

REPORT ON USE OF FORCE: Legal Analysis Surrounding the Death of Caleb Blaylock on July 11, 2017

I. INTRODUCTION

The Clark County District Attorney's Office has completed its review of the July 11, 2017, death of Caleb Blaylock ("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 Las Vegas Metropolitan Police Department ("LVMPD") Officer William Pollock 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 Pollock. 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 February 15, 2018.

This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of the officer is 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.

II. INCIDENT DETAIL REPORT

On July 11, 2017, at approximately 1:06 p.m., a maroon Chevrolet pick-up truck pulled into the SuperPawn located at 4111 N. Rancho Drive. After the pick-up truck arrived, the three occupants of the truck exited. Two of the occupants – one of whom grabbed a hammer from the back of the truck – confronted the third occupant of the truck (Decedent). The altercation lasted less than one minute and ended when Decedent fled the parking lot. Upon seeing this confrontation occur in front of the SuperPawn, an employee called 9-1-1.

After Decedent fled the parking lot, one of the remaining two occupants of the truck alerted the SuperPawn employee, who was still on the phone with 9-1-1, that Decedent tried to rob them with a knife. The SuperPawn employee relayed that information to the 9-1-1 operator.



(video still from the SuperPawn located at 4111 N. Rancho Drive)

Officer William Pollock was assigned to the call, an attempted robbery with a knife, and drove to the SuperPawn in an LVMPD-marked patrol vehicle at 1:09 p.m. At 1:23 p.m., Officer Pollock arrived at the parking lot but by this time the pickup truck and its two remaining occupants had left. When Officer Pollock pulled into the parking lot, the person reporting approached Officer Pollock and pointed to Decedent – who had just returned to the parking lot – as the suspect in the attempted robbery.

At this time, Decedent walked northbound on N. Rancho Drive. Officer Pollock drove out of the SuperPawn parking lot travelling northbound in the southbound lanes of N. Rancho Drive with his emergency lights activated. Officer Pollock then attempted to conduct a person stop on Decedent. Officer Pollock drove his marked patrol vehicle to Decedent and told Decedent, “Let me see your hands.” Officer Pollock opened the front driver side door of his vehicle and instructed Decedent to drop the knife. Decedent ignored Officer Pollock’s commands and continued to swiftly move northbound on N. Rancho Drive. Officer Pollock pursued Decedent in his patrol vehicle with the front driver side door open. Officer Pollock yelled “stop” at Decedent.

Rather than stopping, Decedent began stabbing himself in the neck. Officer Pollock again instructed Decedent to stop.



(Officer Pollock's Body Worn Camera showing Decedent charging Officer Pollock)

Suddenly, Decedent turned toward Officer Pollock's vehicle and charged toward Officer Pollock. Officer Pollock discharged his firearm two times and then broadcasted that shots were fired. Officer Pollock gave Decedent multiple commands to stop before discharging his firearm another four times. Officer Pollock then exited his vehicle and secured the knife. When the paramedics arrived, they informed officers on scene that Decedent did not survive.

III. INVESTIGATION

A. SCENE WALK-THROUGH

During the walk-through, Officer Pollock relayed the following information:

Officer Pollock stated he observed Decedent in the parking lot of the SuperPawn and then saw Decedent turn and begin walking northbound on N. Rancho Drive. Officer Pollock turned on his lights and chirped his siren at Decedent to get his attention. Decedent reached into his backpack, pulled out a knife, and began to slash at his own throat. Officer Pollock drew his handgun, opened his car door, and began a slow roll toward Decedent. Officer Pollock gave verbal commands to Decedent to drop the knife. Officer Pollock stated that, because he was still in his vehicle, he transitioned his handgun to his left hand as he rolled forward.

While Decedent was still on the sidewalk, Decedent quickly turned and rushed toward him. Officer Pollock stated that while seated in the driver's seat, he fired two shots at Decedent, who briefly paused, then rushed again at Officer Pollock with the knife above his head in a threatening manner. Still seated, Officer Pollock fired approximately four more shots at Decedent who was then at the driver's side door. Decedent fell to the ground at the driver's door. Officer Pollock exited the vehicle, broadcast shots had been fired, and requested medical personnel to respond.



