

REPORT ON USE OF FORCE



Legal Analysis Surrounding the Death of Isaiah Williams on January 10, 2022

INTRODUCTION

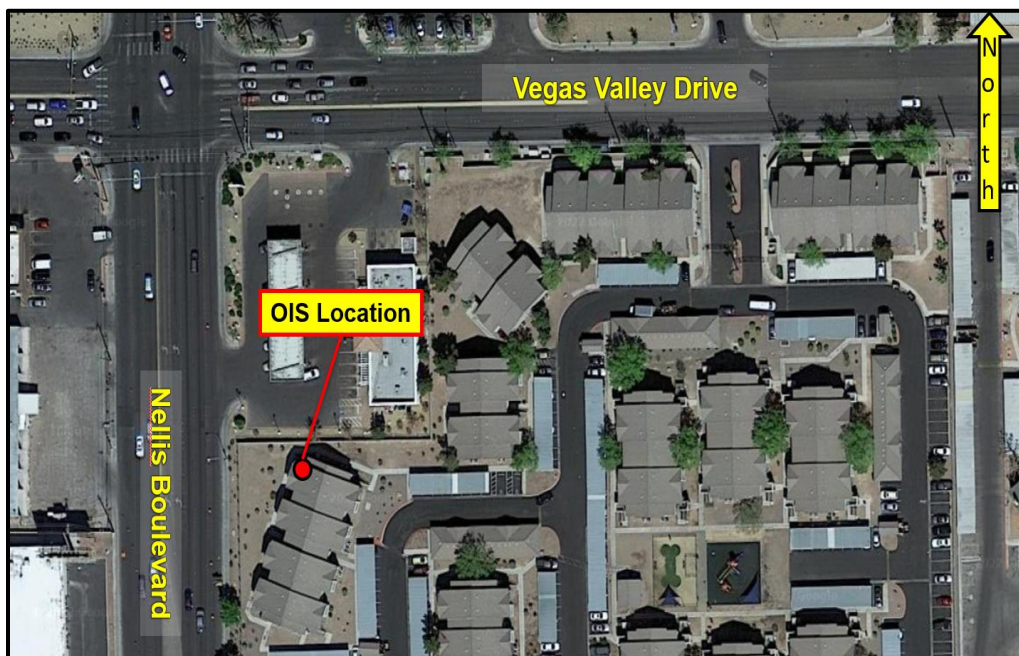
On January 10, 2022, 19-year-old Isaiah Williams (hereinafter “Decedent”) fired eighteen (18) shots from a Glock .40 caliber handgun at Las Vegas Metropolitan Police Department (“LVMPD”) Special Weapons and Tactics (“SWAT”) officers who were executing a search warrant in an apartment located at 3050 South Nellis Boulevard, Las Vegas, Nevada 89121. Decedent shot and seriously injured Officer Kubla, shot Officer Clements, and shot a ballistic shield Officer Rothenburg was holding. SWAT Sergeant Russell Backman and Officers Brice Clements, Alex Gonzales, Kerry Kubla and James Rothenburg immediately returned fire. During the shootout, Decedent was struck multiple times by the officers’ gunfire. Medical personnel responded to treat Decedent and the injured officers. Decedent succumbed to his injuries at the scene.

SYNOPSIS

In January 2022, officers from the LVMPD SWAT team were assigned to serve a search warrant upon Apartment #21-1125 located at The Boulevard Apartments, 3050 South Nellis Boulevard, Las Vegas, Nevada 89121. The search warrant was authorized on January 7, 2022, by an Eighth Judicial District Court judge. The judge found that LVMPD Homicide detectives had established probable cause that evidence of the crime of murder would be located within the apartment. That evidence included evidence of the identity of persons involved in the homicide, which occurred within two miles of the apartment in November of 2021. The service of the search warrant was also related to an LVMPD Gang Unit investigation of a shooting that occurred just feet away from the apartment, in the parking lot of The Boulevard Apartments in December of 2021. LVMPD Homicide and Gang Unit detectives were investigating these two separate incidents and identified a person of interest, who is referred to herein as POI #1. However, detectives were working to identify additional persons believed to be involved in both incidents. Due to the

nature of the crime, the involvement of multiple subjects, and the fact that a firearm was used during the homicide, the LVMPD SWAT team was utilized to serve the search warrant.

On January 10, 2022, in the early morning hours, SWAT officers met at an off-site location and held a briefing, during which SWAT officers received pertinent information related to the search warrant and their assignments. Shortly before 5:00 a.m., the SWAT team headed to The Boulevard Apartments and, upon arrival, surrounded Apartment #21-1125. All officers at the apartment were wearing the standard LVMPD SWAT uniform identifying them as police officers.



At approximately 4:59:56 a.m., a SWAT officer at the front door of the apartment began loudly issuing the following verbal announcements while positioned directly outside the apartment: "Occupants of 3050 South Nellis, police department search warrant, 1125, police department search warrant!" At approximately 5:00:04 a.m., Officer Rothenburg (holding a ballistic shield) and Officer J.B. (with a stun-stick breaching tool) positioned themselves outside the west window of the apartment, where Officer J.B. broke the window using the stun-stick breaching tool. At about the same moment, a SWAT officer at the front door loudly yelled, "POLICE DEPARTMENT SEARCH WARRANT!" and, at approximately 5:00:06 a.m., hit the closed front door with a handheld ram. The front door of the apartment remained closed. During this time, multiple SWAT officers were repeatedly yelling, "POLICE DEPARTMENT SEARCH WARRANT!" At the same time, the SWAT officer at the front door hit the closed door of the apartment three (3) additional times with the handheld ram. The front door of the apartment remained closed. At approximately 5:00:10 a.m., Officer J.B., still positioned outside the west window, held the end of the stun-stick toward the living room roof through the west window of the apartment and activated the tool's flash-bang distract device. At approximately 5:00:11

a.m., the SWAT officer at the front door again struck the front door of the apartment, causing the door to open. At approximately 5:00:12 a.m., Officer Kubla, followed by Officer Clements, made entry into the apartment as officers continued to yell, "POLICE DEPARTMENT SEARCH WARRANT!"

As Officers Kubla and Clements made entry, Decedent, who was lying on the living room couch, fired a handgun equipped with an extended magazine at the entering officers. Decedent immediately began shooting Officer Kubla, who had just entered the interior of the apartment. Decedent continued to track Officer Kubla with the muzzle of his handgun, shooting at Officer Kubla at least six (6) times as Officer Kubla continued to move into the interior living room. Decedent's gunshots struck Officer Kubla multiple times, causing Officer Kubla to fall to the ground injured at approximately 5:00:17 a.m. During that time, Officer Kubla returned fire, discharging his rifle at Decedent one (1) time.

Officer Clements was the second officer to enter. Decedent shot at Officer Clements causing a graze injury to Officer Clements' right arm. Officer Clements returned fire, discharging his handgun at Decedent thirteen (13) times.

Officer J.W. entered the apartment behind Officer Clements and turned left to clear the adjoining bedroom. Sergeant Russell Backman and Officer Alex Gonzales entered quickly behind Officer J.W. and exchanged gunfire with Decedent as Decedent continued to fire his handgun toward the officers inside the apartment. Sergeant Backman and Officer Gonzales each discharged their respective rifles three (3) times.



Above: Officer Clements' BWC, showing Decedent shoot (red circle) at Officers Kubla and Clements.



Above: Officer Kubla's BWC, showing Decedent (red circle) shooting at Officer Kubla.

Officers J.B. and Rothenburg held their positions outside of the west window. Decedent aimed his firearm and fired his handgun toward Officer Rothenburg, striking the ballistic shield that Officer Rothenburg was holding for cover. Officer Rothenburg returned fire toward Decedent, discharging his handgun three (3) times.



Above: Officer Gonzales' BWC, showing Decedent (red circle) shooting at Officer Rothenburg.

Decedent was struck multiple times by the officers' gunfire during the shootout. Decedent became incapacitated and was taken into custody.

Medical personnel responded to treat Decedent and the injured officers. Decedent was pronounced dead at the scene. Officers Kubla and Clements were transported to the University Medical Center Trauma Unit for medical treatment. Officer Kubla sustained multiple gunshot wounds to both his left and right arms, and his right upper leg. Officer Clements was treated for a gunshot graze or ricochet wound to his right arm.

