



# OFFICE OF THE DISTRICT ATTORNEY

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May 7, 2012

Sheriff Douglas C. Gillespie  
Las Vegas Metropolitan Police Department  
400 Martin Luther King Boulevard  
Las Vegas, Nevada 89109

**Re:** Officer-involved death of Benjamin Bowman which occurred on November 15, 2010, at 2280 South Nellis Boulevard and investigated under Metro Event Number 101115-1591

Dear Sheriff Gillespie:

On November 15, 2010, Benjamin Bowman (hereinafter "the Decedent") entered the PT's Pub located at 2280 South Nellis Boulevard here in Clark County, Nevada. After striking a patron in the head with a glass beer mug, the Decedent jumped over the bar and announced, "This is a fucking robbery!" He produced a knife and began to manhandle the female bartender. Members of the Las Vegas Metropolitan Police Department arrived and ordered the Decedent to drop the knife. He refused and shouted back, "I'll fucking kill her!" When he attempted to stab the bartender, officers opened fire and the Decedent was killed.

There were numerous lay- and police-officer witnesses to these events. Significant portions of the Decedent's actions were captured on video surveillance. This letter explains why criminal charges will not be forthcoming against the officers who caused the Decedent's death.

This letter is not intended to recount every detail, answer every question or resolve every factual conflict regarding this police encounter. This letter is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of

the involved officers was not criminal. This decision, premised upon criminal-law standards, is not meant to limit administrative action by the Las Vegas Metropolitan Police Department or to suggest the existence or non-existence of civil actions by any person where less-stringent laws and burdens of proof apply.

### STATEMENT OF FACTS

On November 15, 2010, the Decedent walked a bike through the parking lot and past the front doors of the PT's Pub located at 3875 South Nellis Boulevard. This location is approximately two miles from the PT's Pub located at 2280 South Nellis Boulevard. According to video obtained from the bar, the Decedent propped a bicycle against the wall and pushed a button on the wall to enter the establishment at approximately 9:41 a.m.

The Decedent approached the female bartender (Bartender-1) and asked the price of a drink. Bartender-1 described the Decedent as being fidgety and nervous and indicated that he was pacing the bar. A customer stood up quickly "in defense" and, according to Bartender-1, the Decedent "looked like he might charge" the customer. Upon seeing this, Bartender-1 said in a firm voice, "Hey ... you need to leave right now!" The Decedent looked at Bartender-1 "kind of crazy" and left the bar. The video depicts the Decedent leaving at 9:43 a.m.

Approximately thirty minutes later, at 10:14 a.m., video from the PT's Pub located at 2280 South Nellis Boulevard shows the Decedent walking a bicycle up to and, eventually, entering the establishment. Very soon thereafter, another patron (Patron) entered the PT's Pub. He sat at the bar and ordered a beer. The Decedent also ordered a beer. The Decedent told Patron, "sorry if I am acting weird, I have been up all night." The Decedent made a similar comment to the bartender (Bartender-2).<sup>1</sup> He indicated that if he was acting weird, it was because he had been up for a few days.

During the next ten minutes or so, video depicts the Decedent sitting and standing at the bar, drinking beer, and watching the television. A service technician for Pepsi (Technician) was working behind the bar and observed both the Decedent and Patron. At approximately 10:31 a.m., without any provocation, the Decedent approached Patron and struck him in the back of the head with the 25-ounce beer mug he had in his hand. He then struck Patron in the face with the mug and jumped over the bar. Patron never saw the blows coming. Bartender-2 heard the Decedent yell, "This is a fucking robbery!"

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<sup>1</sup> Bartender-2's voluntary statement, which includes her account of what occurred this day, is attached to this letter.

The Decedent produced a knife, which is visible on the video, and grabbed Bartender-2 by her hair. Decedent told Patron to get out of the bar or he would stab or cut Bartender-2. Patron complied. A waitress working at PT's Pub (Waitress) heard yelling at the bar and walked out into the dining area. She saw that Patron's face was bleeding and he asked her to call the police. Waitress walked into the bar area and saw the Decedent with a knife to Bartender-2's throat. Waitress ran into the kitchen where she eventually found the restaurant chef (Chef). Both Waitress and Chef went into the bar area.

Chef saw the Decedent robbing the business. He was behind the bar with his arm around Bartender-2's neck and the knife pointed at the right side of her face. Waitress also saw that the Decedent had the knife to Bartender-2's throat. Waitress ran back into the kitchen and, eventually, exited through the back door. Bartender-2 heard the Decedent yell to Technician and Chef, "get the fuck out." Chef pushed the panic alarm button and fled from the building. Technician, who saw the Decedent strike Patron with the beer mug, ran to the kitchen area.

The Decedent kept the knife against Bartender-2's neck until everyone left the bar. At this point, Bartender-2 was alone behind the bar with Decedent. According to information contained on her driver's license, Bartender-2 stood 5'2" and weighed 101 pounds. As Bartender-2 was lying on the ground behind the bar, the Decedent was throwing and breaking things. Bartender-2 told him that she would get the money for him. He replied, "I don't care about the money. I'm not leaving here alive."

