



REPORT ON USE OF FORCE

Legal Analysis Surrounding the Death of Keith Childress on December 31, 2015

Introduction

On December 17, 2015, an Arizona court issued no-bail warrants for the arrest of Keith Childress (“Decedent”) on charges of first-degree burglary, armed robbery, kidnapping, aggravated assault and theft. Decedent and his co-defendants armed themselves with weapons, impersonated police officers in order to make entry into a home and then robbed the homeowner of firearms and a cellphone. The warrants were issued because Decedent failed to appear in the Arizona court the day the jury announced its verdict.

On December 23rd or 24th, 2015,¹ Decedent called his uncle, VM, and told VM he wanted to spend New Year’s Eve in Las Vegas, but he needed a ride to town from Arizona. VM picked up Decedent from an unknown city in Arizona and drove him to Las Vegas. VM was unaware that Decedent was a wanted fugitive, and he allowed Decedent to stay in his apartment at the Monaco Apartments located at 8350 W. Desert Inn Road, building 12, apartment 2080.

On December 30, 2015, deputies from the United States Marshals Service established surveillance on Decedent after receiving information that Decedent was in Las Vegas staying with VM.

On December 31, 2015, at approximately 1:45 pm, the deputy marshals were conducting surveillance as Decedent and VM exited the apartment and walked towards VM’s vehicle. The marshals moved in to arrest Decedent; however, he was able to evade capture.

¹ VM was not sure of the precise date; however, he knew it was just before Christmas.

Decedent fled on foot through the apartment complex and into the adjacent residential area north of the complex. Marshals pursued Decedent on foot.

Over the radio, one of the marshals requested assistance from the Las Vegas Metropolitan Police Department (LVMPD). Officers from Enterprise Area Command (EAC) arrived on scene and assisted the marshals by setting up a perimeter to contain Decedent. Marshal #1 broadcasted that Decedent was wanted for attempted murder.² LVMPD Sergeant Campbell coordinated radio traffic with the marshals and LVMPD officers in the area command. Sergeant Campbell learned that Decedent's uncle, VM, was in custody and he was in possession of a firearm. Sergeant Campbell broadcasted that Decedent had access to the weapon in VM's vehicle.

At approximately 2:20 pm, Officer Horsley, the observer in the Air Unit, observed Decedent jump over walls into backyards along Palace Heights Avenue. Officer Horsley observed Decedent go south and jump the wall into a backyard, run along the side of a house, and exit onto Gilded Crown Court.



Cul-de-sac on Gilded Crown Court. The incident occurred in the drive way of 8335 Gilded Crown Court.

² The information given to LVMPD was that a warrant was issued for Decedent for attempt homicide. However, that information was incorrect. Warrants were issued for Decedent for burglary, armed robbery, kidnapping, aggravated assault, and theft.

Sergeant Bohanon arrived in the area and observed Decedent walk southwest towards the end of the cul-de-sac. Decedent walked south across the street and concealed himself between two houses. At the same time, Officer Walford observed Decedent in the middle of the street. Sergeant Bohanon gave Decedent verbal commands to stop. Decedent ignored him and kept walking.

Officer Walford closed the distance to Decedent. Decedent turned his body so the officers were unable to see what he was carrying in his right hand.

Sergeant Bohanon observed an object in Decedent's hand he believed was a firearm; however, because Decedent had turned his body, Sergeant Bohanon also was unable to see what Decedent was carrying in his right hand.

Sergeant Bohanon told Decedent he was aware he had a firearm and needed to drop it. Decedent disregarded his commands and kept his right arm in a position where Sergeant Bohanon was unable to see it. Sergeant Bohanon gave approximately twenty-three verbal commands to Decedent. He did not comply with any of them. The last command Sergeant Bohanon gave prior to discharging his weapon was, "If you advance on us, you will be shot," and, "Do not walk towards us," and again, "Do not walk towards us." Decedent, who had continued to hold his right hand to his side, advanced toward Sergeant Bohanon and Officer Walford.



Sergeant Bohanon's perspective from a position of cover as Decedent advanced upon him.