Officer J.W. located a second subject, K.C., in the apartment. During the shooting, K.C. ran from the bedroom toward the kitchen area as officers made entry. Officers took K.C. into custody in the living room without incident. K.C. did not sustain any injuries during the incident. K.C. was later interviewed by detectives and released.

The scene was then secured for the arrival of detectives. Due to the officer involved shooting ("OIS"), detectives from the Force Investigation Team ("FIT") were requested and responded to the scene to conduct the investigation. FIT personnel arrived and assumed control of the scene.

FIT detectives and Crime Scene Investigations ("CSI") personnel entered the scene to document, photograph, and collect all potential evidence. Forty-one (41) expended cartridge cases were located on scene, including in the living room area and outside the west window and front door. Of the forty-one cartridge cases, eighteen (18) were associated with Decedent's firearm. The remaining cartridge cases were associated with the officers' firearms. Decedent's Glock .40 caliber firearm with an extended magazine was located next to the couch. There were numerous bullet defects throughout the living room area and also in the ceiling. Residents who lived in the adjoining apartments were contacted and CSI personnel processed their apartments for bullets and bullet defects that were located in their apartments after the shooting. The west window to Apartment #21-1125 was also photographed and processed by CSI personnel. Three (3) spent 9mm cartridge cases were located outside on the ground, along with the bullet fired by Decedent that struck Officer Rothenburg's ballistic shield.

Inside Apartment #21-1125, investigators discovered three (3) surveillance cameras—one (1) camera located on a desk facing the living room area and two (2) cameras in the bedroom facing the bedroom as well as out the window toward the front entrance of the apartment. After the incident, an unknown subject who possessed remote access to the cameras contacted detectives through the camera audio speaker system and instructed them to exit the apartment. The cameras were then unplugged and faced downward for safety purposes. These cameras were examined by an LVMPD Digital Investigations Bureau ("DIB") detective who discovered the cameras were Wi-Fi based and were not equipped with micro-SD cards necessary to record and store any video footage. The DIB detective also determined the cameras did not have cloud-based video storage. As such, no video footage was recovered from the cameras located inside the apartment.

FIT detectives contacted Decedent's mother, L.A., who arrived at the scene. A recorded interview was conducted by FIT detectives with L.A. During the interview, L.A. stated her son, Decedent, was living with his friends since December of 2021, but she did not know where Decedent was currently living. L.A. stated that Decedent was on probation for possession of stolen vehicle. Detectives asked L.A. if she saw Decedent with any firearms, and L.A. stated that, although she had not seen Decedent with any firearms in person, she had seen social media photos of Decedent with firearms. L.A. informed detectives that North Las Vegas Police Department ("NLVPD") officers executed a search warrant at her residence in December of 2021. The purpose of that search warrant was to arrest Decedent and collect any evidence related to two separate armed robbery cases that involved Decedent. Decedent was not at L.A.'s residence at the time the search warrant was executed in December 2021.

FIT detectives contacted the NLVPD detective assigned to the robbery investigations. The NLVPD detective confirmed the information about the search warrant at L.A.'s residence. The NLVPD detective further informed FIT detectives that they linked Decedent with two (2) robberies involving the use of a firearm and were also investigating other felony cases possibly involving Decedent. The NLVPD detective stated NLVPD had probable cause to arrest Decedent for the robberies.

Detectives contacted The Boulevard Apartments' manager who informed detectives that Apartment #21-1125 was leased by K.K. FIT detectives located and interviewed K.K. on January 16, 2022. K.K. stated she rented the apartment in February of 2019. K.K. wanted to end her lease in November of 2019 but was informed she would have to pay approximately \$3000.00 to terminate the lease early. K.K. could not afford to pay the fee, so she moved out and allowed her ex-boyfriend, B.B., to live at the apartment. She stated she did not know who was currently living in Apartment #21-1125 and was only waiting for the lease to expire in February of 2022. K.K. stated she did not know anyone by Decedent's name or POI #1.

Detectives interviewed K.C., the subject that was located inside of the apartment during the incident. K.C. stated he was staying the night at his friend "Zay's" residence, who he confirmed was Decedent. K.C. believed Apartment #21-1125 belonged to Zay's female cousin whom he had not met. K.C. stated he and Decedent went to high school together and they recently met at a party. K.C. stayed the night at the apartment and he did not know any other persons who lived at that residence. K.C. stated he had no idea why the police arrived at the apartment. K.C. further said he was asleep and claimed he did not hear anything prior to being taken to the ground and handcuffed.

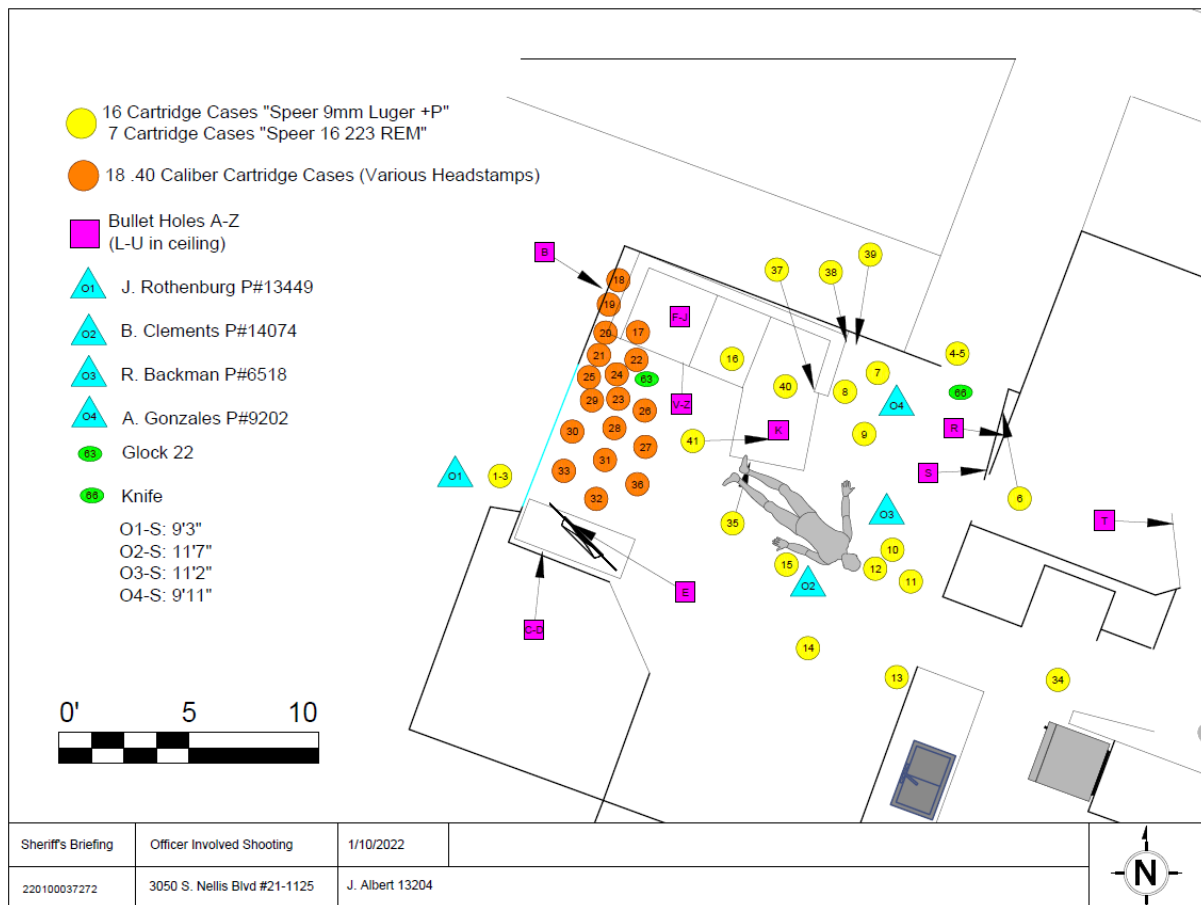
The Clark County Office of the Coroner and Medical Examiner ("CCOCME") subsequently conducted an autopsy of Decedent and determined Decedent's cause of death to be gunshot wounds of the left trunk and left lower extremity, and his manner of death a homicide.

This report explains why criminal charges will not be forthcoming against LVMPD Sergeant Russell Backman and Officers Brice Clements, Alex Gonzales, Kerry Kubla and James Rothenburg. It is not intended to recount every detail, answer every question, or resolve every factual conflict regarding this police encounter. It is meant to be considered in conjunction with the Police Fatality Public Fact-Finding Review which was held on January 9, 2023.

