

REPORT ON USE OF FORCE



Legal Analysis Surrounding the Death of Southaly Ketmany on July 23, 2013.

INTRODUCTION

On Tuesday, July 23, 2013, at approximately 5:01 pm, Home Owner returned to his residence located at 9025 Crystal Rock Circle, Las Vegas, Nevada, to find an Asian male, Southaly Ketmany, hereinafter, Decedent, wearing only underwear and socks lying on the couch in his living room.

Home Owner had never seen Decedent before and asked Decedent to leave his residence. However, Decedent told Home Owner he wanted Home Owner to kill him. Home Owner exited his residence via the front door and called 911 from his cell phone. It was later determined Decedent had been reported as a missing person by his ex-wife and had been involved in at least four (4) other criminal events earlier in the day in that same area.

Patrol officers arrived and attempted to make contact with Decedent, who had locked himself inside the residence. Decedent could be seen through the closed security gate and the open front door, pacing inside the residence with a butcher knife. He refused to communicate with law enforcement. SWAT responded to the scene and tried to communicate with Decedent. Decedent refused to speak with police. Police made contact with Decedent's ex-wife and had her record a statement in which she implored Decedent to come out of the house. Even after playing the recording, Decedent still refused to come out of the home. The police received information that Decedent was

possibly under the influence of a controlled substance. After numerous attempts to get Decedent to come out of the house failed, SWAT made entry into the residence.

Upon entry into the residence, officers gave commands that were ignored. When the Decedent did not comply with the commands, officers sent a K9 dog to Decedent in an effort to take him into custody. Decedent, however, did not move and the K9 dog did not engage Decedent. Police then shot Decedent with a less-than-lethal 40 mm Exact Impact rubber bullet round in an effort to subdue Decedent. Even after being hit by the rubber bullet, Decedent did not comply with police commands. Police then tried to tase Decedent but one of the two prongs did not make contact with Decedent. Consequently, the Taser had no effect. At this point, Decedent ran towards officers while he was wielding a large knife and a hammer. Decedent swung both the knife and the hammer as he charged SWAT Officers Doug Ericsson and Jay James. The officers retreated backwards as they ordered the male to stop and drop the weapons. When Decedent was within approximately three (3) feet of the officers, they fired four (4) 9mm rounds and three (3) .223 rounds at the male.

Decedent collapsed onto the kitchen floor and TAC medics, as well as AMR personnel, were immediately called into the residence to render medical aid. Decedent continued to resist and actually fought with medical personnel as they attempted to render aid. Decedent was tased two more times in an effort to take him into custody. When finally subdued, Decedent was transported to UMC Trauma. Decedent succumbed to his injuries and died during surgery at UMC.

The District Attorney's Office has completed its review of the July 23, 2013, 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 the officers were not criminal in nature. This review was based on all the evidence currently available.

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 police encounter. It is meant to be considered in conjunction with the Police Fatality Public Fact-Finding Review which was conducted on June 16, 2014. 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.

EVENTS LEADING UP TO THE SHOOTING

Disorderly Conduct at Body English Club in the Hard Rock Hotel
July 20, 2013 @ 4:20 am

Detectives met with the Director of Security at the Hard Rock Hotel and Casino. The Director provided security reports and video surveillance footage of Decedent at the Body English Club inside the Hard Rock that at approximately 4:20 am on Saturday, July 20, 2013. At that time, security for Body English was summoned to table #53 regarding an Asian male who was preventing the cocktail waitress from working. The male, who was later identified as Decedent, told security that people were trying to kill him and stab him. Decedent and his intoxicated friend were asked to leave the bar. During the conversation with the occupants at table #53, Decedent disappeared and went over to the main bar and stole a bottle of liquor. When security made contact with Decedent he refused to drop the bottle and yelled, "Kill me now!" and "Just stab me!" According to security, Decedent, "went out of control." Decedent was eventually taken into custody after a struggle in a kitchen area. Decedent was moved to a processing room within the facility. Metro responded to the scene.

The processing room had both audio and video surveillance which depicted Decedent sitting on a bench yelling that he was going to die and asking security to kill him. Decedent refused to comply with commands given to him by a Metro officer, as well as hotel security. It was determined that Decedent needed medical attention based on the fact that he was sweating profusely and he admitted he had ingested four (4) Mollies.

Paramedics arrived to evaluate Decedent but he refused to allow paramedics to render any medical attention. Decedent was subsequently transported to Desert Springs Hospital due to his own admission of ingesting Mollies. Decedent was admitted into Desert Springs Hospital at 6:14 am with an altered mental state, confusion and disorientation per hospital records. Decedent told hospital personnel that he ingested four (4) Mollies the previous evening and had gotten into a fight at the Hard Rock Hotel. Upon his admission, Decedent was tested for drug use and had a positive urine result for amphetamine. Decedent was later discharged from Desert Springs Hospital at 11:53 am.

Traffic Warrant
July 20, 2013 @ 2:12 pm

Trooper Edward Castillo was working on Saturday, July 20, 2013, and was dispatched to the area of Warm Springs and Green Valley Parkway at approximately 2:12 pm to meet with an officer with the Henderson Police Department (HPD). Trooper Castillo stated he was told HPD had a male in custody for an outstanding warrant for Basic Speed out of the Reno, Nevada area.

Upon Trooper Castillo's arrival, he was advised the male had been uncooperative with HPD Officers, who had responded to the area after several calls of a mentally ill male running through an apartment complex removing clothing.

Castillo stated the male, who was identified as Decedent, seemed confused, but was calm when he arrived. However, he noticed the male appeared to be under the influence of controlled substance. Trooper Castillo stated Decedent was sweating profusely and was wearing only boxer shorts and a white t-shirt and did not have any shoes on. When Castillo asked Decedent where his clothes were, Decedent stated, "They had a tracker on me," and claimed he was being followed.

Trooper Castillo took Decedent into custody and transported him to the Clark County Detention Center where he was booked on the warrant. Several statements were made by Decedent to Trooper Castillo about Decedent dying in jail and being "shanked."

Kidnapping at 8262 Huxley Street
July 30, 2013 @ 2:00 am

On Thursday, August 15, 2013, detectives obtained a statement from a 17 year-old boy. The 17 year-old, who lived in a home near Crystal Rock Circle, was unable to sleep on July 21, 2013. At approximately 2:00 am he went into his back yard. The 17 year-old stated he decided to go for a walk and, as he traveled along the sidewalk, he encountered a large Asian male, Decedent, wearing no shirt and black baggie shorts. He stated Decedent had a white shirt hanging out of his shorts pocket and described Decedent as mid-to-late twenties, approximately 5'7" and 190 pounds.

The 17 year-old stated as Decedent approached him, he stepped out into the street to avoid the male. However, Decedent walked out into the street and confronted the 17 year-old about why he was following him and took up a fighting stance with his fists raised. The 17 year-old stated he became scared and nervous because he thought someone was after Decedent and was fearful he was going to get his "ass kicked."

The 17 year-old said he offered to call 911, but Decedent grabbed the phone out of his hand and looked through the 17 year-old's text messages before Decedent turned the phone off and put it in his shorts pocket. The 17 year-old said Decedent placed him in a headlock and demanded to know where he lived. The 17 year-old said he tried to be vague with Decedent, but Decedent told him, "If you don't tell me I'm going to kill you." The 17 year-old stated he then pointed to his house and Decedent "walked" the 17 year-old to his residence while holding the 17 year-old in a headlock.

The 17 year-old said Decedent wanted to go in his house, but the 17 year-old refused to let Decedent in the house because he was scared his grandparents would be hurt. The two then entered his backyard, where they sat on a pile of bricks that were stacked

along the wall. The 17 year-old said Decedent picked up a brick and threatened to hit him with it if he did not quit whistling. The 17 year-old explained the whistling was actually the birds chirping. Decedent told the 17 year-old his whistling was signs that the 17 year-old was sending to Decedent's alleged attackers, so the attackers could find him. The 17 year-old was punched in the left ribs by Decedent, who used a closed fist, then threatened that he would break one of the 17 year-old's ribs if he didn't stop making noises to the attackers.