Sergeant Bohanon fired four rounds from his firearm, and Officer Walford fired five from his firearm. Decedent was struck three times in the upper torso, one time in the wrist and one time in the upper left leg. Decedent fell to the ground and continued to move, while appearing to retain the item in his hand. Sergeant Bohanon continued to give Decedent commands to drop what he believed was a weapon. K-9 Officer Ledogar arrived and deployed his dog. The dog approached Decedent and bit him in the shin area, the upper right groin, and in the right hamstring. Officer Ledogar ordered the dog off, and officers approached and took Decedent into custody. Medical was requested and arrived. Decedent was pronounced deceased at the scene.

The Clark County District Attorney's Office has completed its review of the December 31, 2015, death of Decedent. It has been determined that, based on the evidence currently available and subject to the discovery of any new or additional evidence, the actions of Officer Blake Walford and Sergeant Robert Bohanon were not criminal in nature. This review is based upon all the evidence currently available.

This report explains why criminal charges will not be forthcoming against Officer Walford and Sergeant Bohanon. It is not intended to recount every detail, answer every question, or resolve every factual conflict regarding this police encounter. It is meant to be

considered in conjunction with the Police Fatality Public Fact-Finding Review which was held on August 22, 2016.

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

I. BODY WORN CAMERAS

Sergeant Robert Bohanon

Detective Patton took custody of, and secured, Sergeant Bohanon's body worn camera. The footage was downloaded at LVMPD Headquarters and later viewed by Sergeant Bohanon and detectives.

II. SCENE WALK-THROUGHS

On December 31, 2015, at approximately 5:15 pm, Sergeant Bohanon provided a limited walk-through of the scene. During the walk-through, Sergeant Bohanon indicated that he was in his marked patrol vehicle when he observed Decedent walk south on Gilded Crown Court. Sergeant Bohanon parked his vehicle in front of 8327 Gilded Crown Court, slightly offset of center and facing west. Sergeant Bohanon took cover behind a red Grand Prix bearing Nevada license plate 577TCH, which was parked in the driveway of 8327 Gilded Crown Court. Sergeant Bohanon fired four rounds from his Glock .45 caliber firearm west towards Decedent.

On December 31, 2015, at approximately 5:32 pm, Officer Walford provided a limited walk-through of the scene. During the walk-through, Officer Walford indicated he was on foot westbound on Gilded Crown Court when he first saw Decedent in the middle of the street toward the west end of the cul-de-sac. Decedent crossed the street and walked south towards 8355 Gilded Crown Court. Officer Walford took a position of cover behind a red Grand Prix bearing NV 577TCH, which was parked in the driveway of 8327 Gilded Crown Court. Officer Walford stated he assumed a kneeling position and fired his Sig Sauer 9mm handgun, but he did not say how many times.

III. PUBLIC SAFETY STATEMENT

On December 31, 2015, at approximately 4:30 pm, Detective Patton interviewed Lieutenant Hewes in reference to the Public Safety Statement Lieutenant Hewes obtained

from Sergeant Bohanon. Below are the questions asked by Lieutenant Hewes, with the answers provided by Sergeant Bohanon in italics.

- 1) Did you discharge your firearm? *Yes.*
 - a) If so, in what direction? *West.*
 - b) Approximately where were you located when you fired? *Behind a red car, about one (1) house to the east of the suspect.*
 - c) How many shots do you think you fired? *Approximately two (2) to four (4), closer to four (4) though.*
- 2) Is anyone injured? *The suspect.*
 - a) If so, where are they located? *The driveway to the west of where I was.*
- 3) Are there any outstanding suspects? *No.*
 - a) If so, what is their description? *N/A.*
 - b) What direction and mode of travel? *N/A.*
 - c) How long have they been gone? *N/A.*
 - d) What crime(s) have they committed? *N/A.*
 - e) What type of weapon do they have? *N/A.*
- 4) Is it possible the suspect fired rounds at you? *No.*
 - a) If so, what direction were the rounds fired from? *N/A.*
 - b) How many shots do you think the suspect fired? *N/A.*
 - c) Approximately where was the suspect located when they fired? *N/A.*

- 5) Do you know if any other officer(s) discharged their firearms? *Yes.*
 - a) If so, who are they? *Officer Walford.*
 - b) Approximately where was the officer(s) located when they fired?
Approximately eight (8) feet to my left.
- 6) Are there any weapons or evidence that needs to be secured/protected? *No.*
 - a) If so, where are they located? *N/A.*
- 7) Are you aware of witnesses? *Other officers and probably some federal guys*
 - a) If so, what is their location? *Question not asked.*

On December 31, 2015, at approximately 4:35 pm, Detective Patton interviewed Lieutenant Hewes in reference to the Public Safety Statement Lieutenant Hewes obtained from Officer Blake Walford. Below are the questions asked by Lieutenant Hewes, with the answers provided by Officer Walford in italics.

