

**OFFICE OF THE WASHOE COUNTY
DISTRICT ATTORNEY**

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REPORT ON THE FEBRUARY 4, 2018 OFFICER INVOLVED
SHOOTING OF MAURICE ALFONSO GARCIA

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INTRODUCTION

On February 4, 2018 Washoe County Sheriff's Office (hereinafter "WCSO") deputies responded to 560 Budger Way in Lemmon Valley on the report of a battery with a deadly weapon, stabbing that was quickly updated with information on a man chasing another man with a knife. Investigators learned that Maurice Alfonso Garcia (hereinafter "Garcia") lived in a trailer home at 560 Budger Way with his older sister Olita Garcia (hereinafter "Olita"). Garcia had moved in with his sister a few weeks before this incident. That night, Olita was at a Super Bowl party hosted by her friend, Ramon Torrecillas (hereinafter "Torrecillas"), while Garcia went to a separate party. Garcia drank alcohol at the party and was driven home by a friend after arguing on the phone with Olita over his drinking and employment. Olita was upset because Garcia was scheduled to start a new job in the morning. Olita arrived at the Garcia residence around 11:00 p.m. accompanied by Torrecillas. Garcia was already home.

Torrecillas waited outside while Olita went inside to talk to Garcia. A short time later, Olita invited Torrecillas inside and introduced him to Garcia. After a brief discussion in the kitchen, Garcia began arguing with Torrecillas and acting as if he wanted to fight. Olita told her brother to go to bed and Garcia left the kitchen. Moments later he returned armed with a knife and chased Torrecillas and Olita out of the trailer and into the front yard. Garcia then chased Torrecillas down the street, as Olita followed and tried to calm her brother. In the ensuing altercation, Garcia stabbed Olita in her left breast area and Torrecillas in his abdomen and arm. Garcia then walked back to the trailer and locked himself inside. Olita and Torrecillas regrouped in the trailer's yard, but Garcia came out again, still armed with a knife, and chased Torrecillas down the street again. He then returned to the trailer a second time and again locked himself inside. During the confrontation with her brother, Olita called 911 to report her injury and told the 911 operator that Garcia was chasing Torrecillas with a knife and that she had been stabbed. This prompted dispatch to broadcast a battery with a deadly weapon priority call and several WCSO patrol units began responding.

Deputies Justin Wike (hereinafter "Wike"), Richard Spaulding (hereinafter "Spaulding"), and Ashley Goodman hereinafter "Goodman") were dispatched to the call and arrived on scene within minutes (Video surveillance footage and audio recordings collected from the scene captured much of the encounter between Olita, Torrecillas and Garcia and the WCSO Deputies and Garcia). They immediately contacted Olita outside the trailer, where they confirmed the stabbing and determined Garcia was inside the trailer. The deputies then went to the front porch, announced their presence, and ordered Garcia to exit the residence. Yelling through the door, Garcia cursed at them and told them to go away. Deputies Spaulding and Goodman began walking around the trailer in search of the back door while Deputy Wike waited near the porch. However, they quickly returned after hearing Deputy Wike issuing verbal commands to Garcia.

As the deputies waited for a response to their commands, Garcia suddenly cracked the door and pointed the barrel of a pistol at Deputy Wike. In response, Deputy Wike retreated and fired numerous rounds through the door at Garcia. However, the rounds had no effect and the deputies all took positions of cover. From his position, Deputy Wike could see Garcia pacing past the door within the residence. He then saw Garcia again point the pistol in his direction. Deputy Wike fired his pistol at Garcia a second time, which again had no apparent effect. Meanwhile, Deputy Chad Ross (hereinafter "Ross") had arrived on scene and positioned himself in the roadway in front of the residence.

