

REPORT ON USE OF FORCE



Legal Analysis Surrounding the Death of Mason Workman on April 19, 2020

INTRODUCTION

On April 19, 2020, at approximately 9:27 pm, Henderson Police Department (hereinafter "HPD") dispatch received a 911 call from M.K. She relayed that she and her fiancé, Mason Workman (hereinafter "Decedent"), had an argument due to him drinking throughout the day. M.K. said Decedent had left the home and began posting photographs of firearms on his Facebook page. M.K. said that Decedent was referencing her in the photos, and that she felt threatened. She said Decedent had returned to the home and that she feared for her safety.

When officers arrived, they were able to contact M.K. and get her out of the home. Officers then contacted Decedent, who was in the backyard of the residence. Decedent was uncooperative and went back inside. He then came to the front door and spoke to officers from inside. It was there that officers realized Decedent was armed with a firearm. Eventually, Decedent came out of the house through the garage, where he confronted officers by pointing the firearm directly at them. Based on these actions from Decedent, Officer Lillegard and Officer Alcantara both discharged their weapons, striking Decedent. Decedent also discharged his weapon in the direction of law enforcement, striking Officer Alcantara in the process.

The District Attorney's Office has completed its review of the April 19, 2020, death of Decedent. It was determined that, based on the evidence currently available and subject

to the discovery of any new or additional evidence, the actions of Officers Lillegard and Alcantara were not criminal in nature.

This report explains why criminal charges will not be forthcoming against the officers 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 November 4, 2021. This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of Officers Lillegard and Alcantara 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.

THE EVENTS AT 2261 GALINDO COURT, HENDERSON, NEVADA

At approximately 9:27 pm on April 19, 2020, officers were dispatched to 2261 Galindo Court, reference a threatening individual. The following section details the events and actions of officers responding to the address. The Clark County District Attorney's Office ("CCDA") has reviewed all police reports, statements, and Crime Scene Analyst ("CSA") reports submitted by the HPD. This section highlights the statements of the pertinent officers involved in the use of force resulting in Decedent's death.

INVOLVED OFFICER STATEMENTS

Officer Conrad Lillegard

On April 19, 2020, Officer Lillegard was working patrol near the West Command Substation on Green Valley Parkway, Henderson, Nevada. At approximately 9:30 pm, he self-dispatched to 2261 Galindo Court, Henderson, Nevada, after hearing over his radio that officers were enroute reference a family disturbance between Decedent and M.K.. The initial details of the call were that Decedent had posted photographs of firearms to his social media. Additionally, he had tagged M.K. in those posts, causing her to feel threatened. Dispatch notified officers that Decedent had a previous criminal history, to include home invasion with a deadly weapon and resisting arrest. Dispatch also informed officers that according to M.K., Decedent would not cooperate with police.

When Officer Lillegard arrived on scene, he noticed M.K. had exited the house through the garage. Officer Lillegard positioned himself on the corner of the residence. Other officers found Decedent in the backyard and asked him to come to the front of the home. He refused and went back inside the house. He then opened the front door and began

yelling obscenities at officers as they attempted to talk to him. Decedent then went back inside and came to the front door again. This time, officers noticed he was armed and indicated such over the radio. Based upon this information, Officer Lillegard retrieved his department issued rifle from his vehicle. He then repositioned himself across the street from the house so he could have a longer eye to see Decedent's movements within the home. From there, Officer Lillegard saw the light go on in the room above the garage. He knew from his briefing that Decedent kept firearms in that room.



View into Decedent's garage. The door to the inside of the home is directly in front of the white vehicle.

Decedent eventually came out of the house through the garage and began yelling at officers. He went in and out of the house several times, all the while yelling obscenities. Officer Lillegard then heard over the radio that Decedent had pointed a firearm at other officers. Officer Lillegard was unable to see Decedent at that point because Decedent was behind a car, thus blocking his view. Officer Lillegard then heard Decedent say, "[w]e're going to have to shoot this out." He then heard a slide of a gun being racked back. Decedent then stepped out from behind the car and pointed his gun at officers. Officer Lillegard then heard a gunshot from Decedent's gun. Fearing for his life, Officer Lillegard fired his patrol rifle 3-4 times.

Officer Alejandro Alcantara

On April 19, 2020, Officers Alcantara and Wong-Wui were dispatched to a domestic call at 2261 Galindo Court, Henderson, Nevada. Dispatch advised that the caller, M.K., was concerned for her safety after the Decedent, who was highly intoxicated, left the home due to a fight. While gone, Decedent began posting photos of firearms to his social media and tagging M.K. in those photos.

