



REPORT ON USE OF FORCE

Legal Analysis Surrounding the Death of Craig Cuddihy on September 28, 2017

Introduction

On September 28, 2017, at 10:29 hours, Las Vegas Metropolitan Police Department (“LVMPD”) Dispatch was contacted by the Henderson Police Department (“HPD”) who requested assistance in locating a missing/endangered suicidal subject, Craig Cuddihy (hereinafter Decedent). HPD reported Decedent was possibly armed with a handgun or rifle and driving a silver, 2005 Toyota SUV. HPD had pinged Decedent’s cellular phone and provided a possible address of 6020 West Charleston Boulevard.

Officers Baker and Williams, who were riding together, assigned themselves to the call and contacted HPD Dispatch for updated information. Officers Baker and Williams were provided an updated address of the Auto Zone at 5810 West Charleston Boulevard. Upon arrival in the area, Officers Baker and Williams observed Decedent’s vehicle in the parking lot. Officer Baker requested additional units to establish a perimeter around the Auto Zone prior to attempting to make contact with Decedent. Prior to the perimeter being set, Decedent drove out of the parking lot.

The LVMPD Air Unit followed Decedent’s vehicle as he drove westbound on West Charleston Boulevard then northbound on North Jones Boulevard. Marked patrol units followed Decedent from a distance as the Air Unit provided location updates. As Decedent drove on North Jones Boulevard, he struck another vehicle and continued driving into the Cal Ranch parking lot at 276 North Jones Boulevard.

Decedent drove to the rear of the Cal Ranch where he pulled into an alcove in the back of the building complex and exited his vehicle. As Decedent exited, Officers Baker and Williams saw Decedent holding a handgun with his right hand. Officers Baker and Williams exited their patrol vehicle and issued several verbal commands for Decedent to drop his gun.

Decedent raised the handgun and placed it to the right side of his head. Officer Baker continued to give verbal commands which Decedent ignored. Decedent subsequently fired one round into his head. Almost simultaneously, Officer Williams discharged his firearm. Officer Williams believed Decedent was rotating his firearm toward the officers' direction. Officer Williams was in fear for his and Officer Baker's life.

Officers approached Decedent to render aid and saw he was likely deceased from the gunshot wound to the head. Medical was requested to the scene and confirmed Decedent was deceased.

The investigation would later reveal Decedent was struck in the upper right chest area with the bullet fired by Officer Williams. A review of Body Worn Camera ("BWC") footage and information obtained at autopsy was able to show Decedent was shot by Officer Williams while falling forward after shooting himself in the head.

The Clark County District Attorney's Office has completed its review of the September 28, 2017, 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 Williams 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 Williams. 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 held on May 4, 2018.

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

I. BODY WORN CAMERAS

Officer Henri Aguilar

Officer Aguilar was wearing a BWC at the time of the incident, and the camera was activated. The camera was collected by Sergeant MacDonald and secured. The video footage captured was later viewed by Detective Penny on September 28, 2017.

Officer Aguilar's camera footage depicted the following during the approximate 12 minutes and 45 seconds it was activated during the event.¹

The footage began with Officer Aguilar driving his patrol vehicle as he responded to the area of the Auto Zone. Officer Tracy was in the passenger seat. Radio traffic was heard as patrol units were giving updates about the call. At 7:30, Officer Aguilar arrived at the Auto Zone and entered a parking lot adjacent to Auto Zone.

At 8:32, Officer Aguilar exited the parking lot and joined other marked patrol units following Decedent's vehicle. At 10:30, Officer Aguilar entered the Cal Ranch parking lot and drove to the rear of the shopping complex. At 11:05, Decedent was seen driving around a marked patrol unit and continued driving towards Officer Aguilar. Decedent eventually pulled into an alcove area.

At 11:31, Decedent's vehicle stopped near a dumpster and Officer Aguilar started to exit his patrol vehicle. At 11:41, Decedent was seen standing outside of his vehicle in the open driver's door area. Officers could be heard giving verbal commands to Decedent as his vehicle started to roll backwards. Decedent raised his right hand and placed his handgun to the right side of his head. At 11:57, two gunshots are heard and Decedent fell to the ground. At 12:15, officers are seen moving towards Decedent and a handgun can be seen on the ground near Decedent's feet. Officer Aguilar then went to Decedent's vehicle to clear it. The video ended at 12:45.

Officer Chad Baker

Officer Baker was wearing a body worn camera at the time of the incident, and the camera was activated. The camera was collected by Sergeant MacDonald and secured. The video footage captured was later viewed by Detective Penny on September 28, 2017.

Officer Baker's camera footage depicted the following during the approximate 12 minutes and 35 seconds it was activated during the event.²

¹ The BWC does not show a time stamp of the date/time the video was recorded. The times noted are the minutes/seconds on the video from the time the BWC was activated.

² The BWC does not show a time stamp of the date/time the video was recorded. The times noted are the minutes/seconds on the video from the time the BWC was activated.

The footage began with Officer Baker seated in the driver's seat of his patrol vehicle and parked in the area of Auto Zone. Officer Baker was with Officer Williams who was in the passenger seat. Officer Baker provided updates via radio on Decedent's location, movements and formulated a plan with responding patrol units. At 6:35, Officer Baker started to drive towards the Auto Zone.

At 6:50, Decedent's vehicle drove towards Officers Baker and Williams after they entered the Auto Zone parking lot. Officer Baker exited the patrol car with his handgun drawn and gave verbal commands for Decedent to stop. Decedent drove past officers and went north through the parking lot towards a dirt lot. At 7:10, Decedent drove over a curb and entered a dirt lot as patrol vehicles stopped behind him. At 7:30, Officer Baker parked his patrol vehicle between the Auto Zone building and a semi-truck in the same parking lot in an attempt to block Decedent's path. Officer Baker exited his vehicle as Decedent re-entered the parking lot from the dirt lot.

