

# REPORT ON USE OF FORCE



## Legal Analysis Surrounding the Death of Byron Lee Williams on September 5, 2019

### INTRODUCTION

On September 5, 2019, Las Vegas Metropolitan Police Department (hereinafter "LVMPD") Patrol Officers Patrick Campbell and Benjamin Vazquez were in the area of Bonanza and Martin Luther King Boulevard. At approximately 5:48 am, they saw an individual, later identified as Byron Williams, (hereinafter "Decedent") riding a bicycle on the road without front or rear lights. Officers activated their lights and sirens and attempted to stop Decedent. Instead of stopping for the officers, Decedent fled on a bicycle toward a Chevron gas station located on the north side of the intersection. There, Decedent abandoned the bicycle and continued on foot over a wall. Officers Campbell and Vazquez exited their patrol car and gave chase over the same wall in an attempt to apprehend Decedent.

Decedent continued westbound, where he scaled a second wall and continued running onto the property of the Desert Garden Condominiums, located at 1720 W. Bonanza Road. The pursuit continued through the complex. At approximately 5:51 am, Decedent surrendered by placing himself prone on the ground near Building N, Unit #111. Once officers caught up to Decedent, Officer Campbell placed one knee on Decedent's back in order to secure him in handcuffs. Officer Vazquez followed and assisted Officer Campbell. Additional LVMPD officers were called to assist. While on his stomach, Decedent complained that he could not breathe. Officer Vazquez told Decedent it was because he had been running, but requested medical respond based upon Decedent's complaints. Officers then assisted Decedent in getting to his feet. Once upright, two baggies of

methamphetamine fell from Decedent's person. Decedent attempted to hide the baggies with his feet, however, officers were able to see, and ultimately recovered the narcotics. Decedent was also in possession of a pill bottle containing seven hydrocodone tablets.<sup>1</sup>

Officers escorted Decedent to the west side of Building N and repositioned him on his stomach. There, Officers monitored Decedent by checking his pulse. Concerned, they repositioned him to his side and continued to monitor his breathing. Medical personnel arrived on scene and found Decedent unresponsive. Cardiopulmonary Resuscitation (hereinafter "CPR") was administered by officers first, and then by medical personnel. Ultimately Decedent was transported to Valley Hospital Medical Center, where he expired at 6:44 am.

The District Attorney's Office has completed its review of the September 5, 2019, death of Decedent. It was determined that, based on the evidence currently available and subject to the discovery of any new or additional evidence, the actions of Officers Campbell and Vazquez were not criminal in nature.

This report explains why criminal charges will not be forthcoming against the officers involved. It is not intended to recount every detail, answer every question or resolve every factual conflict regarding this citizen-law enforcement encounter. The report is meant to be considered in conjunction with the Police Fatality Public Fact-Finding Review conducted on October 2, 2020. This report is intended solely for the purpose of explaining why, based upon the facts known at this time, the conduct of Officers Campbell and Vazquez were not criminal.

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

## **THE EVENTS WHICH OCCURRED AT 1720 W. BONANZA ROAD ON SEPTEMBER 5, 2019**

At approximately 5:50 am on September 5, 2019, officers responded to 1720 W. Bonanza Road to assist fellow officers who were involved in a foot pursuit in the area of Martin Luther King Boulevard and Bonanza Road.

The following section details the events and actions of officers responding to the address. The Clark County District Attorney's Office (hereinafter "CCDA") has reviewed all police

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<sup>1</sup> Hydrocodone is an opioid.

reports, statements, Crime Scene Analyst (hereinafter “CSA”) reports, as well as Body Worn Camera (hereinafter “BWC”) footage submitted by the LVMPD.<sup>2</sup>

## **INVOLVED OFFICERS BODY WORN CAMERA FOOTAGE**

### **Officer Patrick Campbell**

On September 5, 2019, Officer Campbell attempted to make a person stop on a subject (Decedent) riding a bicycle without proper lights on Bonanza Road. Officer Campbell was wearing a BWC which he activated. While driving, Officer Campbell also activated his vehicle’s lights and sirens. From Bonanza Road, Decedent rode through the gas pump area of the Chevron gas station and onto Martin Luther King Boulevard, in an obvious attempt to evade police. Officer Vazquez, who was riding in the front passenger seat of the patrol car, ordered Decedent to stop by using the vehicle loudspeaker. Decedent ignored the commands and instead rode into a desert lot located north of the Chevron. Decedent arrived at a brick wall, abandoned his bicycle, climbed over the wall and fled northbound on Sunny Place.