(Photo depicting the scene and indicating the two positions of Decedent when Officer Pollock shot his weapon)

B. PUBLIC SAFETY STATEMENT

On July 11, 2017, at approximately 3:22 p.m., Sergeant Kenneth Rios relayed the Public Safety Statement he obtained from Officer Pollock. Below are the questions asked by Sergeant Rios, with the answers provided by Officer Pollock in italics.

1) **Did you discharge your firearm?**

Yes.

a) **If so, in what direction?**

West direction, but downward towards the ground.

b) **Approximately where were you located when you fired?**

The driver's seat of my patrol vehicle.

- c) How many shots do you think you fired?
Four shots.

- 2) **Is anyone injured?**
Yes.
 - a) If so, where are they located?
Beside my patrol vehicle.

- 3) **Are there any outstanding suspects?**
No.

- 4) **Is it possible the suspect fired rounds at you?**
No.

- 5) **Do you know if any other officer(s) discharged their firearms?**
No.

- 6) **Are there any weapons or evidence that needs to be secured/protected?**
Yes.
 - a) If so, where are they located?
Yes, the knife behind my patrol vehicle.

- 7) **Are you aware of witnesses?**
Yes.
 - a) If so, what is their location?
I don't know where they are.

C. BODY WORN CAMERA OF SHOOTING OFFICER

Officer Pollock was wearing a body worn camera at the time of the incident and the camera was activated. The camera was later reviewed and preserved.

Officer Pollock's camera footage depicted Officer Pollock arriving at SuperPawn located at 4111 N. Rancho Drive. Decedent can be seen walking in front of Officer Pollock's patrol vehicle, but his shirt did not match the description given to dispatchers. The person reporting pointed to Decedent and told Officer Pollock, "That's the guy."

Officer Pollock drove after Decedent and attempted to conduct a person stop. Decedent continued walking north and Officer Pollock told Decedent to drop the knife. Officer Pollock broadcasted over the radio that Decedent was stabbing himself. As Officer Pollock continued to follow Decedent, he gave Decedent verbal commands to stop.

Decedent then turned towards Officer Pollock's patrol vehicle and approached the open driver's door. Decedent grabbed on to the driver's door of the patrol vehicle with his left hand while appearing to hold an object in his right hand. While seated in the driver's seat, Officer Pollock discharged his firearm two times and then broadcasted shots were fired. Officer Pollock gave Decedent multiple commands to stop before discharging his firearm another four times.

D. THIRD PARTY VIDEO EVIDENCE

SuperPawn, 4111 N. Rancho Drive

The video from the SuperPawn showed that a maroon pickup truck pulled into the parking lot and parked in the handicap spaces near the front entrance doors. The passenger immediately exited the vehicle and went to the bed of the truck. The driver and Decedent then exited the truck. Both the driver and passenger approached Decedent who was standing at the passenger side of the truck. The driver and passenger chased Decedent through the parking lot. During the altercation, Decedent ran to the passenger side of the truck and entered it. The driver of the truck got into the driver's seat and the passenger ran to the passenger seat. Decedent then exited the vehicle, followed by both the driver and passenger. Decedent was chased through the parking before Decedent ultimately fled the parking lot. The driver and passenger of the maroon truck remained in the parking lot for several minutes and then left. Less than fifteen minutes after the altercation started, seconds before Officer Pollock arrived, Decedent returned to the parking lot.

MV Transportation (Owner of CAT BUS)



(video still from the CAT BUS)

During the officer-involved shooting, a CAT BUS was driving southbound on N. Rancho Drive. In the video obtained from the CAT BUS, a marked LVMPD patrol sport utility vehicle (SUV) was observed driving northbound in the southbound lanes. The emergency lights were activated and the driver's door was open. Decedent ran northbound on the west side of N. Rancho Drive. Decedent then suddenly turns to his right and runs towards the LVMPD SUV. Decedent ran in front of the open door to the driver's quarter panel. Decedent then ran around the open door towards the driver's seat. Decedent then fell to the ground.

