

REPORT ON USE OF FORCE



Legal Analysis Surrounding the Death of Gonzalo Rico-Jimenez on October 31, 2018

INTRODUCTION

On October 31, 2018, 26-year-old Gonzalo Rico-Jimenez (“Decedent”) was shot and killed by North Las Vegas Police Department (“NLVPD”) Officers Christopher Colwell and Ramin Nassiri. The incident took place at approximately 10:49 a.m. near the 2800 block of Emmons Avenue in North Las Vegas, Nevada, 89030.

SYNOPSIS

On the morning of October 31, 2018, NLVPD Officers Colwell and Nassiri were on patrol together in the general area of Emmons Avenue and Statz Street. Shortly before 10:49 a.m., Officers Colwell and Nassiri drove to 2841 Emmons Avenue, which was the known address of M.W., an individual whom the officers had probable cause to arrest for felony Domestic Battery by Strangulation.

Upon arrival, Officers Colwell and Nassiri observed two male subjects matching the known description of M.W. standing in the front yard of 2841 Emmons Avenue. Officer Colwell parked the patrol vehicle along the curb one house to the east of 2841 Emmons. Both officers then exited their marked patrol vehicle, in full uniform, and walked toward the two subjects.

As the officers approached on foot, one of the subjects, who never was positively identified, fled toward the backyard of 2841 Emmons Avenue. The other subject, later identified as Decedent, initially ran toward the house, stopped, and then sprinted back to a blue Chevrolet pickup truck parked in the front yard area of 2841 Emmons Avenue. Decedent entered the truck, which was later discovered to be stolen, and put the vehicle into drive.

Officers Colwell and Nassiri, who were standing directly in front of the truck, issued commands for Decedent to stop and exit the vehicle. Decedent pulled the truck forward into the street at a slow rate of speed, pushing the officers back as they continued to issue commands for Decedent to stop. Both officers drew their firearms and pointed them at Decedent as he continued driving onto the street and turned the truck eastbound toward the officers. The front of the truck struck both officers multiple times as they continued stepping backward.

As the truck continued forward, Officer Colwell repeatedly warned Decedent that he would be shot if he did not stop. Decedent continued to drive the truck, which was now completely in the street, directly toward the officers. As Decedent drove toward them, Officers Colwell and Nassiri each fired their duty weapons. Officer Colwell fired nine rounds, while Officer Nassiri fired once. Decedent was struck multiple times and the truck came to a stop.

Officer Colwell requested medical assistance and directed Officer Nassiri to remove Decedent from the truck and administer first aid. As Decedent was removed from the vehicle and placed on the ground, the truck immediately began rolling forward. Officer Colwell jumped into the truck, applied the brake, and shifted the vehicle into park. Officer Colwell then began cardiopulmonary resuscitation (“CPR”) on Decedent until additional units arrived and took over. Decedent was ultimately pronounced dead on scene. Due to the fact that a fatal officer-involved shooting had occurred, NLVPD homicide detectives responded to the scene and assumed responsibility of the investigation.

The Clark County District Attorney’s Office has completed its review of the October 31, 2018, 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 Officers Colwell and Nassiri 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 Officers Colwell and Nassiri. 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 10, 2019.

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 the NLVPD or to suggest the existence or non-existence of civil actions by any person, where less stringent laws and burdens of proof apply.

SCENE DESCRIPTION

The scene primarily consisted of the residence at 2841 Emmons Avenue and the street immediately north of the residence. The blue Chevrolet pickup truck that Decedent had driven was parked in the middle of street on the 2800 block of Emmons Avenue, slightly east of the residence. Decedent's body was laying in the street outside the open driver-side door of the truck. A marked patrol sport-utility vehicle ("SUV") was parked directly in front of the Chevrolet truck, facing toward it.



Figure 1 - Satellite Image of 2841 Emmons Avenue and Surrounding Area

The residence at 2841 Emmons Avenue is a north-facing unit on the south side of the street, near the three-way intersection of Emmons Avenue and Statz Street. Tread marks from the passenger-side tires of Decedent's truck could be traced back to the dirt lot of the residence's front yard. The rear passenger-side tire on the Chevrolet pickup truck was correspondingly covered in dirt. The tread marks appeared to be smudged where the dirt lot met the sidewalk indicating that the rear wheels of Decedent's truck had spun in place at that location. There were corresponding tire tread marks on the driveway for the tires located on the driver-side of the truck.



Figure 2 – Scene Photograph Depicting Front Yard of 2841 Emmons Avenue

Detectives knocked on the front door of 2841 Emmons Avenue. There were four occupants inside the house and each exited voluntarily and spoke with detectives. All claimed they were inside the house when the shooting occurred, and they were unable to provide any information about the shooting or the events leading up to the shooting. One of the four occupants was M.W., who appeared to have recently shaved his head. M.W. was arrested and booked at the Las Vegas City Detention Center on the existing probable cause for felony Domestic Battery by Strangulation.