Officer Campbell left his patrol vehicle and followed Decedent over the wall. He then gave chase to Decedent who was sprinting ahead of him. Officer Campbell updated dispatch of his location. Decedent came upon a second wall, which he climbed over. Officer Campbell followed Decedent over the second wall and continued giving chase. As Officer Campbell approached Building N, he ordered Decedent to get on the ground. Decedent complied. Officer Campbell attempted to place handcuffs on Decedent’s right arm but Decedent resisted. Officer Vazquez arrived and together the officers managed to secure the handcuffs. Decedent complained he could not breathe. Officer Vasquez, who was also out of breath from sprinting and jumping two walls, responded that it was because he had been running. Officer Vasquez then placed his knee on Decedent’s buttocks as he and Officer Campbell waited for backup.

Additional officers arrived and repositioned Decedent onto his side. They then assisted in lifting Decedent to his feet, at which point numerous items of contraband fell from Decedent’s person. Officers escorted Decedent to the parking lot area where they repositioned him on his stomach and waited for medical to arrive. Officer Campbell then got into Officer Corey’s vehicle in order to retrieve his car which had been left at the Chevron gas station. He deactivated his BWC at that time.

Officer Campbell reactivated his BWC approximately 15 minutes later when he returned to the incident scene. Medical personnel were on scene and rendering medical aid. Officer Campbell deactivated his BWC once the ambulance transported Decedent.

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<sup>2</sup> The relevant portions of the body worn camera footage were played during the Police Fatality Public Fact-Finding Review on October 2, 2020. Additionally, the body worn camera footage is available for review on the Las Vegas Metropolitan Police Department website at LVMPD.com.

## **Officer Benjamin Vazquez**

On September 5, 2019, Officer Vazquez was wearing a BWC which he activated as he and Officer Campbell attempted to stop a person (Decedent) riding a bicycle west of Martin Luther King Boulevard. Officer Vasquez informed dispatch that the subject had fled and was going through the Chevron gas station in an attempt to evade officers. Officer Vazquez gave numerous verbal commands for Decedent to stop, but he refused, instead continuing onto Martin Luther King Boulevard and then westbound into a dirt lot. Decedent ultimately arrived at a wall, where he abandoned his bicycle and jumped the wall on foot. Officer Vazquez exited the passenger side of the patrol car and gave chase over the wall. While climbing, he broadcast his location and direction of travel over the radio. He then ran after Decedent northbound on Sunny Place.

While running, Decedent climbed over a second wall. Officer Vazquez followed. Ultimately, Officer Vazquez caught up with Officer Campbell and Decedent in the Desert Garden Condominiums. Decedent was lying on his stomach, struggling with Officer Campbell, who was attempting to place handcuffs on him. Officer Campbell had one knee on the ground and the other knee placed on Decedent's back. Officer Vazquez assisted Officer Campbell and they were able to handcuff Decedent. While on the ground, Decedent complained he could not breathe. Officer Vazquez responded that it was because he had been running.

Additional officers arrived to assist. They helped Decedent to his feet and called for medical aid. Once standing upright, baggies and a pill bottle - all of which contained narcotics - dropped from Decedent's person. Decedent then dropped his weight and was escorted to the parking lot area by officers. Officer Vazquez searched the area for additional items of contraband before joining Decedent and his fellow officers in the parking lot area. While waiting idle for medical to arrive, Officer Vazquez deactivated his BWC.