As Officer Alcantara arrived, he learned Decedent had come back to the home. Officer Alcantara set up in front of the house near the open garage door. Decedent then entered the garage from a side door that leads to the backyard. Decedent went through the garage and into the house. As he went inside, he attempted to close the garage door. Officer Alcantara used his foot to activate the sensor that kept the door from closing. Officer Alcantara then placed a bag of fertilizer in front of the sensor to keep Decedent from being able to close the door. Officer Alcantara did this because he wanted to keep eyes on Decedent and didn't want him accessing the backyard without officers knowing his whereabouts.

Eventually Decedent exited the home through the front door and stood behind a locked gate in a courtyard area. From there, he spoke to officers who attempted to calm him down. Officers asked him if he had a firearm and he confirmed he did by showing them a handgun holstered in the back of his shorts. Decedent said he also had an AR-15 and two other handguns. Decedent continued to be combative with officers. At one point he motioned as if to reach for the gun. At that point Officer Alcantara drew his duty weapon, pointed it at Decedent and ordered him to stop reaching for the firearm. Decedent ultimately went back inside the home.

Officers backed away from the house and repositioned themselves to create distance. Decedent went in and out of the garage four times, each time becoming more and more agitated. He told officers there was "going to be a fight" and asked if they were "ready to fight?" The third time Decedent came back into the garage, Officer Alcantara heard a gun rack, which meant a round was in the chamber of the gun. He then looked into the garage and saw Decedent pointing the gun down the driveway. Officer Alcantara dropped to the ground and advised over the radio that Decedent was "pointing a gun at us." Decedent then went back inside the house.

Decedent returned to the garage for a fourth time and immediately resumed his position of pointing his weapon at officers. At that point in time, Officer Alcantara was lying prone in front of a vehicle. Fearing for his and Officer Wong-Wui's life, Officer Alcantara fired his weapon 3-4 times in the direction of Decedent. Officer Alcantara heard gunshots, rolled over, and felt a burning sensation on the left side of his chest. He continued to point his weapon into the garage, where he could see Decedent was down on the ground against a cabinet. Officer Alcantara told Officer Wong-Wui he had been shot and needed help.

WITNESS OFFICER STATEMENTS

Sergeant William Ellena

On April 19, 2020, Sergeant Ellena was working as patrol supervisor when he received a call for service at 2261 Galindo Court regarding a disturbance between a male and female, where the male half had posted photographs of guns on social media. The person reporting also advised the male was suicidal. Sergeant Ellena arrived along with Officers Wong-Wui, Alcantara and Duncan. Sergeant Ellena recognized the house from a previous call for service where the male half was intoxicated and uncooperative.

Officers approached the home and could readily see over the sidewall into the backyard. There, they saw Decedent as he sat on a chair in the backyard. He appeared to be talking on the phone. Sergeant Ellena requested dispatch to call inside and ask the female, M.K., to exit the residence, which she did. Sergeant Ellena then attempted contact with Decedent through the gate on the side of the house. Decedent came towards the gate but was not cooperative. Decedent then appeared at the front door where Officer Wong-Wui made initial contact with him. Sergeant Ellena asked Decedent if he had a firearm on his person and Decedent advised that he did. Decedent raised his shirt and turned around, showing officers a handgun in the small of his back. Decedent continued to verbally assault the officers before going back inside the house. Sergeant Ellena then retreated to create distance between himself and the house.



Decedent speaking to officers from behind his front entry gate.

Decedent repeatedly came out into the garage, where he would yell at officers before going back inside. Sergeant Ellena contacted M.K, who was down the street with other officers. While speaking with M.K., Officer Duncan advised over the radio that Decedent had come into the backyard and was pointing something over the wall. At that point, Officer Duncan was unsure if it was a handgun or a flashlight. M.K. then showed Sergeant Ellena the photograph that Decedent had posted and tagged her in on social media. It was a picture of Decedent's guns. Sergeant Ellena suggested M.K. go somewhere else for the night. M.K. said she would try to find a place to go, however, she needed to go back inside of the house to get her dog, keys and purse. Sergeant Ellena attempted to call Decedent on his cellular phone, but he did not answer, so he walked back to the scene.

Once back at the home, Sergeant Ellana saw that Decedent was attempting to close the garage door. The door kept reopening because Officer Alcantara had placed something in front of the sensor. Sergeant Ellena then heard Decedent state, "If this garage door doesn't go down, we are going to have a shoot-out." Sergeant Ellena heard Decedent unsuccessfully attempt to close the door again. Officer Alcantara then advised over the radio, "He is pointing a gun at me." Sergeant Ellena then heard shots fired and Officer Alcantara stating that he believed he had been hit.

