

REPORT ON USE OF FORCE



Legal Analysis Surrounding the Death of Anthony Wade Moore on December 7, 2014

INTRODUCTION

From December 3rd through December 7th of 2014, Detectives from the Las Vegas Metropolitan Police Department's Career Criminal Section were conducting surveillance on Anthony Wade Moore (hereinafter "Decedent"). At the time, Decedent was the suspect in at least four different casino attempt robbery/robberies that occurred during November of 2014. In each of those respective robberies, Decedent approached individuals and threatened them with a handgun or explosives. Shortly after Decedent committed these robberies, law enforcement sent out numerous photos of the Decedent, obtained from video surveillance, to local casinos and local media outlets in an attempt to generate leads.

On December 1, 2014, the Las Vegas Metropolitan Police Department (hereinafter "LVMPD"), was contacted by casino security from Rio All-Suites Hotel and Casino (hereinafter "Rio") notifying them that an individual matching the description of Decedent had checked into room 1179 on November 18, 2014, and would be checking out on December 7, 2014.¹

The preliminary investigation revealed that Decedent was driving a 2014 Chevrolet Camaro bearing Florida license plates CTQD80, carrying a firearm, and possibly in possession of an explosive device.

Detectives from the Career Criminal Section, Robbery Section, and Wanted Fugitive Task Force conducted 24-hour surveillance on Decedent beginning on December 4, 2014.

On the night of December 6, 2014, Detectives logged Decedent's activity as the surveillance continued. Beginning at 7:00 p.m., Decedent was observed driving a blue

¹ Rio Hotel records showed Decedent checked in on November 18th with an original departure date of November 23rd; however, Decedent continued to extend his stay multiple times.

Chevrolet Camaro to the Plant Hollywood Resort and Casino Miracle Mile shops then to Surrender Nightclub at the Wynn Casino. Later, Decedent returned to the Rio where he gambled. After gambling, Decedent left the Rio again. In the early morning hours of December 7th 2014, Decedent then traveled to The New Tropicana (hereinafter "Tropicana") where he parked his vehicle. Detectives surveilling Decedent recognized that the license plates on his vehicle had been changed. When Decedent exited his vehicle, Detectives immediately recognized that Decedent had changed his clothes and was now wearing clothing similar to that worn in previous robberies. Additionally, Decedent was carrying an Under Armour gym bag, which was also seen on video surveillance from the previous robberies. After parking, Decedent walked to the MGM Grand Hotel and Casino (hereinafter "MGM"). While at the MGM, Decedent was surveilled by MGM security and it appeared as though Decedent was about to commit a robbery in the "high limit" section. Decedent could be seen pacing continuously and repeatedly checking his watch. He kept looking over at the cashier cage but no employee ever entered into the cage. Due to the fact that no cage cashier ever showed up, Decedent appeared to lose his patience, and ultimately left the hotel casino and returned back to his vehicle. Decedent then returned to the Rio.

Decedent drove from the MGM to the Rio at a high speed as well as in a reckless manner. Detectives following him had difficulty in keeping pace with Decedent due to his driving and did not fully catch up to him until he reached the Rio. As Decedent was driving back to the Rio, commands came over the radio from the Robbery Section to apprehend Decedent when it was safe to do so.

Detectives Beck and Faller were two of the detectives surveilling Decedent that evening and heard the command given. Beck and Faller entered the main doors of the Rio and made their way to the "Circle Bar" area of the hotel which is located in the middle of the casino floor. They then waited for Decedent to walk past them so they could take him into custody. As they sat at the "Circle Bar", Decedent walked past the Detectives carrying the same gym bag as before. He then turned down a hallway leading to the guest elevators. As he did so, Detectives Faller and Beck moved in behind him and followed him.

Detective Faller entered the gift shop and paralleled Decedent while Detective Beck followed Decedent from behind. As Detective Faller approached the last open entrance/exit door to the gift shop, he saw Detective Beck with his firearm out pointed at Decedent. Detective Beck identified himself as a police officer and told Decedent "to show your hands and get on the ground." Detective Faller exited the store and observed Decedent reach into his gym bag after receiving the verbal commands from Detective Beck. Detective Faller retrieved his Taser from the front of his sweatshirt, pointed it at Decedent, and gave him verbal commands to get on the ground. Decedent refused to comply with the commands and continued to reach into the bag. Detective Faller discharged his Taser multiple times without success. Detective Faller reminded Detective Beck that Decedent may have a gun and that he was going to attempt to use his Taser again. As Decedent fell to the ground, Detective Beck moved towards Decedent's upper body, and Detective Faller moved in towards Decedent's legs and lower back.

Detective Faller heard Detective Beck yell, "Gun! Gun! Gun!" and say to Decedent, "Don't do it!" Detective Faller then heard two gunshots in immediate succession. The first was fired by Decedent, the second by Detective Beck. Detective Beck fired one round at Decedent in an effort to protect himself, Detective Faller, and end the impending threat.

Decedent died due to the gunshot to the head. The other gunshot that Detective Faller heard was fired from Decedent's gun.

LVMPD Detectives Mark Colon and Joseph Patton, of the LVMPD Force Investigation Team, were assigned to conduct the investigation of the incident with the assistance of other members of the detective bureau and LVMPD personnel.

The District Attorney's Office has completed its review of the December 7, 2014, 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 Detective Beck were not criminal in nature.

This report explains why criminal charges will not be forthcoming against the Detective involved. It is not intended to recount every detail, answer every question or resolve every factual conflict regarding this citizen-law enforcement encounter. The report is meant to be considered in conjunction with the Police Fatality Public Fact-Finding Review conducted on August 24, 2015. This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of Detective Beck was not criminal.

This decision, premised upon criminal-law standards, is not meant to limit any administrative action or to suggest the existence or non-existence of civil actions by any person where less stringent laws and burdens of proof apply.

INFORMATION REGARDING DECEDENT ANTHONY WADE MOORE



Decedent Anthony Wade Moore was a 31 year-old male who travelled to Las Vegas from Oregon. Originally, it was believed that there was not much known about Decedent due to the fact that Decedent claimed to have a lack of family history. According to those close to Decedent, he had no next of kin and the only individual that Detectives found that could provide any background information on Decedent was his roommate who resides in Oregon (hereinafter "Roommate").

Roommate stated that he had been friends with Decedent for approximately six to seven years and had his power of attorney. Roommate communicated that Decedent had told him that he grew up in foster care with multiple foster parents. While in the foster care system, he was mentally and physically abused. Roommate stated that Decedent had no family, never married, and had no children. According to Roommate, Decedent was a Navy veteran who suffered from post-traumatic stress disorder. Decedent had been receiving treatment and taking medication, but Roommate could not provide the names of the medications Decedent was taking.

In early 2014, Decedent was arrested in Oregon for battery and kidnapping. The charges, stemming from a domestic relationship, were ultimately dropped, but he did spend a significant amount of time in custody. Decedent had a second domestic violence case, which resulted in him being incarcerated a second time. Decedent was also facing drug

distribution charges. When he was released from custody in Oregon, at the end of October 2014, he stayed with Roommate for seven to ten days because he had nowhere else to go. Roommate stated Decedent told him he could not go back to jail again, and he would rather kill himself or shoot it out with police.