At 7:40, Officer Baker aimed his handgun at Decedent's vehicle and gave several verbal commands to stop. Decedent drove his vehicle directly at Officer Baker who retreated as Decedent drove over a curb and sidewalk. Decedent then exited the Auto Zone parking lot. Officer Baker got back into his patrol vehicle and started to follow Decedent's vehicle. At 10:20, Officer Baker entered the Cal Ranch parking lot and drove to the rear of the shopping complex.

At 10:42, Decedent's vehicle was observed as it drove around the building and approached Officer Baker's vehicle. Decedent drove past Officer Baker and subsequently entered an alcove area behind the shopping complex. At 11:24, Officer Baker gave verbal commands to Decedent through the Public Address speaker to stop. At 11:28, Officer Baker exited his patrol vehicle and continued giving verbal commands. At 11:30, Decedent opened his driver's door and exited the vehicle. Officer Baker aimed his handgun at Decedent and continued giving verbal commands.

At 11:43, Officer Baker announced, "He's got the gun!"

At 11:52, two gunshots were heard and Decedent was seen falling to the ground. Officer Baker approached Decedent and a handgun could be seen next to Decedent's body. As Officer Baker moved around Decedent he was heard saying, "Yea, he's not survivable." The video ended at 12:35.

Officer Joseph Jerabek

Officer Jerabek was wearing a BWC at the time of the incident, and the camera was activated. The camera was collected by Sergeant MacDonald and secured. The video footage captured was later viewed by Detective Penny on September 28, 2017.

Officer Jerabek's camera footage depicted the following during the approximate 6 minutes and 26 seconds it was activated during the event. ³

The footage began with Officer Jerabek seated in the driver's seat of his patrol vehicle and parked in the area of Auto Zone. At 00:35, Officer Jerabek drove into the Auto Zone parking lot. Decedent's vehicle was seen driving by in front of Officer Jerabek and continuing through the parking lot. Decedent drove over the curb and into a dirt lot. Officer Jerabek made a U-turn and drove toward the front of a semi-truck in the parking lot and exited his vehicle. At 01:49, Decedent's vehicle drove past Officer Jerabek and exited the parking lot. Officer Jerabek exited the parking lot and began to follow Decedent's vehicle. At 02:24, Officer Jerabek's BWC was partially obstructed by a seatbelt until 04:45.

At 05:14, Officer Jerabek entered the alcove area behind the businesses where Decedent's vehicle could be seen already stopped. Officer Jerabek exited his patrol vehicle and stood behind his open driver's door. At 05:28, Decedent was seen standing outside of his vehicle and Officer Baker could be heard giving verbal commands. At 05:38, two gunshots could be heard. Decedent was not seen on camera as the view was blocked by Officer Jerabek's door frame.

Officer Jerabek approached Decedent who was seen lying on the ground. At 05:56, Officer Jerabek moved closer to Decedent and the handgun was visible on the ground near Decedent's right foot. Officer Jerabek approached Decedent's vehicle to assist with clearing it. Officer Jerabek then walked away from the scene. The video ended at 06:26.

Sergeant Kurt McKenzie

Sergeant McKenzie was wearing a BWC at the time of the incident, and the camera was activated. The camera was collected by Sergeant MacDonald and secured. The video footage captured was later viewed by Detective Penny on September 28, 2017.

Sergeant McKenzie's camera footage depicted the following during the approximate 5 minutes and 27 seconds it was activated during the event. ⁴ The footage began as

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Sergeant McKenzie was driving his patrol vehicle and responding to the call at Auto Zone. The BWC was partially obstructed by a seatbelt. While driving, Decedent's actions were being broadcast over the radio.

At 01:56, Sergeant McKenzie advised he was at US 95 and North Jones Boulevard as Decedent drove in his direction. At 02:44, Decedent drove in front of Sergeant McKenzie and continued into the Cal Ranch parking lot. At 02:54, the Air Unit broadcasted Decedent was involved in a traffic accident with a tan truck. The tan truck could be seen as it started to follow Decedent until it stopped as Sergeant McKenzie drove by. As Decedent drove behind the business building, Sergeant McKenzie drove along the front of the businesses until he arrived to the rear alcove area.

At 04:25, Sergeant McKenzie arrived at the alcove area. Several officers could be seen standing outside of their patrol vehicles with handguns drawn. At 04:37, Decedent was seen on camera with his right hand held up to his head. At 04:38, two gunshots were heard and Decedent was seen falling to the ground. Sergeant McKenzie stated over the radio, "He shot himself."

Sergeant McKenzie approached Decedent with additional officers and was told by Officer Baker the wound was not survivable. At 05:10, Sergeant McKenzie requested medical to respond to the scene. Decedent's handgun was visible on the ground near his right foot. At 05:26, Officer Williams was seen as he told Sergeant McKenzie, "I fired." The video ended at 05:27.

Officer Gregory Tracy

Officer Tracy was wearing a BWC at the time of the incident, and the camera was activated. The camera was collected by Sergeant MacDonald and secured. The video footage captured was later viewed by Detective Penny on September 28, 2017.

Officer Tracy's camera footage depicted the following during the approximate 12 minutes and 46 seconds it was activated during the event.⁵ The footage began with Officer Tracy seated in the passenger seat of his patrol vehicle. Officer Aguilar was driving the patrol vehicle and responding to the Auto Zone. Radio traffic was heard as patrol units were given updates about the call. At 7:35, Officer Tracy arrived near the Auto Zone and directed Officer Aguilar to enter a parking lot adjacent to Auto Zone.

⁵ The BWC does not show a time stamp of the date/time the video was recorded. The times noted are the minutes/seconds on the video from the time the BWC was activated.

At 8:30, Officer Tracy exited the parking lot and joined other marked patrol units following Decedent's vehicle. At 10:28, Officer Tracy entered the Cal Ranch parking lot and drove to the rear of the shopping complex. At 11:06, Decedent was seen driving around a marked patrol unit and drove towards Officer Tracy.

