

REPORT ON USE OF FORCE

Legal Analysis Surrounding the Death of Stephen Douris on February 29, 2020

INTRODUCTION

On February 29, 2020 at 12:08 pm, Henderson Police Department (“HPD”) Dispatch received a 911 call from a female caller who was crying and sounded hysterical. Initially, Dispatch could not understand what the caller was saying. Eventually, Dispatch learned from the female that she was located at 836 E. Viento De Montagna Ave in Henderson. The female was able to calm down slightly and informed dispatch that her brother was having an episode. Dispatch was told that the brother had pushed his father and tried to choke his mother. Information was also provided that the father had taken a pocketknife from the brother but there were still knives inside the home. Dispatch learned that the brother might try to kill himself and had been diagnosed with schizophrenia and bi-polar disorder. The female indicated her brother’s name was Steve Douris (hereinafter “Decedent”). Medical was requested and officers were notified to respond to the address.

After hanging up from the initial 911 call, at 12:16 pm, the female caller initiated a second call to 911. The female informed Dispatch that Decedent was in the front of the house with her parents holding a steak knife. Dispatch informed the female that officers were arriving and the call was discontinued.

HPD Officers Travis Nusbaum and Donald Okami were notified of the call and dispatched to 836 E. Viento De Montagna Ave. Dispatch informed officers that Decedent was acting “421A” (i.e., erratic), had pushed the dad, choked the mom and might try to kill himself. Officers also learned that there were knives inside the house. As officers continued to make their way to the address, Dispatch continued to give updates including that Decedent had just been the subject of a Legal 2000 (involuntarily committed for psychiatric/psychological reasons) on February 4, 2020, and that Decedent had moved to the front of the house with a knife.

Upon arriving at the address, Officers Nusbaum and Okami met with the female 911 caller. They were informed that Decedent was inside with his father. The father had taken the knife away from Decedent. Officers informed Dispatch they were making contact with Decedent. Officers Nusbaum and Okami began to approach the residence as Decedent

and his father walked down the driveway into the street. As Decedent aggressively walked down the driveway, he was heard screaming something that could not be understood. Decedent was seen with a knife in his right hand; he was waving the knife while approaching officers.

As Decedent got closer to Officer Okami in the street, Okami fired his low lethal weapon at Decedent. The low lethal round impacted Decedent but had no effect on him. Decedent then proceeded to turn toward Officer Nusbaum and approached him while still wielding the knife. Officer Nusbaum pointed his firearm at Decedent and yelled verbal commands toward Decedent to drop the knife. Decedent did not drop the knife and continued to approach Nusbaum. Officers then fired their weapons toward Decedent, and he fell into rocks located at the front of his residence. Officers broadcast that shots had been fired, the male had a knife in his hand and officers were not injured. Medical was requested and officers began medical treatment on Decedent.

The District Attorney's Office has completed its review of the February 29, 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 Nusbaum and Okami 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 September 20, 2021. This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of Officers Nusbaum and Okami were 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.

OVERVIEW OF INCIDENT

INFORMATION RECEIVED FROM SURVEILLANCE VIDEO

836 E. Viento De Montagna Ave:

Ring doorbell footage was obtained from 836 E. Viento De Montagna Ave. Below is a synopsis of that video.

Video # 1: Time Stamped Feb 29, 2020 at 4:26 am. Video # 1 shows Decedent at the front door of the residence, locking the door and standing on the front porch of the residence.

Video # 2: Time Stamped February 29, 2020 at 5:14 am. Video # 2 shows Decedent return to the front door of the residence, unlock the door and enter the residence. Decedent is uttering something, but his words could not be made out on the video.

Video # 3: Time Stamped February 29, 2020 at 12:02 pm. Video # 3 shows a male and a child at the front door of the residence. Witness #2 (Decedent's mother) can be heard through the front door welcoming the visitors. Witness #3 (Decedent's father) exits the front door. Decedent's voice can be heard from inside the house saying, "What's up?" The video then ends.

Video # 4: Time Stamped February 29, 2020 at 12:05 pm. Video # 4 shows Decedent and Witness #3 in front of the residence. Decedent can be seen holding a knife. Decedent hands the knife to Witness #3 as Witness #3 opens the front door to the residence. Witness #3 asks Decedent how to close the pocketknife. Decedent responds that he does not know. As this conversation is occurring, Witness #2 walks up. She tells Witness #3 not to give the knife back to Decedent. As Witness #2 gets close to Decedent and Witness #3, Decedent pushes Witness #2 back, calls her a bitch and tells her to get back or he will punch her. Witness #2 responds, "punch me". Witness #2 and Decedent move off screen as Witness #2 can be heard telling Decedent, "get the fuck away from me". Witness #2 can also be heard telling Decedent to "leave me alone". The argument continues between Witness #2 and Decedent out of the view of the camera, causing Witness #3 to leave the front door and go in the same direction as Decedent. Additional unintelligible argument can be heard out of view of the camera.



View from Ring Doorbell Camera Video # 4

INFORMATION RECEIVED FROM HENDERSON POLICE DEPARTMENT OFFICERS

Officer Travis Nusbaum P#1463

On March 3, 2020, Officer Nusbaum gave a recorded statement to detectives. Present during the statement was Detective Dennis Ozawa and Detective Joseph Ebert from the Henderson Police Department (hereinafter "HPD"), Gary Hargis from the Henderson Police Officer Association (hereinafter "HPOA") and Richard McCann from the Nevada Association of Public Safety Officers ("hereinafter "NAPSO"). During the statement, Officer Nusbaum relayed the following information:

Officer Nusbaum has been with the Henderson Police Department since February 2007. At the time of the incident, he was assigned to Days B West Squad and worked Friday-Monday 6 a.m. to 4 p.m. On the day in question, Officer Nusbaum was wearing his department issued uniform and was carrying his department issued Glock 17 handgun.