Roommate believed Decedent left Oregon for Las Vegas and arrived in Las Vegas on the 4th or 5th of November. Decedent had previously lived in Las Vegas and had worked as a personal trainer. Roommate believed Decedent was returning to Las Vegas to collect money a friend owed him. Decedent spoke with Roommate a week after he left and Roommate confronted Decedent about Roommate's missing Oregon driver's license, but Decedent denied taking it. Roommate stated that Decedent seemed depressed and "out of it," and he was not surprised by what had happened.

On June 23, 2015, Clark County District Attorney Investigator Craig Fabert did a thorough background check on Decedent. Investigator Fabert found that Decedent was never in the foster system. In fact, Investigator Fabert made contact with Decedent's mother, Victoria Kimber. According to Ms. Kimber, Decedent's biological father, Justin Phillips, was abusive toward Ms. Kimber and was not part of Decedent's life.

Per Ms. Kimber, she had a difficult time raising Decedent on her own, so at the age of three, she sent him to live with a friend she knew from high school—Linda Moore. Eventually, Linda and her husband, Steve, were able to adopt Decedent at the age of nine. When Decedent was around 15 years of age, he began to steal and lie on a regular basis. The decision was made by Linda and Steve to send Decedent back to his biological mom, Ms. Kimber. Per, Ms. Kimber and Linda Moore, Decedent had a lot of resentment towards his biological mother and felt like she abandoned him. Once he was back with Ms. Kimber, he ran away on a regular basis.

Decedent worked several sales related jobs in the fashion and home industry. He eventually joined the military, but according to the family, he was dishonorably discharged for unknown reasons.

Ms. Kimber last spoke to Decedent in 2007. He had asked if he and a friend could move to Arizona and live with her. Ms. Kimber told Decedent she only had room for him and after becoming upset with her, Decedent never spoke to her again.

Linda Moore last spoke to Decedent when he was 18.

Ms. Kimber and Linda Moore both described Decedent as angry, dishonest, and did what he wanted without worrying about the consequences. They were not completely surprised that Decedent had placed himself in this situation. Ms. Kimber stated she felt the Detectives were justified in shooting Decedent and voiced her concerns for the well-being of the Detectives involved.

Investigator Fabert also contacted Jordan Ruemler who is an ex-girlfriend of Decedent. Ms. Ruemler explained that Decedent told everyone he knew that he was a part of the foster system and had grown up in a foster home of an African American family who beat him. She knew Decedent for 13 years and he always stuck to this story. He portrayed himself as a victim. To those that were his friends, his lies and the lifestyle he was living was a complete shock.

A memorial service was held for Decedent in Portland, OR.

The only other individual, besides those already mentioned, who had any type of relationship with or could provide information regarding Decedent was an individual by the name of "NH", AKA "Nikki Dickie." "NH" works as an escort and was contacted by Decedent through "NH's" website. The two only met a few times and nothing of a personal nature was shared between the two; the relationship was purely sexual. According to "NH," the last time Decedent had contact with "NH" was on the 5th and 6th of December at the Las Vegas Lounge. The two traveled from that location to "NH's" residence, but Decedent began acting "rude" and "NH" told him to leave. "NH" did not see Decedent again, and Decedent never mentioned anything to "NH" about robbing casinos, nor did "NH" ever see Decedent with a firearm.

PREVIOUS CRIMINAL CONDUCT COMMITTED BY DECEDENT IN THE MONTHS BEFORE THE OFFICER INVOLVED SHOOTING

As aforementioned, the reason Decedent was being surveilled in early December was due to LVMPD's belief that he had committed four robberies in the month prior. A brief synopsis of those robberies and the weapons used are described below.

LVMPD Event 141108-0169 MGM Grand Attempt Robbery

On November 8, 2014, at approximately 12:19 a.m., a white male adult, later identified as Decedent, entered the MGM Grand Casino. Decedent was described and/or depicted on video surveillance as a 25-35 year old male, 5'8", 220 lbs., wearing a black baseball cap, dark hooded sweatshirt, khaki shorts, and black shoes. Decedent carried a brown or black duffel bag with a shoulder strap.

Decedent walked up to MGM employee, "DC", and whispered to "DC" that both he and his wife had been kidnapped. Decedent stated that the kidnappers strapped a bomb to his chest and ordered him to rob \$200,000 from the MGM Casino. In addition, Decedent warned that the kidnappers were watching and if "DC" made any sudden movement, the kidnappers would detonate the device. "DC" asked Decedent if he could show him the device. Decedent slightly opened the zipper of his hooded sweatshirt revealing what appeared to be electrical wires and red duct tape on his chest. "DC" did not comply with Decedent's commands; thus Decedent ran from the casino, went southbound across Tropicana Avenue, where he got into an unknown vehicle parked near the intersection of Haven Street and Reno Avenue.



LVMPD Event 141109-0299 Palace Station Robbery

On November 9, 2014, at approximately 1:33 a.m., a white male adult, later identified as Decedent, entered the Palace Station Casino. Decedent was described and/or captured on video surveillance as a white male adult, 30-35 years old, 5'6", 180 lbs., wearing a black baseball cap, dark hooded sweatshirt, khaki shorts and black shoes. In addition, Decedent was carrying a brown or black duffel bag with a shoulder strap.

Decedent approached employee, "VG", who is a guest service ambassador but was behind the customer service counter in the high limit slot area at the time. Decedent asked "VG" for a twenty dollar bill. He then raised his sweatshirt, brandished a black handgun that was tucked into his waistband and demanded money. He stated, "I have a gun, put the money in the bag." "VG" pressed a silent alarm button to alert security. Decedent told "VG", "I saw you press the button so give me all the money or I'll shoot you." "VG" complied but moved deliberately slow to give security time to get there. Again, Decedent threatened to shoot "VG" and demanded, "Give me the large bills!" "VG" handed Decedent approximately \$5,613. Decedent then fled the property.



LVMPD Event 141121-4200 Palms Robbery

On November 21, 2014, at approximately 11:30 p.m., a white male adult, later identified as Decedent, entered the Palms Casino. Decedent was described and/or depicted on video surveillance as approximately thirty years old, 5'10", 200 lbs., wearing a baseball cap, white Nike shirt with gray long sleeves, khaki shorts and black and white tennis shoes. Decedent was also carrying a black laptop computer bag.

Decedent approached slot floor attendant "CA" inside the high limit slot area and asked for change for \$100. Decedent then reached into his waistband, brandished a black and gray semi-automatic handgun and demanded, "Give me all your money!" "CA" had a black work wallet in her hand which contained money from the casino. Due to the fact that "CA" was

not moving fast enough, Decedent stepped into the office area with her. Decedent took the black wallet containing approximately \$9,827 and fled the casino through the north casino doors near the valet area.



HPD Event 14-18382 Sunset Station Robbery

On November 22, 2014, at approximately 6:11 p.m., a white male adult, later identified as Decedent, entered the Sunset Station Casino. Decedent was described and/or captured on video surveillance as a white male adult, 5'9", 225 lbs. wearing a black baseball cap, long sleeve gray shirt, khaki shorts and a single black glove on his right hand. Decedent was again carrying a black laptop computer bag over his shoulder. Upon entry, Decedent immediately walked into the sports book area and approached a female employee. He then handed the employee a note that stated something to the effect of "I

have a grenade, give me all the money.” This note was not legible and/or the victim employee did not comprehend what Decedent wanted. Therefore, Decedent reached into his bag and grabbed an unknown item, purportedly a hand grenade. The female victim did not react fast enough so Decedent reached back into his bag and brandished a black and silver semi-automatic handgun. The female complied with his demands and handed Decedent approximately \$13,000 from the cash drawer. Decedent took the money and fled from the casino on foot. Decedent was last seen running west through the parking lot and crawling under a wall into a business complex located at Stephanie and Sunset.