Decedent's truck – a blue 2005 four-door Chevrolet pickup truck bearing Nevada license plate 258C46 – was parked in the middle of Emmons Avenue facing north-northeast. The truck was located on the northern half of the street, which would be the westbound lane if the street had marked lanes. The front wheels were turned to the right and there was no license plate on the vehicle's front bumper. The front and rear driver-side doors were open and loud music was coming from the stereo speakers. Directly in front of the Chevrolet pickup truck was a marked NLVPD patrol SUV that was assigned to NLVPD Officer Jordan Ooms. The police SUV was pointed west, facing the pickup truck head-on.

Decedent was laying supine on the pavement on the driver side of the pickup truck. His arms were outstretched, and his legs were straight. His right foot was next to the rear driver-side tire of the truck. He wore a black t-shirt over a gray long-sleeve sweatshirt, blue jeans, and black shoes. A black baseball cap was on the ground next to him. He had apparent gunshot wounds to his chest and face. Two deformed bullets could be seen on the ground to the right of Decedent's body.



Figure 3 – Scene Photograph Depicting Location of Decedent and Stolen Chevrolet Pickup Truck

Inside the truck, there was blood on the driver seat, center armrest and steering wheel. There were ten apparent bullet holes in the front windshield of the truck. The truck appeared to have been stolen, as the bottom of the steering column and ignition housing was missing and the lock mechanism on the driver door handle was punched out, leaving a void. Later that day, at approximately 05:20 p.m., officers from the Las Vegas Metropolitan Police Department (“LVMPD”) met with the registered owner of the truck, D.F., who reported that the truck was stolen earlier that day between 01:00 a.m. and 01:30 p.m. The theft was reported under LVMPD Event Number 181000167498.

Ten cartridge cases were located between the driver side of the pickup truck and the sidewalk on the north side of the street. Items removed from Decedent’s person included a flat-head screwdriver, a pair of locking pliers, a cell phone, and methamphetamine. A blue and orange backpack was located against the curb on the north side of the street, approximately 15 feet from Decedent. Inside the backpack were multiple car keys and key fobs, including key fobs for a Dodge vehicle and a Mercedes-Benz vehicle, and keys for a Chevrolet vehicle and Caterpillar equipment. Also inside the backpack was a pair of gloves, a wrench, and two flathead screwdrivers.

Another stolen vehicle – a white Ford F-250 pickup truck – was parked against the curb on the south side of the street in front of 2841 Emmons Avenue. Like the stolen Chevrolet, the Ford truck had no license plate on the front bumper and the lock mechanism on the driver door handle was punched out. The truck was reported stolen on October 30, 2018, under LVMPD Event

Number 181000161110. The truck was subsequently processed and 22 latent prints were lifted from the truck. Six of the prints were of suitable quality for comparison purposes. Of those, three prints belonged to Decedent and one belonged to M.W.

RADIO TRAFFIC RECORDINGS AND DISPATCH LOGS

Computer-Aided Dispatch (“CAD”) logs and radio traffic recordings were pulled for Officer Colwell and Nassiri’s shift. Officers Colwell and Nassiri were assigned to ride together as a two-officer patrol unit using call sign “Two-Adam-One”. Their shift began at 07:00 a.m. At approximately 10:49 a.m., the following radio traffic exchange took place:

Ofc. Nassiri 2A1, I’ve got one at gunpoint.
Dispatch Control advising all units, Patrol South (radio channel) is code red for Statz and Lake Mead, one at gun point.
Ofc. Nassiri Shots fired [*gunshots in background*]
Ofc. Colwell Control two Adam one.
Dispatch Two Adam one.
Ofc. Colwell We’re over at Emmons and Statz. We got one shot. Let’s get medical en route.
Dispatch Copy.
Ofc. Nassiri 2841 Emmons
Ofc. Nassiri Control, 2A1, log a plate, please.
Dispatch Go ahead.
Unk. Ofc. 2-5-8-Charlie-4-6, break for information.
Ofc. Sotelo Baker-1 en route.
Dispatch 1 Is it code 4 [*safe*] for medical?
Unk. Ofc. Yeah
Dispatch Two Adam one, go ahead with your info.
Ofc. Nassiri HMA tried to run us over in front of 2841. He failed to stop, we gave him several verbal commands to stop the vehicle, he did not stop the vehicle, attempted to run us over.
Ofc. Olsson Charlie 3 on scene, hey Sarge, get on Lake Mead and Statz, block traffic. Shut this area down.
Ofc. Olsson [*Unintelligible*] medical trying to attempt to save his life, administered aid, CPR.
Dispatch CPR.
Recording End date Wednesday, October 31, 2018, 10 hours 49 minutes 59 seconds.