Officer Cyrus Wong-Wui

On April 19, 2020, Officer Wong-Wui was working patrol when he was dispatched to 2261 Galindo Court. The information he had from dispatch was that a family disturbance occurred between Decedent and M.K., whereafter Decedent was posting photos of guns along with threatening messages referencing M.K. Once on scene, Officer Wong-Wui positioned himself to the right of the open garage door, near Officer Alcantara. While posted by the door, Decedent entered the garage from the backyard. Officer Wong-Wui and Officer Alcantara asked Decedent to come outside but he refused. Instead, he went back into the house, attempting to close the garage along the way. Officer Wong-Wui and Officer Alcantara used their feet to activate the sensor on the garage door to keep it open. Officer Alcantara placed a bag of fertilizer in front of the sensor to keep the door from closing. Decedent then exited the front door and stood behind a security gate of the entrance to the house. When asked, he admitted to Officer Wong-Wui and Sergeant Ellena that he posted the photos of the gun. He then turned and pulled up his shirt to show them that he had a gun tucked into his back waistband. He then went back inside.

Eventually, Decedent reentered the garage and tried to close the garage door, but it would not close. He then slammed the door shut and continued to get angry, saying to officers, "Do you guys want to have a fight?" and "Do you guys want to have a gun fight?" He then opened the door into the garage, holding what appeared to be a flashlight or tactical light. Officer Alcantara dropped to a prone position at the front of the truck. Officer Wong-Wui then heard a sound come from inside the garage which

sounded like the slide being pulled back on the handgun. Decedent then came to the front of the garage where Officer Wong-Wui could clearly see a firearm in his left hand. Decedent was pointing the gun down the driveway at Officer Wong-Wui and Officer Alcantara's position. Officer Wong-Wui then heard several gunshots. At the time, Officer Wong-Wui was still holding the 40mm less-than-lethal gun. He dropped the gun and transitioned to his handgun but was not able to fire. Officer Alcantara told Officer Wong-Wui that he had been shot. Officer Wong-Wui then helped Officer Alcantara off the ground and brought him to the neighbor's house.



Officer Wong-Wui's view into the garage during the incident.



Officer Wong-Wui's view from the driveway into the garage.

CIVILIAN STATEMENTS

As part of the investigation, officers interviewed three lay witnesses regarding the events of April 19, 2020. The following section details a summary of those witnesses statements.

M.K.

On April 19, 2020, M.K. was engaged to, and living with, Decedent. According to M.K., Decedent had depression issues and had agreed to not drink because of the effects alcohol had on his system. That day, Decedent was drinking alcohol and smoking marijuana throughout the afternoon. As a result, he became confrontational with M.K. Decedent sent M.K. numerous aggressive text messages from within the home. At approximately 3:42 pm, Decedent stated, "Call the cops". At approximately 4:00 pm, she received another text that stated, "Call the cops. Please do." M.K. replied with "I love you. Please go to sleep." Decedent replied and stated, "Call the fucking cops, you scared little bitch." At this point, a verbal altercation ensued between M.K. and Decedent. Decedent ultimately left the home. While out, Decedent posted a photo of a firearm to his social media, with a caption that read, "When your bitch plays like you don't matter,

but expects you to keep her ass safe and talks the same shit...Stay sleep you dumb bitch...I'm outta here any ways!" He then tagged M.K. in this post.

M.K. had multiple friends reach out to her about the post, including Decedent's brother N.W. While on the phone, M.K. noticed Decedent came home. Scared, M.K. decided to call 3-1-1 and ask if officers could respond to the house. M.K. remained on the phone with the dispatcher until units arrived on scene. She then went downstairs, opened the rollup garage door, and exited the residence to speak to one of the officers. M.K. told the officer Decedent was drunk and asked that they not tell him she was the one who called the police. The officer she was speaking with remembered a similar incident at the home from November and told her to go down the street and wait. After that, she heard Decedent yelling, "Who called, who called, who called?" She then heard Decedent yelling at the officers to get the fuck out of there. She also heard Decedent tell the officers he did not do anything, and they should not be there. M.K. then went down the street to wait with officers.

While waiting, an officer obtained Decedent's phone number and advised he would call Decedent to see if he would exit the residence so she could go inside to retrieve her belongings. M.K. asked if he wanted her to call him and he told her he did not. M.K. believed Decedent was getting upset because he believed he was going to be arrested if he exited the residence. M.K. then heard the officers tell Decedent that they were not going to arrest him if he came outside. Decedent continued to yell and became increasingly more combative. M.K. then heard, "Do not take it out, don't take it out." She then heard three to five consecutive gunshots.

Once the incident was over, M.K. called N.W. and told him shots were fired. An officer eventually came and told M.K. that Decedent did not make it. M.K. then told officers that when Decedent drank, he would become very angry. She said that while Decedent had never laid a hand on her, he would often talk about harming himself. M.K. said that when Decedent drank he would express negative views about law enforcement. Further, when Decedent spoke of law enforcement he would talk about "shooting it out" with the police. When Decedent was depressed and drank, he would also reference suicide by cop.

