

**OFFICE OF THE WASHOE COUNTY  
DISTRICT ATTORNEY**

January 26, 2024



REPORT ON THE NOVEMBER 13, 2021, OFFICER  
INVOLVED SHOOTING OF MICHAEL BENSON

**CHRISTOPHER J. HICKS**

**WASHOE COUNTY DISTRICT ATTORNEY**

## Table of Contents

INTRODUCTION.....	2
I. STATEMENT OF FACTS.....	5
A. Witness Accounts.....	5
1. Tegg Orduno.....	5
2. Reno Police Officer W. Appleton.....	8
3. Reno Police Officer J. Benvin.....	10
4. Reno Police Officer D. Hutmier.....	12
5. Reno Police Officer A. Hartshorn.....	12
6. Reno Police Sergeant C. Valles.....	14
7. Michael Benson.....	18
B. Dispatch Information.....	20
C. Countdown of Sergeant C. Valles' Firearm.....	21
II. PHYSICAL EVIDENCE.....	22
A. Orduna Residence Ring Video.....	22
B. Plumb Lane/Shooting scene.....	26
1. Evidence Collection.....	27
2. Plumb Lane Ring Video.....	27
3. Ford Focus.....	28
C. Body Worn Cameras.....	30
III. PROSECUTION.....	34
IV. LEGAL PRINCIPLES.....	34
A. The Use of Deadly Force in Self-Defense or Defense of Another.....	35
B. Justifiable Homicide by Public Officer.....	36
C. Use of Deadly Force to Effect Arrest.....	37
V. ANALYSIS.....	37
VI. CONCLUSION.....	40

## INTRODUCTION<sup>1</sup>

On November 13, 2021, at approximately 2:49 p.m. Mr. Tegg Orduno (hereinafter "Mr. Orduno") was at his residence when he was awoken by someone knocking on his door in a loud and aggressive manner. Upon answering the door Mr. Orduno found an individual, later identified as Michael Ray Benson (hereafter "Benson"), standing at his front door. Benson appeared angry or agitated and had a red face. He asked Mr. Orduno about the whereabouts of a little girl and motioned to the area of Mr. Orduno's truck and/or garage. Mr. Orduno exited his house to speak further with Benson. The interaction ended when the neighbor to the west opened his front door and released his dog. This action appeared to cause Benson to leave Mr. Orduno's residence and return to his vehicle, which was parked in front of Mr. Orduno's house.

Later that same evening, Mr. Orduno received an alert on his cellphone for his Ring camera which was attached over the garage area and captured the driveway and front yard. Upon opening the application, Mr. Orduno observed an individual walking in between his truck and the neighbor's house. Mr. Orduno immediately went to his front door, exited, and began searching for the person he observed on the Ring camera. Mr. Orduno observed the individual walking away from his home, so he jumped into his truck to catch up to the individual. Once closer, Mr. Orduno realized that the male was the same person who had come to his house earlier in the day (Benson). Seeing this, Mr. Orduno called 911 and continued to follow Benson, who then entered a vehicle parked down the street. Mr. Orduno continued to follow Benson until police were able to respond and conduct a traffic stop. During this time, Mr. Orduno was on the phone with dispatch updating them on the current situation and Benson's previous actions. Additionally, Mr. Orduno was also providing what he believed was a motive for Benson showing up at his front door.

This explanation revolved around an ex-inmate from the Nevada Department of Corrections who had been stalking his ex-wife, who is a Reno Police Officer. The stalking had been going on for several years, resulting in a previously court ordered

---

<sup>1</sup> The Introduction is synopsised from recorded witness interviews, photographs, police reports, video surveillance and forensic reports.

stalking/harassment order. Mr. Orduno explained the details of his suspicions to dispatch, who in turn relayed this information to law enforcement officers responding to the situation.

Reno Police Department (hereinafter "RPD") Officer Wayne Appleton (hereinafter "Officer Appleton") was working patrol when he was notified by dispatch of the above information and that Mr. Orduno was following a potential suspect. Officer Appleton was in the area and located Benson's vehicle, a black Ford Focus. Officer Appleton initiated a traffic stop on Benson's vehicle by activating his lights and siren, but Benson did not pull over. RPD Officer Jacklyn Benvin (hereinafter "Officer Benvin") was driving east on Plumb Lane and upon seeing Officer Appleton attempting to pull over Benson, drove her vehicle into oncoming traffic for an instant to stop Benson. Benson then pulled his vehicle over to the south side of Plumb Lane. Officer Benvin redirected her vehicle back to the westbound traffic lane and then made a U-Turn and parked directly behind Officer Appleton. RPD Sergeant Carlos Valles (hereinafter "Sergeant Valles") also arrived on scene and parked directly behind Officer Benvin. All three then approached Benson's vehicle, with Officers Appleton and Benvin on the driver's side and Sergeant Valles on the passenger side. Officer Appleton asked Benson to roll down his window and to provide identification. Benson's driver's side window was rolled down approximately 1-2 inches. However, he refused all requests and orders from the officers to turn off his vehicle, roll down his window or provide his driver's license.

At this time, Sergeant Valles had taken up a position on the passenger side to monitor Benson's movements for officer safety reasons. Sergeant Valles' firearm was drawn and he notified the other officers that he had observed Benson reaching under his seat. Benson continued to refuse orders by Officers Appleton and Benvin to roll down his window or provide identification. Seeing this, Sergeant Valles responded to the driver's side door and gave further orders for Benson to comply. After refusing police commands to turn the vehicle off, roll down the window and to provide identification, Benson was warned by Sergeant Valles that his window would be broken if he did not roll it down. Benson still did not comply, and Sergeant Valles used a window punch in an attempt to break Benson's window. Despite

two attempts, the window did not break, and Benson started to drive away. Sergeant Valles reacted to this by holstering his weapon and placing his hands into the small opening of Benson's driver's side window. Benson continued to drive the vehicle with Sergeant Valles hanging on to the window. Sergeant Valles initially ran next to the vehicle, but due to Benson's continued failure to stop and increasing speed, he had to pick up his feet out of fear of being dragged underneath the vehicle. During this, Sergeant Valles repeatedly told Benson to stop the vehicle and also informed Benson that he would shoot him if he did not stop. Benson responded by slowing the vehicle but continued to refuse to stop. During the slower speed, Sergeant Valles was able to separate himself from Benson's vehicle and as Benson accelerated, Sergeant Valles discharged his weapon three times into the vehicle Benson was driving. Benson continued to drive away heading eastbound on Plumb Lane at a high rate of speed.

Benson, who had been shot, drove his vehicle to a Save-Mart parking lot a few miles east on Plumb Lane and parked in a stall before exiting and kneeling down in the parking lot. A woman in the vehicle parked next to Benson saw that he was injured and called the police for assistance. RPD Officers arrived shortly thereafter and provided medical care to Benson until he was transported to Renown Regional Medical Facility for treatment of a single gunshot wound to his chest, which he survived.

Consistent with the regionally adopted Officer Involved Shooting (hereinafter "OIS") Protocol, the Washoe County Sheriff's Office (hereinafter "WCSO") led the investigation into the shooting of Benson. The Sparks Police Department (hereinafter "SPD") provided secondary investigative support, and the Washoe County Sheriff's Office Forensic Science Division (hereinafter "FIS") provided forensic services. The Washoe County District Attorney's Office aided in obtaining search warrants in this case.

The OIS investigation included interviewing witnesses, collecting physical evidence from the shooting scene as well as the Save Mart parking lot and Benson's vehicle; photographs of the crime scenes and Benson's injuries, reviewing dispatch media evidence as well as logs, and all collected evidence; forensic testing of collected evidence, collection of surveillance video from multiple locations, Body Worn Cameras (hereafter "BWC") of

the officers involved, medical records for Benson and reviewing police reports associated with the case.

All final OIS investigative reports along with FIS forensic reports, photographs, BWC footage and recorded interviews were then submitted to the Washoe County District Attorney's Office by the Washoe County Sheriff's Office on August 2, 2022 who, in its completed report, did not recommend criminal charges for Sergeant Valles.

A criminal warrant case against Benson was also submitted to this office by the WCSO on October 20, 2022, which led to his eventual arrest in July 2023. To ensure the integrity of this criminal case, and consistent with this Office's common practice, the OIS review was held in abeyance pending the arrest and outcome of Benson's prosecution. Benson subsequently pled guilty to charges of Stalking, Resisting a Public Officer, and Reckless Driving. In October of 2023, he was sentenced to an aggregate term of 286 days in the Washoe County Jail.