On February 29, 2020, Officer Nusbaum was on duty and was notified by dispatch of a domestic violence call at 836 E. Viento De Montagna Ave. Information was provided that the 911 caller indicated that her brother had pushed her father and choked her mother. Nusbaum learned that the subject, later identified as Decedent, was inside the residence and the reporting party was outside the residence.

Officer Nusbaum arrived first on scene followed shortly thereafter by Officer Okami. Upon arrival, Nusbaum parked one house down from the target address. After parking, Nusbaum observed Witness #1 and #2 and called them over to his vehicle. Almost immediately upon arriving, Nusbaum received additional information from dispatch that Decedent was inside the house with a knife. Based on that information, Officer Okami grabbed his less lethal 40mm launcher from the trunk of his vehicle.

Both officers began walking towards the residence. Officer Nusbaum was in the front and Okami followed behind. As they approached the residence, Nusbaum observed two subjects in between two houses, later identified as Decedent and Witness #3. As Witness #3 saw the officers, he informed Decedent that the officers were there. At that point, Decedent became irate. He began screaming, yelling, cursing, and calling officers "pigs".

As Decedent and Witness #3 came down the driveway between the houses, they separated. Decedent began coming towards officers while yelling and screaming. Officer Okami told Decedent, "Stop where you're at". Decedent failed to stop and continued towards the officers. At that point, Officer Okami fired a low lethal round from his 40 mm launcher towards Decedent. The round hit Decedent but did not stop him. Decedent continued towards officers. Nusbaum observed something shiny in Decedent's hand and realized it was a knife. The knife appeared to be a straight razor blade, and Decedent was raising it towards officers. Decedent continued to yell and scream and walk towards officers.

Officer Nusbaum backed onto the sidewalk to create distance with Decedent. He began issuing commands to Decedent to, "Drop the knife, drop the knife, back up". Decedent then turned and began walking directly towards Nusbaum. Officer Nusbaum unholstered his firearm as Decedent proceeded towards him with the knife. As Decedent continued towards Nusbaum with the knife, Nusbaum was in fear that he would be stabbed or suffer great bodily injury. Nusbaum then discharged his firearm several times toward Decedent's center mass. Decedent stopped and then fell into some rocks.

After the shooting, Nusbaum checked on the safety of Officer Okami. He then immediately got on the radio, indicated that shots had been fired and requested medical and rescue. He holstered his weapon, approached Decedent, handcuffed him and began life saving rescue measures. Officer Okami grabbed the knife, secured it in his vehicle and grabbed a trauma kit. Officers continued CPR until other officers arrived.

Officer Nusbaum indicated that, as Decedent was approaching him and Officer Okami, he was in fear for Okami's life and his own life.

Officer Donald Okami P#2200

On March 3, 2020, Officer Okami gave a recorded statement to detectives. Present during the statement was Sgt. Haven Tillman, Detective Dennis Ozawa and Detective Joseph Ebert from HPD, Gary Hargis from HPOA, and Richard McCann from NAPSO. During the statement, officer Okami relayed the following information:

Officer Okami has been with the Henderson Police Department since July 2015. At the time of the incident, he was assigned to Days B West Squad and worked Friday-Monday 6 a.m. to 4 p.m. On the day in question, Officer Okami was wearing his department issued uniform and was carrying his department issued Glock 17 handgun.

On February 29, 2020, during his shift, Officer Okami was notified via police dispatch of a critical domestic violence report. The 911 caller was the sister of the subject in question and provided information that the subject, later identified as Decedent, had hit his father and choked his mother. Decedent was immediately identified by the caller, later identified as Witness #1. As a result, Officer Okami was able to pull up information on Decedent as he headed to the house at issue located at 836 E. Viento De Montagna Ave. Through his research, Okami learned that Decedent had a history of resisting arrest, battery on a protected person and battery on an officer. Additional details were soon given to Okami which included that Decedent was armed with a knife and may be intoxicated. Officer Okami was able to obtain a picture of Decedent as he drove to the scene so he knew what he looked like.

Officer Okami arrived at the scene soon after Officer Nusbaum. He parked a couple houses down from the target address and exited his vehicle. As he exited, he saw two females walking towards him, later identified as Witness #1 and #2. Witness #1 and #2 looked distraught and were crying. After exiting his vehicle, Okami went to his trunk and grabbed his 40mm less-than-lethal launcher because reports indicated that Decedent was armed with a knife. Okami indicated that he grabbed his 40mm launcher because, due to his training and experience, he knew that when an assailant is within 21 feet, they can still harm or kill officers. He also indicated that tasers only potentially work if an officer is within 21 feet of a person and, even then, the odds of the taser hitting the assailant and it working is low.

After grabbing his low lethal launcher, Officers Okami and Nusbaum began walking towards the target residence. As he approached the residence, Okami observed Decedent. At that point, he was unaware if Decedent still had the knife. Okami decided to move to the right into the street to create distance between him and Decedent. As he moved to the right, he could see that Decedent was coming towards him with an angry face and wielding a silver, six-inch blade knife. Okami could not hear what Decedent was saying but heard him grunting. Officer Okami gave Decedent commands to "stop". As Decedent quickly came towards Okami, Okami deployed a round from his 40mm launcher towards Decedent believing that would stop him. The round hit Decedent but did not affect him. He continued towards officers slashing the knife at them.

