

REPORT ON USE OF FORCE



Legal Analysis Surrounding the Death of Marvin Payton, Jr. on February 3, 2021

INTRODUCTION

On February 3, 2021, 28-year-old Marvin Payton, Jr. (hereinafter “Decedent”) was shot and killed by Las Vegas Metropolitan Police Department (“LVMPD”) Officer Andrew Nguyen and civilians D.L., C.R., and J.S. The incident took place at approximately 1247 hours in the parking lot of The Range 702 located at 5999 Dean Martin Drive, Las Vegas, Nevada 89118.

SYNOPSIS

On February 3, 2021, at approximately 1159 hours, LVMPD Dispatch received a 9-1-1 telephone call from S.M., an employee of The Range 702 located at 5999 Dean Martin Drive, Las Vegas, Nevada. S.M. reported that a male (Decedent) entered a class and tried to take an instructor’s bag and firearm. Employees were able to get the bag back, and Decedent was detained by employees of The Range 702.

At approximately 1218 hours, another employee of The Range 702, J.P., re-called LVMPD Dispatch and stated Decedent was aggressive and threatened to physically harm another employee. J.P. provided a physical description of Decedent and stated all employees of The Range 702 were armed.

At approximately 1227 hours, J.P. re-called LVMPD dispatch and again stated Decedent had tried to steal a firearm and was aggressive. J.P. stated she was concerned the situation would escalate and that Decedent was not in custody.

At approximately 1234 hours, S.M. re-called LVMPD Dispatch for an update on officers’ response and stated Decedent had been escorted outside the business. During this phone call, S.M. was able to provide Decedent’s name and date of birth. Employees of The Range 702 had asked Decedent for identification and he showed employees his Nevada

Identification Card. An employee of The Range 702 photographed Decedent's identification card and provided LVMPD Dispatch Decedent's personal information. The LVMPD call taker conducted a records check and learned that Decedent had a violent criminal history, to include Assault on a Protected Person and Attempted Murder. LVMPD Dispatch updated responding officers with that information by adding it to the call details and relaying the information over the radio.

At approximately 1239 hours, Officers Leah Camacho and Andrew Nguyen assigned themselves to the call and responded to The Range 702. They arrived at the business at approximately 1247 hours. When Officers Camacho and Nguyen arrived, Decedent was standing close to the front door of The Range 702 along with employees of The Range 702. Officers Camacho and Nguyen exited their marked patrol vehicle and Decedent started to walk south.

Officer Camacho gave Decedent verbal commands to step in front of the patrol vehicle which Decedent ignored. When Officer Camacho grabbed Decedent's arm to stop him, Decedent pulled out a screwdriver which had been concealed in his right jacket pocket. Decedent then started to hit and stab Officer Camacho in the head and face with his fist and the screwdriver.

Officer Nguyen also attempted to grab Decedent who swung the screwdriver at Officer Nguyen to stab him as well. Officer Nguyen fell backwards as he was off balance, and Decedent continued to attack Officer Camacho. Officer Camacho was knocked to the ground after Decedent punched her in the face. Officer Nguyen drew his firearm and discharged it toward Decedent.

The Range 702 employees, D.L., C.R., and J.S., witnessed the attack on Officers Camacho and Nguyen and believed Decedent was repeatedly stabbing Officer Camacho. When Officer Camacho fell to the ground, the three employees drew their firearms and discharged their firearms toward Decedent to stop the attack and save Officer Camacho's life. The discharge of firearms by Officer Nguyen, D.L., C.R., and J.S. occurred nearly simultaneously. Decedent was struck by gunfire and fell to the ground.

Officer Nguyen broadcast that shots were fired, Officer Camacho had been stabbed, and requested medical personnel. Employees C.B., D.L., C.R., and J.S. checked Officer Camacho's injuries as Officer Nguyen focused on Decedent.

When other officers arrived, Decedent was placed in handcuffs and medical personnel arrived to render aid. Officers then removed the handcuffs from Decedent as medical personnel assessed his injuries and started performing life-saving measures. Decedent was pronounced deceased on scene.

Officer Camacho was subsequently transported to UMC Trauma Center by ambulance for injuries sustained in the attack, which included a stab wound to the left eyebrow and a fractured orbital socket.

Force Investigation Team (FIT) detectives were requested to the scene to investigate the officer-involved shooting (OIS). The scene at The Range 702 had been secured with crime scene tape by patrol officers prior to FIT arrival. FIT detectives assumed control of the investigation.

This report explains why criminal charges will not be forthcoming against Officer Nguyen. 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 October 18, 2021.

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

INCIDENT TIMELINE

The below timeline is a reconstruction of events which transpired on Wednesday, February 3, 2021, in relation to the fatal officer-involved and civilian-involved shooting that occurred at The Range 702, 5999 Dean Martin Drive, Las Vegas, Nevada.

Time (hours)	Description of Event/Action	Source
1148	Decedent entered The Range 702 parking lot from Dean Martin Drive.	The Range 702 video – SE Parking
1148:40	Decedent left a scooter by the front door and approached the business doors.	The Range 702 video – SE Parking
1148:45 to 1149:50	Decedent entered the business lobby and was seen walking around the retail area. Decedent eventually entered the VIP area through an unlocked door.	The Range 702 videos – Front/Snack Bar/Retail
1150:13 to 1151:55	Decedent eventually exited the VIP room, crossed the hallway and walked through VIP range door wearing eye and hearing protection.	The Range 702 video – VIP Hall
1151:56 to 1152:21	Decedent entered the VIP range and started to search through an open cardboard box.	The Range 702 video – Range 4
1152:26	Decedent re-entered the VIP room.	The Range 702 video – VIP Hall
1152:57 to 1154:37	Decedent was seated at a table. He started to search through a range bag that was on the ground between his feet.	The Range 702 video - VIP
1154:38 to 1155:25	The bag owner entered the classroom and confronted Decedent. Several Carry a Concealed Weapon (CCW) class students and instructors eventually escorted Decedent from the classroom.	The Range 702 video - VIP
1155:25	Decedent was escorted into the retail lobby by employees.	The Range 702 videos – Front/Snack Bar/Retail