The District Attorney's Office is tasked with determining whether the shooting of Benson by Sergeant Valles was within the confines of Nevada law. This evaluation included reviewing hundreds of pages of reports and documents which included interviews of police and civilian witnesses, photographs, BWC footage, 911 calls, video surveillance and examination of the scene of the shooting. This report follows.

Based on the available evidence and the applicable legal authorities, the shooting of Benson by Sergeant Valles has been deemed a legal use of force under Nevada law, as set forth by the Nevada Revised Statutes. As such, no criminal prosecution against Sergeant Valles may proceed.

## I. STATEMENT OF FACTS

### A. Witness Accounts

#### 1. Tegg Orduno

Mr. Orduno was interviewed by WCSO Detective Joseph Aceves (hereinafter "Detective Aceves") and SPD Detective Pete Loeschner (hereinafter "Detective Loeschner") on November 13, 2021, at 10:56 p.m. at RPD. Mr. Orduno told detectives that on today's date at approximately 2:49 p.m. he heard a loud aggressive banging on his front door. Mr. Orduno, who is a

firefighter with the Reno Fire Department, was napping when he was awoken by the loud banging on his front door. Mr. Orduno went to the front door and saw a male dressed in a button up shirt with a shaved head, whom he did not recognize (this person was later identified as Benson). Mr. Orduno opened the door, and inquired of Benson how he could help him. Benson said he was checking on a little girl and motioned towards Mr. Orduno's truck and/or garage. Mr. Orduno then exited the residence and closed the door behind him. Mr. Orduno told Benson that there was no little girl here and Benson responded by telling Mr. Orduno that his eyes appeared constricted. Mr. Orduno observed Benson to be very red in the face and appeared agitated. Benson then asked Mr. Orduno if he was interested in fitness. Mr. Orduno began to question, in his own mind, why Benson was at his front door and asking him odd questions. Mr. Orduno again asked Benson what he wanted.

At that moment, Mr. Orduno's neighbor to the east opened his front door, releasing his dog and asking Mr. Orduno about who had knocked on his door. Mr. Orduno believed that Benson had knocked so hard on his front door that it caused the neighbor's dog to begin barking, bringing attention to the neighbor. Mr. Orduno indicated to the neighbor that the person who knocked was Benson. Benson then left the front door and walked back to his black four-door sedan which was parked directly in front of Mr. Orduno's residence. Benson waved at the neighbor and then entered his vehicle and drove off.

After Benson drove off, Mr. Orduno told the neighbor about the strange encounter and then returned to his house. Mr. Orduno checked his Ring camera which was installed on the top of his garage and overlooked the driveway. The video showed Benson approaching the house, looking in his garage before coming to the front door of the residence.

The strange encounter left Mr. Orduno feeling uneasy. Later that evening, Mr. Orduno went out to dinner and then returned home around approximately 8:00 p.m. Shortly after returning from dinner the alert on his phone for his Ring camera alerted at approximately 8:13 p.m. Mr. Orduno looked at the video and observed a male walking on his driveway between his property and the neighbor on the west side of his residence. Mr. Orduno could not identify the individual on the video who was wearing a

black hoodie with the hood up and a baseball hat. Mr. Orduno exited his front door and began looking around to see if he could identify or locate the individual that he had just seen on his property. Mr. Orduno observed a person walking west on the bike path near his home and decided to get into his truck and follow the individual. Upon entering his vehicle, he headed west and located the male and decided to follow him for a short time to observe what he was doing and to make sure he did not have anything in his hands. Mr. Orduno then drove up next to the male (later determined to be Benson) and rolled down his passenger window and asked Benson what he was doing back at his house. Benson responded with "hey, fuck you". It was at this point that Mr. Orduno believed he recognized Benson as the same person that had come to his house earlier in the day. Mr. Orduno then drove his vehicle ahead of where Benson was walking and just watched Benson who then began walking in the middle of roadway. Again, Mr. Orduno engaged Benson in conversation and asked why he was at his house. Benson responded by stating, "It is a free country, isn't it?" At this point Mr. Orduno felt that something was not right so he called 911 and explained to the dispatcher what was going on.

Mr. Orduno observed Benson turn onto Foster Drive. Mr. Orduno stopped his vehicle and watched as Benson walked on Foster and entered the same black passenger vehicle, he observed parked in front of his house earlier in the day. While on with dispatch Mr. Orduno explained that his ex-wife, Amanda Hartshorn (hereinafter "Officer Hartshorn"), was a Reno Police Officer who had a previous incident with a prisoner who became fixated on her while in prison. Upon this prisoner's release, Officer Hartshorn had notified Mr. Orduno to be on the lookout for any suspicious persons based on the prior stalking incident and the fact that Mr. Orduno and Officer Hartshorn had a child in common. Mr. Orduno was not sure if the male he had observed twice now at his residence had anything to do with his ex-wife's stalker, but he had no explanation for why Benson had now come to his house on two different occasions. Mr. Orduno explained this to dispatch as a possible explanation for Benson's strange behavior.

Mr. Orduno followed Benson who was now driving through the neighborhood. Benson knew Mr. Orduno was following him and at several points Benson conducted a three-point turn and started

driving at Mr. Orduno. Mr. Orduno was worried that Benson had a weapon so when Benson drove by, he would duck down in his vehicle. At one point Benson drove into Idlewild park but Mr. Orduno was too fearful to drive into the park, so he entered an apartment complex across the street and waited. Then Benson entered the apartment complex and began following Mr. Orduno. Mr. Orduno was updating dispatch to their location and the details of what was occurring. Mr. Orduno planned to lead Benson out to Hunter Lake Drive in hopes that police could locate his vehicle. Mr. Orduno exited the apartment complex onto Hunter Lake Drive and at that point Mr. Orduno was again behind Benson driving south on Hunter Lake Drive when he saw a police officer drive by him going northbound. Mr. Orduno flashed his high beams to notify the officer that he was the person talking to dispatch. The police were able to get behind Benson's vehicle. Mr. Orduno turned off Hunter Lake but did observe, prior to driving off, that police were behind the correct vehicle. Benson and the officer turned left onto Plumb Lane, and Mr. Orduno observed the officer turn on his red and blue lights to initiate a traffic stop of Benson's vehicle. Mr. Orduno then returned to his residence to check on his girlfriend and await police contact.

## 2. RPD Officer Wayne Appleton

RPD Officer Appleton was interviewed at RPD on November 14, 2021, by Detective Loeschner and Detective Aceves. Officer Appleton was a patrol officer with RPD and worked swing shift during this incident.

Officer Appleton stated that on November 13, 2021, he was working patrol when he heard information from dispatch about a prowler next to a home. As Officer Appleton began responding to that location further information was being conveyed via dispatch. At one point Officer Appleton heard that the reporting party was now following the suspect with the reporting party driving a silver truck while the suspect was in a black sedan. While on Hunter Lake Drive Officer Appleton saw both the reporting party vehicle as well as the suspect's vehicle. Officer Appleton turned around and began following both vehicles until the silver truck pulled over and Officer Appleton continued following the black sedan. The black sedan turned left (east) onto Plumb Lane where Officer Appleton initiated a

traffic stop. The vehicle did not pull over and Officer Appleton reported that the vehicle showed no signs of yielding to his lights and siren. An oncoming police vehicle was approaching (Officer Benvin) with its lights and siren and as it passed, the black sedan pulled over and came to a stop. The fact that the vehicle did not immediately pull over led Officer Appleton to believe that the suspect could possibly flee the traffic stop. Officer Appleton waited for his cover units, Officer Benvin and Sergeant Valles, to park behind him and then all three officers approached the vehicle together for officer safety reasons.

Upon reaching Benson's driver's side door, Officer Appleton noted that the driver's side window was open approximately two inches. The driver, later identified as Benson, was wearing a hooded sweatshirt and a hat and Officer Appleton noticed Benson's hand reaching below the driver's seat. At this moment Sergeant Valles, who had approached the passenger side, announced that the driver was reaching. Officer Appleton ordered Benson to roll down his window and to stop reaching. Officer Appleton continued to order Benson to roll down the window several more times, but Benson refused to comply. Officer Appleton told Benson that he could not hear what Benson was trying to say due to the position of the driver's side window. Sergeant Valles joined Officers Appleton and Benvin on the driver's side and began ordering Benson to roll down the window. Benson could be heard asking why he was being stopped. Sergeant Valles and Officer Benvin attempted to explain but Benson again refused to roll down his window. Sergeant Valles then told Benson if he did not roll down his window, he would break it. Benson still did not comply, and Sergeant Valles attempted to break the window but was unsuccessful. Officer Appleton stepped back from the vehicle so he would not get in the way of Sergeant Valles who attempted a second time to break the driver's side window but was again unsuccessful.