Decedent specifically turned and began proceeding towards Officer Nusbaum. As Decedent got closer to Officer Nusbaum, Okami unholstered his firearm because he was concerned that Decedent would kill Officer Nusbaum. Decedent continued to get closer and closer to Officer Nusbaum while still wielding the knife. As he did, Officer Okami fired approximately six shots toward Decedent. Officer Okami then met with Officer Nusbaum and went towards Decedent. Okami and Nusbaum handcuffed Decedent, and Okami picked up the knife and secured it in his patrol vehicle. He then grabbed his gunshot kit, ran back toward Decedent and began life saving rescue methods until other officers arrived.

Officer Okami indicated that he fired his weapon because he felt an overwhelming fear that his partner was going to be stabbed or killed.

CIVILIAN WITNESS INFORMATION

INFORMATION FROM WITNESS #1

Witness #1 was interviewed by Detective Kevin Lapeer of HPD on February 29, 2020 at 1:49 pm and provided the below information:

Witness #1 lived at the address of 836 Viento De Montagna with her brother (Decedent) and her parents (Witness #2 and #3). Witness #1 and her family were from Canada and had been living in Las Vegas since 2002. Witness #1 indicated that Decedent had not been working and struggled with mental illness, specifically delusional schizophrenia and bi-polar disorder. Decedent would also hear voices. Witness #1 believed that Decedent had been prescribed medications but believed he may have stopped taking them. She also knew that when Decedent drank alcohol, the voices were amplified.

Two weeks prior to the instant incident, Decedent had been placed on a Legal 2000 hold and was sent to Seven Hills Behavioral Center for a few days. Witness #1 indicated that Decedent was not usually violent but when he drinks alcohol, he becomes more agitated. In December 2019, Decedent moved back into the house with Witness #1, #2 and #3. Since then, his mental state had been on and off.

On February 29, 2020, at approximately 7:30 a.m., Witness #1 heard Decedent downstairs yelling and screaming. She knew that Decedent had been drinking the day before since approximately 5:30 p.m. She also knew he was drunk. Witness #1 stayed in her room until approximately 11:00/11:30 a.m. on February 29, 2020. When she came out of her room, Decedent was ranting. She tried to ignore Decedent. A short time later, a maintenance man arrived at the house. Decedent believed it was the cops. Witness #1 observed a pocketknife in Decedent's hand and saw him go towards the front door. Witness #1 went to the garage and told Witness #3 what was occurring as Decedent and Witness #2 remained at the front door.

Witness #1 told the maintenance man to leave and she went inside the house. A short time later, she heard banging coming from the garage door. When she came outside, she saw Witness #3 on the ground but she did not know what had occurred. At that point, Witness #1 saw that Decedent still had the pocketknife and she decided to call 911. Witness #3 was able to get the pocketknife from Decedent and throw it in the trash, but Witness #1 was not sure how that occurred.

As Witness #1 was outside waiting for officers, Decedent came out of the house with a steak knife. Witness #1 then went to her neighbor's house and called 911 again. Officers arrived, and Witness #1 came out of her neighbor's house. She observed Decedent and Witness #3 come from the backyard to the front of the house as officers were walking up. Decedent shoed Witness #3 in front of him. Decedent was yelling.

Witness #1 observed one officer shoot Decedent with a rubber pellet. The pellet did nothing to Decedent because he was in psychosis and acting like a "raging bear." Very shortly after the rubber pellet, Witness #1 believed one officer fired his gun four times at Decedent as Decedent was in front of his own car in the driveway. At the time of shooting, Witness #1 indicated that officers did not try to deescalate the situation and Decedent did not have a knife with him anymore. Witness #1 indicated that Decedent's arms were up like "ape mode," but he was not walking or running or trying to attack the officers. Decedent was approximately three feet away from officers when he was shot. Following the shooting, Witness #1 indicated that officers did perform CPR or chest compressions on Decedent.

INFORMATION FROM WITNESSES #2 and # 3

Witnesses #2 and #3 were interviewed together by Detective Kevin Lapeer with HPD. They provided the below information regarding Decedent's past and information related to the OIS:

Witness #2 and #3 informed Detective Lapeer that Decedent was a paranoid schizophrenic, bipolar and delusional. The onset of his mental illness began in 1999 after Decedent served two weekends in a California jail for a DUI conviction. Witness #3 and #2 were unsure if the incarceration was the predicate of the mental illness, but they indicated that Decedent lived a normal life prior to the incarceration. Since 1999, Decedent's illness got progressively worse. Witness #2 and #3 tried multiple avenues to get Decedent help. In 2004, he was committed to a mental health institution for 10 days. Decedent had been sent to Seven Hills Mental Health Facility several times, and Legal 2000 holds had been placed on him several times as recently as two weeks before the instant incident. The police had been called on Decedent several times over the years for domestic violence related incidents. In the past, Decedent indicated he wanted to kill himself but never attempted to do so. Witness #2 informed Detectives that Decedent did not want to admit that he was schizophrenic, and he refused to see a psychiatrist to help him. Decedent's illness caused him to hear voices and believe that a family from Danbury, Connecticut was out to kill him. As a result, Decedent would sleep with knives.

Decedent had been prescribed medication for his illness but, as of two weeks before this incident, it was unclear whether Decedent had been taking his medication. Witnesses #2 and #3 indicated that while Decedent did like to yell and scream, he was not violent. Witness #2 indicated that Decedent was using methamphetamine approximately a year ago but was unsure if he was using drugs at the time of this incident. Witnesses #2 and #3 indicated that Decedent did have a problem with alcohol, and the alcohol intensified his mental illness.