The 17 year-old said Decedent placed him in a headlock again and said, "We're leaving". As the two approached the gate to exit the 17 year-old's backyard, Decedent tried to force the 17 year-old's arm behind his back, but the 17 year-old said he was able to twist away. Then Decedent put the 17 year-old in a headlock again. The 17 year-old said he tried not to upset Decedent so Decedent didn't get "enraged" and cause more problems and hurt him or his grandparents.

The 17 year-old stated Decedent forced him to go with him out of the backyard and as they walked on Huxley Street, Decedent made the 17 year-old walk up in the yards, near the houses instead of the sidewalk, to avoid detection from anyone passing by.

The 17 year-old said the two then entered a backyard of another house on Huxley Street where Decedent continued to tell the 17 year-old to stop making the whistling noises. The 17 year-old said Decedent ordered him to sit down and held the brick over the 17 year-old's head. The 17 year-old stated he was scared because he thought Decedent was going to hit him in the head with the brick. The 17 year-old said he never yelled for help because he tried to be silent so no one confronted them and caused more problems. The 17 year-old thought if Decedent was confronted he may hit the 17 year-old with the brick or harm someone else.

While they were in the backyard, Decedent again looked through the 17 year-old's text messages. Decedent then disassembled the 17 year-old's phone and threw it because he thought there was a tracker in the phone.

The 17 year-old said at one point an A/C unit turned on/off and Decedent thought the 17 year-old was controlling the A/C unit with his mind.

When the 17 year-old asked to go home, Decedent refused to let him go for fear he would go tell "them" and the attackers would harm Decedent.

The 17 year-old said Decedent tried to punch him a few more times, but he was able to deflect the punches and at one point the two wrestled in the backyard. The 17 year-old said it appeared someone lived at the residence, but no one came outside.

Decedent removed his shirt out of his pocket and placed it in the 17 year-old's mouth to prevent the 17 year-old from "whistling" for the people to come get him. He stated

Decedent wrapped the shirt around his head, in a gag manner, while asking the 17 year-old questions. The 17 year-old said he pulled the shirt out of his mouth to answer and Decedent didn't force the shirt back into the 17 year-old's mouth.

After approximately one hour with Decedent, the 17 year-old said Decedent finally walked him back to his house, where Decedent let the 17 year-old go. The 17 year-old said he opened up the gate to his backyard and fled into the rear of the residence, where he ran upstairs and awakened his grandparents.

No knives or weapons were seen on Decedent by the 17 year-old and he said he didn't notice that Decedent had any physical disabilities. However, Decedent appeared to have some mental problems. The 17 year-old thought Decedent was high because he noticed Decedent appeared strange and he was sweating profusely.

According to the 17 year-old, Decedent never told him his name but stated he had a 13-year-old son who was dead and that "they killed his son." Decedent said he would not think twice about killing the 17 year-old. Decedent never mentioned his daughter or a wife. The 17 year-old said he tried to talk to Decedent about where he was from and what he did for a living, but Decedent wouldn't discuss it.

The 17 year-old described the brick as an edging stone approximately 10 inches long and 3 inches wide. He thought the brick was approximately 10 pounds.

After the 17 year-old awakened his grandparents, his grandfather called 911 against the 17 year-old's wishes. The 17 year-old explained he did not want his grandparents to call the police for fear Decedent would know he had called the police and they would become "targets" if Decedent returned to the area. He said he was scared and did not want to file a police report for fear of retaliation. The 17 year-old's grandmother stated she knew her grandson was very scared when she hugged him and felt his heart was racing and noted he was shaking.

Patrol units responded to the residence after the 911 call and asked the 17 year-old to show them the locations Decedent forced him to go. According to the 17 year-old and his grandfather, the police saw the marks in the yard from the wrestling the 17 year-old described and located the landscaping brick in the backyard on Huxley Street. Police also located various pieces of the 17 year-old's broken flip phone in various locations of the route the 17 year-old showed police they had walked.

The 17 year-old stated a couple of days after the incident, he saw a photo of Decedent on the news and recognized Decedent as the same person who had grabbed him and threatened to kill him. The 17 year-old said he immediately told his dad and his grandparents, who contacted police.

Burglary at 9011 Crystal Rock Circle
July 23, 2013 @ 7:45 am

On July 23, 2013, at approximately 7:45 am, a woman contacted LVMPD dispatch to report she was sitting in the living room of her residence when she heard a noise near her living room window. When the woman looked, she observed what she described as a bald Hispanic male, Decedent, looking in her living room. Due to a recent storm, the living room window had been broken and had been boarded up to secure the residence. The woman stated Decedent had removed the board and peered into the window. The woman screamed, ran upstairs, and called the police.

Suspicious Person Report from 138 Wishing Rock Way
July 23, 2013 @ 7:48 am

On July 23, 2013, at approximately 7:48 am, a woman contacted LVMPD dispatch to report that a bald Asian male, approximately 40 years of age, wearing a gray t-shirt, blue jean shorts and white sandals, had jumped the fence into her backyard.

The woman stated she had confronted the male, Decedent, while he was in her backyard and asked to see the male's identification. According to the woman, the male provided her with a California driver's license with the last name of Southaly and unknown first name. The woman stated Decedent seemed to be mentally ill or under the influence of a controlled substance and had some type of unknown object in his hand.

While on the phone with dispatch, the woman reported that Decedent jumped over her fence into her neighbor's yard. Patrol units responded to the area, but were unable to locate Decedent.

Missing Person Report
July 23, 2013 @ 1:46 pm

On July 23, 2013, at approximately 1:46 pm, Decedent's ex-wife contacted LVMPD dispatch to report that her 35-year-old ex-husband, Decedent, was staying with a friend and she believed Decedent had been drugged over the weekend. She stated the friend last saw Decedent at approximately 6:00 am, when he appeared to be disoriented and was carrying a large knife and hiding in the bushes because he was allegedly being chased by unknown people.

The ex-wife stated the friend had told her he had returned home the previous day and located Decedent lying next to the stairwell of his apartment. The friend had tried to get Decedent to eat and drink; however, he refused.

At that time, the ex-wife filed a Missing Persons report with LVMPD documented under Event# 130723-2120.

Suspicious Person Report from 9021 Crystal Rock Circle
July 23, 2013 @ 2:10 pm

On July 23, 2013, at approximately 2:10 pm, a woman contacted LVMPD dispatch after her granddaughter located men's clothing items in their backyard. According to the woman, police had been in the area earlier in the day looking for a bald Asian male who had been reported missing. The woman thought the recovered clothing may be related to the earlier event and contacted police. Patrol Officer Gwenevere Conover responded to the woman's residence and recovered the clothing items and booked the items into the evidence vault.

Friend of Decedent

On July 23, 2013, at approximately 2325 hours, detectives conducted a recorded statement with a female friend of the Decedent. She stated she had been friends with Decedent since junior high school and said she and Decedent talked daily on the phone.

Friend was unaware of any medical problems or mental illness that Decedent had been diagnosed with. She stated to the best of her knowledge Decedent had never attempted to commit suicide.

According to the friend, Decedent drank a shot of Hennessy approximately one time a week and visited Las Vegas approximately five times a year to play poker. Friend stated Decedent had never used illicit drugs until the beginning of July when he was in Las Vegas for a bachelor party. Friend said at that time in early July she came into contact with Decedent at the LAX night club and observed his "eyes rolling in the back of his head" while dancing. Friend asked what was wrong with him and he replied he had taken a "Molly." Friend explained a "Molly" was similar to the drug Ecstasy.

Friend said Decedent had been depressed because he had lost custody of his children approximately two weeks ago to his ex-wife, when the ex-wife planned to move herself and the children to Georgia. Friend believed the ex-wife's move had prompted Decedent to start using drugs in early July.

Friend stated Decedent had been driving a rental vehicle due to a recent accident and had driven to Las Vegas with his friend "T" on the night of Wednesday, July 17th, 2013. While in Las Vegas they stayed at the South Point Casino.

On Friday night, Friend stated Decedent and a male only known as "T" were at an unknown club (possibly "LAX" or "1 Oak") when Decedent got into a fight with security.

Friend said she learned from "T" that Decedent took a "Molly" at the club prior to the fight with security. She also learned that Decedent had gone to Desert Springs Hospital late Friday night or Saturday morning, but she didn't know what was wrong with him.