Approximately 16 minutes later, Officer Vazquez reactivated his BWC as medical personnel were treating Decedent. He placed Decedent's personal affects in a paper bag. Medical asked officers how long prior to their arrival they noticed Decedent breathing. Officers replied "a minute" before their arrival. Medical placed Decedent on a gurney and administered chest compressions. He was then secured in the ambulance. At that point, Officer Vazquez deactivated his BWC.

## **WITNESS OFFICER STATEMENTS AND BODY WORN CAMERA FOOTAGE**

### **Officer Rocky Roman**

On September 5, 2019, Officer Roman heard over his police radio, that Officers Campbell and Vazquez were initiating a person stop in the area of Martin Luther King Boulevard and Bonanza Road. Immediately thereafter, Officer Roman heard that the officers were involved in a foot pursuit. In response, Officer Roman responded to the area of 1720 W. Bonanza Road to assist his fellow officers. While en route, Officer Roman activated his BWC. Upon arrival, Officer Roman located the officers and Decedent, who was cuffed and lying on his stomach, in between buildings N and K. Officer Vazquez had one knee placed on Decedent's back and the other knee on the ground. Officer Roman took over Officer Vazquez's position. Decedent said he could not breathe. Officer Roman moved his knee from Decedent's lower back area and re-positioned it on Decedent's buttocks area.

Officer Roman and the other officers then rolled Decedent to his side and further lifted him to his feet. As they did, two baggies fell from Decedent's waistband. Decedent attempted to conceal the baggies with his feet. Officer Roman instructed officers to pick up the baggies, at which point Decedent dropped his body weight, requiring officers to carry him to the parking lot. There, officers placed Decedent on his stomach and waited for medical to arrive. While waiting, Officer Roman deactivated his BWC.

While Decedent was on the ground, Officer Roman noticed his breathing becoming faint. Officers rolled Decedent onto his side. Officer Roman placed his shin next to Decedent's chest to brace him and to monitor his chest rising and falling. Officer Roman then checked Decedent's pulse at his wrist, while another officer checked the pulse at Decedent's neck. Officer Roman felt a faint pulse. Medical arrived shortly thereafter and began treating Decedent, at which point the BWC was reactivated.

### **Officer Alexander Gonzalez**

On September 5, 2019, Officer Gonzalez was at the Bolden Area Command when he heard fellow officers broadcast over the radio that they were engaged in a foot pursuit in the area of Martin Luther King Boulevard and Bonanza Road. While en route, Officer Gonzalez activated his BWC. Shortly thereafter, he heard that officers had taken the suspect into custody. He then deactivated his BWC. Approximately 45 seconds later, Officer Gonzalez reactivated his BWC. He followed another patrol car through the Desert Garden Condominium complex. There, he parked his vehicle and walked to the location of Decedent and his fellow officers.

Upon arrival, Officer Gonzalez observed Decedent lying face down on the ground. Officer Roman was securing Decedent with one knee on Decedent's buttocks. Officer Gonzalez heard Decedent say he could not breathe. Officer Gonzalez then helped Officer Roman lift Decedent to his feet. Once upright, two baggies of narcotics dropped from Decedent. Decedent used his feet in an attempt to conceal the baggies. He was then carried by officers to the parking lot.

There, officers positioned Decedent face down on the ground and waited for medical to arrive. While waiting, another officer searched Decedent and located an electronic ankle monitor attached. At that time, Officer Gonzalez noticed Decedent appeared unresponsive. He checked Decedent's pulse and to see if he was breathing. Officer Gonzalez felt a pulse on Decedent's neck. He then positioned Decedent on his side in order to examine Decedent's eyes for movement. Officer Gonzalez did not get a reaction from Decedent. Officer Roman positioned his shin against Decedent to ensure he did not roll back to his stomach. At that point, Officer Gonzalez deactivated his BWC and waited for medical personnel to arrive.

Approximately 14 minutes later, Officer Gonzalez reactivated his BWC. At that point Decedent was lying on his back with medical rendering aid. Officer Gonzalez assisted with chest compressions. Officers informed medical that Decedent appeared to be breathing a minute before they arrived. They also informed medical he had methamphetamine and pills on his person. Decedent was placed in the ambulance, at which point Officer Gonzalez deactivated his BWC.