Multiple calls were received at Metro's Communication Center. The Incident Recall printout indicates that police units were advised that a person armed with a knife (a "413A") was holding down the bartender at a PT's Pub. The printout further indicates that the suspect was demanding money from the female bartender. Multiple patrol officers assigned themselves to the call. Among them were Officer Peter Kruse, Officer Michael Franco and Officer Phillip Zaragoza.

When officers arrived at the PT's Pub, Patron was standing in front of the bar. His head was bleeding. Officers Kruse, Franco and Zaragoza, in addition to Officer John Nelson, entered the bar. Once inside, all of the officers saw the Decedent with a knife. Bartender-2 heard the officers tell the Decedent, three to four times, to drop the knife. In response, the Decedent told officers, "I'll fucking kill her." At this point during the encounter, Bartender-2 explained that she was curled up on her side and could not see what anybody was doing, including which officers fired their weapons. In the video, muzzle flashes can be seen coming from the shooting officers' weapons at approximately 10:37 a.m.

Officers Nelson, Kruse, Franco and Zaragoza gave criminal investigators their account of what occurred inside the bar.

Officer Nelson saw the Decedent kneeling behind the bar with a knife in his hand. He saw Bartender-2 lying on the floor next to him. Several officers began to give verbal commands for the Decedent to drop the knife. Officer Nelson heard the Decedent twice say "I'm gonna fucking kill her," and then make a stabbing motion with the knife toward Bartender-2. Officer Nelson then heard several officers fire their weapons and observed the Decedent fall to the ground.

When Officer Kruse entered the PT's Pub, he saw the Decedent standing behind the bar. He was holding a knife in his hand. Bartender-2 was lying on the floor at his feet. Officer Kruse believed that Bartender-2's life would be in jeopardy if he did not make some effort to save her.

Officer Kruse began giving verbal commands to the Decedent to drop the knife. Instead of following Officer Kruse's commands, the Decedent became angry. Officer Kruse heard him say, "I'm gonna kill this bitch." He then made a stabbing motion toward Bartender-2, at which point Officer Kruse began to fire his weapon.

Officer Kruse told criminal investigators, "He then made an assertive movement, pretty much all the way down to where the bartender's body was, and quite honestly I didn't think that we had shot quick enough. And I actually think, I, I thought that the female had been stabbed by the suspect." With respect to his decision to use deadly force, Officer Kruse told investigators, "... there was no other option at that point in time given the circumstances ...."

According to Officer Kruse, when the Decedent went down to the ground, the knife remained in his hand. Officer Kruse perceived that the Decedent was still moving the knife which caused the officer to fire another round. He described two, separate volleys of shots. A countdown determined that of the nine available cartridges in his weapon, Officer Kruse discharged his firearm seven times.

After arriving at the scene, Officer Franco made his way inside the establishment. Upon nearing the bar, he saw the Decedent holding a knife in his hand with the blade down. When Officer Franco ordered that he drop the knife, the Decedent responded with words to the effect of, "I'm gonna kill her," or, "I'm gonna stab her." He then saw Bartender-2 on the ground at Decedent's feet.

The Decedent grabbed Bartender-2's shoulder and made a stabbing motion toward her with the knife. Upon observing this, Officer Franco began to fire his weapon. A

countdown determined that of the fourteen available cartridges in his weapon, Officer Franco discharged his firearm three times. Officer Franco was asked by a homicide detective, "What do you think would have happened had you not fired at that time?" His response was, "I think he would a stabbed her and killed her."

Officer Zaragoza made entry into the PT's Pub and saw the Decedent standing behind the bar with a "shiny piece of pointed metal" in his hand. Officer Zaragoza began to give verbal commands to the Decedent to drop the item. The Decedent twice stated, "I'm going to do her right here." As Zaragoza moved closer, he saw Bartender-2 lying on the floor at the Decedent's feet. The Decedent then made a stabbing motion with the metal object toward Bartender-2 and Officer Zaragoza fired his weapon. A countdown determined that of the sixteen available cartridges in his weapon, Officer Zaragoza discharged his firearm one time.

When asked by criminal investigators whether there was an alternative to shooting the Decedent, Officer Zaragoza responded, "You know, I went through that in my head, and I had no other choice." He believed that, had he not shot, the Decedent would have stabbed Bartender-2. "I think that he, she would a probably been stabbed. ... So at that point, it was either put him down, or watch him stab her ...."

Before officers entered the bar, medical units had been called to the scene. Once in the area, medical was "holding short," which means that they were standing down, waiting for the scene to become safe. The incident recall indicates that officers entered and shots were fired at 10:36 a.m.<sup>2</sup> At 10:37 a.m., medical units were asked by officers to expedite their arrival.

Officer Chris Johnson entered the bar area of the PT's Pub and, after the shots had been fired, approached the Decedent. When medical personnel arrived and transported the Decedent from the area, Officer Johnson saw a black lock blade knife which had been lying underneath the Decedent.