Henderson Police Department Detective Aguilar responded to the crime scene, completed a preliminary investigation and obtained a copy of the video surveillance. The video surveillance depicted the robbery as the female victim had described. The video showed Decedent fleeing under a drainage outlet on the far west wall of the property. Headlights can be seen turning on and a vehicle is seen driving westbound through the parking lot toward the exit. The video surveillance is at a distance and the suspect vehicle can only be described as a “sporty” type vehicle, similar to the body style of a Chevrolet Corvette or Camaro.



Along with the aforementioned robberies, a records check revealed that Decedent had prior criminal history in Oregon. Detective Flynn made contact with a detective from the Oregon Police Department. The Oregon Detective stated the following: Decedent was arrested for a domestic related battery in March, 2014. During their investigation, the detectives developed probable cause to believe Decedent was involved in the sale of narcotics, specifically cocaine and steroids. Detectives executed a search warrant in July, 2014, which resulted in the seizure of approximately \$75,000 US currency, multiple vehicles, and multiple cellular phones. Decedent had since violated the terms of his probation and had outstanding arrest warrants for his arrest.

Before the aforementioned incident in March of 2014, Decedent was arrested for the following crimes in Oregon: Assault, False Information to Police, Harassment, Interfere with Making a Report, Criminal Mischief, Menacing Domestic Interference, Kidnap 2nd Degree, Violation of Release Agreement, Unlawful Use of a Weapon, Tampering with a Witness, Contempt of Court, Menacing, and Unlawful Delivery and Possession of Cocaine and Methamphetamine.

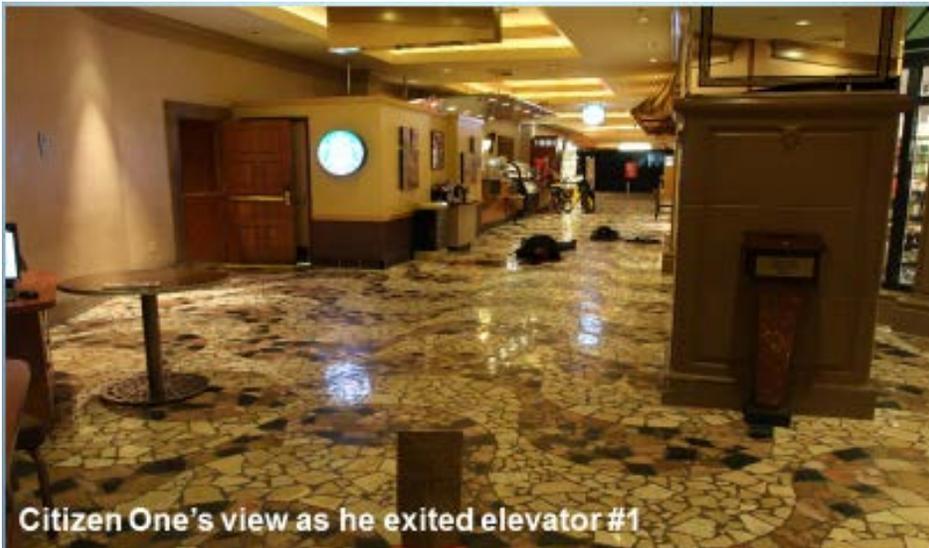
In Nevada, Decedent was cited for battery and arrested for Battery Domestic Violence.

OVERVIEW OF SURROUNDING FACTS AT RIO

INFORMATION RECEIVED BY CITIZENS

Citizen One

Citizen One was in the elevator with another individual whom he did not know. Citizen One exited on the casino level, as he and the other patron walked toward the casino, he heard a commotion around the corner and heard what he believed to be glass shattering. When Citizen One came around the corner, he observed a subject, later identified as Decedent, on the floor being tased by an officer. A second officer was putting his knee on Decedent. The officer with the Taser announced he was tasing Decedent. When the second officer arrived, he knelt down on Decedent and told him not to reach for the gun. Citizen One then heard a pop and Decedent stopped moving. Citizen One then heard the officer with the gun state, "He was reaching for a gun, he was reaching for a gun" and, "If you look under him, you will see a gun." Citizen One did not see Decedent in possession of any weapons. Citizen One was able to identify the officers as policemen due to them wearing patches and badges.



Citizen Two

Citizen Two was working inside the Rio Logo gift shop where she was standing at the cash register. As she was working, she saw a male in a plaid shirt and jeans "silently" run through the gift shop quickly and out the middle door by Starbucks. She then heard a commotion outside the store and saw a subject, later identified as Decedent, and another individual quickly run by the store. Citizen Two then heard someone yell, "Stop!" or, "Get down on the ground!" Shortly after the verbal commands were issued, she heard one gunshot. Citizen Two did not know if any of the individuals in the hall were police or not. She walked over to the door and observed Decedent on the ground. She then went back to her register until she

was contacted by her supervisor and told to close down the store. Citizen Two did not know which individual(s) had fired a weapon.

Citizen Three

Citizen Three was working as a porter for the Rio and was scrubbing the marble floor across from the Rio Logo gift shop when he saw a male, later identified as Decedent, walk out of the Rio Logo gift shop exit across from the Starbucks. Decedent was about 15 to 20 feet away from Citizen Three when Citizen Three suddenly heard two men yelling and pointing a gun at Decedent.

Citizen Three watched as one of officers deployed what looked to be a Taser and discharged it at Decedent. Citizen Three still did not fully understand what was happening but he heard officers yelling "Freeze!" and "Gun! Gun!"

Citizen Three watched as both officers struggled with Decedent while he was on the ground after he had been tased. He saw Decedent trying to reach for something inside of a bag. While this was happening, a loud gunshot rang out and Citizen Three saw Decedent's body move. When Citizen Three saw Decedent bleeding, he realized what had happened.

In the interview, Citizen Three was quite sure he saw an object in Decedent's hands and that it was probably a gun. Citizen Three believed Decedent shot himself while struggling for the firearm.

Citizen Four

Citizen Four was working behind the counter at the same Starbucks as previously mentioned. He heard a man say, "Metro, get on the ground" and a noise that sounded like a "pop". At that point, he turned and observed a Metro officer with a Taser pointed at a subject, later identified as Decedent. Citizen Four recognized Decedent because Decedent had just walked in front of the counter at Starbucks. Another Metro officer then arrived and also gave verbal commands to Decedent to get on the ground. Citizen Four saw Decedent fall to the ground after being tased. The two officers wrestled with Decedent on the ground. One officer, who was wearing a police vest, had his handgun drawn and fired one shot at Decedent. The officer with the Taser was at Decedent's feet. Citizen Four was unable to give a description of either officer or the Decedent.

After the shot was fired, Citizen Four got down behind the counter and ran out of the Starbucks area toward the casino where he waited to be contacted by police.



View of Citizen Four, struggle ensues in front of Starbucks Counter

Citizen Five

Citizen Five was working as a barista at the same Starbucks located inside of the Rio during the incident. She was taking care of a customer when she saw two males approaching another male near her counter. The males identified themselves as undercover police officers and gave the other male commands. Citizen Five did not get a good look at any of the males and was unable to provide any kind of description.