At 11:19, Decedent drove in front of Officer Tracy. Officer Tracy stated to Officer Aguilar that Decedent took his seatbelt off and was probably going to stop here. At 11:33, Officer Tracy exited his patrol vehicle as Decedent had pulled into the alcove behind the businesses. Officer Tracy gave verbal commands to Decedent and other officers could also be heard. At 11:58, two gunshots could be heard. Officer Tracy's BWC did not capture the shooting as the camera was pointed downward.

Officer Tracy then approached Decedent's vehicle to clear it and placed the gear shift in park. The video ended at 12:46.

Officer Weston Williams

Officer Williams was wearing a BWC at the time of the incident, and the camera was activated. The camera was collected by Sergeant MacDonald and secured. The video footage captured was later viewed by Detective Penny on September 28, 2017.

Officer Williams' camera footage depicted the following during the approximate 12 minutes and 37 seconds it was activated during the event. ⁶

The footage began with Officer Williams seated in the passenger seat of his patrol vehicle, parked in the area of Auto Zone. Officer Williams was with Officer Baker who was driving. Officer Baker provided updates on Decedent's location, movements and formulated a plan with responding patrol units as Officer Williams watched Decedent's vehicle. At 06:42, Officer Williams entered the Auto Zone parking lot after Decedent started driving.

At 06:50, Officer Williams exited his patrol vehicle and gave verbal commands for Decedent to stop as he drove by. Decedent drove his vehicle into a dirt lot north of Auto Zone as Officers Williams and Baker attempted to follow. When Decedent re-entered the parking lot between a semi-truck and the Auto Zone building, Officer Williams again exited his patrol vehicle. Officer Williams entered the area between the building and semi-truck but retreated as Decedent drove towards him. Officer Williams gave Decedent several verbal commands to stop as he drove over a curb and sidewalk.

⁶ The BWC does not show a time stamp of the date/time the video was recorded. The times noted are the minutes/seconds on the video from the time the BWC was activated.

After Decedent left the parking lot, Officers Williams and Baker followed in their patrol vehicle. At 10:20, Officer Williams entered the Cal Ranch parking lot.

At 10:50, Decedent's vehicle was seen as it drove towards Officer Williams in the rear alley of the Cal Ranch. At 10:56, Decedent drove down the passenger side of Officer Williams' patrol vehicle. Officer Baker turned around and followed Decedent as he pulled into an alcove. At 11:26, Officer Williams exited his patrol vehicle and started to give Decedent verbal commands. Officer Williams' BWC was pointed in the direction of Officer Williams' hands and handgun.

At 11:42, Officer Baker could be heard saying, "He's got the gun." At 11:50, two gunshots are heard and Officer Williams was seen firing his handgun one time. Officer Williams approached Decedent and a handgun was seen on the ground near Decedent's right foot. At 12:26, Sergeant McKenzie asked if Officer Williams was all right and Officer Williams replied, "I thought he was going towards us, Sarge." The video ended at 12:37.

II. SCENE WALK-THROUGHS

On Officer Weston Williams

On September 28, 2017, at approximately 2:42 pm, Officer Williams provided a walk-through of the scene. During the walk-through, Officer Williams indicated that he saw Decedent standing next to the trash can. Decedent had a handgun in his right hand and was holding it at his temple. Decedent fired a shot and the officer involved shooting occurred. Officer Williams discharged his firearm because Decedent's arm and the firearm were moving forward and towards him. Officer Williams was concerned that Decedent was going to shoot him or his partner.

Officer Chad Baker

On September 28, 2017, at approximately 2:54 pm, Officer Baker provided a walk-through of the scene. During the walk-through, Officer Baker indicated that he saw Decedent exit his vehicle and got caught in the open door. Decedent's vehicle was in reverse and pushed Decedent back. Decedent moved to the trash can. Officer Baker saw Decedent holding a firearm down to his side. Decedent brought his firearm up to his head and Officer Baker heard two gunshots.

III. PUBLIC SAFETY STATEMENT

On September 28, 2017, at approximately 2:20 pm, Detective Colon interviewed Sergeant McKenzie in reference to the Public Safety Statement he obtained from Officer Williams.

Below are the questions asked by Sergeant McKenzie, with the answers provided by Officer Williams in italics.

- 1) Did you discharge your firearm? *Yes.*
 - a. If so, what direction? *South, towards suspect.*
 - b. Approximately where were you located? *There, by the car.*
 - c. How many shots did you fire? *One.*
- 2) Is anyone injured?
 - a. If so, where are they located? *At the suspect.*
- 3) Are there any outstanding subjects? *No.*
 - a. If so, what is their description? *N/A.*
 - b. What direction and mode of travel? *N/A.*
 - c. How long have they been gone? *N/A.*
 - d. What crime(s) have they committed? *It was a 405.⁷*
 - e. What type of weapon do they have? *Handgun.*
- 4) Is it possible the suspect fired rounds at you? *I thought he was going to fire at us.*
 - a. If so, what direction were rounds fired from? *Didn't answer.*
 - b. How many shots do you think the suspect fired? *Didn't answer.*
 - c. Approximately where was the suspect located when you fired? *Didn't answer.*
- 5) Do you know if any other officers discharge their weapon? *I don't.*
 - a. If so, who are they? *N/A.*
 - b. Approximately where was the officer(s) located when they fired? *N/A.*
- 6) Are there any weapons or evidence that needs to be secured/protected?" *Yes.*
 - a. If so, where are they located? *By the suspect.*
- 7) Are you aware of witnesses? *No, other than the officers that were there.*
 - a. If so, what is their location? *Question not asked.*

⁷ 405 is LVMPD's code for a suicide.

IV. OFFICER WEAPON COUNTDOWNS

On September 28, 2017, Officers Williams and Baker had their duty weapons counted down at LVMPD Headquarters. Involved and witness officers were photographed by CSI personnel for appearance purposes, and their weapons were photographed for identification purposes.