The knife was impounded by Crime Scene Analyst Joseph Szukiewicz and described as a "Damaged folding pocket knife, stainless with a black insert in the handle, 3" serrated blade, 7 1/2" total length, bearing apparent blood." Two other items, both described as "Broken piece of metal from knife handle ..." were also located in the immediate area and impounded.

At the time she was interviewed by criminal investigators, Bartender-2 was

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<sup>2</sup> As is routinely the case, the time on the PT's video was not synchronized to the time on the Las Vegas Metropolitan Police Department Incident Recall printout.

shaking. The investigators noticed this. They asked her what she was thinking as the events were unfolding. She responded, "That I was gonna die."

An autopsy was performed on the Decedent on November 16, 2010, by Alane M. Olson, M.D., a Pathologist with the Clark County Coroner Medical Examiner. Doctor Olson observed numerous gunshot wounds upon his body. She also noted the presence of medical paraphernalia, suggesting that medical intervention had been attempted. The only positive findings in his toxicology analysis were nicotine and cotinine (a metabolite of nicotine).

Doctor Olson ultimately determined that the Decedent died as a result of multiple gunshot wounds. She determined the manner of death to be homicide, meaning death at the hands of another.

## LEGAL ANALYSIS

The shooting of the Decedent was justifiable under two theories: the killing of a human being in defense of others and justifiable homicide by a public officer. Both of these theories will be discussed.

### 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 NRS 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 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 others], 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, Officers Kruse, Franco and Zaragoza actually and reasonably believed that there was imminent danger that the Decedent would kill or cause great bodily injury to Bartender-2. All of the officers received the same information regarding the nature of the call before they arrived at they scene. This information is contained in the Incident Recall. They were advised that a person armed with a knife was holding down the bartender at a PT's Pub and that this person was demanding money from the female bartender. The very nature of this call would create a sense of urgency in the mind of a reasonable police officer to quickly respond to the scene and ensure the safety of the female bartender.

When each of the officers arrived at the scene, they described observing the physical condition of Patron who was standing outside. Physical force had been used against him which caused his head to become bloodied. In other words, the officers saw that the Decedent was willing to use, and did use, violence against others.

When the officers directly confronted the Decedent, they all give similar accounts of what occurred. At least two officers gave the Decedent direct commands to drop the knife in his hand. The Decedent did not do this. Instead, he threatened physical harm against Bartender-2 and then made an aggressive movement toward her which the officers perceived as the beginning of an attack. Even Bartender-2, in her obviously-distressed condition, heard the suspect make a threat to use physical force against her in response to the officers' commands to drop the knife.

It is significant that all three officers fired at the same time. This suggests that all three of them perceived the same threat to Bartender-2. This fact demonstrates that the officers believed that the use of deadly force was absolutely necessary. At some point during the encounter, Bartender-2 had the same perception. When interviewed by the police, she told investigators that she believed she would die at the hands of the Decedent. The fact that three officers assessed the need to use deadly force makes their actions all the more reasonable in a defense-of-others context.

It is also worthy of mention that, in spite of striking the Decedent numerous times with gunfire, the officers' actions were measured under the circumstances. None of the officers expended the total firing capacity of their weapons. At some point during this



encounter, they perceived that the threat to Bartender-2 subsided which caused them to stop firing their weapons. In addition, once the Decedent was no longer a threat, officers immediately transitioned from an offensive posture to a preservation-of-life posture, requesting that medical personnel expedite their way to the scene within a minute of shots being fired.

In sum, Officers Kruse, Franco and Zaragoza had the right under Nevada law to use deadly force against the Decedent in defense of Bartender-2.

#### **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 where 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, both Officers Kruse and Franco gave the Decedent commands to drop the knife in his hand while Bartender-2 was lying at his feet. The Decedent did not follow the directives given by officers. Importantly, the orders to drop the knife were specifically designed to lessen the Decedent’s threat of serious physical harm to Bartender-2. In addition, their commands were directed at bring an end to a robbery that was in progress.

The officers involved had probable cause to believe that the Decedent did pose a real threat of serious physical harm to Bartender-2. Upon arriving at the bar, officers observed the injuries suffered by Patron, as he was bleeding from the head. It would be reasonable to assume, as the Decedent used physical force against Patron, that he would be willing to use physical force against Bartender-2. The officers saw the Decedent armed with a knife and it was their very commands which sought to disarm him peaceably. It was not until the Decedent repudiated these commands and made what they perceived as physically harmful movement toward Bartender-2 that the officers elected to use deadly force.

The foregoing conduct, thus, falls within NRS 200.140 as limited by the 1985 Attorney General Opinion and is not criminal.

## CONCLUSION

Based upon the review of available materials and the application of Nevada law to the known facts and circumstances surrounding this case, it is determined that the actions of Officers Kruse, Franco and Zaragoza were legally justified. Our statutory scheme requires that a person charged with a homicide, which is determined to be justifiable, *shall* be “fully acquitted and discharged.” NRS 200.190 (“The homicide appearing to be justifiable or excusable, the person indicted shall, upon trial, be fully acquitted and discharged.”)