On Saturday morning, Friend noticed an Instagram posted by "Cook," whom she identified as a promoter for the NEX club in Sacramento, that showed Desert Springs Hospital. After seeing the Instagram, Decedent's brother called "T" and spoke with him. "T" did not know where Decedent was and was told to go to Desert Springs Hospital to find Decedent. "T" responded to the hospital, but Decedent had been discharged 20 minutes prior to his arrival. Friend said "T" began to look for Decedent, but was unable to locate him.

On Sunday, "T" had to leave Las Vegas to travel back to Sacramento, CA, and asked Friend for help in finding Decedent. She said she attempted to call Decedent multiple times, but her calls went directly to Decedent's voicemail. Friend said she called various hospitals and police agencies and eventually learned Decedent had been arrested and was incarcerated in the Clark County Detention Center (CCDC).

On Monday, at approximately 11:00 pm, the ex-wife, Decedent's brother and Friend drove to Las Vegas from Sacramento and arrived at approximately 7:00 am Tuesday morning. Upon their arrival, Friend said they learned Decedent had been released from CCDC. Thereafter, the ex-wife completed a Missing Persons report. While completing the report, they learned from an officer that someone matching Decedent's description was walking around with a knife and carving on walls in a nearby neighborhood. She said the ex-wife overheard the street Crystal Rock mentioned over the officer's radio.

After completing the Missing Persons report, the three of them began driving around the neighborhood looking for Decedent. A short time later, the ex-wife received a call from an unknown Sergeant who stated Decedent was inside someone's house with a knife. They then drove to the area of Crystal Rock Circle and spoke with officers and a negotiator about Decedent's family history. After speaking with officers, the three sat inside their car and waited. While they waited, they heard loud noises coming from the house they believed Decedent was in.

Friend stated Decedent's behavior was highly unusual and she had never seen him act violently in the past.

Brother of Decedent

On Wednesday, July 24, 2013, at approximately 12:30 am, detectives conducted a recorded interview with the brother of Decedent.

The brother stated he last saw his brother in Sacramento on Thursday, July 18, 2013, when they went to the State Fair. He denied knowing Decedent was traveling to Las Vegas and stated he did not know Decedent was in Las Vegas until he received a phone call from Decedent's ex-wife and his sister.

The brother stated someone had sent out an Instagram photo of a hospital in the Las Vegas area and stated his brother was missing. The brother stated he did not know Decedent was in trouble until his sister and the ex-wife called him and had information about his brother being in the hospital and missing. The brother, his sister, and the ex-wife decided to travel to Las Vegas to look for Decedent. He stated they left Sacramento at 11:00 pm on Monday, July 22, 2013, and arrived in Las Vegas on Tuesday, July 23, 2013, at approximately 7:00 am.

The brother said that he and Decedent were not very close, but were involved in each other's lives because of their kids. The brother did not believe Decedent had any mental issues, used drugs or abused alcohol.

According to the brother, Decedent's ex-wife had told him she had planned to leave California and had "won custody" of their two children. However, the ex-wife had decided not to move and as far as he knew Decedent and the ex-wife had a good relationship.

The brother denied ever telling the ex-wife that Decedent wanted to kill himself. He stated ex-wife may have overheard Decedent say that, but he had never heard Decedent say he wanted to kill himself. The brother said Decedent may be upset over the custody issue with his ex-wife because he and his family could not figure out why he was acting this way.

Ex-Wife of Decedent

On Tuesday, July 23, 2013, at approximately 11:33 pm, detectives conducted a recorded statement with Decedent's ex-wife who is the mother of Decedent's two children, ages thirteen and nine. The ex-wife stated she and Decedent were married for nine years and divorced in 2009. The ex-wife stated she and Decedent had a good relationship, but she knew he had been "stressed out" lately because he had been unemployed for approximately two years and he was beginning to financially struggle. The ex-wife stated Decedent did not have any medical issues that she knew of and did not use drugs

and was not even an occasional drinker. She described Decedent as fun and mellow and “very easy to get along with.” She also stated she did not believe Decedent had ever been arrested and stated she had never seen him act violently.

According to the ex-wife, Decedent traveled to Las Vegas the previous Thursday evening with a group of friends for a “weekend with the guys” and had stayed at the South Point Casino. The ex-wife stated Decedent traveled to Las Vegas with a friend she identified only as “T”.

The ex-wife said Saturday evening, between 9:00–10:00 pm, she was contacted by Decedent’s sister who stated she was concerned about her brother who had not been heard from. Decedent’s sister asked the ex-wife to call Decedent’s brother, which the ex-wife did.

Decedent’s brother told the ex-wife his brother had traveled to Las Vegas on Thursday evening with a group of friends. He had been at a club in the Hard Rock late Friday evening when Decedent drank something allegedly “laced” with drugs. He fell to the floor and started hallucinating that he was being stabbed and there was nobody around him. Decedent’s brother told Decedent’s ex-wife police had responded and both police and hotel security had tried to calm Decedent, who was eventually transported to an unknown hospital because he was unable to be calmed down.

The ex-wife said Decedent’s brother also told her on Saturday, July 20, 2013, Decedent had been arrested for walking in the roadway and for an outstanding warrant. The ex-wife stated she had contacted CCDC and learned Decedent had been released from jail on Saturday around midnight.

According to the ex-wife, Decedent’s brother told her Decedent’s friends were on their way back to Sacramento. The ex-wife decided to travel to Las Vegas to locate her ex-husband. The ex-wife traveled to Las Vegas with Decedent’s brother and Decedent’s female friend. The ex-wife stated she left Sacramento at approximately 11:00 pm on Monday evening and arrived in the Las Vegas area at approximately 7:00 am Tuesday, July 23, 2013. The ex-wife stated they drove around in the area of the South Point Casino for approximately five to six hours looking for Decedent before she decided to file a Missing Persons report.

While completing the Missing Person report, the ex-wife stated the officers told her Decedent matched the description of a bald Asian male, who had earlier in the day been described by citizens in a specific area with a knife. The ex-wife could not recall the street name. She stated she continued to drive around in the area in an attempt to locate Decedent, until she received a phone call from an unknown Sergeant who asked her if her husband spoke English and if he was “unstable.” The ex-wife told the Sergeant she thought her ex-husband was under the influence. The ex-wife said the Sergeant told her he thought Decedent was locked inside a residence and she asked the

Sergeant for the address of the residence. The ex-wife stated the Sergeant said he would call her back. However, the ex-wife said she saw several police cars responding in the area and followed them to Crystal Rock Circle.

The ex-wife stated she made contact with police personnel who were on scene and located the Sergeant who had called her. The ex-wife told police who she was and positively identified a photo of Decedent. Police then made arrangements for her to try to communicate with him over a PA system.

A decision was made to record a statement from the ex-wife to be played by police for Decedent in an effort to get him to come out of the house. The ex-wife stated she heard the police play the recording over a PA system from where she waited, approximately one block away. The statement was as follows:

“Soony it’s Kim. I just wanted to let you know that I’m out here and that I’m worried about you. Please come out. The police will not hurt you. They just want to make sure that you get the help that you need. I’m begging you, the kids need you. Your daughter needs you home to take her out for pedicures and the kids miss your drive-in dates. I will be out here waiting for you and will be by your side through this whole thing. Please come out and talk to me. You will not be arrested. Again they are just going to take you to the hospital to make sure you get the help you need. The kids love you. I love you. I’m here. Please come out.”

When asked if she knew Decedent to be suicidal, the ex-wife stated while on their way to Las Vegas, she had learned from Decedent’s brother that Decedent had told him he “wanted to end his life.” The ex-wife did not know if Decedent was joking and was unsure of the exact words and when Decedent had told his brother that.

Home Owner

On Wednesday, July 23, 2013, at approximately 11:00 pm, Home Owner provided a recorded interview to detectives in the area of 9025 Crystal Rock Circle. Home Owner stated he resided alone in his two story residence located at the south end of the cul-de-sac on Crystal Rock Circle. He said he left for work on July 23, 2013, at approximately 6:45 am and his house was locked and secured.

Home Owner returned home at approximately 5:00 pm. He said he used his remote to open his garage door and pulled his vehicle inside. Home Owner entered his residence through the north interior garage door which led into a laundry room. When he entered the family room area, he observed an Asian male sitting on his couch wearing only underwear and socks. Home Owner stated, “What the hell are doing in my house” and told the male to get out. The man, later identified as Decedent, stated, “Just kill me”

approximately four times. Home Owner described the male as having a blank stare, and he assumed Decedent was under the influence of drugs.