N.W.

N.W. is Decedent's brother and a Las Vegas Metropolitan Police Officer. He told officers that his brother has dealt with alcohol abuse his entire adult life. For the past few years, Decedent had been sober; however, he had recently fallen on hard times and was drinking again. N.W. said that when Decedent drank, he drank heavily. In a previous incident, Decedent had called a friend and told him he was going to kill himself. N.W. called Decedent and asked him what was going on. Decedent was driving and sounded like he was intoxicated. He told N.W. he was going to go kill himself and to give his little one his love. N.W. called M.K. and told her to call the police. M.K. was afraid Decedent was going to come back home, so N.W. called 911. He requested a welfare check, whereafter

Decedent was placed on a legal hold reference suicide threat. He was released from the hospital after three days at which point he blamed everything on N.W. For this reason, he had not had any contact with Decedent for the past few months. Prior to the instant incident, N.W. had never heard Decedent threaten to harm anyone except for himself. N.W. believed Decedent did not like law enforcement. When he hired on the Las Vegas Metropolitan Police Department as a police officer, Decedent was not happy with him.

On the evening of the instant incident, N.W. got a call from Decedent and did not answer. Decedent left a vulgar voicemail, explaining that he had no respect for N.W. since he went down the law enforcement road. He also said he was not going to be hearing from him anymore and as far as he was concerned, they can all “kiss his ass, suck his dick and gag on it mother fucker.” Furthermore, Decedent said he was not happy that N.W. wanted to be a “bitch ass cop” and he and his family all are dead to him.

Later, a friend sent him a screen shot of a post Decedent made on social media. The post was a photo of Decedent's Glock handgun and his AR rifle. N.W. called M.K., who was tagged in the photo, to make sure she was okay. He told her to call his father and go stay there for the night. M.K. told N.W. that she believed Decedent had just arrived back at home. N.W. advised her to hang up and call the cops. She called 911 and then called N.W. back once she was out of the house. N.W. heard yelling in the background while he was on the phone with her. M.K. hung up and eventually called N.W. back. She told him she heard shots fired and that she watched a police officer fall to the ground. N.W. believed Decedent either did "suicide by cop" or killed himself.

N.W. advised of one more incident that involved Decedent back in late 2015 or early 2016. There, Decedent showed up at the wrong house intoxicated. He attempted to get inside, and the homeowner called the police. Henderson police arrived and Decedent resisted the patrol officers. Decedent was eventually tased and placed under arrest.

L.S.

On April 19, 2020, L.S., lived next to Decedent. That evening, she opened her front door after hearing her dog bark. She immediately observed Henderson Police Department officers in her driveway telling her to remain inside. L.S. went to her window and observed Decedent open his garage door and waive a firearm around while screaming at officers. L.S. then saw Decedent point a firearm at Henderson officers that were taking cover behind a white truck. Decedent continued screaming at the officers and continued waiving his firearm.

L.S. then heard gunshots fired by officers and saw Decedent fall into a seated position with his back against a wall inside of the garage. L.S. then saw officers approach Decedent after it was clear he was not moving.

THE INCIDENT SCENE



Decedent's driveway and garage. Decedent was shot while outside the garage, standing next to the rear left of the white truck.

The incident scene was a single-family home located at 2261 Galindo Court, Henderson, Nevada; however, the entire scene encompassed multiple neighboring properties. The home was a two-story residence with a street facing garage and driveway. The incident occurred while Decedent was inside the garage with the garage door open. There was a white truck parked in the driveway, which, depending on where officers were staged, partially obstructed the view into the garage. There were approximately eight (8) penetrating, perforating and/or graze marks throughout the garage.

A second vehicle was parked in the west half of the garage. There was a fired bullet located on the garage floor, underneath the left side of Vehicle 2 and a live cartridge on the garage floor, in front of the right rear tire of Vehicle 2. Cabinets/shelves lined the west wall of the garage. A Glock 43 9mm semi-automatic handgun, containing one (1) cartridge in the chamber and five (5) cartridges in the seated magazine, all bearing headstamp "FC 9MM LUGER" was located on the floor of the garage adjacent to the cabinets along the west wall.

The truck was parked, facing north, along the east side of the driveway of 2261 Galindo Court. There were two cartridge cases on the south end of the driveway, north of the

front left tire of Vehicle 1 and two found on the driveway north of Vehicle 1. All of the casings bore headstamp "SPEER 9mm LUGER".