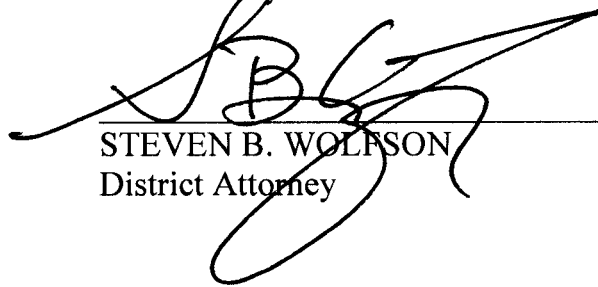
As there is no factual or legal basis upon which to charge Officers Kruse, Franco and Zaragoza, and unless new circumstances come to light which contradict the factual foundation upon which this decision is made, no charges will be forthcoming.



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CHRISTOPHER J. LALLI  
Chief Deputy District Attorney

Reviewed by:



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STEVEN B. WOLFSON  
District Attorney

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 1

EVENT #: 101115-1591

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**SPECIFIC CRIME:** OFFICER INVOLVED SHOOTING/USE OF FORCE

**DATE OCCURRED:** 11/15/2010

**TIME OCCURRED:** 1032 HOURS

**LOCATION OF OCCURRENCE:** 2280 S. NELLIS BLVD.

**CITY OF LAS VEGAS**

**CLARK COUNTY**

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**NAME OF PERSON GIVING STATEMENT:** [REDACTED]

**DOB:** [REDACTED]

**SOCIAL SECURITY #:** [REDACTED]

**RACE:**

**SEX:** FEMALE

**HEIGHT:**

**WEIGHT:**

**HAIR:**

**EYES:**

**HOME ADDRESS:** [REDACTED]

**PHONE 1:** [REDACTED]

**WORK ADDRESS:** [REDACTED]

**PHONE 2:**

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The following is the transcription of a tape-recorded interview conducted by DETECTIVE K. HARDY, P# 3031, LVMPD HOMICIDE Section, on 11/15/2010 at 1220 hours. Also present is Detective J. Kisner, P# 4656.

Q: Operator, this is Detective K. Hardy, H-A-R-D-Y, P# 3031, taking a statement under event number 101115-1591. Name of person giving statement will be [REDACTED], ah, last name [REDACTED], and that--her address is [REDACTED] [REDACTED] it's Las Vegas, Nevada, [REDACTED]. Her phone number's [REDACTED]. Her birth date is [REDACTED], and the social [REDACTED]. Date and time of this interview will be 11/15 of '10 and the time is 1220 hours. The location will be in front of PT's Pub, 2280 South Nellis. Persons present during this interview are

CJL

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 2

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

[REDACTED], ah, Detective Kisner, P# 4656, and myself, Detective Hardy. [REDACTED], you understand this is being recorded?

A: Yes.

Q: And you understand I'm gonna ask you questions about an incident that occurred, ah, inside the PT's Pub roughly about 10:30 this morning?

A: Yes.

Q: Okay. Could you tell me, ah, what do you do at PT's Pub?

A: I'm a bartender.

Q: And what time did you start your shift today?

A: 8:00 o'clock.

Q: And, um, ah, was there something that, ah, occurred inside the bar, like I said, sometime about 10:30?

A: Yes.

Q: And what was that?

A: I buzzed a guy in at the front door.

Q: Mmm hmm.

A: And he came in through the dining room, came into the bar. He was asking me about beer prices, and so I told him, and, ah, he ordered a beer, and he walked around to the other side of, the opposite of the bar and sat down. I served him. Had another customer come in about the same time, so I served 'em both at the same time.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**VOLUNTARY STATEMENT**

PAGE 3

EVENT #: 101115-1591

STATEMENT OF: [REDACTED]

Q: Okay. Let me slow you down just for a minute. This is, this is a little sketch. The best that I could tell from how the layout is is here's the front door, and then this is like the dining area, and this is a glass...

A: Correct.

Q: ...all along here, and then you have a horseshoe shaped bar.

A: Right.

Q: And this is like the center thing with all your liquor on it?

A: Ah, yes.

Q: Where was it when he first came in--was there anybody else inside the bar when this guy came in?

A: No.

Q: Okay.

A: But besides the, the kitchen manager and the server, they were in the kitchen.

Q: Who is the kitchen manager?

A: They-- [REDACTED].

Q: Okay. And the server was?

A: Ah, [REDACTED].

Q: [REDACTED]. [REDACTED] was already there? If you don't know, you don't know.

A: It all happened around the same time.

Q: Okay.

A: Um, I had buzzed her in too, because she was carrying heavy boxes and stuff. I

**VOLUNTARY STATEMENT**

PAGE 4

EVENT #: 101115-1591

STATEMENT OF: [REDACTED]

think he was already in the place. Yes. I believe he was already in there when she got there.

Q: Okay. So when he came in he was asking about beer prices. Did--and you indicate he ordered from this side of the bar.

A: Ah, yes.

Q: Would that be correct?