Officer Appleton told detectives that at that moment Benson began to flee in his vehicle and that he observed Sergeant Valles hanging from the driver's side of the car as it drove eastbound on Plumb Lane. Officer Appleton observed Sergeant Valles' feet dragging on the road and he heard Valles yelling for Benson to stop the vehicle. Officer Appleton also observed

Sergeant Valles hoist his legs up off the ground before attempting to run next to the vehicle. He and Officer Benvin began sprinting towards Benson's vehicle. Officer Appleton continued to hear Sergeant Valles yelling for Benson to stop the vehicle. At one point Officer Appleton saw the vehicle slow down, Sergeant Valles stumble from the car and then several gunshots. Officer Appleton told detectives that when he saw Sergeant Valles being dragged by Benson's vehicle, he believed Sergeant Valles was going to die.

### 3. RPD Officer Jacklyn Benvin

RPD Officer Benvin was interviewed at RPD on November 13, 2021, by WCSO Detective Arick Dickson (hereinafter "Detective Dickson") and WCSO Detective Michael Almaraz (hereinafter "Detective Almaraz"). Officer Benvin told detectives she has been with RPD for the last four years and was assigned to the patrol division working swing shift.

Officer Benvin told detectives that she responded to the call of a suspicious person where the reporting party was following the suspect (Benson). Officer Benvin learned from dispatch that the suspect had previously been at the reporting party's house earlier in the day asking about a child and then the same subject returned later that evening. Officer Benvin headed in the direction of the location of the two vehicles. Officer Benvin saw Officer Appleton initiate a traffic stop by turning on his red and blue lights and noted that the vehicle did not initially pull over. Officer Benvin, who was driving westbound, drove her vehicle into the eastbound lane with her red and blue lights on to stop Benson. Benson did not stop so Officer Benvin drove back over into the westbound travel lane.

Officer Benvin then conducted a U-turn on Plumb Lane and saw that Benson had pulled over, so she parked behind Officer Appleton's vehicle. Officer Benvin walked to the door of Officer Appleton's patrol car and joined him there. Officer Appleton placed a spotlight on Benson's vehicle and then both officers waited for Sergeant Valles to arrive on scene. Sergeant Valles communicated that he was present and would approach the passenger side while Officers Appleton and Benvin approached the driver's side door.

Officer Appleton contacted Benson and asked him to roll his window down several times. Officer Benvin could only hear Officer Appleton giving Benson instructions, but she could not hear Benson reply. She then heard Sergeant Valles state that Benson was reaching for something. Officer Benvin stepped around Officer Appleton and could see Benson with both hands in front of him and his window which was cracked approximately one inch. She now could hear Benson complaining that the stop was not lawful. Officer Benvin attempted to open the driver's side door, but it was locked. Officer Benvin began attempting to explain to Benson why he had been pulled over but was interrupted when Sergeant Valles came around the vehicle to the driver's side window and began ordering Benson to get out of the car. After ordering Benson out of the car several times, she heard Sergeant Valles tell Benson if he did not get out of the vehicle, he would break his window.

Officer Benvin believed the situation began to escalate due to Benson not following commands, the concern that a weapon was present and the underlying call of Benson being a prowler. At this point Officer Benvin saw Sergeant Valles take out a knife that had a window punch on the end of it. Sergeant Valles told Benson again, to get out of the car or he would break his window. Benson did not get out and Sergeant Valles struck the window, but it did not break. Benson then began driving the vehicle away. Sergeant Valles gripped the driver's window as the vehicle drove away. Officers Benvin and Appleton ran after the vehicle. Officer Benvin believed Sergeant Valles was running next to the vehicle holding onto the window and giving commands for the driver to stop the vehicle. It appeared the driver began accelerating his vehicle. The two officers were running, and Benson's vehicle was rapidly moving away from them. Officer Benvin then saw Sergeant Valles break contact with the vehicle and then heard three gunshots. Benson's vehicle drove away eastbound and out of sight. Sergeant Valles notified dispatch that shots had been fired. Officer Benvin sprinted back to her patrol vehicle and drove eastbound where she stopped to speak with Sergeant Valles who told her to go block the scene at the next cross street. Officer Benvin drove to Fallen Leaf Court and stopped traffic to preserve the scene.

#### 4. RPD Officer Daniel Hutmier

On November 14, 2021, RPD Officer Daniel Hutmier (hereinafter "Officer Hutmier") was interviewed at RPD by Detectives Almaraz and Dickson. Officer Hutmier stated he had been a police officer for 5 years with RPD and that he was currently assigned to the Regional Gang Unit.

On November 13, 2021, Officer Hutmier was dressed in civilian clothes but was wearing a ballistic vest with the words Reno Police Department on the front and back. Officer Hutmier was working on an unrelated surveillance operation during the traffic stop of Benson, and responded with other officers when he heard shots had been fired. Officer Hutmier knew that the suspect (Benson) had left the scene and then received notification through dispatch that a person had pulled into the Save Mart parking lot with a gunshot wound. Officer Hutmier arrived on scene to find Benson on his knees holding on to his side in the parking lot. On the ground under Benson was a pocketknife lying on the ground. Officer Hutmier patted Benson down and then he and other officers began supplying medical aid to Benson. While contacting Benson he stated to Officer Hutmier that he didn't want to hurt anyone, he was just looking for his kid. The ambulance arrived and Benson was placed with REMSA and transported to the hospital where he was monitored by police officers.

#### 5. RPD Officer Amanda Hartshorn

On December 10, 2021, Officer Amanda Hartshorn (hereinafter "Officer Hartshorn") was interviewed by Detective Aceves and Detective Loeschner. Officer Hartshorn told detectives that in 2012 or 2013 she received a letter at the Reno Police Station from Warm Spring Prison. The letter was from an inmate by the name of Robert Marin (hereinafter "Inmate Marin"). The letter contained statements about a relationship between herself and Inmate Marin and asked how the kids were. At the time Officer Hartshorn did not recognize the inmate's name and did not believe she had any connection to the individual. Over the next 6-7 years Officer Hartshorn received another four to six letters from the same inmate. Some of the letters contained crude content but essentially the same statements discussing "our kids" and asked if Officer Hartshorn could put money on his books and the inmate stated that he hoped she was waiting for

him. Officer Hartshorn investigated Inmate Marin's case and discovered it was a home invasion wherein the codefendant was shot by the homeowner. Officer Hartshorn later realized that her name was on the probable cause sheet as the transporting officer for Inmate Marin upon his arrest. However, Officer Hartshorn continued to have no recollection of any interaction with Inmate Marin that would lead to the inmate sending her letters or contacting her.

Officer Hartshorn continued to receive letters from Inmate Marin and this prompted her to reach out to a relative that worked at Warm Springs Prison to attempt to get the letters to stop. In the meantime, Officer Hartshorn had received several calls from Warm Springs Prison social workers inquiring if she was married to Inmate Marin. The worker informed Officer Hartshorn that Inmate Marin had put her name down as his personal contact or spouse. Steps were taken at Warm Springs Prison to stop Inmate Marin from sending letters to Officer Hartshorn. However, Officer Hartshorn received another letter from Inmate Marin.

At this point, Inmate Marin was moved to a different prison and Officer Hartshorn was notified that the inmate would soon be released. Officer Hartshorn became worried and made the decision in July of 2020 to obtain a stalking/harassment order through the courts. A Temporary Protective Order against Stalking and Harassment by Inmate Marin was granted on July 30, 2020, and then an Extended Order for Protection was granted on August 31, 2020, expiring on August 31, 2021. Officer Hartshorn gave a copy of the stalking/harassment order(s) as well as a photograph of inmate Marin to her ex-husband, Mr. Orduno, as the couple had a child together. Officer Hartshorn told Mr. Orduno that if he had contact with or observed Inmate Marin, he should call the police. Mr. Orduno had some prior knowledge of the stalking situation with Inmate Marin as it had been going on for years, even during his marriage to Officer Hartshorn.