Home Owner walked backwards toward the front door while calling 911 from his cell phone. Home Owner unlocked his front door and the metal security door and exited the residence. He walked to the end of the cul-de-sac to wait for patrol officers. Home Owner said he could see Decedent standing behind the front metal security door to his residence holding a "metallic" object which Home Owner assumed was one of his kitchen knives.

Home Owner met with arriving patrol units and advised them that he did not know Decedent and Decedent was not supposed to be in his residence. Home Owner stated when he entered the residence the sliding back door was locked. He observed the wood stick which he kept in the door track to help secure the residence, and he had to unlock the front door to exit the north side of the house. Home Owner stated the only way the male could have entered his residence was through the west side garage door.

Patrol Officer Lopez

On July 24, 2013, at approximately 12:46 am, detectives interviewed Officer Christen Lopez. Officer Lopez stated he was dispatched to 9025 Crystal Rock Circle regarding a possible burglary involving a person inside a house holding a knife. Officer Lopez believed that Officer Jason Cunningham had announced via LVMPD radio that he saw a person with a knife in the house. Officer Lopez explained he had attended a week long training course, which taught him skills to communicate with persons who are mentally ill or in distress.

Officer Lopez stated that upon his arrival at the residence he observed Officers Cunningham and Conover near the front of the residence. Officer Lopez was advised the male inside the residence was not responding to their verbal commands. Officer Lopez then approached the house and gave verbal commands in both Spanish and English telling the male inside the residence to come out.

According to Officer Lopez, the front door of the residence was open, but the metal security screen was closed. Although Officer Lopez stated he could not see the male in the residence, he gave verbal commands. Officer Lopez told the male to come out of the house and that the police were there to help him and medical personnel were also there to help. Officer Lopez stated he tried several times, for approximately 25-30 minutes, to establish a rapport with Decedent, but the male never responded.

Subsequently, Sgt. Thomas Jennings began issuing verbal commands from near the east pillar of the double garage for approximately 30 minutes. Again, the male did not respond. When Sgt. Jennings approached the front door to see if it was unlocked, the

male appeared at the closed security door, holding a knife. Officer Lopez said he saw the male was wearing white socks and holding a butcher style knife in his left hand down at his side. At no time did Decedent make any statements to the officers. He just stood "squared off with the door and looked," and would then disappear again. Officer Lopez estimated the male came to the front door approximately five (5) times.

Officer Lopez stated officers maintained their positions near the front of the residence until SWAT arrived to assume the perimeter which initial responding officers had established.

Patrol Sergeant T. Jennings

On Thursday, July 24, 2013, detectives obtained a recorded statement from Sgt. Jennings. Upon Sgt. Jennings' arrival, Officer Cunningham was on scene and had talked to the home owner and obtained a key to the residence. A perimeter was established around the residence, and Sgt. Jennings and other officers made their approach towards the front of the residence. The front metal security door was closed and the front door was open. Officers announced their presence at the door but they received no response. As Sgt. Jennings arrived at the front door, Decedent appeared and stood behind the security door, wearing underwear, socks, and holding a large kitchen knife in his right hand.



Front door of Home Owner's house where the shooting occurred.

Sgt. Jennings told the subject to drop the knife and exit the residence but Decedent did not say anything. Sgt. Jennings and the officers then backed away from the front door and notified LVMPD Swat Team Commander Lt. Mike McCrimmon about the situation.

LVMPD Dispatch provided Sgt. Jennings with the name and phone number of a female who was thought to be Decedent's ex-wife who had responded to the scene. Sgt. Jennings had a Spanish speaking officer attempt to make contact with Decedent. When the ex-wife arrived, Sgt. Jennings had her attempt to make contact with Decedent utilizing the PA system of the patrol car. The ex-wife also positively identified the male as Decedent.

Decedent would not say anything and continuously walked behind the front security door holding the knife. Sgt. Jennings re-approached the front door and talked to Decedent for approximately 40 minutes, but Decedent never responded.

Sgt. Jennings and the officers maintained a perimeter around the residence until SWAT responded and assumed control.

Detective Jose Hernandez

On Wednesday, July 24, 2013, at approximately 1:07 am, detectives obtained a recorded statement from Detective Hernandez who was a part of the Crisis Negotiation Team. (CNT).

Detective Hernandez responded to the scene with other CNT members. Upon his arrival, Detective Joseph Pannulo was assigned as the primary Negotiator and Detective Hernandez was assigned as the coach/secondary Negotiator. Both attempted to establish face to face communications with Decedent from the SWAT vehicle parked halfway in the driveway. The first team of SWAT Officers then escorted both Negotiators to the east corner of the garage where Detective Hernandez observed the front metal security door which was closed. Detective Hernandez was positioned behind approximately three to four officers, which made it difficult for him to see anything more than a shadow moving inside the residence behind the security gate. Detective Hernandez was unable to determine if Decedent had anything in his hands on his own. However, he learned from the SWAT officers positioned in front of him that the subject had a knife, clinched hands, and was breathing heavily.

Detective Pannulo spoke to Decedent multiple times and requested his cooperation and attempted to de-escalate the situation. Approximately three times SWAT Officers moved toward the security door and asked the subject to open the front door. Decedent responded by approaching the front door, but never said anything. Decedent only responded by moving back and forth to the front entrance and opening and closing the interior front door.

A recorded statement was obtained from Decedent's ex-wife and was played for Decedent in an effort to let him know there was someone at the scene who cared about him. The recording was played with and without a bull horn, but Decedent did not respond to the recording. The Negotiators then changed primary/secondary positions; however, after approximately one hour of attempting to establish communication with Decedent, it was determined SWAT would make entry into the residence and Detectives Hernandez and Pannulo were escorted back to the SWAT vehicles.

Part of the SWAT team then made entry in to the back of the residence. Detective Hernandez heard SWAT giving verbal commands followed by what he described as muffled sounds (similar to a low-lethal beanbag round) followed by sharper, louder bangs (similar to gunshots). Detective Hernandez then heard shots had been fired over the radio.

The SWAT team positioned at the front of the house then made entry by breaching the front door in an effort to get the tactical medic inside to provide medical care.

At no time during the incident did Detective Hernandez hear Decedent say anything.

Detective Pannullo

On Wednesday July 24, 2013, at approximately 12:27 am, detectives obtained a recorded interview from Detective Pannullo.

Upon his arrival to the scene at Crystal Rock Circle, Detective Pannullo was assigned as the primary Negotiator and Detective Hernandez was assigned as the coach/secondary Negotiator. Both attempted to establish face-to-face communications with Decedent through the open front door. Detective Pannullo stated there was a metal security door also affixed to the front of the residence which made it difficult to see Decedent clearly, but he could tell he was moving around inside the residence. Detective Pannullo estimated he tried to establish a dialogue with Decedent for approximately an hour-and-a-half to no avail.

During this time, when SWAT Detectives approached the front door of the residence, Detective Pannullo observed Decedent at the front door, holding onto the lock on the security door. Detective Pannullo said he could not clearly see Decedent through the security door.

Detective Pannullo stated he had been through specialized training for Negotiations and stated it was odd that Decedent did not respond to anything. He thought Decedent may have had mental issues or was under the influence of a controlled substance.

Detective Pannullo said Negotiators played a recording twice from the ex-wife over the PA system, asking Decedent to exit the residence and reassuring him that police were not there to hurt him. The ex-wife reassured Decedent he was loved by his children and that everyone was there to help him.

After there was no response from the recording of the ex-wife, SWAT Detectives devised a plan to enter the rear of the house, while other SWAT Detectives distracted Decedent at the front door.

Although Detective Pannullo did not hear SWAT radio traffic, he stated he heard Decedent "screaming" which he described as "loud, erratic screams" and then "a couple of shots fired from what sounded like a less lethal" and then louder shots. He next heard SWAT asking for medics.

INTERVIEWS OF OFFICERS AT THE SCENE OF THE SHOOTING

SWAT Officer Ericsson

On Wednesday, July 23, 2013, at approximately 11:50 pm, SWAT Officer Ericsson gave a statement regarding the events that occurred at 9025 Crystal Rock Circle.