This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of LVMPD SWAT Sergeant Russell Backman and LVMPD SWAT Officers Brice Clements, Alex Gonzales, Kerry Kubla and James Rothenburg was not criminal. This decision, premised upon criminal-law standards, is not meant to limit any administrative action by LVMPD or to suggest the existence or non-existence of civil actions by any person, where less stringent laws and burdens of proof apply.

DESCRIPTION OF THE SCENE AND VISIBLE EVIDENCE

On January 10, 2022, CSI personnel responded to 3050 S. Nellis Boulevard #21-1125, to photograph and document the scene and collect evidence. The CSI personnel also prepared the following diagram, which shows Decedent's body in the location where he was moved from the couch in order to receive medical attention.



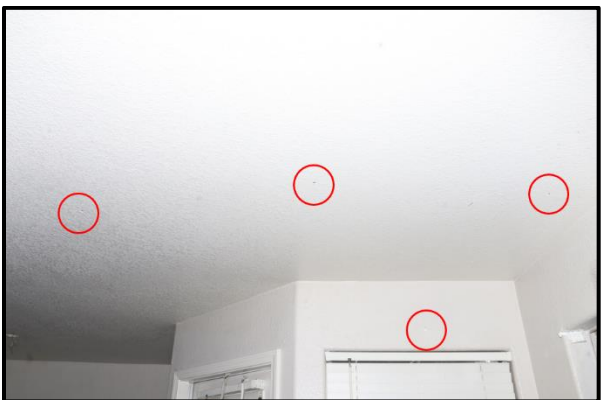
The following are photographs taken of the overall scene and items impounded as evidence.



Above left: Entryway to apartment #21-1125.
Above right: West window of the apartment.



Above left: Bullet impacts into the front door from Decedent.
Above right: Decedent's location during the OIS and his firearm.

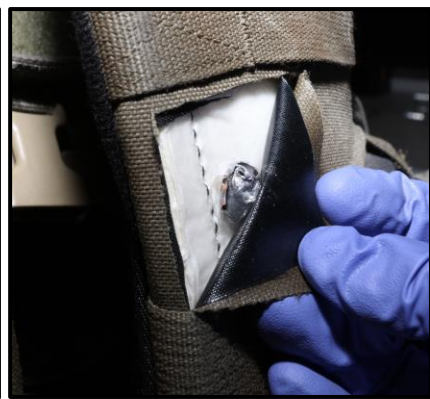


Above left: Impacts into the TV and window from Decedent.
Above right: Bullet impacts into the ceiling from Decedent.



Above left: Officer Rothenburg's ballistic shield with bullet defects.

Above right: Officer Kubla's rifle suppressor with bullet defects from Decedent's gunshots.



Above left: Officer Kubla's thigh holster with bullet defects from Decedent's gunshots.

Above center: Officer Kubla's ballistic vest with bullet defect.

Above right: Officer Kubla's ballistic vest showing bullet recovered within.

On January 10, 2022, a crime scene analyst responded to the University Medical Center ("UMC") Trauma Unit to photograph and document Officers Clements' and Kubla's injuries and photograph and collect evidence. The following are photographs taken of the officers at UMC.



Above: Officer Clements' injury to his right arm.



Above left: Gunshot wound to Officer Kubla's right arm.
Above right: Gunshot wound to Officer Kubla's right leg.



Above left: Entry gunshot wound to Officer Kubla's left arm
Above right: Exit gunshot wound to Officer Kubla's left arm



FIREARM COUNTDOWNS AND EXAMINATIONS

On January 10, 2022, Sergeant Backman and Officers Clements, Gonzales, Kubla and Rothenburg had their duty weapons counted down at 3050 South Nellis Boulevard. The countdown is a process used to determine the number of rounds each officer fired during the incident.

Sergeant Russell Backman

Weapon
Make: Colt
Model: M4 Carbine 556
Caliber: .223/556



At the completion of the countdown, it was determined Sergeant Backman discharged his firearm three (3) times during this incident.

Officer Brice Clements

Weapon
Make: Glock
Model: 17
Caliber: 9mm



At the completion of the countdown, it was determined Officer Clements discharged his firearm thirteen (13) times during this incident.

Officer Alex Gonzales

Weapon
Make: Colt
Model: M4 Carbine 556
Caliber: .223/556



At the completion of the countdown, it was determined Officer Gonzales discharged his firearm three (3) times during this incident.

Officer Kerry Kubla

Weapon
Make: Colt
Model: M4 Carbine 556
Caliber: .223/556



At the completion of the countdown, it was determined Officer Kubla discharged his firearm one (1) time during this incident.

Officer James Rothenburg

Weapon
Make: Glock
Model: 17
Caliber: 9mm



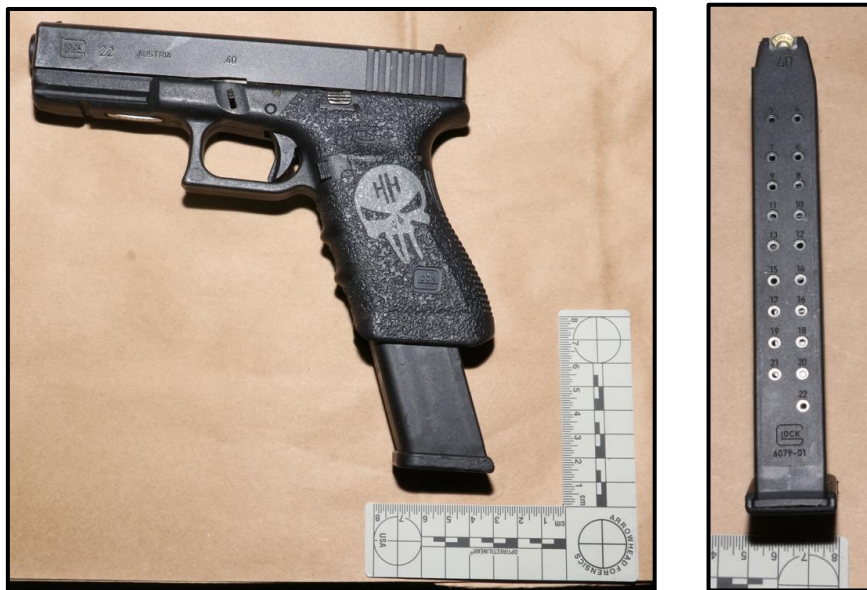
At the completion of the countdown, it was determined Officer Rothenburg discharged his firearm three (3) times during this incident.

FIT detectives confirmed that the findings of the firearm countdowns were correct when compared to the evidence at the scene.

All the subject officers' firearms were then sent to the LVMPD Forensic Laboratory for forensic examination. A forensic scientist examined, test fired, and found all the firearms to be operational with no noted malfunctions.

DECEDENT'S FIREARM

Decedent's firearm was located on scene and determined to be a Glock model 22 .40 caliber semi-automatic handgun. Decedent's firearm was found to contain one cartridge in the chamber and two cartridges in the magazine. Decedent's firearm was equipped with a high-capacity magazine, which had a total capacity of twenty-two (22) cartridges. Decedent's firearm and the high-capacity magazine are pictured below.



Decedent's firearm and the eighteen (18) .40 caliber cartridge cases located at the scene were then sent to the LVMPD Forensic Laboratory for forensic examination. A forensic scientist examined all items, test-fired Decedent's firearm, and determined the firearm to be operational with no noted malfunctions.

A forensic scientist further found the eighteen (18) .40 caliber cartridge cases located at the scene were associated with Decedent's Glock model 22 .40 caliber semi-automatic handgun. The findings indicate that Decedent discharged his firearm eighteen (18) times during this incident.

Further investigation into Decedent's firearm revealed it was purchased by a person, J.A., in 2005 in the state of Mississippi. On December 22, 2021, J.A. reported to LVMPD that he could not locate his firearm, and it may have been stolen.

BODY-WORN CAMERAS

Twenty-four (24) officers were equipped with body-worn cameras ("BWC")¹ that were activated during this incident. The footage captured on the BWCs and reviewed by the District Attorney's Office was consistent with the witness officers' statements, victim officers' statements, subject officers' statements, and the evidence recovered during this investigation.