DOCUMENTATION OF OFFICERS COLWELL AND NASSIRI ON SCENE

Crime scene investigators took photographs of both officers on scene to document their appearance in uniform. Both officers wore standard patrol uniforms with department patches on each sleeve, a metal badge, and a duty belt. Prior to the arrival of crime scene investigators, Officer Colwell requested permission to wash the blood off his hands from performing CPR on Decedent. Officers on scene took multiple photographs documenting the blood on Officer Colwell's hands prior to his washing them.

Each officer's duty firearm was collected and booked into evidence. Both officers were then transported to the NLVPD South Area Command where their patrol uniforms were removed and placed into evidence. Officers Colwell and Nassiri were then transported to a medical facility for evaluation. Officer Colwell reported no visible injury to his legs from impact with the truck, but he was diagnosed with a lumbar sprain. Officer Nassiri reported sharp intermittent pain in his right knee from being struck by the truck driven by Decedent. An x-ray examination showed no signs of fracture or dislocation. Officer Nassiri was diagnosed with a knee strain.

OFFICER WEAPON COUNTDOWNS



Figure 4 – Photographs of Officers Nassiri's and Colwell's Primary Duty Firearms

Officer Colwell's primary duty firearm was a Glock-17 9mm pistol. There were nine live cartridges in the pistol. Officer Colwell stated that he loaded his pistol at the range earlier that day with a total of 18 cartridges. Officer Colwell's other magazines were still at capacity, as was his backup pistol. At the completion of the countdown it was determined that Officer Colwell fired nine rounds during this incident.

Officer Nassiri's primary duty firearm was also a Glock-17 9mm pistol. There were 16 live cartridges in the pistol. Officer Nassiri stated that he loaded his pistol at the range earlier that day with a total of 17 cartridges. Officer Nassiri's other magazines were still at capacity, as was his backup pistol. At the completion of the countdown it was determined that Officer Nassiri fired one round during this incident.

FIREARM EXAMINATIONS

LVMPD Forensic Laboratory Requests were submitted on the firearms of Officers Colwell and Nassiri for function testing and ballistic comparisons to the evidence cartridge cases. On February 21, 2019, Forensic Scientist Kathy M. Geil submitted the Report of Examination: Firearms.

Officer Colwell's Glock pistol was examined, test fired and found to be operational with no noted malfunctions. The submitted magazine had a capacity of 17 cartridges. Officer Nassiri's Glock pistol was examined, test fired and found to be operational with no noted malfunctions. The submitted magazine had a capacity of 17 cartridges.

The ten evidence cartridge cases were examined and compared to test fired cartridge cases from both weapons. Nine of the cartridge cases were identified as having been fired from Officer Colwell's Glock pistol. One of the cartridge cases was identified as haven been fired from Officer Nassiri's Glock pistol.

OFFICER COLWELL'S STATEMENTS

Officer Colwell's Public Safety Statement

Officer Colwell provided a Public Safety Statement to NLVPD Sergeant Jake Hickman in which he stated the following: Officer Colwell reported discharging his firearm five to six times from the passenger side of Decedent's truck. There was an outstanding suspect described as a Hispanic male, approximately 5'08" tall, last seen wearing a black shirt. There were no other witnesses aside from Officer Nassiri.

Officer Colwell's Recorded Voluntary Statement

On November 2, 2018, at approximately 11:30 a.m., NLVPD Detective Jeff Wall conducted an audio-recorded interview at NLVPD Detective Bureau with Officer Colwell, who was accompanied by legal counsel Jeff Allen. The following is a summary of Officer Colwell's audio-recorded statement.

Officer Colwell began his shift at 07:00 a.m. on October 31, 2018. He was assigned to ride with Officer Nassiri in a marked patrol vehicle as unit Two-Adam-One. After briefing, he and Officer Nassiri went to the firearms range, where he completed semi-annual qualification with his duty weapon. After the range, Officers Colwell and Nassiri began their patrol and responded to calls for service.

Around 10:40 a.m., after conducting a stop near Statz Street and Lake Mead Boulevard, Officers Colwell and Nassiri drove to 2841 Emmons to look for M.W., a suspect in a felony domestic battery incident. Officer Colwell had been looking for M.W. for the past two weeks and had conducted three or four property checks at that address previously. During past property checks, the residents of the house confirmed that M.W. lived there, but Officer Colwell had yet to make

contact with him. Officer Colwell was familiar with M.W.'s booking photographs and was aware that M.W.'s residence was also linked to stolen vehicles, per conversations he had with detectives from the Vehicular Crimes Unit.

Officer Colwell parked his patrol SUV left wheel to curb in front of 2845 Emmons, which is one house to the east of 2841 Emmons. Officer Colwell saw two Hispanic males standing in the front yard of 2841 Emmons. The males were standing near a Chevrolet truck that had been backed into the front yard and was facing north. The truck's passenger side tires were in the dirt yard and the driver side tires were in the driveway.