Officer Ericsson identified himself as the Assistant Team Leader for SWAT and stated he drove LVMPD Bear Cat 1 also identified as Vehicle # 9456 to the scene. He stated upon his arrival, he observed patrol officers providing containment at the residence, while Crisis Intervention Team (CIT) Officers stood at the front of the residence, with cover officers attempting to make contact with the male inside the residence. Officer Ericsson stated the metal security door was closed, but the interior front door was open and the solar screen had been removed from the front window.

After an initial briefing, at approximately 7:23 pm, patrol officers on the perimeter were relieved by SWAT Officers. CNT Detectives Pannullo and Hernandez relieved the CIT Officers at the front of the residence, near the garage door, with SWAT Officers Bradley Cupp and James Bertuccini. Negotiators continued trying to talk with Decedent, however, Decedent never responded. Negotiators obtained a recorded statement of Decedent's ex-wife and played it for Decedent in an attempt to get Decedent to exit the residence.

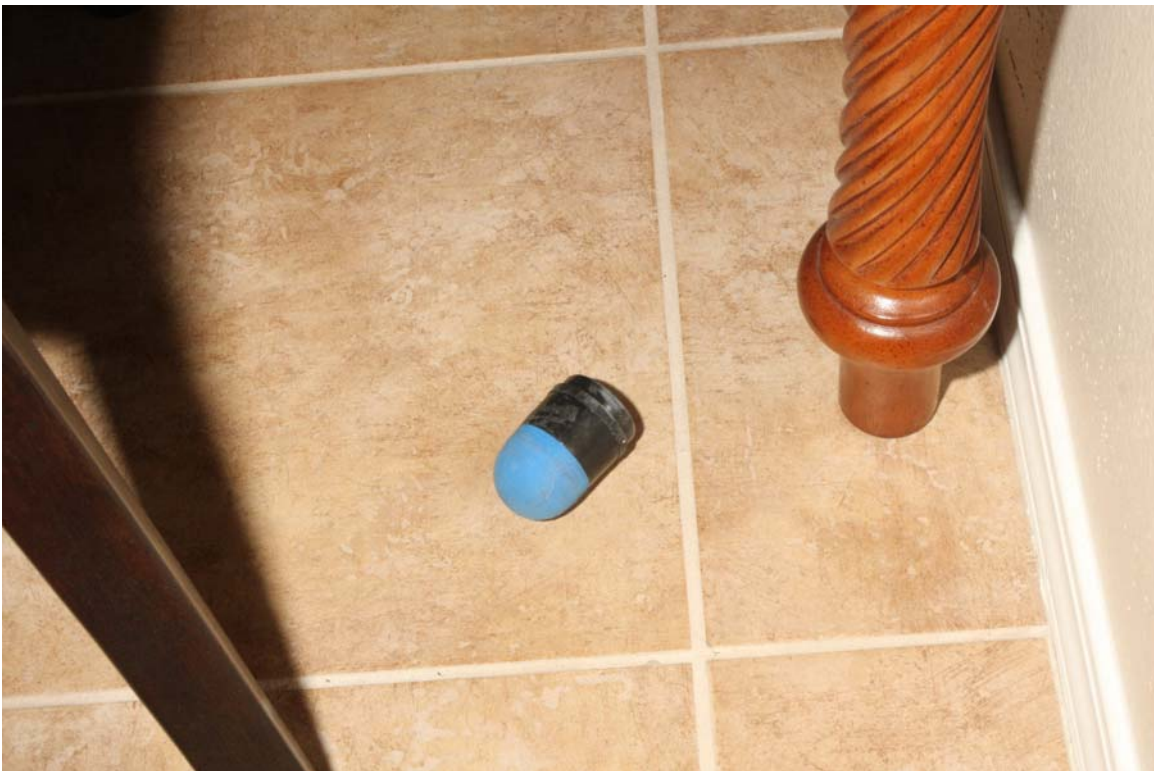
Officer Ericsson stated the home owner had provided SWAT with the keys to the front metal security door. SWAT Officers made five (5) or six (6) attempts to approach the front door, utilize the key and gain entry into the residence. However, on every attempt, Decedent would approach the front security door with a large knife in his right hand and hold the door handle, preventing SWAT Officers from utilizing the key. At no time did Officer Ericsson recall any verbal communication from Decedent, even when the SWAT Officers were at the front door with Decedent.

The home owner also provided SWAT Officers with the garage door keyless entry code. However, once a map of the layout of the residence was obtained, it was determined that entry into the residence via the laundry room was not tactically safe.

SWAT officers also removed the sunscreens off the windows on the lower level of the residence for a better view of the interior and to check for open windows. Officer Ericsson explained, "We wanted to make a plan that if we decided to go inside that we'd be able to distract, um, the person inside, to keep him away from where we were so we didn't have an instant confrontation. We didn't wanna startle him to the point where he didn't have the opportunity to give up, so we wanted to create that distance."

A plan was devised to enter the rear of the residence, where a glass sliding door was located on the patio. SWAT Officers Cupp, Richard Gay, Michael Quick, James Ledogar, Patrick Ledbetter, Ericsson, James, Bertuccini, and Kevin Stevens lined up at the back sliding door and they breeched the glass sliding door. Other SWAT Officers were staged at the front door of the residence to attempt to gain entry at the front metal security door. Officer Gay breeched the door, Sgt. Quick raked the broken glass, and SWAT Officers Cupp and Gay made initial entry with Officer Ledogar and his K9 dog, who lead the entry behind shields. Officer Ericsson stated Cupp, Gay, Ledogar and Ledbetter posted at the south end of the hallway, with a view of Decedent standing at the front door, now in a fighting stance.

Commands were given to Decedent to drop the knife he held in his right hand and to get on the ground. When Decedent refused to comply, K9 was deployed, but did not bite because Decedent did not engage the dog and stood still. Subsequently, a .40mm Exact Impact Round (rubber bullet) was deployed and struck Decedent in the left side rib cage area. Officer Ericsson said Decedent, "flinches a little bit and just-just stays right there." Decedent was again ordered to drop the weapon and to get on the ground. Decedent again refused to comply.



Rubber bullet used to try and subdue Ketmany.

Due to the fact that the hallway was long and narrow, Officer Ericsson could not get into a position to deploy his Taser. At that time, Officers Ericsson, James, and Sgt. Quick moved eastbound from the south end of the hallway, through the kitchen and into the

formal dining area, located on the east side of the house. When Decedent failed to respond to the .40mm rubber bullet, Officer Ericsson deployed a Taser. One of the Taser probes struck the north wall of the living room and one probe struck Decedent in the leg. Because both probes did not make contact with Decedent, the Taser had no effect.

At that point, Decedent ran southbound from the foyer, through the dining room, swinging both a hammer and a knife windmill style at Officers Ericsson and James. Officer Ericsson stated he dropped the Taser, transitioned to his handgun and told Officer James and Sgt. Quick who were stacked directly behind him, "Back, back, back!"

Officer Ericsson stated they backed southbound from the dining room and westbound through the kitchen, yelling for Decedent to stop, as Decedent continued to run towards them. At approximately the refrigerator, Decedent was within striking distance at approximately 2-3 feet from Officer Ericsson. Officer Ericsson knew a suspect with a knife could cause fatal injuries if they were within 21 feet. Therefore, with Decedent being less than three (3) feet from him, Officer Ericsson was in a deadly force situation. Officer Ericsson described Decedent holding the knife above his head as he advanced. Officer Ericsson stated he prepared himself to be stabbed and fired his first shot at Decedent. Officer Ericsson stated he knew he had a person to his right in the kitchen, which was later identified as Sgt. Quick, and Officer James directly behind him over his shoulder. Officer Ericsson said Decedent continued to advance as he, Officer James and Sgt. Quick continued to move. Officer Ericsson stated he fired a total of four (4) shots at Decedent and stated he was at the corner of the breakfast bar when he fired his last shot. He said Officer James fired two (2) to three (3) shots from a .223 rifle from behind him on Officer Ericsson's right side.

According to Officer Ericsson, Decedent fell onto the kitchen floor with his head to the east and the knife on the floor near him. Officer Ericsson stated he holstered his gun once Decedent fell to the floor and dropped the knife. He was then ordered to exit the residence, while Sgt. Quick called for medics.

