



# **REPORT ON USE OF FORCE**

## **Legal Analysis Surrounding the Death of Justin Charland on May 5, 2020**

### **INTRODUCTION**

On May 5, 2020, at approximately 10:35 am, Las Vegas Metropolitan Police Department's ("LVMPD") dispatch received a 9-1-1 call from 3000 South Sandhill Road. The caller stated a white male adult in his 30's, later identified as Justin Charland, hereinafter known as "Decedent," was outside apartment #227 yelling and talking to himself. The caller also told LVMPD dispatch that the Decedent had been in the military.

The LVMPD dispatcher located two previous events at the apartment complex associated with apartment #227 and Decedent. Per the previous calls, Decedent was schizophrenic. Officer Maman was assigned to the call and Officer Segura assigned himself. Officer Maman arrived in the area and waited for Officer Segura to arrive.

Prior to the 9-1-1 call, R.I., a maintenance worker at Decedent's apartment complex, walked up the stairs to Decedent's apartment to give him a mailbox key he had made for him. R.I. heard Decedent yelling at him. As R.I. walked up the stairs to Decedent's apartment, he saw Decedent with a large sword in his hands. According to R.I., Decedent was upset and R.I. decided to leave Decedent alone and return to his apartment.

As R.I. walked towards his apartment, he observed Officers Maman and Segura walk towards Decedent's apartment. As the officers approached, they heard Decedent yelling at R.I. Officer Segura attempted to speak to Decedent as he stood on the landing of the second floor and held the large sword. Officers instructed R.I. to go inside and asked Decedent to drop the sword.

Officer Segura attempted to engage Decedent in a conversation and calm him down for several minutes. Decedent refused to drop the sword and yelled at the officers. After a few minutes, Decedent walked down the stairs towards officers. Officer Segura gave Decedent verbal commands to drop the sword, but he did not comply. Decedent walked at a quick pace toward Officer Segura.

As Decedent did this, Officer Segura backed up as he tried to maintain distance between himself and Decedent. Decedent continued to close the distance and Officer Segura discharged his firearm.

After the gunshots, Decedent dropped the sword and fell to the ground. Officers Segura and Maman continued to give Decedent verbal commands so they could take him into custody. Officers requested medical personnel and provided first aid to Decedent until paramedics arrived.

The Clark County District Attorney's Office has completed its review of the May 5, 2020, death of Decedent. It has been determined that, based on the evidence currently available and subject to the discovery of any new or additional evidence, the actions of Officer Segura 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 Officer Segura. 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 June 21, 2021.

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

#### **I. DESCRIPTION OF THE SCENE AND VISIBLE EVIDENCE**

On May 5, 2020, at approximately 11:58 am, CSA Claire Browning responded to 3000 South Sandhill Road to photograph and document the scene and collect evidence. The following are some of the photographs taken of the overall scene and items impounded as evidence.



Close-up aerial view of 3000 South Sandhill Road, the OIS location.



Body Worn Camera from Officer Segura.



Body Worn Camera from Officer Segura.



Officer Segura's and Officer Maman's positions at the time of the OIS.



Decedent's sword.



Overview of the OIS scene.

## II. INVESTIGATION

### Law Enforcement Witnesses

#### Officer Daphna Maman

On May 5, 2020, at approximately 2:12 pm, Detective Mendoza conducted an audio recorded interview with Officer Maman at 3000 South Sandhill Road.

Officer Maman was assigned to a disturbance call at 3000 S. Sandhill Road, #227. Officer Maman arrived in the complex and waited for Officer Segura to arrive before she approached the residence. Once Officer Segura arrived, they walked toward apartment #227 together. Officer Maman heard a male yell. As they approached, she saw the Decedent as he stood at the top of stairwell. In this hand, he held a long sword. Officer Maman also saw another male subject on the walkway. Decedent appeared to be yelling at the male down below. Officer Maman heard Decedent yell, "I will kill" but it was unknown to whom the Decedent was referring.