On October 1, 2020, the Reno Police Department sent an informational email to all staff informing them that Inmate Marin had been stalking Officer Hartshorn. Employees were told that Officer Hartshorn had obtained a stalking/harassment order and that if Inmate Marin was seen at the station or attempted to obtain information about Officer Hartshorn, that this would be a violation of the order and it should be reported.

Officer Hartshorn told investigators that she only knew Sergeant Valles as a coworker, and they had no relationship outside of work. Officer Hartshorn presumed that the only way Sergeant Valles would have known about the stalking situation would have been through the informational email sent out by the Reno Police Department. Officer Hartshorn never spoke to Sergeant Valles directly regarding Inmate Marin.

#### 6. RPD Sergeant Carlos Valles

RPD Sergeant Carlos Valles was interviewed at RPD on November 22, 2021, by Detective Aceves and Detective Loeschner. Sergeant Valles stated he was currently assigned as a patrol sergeant for the last 23 months and that he had been employed by the Reno Police Department as a police officer for seventeen years.

On November 13, 2021, Sergeant Valles was working in his capacity as a sergeant wearing a regular police uniform and driving a marked police truck. Sergeant Valles carried a Glock 17, 9mm handgun and loaded his magazine with 17 rounds and one in the chamber for a total of 18 rounds. Sergeant Valles carried two extra magazines both filled to the capacity at 17 rounds each. Sergeant Valles told detectives that he was working patrol when he heard a call regarding a reporting party following a subject who had been at his residence at 4:00 a.m. in the morning and had been knocking on his door.<sup>2</sup> The same subject had returned this evening and was wandering in his yard and looking in windows. Dispatch also relayed that the reporting party, Mr. Orduno, was a Reno Firefighter, had been married to an RPD officer and the couple had one child in common. Sergeant Valles also heard that the reporting party had described that his ex-wife had a stalker who had gone to prison and was now released. Sergeant Valles believed he recognized the persons involved in the situation and he also believed that the suspect (Benson) was the former stalker of the RPD officer. Sergeant Valles believed, based on the information that dispatch was relaying, that the current suspect (Benson) had returned to Mr. Orduno's home to try to continue contact with the female officer.

---

<sup>2</sup> The dispatcher incorrectly relayed to police, as documented in the recorded 911 call as well as the written dispatch logs, that the suspect had come to Mr. Orduno's house at 4:00 a.m. when in fact Mr. Orduno told dispatch that the suspect had first come to his home at 2:49 in the afternoon.

At one point Sergeant Valles heard that the suspect was now behind the reporting party which led Sergeant Valles to believe the suspect was driving erratically to maneuver behind the reporting party. Sergeant Valles then heard that two officers had conducted a traffic stop on the suspect vehicle at Plumb Lane and he drove to that location to assist. Upon arriving, Sergeant Valles exited his vehicle and joined Officers Appleton and Benvin in approaching Benson's vehicle. Officers Appleton and Benvin contacted Benson at the driver's side door and Sergeant Valles went to the passenger side. Sergeant Valles pulled his firearm from its holster as he approached the vehicle based on all the information he had been provided by dispatch up and until that point, believing that Benson was a dangerous person. The windows on Benson's vehicle were tinted dark and Sergeant Valles needed to use his flashlight to see into the vehicle. Sergeant Valles observed Benson reaching down underneath his seat so he announced that Benson was reaching and moved his firearm to a low ready position. Sergeant Valles heard Officer Appleton tell Benson several times to roll down his window and then Officer Benvin told Benson to roll down his window. Sergeant Valles believed, based on the facts known to him coupled with Benson reaching underneath his seat, that Benson was a dangerous individual and Sergeant Valles told detectives that he knew at that moment that he was not going to allow Benson to leave. Sergeant Valles came around the rear of Benson's vehicle and joined Officers Appleton and Benvin at the driver's door.

Upon arriving at the driver's door, Sergeant Valles saw Benson through his driver's window and observed his features matched that of the stalker connected to the reporting party's ex-wife, Officer Hartshorn. Sergeant Valles stated that he also noticed that Benson's pupils were "very large" and that at the time he perceived Benson's actions to be those of someone who had violated parole by going to Mr. Orduno's house, or possibly had a firearm or deadly weapon that he did not wish police to find. Sergeant Valles told detectives that at that moment he believed he had the right guy, so he took over for the other officers and began giving commands to Benson. Sergeant Valles told Benson he was lawfully detained and that he needed to roll down his window. Sergeant Valles recalled Benson asking, "What for?", and in response Sergeant Valles told Benson again to roll down

the window and he is being legally detained "...for what happened back there." Sergeant Valles recalled Benson replying by stating, "Well the blinds were closed." That statement by Benson confirmed for Sergeant Valles that this was the person who had been at the reporting party's house. At that point Sergeant Valles told Benson to roll down his window or he would break it. Sergeant Valles explained to detectives that in his seventeen years of police work that there is a time to negotiate and a time to take charge and he felt that this was a moment where there would be no negotiating as Benson was a dangerous and violent person and Sergeant Valles felt as though he needed to protect the community by not allowing Benson to drive away from the traffic stop. Sergeant Valles told Benson two more times to roll down the window and warned him if he did not, he would break the window. When Benson did not roll down the window Sergeant Valles pulled out a pocketknife that had a window punch on the backside. The knife itself was closed but Sergeant Valles utilized the window punch and struck the driver's side window two times. Sergeant Valles told detectives,

I've never done that before. I thought if you just hit it, it'll shatter. Apparently, you're supposed to hit it in a particular location of the window because it didn't shatter, but it left very two distinct scratches on the window. Um, he then put it in gear and took off and I grabbed the window at that point trying to stop him. Um, I'm not the hulk. I can't stop a car. I can't pick up a car, but my mindset was I need to stop this person. That's what I get paid for, I need to stop this person, and I just instinctively grab the window and he took off and he took me with him. Um, I was able, he was accelerating and I was able to try to run alongside him, but quickly realized I couldn't keep up, um and at that point I picked my feet up off the ground and the whole time I'm telling him, 'Stop the car!' 'Stop the car!' 'Stop the car!' I must have told him maybe five times give or take. Um, and at one point I said, 'Stop the car I'm going to shoot.'

Sergeant Valles told Detectives that he had an old injury to his elbow which had to be repaired with a metal rod. The result of the injury caused his left arm not to be as strong as his right

so he felt that if he let go of the vehicle with his right hand to reach for his firearm that he would either, "...hit the ground and sustain a life...a life-threatening injury to my skull or I'm gonna [sic] get sucked under the car." Sergeant Valles told detectives that he believed that he was going to die in the moments while he held onto Benson's vehicle and that his life "flashed before his eyes". Sergeant Valles said he could hear Benson's vehicle accelerating, picking up speed and again he believed he would either get seriously injured or die if he let go. He continued to tell Benson to stop the car and that ultimately Benson did stop the car. Sergeant Valles said at that point he attempted to, "...pull the window out." His actions were not successful, so he pulled his firearm from the holster and held Benson at gunpoint. Benson did not comply and drove off in his vehicle. Sergeant Valles explained his mindset at that moment,

...my mindset was if this, we have all these circumstances leading up to, he's at a house that he's been at twice, he's knocked on the door, he told me on the traffic stop that he was, he looked at the blinds, so he knows what he, he's studying this house, he um...matches the description of a guy who stalked a police officer even though she's not there, he went back to the last address where she was at. He matches the description of the guy who went to prison. He's gone back to finish the job or to pick up where he's left off. He's reaching, on scene he's reaching under his seat for something. I don't know what. I still don't know if he had a weapon in the car. Then he's refusing to comply. If he really did nothing wrong, why is he not comply...cooperating with us? Then he drives off with me on the window. I can hear him in the car saying, 'What are you doing? Why are you doing this?' But he's not stopping. He's still going. He's accelerating. I'm hanging on. Um, when we finally stop...I still don't know if he has a weapon in the car, but he's going eastbound towards Virginia Street. That night was very warm, there were a lot of people out and if he's willing to do that with me, what is he willing to do with other citizens? How far is he willing to go to get away? So, at that point I thought I have to protect the community, this is what I'm here for. My job is to protect the community and protect my fellow

officers. He's a threat, he's dangerous. I'm gonna [sic] stop him. So, I fired a total of three shots at him. I didn't know if any of them struck. When I fired he was three feet from me, um, he was right there. I didn't, at no time did I come up and aim, take an aim, you know, hold my pistol, and use the sights, it was right there and I fired from a low ready and I fired a total of three rounds. He drove off. I immediately holster and advise dispatch of his last direction of travel.