On February 29, 2020, Witness #2 informed Detectives that, the prior evening, Decedent had been drinking. Witness #3 indicated that on the night of February 28, 2020, Decedent was "drunk as hell" and was a "savage". Based on the Ring Doorbell camera in the front of their home, Witness #2 saw Decedent leave the home at 4:30 a.m. on February 29, 2020 and go to Walmart and Smiths Grocery. Decedent returned home at approximately 5:14 a.m. Witness #2 woke up at 7:45 a.m. and observed that Decedent was "drunk as hell". When she peeked in Decedent's room, she saw there was not much left of a 26-ounce bottle of vodka. Witness #2 told detectives that Decedent was a diabetic and had not taken his insulin on the morning of the 29th or the evening of the 28th. He also had not

eaten on the morning of the 29th. Witness #2 believed the lack of insulin and food could have triggered the later events.

When Witness #2 woke up on the morning of the 29th, she went outside to the backyard. Decedent came to the backyard and said something to her. Witness #2 ignored Decedent because she knew he had been drinking. Decedent then began calling Witness #2 vulgar names and blaming her for his problems. Witness #2 tried to enter the house, but Decedent blocked her and told her she wasn't going anywhere. Witness #2 was soon able to get back inside the house and sat on the couch. As she sat on the couch, Decedent began "talking crap" to her, saying he was battering her and kept asking her if she was going to call the cops. Witness #2 went upstairs, and Decedent went to the garage.

Shortly thereafter, Witness #3 was woken up to the sound of Decedent yelling outside the house. Witness #3 went to the garage to talk to Decedent, but Decedent just stared at him. Shortly thereafter, a maintenance man arrived at the house to fix a leak. Witnesses #2 and #3 went to the front door to meet the maintenance man. Decedent followed them and opened the door. At that point, Witness #2 realized that Decedent had a pocketknife in his hand. Witnesses #2 and #3 tried to get Decedent to go into the house, but Decedent just kept yelling and screaming. The maintenance man was asked to leave because of Decedent's behavior.

At some point, Decedent eventually gave Witness #3 the pocketknife, and Witness #3 threw it in the neighbor's garbage can. Witness #3 indicated that Decedent was not threatening them and willingly handed over the knife. Once the knife was thrown in the garbage, Witness #3 brought Decedent back into the house. Witness #3 was aware that Witness #1 had called the police and believed that Witness #1 did so because Decedent was getting too erratic, and no one knew what he would do next.

Witness #3 waited with Decedent in the backyard for approximately 20 minutes before officers arrived. When officers arrived, Decedent and Witness #3 came around the corner. At that point, Witness #3 said Decedent had a cheese knife in his hand. Witnesses #2 and #3 indicated that, when Decedent came around the corner and saw police, he was not threatening them with the knife and had his hands up. They did note that Decedent was yelling at officers.

Witness #3 said that as Decedent got close to officers, an officer "shot a thing" or beanbag at Decedent before saying anything. However, this did not faze Decedent, and he immediately stopped and stood there. He was not lunging or walking towards officers. Witness #2 indicated that a second officer got out of his car and pulled his gun out without asking Witnesses #1 or #2 any questions.

Ten seconds after the beanbag shot, Witness #3 indicated that four shots went off as Decedent was 3-4 feet away from officers. Witness #2 indicated that the shooting officer did not give any commands to Decedent prior to shooting. Decedent then fell in some rocks face down. Witness #2 indicated that after the shooting, officers did render aid to Decedent but it took them awhile to do so.

INFORMATION FROM WITNESS #4

Witness #4 was interviewed by Detective Joseph Ebert with HPD and provided the following information. Witness #4 was home on February 29, 2020 when she heard a knock on her door from her neighbor, later identified as Witness #1. According to Witness #4, Witness #1 was hysterical and asked to come inside Witness #4's home. Witness #1 indicated that her brother had a knife, and he was outside. Witness #4 let Witness #1 inside her home. Witness #1 appeared to be terrified and shaken up. Witness #4 stood by while Witness #1 was on the phone with 911. Witness #4 did not witness what occurred in reference to Decedent and the shooting.

INFORMATION RECEIVED FROM DOWNLOAD OF DECEDENT'S CELL PHONE

On March 3, 2020, Detective Spangler with HPD conducted a digital analysis and exam of Decedent's cell phone (Nokia 7.1 Model TA-1085). Below is a summary of the information obtained from the phone.

There were three voicemail messages that had been saved on the cell phone. On the voicemails, it was a male's voice believed to be Decedent's. The voice was angry and telling the person to answer the "fucking" phone and to stop hanging up on him.

Starting from November of 2019 to February 2020, Decedent texted and called his estranged wife multiple times. The text messages sent from Decedent to his wife showed an erratic behavior pattern. Decedent would text "Good night", "Love you" and "Call me tomorrow". Then on other occasions, Decedent accused his wife of infidelity and yelled at her to answer her phone to tell the kids he is dead. The vulgar text messages seem to be more frequent in the month of February, 2020.

On February 15, 2020, there was a short string of messages from 8:44 a.m. to 9:39 a.m.:

Wife: Don't call me
Decedent: Die whore, I don't know you, just a whore
Wife: I don't know who you are!
Decedent: Tell the kids I'm dead
Wife: You are a selfish person
Decedent: Xo
Wife: And your behavior is horrible

On February 16, 2020, Decedent texted his wife: I'll be dead by this week, I'm dying and you don't care.

On February 24, 2020, Decedent sent text messages to his wife and was upset. Decedent sent several text messages in reference to death which stated, "Can you please kill me for my birthday," "I'll kill the next cop that shows up so Canada can take me" and "You'll be a widow."

On February 25, 2020, Decedent continued to send his wife text messages. His wife appeared to be getting tired of the texts. She responded to Decedent stating, "I didn't take your calls because you were harassing me! You still are consistently saying things to me and harassing me. I want you to leave me alone. You lived 10 min away from us for about 3 years and you didn't give a shit then, so why now?"