- 1) Did you discharge your firearm? *Yes.*
 - a) If so, in what direction? *Southwest direction.*
 - b) Approximately where were you located when you fired? *Question not asked.*
 - c) How many shots do you think you fired? *Three (3) or four (4).*
- 2) Is anyone injured? *Yes.*
 - a) If so, where are they located? *Driveway where the OIS occurred.*
- 3) Are there any outstanding suspects? *No.*
 - a) If so, what is their description? *N/A.*
 - b) What direction and mode of travel? *N/A.*
 - c) How long have they been gone? *N/A.*
 - d) What crime(s) have they committed? *N/A.*
 - e) What type of weapon do they have? *N/A.*
- 4) Is it possible the suspect fired rounds at you? *No.*
 - a) If so, what direction were the rounds fired from? *N/A.*
 - b) How many shots do you think the suspect fired? *N/A.*

- c) Approximately where was the suspect located when they fired? *N/A.*
- 5) Do you know if any other officer(s) discharged their firearms? *Yes.*
 - a) If so, who are they? *Sergeant Bohanon.*
 - b) Approximately where was the officer(s) located when they fired? *Two (2) to three (3) feet to my right.*
- 6) Are there any weapons or evidence that needs to be secured/protected? *I don't know.*
 - a) If so, where are they located? *N/A.*
- 7) Are you aware of witnesses? *Yes.*
 - a) If so, what is their location? *Sergeant Bohanon is behind me.*

IV. VOLUNTARY STATEMENT

On January 4, 2016, Officer Walford provided a voluntary statement to investigators. In his statement, Officer Walford indicated that he was dispatched to assist Federal Marshals who were in pursuit of a suspect wanted for Attempted Murder. The Air Unit was updating officers regarding the suspect's location. When Officer Walford saw the suspect, the suspect had his right hand in his pocket and thought he might have his hand on a firearm. Officer Walford had been told that the vehicle the suspect had run from was searched and a firearm was found. As such, Officer Walford was concerned that the suspect might have a gun.

The suspect refused to remove his hand from his pocket, ignored the officers' commands and walked away from officers towards some nearby homes. Officer Walford indicated that the Air Unit warned the officers on the ground not to let the suspect enter any homes. Officer Walford and other officers followed the suspect as he approached some homes. Sergeant Bohanon repeatedly ordered the suspect to drop his weapon, but the suspect did not comply and instead walked to the side of one of the homes.

The suspect then reappeared with his right hand in his pocket. Officer Walford could see something that looked black. Officer Walford and Sergeant Bohanon took cover behind a car in an adjacent driveway. The suspect continued to walk toward the officers with his hand in his pocket even after Sergeant Bohanon ordered him to stop. As the suspect got closer, Officer Walford was concerned that the suspect was going to shoot Sergeant Bohanon and himself. Officer Walford indicated he then shot the suspect in order to

protect himself and Sergeant Bohanon. Officer Walford requested that medical come to help the suspect.

V. DESCRIPTION OF THE SCENE AND VISIBLE EVIDENCE

The address of 8335 Gilded Crown Court was a two-story single family residence with a three car garage, tan stucco walls, and a red tiled roof. The front of the residence faced north. There was a small tan stucco porch with two pillars attached to the front of the house.

On the ground on the eastern side of the driveway were several apparent blood drops that started near the bottom of the driveway nearest the street and went south towards the front door. Decedent was face down on the ground approximately two feet north of the garage. He was wearing a black long sleeve jacket, red Hanes underwear, black windbreaker pants, white socks and red tennis shoes. Decedent's wrists were handcuffed behind his back. Both of Decedent's legs were in a north direction and his head was south. A black cell phone was on the ground west of Decedent's body, which had been removed from his pocket when police took him into custody.