Officer Colwell observed that the two subjects appeared to have a similar height, with a medium build, black hair and facial hair. From his vantage point, Officer Colwell believed that both subjects matched the description of M.W. Officers Colwell and Nassiri exited the patrol vehicle to go speak to the two individuals. As they approached on foot, one of the subjects turned around and started walking southbound away from the officers and toward the backyard of 2841 Emmons. Officer Colwell lost sight of where this subject went as his attention shifted to Decedent.

Decedent jogged away from the officers, running around the back of the Chevrolet truck parked in the yard. Colwell lost sight of Decedent as he ran around the truck, so he drew his gun, approached the truck, and commanded Decedent to "Stop! Stop!" He and Officer Nassiri were standing in the street when Decedent got into the driver seat of the Chevrolet. Both officers stepped closer to the front of the truck to issue commands for him to get out. Instead, Decedent began to slowly drive the truck forward toward them.

As Decedent drove toward the officers, Officer Colwell observed Decedent take his hands off of the steering wheel and reach to an area underneath the steering column. Officer Colwell was concerned that he may be reaching for a gun. At this point, Officer Colwell noted that both he and Officer Nassiri had their guns aimed at Decedent as they yelled commands for Decedent to stop. During this interaction, Officer Colwell locked eyes with Decedent as he shouted, "I'm going to shoot you if you keep coming!" Officer Colwell recalled repeating that warning approximately four or five times. Officer Colwell observed Decedent bring his hands up in front of his face multiple times, with his palms facing out, as if he were anticipating gunfire.

Decedent continued moving the truck forward toward the officers, stopping intermittently. Each time he moved the vehicle forward, the front of the truck would strike Officer Colwell in the legs and move Officer Colwell further backward. Once the truck was halfway into the street, Decedent began turning the truck to the right as if to drive eastward down Emmons Avenue.

When the truck was completely on the street, Officers Colwell and Nassiri were still stuck directly in front of the truck. Officer Colwell was positioned between the passenger side headlight and the center of the front bumper; Officer Nassiri was standing approximately one foot to his right. Officer Colwell did not feel it was safe to attempt to move out of the truck's way and was concerned his movement may leave Officer Nassiri more vulnerable to being run over. While the

front bumper of the truck was touching him, Officer Colwell heard what sounded like the engine revving, and in that moment, he decided to fire his gun at Decedent to prevent himself and Officer Nassiri from being seriously injured or killed by the truck running over them. He did not believe any other tools available to him would have been effective in stopping Decedent.

Officer Colwell aimed his gun at Decedent's head, as that was the only target available to him. Officer Colwell thought he fired his gun five to six times in rapid succession, and he believed he heard Officer Nassiri fire a single shot during that time. Immediately after firing the shots, it was clear to Officer Colwell that Decedent was incapacitated. Officer Colwell got on the police radio to request medical assistance and he directed Officer Nassiri to pull Decedent out of the truck so that they could administer first aid.

As soon as Decedent was pulled from the truck to the ground, the truck began rolling forward again. Officer Colwell jumped into the truck, applied the brake, and shifted the vehicle into park. He then performed CPR on Decedent for about fifteen to twenty seconds before Officers Mario Olsson and Jordan Ooms arrived and Officer Olson took over administering CPR.

During his voluntary statement, Officer Colwell was provided a map of the area and a cutout of a truck to scale. Officer Colwell pointed out where Decedent's truck started and where it came to rest. Upon his initial contact, the Chevrolet was backed up into the front yard of 2841 Emmons, facing north toward the street. The driver side tires were on or near the driveway, while most of the truck was parked in the yard to the east of the driveway. The front of the truck was not obstructing the sidewalk. At the time of the shooting, the truck was pulled forward from the driveway. The front of the truck was in the street, while the back of the truck was on the sidewalk. The truck was angled facing northeast. The final location of the truck, based on his recollection, was slightly forward of where the shooting occurred, in the middle of Emmons Avenue, east of the driveway of 2841 Emmons.



Figure 5 – Diagram of Crime Scene from Officer Colwell's Recall

OFFICER NASSIRI'S STATEMENTS

Officer Nassiri's Public Safety Statement

Officer Nassiri provided a Public Safety Statement to NLVPD Sergeant Mark Suranowitz in which he stated the following: Officer Nassiri reported discharging his firearm one time in a southwest direction. Officer Nassiri also reported that Officer Colwell fired his weapon. Decedent was injured, and his body was located on the ground next to the blue Chevrolet pickup truck. Officer Nassiri reported that no rounds were fired in his direction, but that Decedent had used the blue Chevrolet pickup truck as a weapon. Officer Nassiri stated that his right knee was struck by the pickup truck. One suspect remained outstanding and was described as a male with a height of about 5'10" and a medium build, wearing a gray shirt. The outstanding suspect was last seen running southbound from the front yard of 2841 Emmons Avenue. Officer Nassiri believed the outstanding suspect to be the only known witness.