¹ It must be noted that the Axon Flex BWC time stamps videos in Zulu Time, also known as Greenwich Mean Time (GMT), which is the world time based on a 24-hour clock. The time is based on the Prime Meridian, which is zero degrees longitude and passes through Greenwich, England. There is a seven-hour negative difference between the event time (Pacific Daylight Time) and displayed Zulu Time. Officers activated their BWCs at different times during the incident. Axon BWCs also have a "time drift" where the camera's internal clock drifts from actual time based on when the cameras are synced when the camera is docked. Each BWC can display a slightly different time based on a time drift.

The following is a summary of the BWC footage of Officer Kubla, Officer Clements, Officer J.W., Sergeant Backman, Officer Gonzales, Officer Rothenburg, Officer J.B., and Officer M.E., which captured the officers' actions as well as Decedent's actions during the incident.

Officer Kubla's BWC Footage

Officer Kubla's camera footage was approximately 16 minutes in length and depicted the following:

The footage began with officers boarding their tactical vehicle and then proceeding to the apartment complex. Approximately nine minutes later, they arrived at the complex near the target apartment. The team arrived at the front door of the apartment and announced their presence numerous times. Distracts were also deployed at the west window. The entry officer attempted to breach the door with a ram approximately five times before the front door was finally opened.

Officer Kubla was the first to enter the apartment and immediately located Decedent on the couch. Decedent immediately began shooting at Officer Kubla and Officer Kubla fell to the ground. Other officers were seen firing at Decedent as Decedent continued to fire his handgun at the officers.



The shooting stopped and officers were heard yelling, "Suspect down!" Officer Kubla was carried out of the apartment to the parking lot by the other SWAT officers. Officer Kubla informed the officers he had been shot in his arms and leg. Officers removed Officer Kubla's tactical gear as they applied tourniquets to his arms and leg. Officer Kubla's gear

and BWC were removed and placed on the ground. The footage then showed the ground while audio was still being recorded. Officer Kubla's gear was placed in the tactical vehicle and his BWC was deactivated.

Officer Clements' BWC Footage

Officer Clements' camera footage was approximately 44 minutes in length and depicted the following:

The footage began with officers boarding their tactical vehicle and then proceeding to the apartment complex. Approximately nine minutes later, they arrived at the complex near the target apartment. Officer Clements and the team arrived at the front door and announced their presence numerous times. Distracts were also deployed at the west window.

The entry officer attempted to breach the door with a ram approximately five times before the front door was finally opened. Officer Clements was the second officer to enter the apartment. Immediately after he entered, multiple gunshots were heard, and Decedent was seen lying on the couch firing a handgun toward the officers. Officer Clements returned fire toward Decedent until Decedent stopped firing.

An officer yelled, "He's hit, he's hit, let's go!" As Officer Clements assisted with carrying Officer Kubla out of the apartment, another officer was seen taking another subject (K.C.) into custody that was inside the apartment. Officer Clements assisted the other officers with carrying Officer Kubla to the tactical vehicle that was parked in the parking lot where Officer Kubla received medical treatment.

Officer Clements informed another officer that he injured his arm. As the officer checked Officer Clements for any gunshot wounds, his vest was removed from his person and placed in the tactical vehicle. Officer Clements' BWC was attached to the vest. Officer Clements' BWC remained activated for approximately 28 minutes. The BWC was then deactivated by an unknown officer as he entered the rear of the tactical vehicle.

Officer J.W.'s BWC Footage

Officer J.W.'s camera footage was approximately 28 minutes in length and depicted the following:

The footage began with officers boarding their tactical vehicle and then proceeding to the apartment complex. Approximately 11 minutes later, they arrived at the complex near the target apartment. Officer J.W. and the team arrived at the front door and announced their presence numerous times. Distracts were also deployed at the west window. The entry officer attempted to breach the door with a ram approximately five times before the front door was finally opened. Officer J.W. was the third officer to enter the apartment. Before Officer J.W. made entry, multiple gunshots were heard.

Officer J.W. immediately entered the bedroom and located a subject, K.C., in the bedroom. Then K.C. ran into the bathroom and exited another door that led to the living room area. Officer J.W. held his position at the bathroom door and yelled for another officer to assist him as he lost sight of K.C. Assisting officers arrived at his location and Officer J.W. searched for any additional subjects inside. Officers secured both subjects in handcuffs and requested medical personnel to the apartment. Officers located Decedent's firearm in the living room near Decedent. Officers then moved Decedent from the couch to the ground and placed him on his back and medical aid was rendered.

Officer J.W. secured the area until fire department personnel arrived and assessed Decedent. Officer J.W. remained with the medical personnel as they assessed Decedent. Officer J.W. returned to the parking lot and deactivated his BWC.

Sergeant Backman 's BWC Footage

Sergeant Backman's camera footage was approximately 18 minutes in length and depicted the following:

The footage began with officers boarding their tactical vehicle and then proceeding to the apartment complex. Approximately 10 minutes later, they arrived at the complex near the target apartment. Sergeant Backman and the team arrived at the front door and announced their presence numerous times. Distracts were also deployed at the west window. The entry officer attempted to breach the door with a ram approximately five times before the front door was finally opened. Sergeant Backman was the fourth officer to enter the apartment. Before Sergeant Backman entered the apartment, multiple gunshots were heard.

Sergeant Backman then entered the living room and Decedent was seen lying on the couch and firing a gun toward the entry team. Officers returned fire. Decedent stopped moving and dropped the handgun which fell to the ground. Another subject (K.C.) was seen in the living room, and officers took him into custody. Officers were yelling commands and continued to clear the apartment for any other subjects. Sergeant Backman exited the apartment and informed an officer that he fired his weapon. Sergeant Backman re-entered the apartment and requested medical personnel. Officers were seen moving Decedent to the ground and they began rendering medical aid to him. Sergeant Backman exited the apartment and spoke with another officer. Sergeant Backman then deactivated his BWC.

Officer Gonzales' BWC Footage

Officer Gonzales' camera footage was approximately 19 minutes in length and depicted the following:

The footage began with officers boarding their tactical vehicle and then proceeding to the apartment complex. Approximately 11 minutes later, they arrived at the complex near the target apartment. Officer Gonzales and the team arrived at the front door and announced their presence numerous times. Distracts were also deployed at the west window. The entry officer attempted to breach the door with a ram approximately five times before the front door was finally opened. Officer Gonzales was the fifth officer to enter the apartment. Before Officer Gonzales made entry, multiple gunshots were heard.

As Officer Gonzales entered, Decedent was seen lying on a couch and firing his handgun toward the entry officers. As officers returned fire, Decedent stopped moving and another subject (K.C.) who was in the living room was taken into custody. Officer Gonzales remained with Decedent as the other officers searched for any other subjects. Officer Gonzales assisted with securing Decedent in handcuffs. Officer Gonzales was then instructed to go outside, and he deactivated his BWC.

Officer Rothenburg 's BWC Footage

Officer Rothenburg's camera footage was approximately 21 minutes in length and depicted the following:

The footage began with Officer Rothenburg and Officer J.B. in their vehicle waiting to drive to the apartment complex. Approximately 11 minutes later, they arrived at the complex near the target apartment. Officer Rothenburg arrived at the west window of the apartment with Officer J.B. Officer Rothenburg was holding a ballistic shield. Officers with the entry team were heard announcing their presence. The window was then broken out and glass was cleared from the window. Officer Rothenburg instructed Officer J.B. to activate the distract device.

A loud blast was heard, along with the sound of a nine-bang distract. Officer Rothenburg's BWC was obstructed by his ballistic shield. Gunshots could be heard coming from inside the apartment. A tactical light from Officer Rothenburg's handgun was activated and it appeared Officer Rothenburg fired rounds from his handgun. Officer Rothenburg informed another officer that he had taken gunfire into his ballistic shield. Officer Rothenburg remained outside at the west window as the entry team entered.

Officer J.B. conducted a physical check of Officer Rothenburg to make sure he was not struck with gunfire. Officer Rothenburg informed Officer J.B. that he had fired his weapon. Officer Rothenburg stated he saw the suspect firing, then turn toward his direction and shoot his ballistic shield.

Officer Rothenburg quickly went to the tactical vehicle where officers were treating Officer Kubla for his injuries. Officer Rothenburg returned to the west window and met with Officer J.B. Officer Rothenburg examined his ballistic shield and discovered several bullet defects. Officer Rothenburg returned to the tactical vehicle and examined Officer

Clements' arm who received a ricochet injury during the shooting. Shortly after, Officer Rothenburg deactivated his BWC.