When Officer Ericsson was asked what he thought Decedent's intent was when he ran towards him swinging both the knife and the weapon he stated, "I thought he was trying to kill me the way-the way he was running at me."

When asked if Decedent could have surrendered at any point, Officer Ericsson stated Decedent could have stopped advancing and dropped the knife at any point. If Decedent had stopped, Officer Ericsson said SWAT Officers would have slowed things down, given Decedent verbal commands and ordered him onto the ground, where he would have been taken into custody. Officer Ericsson further stated, "Our first goal, how I view us, is we are a lifesaving organization. I don't care who you are, a bad guy, good guy, it doesn't make a difference. Our job is to save you and give you every

opportunity, and that's what we tried to do. Everything we did was to try to give him that opportunity to comply. Using force is the last thing we ever wanna do."

SWAT Officer James

On Wednesday, July 23, 2013, at approximately 11:50 pm, SWAT Officer James gave a walk through statement. Officer James stated he was notified to respond to the area of 9025 Rock Spring Circle. Upon arrival, he was briefed and took a position in the SWAT vehicle that was already parked in front of the residence. Officer James stated he relieved patrol officers located on the southwest side of the residence for containment, while CNT Officers attempted to establish contact with the male in the residence, who had been identified as Decedent. Officer James stated he was with SWAT Officers Fincher, McCord, Ledogar, and Rivera initially.

A plan was devised to gain entry into the residence, which would create a distraction at the front door of the house, while SWAT Officers made entry at the rear of the residence through the sliding glass doors.

SWAT Officers lined up at the glass sliding door and made entrance into the south side of the house. Upon entering the house, Officer James took a position in a family room/kitchen eating area. Officer James said he heard another SWAT Officer fire the .40 mm rubber bullet.

At that time, SWAT Officer Ericsson moved eastbound through the kitchen for containment on the east side of the house. Officer James followed Officer Ericsson through the kitchen and into a dining room. Officer James observed Decedent in a "fighting stance" near the front door. Decedent was ordered to drop his weapons and get on the ground. Decedent refused to comply, at which point Officer Ericsson discharged a Taser.

At that time, Decedent ran towards him and Officer Ericsson, swinging his arms with the weapons. Based on Decedent's aggressive approach, both Officers James and Ericsson began to "back pedal" into the kitchen.

As Decedent continued to advance at them, Officer James fired his first shot near the refrigerator in the kitchen. He stated Sgt. Quick was south of his location, near the sink. Officer James fired three (3) to four (4) .223 rounds at Decedent as Officer James backed up through the kitchen and fired his last shot when he was at the edge of the breakfast counter. According to Officer James, Officer Ericsson fired the first shot at Decedent.

When Decedent fell onto the kitchen floor, Sgt. Quick yelled, "Stop! Stop!" At that point, Officer James stated Decedent was on the floor, lying on his left side, facing the

sink and Decedent's head was pointed to the east. Officer James observed a large kitchen knife in Decedent's right hand.

Officer James was told to leave the residence at that point, but did overhear someone call for a Taser because Decedent was struggling with officers who were trying to render medical attention.

SWAT Sgt. Quick

On Wednesday, July 24, 2013, detectives obtained a statement from SWAT Team Sgt. Quick, who was the SWAT Supervisor for the operation at 9025 Crystal Rock Circle. Sgt. Quick responded to the scene after being notified by SWAT Commander Lt. McCrimmon of a barricaded man at that address. Sgt. Quick was briefed that a homeowner had returned home in the late afternoon of July 23, 2013, to find an Asian male wearing only socks and underwear and armed with a knife on the couch in his living room. Sgt. Quick assembled his team of SWAT officers, which included Officers Bertuccini, Ledbetter, Linebarger, James, Ericsson, Gay, Stephens, and K9 Officer Ledogar with his K9 (Reno) and proceeded to 9025 Crystal Rock Circle in two SWAT armored vehicles. According to Sgt. Quick, prior to dispatching SWAT personnel to the residence on Crystal Rock, a search warrant was obtained by the Tactical Operations Center for the residence to take Decedent into custody.

Upon arrival at the Crystal Rock address, Sgt. Quick positioned one armored vehicle on the north east side of the residence and the other to the northwest side of the residence. When they arrived in front of the residence, there were a couple of police officers near the front of the residence. Sgt. Jennings was standing near the corner of the garage talking with Decedent who was inside the house at the front door. After the patrol officers were removed from the front of the residence, SWAT Officers setup containment on the house. A short time later, Sgt. Quick received information that during the patrol negotiations with Decedent, Decedent had said "please kill me" or "go ahead and kill me."

Sgt. Quick said once SWAT had assumed control of the perimeter of the residence, he called for negotiators to move forward and establish communication with Decedent. Decedent was inside the living room on the north side of the house, and would walk between the northeast window and the front door which was open. The front door was open, but the metal security screen was closed. Decedent was dressed in only a pair of underwear and armed with an approximately eight (8) long silver kitchen knife.



Item # 2 is the knife Ketmany had in one hand.

Many attempts were made by the negotiators to convince Decedent to come out. However, Decedent never once communicated with negotiators. Sgt. Quick said at one point he was a few feet from the front door with other SWAT officers and Decedent made a jabbing gesture with the knife toward the door. When negotiations seemed to break down, Sgt. Quick obtained a key for the security screen. When the team attempted to unlock the screen door, Decedent held the interior latch, which prevented the door from being unlocked. SWAT personnel also played a recorded message from Decedent's ex-wife, but it seemed to have no effect on Decedent. Sgt. Quick was provided with the code to the garage door and, after entering the garage, the SWAT Team considered making entry through the door leading into the laundry room, but determined it would be too hazardous.

Sgt. Quick, Sgt. James Causey, and Officer Ericsson conferred at the rear of one of the armored vehicles and discussed other options to get Decedent out of the house. Sgt. Quick said they wanted to save Decedent who might be under the influence, or in a mental crisis. Sgt. Quick said if SWAT broke out a window and sent the dog in they would need to have another way to get into the house to call the dog off, or rescue the dog if Decedent started to stab the dog.

Sgt. Quick also said members of his team were armed with several less lethal options including a police dog, Tasers, and a 40 mm Launcher with rubber bullets. The goal was to "put Decedent down using less than lethal options." Sgt. Quick and the other officers

developed a plan to draw Decedent's attention to the front door while a fortified team entered the house through the rear sliding glass door.

Sgt. Quick moved his team to the rear patio of the house. The team consisted of himself with a handgun and rake and break, Officer Gay with the shotgun and a handgun, Officer Bertuccini on the shield with a handgun, Officer Ericsson with a Taser and a handgun, Officer James with an M4 Rifle, Officer Stephens with a handgun, Officer Ledbetter with the 40mm Launcher, and Officer Ledogar with his K9 dog. Sgt. Quick was in radio contact with the SWAT officers who were at the front door. When Sgt. Quick was notified via radio Decedent was at the front door, he told Officer Gay to break the glass on the back sliding glass door.

Sgt. Quick said after the sliding door was breached, K9 entered into the house followed by Officers Bertuccini, Ledogar, and Ledbetter, who followed the path of the dog north to the hallway, which led to the front door. Sgt. Quick said Officers Ericsson, James, and himself entered the house and moved into the kitchen, while Officers Stephens and Gay followed into the house. As soon as he came into the house, he heard a male screaming and what sounded like a dog yelping. Sgt. Quick also heard the 40 mm Exact Impact Round discharged.

Sgt. Quick followed Officers Ericsson and James as they proceeded through the kitchen to the formal dining room area at which point they turned north. Sgt. Quick explained that he heard a Taser fire at this point. Sgt. Quick said before he could turn the corner into the dining room, Officers James and Ericsson were backing up rapidly into the kitchen. Sgt. Quick backed into the southeast corner of the kitchen as Officers Ericsson and James backed up past him until they were against an island on the west end of the kitchen. As the officers backed past Sgt. Quick, Decedent entered the kitchen swinging a hammer in one hand and a knife in the other hand as he advanced towards Officers Ericsson and James. It appeared to Sgt. Quick that the Decedent did not see him. In fact, Sgt. Quick was approximately one (1) foot away from the Decedent, on the Decedent's left side, as Decedent moved within two (2) to three (3) feet of Officer Ericsson. Officer Ericsson was backed up to the point where his back was pressed against Officer James' chest. Sgt. Quick said Officers Ericsson and James fired at Decedent who fell to the ground in the kitchen. After Decedent was on the floor, Sgt. Quick said Decedent appeared to be trying to grab at the knife or hammer so Sgt. Quick moved the knife and hammer out of the way and called for the SWAT Medic to come in and assist Decedent.



