, was... "Is anyone injured?" He stated, "Yes."

And then, "If so, where are they located?" And, uh, stated, "It was the suspect behind the counter."

Uh, #3: "Are there any outstanding suspects?" The answer was, "No," therefore I did not continue with A, B, C, D, or E.

And then #4: "Is there..." Uh, "Is it possible the suspect fired rounds at you?" The answer was, "No," so I didn't continue with A, B, or C.

Uh, #5: "Do you know if there are any," uh, "other officers that discharged," uh, "their firearms?" Answer was, "Yes."

"If so, who are they?" Answer was, "McGill, Perry, and Pappas."

*"Approximately where was the officer(s) located," um, "when they fired?" "Inside the store."
No...nothing specific.*

#6: "Are there any weapons or evidence that need to be secured or protected?" Answer was, "A weapon was secured." Didn't ss...did not tell me where it was located.

And then, uh, #7: "Are you aware of any witnesses?" Uh, "Bunch of officers and two civilians," was the answer.

And that was the end of the Public Sta....Statement.

JL: Okay. We'll go ahead and, uh, end the interview. Same persons are present. Time is now 0211.

VI. OFFICER WEAPON COUNTDOWNS

On October 28, 2020, Sergeant Perry and Detectives McGill, Pappas, and Stafford had their duty weapons counted down at LVMPD headquarters to determine the number of rounds each officer fired during the incident. Subject and witness officers were photographed by CSI personnel for appearance purposes. The subject officers' weapons were photographed for identification purposes.

Sergeant Perry

Prior to the countdown, Sergeant Perry stated he carried 16 cartridges in the magazine loaded in his firearm and one cartridge in the chamber (16+1, 17 total).

At the completion of the countdown, it was determined Sergeant Perry discharged his firearm one time during this incident. Sergeant Perry's firearm, magazine(s) used during the OIS, and cartridges were photographed and impounded by Senior Crime Scene Analyst Amy Nemcik.

Detective Solon McGill

Prior to the countdown, Detective McGill stated he carried eight cartridges in the magazine loaded in his firearm and one cartridge in the chamber (8+1, 9 total).

The completion of the countdown indicated Detective McGill did not discharge his firearm during this incident. However, a seventh magazine which contained four .45 caliber cartridges was located on the ground where Detective McGill was positioned during the shooting. Three spent .45 caliber cartridge cases, along with one live .45 caliber cartridge, were also located on the ground. It was determined that Detective McGill conducted a speed reload after he fired his weapon on the scene. When compared to evidence at the scene, detectives concluded Detective McGill discharged his firearm three times. Detective McGill's firearm, magazine(s) used during the OIS, and cartridges were photographed and impounded by Senior Crime Scene Analyst Nemcik.

Detective Julien Pappas

Prior to the countdown, Detective Pappas stated he carried 15 cartridges in the magazine loaded in his firearm and one cartridge in the chamber (15+1, 16 total).

At the completion of the countdown, it was determined Detective Pappas discharged his firearm eight times during this incident. Detective Pappas conducted a tactical reload and retained the initial magazine that was used during the incident. Detective Pappas' firearm, magazine(s) used during the OIS, and cartridges were photographed and impounded by Senior Crime Scene Analyst Nemcik.

Detective Eric Stafford

Prior to the countdown, Detective Stafford stated he carried five shotgun shells in the tube loaded in his shotgun and no shotgun shell in the chamber (5+0, 5 total).

At the completion of the countdown, it was determined that Detective Stafford discharged his shotgun one time during this incident. When compared to evidence at the scene, detectives concluded Detective Stafford discharged his shotgun one time. During the countdown, Detective Stafford informed Detective Quinteros that he carried three 00 buck shotgun shells and three slug shells in the side saddle of the shotgun, for a total of six live shells. Detective Stafford said one shotgun shell fell from the side saddle prior to exiting his vehicle with the shotgun. After the shooting, Detective Stafford reloaded his shotgun with the remaining two 00 buck shells. Detective Stafford's shotgun and remaining shotgun shells were photographed and impounded by Senior Crime Scene Analyst Nemcik.

VII. FORENSICS REQUESTS/RESULTS

Firearm Examinations

National Integrated Ballistic Information Network (NIBIN)

On October 28, 2020, an LVMPD Forensic Laboratory Request was submitted by LVMPD Firearms Lab Manager Anya Lester, for the Taurus .40 (Decedent's firearm) caliber handgun for NIBIN comparison.

On October 29, 2020, Forensic Laboratory Technologist Logan Bodily submitted the Report of Examination: Firearms. A possible NIBIN association with the Taurus handgun and the casings recovered on the original shooting (3331 Brussels Street) was discovered.