A: Yes.

Q: And that is the west, that'll be the west side or the side of the bar that's closest to the front door?

A: Correct.

Q: Okay. And do you recall what he ordered?

A: Ah, Bud Light.

Q: Was it in a bottle? Draft?

A: It was in a mug, 25-ounce mug.

Q: Okay. And then what did he do after he ordered that?

A: He walked around to the opposite side of the bar.

Q: Okay. And so now he is on the east side of the bar.

A: Yes.

Q: Closest to the pool tables.

A: Yes.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 5

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

Q: Alright. And is he, what's he doing over there? What does he do when he goes over there?

A: He's kind a fidgety. He's standing, he's not sitting. He never sat down I don't believe. He's just kind a fidgeting around, and, um, he had told me and the other customer that he's been up for a few days.

Q: Okay. Now...

A: Because, ah, he asked us, it would, "Am I acting weird. I'm sorry. Am I, you know, 'cause I've been up for a few days." And the other customer said, "No. You're just a guy drinking a beer." You know.

Q: Who is this other customer?

A: His name is [REDACTED].

Q: And did, was [REDACTED] come in after him, or was [REDACTED] already there?

A: I believe [REDACTED] came in after him. I believe I had already let him in. Yeah.

Q: And you buzzed [REDACTED] in.

A: Yes.

Q: Okay. And where was [REDACTED] at during all this?

A: Ah, right next to him.

Q: Okay.

A: Maybe one stool apart.

Q: So they weren't sitting--did it seem like they knew each other at all?

A: No. No.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 6

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

Q: Okay.

A: No.

Q: And [REDACTED] sitting on the east side also of the bar?

A: Yes.

Q: Now who was closest to the kitchen? Was it [REDACTED] or was it...

A: It was [REDACTED]. Yes.

Q: [REDACTED] was closest towards that kitchen wall if you wall.

A: Yes.

Q: And then maybe a stool between, and then this other guy.

A: Right.

Q: The other guy, ah, this other guy, the guy that ordered the beer.

A: Uh huh.

Q: Um, can you describe him for me? Was he white, black, Hispanic?

A: He was white.

Q: Okay. About how old?

A: I would say around 30, maybe late 20's.

Q: Okay. And, ah, what about his build? About how tall was he?

A: He was, mmm, ah, I would say maybe 5'11".

Q: Okay. And how much do you think he would a weighed?

A: He was--he didn't weigh that--maybe 160.

Q: Would you describe him as thin, medium?



LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**VOLUNTARY STATEMENT**

PAGE 7

EVENT #: 101115-1591

STATEMENT OF: [REDACTED]

A: I would say he was thinner. Yeah.

Q: Thin. What about his hair?

A: Um, it was very short, cut very short.

Q: Okay. Any facial hair?

A: Um, maybe a little goatee. It looked like, it didn't look like he was trying to grow one, it's just like from not shaving.

Q: Okay. And, ah, the color a hair, was it lighter or darker?

A: It's, it seemed like it was dark blonde, light brown.

Q: Okay. Anything in the, ah, identifiable about him? Any tattoos sticking out on him? Anything?

A: No. Not that I noticed.

Q: Okay. And so he's sitting, ah, next to, ah, [REDACTED].

A: Yeah.

Q: And what happens next?

A: He's actually standing next to [REDACTED]. He, he wouldn't sit down. He was just too fidgety. Um, I walked around through the back side of the bar, and I got about to right where I met him the first time when he came through the door, and I heard glass breaking.

Q: Okay. So you're indicating that you came around the...

A: Yeah.

Q: ...behind the bar...

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 8

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

A: Yes.

Q: ...and now you're on the west side...

A: Correct.

Q: ...of the bar closest to the door that goes into the dining room.

A: Yes.

Q: Okay. And you heard glass breaking.

A: Yes.

Q: And what was that?

A: I didn't know.

Q: Okay.

A: Um, I didn't know if he had fallen out, or fallen on the floor, or something like that, because, you know, he didn't, he seemed a little out of it, and so I came around the bar to the, to the front corner.

Q: Okay.

A: And he was jumping over the bar.

Q: Okay. The, the, and you say the front corner, that would be to the southwest corner...

A: Yes.

Q: ...of the bar, and at this point, this white male is jumping over the counter...

A: Yes.

Q: ...at about the same place he was sitting...

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 9

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

A: Ah, yeah.

Q: ...or...

A: Right, maybe one stool over.

Q: Okay.

A: But, yeah.

Q: And did you see [REDACTED] at that point?

A: No. I couldn't see [REDACTED] from where I was standing.

Q: Okay. Did you hear any conversation, ah, other than hearing the glass break, did you hear anything else?

A: He said, "This is the fucking robbery" or "This is a robbery, mother fucker", or something like that.

Q: Okay.

A: He said, "This is a robbery."

Q: Okay. And how long do you think he had been in the bar at this point?

A: I'd say less than 15 minutes.

Q: Okay. Um, could you tell, had he finished his beer at all?

A: No. He, he was drinking...

Q: Was he halfway...