Additionally, Officer Alalcantara's uniform and duty belt were found at the front entry door or 2259 Galindo Court. The HPD short-sleeve uniform shirt (with a name plate bearing "ALACANTARA") had two (2) defects to the left side of the chest. There was a ballistic vest which had a defect to the left side of chest/arm pit area as well as a [fired] bullet imbedded into the left side of the chest plate of the vest. A Glock 43 9mm semi-automatic, was tucked into a holster pocket built into the front of the ballistic vest.



The front door to Decedent's home.



Decedent's weapon.

REVIEW OF THE WEAPONS

On April 19, 2020, Officers Lillegard and Alcantara had their duty weapons counted down to determine the number of rounds each officer fired during the incident. Additionally, subject and witness officers and their weapons were photographed for identification purposes.

OFFICER ALCANTARA'S WEAPON

Officer Alcantara discharged a Glock, 9MM handgun. At the conclusion of the investigation, it was determined that Officer Alcantara discharged his firearm four (4) times during the incident.

OFFICER LILLEGARD'S WEAPON

Officer Lillegard discharged a Colt M4 Carbine rifle. At the conclusion of the investigation, it was determined that Officer Lillegard discharged his weapon six (6) times during the incident.

LVMPD FIREARM COMPARISON REPORT

On Wednesday, April 29, 2020, a Forensic Laboratory Examination Request was sent to the Las Vegas Metropolitan Police Department lab. The request was to compare the bullet recovered from Officer Alcantara's vest and the FC 9mm Luger cartridge case to

Decedent's Glock 43. The request was also to function test Officer Alcantara's firearm and Officer Lillegard's rifle.

On June 8, 2020, Detective Condratovich received the results from the Forensic Laboratory Examination Request.

- The Glock pistol with serial number ACTD869 (Mason's) was examined and test fired and found to be operational with no noted malfunctions.
- The Glock pistol with serial number TXT946 (Officer Alcantara) was examined and test fired and found to be operational with no noted malfunctions.
- The Colt rifle (Officer Lillegard) was examined and test fired and found to be operational with no noted malfunctions.

The cartridge case and bullet were examined and microscopically compared to the test fired bullet from the submitted firearms with the following results:

- The cartridge case was identified as having been fired in Decedent's Glock pistol with serial number ACTD869.
- The bullet was identified as having been fired from Decedent's Glock pistol with serial number ACTD869.

BODY WORN CAMERAS

The following officers were wearing activated Body Worn Cameras during the incident: Henderson Police Officers C. Lillegard, C. Wong-Wui, E. Duncan, W. O'Steen, J. Lytle, A. Alcantara and Sergeant W. Ellena. Below is a timeline based upon footage from those cameras.

- 21:42:51: Officers Wong-Wui, Alcantara and Sergeant Ellena arrive on scene.
- 21:43:56: Officers Wong-Wui, Alcantara and Sergeant Ellena approach the residence walking North on Temporale Drive.
- 21:44:55: Officers advise that they observe over the side wall that Decedent is sitting in the back yard in a lawn chair.
- 21:45:21: Officer Wong-Wui requests that dispatch have the PR M.K. meet officers at the front door.
- 21:45:41: Officers approach the front of 2261 Galindo Court.
- 21:47:16: The garage door at 2261 Galindo Court opens and M.K. exits through the garage door and is contacted by Sergeant Ellena while Officer Wong-Wui remains positioned at the front of the house between the garage door and the front door. Officer Alcantara positions himself near the front of the residence along the west wall.
- 21:47:35: Sergeant Ellena contacts M.K. at the end of the driveway. M.K. advises that Decedent has not made any suicidal threats. M.K. states that Decedent is calm now but that he is intoxicated. M.K. advises that they both cannot stay there, and she is willing to leave but has nowhere to go.