On February 28, 2020, Decedent tried to call his wife five times in a time span of 30 minutes. Decedent then received three text messages from his wife stating, "Steve, please stop with the phone calls now, I don't want to feel like this every day, Please Stop."

On the day of the incident, February 29, 2020, Decedent tried to call his wife in the morning at around 7:15 a.m. His wife then sent a text at 7:17 a.m. stating, "Quit your shit." Then from 7:18 a.m. to 11:46 a.m., Decedent tried to call his wife 20 times.

BODY WORN CAMERAS AND DASH BOARD CAMERAS:

Officers Nusbaum and Okami were wearing Body Worn Cameras at the time of the incident and their cameras were activated. Each of the officers' Body Worn Cameras were collected and secured. The Body Worn Camera video footage that was captured during the incident was later reviewed.

The following is a summary of what was observed from the Body Worn Camera Footage of Officer Nusbaum:

Officer Nusbaum arrived at 836 E. Viento De Montagna Ave and parked a couple houses down from the residence. As he exited his vehicle, he was approached by Witness #1 and #2 who were walking down the sidewalk from the residence. When Witness #1 got close to Nusbaum, she informed him that Decedent was holding a knife and he was inside the residence with the father. Officer Nusbaum radioed that he is making contact with Decedent and began approaching the residence. As he approached, Witness #3 was seen walking down the driveway of the residence followed by Decedent.

As Decedent walked down the driveway, he yelled something unintelligible. When Decedent reached the sidewalk from the driveway, he initially turned toward Officer Nusbaum (who was on the sidewalk) while waving his arms. A knife was seen in Decedent's right hand. Decedent then turned toward Officer Okami who was in the street and began approaching Okami with the knife. Officer Okami fired a low lethal round at Decedent. The round had no effect on Decedent.

Decedent continued towards Officer Okami but then turned sharply toward Officer Nusbaum who was still on the sidewalk. Decedent proceeded toward officer Nusbaum while waving his arms with the knife still in his right hand. Officer Nusbaum is seen pointing his firearm at Decedent and ordering him to drop the knife. Decedent did not drop the knife and continued to proceed toward Nusbaum. Officer Nusbaum then fired his weapon toward Decedent. Decedent fell face first into some rocks in front of the residence. Officers requested medical. Officers then approached Decedent, handcuffed him, turned him over and began medical intervention.

36.03177
-115.02367
0 MPH
0 (N)

02/29/20 12:18:11 PDT



Ignition: ON
LightBar: OFF
DoorOpen: OFF

Officer Nusbaum perspective 1.



Officer Nusbaum Perspective 2

Officer Nusbaum's patrol vehicle was equipped with Dash Cam Video that was on and recording. The following is a summary of what was observed from the Dash Cam Video:

Officer Nusbaum arrived at 836 E. Viento De Montagna Ave and parked his vehicle a couple houses down from the target address. Witnesses #1 and #2 approached the patrol vehicle on the sidewalk from the target address. Witnesses #1 and #2 began speaking with officers. Officers Nusbaum and Okami began walking down the sidewalk toward the

target residence. Officer Okami was seen holding his low lethal weapon. As officers got to the bottom of the driveway of the target residence, Officer Nusbaum remained on the sidewalk and Officer Okami walked into the street.

Witness #3 walked down the driveway and into the street. Decedent walked aggressively down the driveway following Witness #3. Decedent proceeded towards officer Okami with his right hand raised and a knife in his hand. Officer Okami launched his low lethal weapon toward Decedent as he approached him with the knife. The low lethal round did not affect Decedent. As Decedent turned toward officer Nusbaum on the sidewalk, both Officers Nusbaum and Okami drew their weapons. Decedent proceeded toward Officer Nusbaum with the knife in his right hand. Both officers fired their weapons toward Decedent, and he fell into rocks, face first, in front of the residence. Officers handcuffed Decedent and began medical intervention.



View from Dash Cam.