The Decedent walked down the stairs while he held the sword, and he continued toward Officers Segura and Maman as they retreated away from him. As Decedent rushed toward Officer Segura, Officer Segura fired his weapon at Decedent. Officer Maman was unable to fire her weapon as Officer Segura was in front of her. Officer Maman then positioned herself to the right of Officer Segura. Decedent dropped the sword and went to the ground. Officer Maman held Decedent at gunpoint and gave him verbal commands to lie on his stomach. Decedent went to his hands and knees. Officers Segura and Maman instructed Decedent multiple times to get on the ground. Decedent collapsed to the ground and Officer Maman held Decedent at gunpoint as Officer Segura secured him in handcuffs.

### Civilian Witnesses

#### R.I.

On May 5, 2020, at approximately 1:27 pm, Detective Sedano conducted an audio recorded interview in Spanish with R.I. at 3000 S. Sandhill Road.

At approximately 10:00 am, R.I. who worked as the maintenance man for the Sandhill Apartments, went to the main office to obtain a mailbox key for Decedent, who lived in apartment #227. R.I. returned from the office and walked up the stairs that lead to apartment #227. While on the stairs R.I. heard Decedent yelling at him. R.I. stopped and saw Decedent holding a large sword with both hands.

R.I., fearing for his safety, left and headed back to his apartment without giving Decedent the key to the mailbox. Decedent became upset and started to yell at R.I. R.I. continued down the stairs and walked to his apartment as Decedent came out onto the landing of apartment #227.

As R.I. walked to his apartment, Decedent yelled loudly and insulted him. Decedent was yelling at R.I. when the police officers arrived. Decedent yelled at the officers as R.I. watched from his apartment door. R.I. recorded the incident on his cellular phone to provide it to the manager, so that the manager could see how Decedent behaved.

R.I. continued to record as Decedent walked down the stairs and charged toward the officers. R.I. then heard several gun shots and continued to record the incident as the officers took Decedent into custody.

#### **A.L.**

On May 5, 2020, at approximately 1:42 pm, Detective Penny conducted an audio recorded interview with A.L. at 3000 S. Sandhill Rd.

A.L. was inside of her apartment with her fiancé, as they watched television. While inside, she heard Decedent yell from outside. A.L. realized it was the same person who had yelled off and on for the past three weeks. While she was in the restroom, her fiancé yelled for her to come to the front of the apartment.

A.L. walked to the front of her apartment and looked out of the window and saw Decedent standing on the top of his stairs holding a machete. She saw two officers in uniform standing below him. The officers gave Decedent commands to drop the knife. Both officers had their guns out but held at their sides.

Decedent refused to cooperate with the officers and continued to yell several obscenities at the officers. The officers told Decedent to drop the weapon several times and he refused. Decedent started to run down the stairs toward the officers. Both officers retreated and Decedent raised the machete above his head and continued to run toward them. Decedent also yelled that he was going to kill them.

A.L. moved away from her window and heard three gunshots. When she looked outside, she saw Decedent on the ground as he bled. The officers provided him medical care until other people arrived.

#### **B.F.**

On May 5, 2020, at approximately 1:20 pm, Detective Ubbens conducted an audio recorded interview with B.F. at 3000 Sandhill Road.

B.F. worked as a bus driver for RTC and was assigned to pick up a passenger at 3000 Sandhill Road. While she was outside of the bus to pick up the passenger, she saw Decedent as he stood outside the doorway of an upstairs apartment. Decedent yelled profanities and held what she described as a large metal object.

She heard patrol officers give the male several verbal commands. The male ran down the steps toward the officers, with the metal object in his hand. B.F. began to walk away to get out of the area and

heard several gunshots. She did not physically see the shooting because she was attempting to leave the area.

### **III. BODY WORN CAMERA FOOTAGE SUMMARIES**

#### **Officer Vincen Segura**

Officer Segura was wearing a body worn camera (“BWC”) at the time of the incident and the camera was activated. The camera was collected by Sergeant Iacullo and secured. The video footage was later viewed by detectives on May 5, 2020 at 12: 50 pm.