Officer Weston Williams

Prior to countdown, Officer Williams stated he carried eight (8) cartridges in the magazine loaded in his firearm and one (1) cartridge in the chamber (8+1, 9 total). At the completion of the countdown, it was determined Officer Williams discharged his firearm one time during this incident.

Officer Chad Baker

Officer Baker's firearm was counted down due to being the only officer on scene other than Officer Williams who carried a .45 caliber handgun. Officer Baker had his firearm drawn and aimed at Decedent at the time of the Officer Involved Shooting. Prior to countdown Officer Baker stated he carried twelve (12) cartridges in the magazine loaded in his firearm and one (1) cartridge in the chamber (12+1, 13 total). At the completion of the countdown, it was determined Officer Baker did not discharge his firearm during this incident.

V. DESCRIPTION OF THE SCENE AND VISIBLE EVIDENCE

The scene was located on the north side of the east/west strip mall located on the north side of the property at 240 N. Jones Blvd. An east/west running driveway ran the length of the north side of the building. The driveway gave access to a square-shaped cut-out on the north side of the building. The cut-out was bordered on the east, west and south sides by building walls with the north side of the cut-out open to the east/west running driveway. The east wall of the cut-out consisted of a cell phone tower enclosure, three (3) utility boxes and discarded shelving items. Six (6) doors were listed on the south wall of the cut-out and provided access to the building suites with the door marked 'A' at the west end and the door marked 'F' at the east end. The west wall of the cut-out consisted of an east/west running Conex box approximately 32' north of the south wall. A trash dumpster was located just northeast of the Conex box. A center row of parking spaces ran north/south down the middle of the cut-out.

Vehicle 1 was parked facing southeast with the rear corner of the vehicle in contact with the west wall of the cut-out. The vehicle was located just north of the Conex box. The left front

door of the vehicle was open and the vehicle was running. The left rear tire of the vehicle was flat and was partially shredded. There was scrape damage to the vehicle in front of the left rear tire and to the rear bumper and right rear corner.



Bullet Strike:

One (1) apparent bullet strike was located in the west wall of the cut-out, adjacent to the left rear corner of Vehicle 1, approximately 4'8" up off the ground and approximately 40' south of the northwest corner of the cut-out. A bullet hole testing kit was used on the strike and the strike tested positive for the presence of lead and copper.

Vehicle 2 was parked facing south/southwest at the northwest corner of the cut-out. The vehicle was running and the left front door was open. One (1) cartridge case with the headstamp 'SPEER 45 AUTO' was located on the ground by the left front corner of the vehicle.

Vehicle 3 was parked facing south, east of V2 and in the middle of the cut-out's opening. The vehicle was running and both the front doors were in the open position. One (1) bullet was on the ground by the vehicle's right front tire and one (1) copper metal fragment was on the ground in front of the vehicle's right front tire.

Bullet Strike:

One (1) apparent bullet strike was located in the rubber near the bottom of the vehicle's right front tire.

Vehicle 4 was parked facing south/southwest by the northeast corner of the cut-out. The vehicle was running and the doors were closed.

The Decedent was located between the left front corner of Vehicle 1 and the west side of the center row of parking spaces. One (1) black Glock Model 19 semi-automatic handgun with serial# BDVL366 was located on the ground near his right foot. The firearm was lying on its right side with the muzzle pointed northwest. One (1) cartridge case with the headstamp 'WMA 17' was located just east of the decedent, adjacent to the west edge of the row of parking spaces, in front of the 3rd parking space north of the south end.

DECEDENT:

The Decedent was lying on his back, approximately 10' east of the left front corner of Vehicle 1. The top of his head was pointed south and his legs were straight with his feet pointed north. His left arm was on the ground and was slightly bent at the elbow with his left hand near his waist. His right arm was straight with his arm away from his body and his right hand pointed east. He was wearing a black short-sleeve polo shirt with 'PBS Vegas' on the left breast, gray jeans with a black belt and brown shoes.

A preliminary examination of the Decedent was performed and injuries to the right and left sides of the Decedent's head were noted. An apparent gunshot wound was also located in the Decedent's upper right chest.

EVIDENCE:

The above items of evidence, two (2) cartridge cases, Glock 19 handgun and its contents, bullet and copper metal fragment were recovered from the scene and were impounded as evidence. Swabs were taken from the muzzle and exterior barrel, the interior of the barrel, and the grips, slide serrations and release buttons of the handgun to recover possible DNA and were also impounded as evidence.

VI. THIRD PARTY VIDEO AND PHOTOGRAPHIC EVIDENCE

Private Residence - Bromley Avenue, Las Vegas

Computer Forensics Lab detectives made contact with homeowner who provided home surveillance video. The surveillance camera was mounted to the exterior of the building,

facing south and viewed the rear parking lot of the residence and the alcove area where the shooting occurred. The recording labeled 8-20170928110400 captured the shooting from a distance. The recording was 30 minutes and 2 seconds in length and had a date/time stamp. The following is a description of the recording in regards to the shooting:

The video began at time stamp 11:04:01. At 11:16:55, a patrol car (Officers Baker and Williams) drove eastbound through the north alley of Cal Ranch. At 11:17:10, a second patrol car (Officers Aguilar and Tracy) drove eastbound through the north alley of Cal Ranch. At 11:17:25, Decedent's vehicle entered the frame and drove into the alcove area. Decedent was followed by Officers Baker, Williams, Aguilar and Tracy.

At 11:17:42, Decedent opened his driver's door and exited his vehicle. Decedent's vehicle started to roll backwards. At 11:17:48, a third patrol vehicle (Sergeant McKenzie) drove into frame. At 11:17:56, Decedent moved into the open as his vehicle rolled away. At 11:18:03, Decedent fell to the ground and officers started to approach him.

At 11:27:40, Las Vegas Fire Department engine and rescue began to arrive on scene. The video ended at 11:34:02.