Citizen Five stated Decedent was making his way to the elevator when the officers identified themselves which caused Decedent to turn to face them. Citizen Five turned her attention back to her customer and then heard a pop sound that she thought was from a cap gun followed by a loud gunshot two to three seconds later. After the gunshot, Citizen Five ran away from the scene and did not come back until approximately an hour later.

INFORMATION RECEIVED FROM RIO HOTEL SECURITY AND SURVEILLANCE

Hotel Security Officer One

Hotel Security Officer One has been employed by the Rio since 1997 and has served as a surveillance supervisor for the last ten years. He received several critical alerts from LVMPD reference ongoing crime trends and persons of interest who have committed crimes in casinos. One of the critical alerts depicted a suspect, later identified as Decedent, who committed a casino robbery. The flyer was distributed to the Rio security force, and a Rio security officer recognized Decedent. LVMPD Robbery Section was immediately contacted.

On December 7, 2014, when Hotel Security Officer One arrived at work, there were LVMPD detectives assigned to the surveillance room to observe Decedent's actions in the casino. Hotel Security Officer One watched Decedent gambling in the Rio via surveillance feeds. Decedent left the Rio property and Hotel Security Officer One heard, via the LVMPD detective's radio, that LVMPD ground units were following Decedent to the MGM casino. It appeared as if Decedent was going to commit a robbery in the high limit pit at the MGM; however, the high limit pit had no clerk or cashier; Decedent aborted and returned to the Rio.

When Decedent returned to the Rio, his actions were watched by Rio surveillance officers and LVMPD detectives via the Rio's surveillance system. As Decedent walked down the Ipanema hallway, he was approached from behind by a plainclothes detective (Beck). Another plain

clothes detective (Faller) approached Decedent from the side after exiting the gift shop. Immediately after Detective Beck made contact with Decedent, Decedent started reaching into his duffel bag. Detectives Beck and Faller were able to take Decedent down to the ground. While on the ground, it appeared Decedent was struggling with great difficulty to get something out of his bag. One of the detectives fired his weapon, shooting Decedent in the back of the head, killing Decedent.

After the shot went off, Detective Beck immediately informed Dispatch via radio that a shot had been fired. Hotel Security Officer One communicated with security to cordon off the entrance of the Ipanema hallway and the gift shop to secure the scene.

Hotel Security Two

Hotel Security Officer Two worked as a surveillance operator at the Rio, and was assigned to monitor gaming and non-gaming incidents that occurred on the property. Hotel Security Officer Two was briefed that a suspect, later identified as Decedent, involved in casino robberies was staying on property. Three days prior to the officer involved shooting, Hotel Security Officer Two was assigned, along with LVMPD detectives, to monitor Decedent's actions while he was on the Rio's property. On December 7, 2014, Decedent was seen leaving the Rio property in a sedan style vehicle that Hotel Security Officer Two believed to be a Camaro. He heard via LVMPD radio traffic that Decedent had parked his vehicle near the MGM. After briefly staying at the MGM, Decedent drove back to the Rio. Two plainclothes LVMPD detectives, who had been following Decedent, confronted him in the hallway leading to the Ipanema Towers. Once confronted, Decedent reached into the front area of the duffel bag he was carrying. A plainclothes detective deployed his Taser at Decedent causing him to fall to the ground. Both detectives converged on Decedent and a struggle ensued. Decedent reached into the bag or his waistband area to retrieve an object. One of the plainclothes detectives then shot Decedent one time in the head.

After the shots were fired and Decedent was no longer a threat, Rio security assisted LVMPD in securing the crime scene. The entire incident was recorded by the Rio's surveillance system.

INFORMATION RECEIVED FROM LVMPD OFFICERS AND DETECTIVES

Detective Beck

On December 7, 2014, Detective Beck did a walkthrough of the scene in the presence of Lieutenant Plummer, several detectives, and other LVMPD personnel.

During the walkthrough, Detective Beck relayed the following information:

Detective Beck stated he and Detective Faller entered the Rio through the main valet doors. They approached a bar in the center of the casino and waited for Decedent. Decedent walked past their location and turned down a hallway towards shops and the hotel elevators.

Detective Beck walked behind Decedent as Detective Faller entered the gift shop to their left and paralleled them down the hallway. Detective Beck observed a citizen to his left by one of the entrances to the gift shop and wanted to wait to confront Decedent until after they passed the citizen. Before that happened, Decedent turned around and saw Detective Beck.

Detective Beck drew his firearm from his thigh holster, pointed it at Decedent, and gave repeated verbal commands of, "Metro Police, get on the ground." Decedent turned away from Detective Beck and began reaching into the duffle bag on his shoulder. As Decedent began reaching into his bag, Detective Faller exited the gift shop and began giving Decedent verbal commands. Decedent did not comply with the commands, and Detective Faller tased him.

The Taser caused Decedent to fall to the ground, but he was able to fight the effects of the Taser. Detective Beck stated he knew from previous robberies that Decedent kept a firearm in his bag. As Decedent was on the ground, Detective Beck quickly approached him and placed his knee on Decedent's back and his firearm to the back of Decedent's head. Detective Beck leaned over Decedent's body and observed Decedent pulling a firearm out from the area of his waist.

Detective Beck repeatedly told Decedent, "Don't do it, don't do it." Decedent did not comply with Detective Beck's verbal commands and continued to pull out the firearm. Detective Beck stated he fired at least one round from his weapon to the back of Decedent's head which ended the threat.

Detective Beck also stated during the walkthrough he knew Detective Faller was not wearing a tactical vest, so he took the position he did to shield Detective Faller from Decedent's firearm.

Detective Faller

Detective Faller was interviewed on December 9, 2014, and relayed the following information. On December 3, 2014, Detective Faller attended a meeting with Robbery detectives to discuss a possible casino robbery suspect named Anthony Moore. During the meeting, Robbery detectives stated they were working a robbery series that began on November 8, 2014.

Robbery detectives explained that the suspect was a white male adult who was armed with a handgun and possibly explosive devices. In three of the videos that Detective Faller watched, Decedent could be seen pointing a handgun at the casino clerk. Detectives also explained that through the course of their investigation, they believed the suspect was possibly Anthony Moore. Robbery detectives asked for the assistance of ROP detectives to set up 24/7 surveillance on Decedent.

Decedent was staying at the Rio and was driving a black Chevrolet Camaro with a California plate. The Camaro was rented in Decedent's name. On the evening of December 3, 2014, Detective Faller and several other detectives from the ROP team began their 24/7 surveillance which consisted of two different teams working 12 hour shifts. Detective Faller was assigned the 7:00 p.m. to 7:00 a.m. shift.

Between December 3, 2014, and the morning of December 7, 2014, the ROP detectives tracked and documented Decedent's every move. In the early morning hours of December 6, 2014, detectives surveilling Decedent noticed him to be acting a bit differently. He seemed more on edge and was continuously checking the time. Detectives believed that Decedent could possibly be preparing to do another robbery based on the fact that nearly every other robbery he committed was always on a weekend in the early morning hours around 3:00 a.m. At approximately 4:26 a.m. on the morning of December 7, 2014, Decedent left the Rio, entered his black Chevrolet Camaro, and drove towards the Las Vegas Strip.