Officer Segura’s camera footage depicted the following:

Officer Segura activated his BWC and drove to the apartment complex. Upon arriving, Officer Segura followed Officer Maman into the complex and parked. Officer Maman walked towards the apartment and Officer Segura followed her. As the officers walked between buildings, Decedent, could be heard yelling. R.I. can be seen as he walked away from the front of Decedent’s apartment.

As Officer Segura turned toward the location of Decedent’s apartment, Decedent was observed at the top of the stairs holding a sword. Officer Segura immediately instructed Decedent to put the sword down. Decedent did not comply with Officer Segura’s verbal commands and continued to yell. Officer Maman told R.I. to go inside his apartment.

Officer Segura spoke with Decedent for approximately one minute and thirty seconds and asked him to drop the sword five times. After that time, Decedent quickly descended the stairs with the sword in front of him. Once on the ground level, Decedent walked quickly toward Officer Segura with the sword in front of him. Decedent stated several times “shoot me” and told Officer Segura to run. Decedent asked Officer Segura, “what do you do bitch, what do you do?” as he closed the distance between himself and Officer Segura. Officer Segura then discharged his firearm three times and Decedent fell to the ground.

After Decedent was placed in handcuffs, officers performed first aid until medical personnel arrived. Decedent was transported to Sunrise Hospital.

#### **Officer Daphna Maman**

Officer Maman was wearing a BWC at the time of the incident and the camera was activated. The camera was collected by Sergeant Iacullo and secured. The video footage was later viewed by detectives on May 5, 2020 at 12:35 pm.

Officer Maman’s camera footage depicted the following:

Officer Maman was assigned to the call at 3000 South Sandhill Road and drove to the complex. She waited just outside the complex for Officer Segura to arrive. When Officer Segura arrived, both officers drove into the apartment complex and parked.

Both officers exited their vehicles and walked toward the apartment. As officers walked toward Decedent, he can be heard yelling. R.I. can be seen as he walked away but looked back toward the officers.

The officers located Decedent who was standing at the top of the stairs holding a sword. Officer Maman asked the dispatcher to place a "Code Red" on the radio channel. Officer Segura began speaking with Decedent and Officer Maman broadcasted that Decedent was holding a sword. She also advised the dispatcher that Decedent was irate and yelling, and she requested more officers and medical personnel. Officer Maman asked R.I. to go inside his apartment and then requested K-9 officers from dispatch. Officer Maman then advised the dispatcher that the Decedent was refusing verbal commands, was in an elevated position and was stating that he would kill people.

Decedent quickly descended the stairs and both officers began to back up. Decedent advanced toward Officer Segura who then discharged his weapon. Decedent fell to the ground, landing on his knees. Officers Segura and Maman issued verbal commands for Decedent to lie on his stomach. Decedent refused to lie on his stomach and eventually fell to the ground and was taken into custody.

#### **IV. THIRD PARTY VIDEO AND PHOTOGRAPHIC EVIDENCE**

Cellular phone video footage was recorded by R.I.. The footage was recorded in three separate clips all dated on May 5, 2020. The video clips were voluntarily provided by R.I.

The first clip was time stamped at 10:40 am and was approximately one minute and twenty-six seconds in length. In the footage, Decedent was not observed, however he can be heard yelling obscenities.

The second clip was time stamped at 11:18 am and was approximately three minutes and forty-seven seconds in length. Decedent was observed standing at the top of the stairs as he yelled at the officers. Decedent descended the stairs holding a sword in his hands. Decedent can be heard telling the officers to shoot him numerous times. Decedent told the officers to run as he reached the bottom of the stairs and advanced towards the officers. Three gunshots are heard, and Decedent fell to the ground. The officers gave Decedent verbal commands, took him into custody and provided first aid.

The third clip was time stamped at 11:20 am and was approximately one minute in length. The video depicted the officers continuing to administer first aid.