Officer J.B.'s BWC Footage

Officer J.B.'s camera footage was approximately 21 minutes in length and depicted the following:

The footage began with Officer J.B. and Officer Rothenburg in their vehicle waiting to drive to the apartment complex. Approximately 11 minutes later, they arrived at the complex near the target apartment. Officer J.B. arrived at the west window of the apartment with Officer Rothenburg. Officers with the entry team were heard announcing their presence. Officer J.B. was holding a pole stun device and broke the window. He then inserted the device toward the ceiling of the apartment.

Officer J.B. activated the distract device which discharged a loud blast. A second distract device which detonated nine separate blasts was also deployed. Multiple gunshots were heard from inside the apartment. Officer J.B. continued to clear the glass and obstructions from the window area with the pole. Once it was clear, Officer J.B. checked Officer Rothenburg for any injuries. Officer J.B. responded to the parking lot and met with the other officers who were treating Officer Kubla. Officer J.B. returned to the west window of the apartment. Officer J.B. and Officer Rothenburg went back to the tactical vehicle and examined Officer Clements' arm for a ricochet injury. Officer J.B. deactivated his BWC.

Officer M.E.'s BWC Footage

Officer M.E.'s camera footage depicted the following:

Officer M.E.'s BWC recording was approximately 31 minutes in length. The footage began with officers boarding their tactical vehicle and then proceeding to the apartment complex. Approximately eight minutes later, they arrived at the complex near the target apartment. Officer M.E. and the team arrived at the front door and announced their presence numerous times. Distracts were also deployed at the west window. The entry officer attempted to breach the door with a ram approximately five times before the front door was finally opened. Officer M.E. was the seventh officer in the stack. As the officers entered the apartment, multiple gunshots were heard. Officer M.E. was not able to enter, and he was held up at the front door.

Officers were seen carrying the injured officer out of the apartment. Officer M.E. made his way into the apartment and took custody of the second subject, K.C., that was located inside. Officer M.E. took K.C. outside and asked him if he had been shot. K.C. stated "no" and they walked to a vehicle in the parking lot. Officer M.E. searched K.C. and requested another officer to his location. Officer M.E. took some gear to the tactical vehicle and downloaded a weapon.

Officer M.E. remained in the parking lot with K.C., who later identified himself by name. Once K.C. was taken by detectives, Officer M.E. began putting up crime scene tape to secure the scene. Officer M.E. then conducted knock and talks at the surrounding apartments to make sure the tenants were safe and not injured.

SUBJECT OFFICERS' STATEMENTS AND SCENE WALK-THROUGHS

A subject officer is a peace officer or supervisor who participated in, directed, or influenced the application of the use of force. Here, Sergeant Russell Backman and Officers Brice Clements, Alex Gonzales, Kerry Kubla and James Rothenburg are the subject officers.

After an OIS, a law enforcement supervisor will obtain a public safety statement ("PSS") from the subject officers. The PSS consists of a series of questions which are asked to determine if the officer fired their weapon, how many times they believe they fired, where they were located when they fired, if anyone is injured, whether any other officers fired, whether a suspect fired, and whether any witnesses have been identified.

Thereafter, during the initial phase of the investigation, subject officers conduct a scene walk-through with FIT investigators and CSI personnel. The purpose of the scene walk-through is to help investigators develop an understanding of the scene, including identifying officer locations at the time deadly force was used, identifying potential physical evidence, and re-creating a timeline of the incident.

Following the scene walk-through, subject officers may provide a recorded or written statement to FIT investigators; however, since the statement is voluntary, subject officers have the right to decline providing a statement to FIT investigators. If a statement, verbal or written, is provided to FIT investigators, it should be obtained from the subject officers at least 48 hours after the incident, however, the 48-hour waiting period may be waived by the subject officer.

With regard to PSSs, Sergeant Backman and Officers Clements, Gonzales and Rothenburg each provided a PSS to a supervisor. Officer Kubla was unable to conduct a PSS with a supervisor due to him being injured and transported to the hospital.

Additionally, Sergeant Backman and Officers Clements, Gonzales and Rothenburg each conducted a scene walk-through. Officer Kubla was unable to conduct a scene walk-through due to him being injured and transported to the hospital.

Officer Rothenberg provided FIT investigators a recorded voluntary statement. Sergeant Backman and Officers Clements, Gonzales and Kubla declined to provide a voluntary statement.

SERGEANT BACKMAN

Sergeant Backman's Public Safety Statement

On January 10, 2022, at approximately 5:15 a.m., Sergeant T.I. obtained a PSS from Sergeant Backman. Sergeant T.I. recounted that PSS to a FIT detective, which is quoted below:²

TA: Okay, and you conducted the PSS with Sergeant Backman is that correct?

TI: That's correct.

TA: At approximately what time?

TI: Approximately 0515 hours.

TA: And what I'd like you to do, is the card that you have the PSS on, just read the questions and then tell me what his answer was.

TI: Yes, uhh, number 1 did you discharge your firearm? He stated yes, uhh, if so in what direction? He stated inside the apartment at the suspect. Approximately where were located when you fired? He said inside apartment in living room, uhh, he, question how many shots do you think you fired? 2 shots fired. Uhh, is anyone injured? He stated, yes, uhh, SWAT officer uhh if so where and where they were located? They were located inside the apartment. Uhh, are there any outstanding suspects? He stated no, The next question was, uhh is it possible the suspect fired rounds at you? He stated yes, if so what direction were the rounds fired from, from inside the apartment. Uhh, how many shots do you think the suspect fired? A lot. Approximately where was the suspect located when they fired, inside the apartment. The next question was do you know if there's any other officers discharged their firearms? He said yes, SWAT officers, if so who, who were they? Unknown. Approximately where was the officers located when they were fired, uhh he stated inside the apartment. Uhh next question are there any weapons or evidence that need to be secured or protected? He stated yes, if so, where are they located? Uhh, it's the suspect firearm inside the apartment. And uhh, are you aware of any witnesses? He stated yes, if so, what is their location? He said it's inside it was the unknown male inside the apartment that wasn't shot.

TA: Uhh, and after that you concluded the PSS interview?

TI: I did.

² Note: FIT Detective Alsop is designated by (TA) and Sergeant T.I. is designated by (TI).

Sergeant Backman's Scene Walk-Through

On January 10, 2022, at approximately 11:20 a.m., Sergeant Backman provided a walk-through of the scene. During the walk-through, Sergeant Backman informed detectives where Decedent and himself were positioned when shots were fired. Cones were placed to mark the locations. Sergeant Backman stated he saw Williams shooting at him and his team. Sergeant Backman stated he fired his weapon to protect himself and his team members.



OFFICER CLEMENTS

Officer Clements' Public Safety Statement

On January 10, 2022, at approximately 5:20 a.m., Sergeant C.C. obtained a PSS from Officer Clements. Sergeant C.C. recounted that PSS to a FIT detective, which is quoted below:³

TA: Sergeant [C.C.] you conducted the PSS with Officer Clements, is that correct?

CC: Yes.

TA: All right. What I'd like you to do, are- what time was that taken at?

CC: Was approximately 0520 hours.

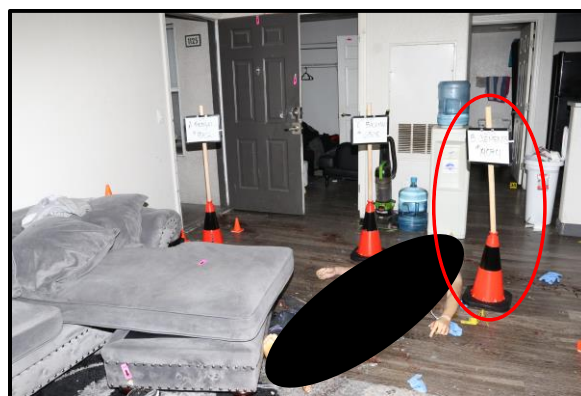
³ Note: FIT Detective Alsup is designated by (TA) and Sergeant C.C. is designated by (CC).

TA: Ok, what I'd like you to do is read each question from the PSS card with the corresponding answer that he gave.