In the western most stucco pillar was a defect caused by a bullet that traveled through the pillar and ricocheted off the aluminum garage door of 8335 Gilded Crown Court. There was a defect to the main garage door approximately two feet right of center. The bullet was located inside the garage lodged in a mattress. Another defect was noted on the third car garage door. The bullet traveled through the garage door into the stucco wall inside of the garage on the west side. The bullet traveled out of the wall and struck the outside stucco east facing wall of 8353 Gilded Crown Court. Both of those bullets were recovered by Senior Crime Scene Analyst (SCSA) Keller and impounded.



The scene in front of the house at 8335 Gilded Crown Court.

V. INTERVIEWS

Decedent's Uncle:

On December 31, 2015, at approximately 5:00 pm, Detectives Colon and Patton conducted a non-recorded interview with VM at 8350 Desert Inn Road, apartment 2080. The following is a summary of the interview:

VM stated he had been married to Decedent's mother's sister and considered Decedent his nephew. VM stated Decedent contacted him on either December 23rd or 24th by telephone. Decedent's girlfriend's car had broken down on the way from Arizona to Las Vegas. Decedent asked VM if he would pick him up in Arizona and bring him to Las Vegas. VM drove to Arizona and picked up Decedent. Decedent did not tell him of any legal trouble or missed court dates.

Decedent stayed at VM's residence while in Las Vegas. Decedent did not act suspicious or partake in any criminal activity in the presence of VM. Decedent went clothes shopping and purchased a pair of Nike Air Jordan's shoes for VM.

Although VM claimed he did not know Decedent was involved in any criminal activity, when he was advised Decedent had died as a result of an officer-involved shooting he stated, "When you are involved with that lifestyle of drugs that can happen."

Officer James Ledogar:

On December 31, 2015, at approximately 5:52 pm, Detective Ballejos conducted an audio recorded interview with Officer Ledogar. The following is a summary of the interview.

On December 31, 2015, at approximately 2:00 pm, Officer Ledogar received information via dispatch advising that deputy marshals were in foot pursuit of a fugitive, the Decedent, in the Enterprise Area Command. Officer Ledogar switched to the EAC radio channel and went en route to the area. Officer Ledogar recalled radio traffic that Decedent was armed with a firearm.

Officer Ledogar arrived in the area and inquired about the established perimeter. He followed Decedent's direction of travel relayed by the Air Unit. Decedent headed in a northbound direction from Golden Cypress Avenue. Officer Ledogar went one street north to Gilded Crown Court when he heard the report of shots fired.

Officer Ledogar announced his presence to the LVMPD uniformed officers and deputies at the west end of the street and approached with his dog. He heard the uniformed officers give verbal commands to Decedent, but Decedent did not respond. Officer Ledogar challenged Decedent with his dog and sent him forward to Decedent. Decedent did not respond to the dog bites. Officer Ledogar then took control of the dog and assisted officers as they took Decedent into custody.

Deputy U.S. Marshal #1:

On December 31, 2015, at approximately 6:00 pm, Detectives Kowalski and Fasulo conducted an audio recorded interview with Deputy U.S. Marshal #1. The following is a summary of the interview.

On December 31, 2015, at approximately 8:00 am, Deputy #1 and the other members of his team were conducting surveillance at the Monaco Park Apartments. U.S. Marshals in Arizona had requested their assistance locating Decedent who fled from Arizona. Warrants were issued for Decedent's arrest when he failed to appear for the verdict in his trial for home invasion, kidnapping, and aggravated assault charges. Decedent and his co-defendants, armed with weapons, impersonated police officers in order to make entry into a home and then robbed the home owner of firearms and a cellphone. U.S. Marshals in Arizona had received information that Decedent may have been in Las Vegas with his

uncle. The request from U.S. Marshals described Decedent as armed and dangerous based on the facts of his trial.

Deputies #1, #2, #3, and #4 were conducting surveillance on VM's residence. They contacted LVMPD Dispatch via telephone and notified them of their operation, and a LVMPD event number was created. They observed VM come and go from his apartment several times, but they did not see Decedent. At approximately 1:45 pm, Decedent and VM exited the apartment and walked toward VM's vehicle. Deputies #4 and #2 pulled their vehicles behind VM's to prevent him from leaving. Deputy #3 was set up on the west side of the complex, and Deputy #1 approached on foot from the south.