E. SUMMARY OF INTERVIEW WITH INVOLVED OFFICER

Officer William Pollock

On July 13, 2017, at approximately 1004 hours, Officer Pollock gave a recorded interview at LVMPD Headquarters. Officer Pollock relayed that he was working as a uniformed patrol officer on July 11, 2017. Officer Pollock was just finishing a report on an unrelated event when he heard a broadcast of an attempted robbery at the SuperPawn on N. Rancho Drive. Officer Pollock assigned himself to the call and started driving towards the SuperPawn. According to the details of the call, a maroon truck was involved and the suspect was wearing black clothing and he was armed with a knife.

When Officer Pollock arrived at the SuperPawn, he did not see a maroon truck in the parking lot. Officer Pollock did notice a male wearing black pants and a teal shirt walk northbound in front of his vehicle. A short time later, the manager for the SuperPawn, W.W., exited the store and told Officer Pollock that the male wearing the black pants and teal shirt was the suspect in the attempted robbery (Decedent).

As a result of the person reporting identifying the male in the teal shirt as the suspect, Officer Pollock turned his patrol vehicle around and began to follow Decedent. Officer Pollock drove northbound in the southbound lanes of N. Rancho Drive with his emergency lights activated. Officer Pollock chirped the siren in an attempt to conduct a person stop on Decedent. Decedent continued to walk northbound on the sidewalk at a fast pace. Officer Pollock drove with his driver's side door open so he could exit the vehicle, quickly if necessary. Officer Pollock observed Decedent pull a knife from his right front pants pocket. Decedent immediately began slashing at his own throat. Officer Pollock gave Decedent verbal commands to drop the knife but Decedent did not comply.

Suddenly, Decedent advanced towards Officer Pollock's open driver's side door. Officer Pollock stated Decedent was holding the knife in a raised position. As Decedent closed the distance towards him, Officer Pollock discharged his firearm. Decedent fell to his knees parallel with the driver's seat and raised the knife again. Officer Pollock continued to issue verbal commands for Decedent to drop the knife. Decedent ignored Officer Pollock's commands. Decedent then lunged towards Officer Pollock with the knife raised and Officer Pollock discharged his firearm again.

When he felt the threat was over, Officer Pollock exited his vehicle and grabbed the knife from Decedent's hand and threw it behind his patrol vehicle.

F. SUMMARIES OF INTERVIEWS WITH CIVILIAN WITNESSES

T.P.

T.P. stated he first met Decedent about a month before the officer-involved shooting. On July 11, 2017, Decedent asked T.P. for a ride to a pawn shop. T.P. drove his maroon truck to pick up Decedent. When T.P. and his friend, A.L., arrived to pick up Decedent, Decedent approached the truck holding a knife in his right hand. A.L. proceeded to move his seat forward and Decedent entered the rear seat of the truck.

While driving to SuperPawn, T.P. stated he saw Decedent holding A.L.'s seatbelt tightly and that Decedent had his arm around A.L.'s neck. T.P. stated during the drive Decedent said he was going to take T.P.'s truck. Upon arrival at the SuperPawn, both A.L. and Decedent exited the passenger side of the truck. A.L. then told T.P. that Decedent had been holding a knife to his throat. A.L. then grabbed a hammer from the truck bed and told T.P., "Let's get him."

Both T.P. and A.L. chased Decedent around the SuperPawn parking lot. Decedent jumped into the front seat of the truck from the passenger side and ripped out a portion of the center console. T.P. entered the truck from the driver's side door and punched Decedent several times. A.L. was near the passenger side door and hit Decedent with a hammer. Decedent was able to break free and ran southbound from the area.

After Decedent fled, T.P. told employees of SuperPawn that Decedent tried to rob him. SuperPawn employees stated they were on the phone with police. T.P. and A.L. waited for a few minutes but then left. T.P. left prior to police arrival and did not witness the officer-involved shooting.

W.W.

W.W. told police he was standing behind the employee counter inside SuperPawn facing the front doors looking out to the parking lot. W.W. saw a maroon truck pull up and three males exit. Two males, one holding a hammer, began to chase another male in the parking lot. The male they were chasing (Decedent) attempted to get into the front seat of the truck. Then the unknown male with the hammer began to hit Decedent. Decedent exited the vehicle and ran southbound through the desert.