CC: So I did the interview with Clements, P# 14074 call sign is Zebra 25. Umm, he advised he was number 2 in the stack and read Public Safety Statement and says number 1, did you discharge your firearm? Uh, he said yes. Approximately where were you located when you fired the firearm? Umm, he said, uhh roughly in—in the stack, in the entry. Uhh, uhh, how many shots do you think you fired? Ummm, he said 5 to 7 shots. Ummm, and he believed he was 7 feet away from the suspect. Question number 2 is was anyone injured? He said yes, uhh, if so, what was their description, he said that just advised it was Kubla and the suspect. Kubla being the uhh, injured officer. Uhh, number 3, are there any outstanding suspects, uhh, he said not that he knows of. Uhh he advised that the suspect had a handgun and he believed there are not to be any outstanding suspects. Umm number 4, is It possible the suspect fired rounds at you? He said yes, uhh, corresponding A, if so, what direction were the rounds fired from? He said towards Kerry, which is officer Kerry Kubla. How many shots do you think the suspect fired? He said sounded like a lot, more than 10. Approximately where was the suspect located when they fired? He said he was laying down on the couch. Number 5, do you know if there's any other officers that discharged their firearm? He said he did not know, he said maybe Kubla. He said he could not see who was behind him when he addressed the suspect. Number 6 are there any weapons or evidence that need to be secured? He doesn't know. And uh, 7, uhh, he didn't know.

Officer Clements' Scene Walk-Through

On January 10, 2022, at approximately 11:34 a.m., Officer Clements provided a walk-through of the scene. During the walk-through, Officer Clements informed detectives where Decedent and himself were positioned when shots were fired. Cones were placed to mark the locations. Officer Clements stated he observed Decedent firing his gun at the other officers. Officer Clements saw Officer Kubla fire his weapon and saw him go down to the ground after being shot. Officer Clements said Decedent continued to fire his weapon at himself and the other officers while on the couch. Officer Clements fired his weapon to protect his life and his teammate's lives. Officer Clements stated he was struck in the right forearm.



OFFICER GONZALES

Officer Gonzales' Public Safety Statement

On January 10, 2022, at approximately 5:25 a.m., Sergeant C.C. obtained a PSS from Officer Gonzales. Sergeant C.C. recounted that PSS to a FIT detective, which is quoted below:⁴

TA: Sergeant [C.C.], you conducted a PSS with ... Officer Gonzales, is that correct?

CC: Yes.

TA: What I'd like you to do, uhh, what time was that conducted at?

CC: AT approximately 0525.

TA: What I'd like you to do, is read the question from the card, from the PSS card and the corresponding answer that he gave.

CC: Ok, number 1 from the Public Safety Statement is did you discharge your firearm? Umm, if so in what direction? He said yes, toward the suspect on the couch. And approximately where were located when you fired? He advised, I was at the couch when uh, we made entry. How many shots do you think you fired? He advised 2 shots. Question number 2 is anyone injured? He said, if so what was their description? He advised that Kubla and uhh, Brice Clements and the suspect. Number 3, are there any outstanding suspects? He advised not that he knows of. And to that, what type of weapon he had was a handgun. Number 4, is it possible the suspect fired rounds at you? He said he fired rounds at the team. Which he was, i-indicated himself, ummm, said if so what direction were the rounds fired from, he said, from the suspect on the couch. How many shots do you think the suspect fired? He advised it sounded like a lot, said he, more than 6 or 7. And approximately where was the suspect, he advised the couch. Question number 5, do you know if there's any other officers discharged their firearm? He said yes, he advised Backman, Rothenburg and he thinks a couple more. Uhh, approximately where was the officers located when they fired, he said they were all on the stack, which was his response. Uhh, number 6, are there any other weapons or evidence that needs to be secured or protected? If so, where were they located? He said he had a handgun. And then uhh, 7, uhhh, are you aware of any witnesses? If so, what is their location? He advised none.

TA: ... Do you have anything you want to add?

JW: No thank you.

⁴ Note: FIT Detective Alsup is designated by (TA) and Sergeant C.C. is designated by (CC).

Officer Gonzales' Scene Walk-Through

On January 10, 2022, at approximately 11:26 a.m., Officer Gonzales provided a walk-through of the scene. During the walk-through, Officer Gonzales informed detectives where Decedent and himself were positioned when shots were fired. Cones were placed to mark the locations. Officer Gonzales stated, upon making entry, he saw Decedent shooting at his team. Officer Gonzales saw one of his teammates get shot and go down to the ground. Office Gonzales stated he fired approximately two times to protect himself and the team.



OFFICER ROTHENBURG

Officer Rothenburg's Public Safety Statement

On January 10, 2022, at approximately 5:25 a.m., Sergeant C.C. obtained a PSS from Officer Rothenburg. Sergeant C.C. recounted that PSS to a FIT detective, which is quoted below:⁵

TA: Sergeant [C.C.] you conducted this PSS with Officer Rothenburg, is that correct?

CC: Yes.

TA: And what time was that at?

CC: Uh, approximately 0525 hours. Somewhere around there.

TA: What I'd like you to do is read the question from the PSS card with the corresponding answer that he gave you.

⁵ Note: FIT Detective Alsop is designated by (TA) and Sergeant C.C. is designated by (CC).

CC: Ok, question number 1 is did you discharge your firearm? He said yes. If you, if so, what was, in what direction? He said that, ummm, towards the suspect as he was at the window. How many shots do you think you fired? He advised 3. Question number 2, is was anyone injured? Uhh, if so what was their description? He advised Officer Kerry Kubla, and the suspect. Question number 3, are there any outstanding suspects? He said he did not know, was his response. Further in question number 3, he advised that the handgun, that he said the suspect had a gun—handgun with an extended mag. He said the suspect's location was on the couch. Question number 4, is it possible the suspect fired rounds at you? If so, what direction were the rounds fired from, he said, yeah, he hit the shield. And he said from the direction they fired from was from the couch. Uhh, how many shots do you think the suspect fired? He advised 10 or more. Uhh, approximately where was the suspect located when they fired, he said laying on the couch. He said, number 5, do you know if any other officers discharged their firearm? He advised Officer Alex Gonzales, and maybe 2 others. Umm, number 6, he said no. Number 7, are you aware of any witnesses? He said uhh, the entry team. And that's it.

TA: All right. Anything you like to add?

JW: No.

Officer Rothenburg's Scene Walk-Through

On January 10, 2022, at approximately 11:10 a.m., Officer Rothenburg provided a walk-through of the scene. During the walk-through, Officer Rothenburg informed detectives where Decedent and himself were positioned when shots were fired. Cones were placed to mark the locations. Officer Rothenburg stated he was carrying a ballistic shield in his right hand and handgun in his left. Officer J.B. breached the window and deployed a distract device. Officer Rothenburg looked inside the window and saw Decedent firing a handgun with an extended magazine and observed muzzle flash. Officer Rothenburg stated he observed Decedent firing his weapon at him and he felt impacts into his ballistic shield. Officer Rothenburg returned fire approximately three times toward Decedent to stop the threat to his life and the lives of the other officers.



Officer Rothenburg's Recorded Voluntary Statement

On January 12, 2022, at approximately 10:08 a.m., FIT detectives conducted an audio recorded interview with Officer Rothenburg. Below is a summary of the interview.

Officer Rothenburg was assigned to the SWAT Gold Team and assisted the SWAT Silver Team with serving a search warrant at 3050 S. Nellis Boulevard. Officer Rothenburg arrived at the meeting point to be briefed of the details and given assignments for the team. Officer Rothenburg stated the search warrant was for a homicide suspect who was armed and dangerous. Officer Rothenburg was assigned, with Officer J.B., as the 2-man stun stick team, which was assigned to the west window of the apartment. Officer J.B.'s assignment was to deploy the stun stick and Officer Rothenburg was equipped with a ballistic shield and a handgun.

Once Officer Rothenburg was positioned at the window, he heard his team announce several times, "Police, search warrant!" This announcement was heard from the north side of the apartment. Officer J.B. deployed the stun stick inside the window and the SWAT team made entry through the front door. Officer Rothenburg stated an additional distract was deployed outside the apartment near the balcony area. Once the team entered, Officer Rothenburg heard distinct gunshots from inside the apartment. Officer Rothenburg's view was obstructed by the smoke from the distract and the window's blinds and curtains, but he was able to see the muzzle flash toward his team, coming from the northwest corner of the apartment.