Function Testing and Ballistic Comparison Evidence

On November 4, 2020, an LVMPD Forensic Laboratory Request was submitted by Detective Mendoza for all subject officers' firearms for function tests and ballistic comparison evidence. A function test and ballistic comparison evidence was also requested on Decedent's firearm.

A forensic comparison was also requested on one of the cartridge cases collected on the original shooting scene located at 3331 Brussels Street. The cartridge case was examined and microscopically compared with Decedent's firearm. The exam revealed a match, and the cartridge case was identified as having been fired from Decedent's firearm.

VIII. AUTOPSY

On October 29, 2020, at approximately 7:28 am, under CCOCME case 20-06190, an autopsy was performed on the body of Decedent at the CCOCME by Doctor Ben Murie.

The following wounds/injuries were noted on Decedent:

- 1) Shotgun wound and gunshot wound of right upper extremity into chest
- 2) Gunshot wounds (5) of back torso
- 3) Gunshot wound of right hand
- 4) Laceration to the right arm
- 5) Laceration to the right forearm
- 6) Red abrasion on the left aspect of the face
- 7) Puncture marks to the right palm, right forearm, and right knee due to electrodes.

The toxicology did not reveal any positive findings.

On December 25, 2020, Doctor Murie opined Decedent died as a result of gunshot wounds. The manner of death was homicide.

IX. 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 of these theories will be discussed below.

I. 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.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

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.

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

In this case, Decedent posed an imminent danger to Sergeant Perry, Detectives McGill, Stafford, and Pappas, Officer Sommers and the civilians inside 7-Eleven. The BWC of Officer Sommers and the 7-Eleven video clearly showed officers entered the store and identified themselves to

Decedent. Sergeant Perry and Detectives McGill and Stafford were in front of Decedent with their firearms drawn. To the left of Decedent and behind the counter with him were Officer Sommers and Detective Pappas. The video further showed they gave Decedent ample time to comply with their commands. The BWC and 7-Eleven video also showed, at first, Decedent was compliant. Decedent was instructed to put the items in his hands on the counter, which Decedent did. Decedent was then told to turn so his back was to Sergeant Perry and Detectives McGill and Stafford, with which he complied. Decedent was further instructed to interlace his hands behind his head, to which he also complied. As Sergeant Perry continued to issue commands to Decedent, Decedent suddenly dropped his hands from behind his head and turned toward Sergeant Perry and Detectives McGill and Stafford. As Decedent did this, he put his hands into his waistband and reached for a gun. When Decedent dropped his hands and turned toward Sergeant Perry and Detectives McGill and Stafford, all three fired their weapons at Decedent. Detective Pappas also fired his weapon because he believed Decedent had a gun in his hand, as he turned toward Sergeant Perry and Detectives McGill and Stafford. Had Decedent fired his weapon, Sergeant Perry and Detectives McGill and Stafford were in Decedent's line of fire.

Thus, Sergeant Perry, Detectives McGill, Stafford and Pappas were confronted by the appearance of imminent danger, which created in their minds an honest belief and fear that they were about to be killed or suffer great bodily injury. Accordingly, Sergeant Perry and Detectives McGill, Stafford and Pappas were justified in acting upon those appearances, fears and actual beliefs.

II. JUSTIFIABLE HOMICIDE BY A PUBLIC OFFICER

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

In this case, the facts demonstrate that Sergeant Perry, and Detectives McGill, Stafford and Pappas had probable cause to believe that Decedent posed a threat of serious physical harm to each of them and others. This probable cause became evident after Sergeant Perry, Detectives and McGill, Stafford and Pappas observed Decedent move his hands toward his waist band and turn toward Sergeant Perry and Detectives McGill and Stafford. Sergeant Perry repeatedly issued commands to Decedent and Decedent initially complied with those instructions, but then he chose to turn toward officers with a gun. Decedent did not comply with further commands and instead dropped his hands, put his hands in his waistband and attempted to turn toward Sergeant Perry and Detectives McGill and Stafford. Decedent's actions endangered the life of the officers and the civilians in the store. Thus, Sergeant Perry and Detectives McGill, Stafford and Pappas had a reasonable belief that Decedent was a threat to their lives.

In light of this evidence, the actions of the officers were legally justified and appropriate "in the discharge of a legal duty."

CONCLUSION

Based on the review of the available materials and application of Nevada law to the known facts and circumstances, the State concludes that the actions of Las Vegas Metropolitan Police Department Sergeant Steve Perry and Detectives McGill, Stafford and Pappas 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.