Decedent immediately fled on foot from the vehicle and ran northbound through the complex. Deputies #1 and #4 pursued on foot. Deputy #2 remained at the vehicle with VM. Deputy #3 returned to his vehicle and drove to the residential neighborhood north of the Monaco Park Apartments. Deputy #3 broadcast over the EAC radio channel that U.S. Marshals were in foot pursuit and requested assistance. Deputy #1 broadcast Decedent's description and that he had an outstanding attempt homicide warrant.

Decedent jumped over the north wall of the Monaco Park Apartments into the backyard of a residence on Golden Cypress Avenue. Deputy #1 lost sight of Decedent and began checking the backyards. Deputy #1 went onto Golden Cypress Avenue and walked to the west while Deputy #4 walked to the east. Sergeant Campbell arrived in the area and met with Deputy #1 at the location where he lost sight of Decedent.

While speaking with Sergeant Campbell, it was broadcasted over the radio that a citizen called 911 and reported someone in their backyard on Palace Heights Avenue, two blocks north of Golden Cypress Avenue. The Air Unit located Decedent and broadcasted he was on Gilded Crown Court. Deputies #1 and #4 ran up to Gilded Crown Court and observed two LVMPD vehicles parked at the west end. The Air Unit broadcasted that Decedent was trying to get into a residence.

The deputies approached and located Sergeant Bohanon and Officer Walford taking cover behind a red vehicle. Sergeant Bohanon was issuing commands to Decedent, telling him to, "Drop the gun" and, "Show us your hands." Deputy #1 was advised by an officer that Decedent had a firearm. Deputy #1 had also heard over the radio that a firearm had been located inside VM's vehicle. Deputy #1 moved to a position of cover next to the corner of the house at 8327 Gilded Crown Court.

Decedent stood in the driveway of 8335 Gilded Crown Court. He had his right hand in his front pocket. Deputy #1 saw something in between Decedent's thumb and forefinger and believed it was a firearm. Decedent moved forward and was partially concealed by a front

entryway pillar of the residence. Sergeant Bohanon continued to issue commands, but Decedent did not comply. Specifically, Sergeant Bohanon told the Decedent that if he advanced on the officers he would be shot.

Decedent walked towards the officers and deputies even though the officers had warned him that if he advanced on them they would shoot. The officers fired, striking Decedent. Deputy #1 heard between five (5) to six (6) gunshots. Decedent was lying in the driveway and still moving. The officers continued to issue commands, but Decedent did not comply. Deputy #1 did not see a firearm but was unable to tell if Decedent was armed.

K-9 Officer Ledogar arrived and deployed his dog. Decedent was bit by the dog, and the deputies and officers approached him. Deputy #1 assisted in moving Decedent while the officers placed handcuffs on Decedent. Decedent did not speak to officers during any of their interaction with them.

Deputy U.S. Marshal #4:

On December 31, 2015, at approximately 6:21 pm, Detectives Colon, Ballejos, and Hughes conducted an audio recorded interview with Deputy U.S. Marshal #4. The following is a summary of the interview.

Deputies #4, #2, #3, and #1 were assigned to apprehend a wanted suspect, Decedent. Decedent had a warrant out of Arizona for an armed home invasion and kidnapping and was possibly armed. Decedent was possibly residing with his uncle, VM, at 8350 Desert Inn Road, apartment 2080. The deputies began surveillance on Decedent on December 30, 2015.

On December 30, 2015, they observed VM in his vehicle, a 2013 Hyundai Sonata, and then observed him enter apartment 2080. Decedent was not with VM. Deputy #4 logged on with LVMPD Dispatch on December 31, 2015, at 7:50 am and advised of the continued surveillance. At approximately 2:00 pm, the deputies observed Decedent and VM exit Apartment 2080 and approach VM's vehicle. The tactical plan in place was to "pinch" the vehicle, utilizing their vehicles to block the vehicle in place. As Decedent reached the vehicle, Deputy #2 pulled in behind the vehicle, at which time Decedent ran north through the complex. Deputies # 4, # 3, and #1 pursued him on foot while Deputy #2 secured VM and the vehicle.