- M.K. states that she did not want Decedent to know that she was the one who called. M.K. reminds Sergeant Ellena that Decedent gets a little crazy.
- 21:48:11: Officer Wong-Wui advises dispatch that they have contact with the PR M.K..
- 21:50:02: Officer Lillegard's body camera is activated. Sergeant Ellena advises Officer Wong-Wui that he will go and talk to Decedent and see if he can get him to come to the front door. Sergeant Ellena gives Officer Wong-Wui the 40mm less-than-lethal weapon. Officer Wong-Wui remains at the pillar between the garage and the front door. Officer Alcantara moves to the front pillar between the garage and the front door. Officer O'Steen arrives on scene and his body camera is activated.
- 21:52:05: Sergeant Ellena contacts Decedent verbally by talking to him over the wall into the backyard and asks Decedent to come to the side gate to talk. Decedent asks Sergeant Ellena why they are there. Sergeant Ellena tells Decedent they need to figure out what is going on and again asks him to come to the side gate. Decedent says he will meet them there and Sergeant Ellena tells him not to go back into the house. Sergeant Ellena then states that Decedent is going to the other side.
- 21:52:13: Officer Wong-Wui retreats to the end of the driveway and takes position at the front of the white truck backed into the driveway.
- 21:53:00: Decedent enters the garage through the side door to the east side of the residence. Officer Alcantara makes verbal contact with Decedent and asks him if he has any weapons on him. Decedent says he doesn't and walks to the door leading into the residence. Officer Alcantara asks Decedent to come and talk to them, but Decedent pushes the button to close the garage door and tells officers that he will meet them at the front door. Officers place their feet in the eye beam of the garage door which causes the garage door to remain open.
- 21:53:34: Decedent exits the front door of the residence but is behind a metal security fence leading to the front door. Officer Alcantara asks Decedent to come and speak with officers, but Decedent says no and tells officers to come to where he is to talk to him. Decedent begins asking Officers their names and what they are doing at his house and asking who called them. Office O'Steen is positioned in front of the garage behind Officer Alcantara.
- 21:54:30: Sergeant Ellena contacts Decedent and explains to Decedent who called the police and explains why they are there. Decedent is verbally confrontational with officers and is refusing to answer any questions they have. Decedent tells officers that they are being recorded by a third party. Sergeant Ellena asks Decedent if he sent a photograph of guns laid out on the floor and Decedent states that he did. Decedent states that he sent a photograph of an Ar-15 and a 9mm pistol. When asked why he would send that, Decedent's reply was, "Why not?"

- 21:55:35: Decedent starts to back away from the security gate and points towards Officer Alcantara and asks, "What the fuck is he doing?" Decedent then says, "You all better back the fuck up, because I don't really think that I did anything wrong here, are we gonna have a shootout? Are we gonna get down?" When Officers say no, Decedent say, "Well then get the fuck out of here."
- 21:55:52: Sergeant Ellena asks Decedent if he has any weapons on him now and Decedent points down to his lower back and Decedent says, "I do." Sergeant Ellena tells Decedent to not reach for the weapon and Decedent states that he is not going to.
- 21:56:26: Decedent states, "I have a pistol right here." Decedent then turns around with his back to the officers and with both hands grabs the top of his shirt to pull his shirt up from around his waist and states, "Do you see that?" Sergeant Ellena tells Decedent not to reach for the gun and Decedent states that he is not going to. Decedent continues to refuse to come out to talk to officers. Decedent states, "You can suck my dick, all you mother fuckers can suck my dick, you, you and you." Decedent tells officers to, "Get the fuck off of my property" several times. Decedent then says, "Alright mother fucker, do you guys wanna have a fight? Do you guys wanna have a fucking problem tonight?" Sergeant Ellena tells Decedent that he is going to go and talk with M.K.. Decedent then says, "Get the fuck out of my face you fucking pricks." Decedent says, "I'm tired of dealing with you cock sucking pricks." Decedent then tells officers that they are not going to take him to Seven Hills again like last time. Decedent says, "You can shoot me right fucking now mother fuckers."
- 21:55:27: Officer Duncan's Body Worn Camera starts. Officer Duncan remains on Temporale on the west side of the residence and Decedent can be heard yelling at officers.
- 22:00:05: Decedent states: "Gentlemen, I'm gonna take the pistol from behind my back." Decedent pulls his shirt up over his head and turns his back to the officers and asks, "Can you see it?" Decedent reaches behind his back with his right hand and officers continue to tell Decedent that they see the gun and not to touch it. Decedent puts his hands back up and his shirt goes back down. Officer Alcantara tries to reason with Decedent, who tells Officer Alcantara to "shut the fuck up." Decedent begins getting angrier and tells officers, "If I die tonight, I really don't give a fuck." Decedent then slams his hands into the metal security gate and screams, "Fuck." Officer Alcantara continues to try and calm Decedent down.
- 22:00:50: Officer Wong-Wui walks to the side of the residence and contacts Officer Lillegard and then returns to the front of the residence while Officer Alcantara continues to try and calm Decedent down.