W.W. was on the phone with 9-1-1 describing what was occurring. During the call, one of the other males involved in the incident opened the business door and stated Decedent tried to rob him using a knife. The unknown male stated Decedent held a knife to his throat and demanded money and the vehicle. W.W. told the males the police were on the way and for them to wait. After W.W. hung up with 9-1-1, the males stated they couldn't wait and left the parking lot.

Several minutes later, W.W. observed Decedent again, now walking northbound through the SuperPawn parking lot. Officer Pollock arrived and W.W. directed him to Decedent's location.

Officer Pollock drove northbound on N. Rancho Drive with his lights activated. Decedent looked back at Officer Pollock and continued walking northbound at a faster pace. Decedent briefly stopped but then started running northbound. Suddenly, Decedent stopped again, unzipped his backpack, and reached inside the bag. After reaching into his bag, Decedent ran towards Officer Pollock's patrol vehicle. At that time, W.W. heard one gunshot. After the first gunshot, W.W. then heard four to five more gunshots and saw Decedent lying on the street next to Officer Pollock's door. W.W. stated he did not see what Decedent took out of his backpack. W.W. stated Officer Pollock was seated inside of his patrol vehicle when the shooting occurred.

D.C.

D.C. was inside the SuperPawn getting ready to leave when he heard yelling and screaming outside in the parking lot. D.C. went outside and observed Decedent being chased by two other males. One of the males was armed with a hammer. D.C. told an employee to call the police. D.C. then ran back inside the business and grabbed a golf club from the store. D.C. went back outside and yelled at the males to stop. At that time Decedent ran away. D.C. then heard the other men state Decedent had pulled a knife on them and made them drive him to the SuperPawn. D.C. did not witness the officer-involved shooting.

T.F.

T.F. was working at the SuperPawn when she saw three males fighting in the parking lot. T.F. saw two unknown older males attacking Decedent. Decedent got into the truck as if he was trying to take something when the males attacked Decedent again. Decedent then grabbed his backpack and ran through the desert.

M.H.

M.H. was working inside SuperPawn when she heard someone say, "He's got a gun." M.H. looked outside and saw three white males in the parking lot. One of the males had a hammer in his hand. M.H. saw two older males chasing Decedent. Decedent repeatedly went into the maroon truck until he finally picked up his backpack and ran away. One of the unknown males entered the SuperPawn and told employees that Decedent pulled a knife on them. When the males were told the police were on the way they got into the truck and left.

Approximately 15 minutes later, Decedent walked northbound through the parking lot and continued north on N. Rancho Drive. M.H. observed Officer Pollock arrive and the officer was directed to Decedent's location. Officer Pollock drove northbound in the southbound lanes of N. Rancho Drive and had his driver's door open. Decedent ran northbound and attempted to run across N. Rancho Drive when Officer Pollock cut off his path.

M.H. stated she heard one gunshot, a pause, a second gunshot, another pause and three more gunshots. M.H. did not see Decedent reach into his backpack or any weapons due to her view

being blocked. M.H. stated Officer Pollock exited his vehicle after Decedent was on the ground after the shooting.

A.B.

A.B. was inside a nearby office with another employee and stated she heard two pops that she believed to be gunshots. She walked to the front windows and observed Decedent standing on the sidewalk next to N. Rancho Drive. She stated Decedent looked as though he was walking off the sidewalk onto the street when Officer Pollock approached. The door of the marked patrol vehicle was open. A.B. stated she heard three or four more pops and observed Decedent fall to the ground. A.B. stated she observed Officer Pollock kick something away from where Decedent fell, then pull Decedent up onto the sidewalk. She stated she observed medical personnel arrive and begin medical intervention.

W.D.

W.D. was in the parking lot of Pep Boys located at 4141 N. Rancho Drive. He stated he was approximately 40 yards away from where the officer-involved shooting occurred.