Time (hours)	Description of Event/Action	Source
1159:51	LVMPD Dispatch was contacted about an attempt larceny. Details stated a male (Decedent) entered a class and tried to take an instructor's bag with a firearm inside.	LVMPD Computer Aided Dispatch (CAD)
1218:38	LVMPD Dispatch was contacted a second time. Decedent was being aggressive with a manager and threatened to batter him.	LVMPD CAD
1227:00	LVMPD Dispatch was contacted a third time. Re-advised Decedent had tried to steal a firearm and was becoming aggressive.	LVMPD CAD
1234:19	LVMPD Dispatch was contacted a fourth time.	LVMPD CAD
1235:24	Decedent was escorted outside by employees.	The Range 702 video – Front
1237:55	LVMPD Dispatch was contacted a fifth time and advised Decedent was outside and talking to the manager.	LVMPD CAD
1239:21	Officers Camacho and Nguyen self-dispatched to the event.	LVMPD CAD
1241:10	The Range 702 provided Decedent's information based off identification he provided the employees.	LVMPD CAD
1243:19	Decedent's criminal history was updated in CAD.	LVMPD CAD
1247:30	Officers Camacho and Nguyen drove into the parking lot in their marked patrol vehicle. Decedent and several employees were standing in front of the doors to the business.	The Range 702 video – SE Parking
1247:40	Officers Camacho and Nguyen exited their patrol vehicle.	The Range 702 video – SE Parking
1247:49	Officer Camacho attempted to grab Decedent's left hand. Decedent's right hand was concealed in his jacket pocket.	The Range 702 video – SE Parking
1247:50	Officer Nguyen attempted to grab Decedent's right hand. Decedent raised his right hand above his head and was backing away from officers.	The Range 702 video – SE Parking
1247:51	Decedent struck Officer Camacho with his right hand which held a screwdriver.	The Range 702 video – SE Parking
1247:52	Decedent swung the screwdriver at Officer Nguyen who fell backwards due to being off balance. Decedent continued to strike Officer Camacho in the head/face with the screwdriver. The involved civilians started to move toward Officer Camacho and Decedent.	The Range 702 video – SE Parking
1247:53	Officer Camacho fell to the ground. Officer Nguyen and the involved civilians discharged their firearms.	The Range 702 video – SE Parking
1247:54	Decedent fell to the ground.	The Range 702 video – SE Parking
1247:57	Officer Camacho stood up and was eventually checked for injuries by the involved civilians.	The Range 702 video – SE Parking
1248:11	Shots fired was broadcast over the radio.	LVMPD CAD

Time (hours)	Description of Event/Action	Source
1248:24	Medical personnel were requested and advised to expedite.	LVMPD CAD
1253:50	Decedent was taken into custody and he appeared to be deceased.	LVMPD CAD
1302:53	Dispatch was advised that Decedent was deceased on scene.	LVMPD CAD

SCENE WALK-THROUGH

Officer Nguyen

On February 3, 2021, at approximately 1801 hours, Officer Nguyen provided a walk-through of the scene. Officer Nguyen relayed the following information to investigators:

Officer Nguyen was working patrol with Officer Camacho. They were dispatched to the location (The Range 702) for an attempt larceny of a firearm. The suspect (Decedent) entered the store, grabbed a bag, and was aggressive. While driving to the scene, Officer Nguyen was updated that Decedent had prior contacts with law enforcement and there was a prior arrest for attempted murder. Upon arrival, Officer Nguyen saw Decedent in front of the business with other males.

Officer Camacho gave Decedent verbal commands, but Decedent ignored the commands. Officer Camacho approached Decedent to go hands-on, and Decedent pulled out a screwdriver. Decedent then stabbed toward Officer Camacho's face and she fell to the ground. Decedent also had the screwdriver over his head and thrashed toward Officer Nguyen. Officer Nguyen fired shots to protect Officer Camacho and himself.

INTERVIEWS

Officer Camacho

On February 11, 2021, at approximately 1302 hours, Detective Blake Penny conducted an audio recorded interview with Officer Camacho at LVMPD Headquarters in the FIT office.

Officer Camacho was working a two-person patrol unit with Officer Nguyen. They self-dispatched to an attempt larceny event where a suspect (Decedent) tried to take a firearm and was getting aggressive. While en route to the location, Officer Nguyen got a description of Decedent. Additionally, Dispatch notified them over the radio that Decedent had violent priors. Officer Camacho stated there was no mention that Decedent was armed, and she did not have any reason to believe he had a gun.

Upon arrival to the scene, Officer Camacho saw Decedent and several employees outside the business. She and Officer Nguyen exited their vehicle and gave Decedent verbal

commands. Decedent had a weird smirk on his face and started to walk south. Officer Camacho stated she believed Decedent was going to run, so she decided to go “hands on” and cut off Decedent’s avenue of escape.

As Officer Camacho grabbed Decedent, she felt a punch in the face and fell to the ground. After falling to the ground, she heard several gunshots. Officer Camacho then stood up. Officer Camacho did not know she had been stabbed, but her face hurt and she was very disoriented. She initially believed that Decedent had engaged Officer Nguyen with a firearm.

Officer Nguyen appeared to be worried, so Officer Camacho reassured him that she was okay and to focus on Decedent until other officers arrived. Officer Nguyen directed the civilians to check Officer Camacho’s injuries as she was bleeding from her face. After other officers arrived, Officer Camacho was moved away from the scene and eventually transported by ambulance to UMC Trauma Center.

Officer Camacho suffered a concussion, facial laceration, fractured orbital socket and some superficial injuries because of the attack by Decedent. Officer Camacho stated that, due to her head injury, she did not remember how many times she was stabbed or hit by Decedent.

Involved Civilians

J.S.

On February 3, 2021, at approximately 1606 hours, Detective Jason Leavitt conducted an audio recorded interview with J.S. at 5999 Dean Martin Drive, in The Range 702 VIP Suite.

During the interview, J.S. relayed that he was a Range Safety Officer (RSO) for The Range 702, where he ensured guest compliance with the safety rules of the indoor firearms range. In addition, J.S. assisted with customer service and worked in the retail department of the business. J.S. carried a firearm while at work, which on that day, was a Glock 43X, concealed in his front waistband.

J.S. was working in the retail section when he heard a Carry Concealed Weapon instructor request a manager in a loud tone. J.S. went to the CCW classroom with a manager and was informed of an individual (Decedent) in the room, who had searched a customer’s bag and attempted to take a firearm from it. J.S. assisted the manager who removed Decedent from the room and spoke with him. Decedent claimed he had a bag inside the business and provided a description. The staff of The Range 702 searched for the bag Decedent described but they were unable to locate it.

While speaking with Decedent, J.S. believed he was not mentally stable. J.S. was able to guide him out of the business. J.S. indicated that Decedent told them that he was in the service and made other nonsensical statements. J.S. was concerned about altercations with customers if Decedent remained inside of the business. Once outside, Decedent wandered the parking lot and attempted to get into a vehicle, but he was unable.

While Decedent and J.S. waited outside, a LVMPD patrol vehicle pulled into the parking lot. A female officer (Officer Camacho) approached Decedent and issued him verbal commands. Decedent became aggressive and reached into his pocket for an item as Officer Camacho got close to him. Decedent pulled what appeared to be a knife out of his pocket and proceeded to stab Officer Camacho in the head. J.S. knew that Decedent's actions could kill Officer Camacho and immediately moved to a position where he believed he could safely engage Decedent. J.S. observed Decedent stab Officer Camacho three to four times when he heard gunshots. After the gunshots, Decedent continued to stab Officer Camacho. J.S. believed the Decedent's intentions were to kill the officer. J.S. was able to gain a clear view of Decedent and fired to protect Officer Camacho.

D.L.

On February 3, 2021, at approximately 1643 hours, Detective Leavitt conducted an audio recorded interview with D.L. at 5999 Dean Martin Drive, The Range 702 VIP Suite.

D.L. was the Lead Range Safety Officer (RSO) for The Range 702. His duties included ensuring that guests and other RSOs comply with the safety rules of the indoor firearms range. D.L. carried a firearm while at work, which on that day, was a Sig Sauer P320, open carried on his right hip.

On the day of the incident, D.L. had finished with a client and observed a male (Decedent) walking near an employee only area. As he watched Decedent, Decedent approached another employee and talked to her. D.L. believed the employee could take care of Decedent so he went on a break. After D.L. finished his break, he observed Decedent with a manager and another employee. D.L. was informed by an employee that Decedent attempted to steal a firearm from a customer's bag located in the classroom. D.L. was asked to stay near the front door to prevent Decedent from leaving as he knew the police had been called.