Officer Nassiri's Recorded Voluntary Statement

On November 2, 2018, at approximately 12:45 p.m., NLVPD Detective Jeff Wall conducted an audio-recorded interview at NLVPD Detective Bureau with Officer Nassiri, who was accompanied by legal counsel Jeff Allen. The following is a summary of Officer Nassiri's audio-recorded statement.

Officer Nassiri began his shift at 07:00 a.m. on October 31, 2018. He was assigned to ride with Officer Colwell in a marked patrol vehicle as unit Two-Adam-One. After briefing, he and Officer Nassiri went to the firearms range, where he completed semi-annual qualification with his duty weapon. After the range, Officers Colwell and Nassiri began their patrol and responded to calls for service.

At about 10:41 a.m., Officers Nassiri and Colwell conducted a pedestrian stop near Lake Mead Boulevard and Statz. Afterward, Officer Colwell recommended stopping by 2841 Emmons Avenue, which was nearby, to check for M.W. Officer Nassiri was familiar with M.W. and knew probable cause existed to arrest him for a felony domestic violence incident. He said Officer Colwell had also told him that M.W.'s house was known to be associated with stolen vehicles.

As Officer Colwell parked their patrol vehicle on Emmons, Officer Nassiri noticed two Hispanic males standing next to a blue Chevrolet pickup truck parked in the driveway of 2841 Emmons. One male was standing next to the open passenger side door, and the other male was standing next to the open driver side door. Officer Nassir thought both subjects matched M.W.'s description and he and Officer Colwell exited the patrol vehicle to go speak to the two males.

Officer Nassiri got out and walked in the street parallel to Officer Colwell. He anticipated that Officer Colwell would contact the subject closest to him, who was standing on the passenger side of the truck, and that Officer Nassiri would attempt to contact the subject on the driver side of the tuck. As both officers approached, Officer Nassiri saw the subject on the passenger side of

the truck turn and run southbound toward the backyard of 2841 Emmons. Meanwhile, the subject on the driver side, Decedent, appeared nervous and turned around and ran toward the house.

Officer Nassiri walked to a position about eight feet in front of the truck where he could see what Decedent was doing. As he did so, Decedent stopped, turned around and ran back to the truck. Decedent jumped into the driver seat of the truck and shut the door. At that point, Officer Nassiri was standing in the street in front of the truck when he saw Decedent shift the truck into drive and begin driving forward toward him. Officer Nassiri did not have his duty weapon drawn at that point.

The front bumper of the truck struck Officer Nassiri's knee, forcing him backward. Officer Nassiri saw Decedent's hand on the steering wheel as Decedent turned the truck to the right, toward himself and Officer Colwell. Officer Nassiri took several steps backward, but the truck continued moving forward toward him, pushing him back further. Officer Nassiri drew his firearm and advised dispatch that he had one person at gunpoint. Officer Nassiri locked eyes with Decedent as he gave loud verbal commands, "Stop the vehicle! Stop the vehicle!" Decedent put his right hand in front of his face, palm facing away from him, and he tried to duck his head under the dashboard, as if anticipating incoming gunfire, but did not stop the truck.

Officer Nassiri kept taking steps backward, but the truck kept moving forward and bumping into him. Officer Nassiri estimated that the truck struck him a total of five to ten times, impacting his body between his knee and sternum. Officer Nassiri used his hand to bang on the hood of the truck as he yelled, "Stop the car! Stop the car!" The truck stopped momentarily, and he heard Officer Colwell yell, "I'm going to shoot if you do not stop this vehicle!" Less than a second later, the truck moved forward again, pushing Officer Nassiri backward into the street.

Officer Nassiri said he was standing directly in front of the truck, between the center of the grill and the driver side headlamp, and his body was in direct contact with the front of the truck. He did not believe he had the opportunity to move out of the way of the truck since the truck was so close to him and kept pushing him back. When Decedent had the truck entirely in the street and facing east on Emmons Avenue, Officer Nassiri believed at that point that Decedent would exercise his ability to hit the accelerator and escape by running over and killing himself and Officer Colwell. He did not believe he had access to any alternative means of stopping Decedent aside from using his firearm.

In fear for his life, he aimed his gun at part of Decedent's torso visible above the steering wheel and fired one round. Officer Nassiri heard Officer Colwell fire two rounds before he fired, but he did not believe the sound of those shots affected his own decision on when to fire. After firing, Officer Nassiri could see Decedent was incapacitated and the truck had stopped. Officer Nassiri opened the passenger door of the truck to see whether there was anyone else in the truck. As he opened the driver door he noticed the truck was still in drive.

Officer Colwell told him to get Decedent out so they could perform CPR. Officer Nassiri complied by pulling Decedent out of the truck to the ground, which caused the truck to roll forward without a driver. Officer Colwell jumped into the truck to shift it into park, and then he called for medical response and began performing CPR on Decedent. Officer Nassiri notified dispatch that shots were fired, prompting response from other units. He said Officer Olsson and Officer Ooms each responded within 20-30 seconds. He said Officer Olsson moved Officer Colwell and Nassiri's patrol car from its original location so that the ambulance could better access the area.