W.D. observed a light skinned male, Decedent, wearing a blue shirt and a backpack, running north on N. Rancho Drive. He observed Officer Pollock in his marked LVMPD patrol vehicle drive north on N. Rancho Drive, following Decedent. W.D. saw Decedent with a knife in his hand, but was not sure in which hand.

W.D. stated Decedent raised the knife and waved it. He heard Officer Pollock repeatedly tell Decedent to "drop the knife." Decedent stopped and Officer Pollock stopped his patrol car. Officer Pollock stepped out of the patrol car and repeatedly yelled, "Drop the knife." Decedent then ran towards Officer Pollock.

W.D. could not see if Decedent had a knife in his hand when he ran towards Officer Pollock. He heard Officer Pollock repeatedly yell, "Drop the knife," as Decedent approached him. W.D. said he observed and heard Officer Pollock fire four shots from his handgun. Decedent was approximately three to four feet away from Officer Pollock when the shots were fired. W.D. stated after the shots were fired, Officer Pollock continued to yell, "Drop the knife." W.D. then observed Officer Pollock appear to place Decedent into handcuffs.

L.G.

L.G. was driving her vehicle southbound on N. Rancho Drive from Craig Road. She observed a police vehicle driving north in the southbound travel lanes. She observed Decedent walking northbound on the sidewalk. The police vehicle had the driver's door open and she believed the officer was attempting to make contact with Decedent. Decedent did not stop but rather continued to walk with the police vehicle slowly following Decedent. L.G. stopped her vehicle in the travel lane because she was unsure what to do as the police vehicle had its lights activated.

L.G. observed Decedent slapping the side of his neck with his hand. Decedent then lunged toward the open door of the police vehicle when L.G. heard what she believed were gunshots. She observed Decedent fall onto the street next to the police vehicle.

C.I.

C.I. was driving with R.W. northbound on N. Rancho Drive. C.I. observed Officer Pollock's marked LVMPD patrol vehicle facing north in the southbound lanes of N. Rancho Drive. C.I. saw decedent approach Officer Pollock's vehicle in what he deemed to be an aggressive manner. According to C.I., Decedent was holding something in his hand. C.I. heard one gunshot and observed Decedent fall into the street.

R.W.

R.W. was in the front passenger side of the vehicle driven by C.I. when she observed Decedent walking north on N. Rancho Drive. R.W. observed Officer Pollock, in his marked LVMPD patrol vehicle, talking to Decedent but she could not hear what was being said. R.W. observed Decedent holding an object in his hand and it appeared to be something sharp. R.W. then saw Decedent switch the sharp object between his hands and approach Officer Pollock in an aggressive manner.

After Decedent approached Officer Pollock in an aggressive manner, R.W. heard one or two gunshots. C.I. then drove into the parking lot to the west of where the incident occurred and R.W. observed Decedent laying on the ground. R.W. saw Officer Pollock reach down towards Decedent; she was unable to tell what he was doing but believed that Officer Pollock was checking on Decedent.

N.S.

N.S. was waiting for the bus on N. Rancho Drive and was approximately 35 to 40 feet away from where the officer-involved shooting occurred when he saw Decedent running north on N. Rancho Drive. N.S. also observed Officer Pollock driving a marked LVMPD patrol vehicle north in the southbound lanes of N. Rancho Drive following Decedent. It appeared to N.S. that Decedent was running from Officer Pollock and had something in his hand.

Next, N.S. saw Officer Pollock stop and open his car door. At this time, Decedent was about 15 feet away from the patrol vehicle and started running towards the vehicle. Decedent was within three feet of Officer Pollock when N.S. heard two gunshots, a pause, and two more gunshots. Decedent then fell into the street. N.S. stated he was too far away from where Decedent was to see if he had a weapon.

A.A.

A.A. was driving the MV Transportation bus southbound on N. Rancho Drive from Craig Road when he observed an LVMPD patrol vehicle going northbound in the southbound lanes. He also observed a subject, Decedent, northbound on foot on the sidewalk. A.A. stated he believed the officer was attempting to stop Decedent.