After some time had passed, Decedent was escorted out of the business by employees. As Decedent walked outside of the business, D.L. observed Decedent fidgeting with what he perceived to be a knife in Decedent's back pocket. D.L. looked at the general manager and made sure she observed the knife in Decedent's pocket as well. While they were in the front lot, LVMPD officers arrived and a female officer (Officer Camacho), directed Decedent to the front of the patrol car. As Officer Camacho gave commands for Decedent to approach the vehicle, he began to back away. D.L. believed Decedent was going to run away when Officer Camacho grabbed him by the arm.

Officer Camacho and Decedent immediately got into a skirmish. D.L. observed Decedent strike Officer Camacho. As Decedent was striking Officer Camacho, he raised his hand above his head and struck downward toward her head and neck. With the third or fourth strike, D.L. observed what he perceived to be a blade in Decedent's hand and realized he was stabbing Officer Camacho. D.L. had his hand on his pistol and drew it out of the holster when he observed what he believed to be a knife in Decedent's hand. D.L. believed Decedent was stabbing Officer Camacho in the jugular with the knife, which could cause death within minutes. Decedent stabbed Officer Camacho again and she fell to the ground which gave

D.L. a clear view of Decedent. Decedent was still armed with the knife, and D.L. fired to save Officer Camacho's life.

C.R.

On February 3, 2021, at approximately 1735 hours, Detective Leavitt conducted an audio recorded interview with C.R. at 5999 Dean Martin Drive, The Range 702 VIP Suite.

C.R. was the Operations Manager for The Range 702, overseeing all the departments and employees. C.R. carried a firearm while at work, which on this day was a Glock 43X concealed in his front waistband. While at work, C.R.'s attention was drawn to a CCW instructor who exited the VIP room and with a sense of urgency and stated that he needed a manager "now." C.R. and another manager responded to the VIP room where they were told a male (Decedent), who was in the room and not part of the CCW course, was going through one of the student's bags looking for a firearm.

C.R. confronted Decedent who stated that it was a mistake, and he believed the bag was his. C.R. made sure Decedent knew the bag was not his; however, C.R. believed Decedent's mental status was such that he "was kinda not all there mentally." C.R. continued to attempt to talk with Decedent, knowing that a call had been placed to the police for a response. Decedent informed him that he had been in the military his whole life and that he was the next big thing in Mixed Martial Arts. As C.R. talked with Decedent, he continued to try and assess Decedent's attitude and state of mind. C.R. stated Decedent was calm for much of the interaction, but would easily become agitated, confrontational and mumble. Decedent attempted to antagonize another employee and stated, "I'm waiting for you to just say something stupid." C.R. was able to de-escalate Decedent when that happened.

Eventually, C.R. knew Decedent needed to be taken outside of the business as he believed Decedent was looking for an altercation. C.R. did not want other customers to become involved. Decedent was escorted outside of the business and the front door was locked behind them to prevent Decedent from re-entering the business.

Several minutes later, a LVMPD patrol vehicle arrived, and C.R. stayed back so the officers could do what they needed to do. The female officer (Officer Camacho) directed Decedent to the vehicle, but he began to walk away. Officer Camacho moved and tried to close the distance to Decedent, when C.R. observed Decedent pull what he believed was a knife from his pocket. Decedent began to strike Officer Camacho in the throat area as she had her hands up trying to block him. C.R. drew his firearm but did not have a clear view of Decedent, who he believed was killing the officer. Officer Camacho was able to create distance between her and Decedent after being struck six or seven times. Decedent was still armed when Officer Camacho fell and C.R. fired at him.

Civilian Victim

B.M.

On February 3, 2021, at approximately 1523 hours, Detective Gilberto Valenzuela conducted an audio recorded interview with B.M. at 5999 Dean Martin Drive.

B.M. was taking a CCW renewal course at The Range 702. The specific CCW class was taking place inside the VIP Suite. B.M. stated that he noticed approximately 15 people inside the VIP Suite. The class began at 1000 hours, and at approximately 1150 or 1155 hours the instructor gave the students a 10-minute break. Prior to walking out of the classroom, the main instructor informed the students that they could leave their belongings inside the room. B.M. walked out of the classroom for approximately five minutes.

B.M. explained when he walked back into the classroom, he observed a black male (Decedent) sitting in his seat. As B.M. approached, he observed Decedent reach down towards his black range bag and attempt to open it. B.M. observed Decedent grab the zipper to the bag and open it approximately one inch. B.M. informed the black male that the bag was his and purposely spoke loudly so that the instructors would be able to hear his conversation. B.M. remembers stating, "Instructors, this gentleman is rummaging through my bag" and "stop it right now." B.M. added that inside his range bag, he had a firearm, firearm magazines, and ammunition boxes.

Decedent mentioned that he was looking for his gun. The instructors approached Decedent and eventually walked him out of the VIP Room. B.M. stated Decedent immediately stood out to him because he was not one of the 15 students who was taking the CCW class. B.M. then looked through his bag and confirmed that nothing was taken.

Civilian Witnesses

S.M.

On February 3, 2021, at approximately 1530 hours, Detective Ryan Kraft conducted an audio recorded interview with S.M. at Ponderosa Way and Dean Martin Drive in an unmarked LVMPD vehicle.

S.M. was working as a manager at The Range 702 when she observed a black male in his late 20's or early 30's, 5'07", 140 pounds, wearing a blue mask, black, yellow and white sweater and black pants (Decedent) approach one of the employees, J., about range times. J. directed him to the other side of the counter. S.M. did not see Decedent again until one of the CCW instructors, C.B., opened the door to one of the classrooms and said he needed a manager.

S.M. responded to the VIP Suite, and the employees moved Decedent to the southwest corner of the lobby where there was security camera coverage. The employees questioned

Decedent about what he was doing, and Decedent claimed it was his bag with his stuff in it. Decedent also said he was looking for his range bag with his firearm. The owner of the bag said it was not Decedent's bag. Another employee, C.R., asked for Decedent's identification, and S.M. took a photograph of his identification with her cell phone.

S.M. proceeded to contact 9-1-1 and told Dispatch that they had a male that tried to steal a range bag with a firearm in it. The 9-1-1 operator told her she was going to dispatch someone. S.M. waited near the front counter and observed several of the employees (C.B., C.R., and J.S.) were standing in the back corner with Decedent. The General Manager (K.C.) then arrived at the business.

K.C. directed S.M. to go record the surveillance video of what happened when Decedent came in, using her cell phone. S.M. recorded video on her cell phone of various times when Decedent was inside of the business. S.M. returned with the video and asked K.C. if she wanted to see it, but K.C. declined. K.C. said they were just going to let Decedent leave because the police were taking a while to respond, and Decedent was not doing anything. S.M. moved to the front of the lobby and K.C. told her to call 9-1-1 again because now Decedent refused to leave.

S.M. called LVMPD Dispatch again and told the operator Decedent refused to leave. S.M. then saw K.C., C.R., C.B., and J.S. walk Decedent outside of the business. D.L. also joined the group. The front door was locked while C.R. and J.S. remained outside with Decedent. S.M. observed Decedent "tottering" around the front of the building near the sidewalk. S.M. saw him touch a truck and a car on the hood and then continue to hang out in the parking lot. S.M. eventually observed Decedent walk back towards the front doors. K.C. and C.B. went outside, and they were all standing near the front doors.