Auto Zone – 5810 West Charleston Boulevard, Las Vegas

A DVD from Auto Zone was provided to Force Investigation Team ("FIT") detectives. Auto Zone did not have any exterior cameras. Two cameras inside of the business labeled "Front Door" and "Left Register" faced the front doors and windows of the business. At the time of the incident in the parking lot, the windows had a glare from the sun and nothing was visible in the parking lot.

Four Kegs – 276 North Jones Boulevard, Las Vegas

A VHS tape from Four Kegs was provided to FIT detectives. The business did not have an exterior camera that faced the alcove where the shooting occurred. The video provided faced the front of the business and recorded patrol vehicles driving through the parking lot. The shooting was not captured on video.

VII. AUTOPSY

On September 29, 2017, an autopsy was performed on Decedent by Dr. Gavin. The doctor noted a gunshot wound of head (contact range) and a gunshot wound of chest (indeterminate range). Toxicology results revealed Xanax, Cocaine, Methamphetamine, and

Oxycodone in Decedent's system. After a complete autopsy, Dr. Gavin opined that Decedent died as a result of a contact gunshot wound of head. The manner of death was suicide.

VIII. INVESTIGATION

Officer Weston Williams

On September 30, 2017, Detective Penny conducted an audio recorded interview with Officer Williams. Officer Williams was working as a two-man unit with Officer Baker. Officers Williams and Baker responded to an Attempt Suicide/Missing Endangered Person call that originated from Henderson Police Department (HPD). Officer Williams had limited information so he called HPD to obtain additional information. HPD dispatch advised they were pinging the Decedent's phone to the area of West Charleston Boulevard and South Jones Boulevard. HPD stated Decedent told his wife he was going to Red Rock to kill himself and he might have a rifle and a handgun with him. Officer Williams also spoke to an HPD officer who was with Decedent's wife in an attempt to get additional weapon, vehicle and location information.

Officer Williams was advised Decedent's phone pinged in the area of 5813 West Charleston which was an Auto Zone. Officer Baker drove to the Auto Zone and they saw Decedent's vehicle in the parking lot. Officers Williams and Baker parked across the street and requested additional units to set up a tactical plan. As additional units were arriving, Decedent moved from the parking space. Officers Williams and Baker entered the parking lot and attempted to stop Decedent. Decedent drove around the patrol vehicle and continued northbound through the parking lot. Decedent drove over a curb and entered a dirt lot north of the Auto Zone.

Decedent drove through the dirt lot and re-approached the Auto Zone parking lot. Decedent re-entered the parking lot in an area between the building and a parked semi-truck. Officer Baker positioned their vehicle towards the front of the semi to block Decedent's path. Officer Williams exited their vehicle because he did not want to be rammed by Decedent. As Officer Williams walked towards Decedent's vehicle, Decedent accelerated towards him.

Officer Williams retreated and saw Decedent mouthing the words, "Shoot me. Shoot me." Decedent then drove his vehicle towards Officer Baker and continued mouthing the words, "Shoot me." Decedent drove past Officer Williams, around his parked patrol vehicle, jumped the sidewalk and exited the parking lot. During the interaction with Decedent in the parking lot, Decedent did not display any firearms. Officer Williams felt Decedent was insinuating he was going to run him over if he didn't shoot Decedent. Officer Williams felt officers could do other things and did not feel the use of deadly force was necessary at that point.

After Decedent left the parking lot, Officers Williams and Baker got back into their patrol vehicle and followed Decedent from a distance. The Air Unit was overhead and continually updated Decedent's location. Decedent drove into the Cal Ranch parking lot and continued to the rear of the building. Officers Baker and Williams drove to the rear of the building from the opposite end and encountered Decedent as he drove towards them. Decedent passed them and turned into an alcove at the rear of the building.

As Decedent stopped his vehicle, Officers Williams and Baker exited their patrol vehicle and immediately started communicating with Decedent. Decedent opened his driver's door and started doing something with his right hand. As Decedent exited, his vehicle started to roll backwards as if it was not in park position. Decedent stepped away from the vehicle, raised a black semi-automatic handgun and placed it against his temple. The handgun was in Decedent's right hand.

Officers Williams and Baker both told Decedent to put the gun down and not to do this. Officer Williams decided to let Officer Baker continue talking to Decedent so the commands were clear. Decedent did not respond to Officers Williams or Baker. While watching Decedent, Officer Williams saw Decedent mouth, "Shoot me." Decedent continued to hold the handgun to his head while taking small steps back and forth directly in front of Officer Williams.

As Officer Williams aimed his firearm at Decedent, Decedent suddenly looked directly at him. Decedent had a blank look on his face and Officer Williams knew Decedent was making a decision and something was going to happen. Decedent took a deep breath, started to pull his handgun away from his head and moved his elbow back. Officer Williams believed Decedent was going to aim his handgun towards him and shoot. Officer Williams discharged his handgun towards Decedent. Decedent dropped his firearm and fell to the ground.



Officer Williams initially did not realize Decedent also shot himself as both shots were almost simultaneous. Officer Williams realized Decedent shot himself upon seeing Decedent's head wound. Officers Williams and Baker approached Decedent and Officer Baker advised Decedent was deceased.

Officer Williams believed Decedent was not going to comply with any commands at the time of the shooting. Officer Williams believed there was no other option other than deadly force to protect his life and the life of Officer Baker.

Officer Ray Horsley

On September 28, 2017, Detective Jex conducted an audio recorded interview with Officer Horsley of Air Support. Officer Horsley was the observer in AIR2. Officer Horsley was notified of a possible attempt suicide subject in the 5800 block of West Charleston Boulevard in the Auto Zone parking lot. Officer Horsley asked what the method of the attempt suicide was and he was advised it involved a firearm. The Air Unit arrived and observed a gray Toyota SUV, occupied by Decedent, parked in the south parking area of the business.

Officer Horsley was concerned Decedent may be able to get inside the Auto Zone and was advised a call was made to have the door locked from the inside.