A.A. stated he observed Decedent pull an object out but did not know from where; A.A. believed it to be some kind of a weapon. Decedent then quickly ran toward the officer, who was still sitting in the driver's seat of the patrol vehicle. A.A. stated he heard two quick gunshots and saw Decedent fall to the ground. He stated there was a short pause then A.A. heard three to four more gunshots.

G. OFFICER COUNTDOWN

Prior to the countdown, Officer Pollock stated he carried fifteen cartridges in the magazine loaded in his firearm and one cartridge in the chamber (16 total). At the completion of the countdown, it was determined Officer Pollock discharged his firearm six times during this incident. Officer Pollock's firearm, magazines, and cartridges were photographed and impounded.

H. DESCRIPTION OF THE SCENE AND VISIBLE EVIDENCE

Scene

Officer Involved Shooting
 Event #170711-2094
 4233 N. Rancho Drive
 July 11, 2017

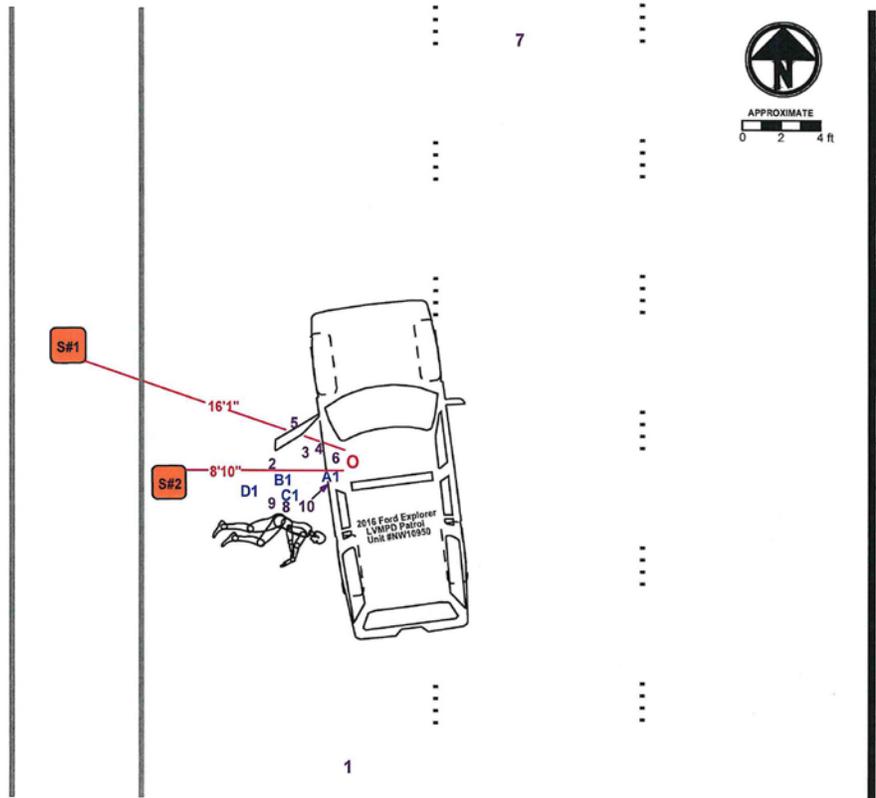
(1 OF 2)

LEGEND

- 1 Knife
- 2 Cartridge case
- 3 Cartridge case
- 4 Cartridge case
- 5 Cartridge case
- 6 Cartridge case
- 7 Cartridge case
- 8 Bullet with fabric
- 9 Bullet
- 10 Bullet fragment

- A1 Bullet hole
- B1 Bullet impact
- C1 Bullet impact
- D1 Bullet impact

- O Officer
- S#1 Subject position
- S#2 Subject position



(Diagram of Scene)

The scene was located on the southbound lanes of N. Rancho Drive. There are three southbound lanes, a raised center median, and three northbound lanes. A sidewalk was along the west side of the roadway and the south driveway to 4233 N. Rancho Dr. was at the north end of the scene. V1 was parked facing north, and slightly west, in the #3 southbound travel lane, south of the driveway to 4233 N. Rancho Dr. The front driver door was open and the window was completely down.