LVMPD Dispatch recalled S.M. asking for an update, and S.M. told the operator that Decedent was in front of the store pacing back and forth. The operator asked if he was being hostile, and S.M. said no. The police then arrived, and S.M. hung up the phone.

S.M. was inside the store looking out the glass windows when she observed the black and white police vehicle arrive from the left. S.M. observed a male and a female officer (Officer Nguyen and Officer Camacho) dressed in khaki Metro uniforms. S.M. observed Officer Camacho try to grab Decedent's hand like she was trying to handcuff him. Decedent turned and hit Officer Camacho, who then fell to the ground. Officer Nguyen then ran up and S.M. heard approximately six gunshots and looked away. K.C., J.S., C.B., C.R., and D.L. were outside when the shooting occurred, but she was not sure who fired and did not see them draw any firearms.

S.M. could not hear what was being said prior to the shooting but acknowledged that it appeared Decedent was not listening to what the officers were telling him to do. S.M. thought Decedent had something shiny in his fist but was not sure if it was a ring or something else. After the gunshots, S.M. told everyone to stand back, and she closed the shutter to prevent anyone from looking outside.

M.N.

On February 3, 2021, at approximately 1538 hours, Detective Scott Mendoza conducted an audio recorded interview with M.N. at 5999 Dean Martin Drive.

M.N. stated at approximately 1245 hours, his vehicle was parked in the parking lot of the range and he was seated inside it, having lunch. His vehicle was parked approximately 50 to 70 feet from where the incident occurred. M.N. saw a police SUV pull up to the front of the gun range. M.N. saw that a subject (Decedent) exited the gun range and was contacted by police officers (Officers Camacho and Nguyen). M.N. did not get a good look at Decedent and only described him as wearing a dark greenish colored jacket and possibly a backpack.

Three other citizens exited the business and remained outside with Officers Camacho and Nguyen as they were dealing with Decedent. M.N. observed Decedent in a physical confrontation with Officer Camacho. Decedent began striking Officer Camacho in the head and neck area with his right hand. Decedent and Officer Camacho fell to the ground as Decedent continued to swing his fist.

Decedent then got up from the ground and walked toward a white truck. Officer Nguyen drew his firearm as M.N. heard someone yell, "He's got a knife!" The other citizens drew their firearms and held their positions for a few seconds. M.N. then heard a gunshot, followed by multiple gunshots. M.N. stated he did not see any items or weapons in Decedent's hand during the altercation. M.N. also did not know who fired the shots.

Other officers arrived on the scene and M.N. was instructed to remain in his vehicle as the officers focused on Decedent.

R.N.

On February 3, 2021, at approximately 1555 hours, Detective Trever Alsup conducted an audio recorded interview with R.N. at 6007 Dean Martin Drive.

R.N. was attending a CCW class at The Range 702 on Dean Martin Drive. During the class, an instructor entered the classroom and advised a male (Decedent) had entered the business, gone into a classroom, and rummaged through another student's range bag. The instructor advised the students everything was under control and resumed the class.

At approximately 1200 hours, R.N. walked outside to his vehicle while on a break for lunch. R.N. observed employees of the range standing with Decedent. After a few minutes, R.N. walked back into the business while the employees and Decedent stayed outside. R.N. looked out the window and observed a marked patrol unit enter the parking lot and he turned away.

A few moments later, R.N. heard 15 to 20 gunshots. R.N. looked back outside and observed Decedent lying on the ground. R.N. also observed an officer and the employees with their firearms drawn. R.N. was then instructed by other staff members to move to a back room.

J.P.

On February 3, 2021, at approximately 1555 hours, Detective Kraft conducted an audio recorded interview with J.P. at Ponderosa Way and Dean Martin Drive in an unmarked LVMPD vehicle.

J.P. was working as a Manager at The Range 702 when she observed a black male, wearing a yellow and black jacket (Decedent) walk into the business and appeared to be "off". Decedent seemed on edge and was wandering and looking around like he was trying to see where all the exits were and where everyone was located. Decedent walked down a hallway that was for employees only, but then returned to the lobby. Decedent then spoke to employee J. and continued to walk around the business.

Shortly thereafter, one of the CCW instructors, C.B., came out of the VIP Suite, and said he needed a manager. The Operations Manager, C.R., and S.M. responded. Decedent was escorted out of the classroom to the corner by the machine gun counter. J.P. saw them talking and Decedent appeared visibly upset and hostile. J.P. heard Decedent say if they did not get out of his way there would be major issues.

J.P. knew that S.M. had already called 9-1-1, so J.P. recalled 9-1-1 to see if an officer was on the way. The operator asked if Decedent had any weapons. J.P. responded that she did not know because he was wearing oversized clothing. The General Manager, K.C., arrived shortly thereafter and spoke to Decedent. K.C. then called 9-1-1 as well.

Decedent eventually exited the store and tried to get into two different vehicles parked on the side street by trying the driver's side door handles. Decedent then walked back toward the front of the store. D.L., J.S., C.B., and K.C. were outside talking to Decedent.

J.P. was inside the store watching through the glass front door when the police arrived in a marked Ford Explorer. Decedent then started to walk away. J.P. observed two uniformed officers (Officers Camacho and Nguyen) and believed that the female officer (Officer Camacho) was driving. The officers appeared to be gesturing for Decedent to put his hands on the police vehicle, but Decedent continued to walk away and was not compliant. Officer Camacho tried to detain Decedent by grabbing him, but Decedent grabbed something out of his back pocket and started swinging the object and attacking Officer Camacho. It appeared that Decedent struck Officer Camacho in the face. Officer Camacho backed away and J.P. saw the "guys" walk toward Decedent. J.P. then heard gunshots. J.P. looked away and could not see what was happening. J.P. later observed Officer Camacho was bleeding from her face.

J.P. described the object in Decedent's possession as a metallic object, five inches in length. J.P. believed it was a knife, but she was not certain. J.P. did not see who drew their firearm or who fired the shots. C.R., D.L., J.S., C.B. and K.C. were outside with the officers when the shots were fired.

C.B.

On February 3, 2021, at approximately 1601 hours, Detective Valenzuela conducted an audio recorded interview with C.B. at 5999 Dean Martin Drive.

C.B. was teaching a CCW renewal course at The Range 702 located at 5999 Dean Martin Drive. The specific CCW class was taking place inside the VIP Suite. C.B. stated that he had 12 students in the class. The class began at 1000 hours, and at approximately 1150 hours, he gave the students a break. Since there was always an instructor in the room, students were accustomed to leaving their belongings inside the room. C.B. remembered hearing one of his student's yell, "Get your hands out of my bag. Hey, this guy is trying to grab something out of my bag."

C.B. approached the subject (Decedent) who he described to be a black male, wearing eye and ear protection, and appeared to be dressed as a security guard. C.B. began speaking with Decedent and got him to walk out of the VIP Room and into the lobby area. C.B. explained that his goal was to move Decedent away from the students and into the lobby where he knew there were more cameras. C.B. added that while he spoke with the subject, he could tell that he was an "EDP, Emotionally Disturbed Person." Decedent stated that he was looking for his guns, a Glock 19 and a Ruger. Decedent said to C.B. that, "This was all a big mistake. I thought I left my gun here."