## **Officer Phillip Bruen**

On September 5, 2019, Officer Bruen heard over his police radio, that Officers Campbell and Vazquez were involved in a foot pursuit in the area of Martin Luther King Boulevard and Bonanza Road. Officer Bruen responded to assist his fellow officers, activating his BWC as he left the parking lot of the Bolden Area Command substation. Upon arrival at the Desert Garden Condominiums, Officer Bruen saw Decedent lying face down and being searched by officers. He then observed Officers Roman and Gonzalez lift Decedent to his feet. Once Decedent was upright, two baggies fell from his lap area. Officer Bruen also observed a pill bottle on the ground. Decedent attempted to conceal the items with his feet. Officers tried to walk Decedent to the parking lot, but he dropped his weight. Officers Roman and Gonzalez then carried Decedent to the parking lot, where they placed him face down on the ground. At that point, Officer Bruen deactivated his BWC and returned to Bolden Area Command to test the items that had fallen from Decedent's person.

Approximately 23 minutes later, Officer Bruen reactivated is BWC and returned to the scene. Upon arrival, Decedent was secured in the ambulance. Officer Bruen was then

informed that Decedent was “possibly deceased.” Officer Bruen walked toward his patrol vehicle and deactivated his BWC.

### **Officer Brandon Holguin**

On September 5, 2019, Officer Holguin had just completed a vehicle stop when he heard over police radio that officers were involved in a foot pursuit. Officer Holguin responded Desert Garden Condominiums at 1720 W. Bonanza Road. While en route, he activated his BWC. Once at the scene, Officer Holguin observed Decedent lying on his stomach being searched by officers. Officers lifted Decedent upright, at which point two baggies fell to the ground. Decedent attempted to kick the baggies with his feet. Officers then instructed Decedent to stand, but he did not comply. Instead, he picked his feet up off the ground, forcing officers to carry him to the parking lot. Officers placed Decedent on his stomach and conducted an additional search. Officer Holguin located an electronic house arrest monitoring bracelet on Decedent’s ankle. At that point, Officer Holguin deactivated his BWC. He reactivated his BWC approximately 5 seconds later. Officers then repositioned Decedent on his side to confirm he was breathing. Officers acknowledged he was, in fact, breathing and moving. Officer Holguin then retrieved his patrol vehicle, which was parked at the front of the complex. On his way to his car, he deactivated his BWC. He then went to Valley Hospital to wait for Decedent to be transported.

### **Officer Samantha Corey**

On September 5, 2019, Officer Corey was at the Bolden Area Command when she heard fellow officers broadcast over the radio that they were engaged in a foot pursuit in the area of Martin Luther King Boulevard and Bonanza Road. Officer Corey left the substation and followed Officer Gonzalez to 1720 W. Bonanza Road to assist. She activated her BWC as she was leaving the parking lot. Upon arrival, Officer Corey observed Decedent lying face down on the ground. Officer Roman had his knee placed on Decedent’s buttocks area. Officer Corey heard Decedent complain that he was out of breath. She immediately requested medical respond to the scene.

Officers rolled Decedent on to his side and then lifted him to his feet. As they did this, two plastic baggies containing a white crystal-like substance and a pill bottle fell to the ground. Decedent lifted up his feet, forcing officers to carry him to the parking lot. While walking to the parking lot, Officer Corey deactivated her BWC. She then gave Officer Campbell a ride back to this patrol vehicle that was parked by the Chevron gas station. Officer Corey then walked the initial foot pursuit, locating Officer Vazquez’s flashlight that fell to the ground during the chase.

Sixteen minutes later, Officer Corey went back to the scene and reactivated her BWC. There, she saw medical personnel and Officer Gonzalez treating Decedent by applying

chest compressions to his body. Officer Corey assisted in lifting Decedent to a gurney, where medical continued to administer aid. Decedent was placed into an ambulance, at which point Officer Corey deactivated her BWC.