Deputy #4 chased Decedent through the complex. Decedent jumped a fence into the backyard of an adjacent residence. The deputies jumped the wall and ran through the yard to the front of the residence, split up, and searched for Decedent in opposite

directions. Deputy #4 made contact with a marked patrol unit who had secured a perimeter location.

Deputy #1 advised Deputy #4 that LVMPD patrol units had possibly located Decedent. The deputies ran toward 8335 Gilded Crown Court where they observed two uniformed LVMPD officers at 8327 Gilded Crown Court, behind a red Grand Prix, with their guns drawn and giving verbal commands to Decedent. An officer advised them Decedent had a weapon. The deputies took cover behind the Grand Prix. Deputy #4 observed Decedent standing west of the driveway at 8335 Gilded Crown Court, with the right side of his body behind the residence. Decedent's body was partially turned to the right, and he appeared to be reaching into his right front pocket.

Multiple times the LVMPD officers ordered Decedent to show his hands and drop his weapon. Decedent ignored their commands and kept his right hand in his right pocket. Decedent advanced toward the officers despite the officers' orders for him to stop. Deputy #4 was not able to see Decedent's right hand because Decedent kept his body partially turned. The officers ordered Decedent numerous times to stop, but Decedent did not comply and continued to advance toward officers. Decedent's body was still partially turned to the right and his right hand in his pocket as he advanced toward officers. The LVMPD officers fired several shots at Decedent.

The LVMPD officers and deputies formed an arrest team, approached Decedent, and placed handcuffs on him.

Deputy U.S. Marshal #3:

On December 31, 2015, at approximately 6:32 pm, Detectives Kowalski and Fasulo conducted an audio recorded interview with Deputy U.S. Marshal #3. The following is a summary of the interview.

Deputy #3 was part of the team attempting to apprehend Decedent at the request of the Arizona Violent Offender Task Force. Decedent was wanted for failing to appear for court where he had been charged with home invasion, burglary, armed robbery, kidnapping, and aggravated assault. Decedent was considered armed and dangerous.

On December 31, 2015, at approximately 8:30 am, Deputy #3 and Deputies #2, #1, and #4 set up surveillance on Decedent's uncle's vehicle. They advised LVMPD Dispatch via telephone that they were conducting surveillance reference Decedent being at the Monaco Park Apartments. Deputy #3 positioned his team around the apartment. Due to only having four team members, rather than the normal seven, they were only able to set up containment on three sides.

Deputy #3 did not have a direct line of sight on the apartment from his position in the parking lot to the west. Deputy #3 heard radio traffic that Decedent and VM had exited the apartment and walked to the car. Two deputies drove behind VM's vehicle to block it in place. Deputy #1 broadcasted that Decedent took off running north and he was in foot pursuit.

Deputy #3 drove to the neighborhood north of the Monaco Park Apartments and sounded his air horn. Deputy #3 was driving on Palace Heights Avenue when he observed someone lying in the backyard of one of the residences. He stopped, backed up, and observed Decedent stand up and run south along the wall. Deputy #3 broadcasted the information, and the LVMPD Air Unit broadcasted they had located Decedent and took over radio traffic. Deputy #3 stayed on Palace Heights Avenue. He did not witness the officer-involved shooting.

Deputy U.S. Marshal #2:

On December 31, 2015, at approximately 6:55 pm, Detectives Colon, Ballejos, and Hughes conducted an audio recorded interview with Deputy U.S. Marshal #2. The following is a summary of the interview.

Deputy #2 was acting supervisor of the warrants squad. Deputy #2 and his squad were assigned a failure to appear warrant out of Maricopa County, Arizona for Decedent. Decedent failed to appear for his court date related to charges of home invasion, kidnapping, and assault with a deadly weapon. Information included in the National Crime Information Center (NCIC) stated Decedent was armed and dangerous and had violent tendencies.

The deputies began surveillance on December 30, 2015, at 8350 West Desert Inn Road, which was believed to be Decedent's uncle's apartment complex. VM resided in building 12, apartment 2080. Deputies observed VM walk to and from his vehicle during the day, but they did not observe Decedent. The surveillance resumed the next day. At approximately 2:00 pm, they observed Decedent and VM walk from apartment 2080 toward VM's vehicle.