C.B. confirmed that Decedent was not one of his 12 CCW students. Additionally, C.B. checked with management and confirmed that Decedent had not paid to be inside The Range 702. C.B. explained that he was formerly a police sergeant and had dealt with numerous subjects in emotional distress. C.B. added that the CCW students had firearms at the location and that the business also had firearms for sale. Based on those factors, C.B. asked one of his co-workers to call the police. C.B. spoke with Decedent in the lobby for approximately 30 to 40 minutes with his goal being to get him to go outside. During his interaction with Decedent, Decedent informed him he was in the military, that he was a good shot, and that he had friends he went shooting with that were "Jarheads."

C.B. finally convinced Decedent to walk outside the business and into the parking lot. Two other managers walked outside with C.B. and Decedent and continued dialogue. C.B. walked inside the business and into the CCW class and confirmed with the student (B.M.) that Decedent had gone into his bag. C.B. added that B.M. was not very happy about Decedent going into his bag. C.B. also confirmed with the rest of the class that no one else had any other type of interaction with Decedent, and no one was missing any of their property. C.B. then walked back outside with both managers and Decedent as they waited for the police.

Both officers then arrived in one police car. The officers (Officers Camacho and Nguyen) attempted to speak with Decedent, and one of the officers attempted to grab him. C.B. could not remember whether it was the male officer or the female officer. C.B. then observed Decedent hitting Officer Camacho in the head, on her temple with a right hook. C.B. then heard someone yell, "He's got a knife. He's got a knife." C.B. was unsure who made the statement, but he believed it may have been the Manager, C.R. Then, C.B. heard numerous

gunshots being fired. He was unsure as to who fired all the rounds. Officer Nguyen had his firearm out of his holster, but C.B. was unsure if he fired any rounds. C.B. observed Decedent fall to the ground and then observed a metal object beside him. C.B. believed the metal object to be a knife or a screwdriver, approximately three to four inches long.

K.C.

On February 3, 2021, at approximately 1632 hours, Detective Alsup conducted an audio recorded interview with K.C. at 5999 Dean Martin Drive.

K.C. was notified by phone of a male (Decedent) who had entered The Range 702 and attempted to take a firearm from a customer's bag. K.C. then drove to the business. When she arrived, she was briefed by one of the employees. She learned that Decedent had told staff members he was there for the CCW class.

K.C. asked Decedent if he had signed up for the class and how he registered. According to K.C., Decedent changed his answers several times. While she spoke to Decedent, K.C. noticed what appeared to be a weapon in his back pocket. K.C. stated she knew it was not a firearm but observed metal showing from the top of the pocket.

Decedent stated he had brought a bag with a gun into the store, and he believed the bag he opened in the business was his. In an attempt to stall Decedent while police responded, K.C. told him they were trying to look at video surveillance and find his bag. K.C. stated Decedent kept asking about the video and his firearm.

K.C. stated Decedent's body language was threatening. She stated that while Decedent was speaking to her, he would clench his fist, lunge his shoulders, and stiffen his arms. K.C. asked Decedent to leave several times, but he refused.

After several minutes, K.C. observed a marked patrol unit pull into the parking lot. K.C. observed a female officer (Officer Camacho) driving and a male officer (Officer Nguyen) in the passenger seat. The officers exited the vehicle and approached Decedent. When Decedent saw the officers, he turned and began walking away. Officer Camacho instructed Decedent to walk towards the front of the patrol vehicle, but Decedent refused.

Suddenly, Decedent ran towards Officer Camacho, pulled the weapon from his pocket, and stabbed the officer at least three times. Officer Camacho pushed Decedent away, but he lunged towards her again. When Decedent lunged the second time, Officer Nguyen and the three employees all discharged their firearms towards Decedent. K.C. stated she heard approximately 13 to 16 gunshots. Decedent fell to the ground and medical personnel were requested.

R.R.

On February 3, 2021, at approximately 1822 hours, Detectives Kraft and Valenzuela conducted an audio recorded interview with R.R. at 150 N. Las Vegas Boulevard.

R.R. was attending a CCW class at The Range 702 with her husband M.N. from 1000 hours to 1700 hours, in Room A. They went outside to her vehicle in the parking lot around 1230 hours for a lunch break. R.R. observed a black male (Decedent) outside in the parking lot talking to the employees when she exited the building. R.R. walked to her vehicle that was parked in the east part of the parking lot. Her vehicle was backed in with the front of the vehicle facing west toward The Range 702 building. R.R. thought the employees were having a normal conversation and did not know there was a problem.

R.R. was seated inside her car with her windows down when the marked SUV police vehicle quickly pulled into the parking lot. Her view was partially blocked by a white truck, but she observed the uniformed officers (Officers Camacho and Nguyen) were talking to Decedent, when he started to walk away from them. She described it as a loud verbal exchange but could not make out what was being said. R.R. looked up at that moment and observed the female officer (Officer Camacho) grab Decedent and he started punching Officer Camacho on the neck, in the face, and on the forehead with his right hand. R.R. indicated that Decedent struck Officer Camacho approximately five times. R.R. observed Officer Camacho and Decedent go down to the ground. Decedent got back up and started to walk or run towards the white truck and shots were fired. R.R. heard approximately 12 successive gunshots and she ducked. She observed Decedent go down from her perspective view underneath a parked truck and she did not know if he was armed or not.

OFFICER PUBLIC SAFETY STATEMENTS

On February 3, 2021, at approximately 1522 hours, Detective Alsup interviewed Sergeant Dave Rose in reference to the Public Safety Statement (PSS) he obtained from Officer Nguyen. Note: Detective Alsup is designated by (TA) and Sergeant Rose is designated by (DR).

TA: Operator, this is Detective Trever Alsup, P# 5782, with the Las Vegas Metropolitan Police Department Force Investigation Team, conducting a recorded officer interview under event number 210200010572. Interview's being conducted with Sergeant Dave, D-A-V-E Rose, R-O-S-E, P# 13527, in reference to an officer-involved shooting and the Public Safety Statement that he completed with the officer. His call sign today was 609. Date of hire is 08-06-2008. He's assigned to Convention Center Area Command, and his squad is CC21. His RDOs are Thursday, Friday, Saturday, and his shift hours are 0630 to 1630. Vehicle number today is 18076. This interview is in reference to an officer-involved shooting that occurred on February 3, 2021, at approximately 1240 hours, in the area of 5999 Dean Martin, Las Vegas, Nevada. Today's date is February 3, 2021, and the time

is 1522 hours. This statement is being conduc...conducted inside the LVMPSA, uh, command vehicle which is currently parked in the parking lot of 6007 Dean Martin, Las Vegas, Nevada. Also present for the interview are LVMPSA representatives, uh, Will Huddler, H-U-D-D-L-E-R and Cheryl Hooten, H-O-O-T-E-N. Uh, Sarge, you understand this is being recorded?

DR: Yes.

TA: Okay. What I'd like you to do is, um, read the question on the card with the corresponding answer, and then just go all the way through for all the questions.

DR: Okay. Uh, 1: Dis...“Did you discharge your firearm?” “Yes, I did.”

TA: Sarge, I'm sorry. I'm gonna interrupt you. Can you please tell me, I forgot to ask you, who you conducted the, uh, uh, PSS with?

DR: Yes, I conducted the Public Safety Statement with Officer A. Nguyen, P# 17696.

TA: Thank you.