#### **V. PUBLIC SAFETY STATEMENTS**

##### **Officer Vincen Segura**

On May 5, 2020, at approximately 1:17pm, Detective Penny interviewed Sergeant Nordstrom in reference to the Public Safety Statement (PSS) he obtained from Officer Segura.

Note: Detective Penny is designated by (BP) and Sergeant Nordstrom is designated by (JN).

BP: Operator, this is dd...Detective Penny with the Force Investigation Team conducting a Public Safety Statement interview with Sergeant Jayme, J-A-Y-M-E Nordstrom, N-O-R-D-S-T-R-O-M, P# 8254, call sign 792. Date of hire 02-23-2004. Works out of Southeast Area Command, squad SE24. RDOs Wednesday, Thursday, Friday, shift 0630 to 1630. This interview is in reference to a Public Safety Statement relating to an officer-involved shooting. Public Safety Statement was from Officer Segura. Uh, the OIS occurred on 05-05 of 2020, at approximately 1115 hours, uh, in the area of 3000 South Sandhill, under event number 200500021784. Today's date is 05-05 of 2020. Current time is 1317 hours. This statement is being conducted at...in the, uh, 3000 block of Sandhill. Uh, Sergeant Nordstrom, are you aware this interview is being recorded

JN: Yes.

BP: Okay. Can you go over the Public Safety Statement for me please?

JN: Yes, I can. Read off my card. First question: "Did you discharge your firearm?" The answer for A was, "Yes." Uh, oh, I'm sorry, correction. The answer was, "Yes."

Uh, when I asked him question 1A: "If so, what direction?" He stated he was facing east.

Uh, when I asked him his location he stated he was in the walkway between the two, um, buildings, and one of the buildings was B, the other one I'm not aware of the, uh, number.

BP: Okay.

JN: Ss...question 1, letter C: "How many shots do you think you fired?" He stated, "Three rounds."

Moving on to question #2: "Is anyone injured?" He stated, "Suspect."

And when I asked, uh, "Where were they located?" Located at the scene when we arrived, in between...in the walkway of the two apartments, and medical had already transported him.

3...question 3: "Are there any outstanding suspects?" He stated, "No."

When it got down to A, did not apply, uh, which was, "What direction and mode of travel?"

B: "How long have they been gone?" Did not apply.

C: "What crimes have they committed?" He stated, AWDW."

Uh, D as in...or, I'm sorry, question D: "What type of weapon do they have?" The answer was, "A sword."

Moving on to question #4: Uh, "Is it possible the suspect fired rounds at you?" The answer was, "No," and question 4A and B did not apply.

Moving on to question #5: "Do you know if any other officers discharged their firearms?" The answer was, "No."

Uh, A and B of question 5 did not apply.

Question #6: "Are there any weapons or evidence that needs to be secured/protected?" The answer was, "Sword," and...and the location...Officer, um...officers were already out with the, uh, the sword that was located inside the alleyway of the...between those two apartments that I stated previously.

7: "Are you aware of any witnesses?" He stated, "A lot."

BP: Okay. Thank you. Uh, this will be end of the interview. Same persons present. Time is 1320 hours.

## **VI. OFFICER WEAPON COUNTDOWNS**

On May 5, 2020, Officer Segura had his duty weapon counted down at 3000 South Sandhill Road. Involved and witness officers were photographed by CSI personnel for appearance purposes and their weapons were photographed for identification purposes.

### **Officer Vincen Segura**

Officer Segura was dressed in a standard LVMPD long sleeve uniform. He wore LVMPD patches on each shoulder and an LVMPD badge over his left breast. Officer Segura wore a black duty belt with attached tools and equipment as part of his position in patrol. Officer Segura's handgun was carried on the right side of his body and secured in a holster.

Prior to countdown Officer Segura stated he carried 17 cartridges in the magazine loaded in his firearm, a Glock 17 Gen4, 9mm, and one cartridge in the chamber (17+1, 18 total).

At the completion of the countdown, it was determined Officer Segura discharged his firearm 3 times during this incident. Officer Segura's firearm, magazine, and cartridges were photographed and impounded by CSA Cromwell.