Officer Horsley stated he went to the camera on the Air Unit and attempted to see the license plate on the vehicle. Officer Horsley was unable to see the plate due to the vehicle being in the shadows and there was not a plate on the front of the vehicle. After a short orbit, Officer Horsley stated the vehicle began to move in the parking lot.

Officer Horsley came off the camera to open up his field of view of the area. Officer Horsley observed two marked LVMPD vehicles in the parking lot. Both patrol vehicles were in a position to somewhat block the exits of the parking lot. Decedent drove to the north, through the parking lot, and then into a small desert area next to the parking lot. Decedent continued north then turned west behind the dumpster. Officer Horsley stated there was a tractor trailer in the parking lot near the east side of the building. Decedent drove southbound between the tractor trailer and the building.

There was a patrol vehicle and an officer, Officer Williams, outside the patrol vehicle at the south end. Decedent drove toward Officer Williams and Officer Horsley thought the officer was in a position to possibly be hit. Decedent continued south onto the sidewalk directly in front of the Auto Zone. Decedent then drove out onto West Charleston Boulevard and headed west. Decedent then turned northbound on South Jones Boulevard. Officer Horsley continued to call out Decedent's direction of travel over the radio. Officer Horsley attempted to engage the camera on the Air Unit but was having technical issues. Officer Horsley was unable to utilize the camera for the incident.

As Decedent continued northbound on North Jones Boulevard, he traveled under the US-95 overpass and sideswiped a tan pickup truck. Decedent then pulled into the driveway next to the McDonalds and continued eastbound through the parking lot. The tan pickup truck followed Decedent. The marked patrol vehicles followed into the parking lot behind Decedent's vehicle.

Officer Horsley observed Decedent as he drove to the east end of the Cal Ranch parking lot until the parking lot ended. Decedent turned northbound, drove along the block wall then turned westbound behind the Cal Ranch business. Decedent continued driving westbound in the alley.

Due to the camera continuing to have a technical issue, Officer Horsley continued to observe without it. Officer Horsley observed a marked patrol vehicle coming eastbound through the rear parking lot toward Decedent. Decedent drove around the patrol vehicle and turned into an alcove that was between the Cal Ranch and the other businesses.

Decedent stopped his vehicle and began to back up as the door began to open. Officer Horsley stated he went back to the camera, which was recording, and attempted to get Decedent in view. Officer Horsley was unable to move the camera view onto Decedent due to a technical issue that locked the camera view onto the roof of the businesses. Officer Horsley stated he later found out that one of the switches had been switched to a different mode that created the issue of him not being able to move the camera where he needed to see. During this time, Officer Horsley heard radio traffic that Decedent had shot himself. He came off the camera and observed Decedent on the ground with an apparent gunshot wound to the head and a handgun on the ground next to him.

Officer Horsley did not observe the shooting and did not know there was an officer involved shooting until he was contacted by FIT detectives after they had returned to Air Support. He stated there was no recording of the incident at the time of the shooting. Once at Air Support, Officer Horsley stated the video was downloaded.

Officer Joseph Jerabek

On September 28, 2017, Detective Alsup conducted an audio recorded interview with Officer Jerabek. Officer Jerabek was finishing a call when he heard radio traffic reference an armed subject who wanted to commit suicide. According to the dispatcher, Decedent's wife was able to track Decedent's location to the area of West Charleston Boulevard and South Jones Boulevard via his cell phone. Officers Baker and Williams were assigned to the call and requested additional officers. Officer Jerabek cleared from his call and assigned himself.

Officer Jerabek arrived in the area and met up with Officers Baker and Williams. Decedent was in a silver Sport Utility Vehicle (SUV) and was able to maneuver out of the parking lot he was in. Officers followed the SUV to the area of North Jones Boulevard and US-95 where it entered another parking lot.

The SUV drove east through the parking lot, around the businesses and eventually pulled into to the north alley behind the building. Decedent exited his vehicle but was concealing his right hand. Decedent turned and Officer Jerabek observed him holding a black firearm with his right hand. Decedent raised the firearm to his head and Officer Jerabek heard two gunshots and Decedent fell to the ground.

Citizen 1

On September 28, 2017, Detective Leavitt conducted an audio recorded interview with Citizen 1 at 240 N. Jones at Famous Philly Steak Restaurant. Below is a summary of the interview; for complete details refer to the interview transcript.

Citizen 1 was at the Famous Philly Steak Restaurant in the back kitchen. There was a rear door in the kitchen that was propped open. The door led to an alley and large open area behind the restaurant. Citizen 1 heard loud noises from outside which sounded like a public address system. Citizen 1 went to the door to look. When she looked outside, Citizen 1 observed a white male, Decedent, standing outside of a Toyota 4-Runner. The 4-Runner was rolling backward toward the building across from her. She observed approximately four (4) police vehicles in the alleyway. The officers were giving directions to the male over the PA system.

Citizen 1 quickly closed the door and locked it, fearing Decedent may try to run from the police toward her. After closing the door, Citizen 1 heard two gunshots. Citizen 1 re-opened the door approximately five minutes later to see what occurred. She observed Decedent lying on the ground, nobody around him, with the police vehicles still where she last saw them. Citizen 1 believed Decedent was deceased.

Sergeant Kurt McKenzie

On September 28, 2017, Detective Colon conducted an audio recorded interview with Sergeant McKenzie at LVMPD headquarters. Sergeant McKenzie was operating as the "William East" area supervisor when he was advised of a suicidal subject called in from Henderson Police Department. The location of the suicidal subject was unknown at the time but units were trying to locate Decedent using his cell phone's location.

Officers Baker and Williams located Decedent's vehicle in the area of West Charleston Boulevard and South Jones Boulevard and they were observing the vehicle from a distance. Information was broadcast that Decedent may be armed with a rifle.

While en-route to the area, Sergeant McKenzie exited US-95 freeway at North Jones Boulevard. Around that time Decedent's vehicle became mobile. Decedent disregarded Officers Baker and Williams attempts to stop him.