DR: I, I asked question 1: “Did you discharge your firearm?” and he said, “Yes, I did.”

1a: “If so, in what direction?” He stated, “Toward the subject, east.”

1b: “Approximately where were you when you...were you located when you fired?” “In front of The Range.”

Uh, “How many shots do you think you fired?” “Six.”

2: Uh, “Is anyone injured?” He stated, “Officer Camacho. She was hit, she fell.” And then, “The guy was not compliant from the beginning and the subject was hurt.”

Uh, A: “If so, where are they located?” “Camacho is en route to the hospital and the suspect is down.”

Number 3: “Are there any outstanding suspects?” “No.”

Number 4: “Is it possible the suspect fired rounds at you?” “No.”

Number 5: “Do you know if any other officers discharged their firearms?” “Not to my knowledge.” Uh, then he said, “You better...you should check with the civilians.”

Uh, number 6: “Are there any weapons or evidence that need to be secured or protected?” He said, “The screwdriver and my weapon.”

Uh, "Where are they located?" The ss... "The screwdriver's by the suspect and I have my weapon."

Uh, number 7: "Are you aware of any witnesses?" "Yes."

"If so, what is their location?" "The general manager and the manager at The Range."

TA: Uh, and that was the end of it?

DR: That was the end of it. I finished that at approximately 1308 hours.

TA: Okay. Do you have anything?

WH: Nothing.

TA: You have...

CH: No.

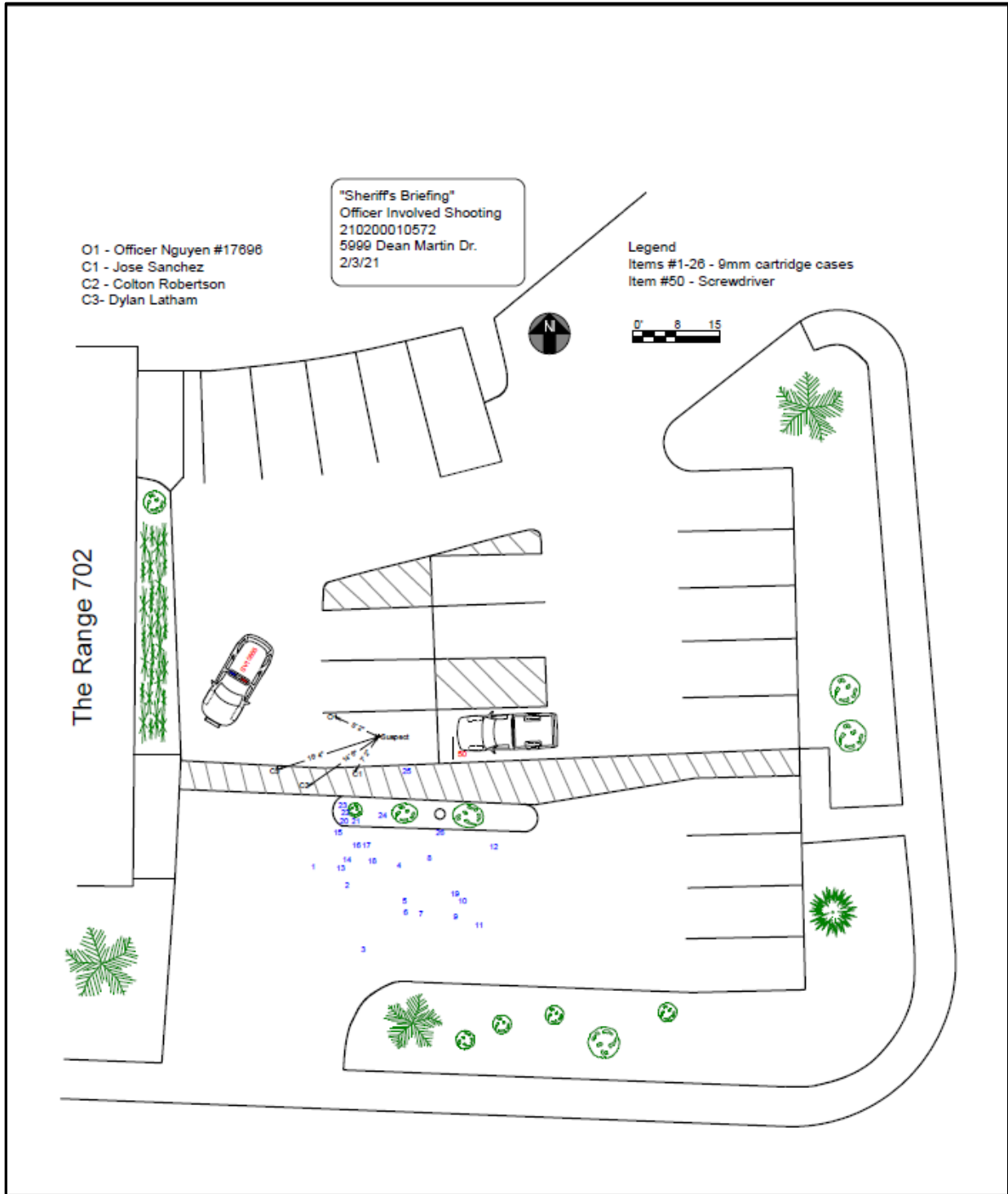
TA: ...anything? All right. Um, if there's nothin' else, then I'll end the interview. People present are the same. Date is the same. And the time is 1524 hours

DESCRIPTION OF THE SCENE

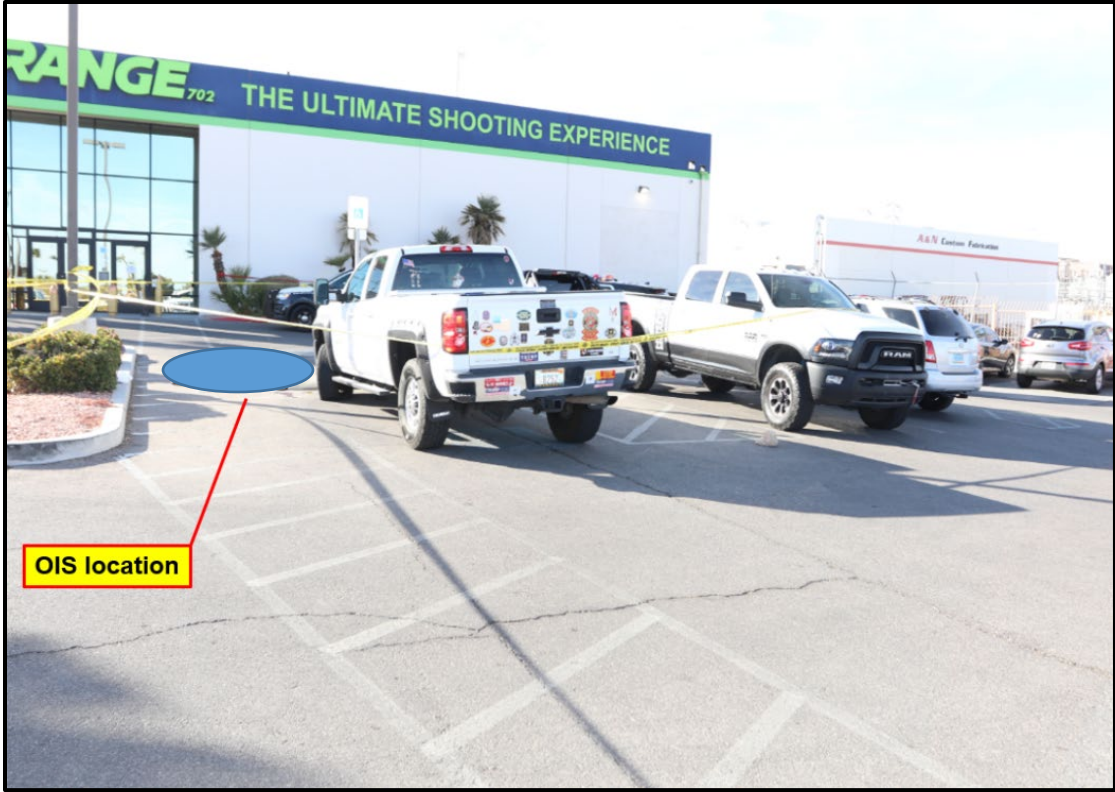
The scene was located at The Range 702 located at 5999 Dean Martin Drive, Las Vegas, Nevada 89118. Dean Martin Drive runs parallel to Interstate 15. The Range 702 is just South of Russell Road.