## **VII. FORENSICS REQUESTS/RESULTS**

### **Firearm Examinations**

#### Function Testing and Ballistic Comparison Evidence

On May 19, 2020, an LVMPD Forensic Laboratory Request was submitted by Detective Alsup on Officer Segura's Glock firearm for a function test and ballistic comparison evidence.

On July 6, 2020, Forensic Scientist Kathy Geil, P# 15650, submitted the Report of Examination: Firearms. The cartridge cases were identified as having been fired from the Glock pistol.

## **VIII. AUTOPSY**

On May 6, 2020, at approximately 7:15 am, under CCOCME case 20-2497, an autopsy was performed on the body of Decedent at the CCOCME by Doctor Chundru.

The following wounds/injuries were noted on Decedent:

- 1) Bruises and abrasions to the knuckles on the right hand
- 2) Abrasion to the back of the left thumb
- 3) Abrasions to the right forehead
- 4) Abrasions to the right elbow and forearm
- 5) Gunshot wound to the right chest
- 6) Gunshot wound to the right groin
- 7) Gunshot wound to the back of the right thigh

The toxicology did not reveal any positive findings.

After a complete autopsy, Doctor Chundru opined Decedent died as a result of multiple gunshot wounds. The manner of death was homicide.

## **IX. LEGAL ANALYSIS**

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

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

#### **I. THE USE OF DEADLY FORCE IN DEFENSE OF ANOTHER**

The authority to kill another in defense of others is contained in NRS 200.120 and 200.160. “Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of ... person, against one who manifestly intends or endeavors to commit a crime of violence ...” against the other person.<sup>1</sup> NRS 200.120(1). Homicide is also lawful when committed:

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

NRS 200.160(1).

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

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

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

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

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<sup>1</sup> NRS 200.120(3)(a) defines a crime of violence:

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

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

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

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

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

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

In this case, Decedent posed an imminent danger to Officers Segura and Maman, as evidenced by the statements of R.I, A.L., the Body Worn Video, and as explained by Officers Maman and Segura. Decedent did not comply with either officers' commands to put the sword down. After officers told Decedent to put the sword down, Decedent ran toward both officers with the sword out. Both officers retreated to create distance between themselves and Decedent. When Decedent continued to run toward both officers, Officer Segura fired his weapon to prevent serious bodily harm. Officer Segura protected the lives of himself and those around him. The apartment complex had people in it, as evidence by the statements of R.I and A.L. Officer Segura needed to protect the lives of those around him and, based on that need, he fired his gun.

Thus, Officer Segura was confronted with the appearance of imminent danger, which created in his mind an honest belief and fear that he was about to be killed or suffer great bodily injury. Accordingly, Officer Segura was justified in acting upon those appearances, fears and actual beliefs.

## **II. JUSTIFIABLE HOMICIDE BY A PUBLIC OFFICER**

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

In this case, the facts demonstrate that Officer Segura had probable cause to believe that Decedent posed a threat of serious physical harm to himself and others. This probable cause became evident after Officer Segura observed Decedent at the top of his landing with a large sword. Officer Segura asked Decedent to put down his sword several times. Decedent did not comply with those commands and instead ran toward Officer Segura, telling Officer Segura to kill him. Officer Segura attempted to de-escalate the situation by creating distance between himself and Decedent. Decedent continued to run toward Officers Segura and Maman, endangering both their lives. Thus, Officer Segura had a reasonable belief that Decedent was a threat to their lives.

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

### **CONCLUSION**

Based on the review of the available materials and application of Nevada law to the known facts and circumstances, the State concludes that the actions of Las Vegas Metropolitan Police Department Officer Segura were reasonable and/or legally justified. The law in Nevada clearly states that homicides which are justifiable or excusable are not punishable. (NRS 200.190). A homicide which is determined to be justifiable shall be “fully acquitted and discharged.” (NRS 200.190).

As there is no factual or legal basis upon which to charge, unless new circumstances come to light which contradict the factual foundation upon which this decision is made, no charges will be forthcoming.