Officer Nassiri noted that upon his initial contact, there was nothing preventing Decedent from running away into the yard like his associate did. Officer Nassiri also noted that even after getting into the truck, Decedent still had the opportunity to avoid contact with the officers had he turned left out of the driveway, instead of turning right towards the officers.

During his voluntary statement, Officer Nassiri was provided a map of the area and a cutout of a truck to scale. Officer Nassiri pointed out where Decedent's truck started and where it came to a stop. Upon his initial contact, the Chevrolet was parked in the driveway of 2841 Emmons, facing north. The front of the truck was past the edge of the driveway into the sidewalk. At the time of the shooting, the truck was in the middle of Emmons Avenue, east of the driveway at 2841, facing due east. He pointed out where the truck's final location was after it rolled forward without a driver, which was accurate when compared to photos from the scene.



Figure 6 – Diagram of Crime Scene from Officer Nassiri's Recall

Regarding his injured knee, Officer Nassiri stated the front bumper struck the front-center of his knee. The front bumper of the truck was between 17" and 24" from the ground. Officer Nassiri's knee was approximately 20" from the floor when wearing casual shoes. After the shooting, Officer Nassiri saw no visible swelling on his injured right knee, but he said one of the responding paramedics felt his knee and said, "it looks a little bit swollen." Officer Nassiri stated he was still experiencing discomfort in his knee two days after the incident.

SUMMARY OF RELEVANT WITNESS STATEMENTS

Officer Witnesses

Detective Wall conducted recorded interviews with the two officers that were first to arrive on scene after the shooting: Officer Mario Olsson and Officer Jordan Ooms. Officer Olsson's interview took place on October 31, 2018, at 01:12 p.m. Officer Ooms' interview took place the same date at 01:30 p.m.

Officer Mario Olsson

On October 31, 2018, Officer Olsson was working in a uniformed patrol capacity when he heard Officers Colwell and Nassiri call out an investigative stop at Lake Mead Boulevard and Statz Street over the radio. Shortly thereafter, he heard what he believed was Officer Nassiri yelling commands. Officer Olsson began driving toward Officers Colwell and Nassiri's last known location when he heard Officer Nassiri on the radio shout "Shots fired!"

Officer Olsson approached the area of Lake Mead and Statz, then followed Officer Ooms' patrol vehicle southbound on Statz and parked his car on the south side of Emmons Avenue. As he exited his vehicle, he saw a dark-colored Chevrolet truck parked in the middle of the street facing a patrol vehicle head-on. Near the back end of the truck, Officer Olsson saw Decedent laying supine on the ground with apparent gunshot wounds. Officer Olsson also saw Officers Nassiri and Colwell who were both breathing heavily and appeared "shaken up." He directed them to the sidewalk to catch their breath. Officer Olsson heard Officer Nassiri say that the truck was coming right at him and struck his knee.

Officer Olsson then radioed for expedited medical assistance, put gloves on and began performing chest compressions upon Decedent. As he did so, he directed Officer Ooms to perform a weapons pat down on Decedent. After Officer Ooms completed the pat down, he took over chest compressions while Officer Olsson began securing the scene. Chest compressions continued until paramedics arrived and determined Decedent had no pulse. At that point, Officer Olsson cleared the paramedics out of the immediate area and focused his efforts on securing the scene.

Officer Olsson went with paramedics to check on Officers Colwell and Nassiri. Officer Nassiri lifted both pant legs, and Officer Olsson was able to see swelling on the outside of his right knee. Paramedics gave Officer Nassiri an ice pack, which he applied to his own knee to reduce swelling.

Officer Jordan Ooms

Officer Ooms related that he was on patrol when he heard a "shots fired" call over radio traffic and immediately drove to Statz and Emmons in his marked patrol SUV. Officer Ooms was one of the first officers to arrive and parked his vehicle on Emmons, facing west, in front of a blue Chevrolet truck that was parked diagonally in the street. He noticed commotion toward the back side of the truck and exited his patrol SUV to assist.

As Officer Ooms ran toward the back of the truck, he noticed the truck start rolling toward his patrol SUV. He recalled that one of the officers – either Officer Colwell or Officer Nassiri – jumped into the blue truck and put it into park before it crashed into the SUV.

At the back of the blue Chevrolet, Officer Ooms saw Officer Nassiri standing and Officer Colwell down near the hands of Decedent, who was on the ground. He also recalled one of the two officers told him, “He tried to run us over,” though he could not recall which officer made the statement. Both officers told Officer Ooms that they were “okay” and asked Officer Ooms to clear Decedent’s truck.