Later in the interview, Sergeant Valles again told detectives that his decision to shoot Benson was based on what he did to him, meaning if Benson was willing to drive while Sergeant Valles was hanging on to the side of his vehicle, what would he do to members of the community? Sergeant Valles stated to detectives that he believed Benson was a deadly threat to the public. Sergeant Valles also discussed that Benson had just committed a felony against a peace officer by dragging him or driving with him attached to the vehicle and that if he let him go there would have been a pursuit and that this pursuit could have led to disastrous results to the general public. Sergeant Valles stated that if Benson was willing to drive with an officer attached to his vehicle, then a law enforcement pursuit of him could have ended in innocent civilian casualties.

Sergeant Valles also described further about his knowledge of Officer Hartshorn's stalker and the fact that he was released from prison and went right back to the house where a police officer lived, and how that supported his level of heightened awareness when he contacted Benson.

After the shooting, Sergeant Valles returned to the Reno Police Station where his BWC was turned over and uploaded. His firearm and associated police gear, including two additional magazines, were collected by FIS.

#### 7. Michael Ray Benson

On November 16, 2021, Detectives Aceves and Loeschner responded to Renown Regional Medical Center to attempt to interview Benson. Detective Aceves advised Benson of his *Miranda* rights. Benson told detectives that he recalled the incident but did not want to speak about it and said he just wanted to go home. Benson then began talking and telling detectives that he was 33

years old and was trying to fix his life. He wanted to see his child so he went over "there" and that his conduct was not illegal. Benson said he was just walking down the street when a guy started following him so he left the area and the next thing he knew he was in the hospital. Benson, when asked about looking for his child, stated that he believed people were dressing up like his kid and his ex-wife. Benson then told police that he did not wish to speak anymore but that he was agreeable to speaking to them on another day. At that point Detectives left the hospital.

On November 23, 2021, Detectives Aceves and Loeschner returned to Renown to meet with Benson. Detective Aceves read Benson his Miranda rights a second time. Benson indicated that he understood his rights. Benson told police that on November 13, 2021, he believed he saw his daughter working out in the garage and so he came back to the house later to get the address. Benson admitted the first time he went to the house he knocked on the door and asked if there was a little girl there. Benson told detectives that he looked in the garage and saw something. When asked by detectives what he saw, Benson stated that he didn't want to comment on it. Benson then said he returned to his car and the guy (Mr. Orduno) began to follow him and that he assumed the man had a gun. Benson recalled the man asking him what he was doing and he responded by stating, "I'm taking a walk man, it's a free county." Benson stated that he got into his vehicle and drove away and noticed that the man was now following him. At one point Benson said he got tired of the man following him so he pulled over and picked up a rock to protect himself. When he went to drive away, he passed an RPD vehicle. A block or two later RPD turned their lights on and Benson said he looked for the first spot to pull over. Benson stated that at the last minute someone, "...pulled violently in front of me from the opposite side of the street and aggressively approached the window." In reaction to that, Benson stated that he locked his car door. He recalled the officer telling him to roll down his window and then he heard someone say they were going to break his window. Then the person tried to break his window. Benson said he was scared but then he noticed that the man trying to break his window was the person who had denied him

employment from one of his job searches. Benson couldn't understand why he was now wearing a police uniform.<sup>3</sup>

Benson stated he could see how hyped up the officers were and admitted that he then began driving away. Benson heard someone trying to break the window and he told him to "Stop man. I didn't do anything wrong." Benson told detectives he was driving slowly and he heard the officer say he was going to shoot him. Benson continued to drive at a slow speed and then he was shot. Benson said he drove to Save Mart and asked someone for help.

Benson suffered a single gunshot wound and was treated at Renown Hospital. Benson recovered from his injuries and was booked into the Washoe County Jail on unrelated Destruction of Property and Burglary charges. He was later arrested and prosecuted on charges stemming from this incident.

#### B. Dispatch Information

Dispatch for the Reno Police Department maintains recordings, as well as written logs, of radio traffic and 911 calls when a case/call is initiated. In this case, on November 13, 2021, a reporting party (hereafter "RP") called 911 at 20:18:01 and reported that a subject was in between his house and his neighbor's residence.<sup>4</sup> The RP reported that a subject was on scene earlier asking about a little girl and that he was now following the same individual. A description was provided of the subject's vehicle as well as the RP's vehicle. The RP continued to provide updates as to his location. The RP was able to provide a brief description of the subject and provided the following: White Male, 20-30 years of age, stocky, clean cut; last seen wearing a black hooded sweatshirt.

At 20:23:30 the dispatch log reflects the following information:

BOTH RP AND 10-37 SUBJ NOW WB ON IDLEWILD APPROACHING TRACY  
- RP ADV HIS EX WIFE IS RPD OFCR AND THEY HAVE A CHILD AND  
HAVE BEEN HAVING AN ISSUE WITH A MALE WHO WAS RELEASED FROM

---

<sup>3</sup> During the interview Benson made several nonsensical statements that appeared to be based on delusions or paranoia.

<sup>4</sup> The RP is later identified as Tegg Orduno.

PRISON UNK IF THIS IS SAME MALE - 10-37 VEH - 528M75/NV -  
NFD-<sup>5</sup>

At 20:25:43 the dispatch log reflects the following information:

RP ADV SUBJ WAS BANGING ON HIS DOOR AROUND 0400 HRS TALKING ABOUT A JUV AND RP JUST SAW THE 10-37 VEH PARKED UP THE ST AND THE MALE IN BETWEEN HIS AND NIGHBORS RES-<sup>6</sup>

At 20:27:31 the dispatcher advised that the subject is now behind the RP and that the vehicles are driving through the Riviera Apartments across from Idlewild Park. The dispatcher continues to communicate to officers the position of the RP and the subject vehicle. At 20:31:37 Officer Appleton indicates he has conducted a traffic stop on Benson's vehicle. At 20:32:55 dispatch notes that the RP is returning to his residence to meet with officers there and that "RP HAS EVERYTHING ON VIDEO FOR OFCRS - NFI"

At 20:34:09 the dispatch logs note that Officer Appleton relays that the vehicle has taken off from the traffic stop.<sup>7</sup> At 20:34:29 shots fired is relayed over the radio by Sergeant Valles along with the direction of travel for Benson.<sup>8</sup> At 20:38:05 dispatch reports that an RP has called in from Save Mart advising a vehicle just pulled in with bullet holes and the driver has been shot in the chest.

### C. Countdown of Sergeant Valles' Firearm

Sergeant Valles' primary weapon on November 13, 2021, was a Glock 17, Gen 4 9mm handgun. The listed carrying capacity of the magazine used in his firearm was 17 rounds. Sergeant Valles carried two additional magazines for his primary firearm. Sergeant Valles told investigators that he loaded his firearm with one cartridge in the chamber and 17 cartridges in the magazine for a total of 18 cartridges.

---

<sup>5</sup> The information in the CAD log is very similar to what was verbally stated to officers over the radio.

<sup>6</sup> The information in the CAD log is almost verbatim what the dispatcher communicated to officers verbally.

<sup>7</sup> The actual time reflected on Officer Appleton's BWC when he relays to dispatch that the vehicle has taken off is 20:33:46.

<sup>8</sup> The actual time reflected on Sergeant Valles' BWC when he reports to dispatch shots have been fired is 20:34:14.

On November 13, 2021, FIS Criminalist Sayer Dion-Smyczek (hereafter "Criminalist Dion-Smyczek") collected Sergeant Valles' Glock 17, Gen 4, 9mm firearm. The firearm contained one Speer 9mm Luger +P cartridge in the chamber and one magazine (manufacturer's capacity of 17 cartridges) with fourteen Speer 9mm Luger +P cartridges and two extra magazines (both manufacturer's capacity 17) which contained 17 Speer 9mm Luger +P cartridges each.

## II. PHYSICAL EVIDENCE

### A. Orduna Residence

Mr. Orduno's residence is a single-story home with a two-car garage and a front door which faces north. Neighboring houses are situated to the east and to the west of Mr. Orduno's residence. A fence sections off both sides of the residence and a backyard is situated in the rear of the house.