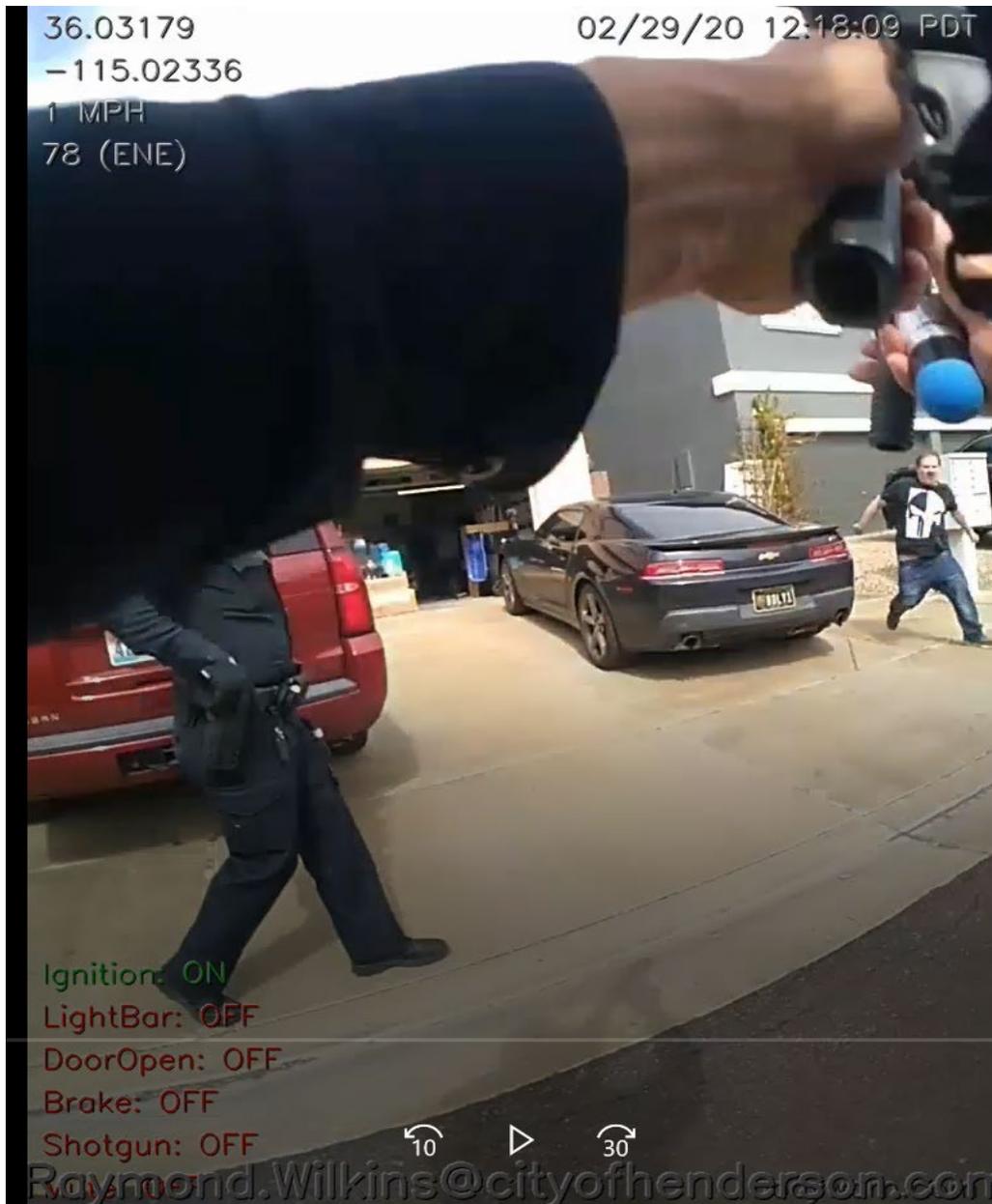
The following is a summary of what was observed from the Body Worn Camera Footage of Officer Okami:

Officer Okami arrived at 836 E. Viento De Montagna Ave and parked his vehicle a couple houses down from the target address. He exited his vehicle, went to the trunk and retrieved his low lethal launcher. Officer Okami loaded his low lethal launcher and approached Officer Nusbaum who was talking with Witnesses #1 and #2.

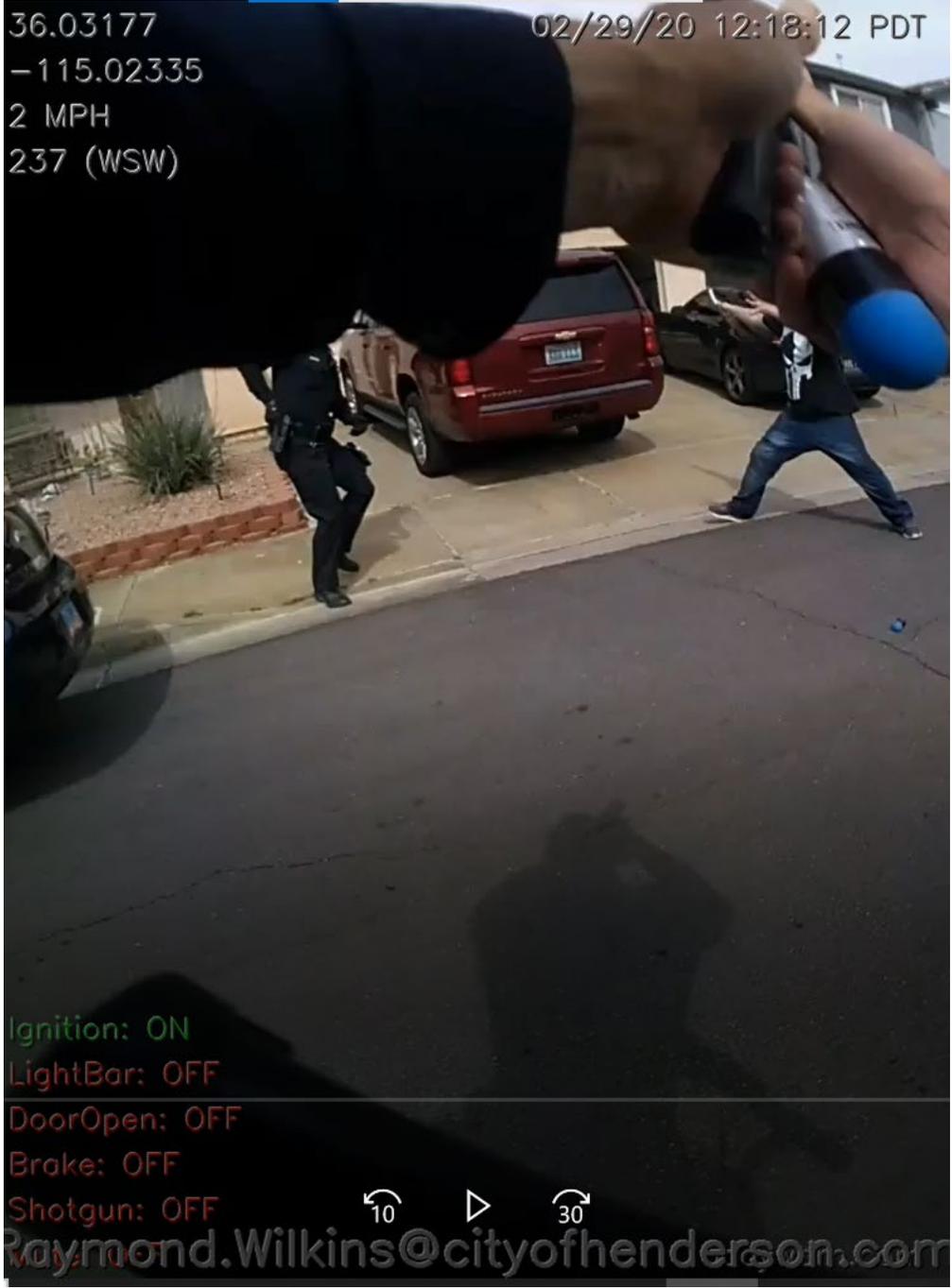
Both officers then proceeded toward the target residence on the sidewalk. Officer Nusbaum went first followed by Okami. As they approached the residence, Witness #3 and Decedent walked down the driveway of the target residence. Officer Okami walked into the street. Commands were given to "come here" and "stop" as Decedent began to approach officers. As Decedent proceeded down the driveway, an object was observed in his right hand.