Deputies #2 and #4 were in separate vehicles and drove through the apartment complex. As Decedent reached the passenger side of VM's vehicle, Deputy #2 activated his emergency lights and drove behind VM's vehicle to block it in place. Decedent ran from the area and was pursued on foot by Deputies #4, #1, and #3.

Deputy #2 placed VM in handcuffs. VM advised he had a firearm in the vehicle which Deputy #2 secured. Deputy #2 briefly interviewed VM and determined the firearm was legally his, and a records check revealed VM had no outstanding warrants.

Deputy #2 did not witness the officer-involved shooting. He remained with VM at his vehicle. Deputy #2 advised the squad usually consisted of seven officers: four Deputy U.S. Marshals, two LVMPD detectives, and one Nevada Highway Patrol trooper (NHP). However, some of those resources were mandated to work the Las Vegas Strip for the New Year's Eve celebration.

Officer Ray Horsley:

On January 01, 2016, at approximately 1:40 pm, Detective Patton conducted an audio recorded interview with Officer Horsley. The following is a summary of the interview.

Officer Horsley was on duty as the observation pilot in the LVMPD Air Unit working as AIR 3. Officers requested the Air Unit to assist with a foot pursuit in EAC. Dispatch advised Officer Horsley that a light-skinned black male adult, Decedent, had fled from U.S. Marshals. Officer Horsley was further advised Decedent was wanted for attempted murder.

Upon arrival, Officer Horsley made contact over the radio with a supervisor on the ground. Officer Horsley assisted with setting up a perimeter around the neighborhood. A citizen called LVMPD and advised Decedent was in her backyard and had jumped the fence in an east direction. Officer Horsley located Decedent in a backyard of a house on the south side of Palace Heights Avenue. Decedent climbed on top of a wall and ran west, jumped down, and walked between two houses on the north side of Gilded Crown Court.

Decedent continued southbound toward Gilded Crown Court as Sergeant Bohanon arrived in the area. Officer Horsley directed Sergeant Bohanon to drive westbound on Gilded Crown Court to intercept Decedent. Officer Horsley observed Sergeant Bohanon confront Decedent in the middle of the street; however, Decedent continued to walk southbound. As Decedent walked south across the street he kept the right side of his body positioned away from Sergeant Bohanon as if he was concealing something in the right front pocket of his pants. Officer Horsley saw that Decedent was holding onto an object in his pocket, but he could not determine what the object was.

Officer Horsley observed Decedent walk in between 8335 and 8343 Gilded Crown Court and stop. He believed Decedent was going to make entry into one of the homes. Officer Horsley saw Sergeant Bohanon and Officer Walford take cover behind a red vehicle

parked in the driveway of 8327 Gilded Crown Court, which was one house east of Decedent's location.

Decedent walked to the northwest corner of 8335 Gilded Crown Court and leaned against the house with the right side of his body. Decedent continued to hold onto an object he had concealed in his right pocket.

After the third or fourth rotation around Decedent, Officer Horsley saw Decedent move quickly toward Sergeant Bohanon and Officer Walford. Officer Horsley described Decedent's movement as "faster than a walk, as if Decedent was engaging the officers."

Officer Horsley saw Decedent fall to the ground and assumed Sergeant Bohanon and Officer Walford fired their weapons. Decedent was then taken into custody.

VI. NEIGHBORHOOD CANVASS

On December 31, 2015, at approximately 4:19 pm, Detectives Ballejos, Jex, and Kowalski conducted a witness canvass at the residences listed below. One resident heard two (2) gunshots but did not see anything. Another resident heard the Air Unit and gunshots. There was no answer at several of the homes.

VII. OFFICER WEAPON COUNTDOWNS

On December 31, 2015, Sergeant Bohanon and Officer Walford had their duty weapons counted down at LVMPD Headquarters.

Sergeant Bohanon:

Prior to countdown, Sergeant Bohanon stated he carried thirteen (13) cartridges in the magazine loaded in his firearm and one (1) cartridge in the chamber (13+1, 14 total). At the completion of the countdown, it was determined Sergeant Bohanon discharged his firearm four (4) times during this incident. Sergeant Bohanon's firearm, magazine, and cartridges were photographed and impounded by SCSA Thi.