Mr. Orduno's residence was equipped with a Ring camera mounted above his garage, which had audio and video capabilities. The first video clip provided by Mr. Orduno to police shows Benson first arriving at the home on November 13, 2021, at the hour of 2:49:16 p.m. Benson had already exited his vehicle, a black Ford Focus, which can be seen parked on the street directly in front of Mr. Orduno's residence. Benson can be seen approaching the residence, appearing to look in the windows at the top of a roll up garage door. Benson can then be seen approaching the front door and knocking on it. Due to background noise and the proximity to the camera, little to no conversation can be heard between Mr. Orduno and Benson while he is at the front door. The front door of Mr. Orduno's residence is not within the camera view. Statements regarding a little girl can be heard while Benson is off camera at the front door. The first video clip lasts approximately one minute and five seconds with an end time of 2:50:21 p.m.



*(This still photograph is from Mr. Orduno's Ring camera and depicts Benson's first recorded contact at the residence. Benson can be seen walking up the driveway. The garage is directly in front of Benson with the front door off to the right side of the photograph. Benson's black Ford Focus can be seen in the foreground parked on the street.)*

The second video clip from the Ring video camera is from the same camera but begins at approximately 2:50:49 p.m. and shows Benson walking away from the front door and stating, "Alright brother." Benson returns to his vehicle and waves at the neighbor. The neighbor's dog can be seen running after Benson and then called back by the neighbor. Once Benson enters his vehicle, the neighbor asks Mr. Orduno, "What was that all about?" Mr. Orduno can be heard telling him that he was asking about "some little girl." Mr. Orduno can then be heard stating, "I don't know. He was a weird dude." Mr. Orduno can then be seen walking down his driveway and checking the roadway in both directions. The video ends at 2:51:52 p.m.



*(This still photograph from the Ring camera video depicts Benson re-entering his vehicle after knocking on Mr. Orduno's front door and asking about the whereabouts of a little girl. Mr. Orduno's neighbor interrupts Benson while he is at the front door, appearing to cause Benson to walk back to his car. The neighbor's dog barks and runs after Benson while he is entering his vehicle.)*

The third Ring video clip provided by Mr. Orduno is from the same camera but begins at 8:13:57 p.m. showing Benson emerging from the rear of Mr. Orduno's truck parked in the driveway. Benson can be seen wearing all black with a baseball cap and the hood of his sweatshirt pulled up over his baseball hat. Benson can be seen walking up the driveway and off camera to the west of Mr. Orduno's residence (the opposite side of the home to where the front door is located). Benson walks off camera at 8:14:07 p.m. and reappears walking down the driveway at 8:14:36 p.m. and can be seen heading west and crossing the street. Mr. Orduno appears on video at 8:15:02 p.m. exiting his front door and walking down to the end of his driveway. Mr. Orduno looks towards the west and then can be seen reentering his residence. The video clip ends at 8:15:28 p.m.



*(A still photograph from Mr. Orduno's Ring mounted camera showing Benson, dressed in all black, walking up the driveway to Mr. Orduno's residence. Benson walks to the west side of the residence which is an area between Mr. Orduno's house and his neighbor. Benson can be seen, after approximately twenty-nine seconds, reappearing in camera view, walking down the driveway, and heading west)*



*(A Still photograph from the Ring video showing Benson leaving Mr. Orduno's residence. Unlike in the earlier video, Benson does not park his vehicle in front of Mr. Orduno's house but parks some distance away on a side street.)*

## B. Plumb Lane/Shooting scene

The shooting of Benson took place on Plumb Lane just to the east of the intersection of Plumb Lane and Palisades Drive. The initial point where Benson pulled over to the side of the road is located on Plumb Lane to the west of Palisades Drive and to the east of Clough Road and Somerset Place. Officer Appleton turned on his lights and siren while Benson was turning east from Hunter Lake Drive on to Plumb Lane. Benson did not stop his vehicle until he was approximately halfway between Somerset Place and Palisades Drive. Plumb Lane, in this area, consists of one travel lane in each direction with a dedicated middle turning lane. There is also a dedicated bike lane on both sides of the street and a parking or pullover area to the immediate right of each bike lane. Benson pulled his Ford Focus over to the right of the east bound bike lane. Benson never turned his vehicle off during the traffic stop.



*(This overhead shows Hunter Lake Drive running north/south on the far left of the map marked by the yellow circle and Plumb Lane running east/west in the middle of the map. The blue circle shows the approximate area of the initial traffic stop conducted by Officer Appleton who began to attempt to pull Benson over while on Hunter Lake Drive. Officer Benvin drove west bound on Plumb Lane and passed Benson as Officer Appleton followed behind him. Officer Benvin made a U-Turn on Plumb Lane and came to park directly behind Officer Appleton's vehicle. Sergeant Valles arrived last and was heading eastbound on Plumb Lane and parked directly behind Officer Benvin's police vehicle.)*



*(This map view shows the position of the initial traffic stop by Officer Appleton as indicated by the blue circle. The shooting location is marked with a red circle. Palisades Drive is the street running north/south in the middle of the photograph. The distance that Sergeant Valles held onto Benson's vehicle was approximately 380 feet. After being shot, Benson continued eastbound on Plumb Lane another several miles to the Save Mart grocery store where he pulled in and asked for assistance from a shopper loading her groceries.*

1. Evidence Collected

The following relevant evidence was collected and photographed at the scene of the shooting on Plumb Lane Drive.

- Three (3) Speer 9mm Luger +P fired cartridge cases collected from the roadway on Plumb Lane which were later microscopically tested and identified as having been fired in Sergeant Valles' firearm.
- One (1) black pocketknife, in folded position, bearing "Valles 9466" collected from the roadway on Plumb Lane.

2. Plumb Lane Ring Video

A residence located on the corner of Palisades Drive and Plumb Lane possessed a Ring camera positioned on the front of the residence which looked north onto Plumb Lane. In between the camera and Plumb Lane is the driveway and front yard. Plumb Lane can be seen from a distance captured on the camera.

The Ring has accompanying sound and lasts approximately 1 minute and 1 second.



*(Aerial map wherein the blue circle represents the position of Benson's vehicle when stopped by Officer Appleton. The red circle depicts the shooting location and the green circle is the position of the Ring camera.)*

The video depicts Benson's vehicle moving along Plumb Lane. In the video, Sergeant Valles can be heard ordering Benson to stop the car prior to Benson's vehicle appearing in view. When Benson's vehicle first appears, it is travelling at a high rate of speed and then Benson's vehicle slows down and the video depicts Sergeant Valles disengaging from Benson's vehicle. Sergeant Valles can be heard repeatedly telling Benson to stop the car and then warning Benson that he will shoot if he doesn't stop the car. Upon disengaging from the vehicle Sergeant Valles takes a stance to the northeast of the vehicle and holds Benson at gunpoint. Benson never stops his vehicle and accelerates away from Sergeant Valles. You can hear a firearm discharge three times as Benson drives eastbound on Plumb Lane.

### 3. 2012 Ford Focus

On November 18, 2021, the black Ford Focus driven by Benson was searched pursuant to a search warrant. The vehicle was examined, photographed, and processed by FIS Criminalist Dion-Smyczek (hereinafter "Criminalist Dion-Smyczek") with the Washoe County Crime Lab. Evidence in the form of fired bullets and fragments were collected from the interior of the vehicle along with DNA swabs as well as indicia in the name of Michael Benson

in the form of a DMV registration as well as a Jiffy Lube receipt bearing the name of Michael Benson. A large rock was photographed on the front passenger floorboard which is consistent with Benson's statement to the police that while being followed by Mr. Orduno, he stopped and picked up a large rock from some landscaping in the vicinity of the Orduna home.



*(A photograph depicting the passenger side of Benson's vehicle. The rock picked up by Benson can be seen sitting on the floorboard in front of the passenger seat.)*

A vehicle trajectory analysis was also performed on the Ford Focus by Criminalist Dion-Smyczek and found the following:

Defect A-Front Driver Window

A bullet traveled from the exterior of the vehicle to the interior of the vehicle, perforating the front driver window glass.

Defect B-Rear Driver Window

A bullet traveled from the exterior of the vehicle to the interior of the vehicle, perforating the rear driver window glass.