Decedent continued towards Officer Okami in the street with the object. Officer Okami yelled to Decedent, "Stop! Let me see your hands!". He then fired his low lethal weapon

at Decedent. After the shot, Decedent continued to advance towards Okami and Okami drew his firearm. Decedent then made a sharp turn towards Officer Nusbaum who was on the sidewalk in front of the residence. Decedent began approaching Nusbaum with the now visible knife raised in his right hand. Officer Nusbaum drew his weapon and pointed it at Decedent as Decedent continued to approach him. Commands were given to Decedent to, "Drop the gun". Decedent failed to drop the weapon and continued towards officers. Both officers then discharged their weapons towards Decedent, and he fell in the rocks. Officer Okami can then be heard yelling, "Get on the ground!". Officers handcuffed Decedent and began medical treatment.



Officer Okami Perspective 1



Officer Okami Perspective 2

WEAPONS COUNTDOWN

On February 29, 2020, Officers Nusbaum and Okami had their duty handguns counted down at the Henderson Police Department North Substation. Both officers were photographed for identification purposes and their weapons were impounded.

Officer Nusbaum's duty weapon was a Glock 17 Gen4, serial number TXT609. The ammunition was Speer 9mm Luger. The magazine for the weapon had a 17-cartridge capacity. Officer Nusbaum carried his weapon with 17 in the magazine and one in the chamber. The countdown showed one (1) cartridge in the chamber and fourteen (14) remaining in the magazine. The countdown revealed Officer Nusbaum discharged his weapon three (3) times during the event.

Officer Okami's duty weapon was a Glock 17 Gen4, serial number TXT667. The ammunition was Speer 9mm Luger. The magazine for the weapon had a 17-cartridge capacity. Officer Okami carried his weapon with 17 in the magazine and one in the chamber. The countdown showed one (1) cartridge in the chamber and twelve (12) remaining in the magazine. The countdown revealed Officer Okami discharged his weapon five (5) times during the event.

DESCRIPTION OF THE SCENE AND VISIBLE EVIDENCE

The description of the scene was reported by Crime Scene Analyst ("CSA") Michael Cromwell through his Crime Scene Report. The following information is from CSA Michael Cromwell report:

HPD marked patrol vehicles 5921 and 5884 were parked facing east along the north curb in front of 840 and 844 Viento Del Montagna Avenue, which were the houses neighboring 836 Viento Del Montagna Avenue to the west.

Inside Vehicle 5884, a stainless-steel RADA CUTLERY serrated cheese knife was located on the driver's floorboard and an LMT 40mm Launcher (SN: FW12911) was located on the driver's seat. An expended eXact iMPact 40MM cartridge case was removed from the chamber of the 40mm Launcher.

836 Viento Del Montagna Avenue was a two-story, single-family home located on the north side of the street. The house included an attached front-facing 3-car garage that occupied the southeast corner of the home's first floor. The 1-car garage door, located on the west side of the garage, was closed and the 2-car garage door, located on the east side of the garage, was open. A concrete driveway extended from the garage to the street. Two vehicles were parked in the driveway, both facing north: a red Chevrolet Suburban (NV/ 486LLS) on the west side of the driveway and a dark gray Chevrolet Camaro (NV/ GK BBL1) on the east side. A front porch was situated west of the garage and was accessed via a concrete walkway from the driveway. The front entry door into the residence was open. The front yard was landscaped with decorative rock ground cover and desert plants and had a short block retaining wall bordering the driveway and a sidewalk that ran alongside the street in front of the residence. A blue Chevrolet Impala (NV/ 958ZKL) was parked facing west along the curb in front of the residence, west of the driveway.

A fired 40mm sponge/plastic projectile was located in the street, south of the driveway, and an eXact iMPact 40mm cartridge was located on the street near the front left corner of the Chevrolet Impala. Three (3) cartridge cases (H/S: SPEER 9mm LUGER) were located north of and adjacent to the Chevrolet Impala; one was located on the sidewalk, one was located in the street gutter, and one was located at the east end of the storm drain opening. An additional cartridge case (H/S: SPEER 9mm LUGER) was located at

the base of the storm drain. Six (6) cartridge cases (H/S: SPEER 9mm LUGER) were located in the street, south of the Chevrolet Impala.