Decedent pulled into and parked in the far northwest corner of an apartment complex in the area of Duke Ellington Way and Reno Avenue, located behind both Hooters and Tropicana Hotels. ROP detectives drove by Decedent's Camaro and observed him standing by the back of his vehicle, but could not determine what he was doing; however, they were able to see Decedent had changed his shirt and was now wearing a long sleeved black shirt. In all the prior robberies, Decedent wore a similar long sleeved shirt which covered all of Decedent's tattoos.

Decedent reentered his vehicle and drove to the east parking lot of the Tropicana. When Decedent exited his vehicle, he was wearing a baseball style hat and was carrying a bag over his shoulder. Both items were similar to items identified in previous robberies. Decedent also removed the California plate on his vehicle and replaced it with a Florida plate. Decedent walked across the Tropicana parking lot, across Tropicana Avenue, and into the MGM.

ROP detectives believed Decedent was going to attempt to rob the MGM and sent two detectives into the MGM to follow him. While the two ROP detectives were inside the MGM, the remaining ROP detectives in the parking lot near Decedent's vehicle devised a plan to take him into custody if he committed the robbery. The plan was to place a tire deflation device known as a "Piranha" behind Decedent's tire. When Decedent entered his vehicle, the ROP detectives would isolate him inside of his vehicle to prevent him from driving away, and then attempt to safely take him into custody.

Detective Faller exited his unmarked vehicle and placed the "Piranha" behind the rear tire of Decedent's vehicle. Detective Faller returned to his vehicle and waited along with the other ROP detectives for Decedent to return.

Decedent entered the MGM and went into the high limit slot area where he sat down and appeared to be waiting for a cashier to arrive at the cashier's cage. Decedent waited for approximately ten minutes but a cashier never arrived. On surveillance, Decedent could be seen pacing around, sitting down, getting up, and pacing around again. After about ten minutes, Decedent walked out of the MGM. Because Decedent did not commit a robbery, the ROP detectives were unclear as to whether or not an arrest should be made. Detective Faller went on the radio asking if Decedent should be arrested, but got no response.

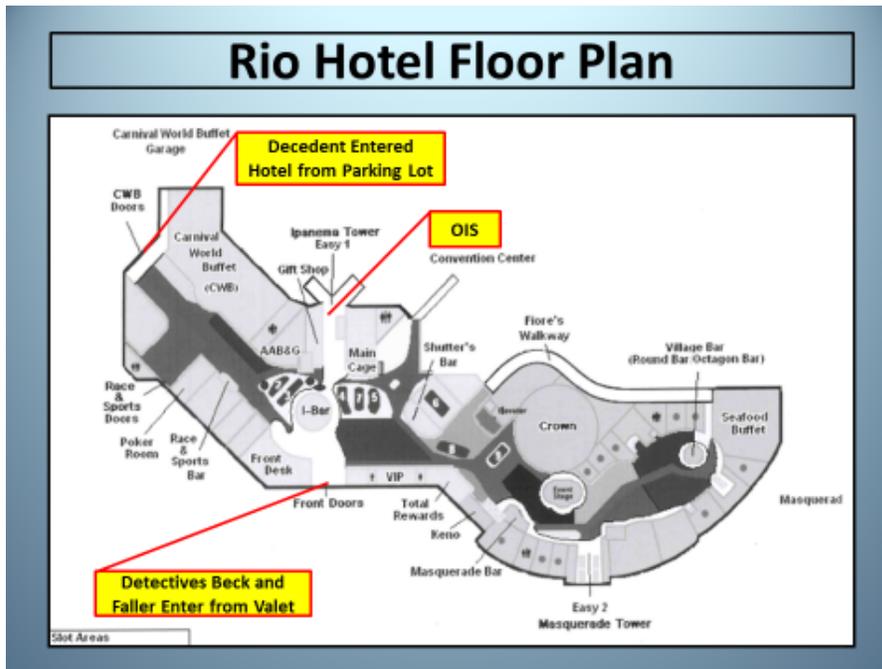
Due to the fact that Detective Faller did not receive a response, he rushed back to Decedent's vehicle to remove the "Piranha" device. Decedent returned to his vehicle and quickly left the parking lot. ROP detectives resumed surveillance on Decedent; however, they were a few minutes behind him.

Decedent drove north on Las Vegas Boulevard to Flamingo Road, made a westbound turn on Flamingo Road and drove back towards the Rio. Just as Decedent drove into the parking lot of the Rio, a Robbery sergeant came over the ROP radio channel and advised the ROP detectives to take Decedent into custody. Detective Faller knew he could not make it to the west parking lot in time to stop Decedent before he entered the Rio; therefore, Detective Faller pulled into the front valet of the Rio so he could enter through the main doors of the hotel.

As Detective Faller exited his vehicle, he looked back and saw Detective Beck exiting his vehicle. Detective Beck was wearing his tactical vest with police patches and Detective Faller was wearing a black Steelers football hooded sweatshirt. Detective Faller was in possession of a .40 caliber Glock, a 9 millimeter Sig, a Taser, pepper spray, and two magazines. As they

were walking in, Detective Faller told Detective Beck he would be low lethal and Beck would be lethal cover.

Both Detectives Faller and Beck entered the main doors of the Rio and made their way to the "Circle Bar" located in the middle of the casino floor. They stopped at the bar and waited for Decedent to walk past them so they could try and effect an arrest.



As Decedent approached, Detective Faller recognized that Decedent had changed his clothes again. He no longer had on the long sleeve shirt, but wore a short sleeve shirt and blue jeans. Decedent walked past the bar and turned down a hallway which lead to the elevators accessing hotel guest rooms. A gift shop was along the left side of the hallway and a Starbucks coffee station was on the right side of the hallway. As Decedent entered the hallway, Detective Faller and Beck moved in behind him and continued following him on foot.

Detective Faller quickly entered the gift shop and began paralleling Decedent while Detective Beck followed Decedent from behind. As Detective Faller approached the last open entrance/exit door to the gift shop, he saw Detective Beck with his firearm out and pointed at Decedent. Detective Beck was giving Decedent verbal commands identifying himself as Police and telling Decedent to show his hands and get on the ground. As soon as Detective Beck gave the verbal commands, Decedent turned, looked at Detective Beck and began to jog away. Decedent then stuck both of his hands down toward the front of his waistband near the duffel bag. As soon as Detective Faller saw this, he yelled, "Sean, remember, he has a 413. He has a 413!"



Detective Faller retrieved his Taser from the front of his sweatshirt, pointed it at Decedent and began giving him verbal commands to get on the ground. Decedent refused to comply with the commands. Detective Faller recognized the potential threat of Decedent turning around

with a gun, so he discharged his Taser, striking Decedent in the back. The Taser caused Decedent to fall to the ground; however, because the spread of the Taser prongs was not far enough apart, the Taser did not cause Decedent to go into a “full lock up.” Though Decedent fell to the ground, he still continued to reach for his waistband and was “digging around.”

Detective Faller quickly realized the Taser was not effective and began relaying that information to Detective Beck. Detective Faller reminded Detective Beck he believed Decedent had a gun, and then Detective Faller stated he was going to try and do a three point touch technique with his Taser. As Decedent fell to the ground, Detective Beck moved towards Decedent’s upper body and Detective Faller moved in towards Decedent’s legs and lower back.