Decedent drove north on Jones Boulevard, so Sergeant McKenzie made the decision to stay at the Jones Boulevard exit. Decedent stopped his vehicle at the same intersection where Sergeant McKenzie was posted. Decedent drove through the intersection and turned into the parking lot of the shopping center near the intersection. While turning into the parking lot, Decedent side swiped a citizen's vehicle. The citizen followed Decedent into the parking lot. Sergeant McKenzie utilized the public address function in his vehicle and instructed the citizen to stop following Decedent. The citizen complied and pulled out of the way. Decedent drove around to the rear of the complex. Sergeant McKenzie attempted to direct another

officer to cut Decedent off by going the opposite direction to the rear of the strip mall. Sergeant McKenzie was unable to get the attention of any officers, so he decided to go the opposite way around the complex.

Sergeant McKenzie made it to the rear of the complex and observed Decedent had pulled into an alcove. There were approximately five officers engaging Decedent. Sergeant McKenzie observed Decedent standing outside of his vehicle, but still in the door jamb area while the vehicle was rolling backwards. Sergeant McKenzie saw a gun in Decedent's hand. Sergeant McKenzie saw Decedent's lips moving but he did not hear anything Decedent was saying. Sergeant McKenzie saw Decedent raise the weapon, heard "pop pop" and observed Decedent fall to the ground.

Officer Gregory Tracy

On September 28, 2017, Detective Alsup conducted an audio recorded interview with Officer Tracy at LVMPD Headquarters. Officer Tracy was on an unrelated call with his new officer, Officer Henri Aguilar, when he heard radio traffic of a unit being dispatched on a call reference an armed subject who wanted to commit suicide. Officers Tracy and Aguilar finished the call they were assigned to and assigned themselves to the call.

Officers Tracy and Aguilar drove to the Auto Zone at West Charleston Boulevard and South Jones Boulevard and arrived as the Air Unit broadcast Decedent's vehicle was moving through the parking lot. Officer Tracy heard radio traffic broadcast that Decedent was possibly armed with a handgun and a rifle.

Decedent fled the parking lot and drove westbound on West Charleston Boulevard and then turned northbound on South Jones Boulevard as Officers Tracy and Aguilar followed. Officer Tracy followed the vehicle to the shopping complex located at North Jones Boulevard and Bromley Avenue.

Decedent traveled eastbound through the parking lot at a slow speed due to having a flat tire. Officer Tracy, knew Decedent could drive around the complex, therefore he instructed Officer Aguilar to drive northbound and then eastbound behind the businesses. Officers Tracy and Aguilar again observed Decedent as he drove toward them. Both Officer Tracy's patrol vehicle and Decedent's vehicle circled each other.

Officer Tracy observed Decedent's vehicle stop behind the business. Officers Tracy and Aguilar stopped their patrol vehicle with another patrol unit to their left. Officer Tracy observed Decedent partially exit the vehicle. Officer Tracy observed Decedent reach to the

driver floorboard and then fully exit the vehicle. Officer Tracy heard verbal commands, but was unsure who was issuing the verbal commands.

Officer Tracy observed Decedent step out of the vehicle and face the officers. Officer Tracy heard two gunshots, but believed there was only one shot fired. Officer Tracy believed the second gunshot he heard was an echo due to being surrounded by walls on three sides. Officer Tracy observed Decedent on the ground with the handgun lying on the right side. Officer Tracy believed Decedent killed himself. Officer Tracy cleared the vehicle with other officers to ensure no other subjects were in the vehicle.

Officer Henri Aguilar

On September 28, 2017, Detective Alsup conducted an audio recorded interview with Officer Aguilar at LVMPD Headquarters. Officer Aguilar was riding with his Field Training Officer (FTO), Officer Tracy. Officer Aguilar heard radio traffic of a subject at the AutoZone at West Charleston Boulevard and South Jones Boulevard who was armed and possibly wanted to commit suicide. Officers Aguilar and Tracy assigned themselves and responded.

As the officers were en-route, Decedent was able to leave the Auto Zone parking lot followed by marked police vehicles. Officers Aguilar and Tracy followed the other patrol vehicles to the area of Jones Boulevard and US-95 where Decedent pulled into a parking lot north of US-95. At the direction of Officer Tracy, Officer Aguilar drove to the north alley of the parking lot in an attempt to block a possible avenue of escape. Decedent's vehicle came to a stop in the alley and Officer Aguilar exited his patrol vehicle. As Decedent exited his vehicle, he concealed his right hand. When Decedent turned, Officer Aguilar could see that he was holding a black pistol in his right hand. Decedent then raised the pistol to his head. Officer Aguilar stated Decedent pointed the pistol at officers as he was raising the pistol to his head. Officer Aguilar believed an officer shot Decedent, then Decedent shot himself.

Officer Chad Baker

On September 28, 2017, Detective Colon conducted an audio recorded interview with Officer Baker at LVMPD headquarters. Officers Baker and Williams were assigned to a suicidal subject call. Decedent's cell phone was electronically located in the area of West Charleston Boulevard and South Jones Boulevard. Officer Williams gathered additional information about the circumstances surrounding Decedent. Decedent was located at 5810 West Charleston Boulevard which was an Auto Zone store.

Officer Williams advised Officer Baker that Decedent had access to firearms and his vehicle was described as a silver Toyota 4-Runner with black fenders. Upon arrival to the area, Officer

Baker observed Decedent's vehicle parked in the Auto Zone parking lot. Officer Baker did not want to enter the parking lot at that time so he made a U-turn and parked on the south side of the street to observe Decedent.

Officer Baker made a request for K-9, Air Unit and additional patrol units to respond to the scene. Officer Baker devised a plan where patrol officers would set up in an effort to contain Decedent. As soon as Officer Baker approached Decedent's vehicle Decedent drove away. Responding officers pulled into the parking lot. Decedent turned around and was forced into a smaller area of the parking lot. Officer Baker and Williams exited their vehicle, drew their firearms and gave Decedent verbal commands. Decedent ignored the commands. Decedent fled northbound through the parking lot that lead him to the rear of Auto Zone which was a desert area. Decedent drove through the brush and tried to come back around but was pinched between a dumpster, a semi-truck and wooden pallets. Officer Baker positioned his vehicle to block the exit. The officers again exited their vehicle.