- 22:01:29: Officer Duncan returns to his vehicle and moves his vehicle closer to the residence along Temporale. Officer Duncan then moves on foot and sets up across the street from 2261 Galindo.
- 22:01:50: Officer O'Steen contacts M.K. down the street from the residence. M.K. advises that Decedent does not drink often but when he does, he gets out of control. Decedent has also smoked marijuana and takes medication for being bi-polar.
- 22:01:58: Officer Alcantara tells Decedent to stay and talk to them, but Decedent tells them to shut up and he goes back into the house and slams the front door shut. Officer Alcantara remains at the pillar between the front door and the garage door and Officer Wong-Wui stays on the front west corner of the house.
- 22:02:23: Sergeant Ellena again contacts M.K.. Sergeant Ellena asks M.K. if she has somewhere else to go if Decedent refuses to leave the house. M.K. says she can find a place but needs to go back inside. Sergeant Ellena explains that Decedent has not committed a crime and cannot be arrested. Sergeant Ellena explains that they don't want the situation to escalate with Decedent being intoxicated and being in possession of a firearm.
- 22:02:57: Officer Lillegard returns to his vehicle to retrieve his M4 rifle.
- 22:03:46: Decedent exits the house through the front door again and is still behind the metal security gate. Decedent starts conversation for a minute but then retreats into the residence.
- 22:04:49: Officer Duncan moves from a position across the street and back onto Temporale along the west wall.
- 22:05:20: Officer Lillegard contacts Officer Wong-Wui and advises that he is going to get eyes on the front of the house from across the street. Officer Lillegard tells Officer Wong-Wui that he and Officer Alcantara should move back from the house to behind the white truck in the driveway for better cover. Officer Wong-Wui moves to the front of the truck and has Officer Alcantara move to the front of the truck with him. Officer Lillegard positions himself in the driveway across the street from Decedent's residence with cover behind a vehicle. Officer Lillegard remains in this position, but due to his position, his body camera does not provide any visual of the remaining of the incident.
- 22:06:55: Officer Alcantara walks up the driveway and reaches into the garage and grabs a white bottle and places it in front of the garage door security beam and then moves back to the front of the truck. Officer Alcantara tells Officer Wong-Wui that he put a bag of fertilizer in front of the sensor to the garage door.
- 22:06:57: Officer O'Steen returns to the residence and takes position in front of the driveway with Officer Alcantara and Officer Wong-Wui.
- 22:11:03: Officer Duncan advises officers over the radio that he observes Decedent in the backyard of the residence.

- 22:11:26: Officer Duncan yells "Hey, Hey." Officer Duncan then advises officers over the radio that Decedent pointed a gun over the wall. (This action cannot be seen on the body camera)
- 22:11:55: Officer Duncan advises officers over the radio that he no longer has visual of Decedent and that he retreated into the house. Officer Duncan then advises that Decedent had pointed something over the wall looking towards the front yard before retreating into the house.
- 22:12:06: Decedent opens the door to the garage and pushes the button to close the garage door several times. Decedent is not visible in the body camera, but the garage door can be seen going up and down. Decedent is heard saying, "Shut the fucking door" and then screams, "Shut the fucking door" Officer Wong-Wui asks Decedent to come out and talk to officers. Decedent says, "Meet at the front door," while he continues to push the button to close the garage door. Officer Wong-Wui then tells Decedent to meet at the front door. Decedent then goes back inside the house. (Decedent is not visible on body camera during this.)
- 22:12:43: Sergeant Ellena positions himself to the west of the garage door.
- 22:12:58: Decedent again returns to the garage pushing the button to close the garage door several times. Sergeant Ellena yells to Decedent to come out and talk to officers. Decedent screams, "Shut the god damn garage door" and continues pressing the button. Officer Wong-Wui tells Decedent to just come out, and Decedent responds, "Fuck you, you little prick, Henderson PD can suck my dick." Decedent then goes back into the house. (Decedent is not visible on body camera during this.)
- 22:13:46: Decedent enters the garage and yells, "Alright, right here look, stop with the shit." Officer Alcantara asks Decedent to come out with his hands up and Decedent replies, "Shut the fuck up." Decedent continues to try and close the garage door. Decedent then walks toward the front of the garage entrance and Officer Alcantara tells Decedent to show him his hands. Decedent can be seen on video at this point with his hands in the air. Decedent then yells, "go to the front door bitch", and then turns back towards the garage door leading into the house. The door closes and then reopens and Decedent yells to go to the front door. Decedent then slams the door shut. (Decedent is not visible on body camera during this.)
- 22:14:49: Decedent enters the garage again (not visible on body camera). Sergeant Ellena yells to Decedent telling him that M.K. just wants to get a few things from inside the house and then leave and that Decedent is not going to jail and then officers will leave. If Decedent will come out and talk to officers, then she can go in and get her things. Decedent tells officers to "Shut the fuck up." Decedent yells to officers, "Don't come in the garage."
- 22:15:48: Officer Wong-Wui observes Decedent come into the garage and tells him to put the light down. Decedent says, "If I can't get the shit to go down,

then we are going to fire it out.” Decedent continues to try and close the garage door. Again, Decedent is only heard during this time and cannot be seen on the video. Officer Alcantara and Officer Wong-Wui quickly move further behind the white truck and yell to Decedent to put the gun down and state, “He’s got a gun, He’s got a gun.” Officer Alcantara then states, “He’s pointing it at us, He’s pointing it at us.” Decedent can be heard yelling in the background. (Decedent is not visible on body camera during this.)

22:16:15: Officer O’Steen moves from the front of the truck to the east side of the garage door behind Sergeant Ellena.