Defect C-Rear Driver Exterior Door Panel A bullet traveled from the exterior of the vehicle, penetrating the exterior door panel, and impacting the interior door frame.<sup>9</sup>

### C. Body Worn Cameras

Officers Appleton and Benvin and Sergeant Valles all wore BWC's while contacting Benson. Officer Appleton's BWC footage begins while he is still seated in his patrol vehicle. Officer Appleton's overhead lights can be seen flashing and after approximately 40 seconds Officer Appleton is able to effectuate the traffic stop of Benson when he pulls his vehicle to the side of the road on Plumb Lane. Officer Benvin's BWC footage also begins while she is driving in her vehicle with flashing lights. It appears Officer Benvin makes a U-turn and then parks her vehicle behind Officer Appleton. Sergeant Valles' BWC footage also begins while he is driving in his vehicle. Dispatch is heard conveying information to Sergeant Valles as to the location of the suspect and reporting party, as well as information that the reporting party stated the suspect (Benson) was at his door at 4:00 a.m. in the morning.<sup>10</sup> Sergeant Valles inquires of dispatch if the suspect is still following the RP. Officer Appleton can be heard over the radio conveying that he is about to conduct a traffic stop on the vehicle. Sergeant Valles advised Officer Appleton to go ahead and pull over the suspect and that he will arrive on scene shortly.

Officer Appleton can be seen exiting his vehicle where he immediately meets with Officer Benvin. Officer Benvin tells Officer Appleton that she did not believe the suspect vehicle was going to stop and Officer Appleton agrees with her. Upon Sergeant Valles arrival at the scene, Officers Appleton and Benvin make their way to Benson's vehicle where Officer Appleton can be seen utilizing his flashlight to see into Benson's vehicle. The back windows of the vehicle have a dark tint. The driver's side window is slightly rolled down.

---

<sup>9</sup> Fired bullets and fragments of bullets were collected from: the stereo face (bullet and fragment), under rear driver floormat (bullet) and the rear driver door (fragments).

<sup>10</sup> This information is incorrect but is conveyed to all responding officers. Benson had been at Mr. Orduno's residence at approximately 2:49 p.m. and again at 8:13 p.m.



*(This still photograph from Officer Appleton's BWC shows Officer Appleton, as well as Officer Benvin's, reflection in Benson's rear tinted window as the officers first approach Benson's vehicle. Benson's driver's side window is down approximately one to two inches and remains at that position throughout the entirety of the traffic stop.)*

While Officers Appleton and Benvin approach the driver's side, Sergeant Valles goes to the passenger side and with his firearm drawn he shines his flashlight into the vehicle and tells the other officers, "Have him turn off the car." He then immediately communicates that Benson is reaching while raising his firearm. Officer Appleton knocks on the drivers' side window and tells Benson to stop reaching. Benson can be seen raising both of his hands and turning towards Officer Appleton. Officer Appleton again requested Benson roll the window down and Benson asked, "For What?". Officer Appleton again orders Benson to roll the window down and Benson answered but the answer was unintelligible due to the window's position. Officer Appleton tells Benson two more times to roll down his window, but Benson disregards the order. Officer Benvin can be seen attempting to open the driver's side door, but it is locked. Officer Appleton removes his firearm from his holster at this point but keeps it at his side. Officer Benvin then orders Benson to roll down his window and again Benson can be heard asking, "For what?". Officer Benvin explains that they need to speak to him. Benson tells Officer Benvin that he is talking to her right now.

Sergeant Valles, from his BWC footage, can be seen leaving the passenger side of Benson's vehicle and walking behind the car and up to the driver's side window. There he tells Benson that he is being lawfully detained and tells him to roll down the window. Benson can be heard asking "For what?" and Sergeant Valles tells him for a traffic stop and then explains that he was harassing someone at their house. Benson tells Sergeant Valles that, "He had black blinds in his house."



*(This still photograph from Sergeant Valles' BWC depicts his position once he comes around the vehicle to the driver's side door. Benson can be seen shielding his eyes from Sergeant Valles' flashlight and Benson's driver's side window is still down approximately 1 to 2 inches while Sergeant Valles orders Benson to roll down his window. Officers Appleton and Benvin can be seen assisting at the driver's side door.)*

At this point Sergeant Valles tells Benson a total of three times that he will break the window if he does not roll it down. Sergeant Valles can then be seen striking the driver's side window twice with a window punch. Officer Benvin produces her firearm and points it at Benson as he suddenly accelerates his vehicle. Sergeant Valles can be seen grasping onto the open driver's side window. Officer Benvin can be heard telling Sergeant Valles to "Watch out". Sergeant Valles can be seen on both Officer Appleton's and Officer Benvin's BWC footage running

beside the vehicle as it accelerates. Benson's vehicle quickly moves away and the BWC footage of Officer Appleton and Benvin becomes unclear as they are running towards Benson's vehicle. After Sergeant Valles attempted to break the window two times, his BWC footage shows his hands appear and grab onto the driver's side window while Benson's vehicle begins to drive away. The vehicle drives in the bike lane portion of the roadway and never reenters the traffic lane while Sergeant Valles is holding onto the vehicle. Benson's vehicle travels for approximately 21 seconds and Sergeant Valles can be heard telling him to stop the vehicle thirteen times and warns one time that he will shoot unless he stops the car. Benson initially accelerated and then slowed his vehicle. From Sergeant Valles' BWC footage you can observe Sergeant Valles disconnect from the car once Benson slows his vehicle. Benson then immediately accelerated the vehicle away from Sergeant Valles. At the same moment Sergeant Valles produces his firearm and shoots three times at the vehicle as it drives away.



*(This still photograph from Officer Benvin's BWC shows moments after Benson drives away from the traffic stop and Sergeant Valles can be seen gripping on to the side of the vehicle, still holding onto his flashlight, as Benson drives to the right of the bike lane while cars pass on the left in the travel lane.)*

### III. PROSECUTION

On November 1, 2022, a Warrant of Arrest was issued by the Reno Justice Court for Michael Benson on the following charges: Count I. Stalking, a violation of NRS 200.575(1)(a), a misdemeanor; Count II. Resisting a Public Officer, a violation of NRS 199.280(3), a misdemeanor; and Count III. Reckless Driving, a violation of NRS 484B.653(3)(a), a misdemeanor.<sup>11</sup> These charges were based on Benson going to Mr. Orduno's residence twice on November 13, 2021, (Stalking) and failing to comply with officers' commands at the traffic stop (Resisting a Public Officer) and finally driving his vehicle with Sergeant Valles holding on to the window (Reckless Driving). On September 20, 2023, Michael Benson entered pleas of guilty to all three charges. On October 16, 2023, Michael Benson was sentenced to a total term of incarceration at the Washoe County Jail of 286 days.<sup>12</sup>

### IV. LEGAL PRINCIPLES

The Washoe County District Attorney's Office is tasked with assessing the conduct of the officer involved and determining whether any criminality on their part existed at the time of the shooting. Although Benson survived this officer involved shooting, to conduct the appropriate assessment, the District Attorney's review is controlled by the relevant legal authority pertaining to justifiable homicides. This is because the analysis rests upon the decision to use deadly force, not the result.

In Nevada, there are a variety of statutes that define justifiable homicide. (See NRS 200.120, 200.140, and 200.160) There is also a statute that defines excusable homicide and one that provides for the use of deadly force to effect arrest. (See

---

<sup>11</sup> The Washoe County Sheriff's Office originally requested an arrest warrant on the same charges of Stalking and Resisting a Public Officer but also included the crime of Resisting a Public Officer with the Use of a Deadly Weapon, a violation of NRS 199.280.2, a felony. However, a review of the entirety of the evidence under the scope of a beyond a reasonable doubt standard, led the District Attorney's Office to file on the misdemeanor offense of Reckless Driving in lieu of the felony charge.

<sup>12</sup> Benson was also ordered to pay restitution as part of the judgement in this case for the crime of destruction of jail property. An offense he picked up while being housed at the Washoe County Jail which involved kicking down a cell door, while awaiting resolution of these charges.

NRS 200.180 and NRS 171.1455) Moreover, there is case law authority interpreting justifiable self-defense and defense of others. All the aforementioned authority is intertwined and requires further in-depth explanation:

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

NRS 200.120 provides in relevant part that "Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of...person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony..." against the other person. NRS 200.160 further provides in relevant part that "Homicide is also justifiable when committed...in the lawful defense of the slayer...or 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."

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). In Runion, the Court set forth sample legal instructions for consideration in reviewing self-defense cases as follows:

The killing of another person in self-defense 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 him or cause him great bodily injury; and
2. That it is absolutely necessary under the circumstances for him to use in self-defense force or means that might cause the death of the other person, for the purpose of avoiding death or great bodily injury to himself.