The hammer Ketmany had in his other hand.

Sgt. Quick said there was no option for Officers Ericsson and James other than to shoot Decedent because Decedent was in such close proximity to them and armed with two deadly weapons. Sgt. Quick said he put the knife Decedent was armed with on the kitchen counter. Additionally, he also moved a Taser which was lying in the doorway between the kitchen and the formal dining room so medical personnel could get into the kitchen to render aid. Sgt. Quick said he saw a Taser dart in one of Decedent's forearms, a mangled bullet in his right armpit, and a Taser dart on the floor in the kitchen.

SWAT Officer Gay

On Wednesday, July 24th, 2013, detectives obtained a statement from SWAT Officer Gay.

Officer Gay said he was assigned as a SWAT operator and initially he had containment on the southeast corner of the house. Officer Gay said that Negotiators tried to negotiate with Decedent for a long period of time before a plan was devised to gain entry through the rear of the house. According to Officer Gay, Officers Ericsson, Cupp, James, Ledbetter, Bertuccini, K9 Officer Ledogar, and Sgt. M. Quick made up the entry team. Officer Gay said his assignment was to break the sliding glass door using his shotgun with "boomer" rounds (blank rounds). Officer Gay explained that "boomer"

rounds shatter the glass utilizing the concussion from the round going off and there was not a projectile.

Officer Gay said once the command was given, he shattered the back sliding glass door, the K9 was deployed and Officer Cupp made entry with the shield, followed by the rest of the SWAT team. Officer Gay heard yelling from Decedent, than he heard the 40 mm less lethal discharge and a Taser being fired. Officer Gay observed both Officers Ericsson and James “back peddling” through the kitchen with the Decedent charging at them both. Officer Gay said Decedent was armed with a large “butcher” type knife in one hand and a hammer in the other hand. He said he heard the shots being fired and saw Decedent fall down on the kitchen floor.

Medics were immediately requested and he and TAC Medic Clinton Malburg attempted to render aid to Decedent; however, Decedent continued to struggle and punch the officers. Officer Gay said Decedent said “you got me good” but continued to struggle and punch the officers who attempted to render aid. Officer Gay said he asked paramedics if he could Taser Decedent, and according to Officer Gay, they told him yes. Officer Gay said he called for the Taser and Officers Bertuccini and Linebarger responded and Tased Decedent. According to Officer Gay, after Decedent was Tased, Decedent allowed officers to get control of his arms to restrain him.

Officer Gay said at the time of the shooting, Decedent was approximately 2-4 feet from Officers Ericsson and James when he was shot. In Officer Gay’s opinion, there was nothing else that Officers Ericsson or James could have done.

AMR Paramedic

On Thursday, July 24, 2013, at approximately 10:07 am, detectives obtained a statement from a female AMR Paramedic.

Paramedic stated she was working as a paramedic for AMR the evening of July 23, 2013. She was dispatched to 9025 Crystal Rock Circle at approximately 5:00 pm in reference to a behavior or psych call. When she arrived, she saw LVMPD personnel were already on scene, but stated SWAT personnel arrived at a later time. Paramedic stood by for approximately three hours while police personnel attempted to talk Decedent into coming out and later handled the entry into the residence, where the male was.

She did not hear any gunshots fired, but was advised by officers on the scene that shots were fired. Both she and her partner were escorted into the residence after SWAT Officers had made entry and cleared the residence.

Upon entry into the residence, Paramedic was directed to the kitchen area where she observed a male, later identified as Decedent, lying on the kitchen floor bleeding. Paramedic stated she approached Decedent to render aid and stated Decedent was alive, talking and saying, "Let me die," and, "You guys are too late."

A SWAT officer advised Paramedic where the subject was shot. Paramedic said Decedent was struggling with SWAT officers who told Decedent to stop struggling because medical personnel were there to help him. Decedent told the SWAT officers to let him die.

Paramedic said she and a medic from the fire department had a flat board and attempted to place Decedent on the flat board to transport him to UMC. At that time, Decedent doubled up both of his fists and swung at Paramedic. The punches went across Paramedic's chest leaving blood marks on her shirt. The SWAT officers attempted to subdue Decedent so paramedics could render medical attention. Paramedic said she was unable to start an IV in his arm because Decedent was so combative. Therefore, Paramedic started the IV in Decedent's foot, which she stated was very unusual. She believed Decedent did not want help because he continued to resist medical attention. Paramedic stated she was able to render aid and transport Decedent when he was subdued after he had been Tased.

According to Paramedic, Decedent was verbally and physically combative from the kitchen to the ambulance. She said Decedent was lucid as he communicated with police and medical personnel. Paramedic provided medical attention to Decedent in the rear of the ambulance during the transport to UMC Trauma with a fire medic. She said Decedent delayed his own care in the back of the ambulance by moving his arms and not listening to the paramedic's verbal commands. She said Decedent's heart beat was in the 140's which was indicative of drug usage. Based on his actions, Paramedic felt Decedent was under the influence of narcotics. Decedent exhibited excessive strength because he was still swinging and fighting with police and paramedics after he was shot four times.

Paramedic did not see any of the officers use excessive force on Decedent. The officers only attempted to restrain Decedent in order to provide medical aid. In Paramedic's

opinion, the officers attempted to de-escalate the situation for Decedent to receive medical attention.

SUBSEQUENT INVESTIGATION

On Monday, August 12, 2013, Detective Terri Miller received a phone call from the home owner who stated over the weekend he had located several pieces of identification in the name of the Decedent and some hand written notes. The home owner located the items inside a closet beneath his stairway where he kept a couple of tool boxes. Inside a black hard plastic case containing an electric screw gun he located the note pages.

The pages of handwritten notes contained the following excerpts:

No Joke!!! Please Read

My name is Southaly Ketmany I came to visit Las Vegas and got kidnap by Remo Rodas

He had my whole family killed

Christopher Ketmany

Kaitlyn Ketmany

Kim Ketmn

My parents

Brothers & Sisters

Please contact the FBI

I did not commit suicide they murdered me for our organs

Pleas this not a joke Please help me by the time anyone finds this I will probably be dead already give the to the FBI and Las Vegas PD

I just want to have this case solved and Remo Rodas is the one that planned the whole murder

Please Help today 7/24/13

Here is my ID and Info!!!

Please Help and Give It to the FBI 7/24/13

THE COUNTDOWN OF OFFICERS' WEAPONS

SWAT officers had their duty weapons counted down at LVMPD Headquarters. Present during the countdowns were Homicide Detectives Rob Wilson and Sam Smith, Crime Scene Analyst Charlton and Critical Incident Review Team (CIRT) Detective Craig Jex.

SWAT Officer Ericsson

Area of Assignment: SWAT

Time Of Countdown: 07/24/2013 @ 2:40 am

Officer Ericsson's duty weapon was a Glock Model 17C, 9 mm, semi-automatic handgun with serial number KNP134. The handgun was loaded with twelve (12) cartridges; one (1) cartridge in the chamber and eleven (11) cartridges in the magazine inserted in the handgun. Officer Ericsson typically carried his duty weapon loaded with sixteen (16) cartridges; one (1) cartridge in the chamber and fifteen (15) cartridges in the magazine. Officer Ericsson carried one additional magazine on his tactical vest, with fifteen (15) cartridges. It appeared Officer Ericsson fired his duty weapon four times during the incident, therefore his handgun was impounded as evidence. The handgun and magazines as well as the ammunition were photographed by CSA Charlton. Officer Ericsson carried department issued Speer 9 mm Luger +P ammunition. There was also a functional Blackhawk Xiphos weapon mounted light affixed to the handgun, which was removed prior to being impound.

Officer Ericsson carried Taser X26 bearing serial number X00-251459. Detective Cliff Mogg downloaded the Taser data which showed the Taser was deployed and activated for a five second interval. It should be noted that the internal clock on the Taser was six (6) minutes and thirty (30) seconds fast.