## **Sergeant James Langenhan**

On September 5, 2019, Sergeant Langenhan was in his office at the Bolden Area Command when he heard over police radio that officers attempted to stop a person riding a bike. He then heard that the person failed to stop and instead engaged the officers in a foot pursuit. Sergeant Langenhan left the substation to assist his officers. While en route, he activated his BWC. He also requested a perimeter be set up around 1720 W. Bonanza Road. Sergeant Langenhan heard over the radio that Decedent was taken into custody and that no force had been used to apprehend him. He heard officers request medical due to the fact that Decedent was complaining about shortness of breath.

Once Sergeant Langenhan arrived at the Desert Garden Condominiums, he searched on foot for his fellow officers but could not find them. He deactivated his BWC. Approximately 11 minutes later, Sergeant Langenhan reactivated his BWC. At that point Decedent was in the parking lot and officers were taking the handcuffs off Decedent. Decedent was then placed on his back while medical rendered aid. Sergeant Langenhan ordered an officer to follow the ambulance upon transport.

Officers lifted Decedent onto the gurney as he continued to receive medical attention. Decedent was then placed in the ambulance. Sergeant Langenhan walked to his vehicle and deactivated his BWC.

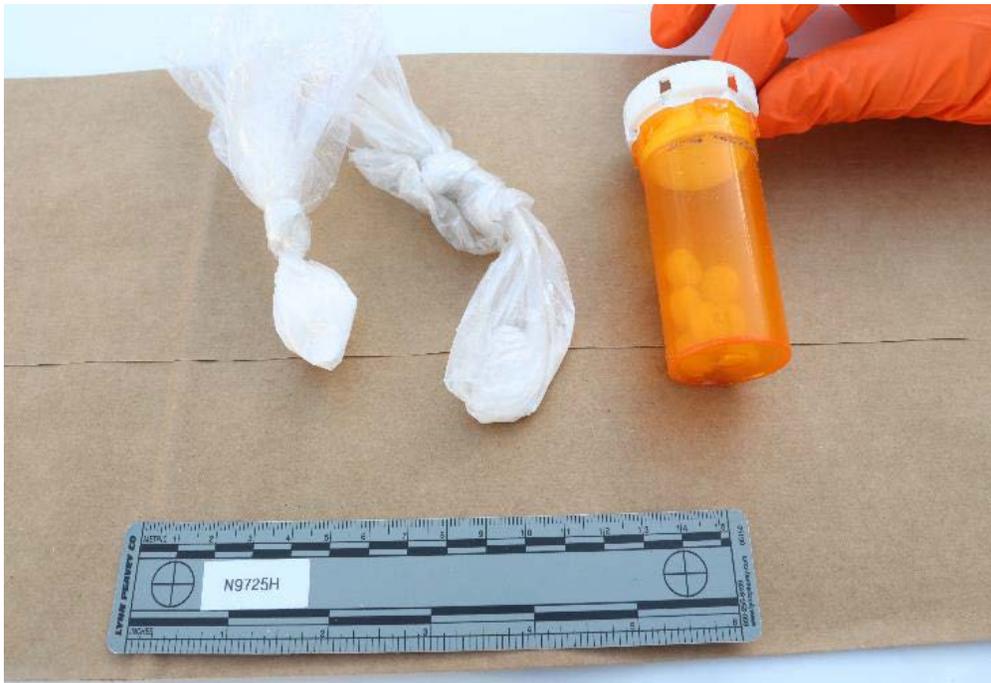
## TIMELINE OF EVENTS

Time (hours)	Description of Event/Action	Source
05:48:30	Officers Campbell and Vazquez initiated a person on foot stop.	Computer Aided Dispatch (CAD)
05:49:01	A Code Red (emergency exists, emergency radio traffic only) was generated due to the subject (Byron Williams), who was riding a bicycle, fleeing from officers toward the Chevron gas station.	CAD, BWC footage
05:49:40	Williams abandoned the bicycle and climbed over a wall and then ran northbound on Sunny Place.	CAD, BWC footage
05:49:47	Williams climbed over the wall into the Desert Garden Condominiums complex.	CAD, BWC footage
05:50:50	Williams was taken into custody inside the complex.	CAD, BWC footage
05:51:34	Williams was in custody and a Code 4 (an emergency no longer exists) was generated.	CAD, BWC footage
05:52:59	Officer Campbell broadcasted negative use of force by officers, and Williams complied with officers' commands and went to the ground.	CAD, BWC footage
05:54:53	Officer Corey requested medical aid for Williams who was out of breath.	CAD, BWC footage
05:55:02	A house arrest bracelet was identified on Williams.	CAD, BWC footage
06:01:58	Officer Holguin updated Dispatch they were located at building N.	CAD
06:02:34	Medical personnel were advised of the updated location.	CAD
06:05:18	Medical personnel arrived and went on foot to look for officers.	CAD
06:13:44	Officer Corey informed Dispatch LVFR Rescue 3 was on the scene.	CAD