Officer Ooms opened the rear driver-side door of the Chevrolet to ensure it was not occupied by anyone else. When he turned around, he saw Officer Olsson had arrived and was performing CPR on Decedent. Officer Ooms put on gloves and patted down Decedent’s clothing for weapons. During the pat down, he pulled out a pair of pliers and a screwdriver from the back pocket of Decedent’s pants and he put them on the ground near his legs. Officer Ooms then relieved Officer Olsson by performing chest compressions on Decedent until paramedics arrived and relieved him. After paramedics arrived, Officer Ooms assisted in forming a scene perimeter to the west. He ran the license plate of the white Ford F250 and discovered that it had been reported stolen.

Civilian Witnesses

NLVPD detectives canvassed the surrounding neighborhood and spoke to residents in the nearby homes. The following is a summation of statements provided by civilian witnesses who either heard or saw something pertinent to the officer-involved shooting.

Witness L.S.

L.S. and his wife, G.S., were at a house on Statz Street at the time of the incident. The front door of the residence faces wet down Emmons Avenue, affording them an unobstructed view of the scene, which was approximately 160-feet away.

L.S. resides in the house on 2841 Emmons Avenue with other family members, including his grandson, M.W. The house on Statz Street is his son’s house where his wife, G.S., had been staying. L.S. reported that he was at house on 2841 Emmons Avenue shortly before the shooting. When L.S. had left the house on 2841 Emmons to walk over to the house on Statz, the blue Chevrolet truck was not parked in the front yard. Soon after he arrived at the house on Statz, however, he looked back and saw that the Chevrolet truck had backed into the driveway/front yard area. He had never seen the truck before and had no idea who drove it.

Soon thereafter, L.S. noticed either two or three uniformed officers in front of the house and watched as the Chevrolet truck pulled out of the driveway and drove slowly forward toward the officers. L.S. stated that the officers had their guns out, pointed at the driver, and were asking him to stop. Despite this, the driver of the truck continued forward “shoving ‘em” and “pushing them backwards.” L.S. stated that the officers continued to ask Decedent to stop and that “he

could've stomped on the gas and ran over the [officers]." L.S. confirmed that at least two officers were directly in front of the truck when he heard three or four gunshots.

Witness G.S.

G.S. reported that she was at the house on Statz Street when a noise outside caused her to look out the window. G.S. saw the Chevrolet truck parked at 2841 Emmons and asked her husband whose truck it was. She then saw two police officers approaching the truck and Decedent get into the truck, start it and drive toward the officers, almost hitting them. She heard the officers, whom she noted were in front of the truck, shouting at Decedent to "Get out of the truck." G.S. told detectives that she was worried Decedent was going to run the officers over and hoped that he would stop before he got himself into even more trouble. The officers were still in front of the truck when she heard four gunshots.

Witnesses A.P. & C.B.

Detectives also interviewed A.P. and C.B. at a nearby house on Emmons Avenue. Both A.P. and C.B. stated they were in their house at the time of the shooting. Prior to the shooting, both A.P. and C.B. claimed to hear someone yell something like "Get away from me or I'll shoot you!" They heard shots fired afterwards but did not go outside of their house to see what had happened.

Paramedic W.L.

On December 19, 2018, American Medical Response ("AMR") paramedic W.L. provided a statement to NLVPD Detective Wall. W.L. recounted that upon his arrival he saw an officer performing CPR on Decedent. W.L. took over and continued CPR but believed Decedent was beyond resuscitation. An electronic monitor was used to verify the absence of any vital signs, at which point all no further life-saving efforts were made.

W.L. recalled evaluating Officer Nassiri's knee. He stated that there was no visible swelling but that he felt the knee with his fingers and could feel "definite swelling." W.L. was not told what might have caused the injury, but he provided an ice pack and recommended further medical evaluation.

VIDEO EVIDENCE

On November 16, 2018, NLVPD Detective Wall met with R.M., a resident of a nearby home on Hoyt Street. R.M. had a video surveillance system on her house, including one camera facing east toward the area of the shooting. Detective Wall collected and reviewed the video; however, the shooting incident was not captured. The camera does not continuously record, but rather is motion-activated and only records for thirty- to forty-seconds at a time when triggered. The incident in question was apparently too far away to trigger a recording. The only footage recorded on October 31, 2018, took place either well before the shooting or well after the shooting when officers had set up traffic cones on Emmons Avenue to stop traffic.

Neither Officer Colwell nor Officer Nassiri was equipped with body-worn cameras on the day of the shooting. Their patrol vehicle was not outfitted with any dashboard-mounted video cameras.

SEARCH OF DECEDENT'S TRUCK

On November 1, 2018, the blue Chevrolet pickup truck driven by Decedent was searched, photographed and processed at the NLVPD evidence bay. Inside the vehicle, NLVPD detectives and crime scene investigators recovered multiple bullet fragments. Additionally, 12 latent prints were located on the truck's exterior; of those, only two were of comparison quality. One of the two prints belonged to Decedent.