Officer Walford:

Prior to countdown, Officer Walford stated he carried eighteen (18) cartridges in the magazine loaded in his firearm and one (1) cartridge in the chamber (18+1, 19 total). At the completion of the countdown, it was determined Officer Walford discharged his firearm five (5) times during this incident. Officer Walford's firearm, magazine, and cartridges were photographed and impounded by SCSA Thi.

VIII. FORENSICS REQUESTS / RESULTS

Cartridge Cases

The firearms and test-fired cartridge cases were examined and microscopically inter-compared with the following results: A cartridge case from the scene was identified as having been fired by Sergeant Bohanon's Glock pistol. A cartridge case from the scene was identified as having been fired by Officer Walford's Sig Saur pistol.

IX. AUTOPSY

On January 1, 2016, at approximately 9:30 am, an autopsy was performed on the body of Decedent at the Clark County Office of the Coroner/Medical Examiner by Doctor Corneal. After a complete autopsy, Doctor Corneal concluded Decedent died as a result of multiple gunshot wounds. The manner of death was homicide.

LEGAL ANALYSIS

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

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

I. THE USE OF DEADLY FORCE IN DEFENSE OF ANOTHER

The authority to kill another in defense of others is contained in NRS 200.120 and 200.160. "Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of ... person, against one who manifestly intends or endeavors to commit a crime of violence ..." against the other person.³ 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

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

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

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 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 beyond a reasonable doubt that an individual did not act in self-defense.

In this case, Decedent was perceived to pose an imminent danger to all officers and civilians in the area. He had warrants for his arrest on violent felonies involving weapons. The information given to LVMPD officers from the U.S. Marshals about those warrants was that Decedent was considered armed and dangerous. A gun was found in the car Decedent had run from when police tried to take him into custody. Officers saw what they believed was a weapon in Decedent's hand and/or in his right pocket. Moreover, Decedent repeatedly failed to comply with officers' directions to drop the object. Decedent never said anything to dispel the officers' belief that Decedent had a weapon. Additionally, when told clearly that he would be shot if he approached the officers, Decedent walked toward the officers and closer to the front door of a house. Thus, the officers did not know if Decedent would make entry into the house where a hostage could be taken, or if Decedent would continue to approach the officers and shoot them. The officers had a duty to protect against a possible hostage situation if Decedent made entry into the home, particularly because Decedent had been convicted of violent crimes which stemmed from a home invasion. The officers had not only a duty to respond to the perceived deadly threat to possible people in the home, but also were entitled to act on their reasonable fear of a threat to their lives and use deadly force.

II. JUSTIFIABLE HOMICIDE BY A PUBLIC OFFICER

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

In this case, the officers were trying to take Decedent into custody based on warrants for his arrest issued by a court in Arizona for violent felonies involving weapons. The facts demonstrate that the police had probable cause to believe that Decedent posed a threat of serious physical harm to the officers and all people in the area. The information police had about those warrants was that Decedent was to be considered armed and dangerous. A gun was found in the car Decedent had run from when police tried to take him into custody. Officers saw what they believed was a weapon in Decedent's hand and/or in his right pocket. Moreover, Decedent repeatedly failed to comply with officers' orders to

drop the object. Decedent never said anything to dispel the officers' belief that Decedent was armed. Additionally, when told clearly that he would be shot if he approached the officers, Decedent disregarded the officers' commands and walked towards the officers and closer to the front door of a residence. The officers did not know if Decedent would make entry into the house and take a hostage or continue to approach the officers and shoot them. The officers had not only a duty to respond to the perceived deadly threat to people in the home, but also could act on their reasonable fear of a threat to their lives and use deadly force. These circumstances indicate the officers had a reasonable belief that Decedent was a threat to their safety as well as any other people in the area. In light of this evidence, the actions of the officers were legally justified and appropriate "in the discharge of a legal duty."

CONCLUSION

Based on the review of the available materials and application of Nevada law to the known facts and circumstances, the actions of Las Vegas Metropolitan Police Department Officer Walford and Sergeant Bohanon 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, and unless new circumstances come to light which contradict the factual foundation upon which this decision is made, no charges will be forthcoming.