06:15:38	LVFR Rescue 343 transported Williams to Valley Hospital with Officer Holguin following the ambulance.	CAD
06:29:03	Williams was transported to exam room #16.	CAD
06:50:39	Williams was confirmed deceased.	CAD





*Decedent's recovered house arrest ankle monitor.*



*Narcotics in Decedent's possession: one clear baggie containing 3.2 grams of methamphetamine, one clear baggie containing 1.8 grams of methamphetamine and one pill container containing 7 hydrocodone tablets.*

## AUTOPSY OF DECEDENT

On September 6, 2019, at approximately 8:50 am, Clark County Medical Examiner Dr. Jennifer Corneal performed an autopsy on the body of Decedent. At completion of the autopsy, Dr. Corneal determined Decedent's cause of death was methamphetamine intoxication with hypertensive and atherosclerotic cardiovascular disease, pulmonary fibrosis, granulomatous lung disease and prone restraint. She then determined the manner of death as homicide.

**CAUSE OF DEATH:** This 50-year-old male, Byron Lee Williams, died of methamphetamine intoxication with hypertensive and atherosclerotic cardiovascular disease, pulmonary fibrosis, granulomatous lung disease and prone restraint listed as other significant conditions.

*Dr. Corneal's findings regarding cause of death.*

As to the first pathologic diagnosis, a postmortem toxicological analysis revealed the following positive findings in Decedent's system: Amphetamine, Methamphetamine, Delta 9-THC and Naloxone. Methamphetamine is a stimulant known to cause aggressive behavior and irrational reactions in the user. Chronic use leads to cardiovascular disease, which, after accidental overdose, is the leading cause of death among methamphetamine users. Decedent had a level of methamphetamine of 2100 ng/mL in his system. This is a lethal level which could independently cause death.

<u>Compound</u>	<u>Result</u>	<u>Units</u>	<u>Matrix Source</u>
Caffeine	Positive	mcg/mL	001 - Peripheral Blood
Cotinine	Positive	ng/mL	001 - Peripheral Blood
Naloxone	Positive	ng/mL	001 - Peripheral Blood
Delta-9 THC	0.60	ng/mL	001 - Peripheral Blood
Amphetamine	150	ng/mL	001 - Peripheral Blood
Methamphetamine	2100	ng/mL	001 - Peripheral Blood
Creatinine (Vitreous Fluid)	1.6	mg/dL	005 - Vitreous Fluid
Sodium (Vitreous Fluid)	149	mmol/L	005 - Vitreous Fluid
Potassium (Vitreous Fluid)	10	mmol/L	005 - Vitreous Fluid
Chloride (Vitreous Fluid)	128	mmol/L	005 - Vitreous Fluid
Urea Nitrogen (Vitreous Fluid)	25	mg/dL	005 - Vitreous Fluid

*Decedent's toxicological findings.*

During the internal examination of Decedent, Dr. Corneal noted the following injuries and medical issues: pulmonary fibrosis, hypertensive and atherosclerotic cardiovascular disease to include acute myocardial infarction, remote myocardial infarction, moderate coronary artery atherosclerosis and myocyte disarray. Dr. Corneal also noted granulomatous disease of the lungs, as well as minor abrasions of the head, torso and lower extremities.