A total of ten defects consistent with bullet strikes were observable in the windshield of the vehicle. Two additional bullet-strike defects were noted in the dashboard and instrument panel, which corresponded to two of the defects in the windshield. Trajectory rods were placed through the two bullet holes and their corresponding strike marks. The rods visually demonstrated that the involved officers were in front of the vehicle when shots were fired, and that the shots were fired toward the driver.



Figure 7 – Photographs of Bullet Strikes and Trajectory Rods as Viewed from Outside and Inside the Chevrolet Truck

DECEDENT'S AUTOPSY

On November 11, 2018, Medical Examiner Dr. Chiara Mancini (“M.E. Mancini”) of the Clark County Coroner’s Office conducted an autopsy on Decedent. M.E. Mancini’s examination concluded that Decedent was shot a total of nine times. The trajectory of each of the nine bullets was from front to back and, where lateral movement could be determined, from left to right. Seven deformed bullets and one bullet fragment were recovered from Decedent’s body. M.E. Mancini concluded Decedent’s cause of death was multiple gunshot wounds.

The toxicology results indicated Decedent had methamphetamine and THC in his blood and urine. The amount of methamphetamine in Decedent’s blood was reported at 890-nanograms/milliliter. According to the Reference Comments from NMS Labs regarding methamphetamine levels in peripheral blood, “blood levels of 200-600 ng/mL have been reported in methamphetamine abusers who exhibited violent and irrational behavior.”

RECORDS ASSOCIATED WITH DECEDENT

At time of the officer-involved shooting, Decedent had an active felony warrant for his arrest for Grand Larceny and Battery which had been issued in July of 2018. NLVPD Detective Wall obtained Decedent's Facebook records as well. In the 24-hours preceding his death, Decedent sent and received multiple messages tying him to the stolen Ford and Chevrolet trucks found at the scene. Additionally, Decedent sent and received multiple messages regarding the purchase and use of methamphetamine in the hours preceding his death.

LEGAL ANALYSIS

The District Attorney's Office is tasked with assessing the conduct of officers involved in any lethal use of force that occurred during the course of their duties. This 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 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).

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.

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. 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.

The known facts and circumstances surrounding this incident indicate that Decedent posed an actual imminent danger to Officers Colwell and Nassiri. When the officers approached to speak with Decedent, he initially ran southbound away from them. He then turned back around and entered the stolen Chevrolet pickup truck against the lawful commands of the officers for Decedent to stop. Decedent then placed the vehicle into drive with both officers standing directly in front of it and began driving toward them, striking both officers with the truck. Decedent repeatedly refused to comply with the officers' commands to stop the vehicle and disregarded multiple warnings that he would be shot if he did not stop. Additionally, Decedent could have turned the truck westbound, away from the officers, as he was getting onto Emmons, but instead turned eastbound, continuing toward the officers. Officers Colwell and Nassiri had no reasonable means of escape as Decedent continued pushing them back with the truck, and each had legitimate concerns that any attempt to move out of the vehicle's way would put their partner at risk of death or substantial bodily harm. At any moment during this incident, up to and including the moment when shots were fired, Decedent could have pressed the accelerator and would have run the truck over both officers.

Thus, the totality of the evidence, including civilian witness statements, illustrates that Officers Colwell and Nassiri were reasonable in believing that Decedent would cause them great bodily harm or death. Officers Colwell and Nassiri were confronted with the appearance of imminent danger to themselves and their fellow officer and each had an honest and reasonable belief and fear that either he himself and/or his fellow officer were about to be killed or suffer great bodily injury at the hands of Decedent. The evidence further illustrates that Officers Colwell and Nassiri acted reasonably in reaction to the danger posed by Decedent, including attempts to back away from Decedent as he drove the truck toward them and by issuing multiple commands and warnings to stop. Here, both Officers Colwell and Nassiri reasonably acted in defense of self and 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 Colwell and Nassiri had probable cause to believe that Decedent posed a threat of serious physical harm to both officers. Officers Colwell

and Nassiri were in full uniform as they approached Decedent on foot. Before any contact could be made, Decedent attempted to evade the officers by entering the stolen truck, which he began to drive toward them, striking both officers in the process. Decedent repeatedly refused to comply with the officers' lawful orders to stop the vehicle. Despite Decedent's refusal to stop the vehicle, which posed an imminent and continuous threat to both officers, Officers Colwell and Nassiri did not shoot Decedent until exhausting multiple other options, including attempting to back away and issue commands for Decedent to stop. It was not until the truck was completely on the road and Officer Colwell heard what he believed to be the sound of the engine revving that shots were fired. Officers Colwell and Nassiri had a reasonable belief that Decedent could cause serious physical harm or death to either one of them or their fellow officer. Thus, the use of deadly force by Officers Colwell and Nassiri 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 Colwell and Nassiri 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 Officers Colwell and Nassiri.