While Decedent’s leg was in the air, Detective Faller placed his Taser on the back of Decedent’s left leg in an effort to get a full Taser lock up. The application of the Taser to Decedent’s leg only caused his leg to move over and fall on the ground. Detective Faller was able to place his Taser on the back of Decedent’s thigh and continued to communicate to Detective Beck informing him the Taser was ineffective. He also stated that Decedent was “still digging,” meaning that Decedent was still reaching for what Detective Faller believed to be a gun.² Decedent was not following any of the commands and would not stop wrestling with the officers. Detective Faller was concerned for his and Detective Beck’s safety for several reasons: 1) It appeared as though Decedent was reaching for a weapon; 2) The Taser was ineffective and Decedent was still able to struggle against the Detectives; and 3) In investigating Decedent, Detective Faller knew him to be an avid body-builder and a possible Navy Seal trainee, so Decedent’s personal strength and his use of it was an issue.

After repeated commands from both Detectives, Detective Faller heard Detective Beck yell, “Gun! Gun! Gun! Don’t do it!” Detective Faller then heard a gunshot and immediately heard a second gunshot. Detective Faller felt Decedent’s body go limp; he looked up and saw Detective Beck had discharged his firearm. Detective Faller’s first thought was that they were in a hallway with tile and Detective Beck’s gunshot echoed causing the sound of a second shot. Detective Faller learned later that Decedent had discharged his firearm just before Detective Beck fired his weapon.

After the shots were fired, Detective Faller checked on Detective Beck to make sure he was okay and then began securing the crime scene. Detective Faller left his Taser in the “on” position and placed it on top of a Starbucks condiments table.

Detective Thomas

Detective Thomas is a detective in the Repeat Offender Program in the Career Criminal Section and was operating as an acting sergeant on the night of December 6, 2014.

On December 6, 2014, members of the Career Criminal Section met with the Robbery Section headed by Deputy Chief Salinas and Captain Maczala. Detectives were provided with information that Decedent was a suspect in four recent casino robberies and possibly responsible for a robbery at the MGM in 2009. Decedent was known to carry a firearm, possibly an explosive device, and was staying at the Rio All Suite Hotel and Casino.

² After the incident, Detective Beck told Detective Faller that he could see into where Decedent was “digging” stating, “I saw the butt of the gun.”

The Career Criminal Section was instructed to conduct twenty-four hour surveillance on Decedent with the assistance of Robbery detectives. Detective Thomas' squad started the surveillance at 7 p.m. and continued until 7:00 a.m. Surveillance continued in twelve hour shifts per squad and was set to end at 7:00 a.m. on December 7, 2014. Career Criminal detectives had instructions to take Decedent into custody if he committed a robbery.

On December 6, 2014, Detective Thomas and his squad started their shift at 7:00 p.m. Detective Thomas was briefed by Sergeant John Gentile about Decedent's movements that day. Robbery detectives were staged at various casinos until midnight. Detective Miller would remain in the Rio surveillance room until midnight when he would be relieved by Detective Abell. Detective Winn would also be in the Rio surveillance room to relay intelligence.

Early in Detective Thomas' shift, detectives followed Decedent to the area of Las Vegas Boulevard and Tropicana Avenue. Detectives lost visual contact of Decedent and with the help of the Air Unit, found his vehicle parked near Hooters Casino. Subsequently, Decedent drove to the Wynn where he was observed at the night club. Detectives then observed Decedent walk back to his vehicle where they reported observing him ingesting what appeared to be cocaine.

Decedent drove back to the Rio where he gambled until about 4:00 a.m. Decedent departed the Rio and returned to the area of the Tropicana Casino. Decedent pulled into an apartment complex on Duke Ellington Way, and the detectives lost visual for a few minutes. Decedent then proceeded to park his vehicle in the Tropicana Casino parking lot. Career Criminal detectives had a tactical plan to arrest Decedent if they observed him commit a robbery. They had a K-9 unit staged approximately three hundred yards from the area.

Decedent exited his vehicle wearing similar clothing to the suspect's clothing in previous casino robberies. Detectives notified Detective Winn to contact MGM surveillance to utilize cameras to watch Decedent while he was in the MGM. MGM relayed Decedent's actions through Detective Winn to detectives outside the MGM. After Decedent left his vehicle and walked toward MGM, Detective Faller placed a tire deflation device under one of the Camaro's tires.

Detective Winn advised detectives that Decedent had walked to the high limit area and looked nervous. Detective Winn then advised he did not commit the robbery and was walking toward the exit. Detective Thomas called Robbery Detective DePalma, advised him no robbery was committed but Decedent did change his clothes before he entered MGM. Detective DePalma advised Detective Thomas he would advise Sergeant Krumme of the details.

Career Criminal detectives, who were waiting for instructions from Robbery detectives, decided to stand down. Detective Faller removed the tire deflation device before Decedent returned to the vehicle. When Decedent returned to the vehicle, he was observed changing his rear license plate before driving away.

Decedent drove erratically on his way back to the Rio. Detectives were stuck in traffic on Las Vegas Boulevard and could not keep up with him. As Detective Thomas crossed Interstate 15 going west on Flamingo Road, Sergeant Krumme advised detectives, via police radio, to arrest Decedent.

Decedent continued westbound on Flamingo Road and parked in the Rio's west lot. Detectives Beck and Faller proceeded to the main entrance and Detectives Scott and Rinnetti

pulled into the lot as Decedent entered the casino. Detectives Giannone and Zinger arrived shortly thereafter.

Decedent walked east through the casino and was confronted by Detectives Beck and Faller. Detective Scott ran through the casino to assist and, as he turned the corner towards Decedent's location, he heard a gunshot. As Detective Thomas got closer, he saw Decedent bleeding from his head with Detective Beck standing next to him with Detective Faller nearby.

Detective Scott made sure medical personnel were requested, secured the area and started notifying his chain of command about the incident.

INFORMATION RECEIVED FROM LAS VEGAS FIRE AND RESCUE (ARSON / BOMB SQUAD)

Cherice Olsen

Cherice Olsen is a Las Vegas Fire and Rescue Bomb Squad Technician. She was dispatched to the Rio due to the fact that Decedent had been known to carry explosives. Once she arrived, Olsen was directed to meet with Sergeant Leon. Olsen was briefed that LVMPD detectives were in a shooting, and it was believed Decedent may have been holding some type of explosive device.

Olsen put on her ballistic protective equipment and began to search the bag Decedent had been carrying prior to being shot. Olsen went pocket by pocket until she was confident there were no explosive devices in the bag.

Olsen and her partner, Nick Nordblom, were asked to clear Decedent's body. Decedent's hands were tucked under his body when he fell, which made it difficult for Nordblom and Olsen to move the body safely in order to get a good view of Decedent's torso. They used a "log roll" method wherein Olsen grabbed Decedent's torso and leg to roll him over slowly. Meanwhile, Nordblom checked Decedent for any explosive devices. On the first roll, Nordblom did notice Decedent was holding something between his hands and that it was probably a firearm. On the second roll, Nordblom was confident that Decedent was holding a firearm that was partially holstered.

Decedent's body was clear of any explosive devices and was returned to its original position.



TIMELINE

On December 7, 2014, Detectives Patton and Colon made contact with Rio Surveillance Supervisor David Jackson. Jackson showed detectives surveillance footage of the incident, and Jackson provided detectives with a CD containing the footage.