Evidence Recovered

The following items were recovered from the scene:



Item #1

- A table knife (Item #1).
- Six “SPEER 40 S&W” cartridge cases: four (Items #2-5) were on the roadway west of the driver door frame; one (Item #6) was on the front left side of the driver’s seat track; and one (Item #7) was in the number 2 southbound lane, northeast of V1.
- Two bullets (Items #8-9) were recovered from the roadway, west of the driver door frame.
- One bullet fragment (Item #10) was recovered from the hard plastic of the driver door threshold of V1.

I. FORENSICS REQUESTS / RESULTS

Cartridge Cases and Bullets

The impounded cartridge cases and bullets were examined and microscopically compared to the test fired bullets and cartridge cases from Officer Pollock’s Beretta pistol. Based on these microscopic examinations, it was determined that all six cartridge cases recovered on the scene had been fired from Officer Pollock’s Beretta pistol. Additionally, the three bullets recovered were also from Officer Pollock’s Beretta pistol.

J. AUTOPSY

On July 12, 2017, an autopsy was performed on the body of Decedent at the Clark County Office of the Coroner/Medical Examiner by Doctor Lisa Gavin. After the autopsy, Doctor Gavin concluded Decedent died as a result of multiple gunshot wounds. The manner of death was homicide. Doctor Gavin, in her examination, also noted numerous superficial incise wounds to Decedent’s neck. A toxicology examination was conducted on Decedent with the following results:

<u>Compound</u>	<u>Result</u>	<u>Units</u>	<u>Matrix Source</u>
Ethanol	15	mg/dL	001 - Femoral Blood
Blood Alcohol Concentration (BAC)	0.015	g/100 mL	001 - Femoral Blood
Codeine - Free	36	ng/mL	001 - Femoral Blood
Morphine - Free	520	ng/mL	001 - Femoral Blood
6-Monoacetylmorphine - Free	31	ng/mL	001 - Femoral Blood
Hydromorphone - Free	9.9	ng/mL	001 - Femoral Blood
Codeine - Free	36	ng/mL	002 - Urine
Morphine - Free	640	ng/mL	002 - Urine
6-Monoacetylmorphine - Free	>500	ng/mL	002 - Urine

IV. 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 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.¹ 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 in *Runion v. State*, 116 Nev. 1041 (2000). The relevant jury instructions as articulated in *Runion* are as follows:

The killing of [a] person in 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 or cause great bodily injury; and
2. That it is absolutely necessary under the circumstances for him to use force or means that might cause the death of the other person, for the purpose of avoiding death or great bodily injury.

¹ 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.

A bare fear of death or great bodily injury is not sufficient to justify a killing. To justify taking the life of another in 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. 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 he 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 himself 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 of self-defense exists, the State must prove beyond a reasonable doubt that Decedent did not act in self-defense. *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, Officer Pollock reasonably perceived that Decedent posed an imminent danger to Officer Pollock. Initially, Officer Pollock attempted to conduct a person stop on the Decedent as he was identified as the suspect in an attempted robbery with a knife. Instead of stopping, the Decedent ignored Officer Pollock's commands. Decedent then started cutting his own neck with the knife before advancing at Officer Pollock while holding the knife. Decedent placed Officer Pollock in reasonable fear that Decedent would stab Officer Pollock. Given the manner in which Decedent used the knife, Officer Pollock reasonably responded based upon his reasonable fear of a threat to his life and use of deadly force against him.

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, at the time Officer Pollock fired his weapon, the facts demonstrate that he had probable cause to believe that Decedent posed a threat of serious physical harm to Officer Pollock. Officer Pollock was informed that minutes earlier, Decedent attempted to commit a robbery with a knife. When Officer Pollock attempted to stop Decedent, Decedent first started cutting himself with a knife and then charged towards Officer Pollock with the knife in hand. Thus, when Officer Pollock fired his weapon, the facts demonstrate that he had probable cause to believe that Decedent posed a threat of serious physical harm to Officer Pollock. The circumstances indicate that Officer Pollock had a reasonable belief that Decedent was a threat to his safety. In light of this evidence, the actions of the Officer Pollock were legally justified and appropriate “in the discharge of a legal duty.”

V. CONCLUSION

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

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