Decedent drove toward Officer Baker. Officer Baker saw Decedent in the driver seat, waving both hands and mouthing the words, "Shoot me!" Officer Baker feared Decedent was going to hit him with his vehicle so he backed up. Officer Baker moved behind a concrete pillar that would have prevented Decedent from hitting him with his vehicle. Decedent was able to drive his vehicle through the vehicle blockade. Officers pursued Decedent but were told by a supervisor to discontinue utilizing the patrol vehicles lights and sirens. Officer Baker followed Decedent from a distance. Decedent pulled into the Smith's shopping center followed by Officer Baker who attempted to cut Decedent off, but was unsuccessful. Decedent pulled his vehicle into a "sally port" area at the rear of the shopping center.

Officer Baker gave Decedent numerous commands through the vehicles P.A. system. Decedent's vehicle stopped and Officers Baker and Williams exited their vehicle. Officer Baker gave commands to Decedent and observed he had a gun in his hand. Decedent's vehicle rolled backward as Decedent stepped out of the way of his own car and shut the driver door. Decedent raised his gun to his own head and Officer Baker heard two simultaneous shots. Officer Baker saw that Decedent shot himself in the head and initially thought the second shot was just an echo but realized his partner, Officer Williams, had also fired his gun. Officer Baker walked toward Decedent, who was lying on the ground, with a gun by his body. Officer Baker observed Decedent's wounds to be fatal. Officer Baker then backed away.

IX. FORENSICS REQUESTS/RESULTS

Firearm Examinations

On October 18, 2017, an LVMPD Forensic Laboratory Request was submitted by Detective Penny on Officer Williams' and Decedent's firearms for function tests and ballistic comparison evidence. On November 9, 2017, Forensic Scientist Kathy Geil, P# 15650, submitted the Report of Examination: Firearms & Toolmarks.

The Kimber pistol was examined, test fired and found to be operational with no noted malfunctions. This pistol has a barrel length of approximately 5 1/16 inches, an overall length of approximately 8 3/4 inches and a trigger pull of 4 – 4 1/4 pounds. The submitted magazine fits and functions in this pistol and has a capacity of eight cartridges.

The Glock pistol was examined, test fired and found to be operational with no noted malfunctions. This pistol has a barrel length of approximately 4 inches, an overall length of approximately 7 5/16 inches and a trigger pull of 6 3/4 – 7 pounds. The submitted magazine fits and functions in this pistol has a capacity of fifteen cartridges.

Cartridge cases

The evidence cartridge cases were examined and microscopically compared to the test fired cartridge cases from the Kimber and Glock pistols with the following results:

- The cartridge case (Lab Item 1) was identified as having been fired in the Kimber pistol.
- The cartridge case (Lab Item 2) was identified as having been fired in the Glock pistol.

Bullets and bullet jacket fragments

The evidence bullets and bullet jacket fragments were examined and microscopically compared to the test fired bullets from the Kimber and Glock pistols with the following results:

- The bullet (Lab Item 6) was determined to be consistent with nominal .38 caliber, to include 9mm Luger.
- The bullet (Lab Item 6) and the bullet jacket fragment (Lab Item 7) have similar general rifling characteristics as the test fired bullets from the Glock pistol. However, there was insufficient microscopic detail for a conclusive identification

or elimination as having been fired from the Glock pistol. This bullet and bullet jacket fragment were eliminated as having been fired from the Kimber pistol.

- The bullet jacket fragment in Lab Item 6 was not of microscopic comparison value.
- The bullet (Lab Item 8) was determined to be consistent with .45 Auto. This bullet was identified as having been fired from the Kimber pistol.

X. 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.⁸ 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).

⁸ NRS 200.120(3)(a) defines a crime of violence:

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

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

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

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

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

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

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

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

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

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

In this case, Decedent posed an imminent danger to officers and civilians in the area. Officers had reports Decedent was suicidal and armed with a firearm. As the officers originally tried to stop Decedent at the AutoZone, he ignored commands to stop and drove his vehicle directly at officers. Decedent then fled the AutoZone and, as he drove away, the Air Unit relayed information that Decedent struck another vehicle as he drove away. Later, when officers made contact with Decedent in a parking lot, he did not comply with their directives and mouthed the words “shoot me” to the officers. Decedent also continued to hold the handgun to his head while taking small steps back and forth directly in front of Officer Williams.

Officer Williams observed Decedent take a deep breath as he started to pull his handgun away from his head and moved his elbow back. Officer Williams believed Decedent was going to aim his handgun towards him and shoot. Officer Williams discharged his weapon at the Decedent who was an imminent danger of death or great bodily injury to Officer Williams and/or the other officers in the area.

Thus, Officer Williams was confronted by the appearance of imminent danger which created in his mind an honest belief and fear that he or others were about to be killed or suffer great bodily injury. Accordingly, Officer Williams was justified in acting upon those appearances, fears and actual beliefs. Additionally, it was the Decedent’s own self-inflicted wound which actually caused his death.

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 Williams had probable cause to believe that the Decedent posed a threat of serious physical harm to himself and to the people in the area. This probable cause was based on the fact that Decedent was reported to be suicidal, had already struck another vehicle with his vehicle, was telling officers to shoot him while he was armed, would not comply with the officers’ orders, and began to point his gun at Officer Williams. Thus, Officer Williams had not only a duty to respond to the perceived deadly threat to the others in the area, but also could act on his reasonable fear of a threat to his life and use deadly force.

The circumstances indicate the Officer Williams had a reasonable belief that Decedent was a threat to his safety as well as the other people in the area.

In light of this evidence, the actions of the officer 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 Williams 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.