Crime Scene Analysts (CSAs) responded to 5999 Dean Martin Drive to photograph and document the scene and to collect evidence.





Crime Scene Diagram



Shooting Location



Screwdriver used by Decedent



Decedent's screwdriver with scale.

HOSPITAL

On February 3, 2021, at approximately 1330 hours, a CSA responded to UMC to photograph and document Officer Camacho's injuries and photograph and collect evidence.



Injuries to Officer Camacho's left eye area.

THIRD PARTY VIDEO EVIDENCE

The Range 702 – 5999 Dean Martin Drive

Video surveillance was obtained from The Range 702 from multiple camera angles. The following is a summary of the events pieced together from several cameras located inside and outside of The Range 702.

Decedent first appeared on video surveillance from an exterior camera which covered the parking lot on the east side of The Range 702. Decedent was walking southbound on the west sidewalk of Dean Martin Drive and was pushing a black, Razor style scooter. He entered the parking lot from the northeast corner of the property and walked to the front doors of The Range 702. When Decedent reached the doors, he propped up his scooter and entered the business.

Once inside the retail area of The Range 702, Decedent walked around for approximately one minute, briefly had a conversation with a female employee, and then entered the VIP Suite area through a closed door. Once inside, Decedent was seen in the VIP Suite where a CCW recertification class was being held. The class was on a break; however, several students and instructors were still in the room.

Decedent then exited the classroom and entered the VIP range where he was seen searching through a cardboard box that was on a shelf. At that point, he was wearing eye and hearing protection that he did not have on when he entered the business. Decedent then walked back into the classroom and sat down at an empty table. Underneath the table at Decedent's feet was a black range bag. Decedent leaned forward and started to go through the bag. While looking through the bag, a student walked behind Decedent and bumped his seat. Decedent immediately stood up and stepped away, but then returned to the same seat and sat down again. He then continued to look through the bag. When two range instructors walked by, Decedent sat up straight in the chair but returned to going through the bag when the instructors walked away from his location.

A short time later, the owner of the bag entered the room and approached Decedent. When the bag owner reached down to stop Decedent, Decedent slapped the bag owner's hand away. The bag owner then got the attention of the instructor who approached Decedent. A verbal confrontation was seen, and Decedent was eventually escorted from the classroom.



Screen Shot Showing the Owner of the Bag Attempting to Stop Decedent

After leaving the VIP Suite, Decedent was contained to an area in the southwest corner of the retail lobby. Decedent was surrounded by several employees who kept a short distance from him; he was not physically restrained. Decedent remained in that general area with employees for approximately 40 minutes until he was escorted outside of the business. During this time, Decedent showed The Range 702 employees his Nevada ID card which was photographed and returned to him.

Once outside, Decedent stood briefly near the front doors before walking southbound and out of camera view. Approximately five minutes later, Decedent reentered camera view as he walked back to the front door area of The Range 702. Employees were still outside with Decedent and watched him but were not physically restricting his movement.

After several minutes, a LVMPD patrol vehicle entered the parking lot and stopped near the front doors where Decedent and the employees were standing. The officers exited and Decedent started to walk away from the patrol vehicle. The patrol officer who was driving (Officer Camacho) could be seen pointing to the front of the patrol vehicle as she walked toward Decedent. When Decedent backed away, Officer Camacho grabbed Decedent's left arm. The other officer (Officer Nguyen) attempted to grab Decedent's right arm, however Decedent started to strike Officer Camacho.

Decedent then swung his right arm toward Officer Nguyen who moved backwards off balance. Officer Camacho was still holding onto Decedent as he continued to strike her multiple times. Officer Nguyen started to move towards Decedent and Officer Camacho as he drew his firearm. Officer Camacho fell to the ground. The Range 702 employees who were outside started to move towards Decedent and Officer Camacho as they (D.L.,

C.R., and J.S.) drew their firearms. The shooting occurred and Decedent immediately fell to the ground.



Screen Shot Showing Decedent Attacking Officer Camacho with Screwdriver

Immediately after the shooting, Officer Nguyen continued to aim his firearm at Decedent. The employees surrounded Officer Camacho and stayed close to her. Several LVMPD patrol vehicles arrived in the parking lot. A group of officers moved toward Decedent and placed him in handcuffs. Medical personnel arrived and attended to Officer Camacho and Decedent.

AUTOPSY

On February 4, 2021, at approximately 0842 hours, an autopsy was performed on the body of Decedent at the Clark County Office of the Coroner/Medical Examiner by Doctor Lisa Gavin.

The following wounds/injuries were noted in the medical examiner's report:

- 1) Graze wound of left ear.
- 2) Graze wound of nape of neck.
- 3) Gunshot wound of posterior aspect of right shoulder.
- 4) Gunshot wound of lower right anterior aspect of chest.
- 5) Gunshot wound of left mid-aspect of back/chest.
- 6) Probable graze wounds on right lateral aspect of chest.
- 7) Gunshot wound of right flank.
- 8) Gunshot wound of left lower quadrant/mid-abdomen.
- 9) Graze wound of left lower quadrant of abdomen.
- 10) Gunshot wound of right lower aspect of back.

- 11) Gunshot wound of left lower quadrant of abdomen near left inguinal region.
- 12) Gunshot wound of lateral aspect of right buttock.
- 13) Graze wound right buttock.
- 14) Gunshot wound of lower aspect of right buttock.
- 15) Gunshot wound of right upper arm.
- 16) Two gunshot wounds near right elbow.
- 17) Gunshot wound of upper aspect of right ventral forearm.
- 18) Gunshot wound of lower aspect of left upper arm.
- 19) Gunshot wound of upper aspect of left forearm near elbow.
- 20) Gunshot wound of left ventral forearm.
- 21) Gunshot wound of lateral upper aspect of right thigh.
- 22) Gunshot wound of lateral aspect of left thigh.

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

Positive Findings:

<u>Compound</u>	<u>Result</u>	<u>Units</u>	<u>Matrix Source</u>
Ethanol	22	mg/dL	001 - Heart Blood
Blood Alcohol Concentration (BAC)	0.022	g/100 mL	001 - Heart Blood
Caffeine	Positive	mcg/mL	001 - Heart Blood
11-Hydroxy Delta-9 THC	41	ng/mL	001 - Heart Blood
Delta-9 THC	>100	ng/mL	001 - Heart Blood

After a thorough review of facts and circumstances and a complete autopsy, Doctor Gavin opined Decedent died as a result of multiple gunshot wounds. The manner of death was homicide.