A: ...it slow, as a matter of fact. He, he, he didn't, he wasn't, he didn't act like he was there to drink.

Q: Uh huh.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 10

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

A: That's why...

Q: Okay.

A: ...I should a never let him in.

Q: Okay. Now when you said--what was the original conversation that you were saying that he had about, um, the "Am I acting weird?" Where did that take place?

A: When he first came in he, he told me, he said, he was asking me about the beer prices, and then he goes, "I'm having a bad day." And I'm like, "Oh, okay." You know, "What can I do for you?" And, ah, so once I served him the beer, like I said, he was real fidgety. He wouldn't sit down. He was kind a back and forth, leaning back and forth, kind a rocking, and, um, that's when he said, "Can you guys tell I've been up for a few days?" And I said, "Yeah. I can tell." Something like that, "Yeah. I could tell." I could.

Q: And is he standing by [REDACTED] then at this point?

A: Yes.

Q: Alright. But he never sat down?

A: I don't believe he did.

Q: Okay. And so he jumps over the bar, and says, "This is a robbery."

A: Yes.

Q: Okay. And what does he do?

A: Pulls out a knife.

Q: Do you, can you tell where he pulled it from?

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 11

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

A: \_\_\_\_\_(inaudible) say his pocket maybe.

Q: Okay.

A: Front pocket.

Q: And which hand did he pull the knife with?

A: His right hand.

Q: Okay. Ah, can you describe the knife for me?

A: It was one of those buck knives, the ones that fold out.

Q: Okay.

A: Yeah.

Q: Um, so the buck knife that folds out. Um, did he have it opened at that point?

A: No. He opened it after he jumped the bar.

Q: Okay. And you're up here at this southwest corner right here.

A: Yes.

Q: Okay. And does he come around towards you...

A: See the...

Q: ...or what does he do?

A: ...the, the bar is longer this way.

Q: Right.

A: Right across the front. It's not so much long on these sides.

Q: Oh, okay.

A: These sides are shorter. This is longer.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 12

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

Q: I see.

A: So I'm right here, and he jumps the bar, and he pulls a knife and starts coming towards me.

Q: Okay. Is he coming around the, this side of where your liquor is or is he coming...?

A: No. He's already in front of it.

Q: He's in front of it, which is the south end of where the liquor is.

A: Yeah.

Q: Okay. And he's coming towards, and you're, you're, you're standing over here.

A: Right.

Q: And what does he tell you?

A: Oh, okay.

Q: If you, if you can remember.

A: He doesn't really tell me anything. He's trying to get everybody else out of the bar.

Q: Who else was there?

A: The, [REDACTED] and the Pepsi guy.

Q: Okay.

A: And he grabs me, and he's kind a dragging me by my hair, but we're staying in the same area, and he's telling them to get the fuck out of there. I think he let go of me, and he's telling them to--yeah. He did. And I'm laying on the floor, and he's

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 13

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

telling them to get the fuck out of there, 'cause I heard [REDACTED] walking by, and, and I don't, I don't know why [REDACTED] wasn't leaving quicker, maybe because he was hurt, and, ah, I told, I screamed to [REDACTED], I go, "Get out. Get out. Just get out." And the Pepsi guy, he told that, he told him to get out, but I don't know which way he went, but--yeah. And then he, he would come back to me, and like he would never really, the only time he held the knife on me was when it first started.

Q: Mmm hmm.

A: After that he let me lay on the floor, and I didn't say anything. I just crumpled up on the floor, and I just stayed there, and he was walking all through the building just trashing shit all behind the bar. I mean he was throwing things across the bar, and he was pulling on all the taps, turning on all the beer taps, just breaking all the registers, and anything that he could get his hands on. He was just breaking everything up, and I just, I just kept asking, "Please don't hurt me. Please don't hurt me."

Q: Mmm hmm.

A: And he said, "If I was gonna hurt you, where would I hurt you?" And I didn't say anything. I didn't know what that meant.

Q: Right.

A: So I didn't say anything, and he's kind a talking to himself. He's like he knows that you guys are coming. He knows you guys are coming, and...

Q: How does he know that?

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 14

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

A: He, because of everybody he threw out of there, I guess. I mean, you know what I mean, it--I don't know.

Q: \_\_\_\_\_(both talking)

A: Because of everybody--I knew, I hoped, you know, and you guys were so fast. Um, but I was worried because the front door was locked, and also the back door was locked, and the kitchen door was locked, but he said, ah, he said, he said, "I know I'm not leaving here alive" is what he said.

Q: Okay. Now when, when he was back here and, ah, originally grabbed you, where did he grab you at?

A: He grabbed me around my neck.

Q: Okay.

A: \_\_\_\_\_(inaudible)

Q: With which hand? With which arm?

A: Left.

Q: Left arm.

A: And he had the knife in his right hand right here.

Q: Okay. And could you feel the knife against your neck?

A: Yeah.

Q: Okay. And it was open.

A: Yes.

Q: Okay. And, um, was he telling you to do anything? Was he telling you to...



LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 15

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

A: He was, he--the way, way he was running around so crazy I thought maybe he didn't know how to get into the register or something, and he couldn't figure it out or something. And I told him, "I'll get the money for you. I'll get the money for you." And he goes, he's, that's when he said, "I don't care about the money. I'm not leaving here alive."

Q: Okay. And how long did he have you around your neck?

A: It was brief. It was just long enough to get everybody out of the bar, and then he kind a, he dropped me to the floor.

Q: Okay. Where was-- [REDACTED] was somewhere in the bar. Do you recall where he was at that point?

A: I heard [REDACTED] voice going out towards the front door, so I'm assuming he was out of there by then.

Q: Okay. And where was the Pepsi guy?

A: Um, I think he pushed him out the kitchen door or something.

Q: Okay.

A: But I was on the floor on the opposite corner, so I didn't see anything. I...

Q: Did you ever see him go back into the kitchen area...

A: No.

Q: ...from the bar?

A: No.

Q: Okay. And, um, so once everybody was gone, you think that's when he let you

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 16

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

go?

A: He didn't approach me or threaten me after that.

Q: Okay. What...

A: He just wanted to break shit up and tear shit up, and it--once he said he didn't care about the money, I didn't say anything else. I didn't want to try to...

Q: And you were doing what at that point?

A: I was just laying on the floor.

Q: Okay.

A: Curled up in the, on the floor.

Q: Like in a fetal position?

A: Yes.

Q: Okay.

A: Yes.

Q: And, um, once again, about how long do you think he had you in this, ah, hold?

A: I would say 30 seconds maybe.

Q: Okay. Do you know what he did with the knife?

A: He--I saw him set the knife down when he was throwing shit around, and trying to barricade the kitchen door when he was like throwing the register, and throwing everything around, and he--we had a beer pong table that was sitting next to the register of, and he was like trying to barricade the door. What it sounded like to me, because he knew you guys were coming, and he was trying to block every

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 17

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

entrance, so, and, ah, he'd, he, he had asked me, "Is the back door locked?" And I said, "Yes." And I said, "You can't open it from the outside." He said, "And is the other kitchen door?" I said, "Yes." I said, "The kitchen and door in the back is locked, and you can't open it from the outside. Only the manager has a key."

Q: Mmm hmm. Okay. So he knew that nobody could come inside?

A: Yeah.

Q: Alright. What happens next? He's, he's breaking things up.

A: Yeah.

Q: He's has the beer taps going.

A: Yeah.

Q: What happens? Does--is he saying anything to you?

A: Not really. He's just kind a talking to himself like, "Free beer for everybody". You know, he turns all the taps on, and I don't know what--he's throwing stuff around. He's just throwing shit acro--not at me though. He's throwing things across the bar, and just knocking shit over, and breaking shit up, but he's not, he--I'm laying right there, and he's not kicking me, or he's not coming around me. He's not really even saying anything to me.

Q: Mmm hmm. And you're still on the ground.

A: Yes.

Q: What happens next?

A: The police come in.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 18

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

Q: Okay. And do you know how they got in?

A: The front door.

Q: Okay. Do you know how they got in the front door?

A: No.

Q: Alright. What happens when the police come inside?

A: Ah, I'm still on the floor.

Q: Mmm hmm.

A: He, he acts like he's gonna come over and grab me, because he's screaming at them, "I'll fucking kill her", and, ah, you know. So I'm thinking he's gonna grab me. He's got the knife, and, ah, I don't think he ever picked me up. He, he dragged me by hair. He picked me up by hair a couple a times when it was all going on.

Q: Mmm hmm.

A: And, ah, they shot him.

Q: Okay. How do you know it was the police that came in?

A: I was sure hoping it was.

Q: Okay. I mean were...

A: Because...

Q: ...you able to see, or were you still laying...

A: No. No. I was on the floor.

Q: ...on the ground? Okay.

A: Yeah. I could, I did, I didn't. I just knew that he said to whoever was coming

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 19

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

through the door that if they came any closer he'd kill me.

Q: Okay. And did you hear any dialogue between the people that came in the door, and, um, this guy?

A: Just to tell him to drop the knife.

Q: Okay. How many times did you hear that?

A: A few times. I'd say at least three or four.

Q: Okay. Did he comply? Did he say...

A: I don't know, because I couldn't see what he was doing.

Q: Did he say anything back...

A: I, I couldn't see...

Q: ...to 'em when they told him to drop the knife?

A: He said, just that he'd kill me.

Q: He'd kill you if they came any further?

A: Yeah.

Q: That's all he said?

A: Yeah.

Q: Okay. And then what happened?

A: After he was shot?

Q: No. I mean how long was it that they come through the door til the shots are fired?

A: It was fast. I'd say--it was fast. Fifteen seconds at the most.

Q: Okay. So did you hear them say "Drop the knife" before the shots were fired?

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 20

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

A: Yes.

Q: Okay. And he said, "If you come any closer, I'll..."

A: I'll kill her.

Q: ...I'll, I'll kill her."

A: Yeah.