22:16:32: Officer Alcantara advises dispatch that, “He came out and racked his firearm...” Decedent is then heard yelling and Officer Wong-Wui yells “Hey he’s coming out.” Several shots are then fired. Officer Alcantara immediately states “I’m hit man.” Officer Wong-Wui yells, “He’s on the ground, he’s got his back up against the uh cabinets.” Officers pull Officer Alcantara from underneath the truck. Officer Alcantara walks to the neighbor’s house.

22:16:48: Officer Lytle arrives on scene and parks down the street and runs up to the residence. Officer Lytle assists Officer Alcantara and takes him to the front porch of the neighbor’s house. Officer Alcantara begins removing his uniform shirt and his protective vest. Officer Alcantara pulls up his undershirt revealing a bullet wound to the left side of his upper chest.

22:17:50: Graveyard Officers arrive on scene and begin giving verbal commands to Decedent to show his hands. Officers continue giving verbal commands with no response and then approach Decedent. Officers pull Decedent from inside the garage and place him in cuffs. Officers retrieve a medical kit and begin administering first aid.

AUTOPSY OF DECEDENT

On Monday, April 20, 2020, at approximately 7:00 am, Clark County Medical Examiner Dr. DiLoreto performed an autopsy on the body of Decedent. During the examination, Dr. DiLoreto noted Decedent had two bullet entries, one to the center of the chest and one to the right eye.

At completion of the autopsy, Dr. DiLoreto determined Decedent’s cause of death was multiple gunshot wounds and the manner of death was homicide. A postmortem toxicological analysis was completed and found that Decedent had a Blood Alcohol Content of .223 mg/dL. Additionally, he had 6.8 ng/ml of THC in his system.

Positive Findings:

<u>Compound</u>	<u>Result</u>	<u>Units</u>	<u>Matrix Source</u>
Ethanol	223	mg/dL	001 - Peripheral Blood
Blood Alcohol Concentration (BAC)	0.223	g/100 mL	001 - Peripheral Blood
11-Hydroxy Delta-9 THC	6.8	ng/mL	001 - Peripheral Blood
Delta-9 Carboxy THC	110	ng/mL	001 - Peripheral Blood
Delta-9 THC	>50	ng/mL	001 - Peripheral Blood

LEGAL ANALYSIS

The District Attorney’s Office is tasked with assessing the conduct of officers involved in any killing 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 killing. As this case has been deemed a homicide by the coroner, the actions of these officers will be analyzed under the State’s jurisprudence pertaining to homicides.

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 was justifiable under two theories: (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 Self-Defense of 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 ... another 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 defendant did not act in [defense of another].

Id. at 1051-52.

The known facts and circumstances surrounding this incident indicate that Decedent posed an imminent danger to numerous officers. Throughout the day, he was drinking and smoking marijuana, which history has shown is a dangerous combination for Decedent. He was acting erratic, aggressive and confrontational throughout the day. When contacted by officers, Decedent continued acting in an extremely aggressive manner. Additionally, he refused to comply with repeated attempts by law enforcement to deescalate the situation. Instead, he armed himself with a handgun. He then confronted officers with the firearm, by pointing the gun directly at them. Based upon this threat, Officer Alcantara was confronted by an actual imminent danger of being killed or suffering great bodily harm, which created in his mind an honest belief and fear that he, or fellow officers, were about to be killed or suffer great bodily injury. Officer Alcantara was shot by Decedent; however, he was wearing safety gear which likely saved his life. Additionally, based on Decedent firing his weapon at officers, Officer Lillegard was confronted by an actual imminent danger of being killed or suffering great bodily harm, which created in his mind an honest belief and fear that he, or fellow officers, were about to be killed or suffer great bodily injury. Based upon those appearances, fears and actual beliefs, Officers Lillegard and Alcantara eventually shot Decedent, ending the threat; as such, Officer Lillegard and Alcantara's actions were justified.

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, Officers Alcantara and Lillegard had probable cause to believe Decedent posed a threat of serious physical harm to themselves and to other persons. Decedent armed himself with a firearm and pointed the firearm directly at officers. Decedent refused to comply with orders to drop the weapon and instead aimed and fired his weapon at those officers. These circumstances created probable cause to believe in the officers' minds that the Decedent posed a threat of serious physical harm to themselves and fellow officers. In light of all the evidence reviewed to date, the State would be unable to prove that the actions of the officers were in fact *unjustified*, "in the discharge of a legal duty."

CONCLUSION

Based upon the review of the available materials and application of Nevada law to the known facts and circumstances, it has been determined that the actions of law enforcement in response to being fired upon by the Decedent were reasonable and 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 officers, and unless new circumstances come to light which contradict the factual foundation upon which this decision is made, no charges will be forthcoming.