SWAT Officer James

Area of Assignment: SWAT

Time Of Countdown: 07/24/2013 @ 1:42 am

Officer James' duty weapon was a Colt Model M-4, .223 caliber rifle bearing serial number A0201453 with a sling attached. The rifle was loaded with twenty five (25) cartridges; one (1) cartridge in the chamber, twenty four (24) cartridges in the magazine inserted into the rifle. Officer James typically carried his duty weapon loaded with twenty eight (28) cartridges; one (1) cartridge in the chamber and twenty seven (27) cartridges in the magazine. Officer James carried four (4) additional magazines, one with thirty (30) cartridges of Speer 10 ammunition, one magazine with twenty eight (28) cartridges of Speer 10 ammunition and two magazines loaded with fifteen (15) cartridges of HG ammunition. The rifle had EO Tech functional optics affixed as well as a collapsible stock. It appeared Officer James fired his duty weapon three (3) times during the incident. Therefore, his rifle was impounded as evidence.

SWAT Officer Bertuccini

Area of Assignment: SWAT

Time Of Countdown: 07/24/2013 @ 12:15 am

Officer Bertuccini carried a X26 Taser bearing serial number X0586179. The Taser did not have a camera affixed. Officer Bertuccini conducted a two (2) minute thirty-nine

(39) second touch stun to Decedent's ankle, after Decedent continued to fight with medical personnel. Homicide Detective Mogg downloaded the Taser and Homicide Detective Miller impounded the Taser as evidence. The two Taser cartridges were not fired, but had the serial numbers of T04-445902 and H08-910360,

SWAT Officer Gay

Area of Assignment: SWAT

Time Of Countdown: 07/24/2013 @ 2:15 am

Officer Gay's duty weapon was a Mossberg Model 500A, 12 gauge shotgun with serial number Dept. 33 with a pistol grip handle and a sling attached. The pump shotgun was loaded with three (3) cartridges; one (1) Boomer Blank cartridge in the chamber, three (3) cartridges in the tube, in the following sequential order, (1) Boomer Blank cartridge, (1) Orange Cap Shock Lock cartridge and (1) Boomer Blank cartridge. There were five (5) Black Cap Shock Lock cartridges in the side saddle affixed to the shotgun. Officer Gay had one Boomer Blank Red cartridge on his person that he had retained after he fired the cartridge.

SWAT Officer Ledbetter

Area of Assignment: SWAT

Time Of Countdown: 07/24/2013 @ 2:00 am

Officer Ledbetter carried a Defense Technologies Model 40, 40 mm less lethal launcher with serial number D35361. The Defense Technologies less lethal launcher had one Direct Impact cartridge inserted in it. Officer Ledbetter also carried two (2) additional foam cartridges, as well as two (2) wooden cartridges on his vest. Officer Ledbetter fired one less lethal cartridge, which was located and recovered from the hallway of the residence and the foam projectile was located in the dining room along the east wall.

SWAT Officer M. Linebarger

Area of Assignment: SWAT

Time Of Countdown: 07/24/2013 @ 1:04 am

Officer Linebarger carried a X26 Taser which had been given to him by Officer Ledbetter prior to entry into the residence. Linebarger's Taser was activated one time for a four second interval. The Taser serial number was X00-238252 and the Taser cartridge serial number was T08-2018797. Homicide Detective Mogg downloaded the Taser data and Homicide Detective Miller impounded the Taser as evidence.

THE AUTOPSY OF DECEDENT

On July 25, 2013, Clark County Forensic Pathologist Dr. Gary Telgenhoff conducted an autopsy of the Decedent at the Clark County Coroner Medical Examiner's Office. During

the autopsy Dr. Telgenhoff noted an abrasion on the chest just below the nipple line from ECD touch stun, an abrasion between entrance and exit wound, a bruise at the center of chest caused by a projectile striking bone, an abrasion on the left forearm that appeared to be scabbed and healing, an abrasion under the upper and lower lip, two possible 9 mm gunshot wounds to the mid chest/upper abdomen area, possible gunshot wound to the right forearm, abrasions on left hip and buttock area which appeared to be scabbed and healing, bruising on the left hip/ left side possibly from less lethal round with 2 circular abrasions with related bruising, self-inflicted horizontal and vertical linear marks on both the left and right wrist and forearm, possibly two gunshot wounds to the right buttocks cheek, healing abrasion on the right elbow, possible broken right pelvis with bruising caused by .223 round, abrasions and bruising on the front of both knees, an abrasion to the low mid back, and possible exit wounds in the right arm pit area from .223 round.

Dr. Telgenhoff ruled the cause of death as multiple gunshot wounds to the torso and the manner of death as a homicide.

The Toxicology Report for Decedent revealed no evidence of narcotics in his system. "Mollies" are made from many different substances and can vary from one to another. Toxicology tests do not necessarily detect the various drugs that can be associated with "Mollies."

LEGAL ANALYSIS

The District Attorney's Office is tasked with assessing the conduct of officers involved in any killing which occurred during the course of their duties. That assessment includes determining whether any criminality on the part of the officers existed at the time of the killing. As this case has been deemed a homicide by the coroner, the actions of these officers will be analyzed under the State's jurisprudence pertaining to homicides. In this case, the shooting of Decedent by the officers was not criminal due to the officers' right of self-defense and defense of others.

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

A. The Use of Deadly Force in Self-Defense/Defense of Another

The authority to kill another in self-defense and 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, by violence or surprise, to commit a felony ...” against the other person. NRS §200.120(1). Homicide is also lawful when committed:

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

NRS §200.160(1).

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

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

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

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

....

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

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

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

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

Id. at 1051-52.

In this case, Decedent posed an imminent danger to the SWAT Officers as well as potentially the home owner and neighbors if he was not taken into custody. Decedent, while armed with a knife and a hammer, advanced towards SWAT Officers after he had been told to stop and to get on the ground. Decedent did not comply with the orders and continued to advance at police, even after police had attempted less-than-lethal measures to subdue Decedent. Specifically, the SWAT Officers first utilized a dog in an effort to get Decedent to comply. Decedent, however, was undeterred. The police then utilized a rubber bullet in an effort to subdue Decedent, but it had no effect. The police then tried to utilize a Taser to subdue Decedent, but both prongs of the Taser did not connect with Decedent so he was not affected. At this point, Decedent then charged at the SWAT Officers with a knife and a hammer as they tried to back away from Decedent. When Decedent got too close to the SWAT Officers, they fired at Decedent. Considering these facts and the actions of Decedent, the SWAT Officers were confronted by the appearance of imminent danger which created in their minds an honest belief and fear that they, or others, were about to be killed or suffer great bodily injury. Accordingly,

the SWAT Officers were justified in acting upon those appearances, fears and actual beliefs.

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 Decedent 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 who fired at Decedent had probable cause to believe that Decedent posed a threat of serious physical harm based on Decedent charging at them with a knife and a hammer after they had made numerous attempts to take him into custody by less than lethal means. Additionally, SWAT Officers knew they were dealing with someone who was suicidal based on Decedent telling the home owner to kill him. As such, Decedent posed a threat of serious physical harm either to the officers themselves or other persons in the area based on him being armed and suicidal. These circumstances created probable cause in the SWAT Officers’ minds that Decedent posed a threat of serious physical harm either to the officers or others.

In light of all the evidence reviewed to date, the State would be unable to prove that the actions of the SWAT Officers were in fact *unjustified* “in the discharge of a legal duty.” A countdown of the SWAT Officers’ weapons, as well as the SWAT Officers’ accounts of the events, corroborates that the SWAT officers stopped firing once Decedent was down and unarmed. None of the weapons fired by the officers was “emptied”; rather, each weapon contained unfired cartridges. This fact also illustrates the restraint exercised by the officers - - especially considering the fact that Decedent continued to pose a threat after he went to the ground in that he was combative with medical personnel when they tried to render aid.

CONCLUSION

Based on the review of the available materials and application of Nevada law to the known facts and circumstances, it has been determined that the actions of the SWAT Officers involved were reasonable and legally justified. The law in Nevada clearly states that homicides which are justifiable or excusable are not punishable. NRS §200.190. A homicide which is determined to be justifiable *shall* be “fully acquitted and discharged.” NRS §200.190.

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

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By

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