The body of a white male adult, later identified as Decedent, was located on the sidewalk, west of and adjacent to the driveway. He was positioned on his back and oriented with his head to the north. His arms were at his sides and his feet were shoulder-width apart in the street gutter. He was wearing blue jeans, which were partially pulled down, white socks, and gray shoes. His black t-shirt was partially cut off, with a portion around his left shoulder and remaining section on the sidewalk to his northeast. Emergency medical equipment was present on the body. Apparent gunshot wounds were observed on Decedent's chest, back, and left arm. Apparent blood was also observed in the decorative rock ground cover of the front yard north of the decedent. A total of five (5) fired bullets or bullet fragments were located on the street, sidewalk and driveway; a bullet was located on the sidewalk adjacent to the block retention wall northwest of the decedent, a bullet fragment was located on the street under the rear left corner of the Chevrolet Impala, a bullet was located on the northwest corner of the driveway, adjacent to the house, a bullet fragment was located on the driveway west of and adjacent to the Chevrolet Suburban, and a bullet was located on the driveway under the Chevrolet Suburban.

Three (3) bullet holes were observed in the left exterior side of the Chevrolet Suburban: one in the rear passenger door, one in the running board below the rear passenger door, and one in the driver's door. A bullet hole corresponding to A1 was later observed on the interior side of the rear passenger door. Four (4) bullet holes or impacts were observed on the exterior front of the house: two bullet holes (2) in the stucco wall west of the 1-car garage door, one bullet impact in the 1-car garage door, and one bullet hole in the stucco wall below the second floor window above the 1-car garage door. A bullet hole corresponding to G1 was observed in the south interior wall of the upstairs loft and associated damage was observed to the back side of an adjacent desk drawer and the underside of the associated desktop. A bullet was located inside the damaged desk drawer.

Three garbage receptacles were located on the on the west side of 832 Viento Del Montagna Avenue, which was the neighboring house to the east. Inside the northernmost trash receptacle was an unknown brand black folding knife.



AUTOPSY

On March 1, 2020, an autopsy was completed on the body of Stephen Douris by Clark County Coroner's Office Medical Examiner Dr. Chiara Mancini.

- Injuries Noted: Multiple Gunshot Wounds, abrasions of abdomen, face, chest, back, upper/lower extremities, Hypertensive and arteriosclerotic cardiovascular disease:
- Cardiomegaly (440 grams)
- Mild to moderate coronary artery atherosclerosis
- Focal calcific ulcerative atherosclerosis of aorta

The toxicology report stated that Decedent tested positive for the following compounds:

- Ethanol (274 mg/dL)
- Blood Alcohol Concentration (BAC) (0.274 g/100 mL)
- Nordiazepam (57 ng/mL)

After the completion of the autopsy, Dr. Mancini opined the cause of death was due to multiple gunshot wounds and the manner of death was homicide.

TIMELINE OF EVENTS:

Time (Hours)	Description of Event/Action	Source
12:08:51	Witness #1 calls Police and advises that Decedent is acting 421 (erratic) and pushed Witness #3 and choked Witness #2.	CAD
12:09:25	Witness #1 advises that Decedent is inside the residence by himself and might be trying to kill himself, advises only knives inside kitchen	CAD
12:10:33	Witness #1 describes Decedent as a WMA, wearing a black jacket, black shirt and blue jeans	CAD
12:10:41	Witness #1 advises Decedent is intoxicated	CAD
12:11:37	Witness #1 advises Witnesses #2 and #3 will be in front of residence	CAD

12:16:48	Witness #1 recalls Police and advises that Decedent is holding a steak knife	CAD
12:16:51	Witness #1 states that she is upset because of delay	CAD
12:18:06	Witness #1 advises that she is outside and that Witness #3 is inside and took knife away from Decedent	CAD
12:18:09	Officers radio to dispatch they are out with male	CAD
12:18:15	Officers advised Shots fired	CAD
12:19:22	Officers advised that officers are not hurt and medical personnel is needed	CAD
12:22:27	Officers advised that CPR has been started	CAD

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.

A. The Use of Deadly Force in Self Defense and Defense of Another

The authority to kill another in defense of self or others is contained in NRS §§200.120 and 200.160. "Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of ... person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony ..." against the other person. NRS §200.120(1). Homicide is also lawful when committed:

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

NRS §200.160(1).

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

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

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

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

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

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

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

If evidence [that a killing was in defense of another exists], the State must prove beyond a reasonable doubt that the decedent did not act in [defense of another].

Id. at 1051-52.

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

In this case, Decedent posed an imminent danger to Officers Nusbam and Okami. The facts illustrate that the officers were faced with a suspect with a knife in his hand charging at officers. Officers were faced with the possibility that Decedent was about to kill or seriously injure the officers. Additionally, Decedent was told multiple times to “stop” and

given the chance to comply with commands, yet he refused to do so. Almost immediately upon the officers' arrival, he began charging at officers. Furthermore, Officer Okami attempted to stop Decedent with low lethal force. However, even after being hit with the low lethal, Decedent continued charging at officers while wielding a knife. Evidence collected at the scene, as well as video evidence, confirmed that Decedent did in fact have a knife in his hands when he charged at officers. Thus, Decedent posed an objectively reasonable imminent danger to all officers. Therefore, the officers acted in reasonable fear of a threat to their life and the lives of others at the time they fired their weapons at Decedent.

B. Justifiable Homicide by a Public Officer

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

In this case, the facts illustrate that Officers Nusbam and Okami were reasonable in their beliefs that Decedent posed a serious threat to their safety. As aforementioned, Decedent was not complying with commands and was attempting to attack officers with the knife. These circumstances created probable cause in their minds that Decedent posed a threat of serious physical harm to them. Officers overcame that threat by firing their weapons at Decedent.

In light of all the evidence reviewed to date, Officers Nusbaum and Okami were justified and appropriate "in the discharge of a legal duty."

CONCLUSION

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

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