OFFICER WEAPON COUNTDOWNS

Officer Nguyen

Officer Nguyen's countdown occurred at approximately 1815 hours on February 3, 2021. His weapon was a Glock 45, 9mm handgun. Prior to countdown, Officer Nguyen stated he carried 20 cartridges in the magazine loaded in his firearm and one cartridge in the chamber (20+1, 21 total).

During the incident, Officer Nguyen conducted a tactical reload, replacing the magazine from the magazine well of the firearm with a full capacity magazine, and then secured the original magazine in spare magazine pouch #1 where it was recovered.

At the completion of the countdown, it was determined Officer Nguyen discharged his firearm nine times during this incident, which was consistent with the evidence at the scene. Officer Nguyen's firearm, magazines used during the OIS, and cartridges were photographed and impounded.

Officer Camacho

Officer Camacho's countdown occurred at approximately 1830 hours. Officer Camacho had been transported to UMC Trauma Center following the OIS. Detective Mendoza took possession of Officer Camacho's duty belt. This was done because she stated that she did not believe she drew her weapon; however, video evidence showed she did. Officer Camacho's handgun was counted down for documentation that she did not discharge her firearm.

Officer Camacho was carrying a Sig Sauer P320, 9mm handgun. Her magazine had a 21-round capacity, and she kept one in her chamber. At the completion of the countdown, it was determined Officer Camacho did not fire her firearm during this incident. Officer Camacho's firearm, magazine, and cartridges were photographed for documentation and then returned to Officer Camacho.

CIVILIAN WEAPON COUNTDOWNS

On February 3, 2021, D.L., C.R., and J.S. had their weapons counted down at The Range 702 to determine the number of rounds each involved civilian fired during the incident.

J.S.

J.S.' countdown occurred at approximately 1520 hours. His weapon was a Glock 43 X, 9mm handgun. Prior to countdown, J.S. stated he carried 10 cartridges in the magazine loaded in his firearm and one cartridge in the chamber (10+1, 11 total). At the completion of the countdown, and after comparison to the evidence at the scene, it was determined J.S. discharged his firearm two times during this incident.

D.L.

D.L.'s countdown occurred at approximately 1530 hours. His weapon was a Sig Sauer P320, 9mm handgun. Prior to countdown, D.L. stated he normally carried 17 cartridges in the magazine loaded in his firearm and one cartridge in the chamber (17+1, 18 total). D.L. stated he had been on the range doing firearm instruction and a student accidentally took some of his ammunition and some of their cartridges were mixed up. D.L. stated when he reloaded his magazine, he believed he was down five cartridges.

At the completion of the countdown, based on the information D.L. provided, and compared to evidence at the scene, detectives concluded D.L. discharged his firearm nine times.

C.R.

C.R.'s countdown occurred at approximately 1540 hours. C.R.'s weapon was a Glock 43 X, 9mm handgun. Prior to the countdown, C.R. stated he carried 10 cartridges in the magazine loaded in his firearm and one cartridge in the chamber (10+1, 11 total). At the completion of the countdown, it was determined C.R. discharged his firearm eight times during this incident. This was consistent with evidence at the scene.

FIREARM EXAMINATIONS

Function Testing and Ballistic Comparison Evidence

On February 9, 2021, an LVMPD Forensic Laboratory Request was submitted by Detective Penny on Subject Officer Nguyen's and Involved Civilians D.L., C.R. and J.S.' firearms for function tests and ballistic comparison evidence.

On March 24, 2021, Forensic Scientist R.W. submitted the Report of Examination: Firearms. R.W. determined that two bullets removed from Decedent at autopsy were fired from Officer Nguyen's firearm. Two other bullets recovered during the autopsy were identified as having been fired by C.R.'s weapon. One bullet recovered during autopsy was identified as having been fired by J.S.'s weapon. Another bullet recovered during autopsy was identified as having been fired by D.L.'s weapon. Casings from the scene were also matched to each of these firearms.

DECEDENT'S HISTORY

As indicated above, Officers Camacho and Nguyen were advised by dispatch that Decedent had violent priors. The specific information relayed to them indicated that Decedent had priors for Assault on a Protected Person, Attempted Murder, and other charges. During the follow-up investigation, it was learned that those charges stemmed from an incident that occurred on December 30, 2017.

During the December 30, 2017 incident, North Las Vegas Police Officer R.N. responded to a Walmart located on West Lake Mead in response to a call about a stolen vehicle. As the officer entered and passed Decedent, Decedent turned toward the officer, placed both of his hands on the officer's gun holster and tried to gain control of the officer's firearm. Despite the officer yelling at him to stop repeatedly, Decedent continued to try and obtain possession of the officer's firearm. A struggle occurred, during which the officer had to seek help from nearby citizens. A bystander assisted in getting Decedent to the ground.

The struggle continued as the officer attempted to place Decedent in handcuffs. Eventually, Decedent was tased multiple times. Once Decedent was under control and placed in handcuffs, the officer attempted to stand Decedent back up, at which time Decedent grabbed the officer's collar, began to pull the officer toward him and kicked him in the groin. Later, Decedent told another officer, "I wanted his gun, I was going to protect and serve my fucking country, he had a nice gun and I wanted it."

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.¹ NRS 200.120(1). Homicide is also lawful when committed:

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

NRS 200.160(1).

The Nevada Supreme Court has refined the analysis of self-defense 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:

¹ NRS 200.120(3)(a) defines a crime of violence:
"Crime of violence" means any felony for which there is a substantial risk that force or violence may be used against the person or property of another in the commission of the felony.

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 Decedent 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 imminent danger to Officers Camacho and Nguyen, as well as nearby employees of The Range 702. At the time Officer Nguyen and the civilians discharged their weapons, Decedent had struck Officer Camacho with a screwdriver and swung at Officer Nguyen. The totality of the evidence, to include video, witness statements, and evidence at the scene illustrates that Officer Nguyen had a reasonable belief that Decedent would cause great bodily harm or death to Officers Camacho and/or himself or the civilians. Officer Nguyen was confronted with the appearance of imminent danger and acted out of a reasonable belief that someone was about to be seriously injured or killed by Decedent. Officer Nguyen reasonably acted in

defense of others and himself. Consequently, the shooting of Decedent is 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. See 1985 Nev. Op. Att’y Gen. 47 (1985).

In this case, evidence indicates that Officer Nguyen had probable cause to believe that Decedent posed a threat of serious physical harm to Officer Camacho as well as himself and the nearby civilians. Immediately preceding the shooting, Decedent refused to comply with lawful orders and began to attack Officer Camacho with a screwdriver. Additionally, Decedent swung at Officer Nguyen. Officer Camacho was physically harmed by Decedent, and Officer Nguyen as well as the civilians could have been harmed or killed. At the point that Officer Nguyen fired his weapon, he had a reasonable belief that Decedent could cause serious physical harm and/or death to Officer Camacho, civilians, or himself. Thus, the use of deadly force by Officer Nguyen was legally justified and appropriate under NRS 200.140(2).

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 Officer Nguyen were reasonable and/or 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.” *Id.*

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 Officer Nguyen.