Q: Did he have you in his hand at all at that point?

A: He was standing right behind me, and I was curled up on the floor, and that's about when, that, that's one of the times that he, I think he reached down to grab me by the hair...

Q: Uh huh.

A: ...but I don't remember.

Q: Okay. And how, he was that close to you.

A: Yeah.

Q: Yeah. I mean where he could grab you at the time that they fired.

A: Yeah.

Q: Was he grabbing you at the time they fired? Do you recall?

A: I don't think so. I don't think, I don't think he had a hold of me.

Q: Okay. Could you see where he was at, ah, at, at that point?

A: No. He was behind me.

Q: He was behind you. You were face down on the ground.

A: Yeah. I was curled up on my side.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 21

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

Q: Okay. And you couldn't see as to anybody that was in there?

A: No.

Q: You just heard everything?

A: Yes.

Q: So then he said, "Come any closer I'll kill her." And then there's shots. Do you know about how many shots?

A: I'd say it sounded like about six.

Q: Okay. And what, what did he do?

A: Um, I don't know. I still couldn't see him.

Q: Mmm hmm.

A: Um, I didn't look up or look at anything until the police officer came, and dragged me from behind the bar.

Q: Okay.

A: So.

Q: And do you know where he was at that point?

A: Yes. He--I saw him when, when the police officer, ah, ah, came and grabbed me to get me out, I saw him slumped by the dishwasher.

Q: And that's still behind the bar?

A: Yes.

Q: Okay. And, um, this guy, had you ever seen him before?

A: He did not look familiar to me. No.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 22

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

Q: Okay.

A: I don't believe I did.

Q: Do you have any idea how close he was to where they were when they fired? I mean how close that would have been, or did you even see where they were standing?

A: No, I didn't.

Q: Did you even see how many there were?

A: No.

Q: Okay. Is there anything else that I didn't ask you about this whole event that occurred at, at PT's?

A: I don't think so.

Q: Okay. Joel?

JK: (Detective J. Kisner) Alright. One question I think I missed. These are the pool tables?

A: Right.

JK: Right. So this is the east side of the bar, and he and [REDACTED] were sitting over on the east side of the bar. Correct?

A: Yes.

JK: Alright. When they jumped over, and it's the southwest corner of this little bar shape where everything happened with you and this guy?

A: Yes.



LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 23

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

JK: When you were laying on the ground, which way is your head facing? Is it towards the front or the back of the business?

Q: Or towards the kitchen?

JK: Or the...

A: Towards the kitchen.

JK: So you're kind of on this west side with your head facing towards the kitchen north.

A: Yes. Because when he was tearing everything up over here, I was laying down looking like through my hair, but he was, this--yeah. I could see him when he was mainly on this side of the bar.

JK: Okay. So you stayed in that position \_\_\_\_\_(both talking)?

A: Yes.

JK: Alright. When he's standing behind you, then when the officers or who you think are officers are come in before the shots, he's standing to the south of you kind of over your body that way? Is that correct or...

A: \_\_\_\_\_(both talking)

Q: This is your head like this.

A: \_\_\_\_\_(inaudible)

Q: Would he be this way?

A: He'd be over here.

JK: So he's actually kind a to your side?

A: Yeah.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 24

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

JK: Not standing...

Q: Okay.

JK: ...not straddling over you.

A: No.

JK: He's standing off to one side.

A: Yes.

Q: He's between where you keep the liquor and you?

A: No. Because, like I said, this isn't a good, the bar is actually shaped like really long in the front.

Q: Mmm hmm.

A: Like this.

Q: Okay.

A: And see then the liquor is like back here, and the beer taps are right here.

Q: Okay.

A: The dishwasher is right here. I'd say he was sitting here, and [REDACTED] was sitting right about there.

Q: Okay.

JK: And that little walkway between the bar, and the alcohol storage that you walk through when you're working.

A: Mmm hmm.

JK: You're laying down on the ground in the middle of that, right, on the bar mats down

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 25

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

there?

A: Yes. Right here. There's like a garbage can right here.

JK: Okay.

A: I'm right next to that.

JK: Okay. And he's standing...

A: More...

JK: ...to the east of you.

A: ...more like right over here.

JK: Okay. Alright. I understand. And I, I see you're shaking a little bit. Um, but what were you thinking when all this was going on?

A: That I was gonna die.

JK: Okay.

A: And I wouldn't get to see my kids tonight.

JK: I got nothing else right now.

A: Okay.

Q: [REDACTED], anything else, anything else you think you would be pertinent to our investigation?

A: I don't think so.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**VOLUNTARY STATEMENT**  
PAGE 26

EVENT #: 101115-1591  
STATEMENT OF: [REDACTED]

Q: Alright. We'll conclude the interview. The time will be 1241 hours. Same people. Thank you.

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**THIS VOLUNTARY STATEMENT WAS COMPLETED AT 2280 SOUTH NELLIS BLVD.  
ON THE 15TH DAY OF NOVEMBER, 2010 AT 1241 HOURS.**

KH/JK/jc  
10V1391