With regard to Decedent's heart, the exam revealed evidence of substantial natural disease, to include acute myocardial infarction, meaning the Decedent suffered a heart

attack 4 to 24 hours before he came into contact with police. Additionally, the Remote Myocardial Infarction showed Decedent suffered an additional heart attack in the past. That heart attack could not be aged. It was Dr. Corneal's opinion that the cardiovascular disease and overall compromised condition of Decedent's heart could independently have caused death.

With regard to Decedent's lungs, the exam revealed pulmonary fibrosis and granulomatous disease. According to Dr. Corneal this condition produces significant scarring to the lungs which prevents the transport of oxygen to the cells; thus, forcing the other organs and systems to work harder. This, coupled with the extreme physical exertion and already compromised heart, placed serious stress on Decedent's system. It was Dr. Corneal's opinion that the overall compromised condition of Decedent's lungs could independently have caused death.

With regard to prone restraint, it was Dr. Corneal's opinion that this positioning alone could not have independently caused death in an otherwise healthy individual.

## **LEGAL ANALYSIS**

The District Attorney's Office is tasked with assessing the conduct of officers involved in any killing which occurred during the course of their duties. That assessment includes determining whether any criminality on the part of the officers existed at the time of the incident. As this case has been deemed a homicide by the coroner, the actions of these officers will be analyzed under the State's jurisprudence pertaining to homicides.

NRS Chapter 200 defines crimes against the person. NRS 200.010 defines murder as the unlawful killing of a human being with malice aforethought, either express or implied.

NRS 200.020 defines malice as the deliberate intention to take away the life of another, as in the case of express malice, or when the circumstances of the killing show an abandoned and malignant heart, as in the case of implied malice.

In the instant case, there is no evidence of any intent to kill on the part of any officer. With regard to implied malice, the Nevada Supreme Court has suggested that the theory requires that the defendant knew that the victim was in serious or mortal danger. See Labastida v. State, 115 Nev. 298, 307-8, 986 P.2d 443, 449 (1999) ("[t]here is insufficient evidence that she ever knew that her child was in serious or mortal danger prior to the time she telephoned for an ambulance" and thus "there is insufficient evidence to support a reasonable inference that Labastida had the criminal intent required for a conviction of murder"). Applying that knowledge standard to the instant case, there is no evidence that Officers Campbell and Vazquez knew Decedent was in danger. Decedent did repeatedly say he could not breathe; however, both Officers Campbell and Vazquez were similarly out of breath due to the sprint all parties had just run.

Additionally, in spite of the fact that it appeared Decedent was simply out of breath due to him running from officers, officers immediately called medical to render aid. It would have been impossible for officers to know that Decedent was in serious danger based upon the scene as it appeared on September 5, 2019. Nor could the officers have known Decedent's methamphetamine levels or his extensive list of both cardiac and respiratory health issues; thus, there is insufficient evidence to support a reasonable inference that either Officer Campbell or Officer Vasquez possessed any criminal intent whatsoever, let alone the quantum needed to convict.

NRS 200.040 defines manslaughter as the unlawful killing of a human being without malice, either express or implied, and without any deliberation. In Nevada, manslaughter is a willful killing. What reduces the killing from murder to manslaughter is explained in NRS 200.050, which explains that for manslaughter, there must be a serious and highly provoking injury inflicted upon the person killing "sufficient to excite an irresistible passion in a reasonable person, or an attempt by the person killed to commit a serious personal injury on the person killing." The factual situation in the instant case does not fit the crime of voluntary manslaughter.

NRS 200.070 defines involuntary manslaughter as the killing of a human being without any intent to do so in the commission of an unlawful act or "a lawful act which probably might produce such a consequence in an unlawful manner." In the case of Decedent, the patrol officers were conducting a lawful arrest, Decedent was restrained in a lawful manner and there was no excessive force used. Moreover, the officers could not have known Decedent's preexisting health conditions which brought about his death.

Because the conduct was legal at the time, the conduct of the officers does not fall within the state criminal statutes.

## **CONCLUSION**

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