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, 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. 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 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 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 of self-defense is present, the State must prove beyond a reasonable doubt that the defendant did not act in self-defense. If you find that the State has failed to prove beyond a reasonable doubt that the defendant did not act in self-defense, you must find the defendant not guilty. Id. 1051-52.

#### B. Justifiable Homicide by Public Officer

NRS 200.140 states:

1. Homicide is justifiable when committed by a peace officer, or person acting under the command and in the aid of the peace officer, in the following cases:
  - a) In obedience to the judgment of a competent court.
  - b) When 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.
  - c) When necessary:
    1. In retaking an escaped or rescued prisoner who
    2. has been committed, arrested for, or convicted of a felony;
    3. In attempting, by lawful ways or means and in

4. accordance with the provisions of NRS 171.1455, to apprehend or arrest a person;
  5. In lawfully suppressing a riot or preserving the peace; or
  6. Except as otherwise provided in NRS 193.304, in protecting against an imminent threat to the life of a person.
2. As used in this section, "peace officer" has the meaning ascribed to it in NRS 169.125.

#### C. Use of Deadly Force to Effect Arrest

NRS 171.1455(2) provides:

A peace officer may, after giving a warning, if feasible, use deadly force to effect the arrest of a person only if there is probable cause to believe that the person:

- a) Has committed a felony which involves the infliction or threat of serious bodily harm or the use of deadly force; or
- b) Poses an imminent threat of serious bodily harm or death to the peace officer or to others.

#### V. ANALYSIS

On November 13, 2021, Sergeant Valles used deadly force in an attempt to effectuate the arrest of Michael Benson. Prior to the use of deadly force, Sergeant Valles, along with other uniformed officers in marked patrol vehicles, gave Benson numerous chances to turn off his vehicle, roll down his window or simply provide his identification. Benson refused to follow all commands by the police officers. Sergeant Valles attempted to break the driver's side window to gain control of Benson and/or the vehicle to take him into custody. This was only after warning Benson three times that he would break his window if he did not roll it down. Benson refused to roll down the window.

At this point in the contact with Benson, police had probable cause to arrest him for several offenses. At a minimum, Benson committed the offense of resisting a peace officer, a misdemeanor, by refusing to turn his car off, roll down his window or provide identification when asked to do so. Moreover,

Benson was facing criminal charges based on his earlier conduct at the residence of Mr. Orduno. Officers were unable to detain or arrest Benson as he accelerated his vehicle and fled from police contact.

Sergeant Valles reacted to Benson's decision to flee the traffic stop by grabbing onto Benson's vehicle. Sergeant Valles ran alongside the vehicle until he could not keep up with Benson's speed, stating he was forced to raise his feet off the ground. Officer Appleton reported seeing Sergeant Valles being dragged by the vehicle. Sergeant Valles believed Benson would run him over if he let go. Sergeant Valles ordered Benson to stop the car no less than thirteen separate times as Benson drove with Sergeant Valles attached to the vehicle. Sergeant Valles warned Benson that he would shoot him if he did not stop the car.

After Benson's actions of driving with Sergeant Valles attached to the vehicle, Sergeant Valles articulated that he had probable cause to believe that Benson had committed a felony offense including, but not limited to, resisting a police officer with the use of a deadly weapon a violation of NRS 199.280(2) and/or assault with a deadly weapon, a violation of NRS 200.481. Both are felony crimes which involve the infliction or threat of serious bodily harm or the use of deadly force, and also pose an imminent threat of serious bodily harm or death to the officer or to others.

Officer Appleton provided statements during his interview that indicated when he saw Sergeant Valles being dragged by Benson's vehicle, he believed Sergeant Valles was going to die. Sergeant Valles also stated during his interview that he believed death was imminent when he was holding on to Benson's vehicle and he accelerated and refused to stop, and that Benson presented as a risk to the safety of other members of the community.

Benson ultimately pled guilty to the crimes of stalking, where he admitted to engaging in a malicious course of conduct that caused Mr. Orduno to feel terrorized, frightened, intimidated, harassed or fearful for his safety; resisting arrest, where he admitted that he failed to follow commands to roll down his window, provide identification and fled from a traffic stop while officers were attempting to perform their legal duty; and reckless driving, where he admitted that he drove his vehicle in a willful or wanton disregard for the safety of persons and more

specifically that he drove his vehicle while Sergeant Valles was hanging on to the vehicle. Benson's admissions to the above conduct are further evidence that the officers had a legal basis to stop and investigate Benson's actions further. Benson then committed further criminal acts during the course of said stop which eventually led to him being shot by Sergeant Valles.<sup>13</sup>

The investigating agency, WCSO, originally recommended charges against Benson for Stalking (misdemeanor), Resisting Public Officer (Misdemeanor), Resisting a Public Officer with a Deadly Weapon (Felony) and Reckless Driving (Misdemeanor). WCSO also initially recommended a criminal charge on the part of Sergeant Valles stating, "...probable cause exists to believe that Carlos Valles has committed the following violation of Nevada Revised Statute (NRS): NRS 200.481 Battery with the Use of a Deadly Weapon (Felony).

WCSO's basis for seeking a criminal charge against Sergeant Valles was based on a 2021 amendment to NRS 171.1455. The legislature added subsection one which outlined language regarding a peace officer's use of de-escalation techniques and alternatives to use of force whenever possible or appropriate and consistent with his or her training. However, Subsection 2 of NRS 171.1455 remained virtually unchanged in that it allows for deadly force where there is probable cause to believe that a person has committed a felony which involves the infliction or threat of serious bodily harm or the use of deadly force or the person poses a threat of serious bodily harm or death to the peace officer or to others.

The WCSO outlined in their report the reason for recommending the felony offense of Resisting a Public Officer with a Deadly Weapon against Michael Benson was,

"For Benson's actions by willfully accelerating his motor-vehicle to flee from a traffic stop and then refusing to stop the vehicle after being ordered to stop by Sgt. Valles, approximately 12 separate times, over a

---

<sup>13</sup> NRS 200.140 is also applicable in the current scenario, regardless of whether Benson survived his injuries. Sergeant Valles had the right, pursuant to NRS 200.140, to use deadly force when necessary to overcome actual resistance to the execution of the legal process or in the discharge of a legal duty and/or in attempting to apprehend or arrest a person in accordance with the provisions of NRS 171.1455 as discussed above.

distance of approximately 380 feet with Sgt. Valles attached to Benson's vehicle's window. These actions caused Sgt. Valles to fear for his life while attached to Benson's vehicle as he reasonably believed he would be drug under the vehicle and run over at any moment."

The WCSO, by their own admission, recognized that probable cause existed to believe that Benson had committed a felony crime that constituted the infliction or threat of serious bodily harm and/or the use of deadly force, and posed an imminent threat of serious bodily harm or death to Sergeant Valles. This recognition is the very reason why Sergeant Valles' actions could not support criminal charges against him.

Benson's actions elevated the police contact to a situation in which deadly force was permitted pursuant to the express language of NRS 171.1455. Specifically, Benson's actions of driving a vehicle at an accelerated speed with a police officer hanging dangerously from the window and being repeatedly warned that he would be shot if he did not stop the vehicle resulted in a situation in which the officer perceived he was in jeopardy of death or serious bodily injury, and further led to a determination that there was a legal justification to use deadly force to stop Benson from fleeing the scene after having committed a violent felony.

Upon conferring with the WCSO as to the clearly outlined language of subsection 2 of NRS 171.1455, the agency amended their findings as to Sergeant Valles and found, "...that the use of deadly force utilized by Carlos Valles against Michael Benson, was lawful (non-criminal)."

An independent review of the facts and circumstances surrounding the shooting of Michael Ray Benson and the plain meaning of NRS 171.1455 led the District Attorney's Office to ultimately conclude that Sergeant Valles' conduct was within the boundaries of Nevada law when he utilized deadly force against Michael Ray Benson.

## VI. CONCLUSION

Based on a review of the entire investigation presented and the application of Nevada law to the known facts and circumstances surrounding the November 13, 2021, shooting of Michael Ray

Benson by Sergeant Valles, the shooting is supported by the use of deadly force to effect arrest pursuant to NRS 171.1455.

Unless new circumstances come to light which contradict the factual foundation upon which this decision is made, the District Attorney's review of this case is officially closed.