Once the smoke from the distracts and the obstructions from the window were cleared, Officer Rothenburg saw Decedent's gun, equipped with an extended magazine, pointed toward him. Officer Rothenburg saw muzzle flashes from Decedent's gun and felt his ballistic shield being struck by gunfire. Officer Rothenburg activated his handgun light, saw Decedent, and fired approximately three rounds at him. Officer Rothenburg saw that Decedent was incapacitated and stopped firing. Officers J.B. and Rothenburg checked each other to see if they were struck by gunfire. Officer Rothenburg saw one of his team members had been shot and was being taken out of the apartment. Officer Rothenburg went to the SWAT armored vehicle and observed the medics giving Officer Kubla medical attention as he had been shot several times.

Officer Rothenburg stated he fired his handgun because he felt his life and the lives of his team were in danger and he engaged in gunfire to stop the threat.

SUMMARY OF RELEVANT WITNESS STATEMENTS

Witness Officers

A witness officer is a peace officer or supervisor who did not participate in or directly influence the application of the use of force. The following summaries depict the relevant portions of witness officers' statements.

Officer J.B.'s Statement

Officer J.B. and his team were briefed reference a search warrant related to a homicide investigation and received information that one of the two suspects would be at the location of the search warrant. During the service of the warrant, Officer J.B. was assigned to the stun stick team which deploys a noise flash diversionary device. Officer J.B.'s role was to insert the device into the structure after the second search warrant announcement. Officer J.B. stated his partner was Officer Rothenburg, who was assigned as cover and who was equipped with a ballistic shield.

The plan called for Officers J.B. and Rothenburg to set up on a specific window and for Officer J.B. to deploy the distract after the second search warrant announcement was made. Officer J.B. explained his assignment was to break the window and place the diversionary device high in the room, close to the ceiling. After the device was activated, Officer J.B. was to manually clear the remaining glass from the window.

The device activated along with another nine-bang distract. Once the entry team was inside, Officer J.B. heard additional "bangs" which he recognized as gunshots. He saw Officer Rothenburg step to the right and fire approximately two to three rounds towards the corner. Officer J.B. transitioned to his handgun, looked into the window, and saw Officer Gonzales over Decedent while another officer took an additional subject into custody. Officer J.B. stated he also saw the handgun Decedent was holding fall to the ground.

Officer Rothenburg told Officer J.B. that his ballistic shield was struck by gunfire twice, so Officer J.B. conducted a check of Officer Rothenberg for any possible gunshot wounds. Officer Rothenberg told him one of the other SWAT officers had been struck by gunfire. Officer J.B. also noticed a blood trail from the front door. He followed the trail and found that other SWAT officers had taken Officer Kubla away from the apartment. Officer J.B. was then assigned as a monitor officer for Officer Rothenburg.

Officer J.W.'s Statement

Officer J.W., responded to a scheduled search warrant service at 3050 South Nellis Boulevard. Officer J.W. was assigned as the third officer to make entry into the apartment.

Upon entry, Officer J.W.'s responsibility was to secure the bedroom. Distract devices were deployed as officers entered the apartment. Officer J.W. observed K.C. in the bedroom and believed he heard gunfire coming from the living room.

K.C. ran from the bedroom into an adjoining bathroom that led to the living room area where he was apprehended by officers. Officer J.W. entered the living room and discovered Officer Kubla had been shot. Officer J.W. observed Decedent on the couch who appeared to have been shot. Officer J.W. also observed a handgun with an extended magazine near Decedent.

Officers removed Officer Kubla from the scene to waiting medical personnel. Officer J.W. assisted with securing the crime scene.

NLVPD Detective R.K.'s Statement

According to Detective R.K., he and his partner were investigating the criminal activities of Decedent. During their investigation, they developed probable cause for the arrest of Decedent. They connected Decedent with two separate armed robberies within NLVPD's jurisdiction.

In December 2021, NLVPD detectives served a search warrant at the residence belonging to Decedent's mother, L.A. During the search, detectives searched for Decedent, clothing, and the firearm used during the robberies. Decedent was not at the residence at the time the search warrant was served.

Civilian Victims

J.C. – Neighbor in Upstairs Apartment that Decedent Shot Into

On January 10, 2022, at approximately 9:40 a.m., a FIT detective conducted an audio recorded interview with J.C. at 3050 S. Nellis Blvd. Below is a summary of the interview.

J.C. stated that he was asleep in his apartment with his girlfriend, J.L., and seven-month-old daughter. At approximately 3:30 a.m., he was awoken by loud voices. J.C. stated he heard someone yelling outside and heard "Search Warrant, Search Warrant!" Shortly after, J.C. said he heard several loud banging noises, followed by what he believed to be gunshots. J.C. covered his daughter and girlfriend, then began yelling out for his sister. He quickly realized that his sister had not returned home yet.

J.C. stated he looked outside his window and observed police officers as they approached his front door. Officers checked on him and the family to make sure no one was injured. J.C. looked around and noticed that several bullets had penetrated the floor of his apartment causing damage within.

J.C. signed a consent to search for the processing of his apartment and the recovery of any potential evidence.

J.L. – Neighbor in Upstairs Apartment that Decedent Shot Into

On January 10, 2022, at approximately 9:45 a.m., a FIT detective conducted an audio recorded interview with J.L. at 3050 S. Nellis Blvd. Below is a summary of the interview.

J.L. stated that she was asleep in her apartment with her boyfriend, J.C., and her seven-month-old daughter. J.L. stated she was awakened by J.C. rolling her over and heard

what she believed to be gunshots coming from the apartment below. J.C. told her to stay down with their daughter and she did so until police officers knocked on the door.

T.J. – Neighbor in Adjacent Apartment that Decedent Shot Into

T.J. was contacted by detectives and provided written consent to search the apartment in which T.J. resided, which shared a wall with apartment #21-1125. Investigation revealed a bullet fired by Decedent travelled into T.J.'s apartment. T.J. indicated they were asleep at the time of the incident, had no knowledge of what occurred and declined to provide a formal statement to detectives.

Civilian Witnesses

K.C. – Other Person in Apartment #21-1125

On January 10, 2022, at approximately 7:34 a.m., FIT detectives conducted an audio recorded interview with K.C. at 3050 S. Nellis Boulevard. Below is a summary of the interview.

K.C. stated that he was a senior in high school and had just stayed the night at his friend Zay's (Decedent) residence (3050 S. Nellis #21-1125). K.C. stated his mother was supposed to come to the residence to pick him up that morning and take him to school, which did not happen. K.C. also stated that he was currently on probation.

K.C. stated that he believed the apartment belonged to Decedent's cousin, although he had never seen her. K.C. stated that he and Decedent had been hanging out and playing video games while at the residence. K.C. stated that he knew Decedent from school but the two had not seen each other in a while until they recently ran into one another at a party. K.C. stated he did not know any other people that were associated with that apartment.

K.C. said he was asleep in the bedroom when something woke him. He jumped up and was immediately taken to the ground by officers. Once in custody, he was removed from the residence. K.C. stated he did not know why the police were at the residence and never heard anything before being taken to the ground by officers.

Civilian Contacts

L.A. – Decedent's Mother

On January 10, 2022, at approximately 11:05 a.m., FIT detectives conducted an audio recorded interview with L.A. Below is a summary of the interview.

L.A. arrived on the scene and identified herself as the mother of Isaiah Tyree Williams. L.A. stated she believed that Decedent was involved in the shooting incident with SWAT

officers and possibly was deceased. L.A. stated that she was at home when her neighbor informed her that her son was involved in an incident at 3050 S. Nellis Boulevard. L.A. reached out to her cousin, who works across the street from the shooting scene and asked her if there was any police activity across the street. L.A. was informed that police were everywhere. L.A. came to the scene to confirm if her son was involved.

L.A. stated that Decedent was currently on probation for possession of stolen vehicle, and she kicked Decedent out of the house a month prior because Decedent was 19 years old, and he was causing problems for her. L.A. stated that in December 2021, NLVPD SWAT officers served a search warrant at her residence, looking for her son and any evidence of a robbery.

L.A. provided information regarding the lead detective for NLVPD who was investigating her son. L.A. stated that she has only seen social media posts of her son holding firearms, and she had not personally seen him with a gun. L.A. stated she had not seen her son for over four weeks and had only spoken with him via social media approximately four days ago.

K.K.

On January 16, 2022, at approximately 11:46 p.m., FIT detectives conducted an audio recorded interview with K.K. Below is a summary of the interview.