Rio Surveillance Video Timeline

0500:00 hours	Decedent's Camaro was seen driving westbound on Flamingo Road, then turned northbound on Valley View Boulevard before pulling into the Rio's west lot.
0501:08 hours	Decedent parked in west lot.
0502:24 hours	Decedent exited the vehicle and walked around to passenger side and opened door. Decedent was handling a duffel bag on the passenger seat.
0503:06 hours	Decedent picked up the duffel bag, put it over his shoulder, shut passenger door, and walked toward the casino entrance.
0503:50 hours	Decedent entered the Rio through the west door.
0504:28 hours	Decedent walked east through the casino with a cell phone visible in his left hand. Decedent had the duffel bag strap over his right shoulder with the bag hanging just below his left hip.
0505:00 hours	Decedent walked past the All-American Bar & Grille.

0505:23 hours	Decedent walked past the security podium and turned north by the gift shop toward the guest elevators.
0505:35 hours	Detective Beck approached Decedent from behind.
0505:39 hours	Detective Beck put finger over his mouth to advise citizens not to alert Decedent of his presence. Five citizens were in close proximity to Decedent as Detective Beck started jogging toward him.
0505:43 hours	Decedent turned and looked over his right shoulder. Detective Beck had his firearm pointed at Decedent.
0505:45 hours	Detective Faller approached Decedent from his left side with his Taser pointed at him. Decedent was reaching into the duffel bag with his right hand.
0505:46 hours	Sparks were observed coming from Detective Faller's Taser.
0505:47 hours	Decedent fell down with his right hand inside the duffel bag.
0505:49 hours	Decedent had his hand (in a C-clamp position) on his gun.
0505:51 hours	Detective Beck took a position at Decedent's upper body and pointed his firearm at Decedent's head while Detective Faller took a position at Decedent's legs with his Taser in his hand.
0505:54 hours	Detective Beck discharged his firearm at Decedent and Decedent went limp.
0505:56 hours	Detective Beck utilized his radio by way of his shoulder microphone.
0515:46 hours	Medical personnel arrived.

WEAPONS COUNTDOWN

On December 7, 2014, Detective Beck had his duty handgun and backup handgun counted down at the LVMPD Campus. Detective Beck's weapons were photographed for identification purposes.

In regards to Detective Beck's primary handgun, the magazine from the weapon had a 15 cartridge capacity, the countdown showed one cartridge in the chamber and 14 remaining cartridges.



Detective Beck's Primary Handgun: Glock 19, 9 mm Luger

The countdown showed Detective Beck discharged his weapon one (1) time during the event. His primary handgun, the cartridges from it, and the magazine in the handgun were photographed and impounded by Senior Crime Scene Analyst (hereinafter "SCSA") Lynch. Detective Beck's backup handgun, which was not used at all during the incident, the magazine

from it, the spare magazine, and the associated cartridges were photographed and released back to Detective Beck.

DESCRIPTION OF THE SCENE AND VISIBLE EVIDENCE

The scene was located in a hallway, situated north to south, north of the south-facing valet doors and gaming area. The Ipanema Tower Elevators were at the north end of the hallway. The Rio Logo Shop was along the west side of the hallway. The shop consisted of a doorway at the southeast corner, windows along the east wall, an east-facing doorway, and a north-facing doorway. A Starbucks counter, situated north to south, was at the east wall of the hallway.

Two (2) security bicycles, parked facing east, one north of the other, were in the middle of the hallway, north of the east-facing Rio Logo Shop doorway. A Taser was on the floor, adjacent to the front wheel of the north most bicycle. A deployed Taser cartridge was on the floor, north of the bicycle. A small piece of plastic and Anti-Felon Identification Tags (hereinafter "AFID tags") were on the floor surrounding the cartridge. A Taser cartridge door was on the floor, northeast of the cartridge. An additional Taser cartridge door was on the floor, west of the bicycles.

Decedent was lying prone on the floor, north of the bicycles. He was wearing a black t-shirt, blue jeans, and black shoes. His head was toward the north, with his face west, and his legs were spread and toward the south. His arms were along his sides with his hands underneath his hips. There was an apparent gunshot wound to the back of his head. One (1) "SPEER 9MM LUGER+P" cartridge case was on the floor, northwest of his head.

A black and grey duffle bag was on the floor, partially underneath his hips, and between his thighs. The strap of the bag was around his left forearm. A cellular phone was on the floor, east of his right forearm. Two (2) Taser probes, approximately 1' apart, were visible on the back of the decedent, with the wires extending back toward the Taser cartridge.

LOCATION AND DESCRIPTION OF THE BODY

It should be noted that, prior to autopsy, Decedent was manipulated by an ARMOR robot, dislodging a Taser probe. The remaining probe was removed by CSA A. Nemcik from the rear left back. Two (2) apparent probe injuries were noted to the back.

A cursory exam was conducted on the Decedent and an apparent gunshot wound was located to the back of the head. When the Decedent was moved, a semi-automatic Taurus handgun, Millennium PT140, Serial #SAP84427, was found underneath the body, adjacent to the hands. The handgun was partially within a black clip holster. There was an apparent bullet hole to the bottom portion of the holster. A PT140 weapon magazine, containing ten (10) "WIN 40 S&W" cartridges, was within the magazine well and one (1) "WIN 40 S&W" cartridge case was within the chamber. The Decedent had apparent self-inflicted gunshot wounds to the inner region of the left hand and to the chest.



A wallet containing multiple papers, cards and photographs, and an Oregon driver license in the name of "Roommate," was removed from the rear right pocket of Decedent's jeans. Two (2) Rio \$1 gaming chips and a \$0.50 coin were removed from the front left pocket of the jeans. In the small right front pocket a small clear plastic bag containing a white powdery substance was found.

SEARCH OF ROOM AND VEHICLE

On December 7, 2014, Sergeant Krumme and Detectives DePalma and Jex conducted searches of Decedent's room (1179) at the Rio and his vehicle parked in the west lot.

Hotel documents showed Decedent checked in on November 18, 2014, and was scheduled to check out on December 7, 2014. Among other items, investigators found:

Package 1

1. One black Kevlar/leather Condor brand glove, size 10, left hand.
2. One black fabric Under Armour brand tactical hood piece.

Package 2

3. Two pieces of white paper, one bearing black handwriting on one side, approximate overall dimensions 8.5"x11".

Package 2, Item 3 from Decedent's Room

Keep your hands where
I can see them I have
A grenade & a gun... So
Don't think about pressing
the button for security
Put all the & in the
bag calmly & quickly

Package 3

4. One Hornady Critical Duty 40 S&W brand ammunition box (quantity: 20) containing 20 cartridges with head stamp "Hornady 40 S&W".
5. One Winchester 40 S&W brand ammunition box (quantity: 50) containing 38 cartridges with head stamp "WIN 40 S&W".

Package 4

6. One black Samsung brand tablet, 16GB, bearing serial number RF2FA07557W, FCC ID: A3LSMT320, approximate overall dimensions 5"x8.5".
7. One Samsung Galaxy Tab Pro box containing one Best Buy receipt dated November 9, 2014.

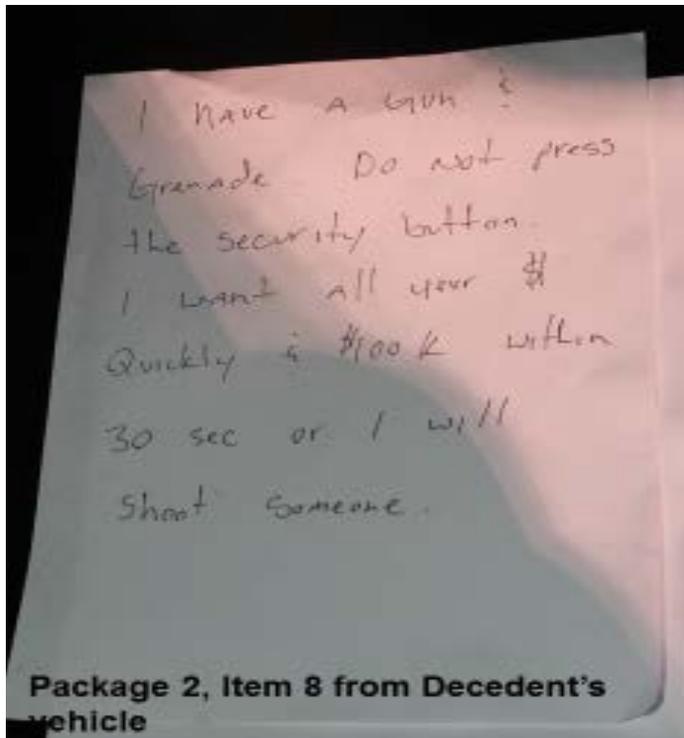
Additionally, Hertz Corporation rental agreement documents showed Decedent rented a Chevrolet Camaro (bearing Florida license plate CTQD80, VIN 2G1FA1E30E9191086) on November 18, 2014, at 3:05 p.m., at McCarran International Airport. The following items were impounded from the vehicle:

Package 1

1. One Swiss Army brand messenger style bag.
2. One black Condor brand right hand glove, size 10.
3. One black Nike brand hooded/zippered sweatshirt, size XL.
4. One long sleeve Nike brand shirt, white with gray sleeves, size XL.
5. One black New Era brand New York Yankee baseball cap, size 7 1/8.
6. One Under Armour brand gray long-sleeve shirt, size XL.

Package 2

7. One California license plate (CA 7ATR416).
8. One Handwritten Note



Package 3

9. One INERT grenade.

Package 4

10. One PT140 Pro Cal firearms magazine.
11. Ten cartridges (RP 40S&W).

FORENSICS REQUESTS / RESULTS

Officer Firearm Examination

On January 7, 2015, an LVMPD Forensic Laboratory Request was submitted on Detective Beck's primary firearm for a function test and ballistic comparison evidence. The results are as follows:

Bullet Comparison

The bullet fragments (Lab Item 7, from Decedent's face) bear the same rifling characteristics as test bullets from the Glock pistol; however, there are insufficient microscopic details for a conclusive identification. This bullet had not been fired by the Taurus pistol.

Cartridge Case Examination

The cartridge case (Lab Item 2, one "SPEER" 9 mm luger +P cartridge case located on casino hallway floor) had been fired by the Glock pistol.

Suspect Firearm Examination

On January 7, 2015, an LVMPD Forensic Laboratory Request was submitted on Decedent's firearm for a function test and ballistic comparison evidence.

On February 10, 2015, Forensic Scientist Moses submitted the Firearms & Tool Marks Report with the following results:



Decedent's Handgun: Taurus, Millennium PT, 140

The Taurus pistol was examined, test fired and found to be in normal operating condition with no noted malfunctions. This pistol was determined to have a barrel length of approximately 3-1/4 inches, an overall length of approximately 6-1/4 inches and a trigger pull of 5 to 5-1/4 pounds. Along with the magazine (Lab Item 9), the maximum capacity is eleven cartridges. Decedent's firearm was found to have ten live rounds in the magazine and one shell casing in the chamber.

The evidence bullets and cartridge cases were microscopically examined in conjunction with the tests from the Glock and Taurus pistols. Based on these comparative examinations, the following were determined:

Bullet Comparison

The bullet (Lab Item 6, recovered from Decedent's chest) had been fired by the Taurus pistol.

Cartridge Case Examination

The cartridge case (Lab Item 4, One "WIN" .40 S&W cartridge case from the chamber of the Taurus Pistol) had been fired by the Taurus pistol.

AUTOPSY

On December 8, 2014, at approximately 7:07 a.m. under Case 14-11585, an autopsy was performed on the body of Anthony Wade Moore at the Clark County Office of the Coroner/Medical Examiner by Doctor Lary Simms.

The following wounds/injuries were noted on the decedent:

- 1) Gunshot wound of the head.
- 2) Gunshot wound of the left hand.
- 3) Gunshot wound of the left abdomen.
- 4) Laceration adjacent to gunshot wound on the neck.
- 5) Bruise to right eye.
- 6) Two apparent Taser marks on the left side of back approximately 4" apart.

In regards to the gunshot wound to the left abdomen, Dr. Simms commented that: "The appearance of the wound on the skin along with the short course in the body without damage to any major internal organs is consistent with an atypical gunshot wound (such as ricochet or coursing through intermediate target)."

A toxicology screen indicated Decedent's blood tested positive for cocaine.

After a complete autopsy, Doctor Simms opined Decedent died as a result of a gunshot wound to the head.

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 Moore could be justifiable under one or both of two theories related to the concept of self-defense: (1) The killing of a human being in self-defense/defense of others; and (2) justifiable homicide by a public officer. Both of these theories will be discussed below.

A. The Use of Deadly Force in Defense of 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, by violence or surprise, to commit a felony ..." against the other person. NRS §200.120(1). Homicide is also lawful when committed:

[i]n the lawful defense of the slayer, ... or of any other person in his or her presence or company, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished

NRS §200.160(1).

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

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

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

A bare fear of death or great bodily injury is not sufficient to justify a killing. To justify taking the life of another in [defense of another], the circumstances must be sufficient to excite the 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 the 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 disprove an individual did not act in self-defense beyond a reasonable doubt.

In this case, Decedent posed an imminent danger to Detectives Beck and Faller, as well as patrons of the Rio Hotel and Casino. The facts illustrate that both Detectives were faced with a suspect who was known to carry a firearm. Though Detective Beck was wearing a tactical vest, he knew that Detective Faller was not. The two discussed this before the confrontation with Decedent began. Additionally, Decedent was told multiple times to “stop digging” into his waistband and comply with commands, yet he refused to do so. Even after Decedent was tased, he still refused to comply with commands and continued to attempt to reach for his handgun. Lastly, Detective Beck saw Decedent grabbing for what looked like, and ultimately turned out to be, a handgun. Evidence collected at the scene, as well as statements given by multiple witnesses, confirmed that Decedent did in fact fire his gun before Detective Beck fired his. Thus, Decedent posed an objectively reasonable imminent danger to all officers and civilians in the area. Therefore, Detective Beck acted in reasonable fear of a threat to his life and the lives of others at the time he fired.

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 facts illustrate that Detective Beck was reasonable in his belief that Decedent posed a serious threat to his and Detective Faller’s safety, as well as the surrounding patrons. As aforementioned, Detective Beck knew firsthand that Decedent was not complying with commands repeatedly given. It was glaringly obvious that Decedent was attempting to grab at something hidden within his waistband. Even after being tased, Decedent still attempted to grab toward his waistband, revealing to Detective Beck the butt of a handgun.

These circumstances created probable cause in Detective Beck’s mind that Decedent posed a threat of serious physical harm either to him and Detective Faller and/or civilians in the area. Detective Beck overcame that threat by firing his weapon into Decedent’s head.

In light of all the evidence reviewed to date, Detective Beck’s actions were 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 the officers 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 the officer, and unless new circumstances come to light which contradict the factual foundation upon which this decision is made, no charges will be forthcoming.