K.K. stated that in February of 2019, she applied for an apartment at The Boulevard Apartments located at 3050 S. Nellis Boulevard. K.K. lived in apartment #21-1125 for approximately nine months, along with her ex-boyfriend, B.B. B.B. allowed other friends to stay at the apartment which K.K. did not approve of, so K.K. left the apartment and moved into her grandmother's residence. K.K. contacted the management office and attempted to remove her name from the lease. She was informed that she would have to pay a \$3000.00 fee to terminate the lease early. K.K. could not pay the fee, so she allowed B.B. and his friends to stay in the apartment. K.K. did not return to the apartment.

In 2020, K.K. attempted to remove her name from the lease again. She was informed the lease would end in February 2022. K.K. stated she decided to wait for the lease to end since B.B. continued to pay the rent. K.K. stated she did not receive any correspondence from the management office concerning any problems with the rent not being paid or any late payment. K.K. stated she received an email from the management just yesterday concerning the apartment and requesting that she contact them. K.K. did not know who was staying in the apartment for the last year and only assumed that B.B. was still living there with his friends.

AUTOPSY

On January 11, 2022, an autopsy was performed on the body of Decedent at the Clark County Office of the Coroner/Medical Examiner ("CCOCME") by Doctor Jan Gorniak. CSI

personnel obtained eleven (11) bullets and a bullet fragment, which were recovered during the autopsy and impounded as evidence. Doctor Gorniak noted seventeen (17) gunshot wounds to Decedent's left trunk and left lower extremity.

Upon the completion of toxicology testing, the following results were noted:

Positive Findings:			
Compound	Result	Units	Matrix Source
Nicotine	Positive	ng/mL	002 - Heart Blood
Delta-9 Carboxy THC	15	ng/mL	002 - Heart Blood
Delta-9 THC	7.2	ng/mL	002 - Heart Blood

After a thorough review of facts and circumstances and a complete autopsy, Doctor Gorniak opined Decedent died as a result of gunshot wounds of the left trunk and left lower extremity. The manner of death was homicide.

LEGAL ANALYSIS

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

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

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

The authority to kill another in self-defense or 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 ... another person, against one who manifestly intends or endeavors to commit a crime of violence ..." against the person or other person.⁶ 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

⁶ NRS 200.120(3)(a) defines a crime of violence: "Crime of violence" means any felony for which there is a substantial risk that force or violence may be used against the person or property of another in the commission of the felony.

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 self-defense [or 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 himself [or the other person] or cause himself [or the other person] great bodily injury; and
2. That it is absolutely necessary under the circumstances for him to use in [self-defense or 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 [himself or the person(s) 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 self-defense [or 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 self-defense [or 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 he [or 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 himself [or 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 exists that a killing was in defense of self [or defense of another], the State must prove beyond a reasonable doubt that person killing did not act in self-defense [or defense of another]. Id. at 1051-52.

Therefore, under Nevada law, if there is evidence that the killing was committed in self-defense or defense of another, the State at trial, must prove beyond a reasonable doubt that the slayer was not acting in self-defense or defense of another.

The known facts and circumstances surrounding this incident indicate that Decedent posed an apparent imminent danger to Sergeant Russell Backman and Officers Brice Clements, Alex Gonzales, Kerry Kubla, James Rothenburg, J.B. and J.W, as well as residents of apartments surrounding 3050 S. Nellis Boulevard, Apartment #21-1125. All involved SWAT officers had received briefing information regarding the background of the search warrant, including that it was related to a murder, and SWAT officers were searching for a murder suspect and the firearm the murder suspect used to kill someone. That information, in addition to information about the scene, was used to create a SWAT tactical plan. SWAT officers arrived at 3050 S. Nellis Boulevard, Apartment #21-1125, and repeatedly announced that they were police officers serving a search warrant. The SWAT officers' numerous announcements were followed by a SWAT officer loudly hitting the front door four times, while simultaneously announcing their presence, before opening the door on the fifth hit. Immediately upon the first officer, Officer Kubla, entering Apartment #21-1125, Decedent began shooting at Officer Kubla and the officers who entered behind Officer Kubla. Those officers included Sergeant Backman and Officers Clements and Gonzales. Decedent further began shooting out the window at Officer Rothenburg. Sergeant Backman and Officers Clements, Gonzales, Kubla and Rothenburg returned fire, but not before Decedent shot Officer Kubla multiple times, severely injuring Officer Kubla, shot Officer Clements causing a grazing wound, and shot the ballistic shield Officer Rothenburg was holding. Sergeant Backman and Officers Clements, Gonzales, Kubla and Rothenburg reasonably believed that they themselves and their fellow officers would be at risk of great bodily harm or death if struck by Decedent's gunfire. In fact, Officer Kubla suffered great bodily harm because of Decedent shooting him. It was in those moments that Sergeant Backman and Officers Clements, Gonzales, Kubla and Rothenburg fired at the Decedent.

The totality of the evidence, to include BWC video, visible evidence on scene, officers' statements, and witness statements, illustrates that Sergeant Backman and Officers Clements, Gonzales, Kubla and Rothenburg were reasonable in believing that Decedent would cause great bodily harm or death to themselves, their fellow officers and any civilians located in surrounding apartments. Sergeant Backman and Officers Clements, Gonzales, Kubla and Rothenburg were confronted with the appearance of imminent danger to themselves and their fellow officers and had an honest belief and fear that they and their fellow officers were about to be killed or suffer great bodily injury at the hands of Decedent. The evidence further illustrates that Sergeant Backman and Officers Clements, Gonzales, Kubla and Rothenburg acted reasonably in reaction to the apparent, albeit actual, danger posed by Decedent. Here, Sergeant Backman and Officers Clements, Gonzales, Kubla and Rothenburg reasonably acted in defense of others. Consequently, the shooting of Decedent is justifiable under this legal theory.

Furthermore, Sergeant Backman and Officers Clements, Gonzales, Kubla and Rothenburg faced imminent danger of suffering death or great bodily harm due to their positions within the Decedent's line of fire. Decedent immediately shot the first officer to

enter the apartment, Officer Kubla, multiple times, causing Officer Kubla to be seriously injured and fall to the ground. Decedent continued to shoot at the other officers, striking Officer Clements' arm and Officer Rothenburg's ballistic shield, ultimately firing a total of eighteen (18) bullets during this event. As such, Sergeant Backman and Officers Clements, Gonzales, Kubla and Rothenburg were all confronted with the appearance of imminent danger to themselves and had an honest belief and fear that they were about to be killed or suffer great bodily injury at the hands of the decedent. Thus, Sergeant Backman and Officers Clements, Gonzales, Kubla and Rothenburg reasonably acted in self-defense at the time they used deadly force against Decedent. Consequently, the shooting of Decedent is also justifiable under this legal theory.

B. Justifiable Homicide by a Public Officer

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

In this case, the known evidence illustrates that Sergeant Backman and Officers Clements, Gonzales, Kubla and Rothenburg had probable cause to believe that Decedent posed a threat of serious physical harm to them and their fellow officers. All five officers observed the Decedent discharge his firearm toward themselves and/or their fellow officers immediately prior to their using of deadly force. Sergeant Backman and Officers Clements, Gonzales, Kubla and Rothenburg only shot Decedent after Decedent began shooting at Officer Kubla and the other officers. At that point, Sergeant Backman and Officers Clements, Gonzales, Kubla and Rothenburg had a reasonable belief that Decedent could cause serious physical harm or death to them and their fellow officers, and in fact had already caused and/or was actively causing serious physical harm to Officer Kubla. Thus, the use of deadly force by Sergeant Backman and Officers Clements, Gonzales, Kubla and Rothenburg was legally justified and appropriate under NRS 200.140(2). Therefore, the killing of Decedent by Sergeant Russell Backman, Officer Brice Clements, Officer Alex Gonzales, Officer Kerry Kubla and/or Officer James Rothenburg was justified.

CONCLUSION

Based on the review of the available materials and application of Nevada law to the known facts and circumstances, we conclude that the actions of Sergeant Russell Backman, Officer Brice Clements, Officer Alex Gonzales, Officer Kerry Kubla and Officer James Rothenburg were reasonable and legally justified. The law in Nevada clearly states that homicides which are justifiable or excusable are not punishable. See NRS 200.190. A

homicide which is determined to be justifiable shall be “fully acquitted and discharged.”
See NRS 200.190.

As there is no factual or legal basis upon which to charge, unless new circumstances come to light which contradict the factual foundation upon which this decision is made, no charges will be forthcoming against Sergeant Russell Backman, Officer Brice Clements, Officer Alex Gonzales, Officer Kerry Kubla or Officer James Rothenburg.