Without warning Garcia exited the front door with his right hand raised and his left hand concealed behind his back. The deputies repeatedly ordered Garcia to show his hands, but he did not comply. Garcia then turned towards the interior door. As he turned, Deputy Goodman saw that Garcia was holding a pistol behind his back. She and the other deputies continued to order Garcia to drop the gun. Instead, Garcia squatted in the doorway and told the deputies to tell his sister that he loved her. He then suddenly stood up and raised the gun in the direction of Deputies Goodman and Ross. Fearing for their own lives and the lives of the other deputies, all four deputies fired at Garcia, striking him multiple times in the right shoulder, abdomen and thigh. The deputies immediately secured the scene and provided initial care to Garcia. Medical personnel arrived shortly after

the shooting and transported Garcia to the hospital where he underwent surgery and survived.

During a subsequent interview at the hospital, Garcia told investigators that he pointed the gun at Deputy Wike and the other deputies intending that they kill him (commonly known as "suicide by cop"). The gun used by Garcia was ultimately found to be an air-soft style pistol, which he was unaware of at the time.

Consistent with the regionally adopted Officer Involved Shooting (OIS) Protocol, the Sparks Police Department (SPD) led the investigation into the shooting of Garcia. The Reno Police Department (RPD) provided secondary investigative support, and the Washoe County Crime Laboratory (WCCL) provided forensic services. The Washoe County District Attorney's Office provided legal guidance and search warrant assistance.

The investigation included interviewing witnesses, collecting physical evidence, photographing the shooting scene, forensically testing collected evidence, reviewing video footage, and interviewing the officers involved in the shooting.

Upon completion of the entire investigation, all police reports along with FIS forensic reports, collected documentation, photographs, witness statements, recorded audio and video of the incident, dispatch recordings, and recorded interviews were submitted to the Washoe County District Attorney's Office on April 23, 2019, for a final determination of whether the shooting of Garcia was legally justified. No criminal charges against Deputies Spaulding, Wike, Goodman, and Ross were recommended by SPD.

The District Attorney's evaluation included reviewing approximately 1000 pages of reports and documents, which included interviews of police and civilian witnesses. It further included the review of all photographs, video and audio recordings, and examination of the scene of the shooting. This report follows.

Based on the available evidence and the applicable legal authorities, it is the opinion of the District Attorney that the shooting of Maurice Alfonso Garcia by WCSO Deputies Spaulding, Wike, Goodman, and Ross was justified and not a criminal act.

I. STATEMENT OF FACTS¹

A. Witness Accounts

1. Washoe County Sheriff Deputy Justin Wike

Deputy Wike was interviewed at the Washoe County Sheriff's Office by Sparks Police Department Detective Jennifer Vaught and Reno Police Department Detective Sean Sheahan. Deputy Wike has been employed with the Washoe County Sheriff's Office for six years. He was assigned to work the patrol division for the past two years and is also an active member of the WCSO Special Weapons And Tactics Team known as "SWAT."

On February 4, 2018 Deputy Wike started his shift dressed in a "Class A" WCSO uniform along with his duty belt. His "Class A" uniform consists of a green long sleeve uniform shirt, equipped with a metal name plate and WCSO badge, as well as green uniform pants. Deputy Wike's duty belt consisted of handcuffs, a Glock 17 (containing 9mm ammunition), 2 additional magazines, a handheld radio, and a baton. Deputy Wike's handgun was loaded to capacity, with 17 rounds, and an additional round chambered.

At approximately 11:22 p.m., Deputy Wike heard a call broadcast over the radio for a battery with a deadly weapon at 560 Budger Way. Deputy Wike was in the area, so he spoke with Deputy Ross over a separate radio channel. Deputy Wike told Deputy Ross he was close to the call and would wait at a nearby 7-Eleven for additional responding deputies prior to arriving at the residence, as it would be safer. WCSO dispatch heard the conversation between them and placed Deputy Wike on the call for service.

Soon after Deputy Wike arrived at the 7-Eleven, WCSO dispatch broadcast that the male suspect had stabbed the reporting female and was chasing another male with a knife after stabbing him as well. Deputy Wike felt as though he could wait no longer due to escalating violence and the potential of someone losing their life, so he drove towards the residence with his overhead emergency lightbar activated.

As Deputy Wike drove closer to 560 Budger Way he requested that the first unit in the area meet him on Fleetwood Drive, a main artery of the area. Deputy Wike met deputies Spaulding and Goodman on Fleetwood. The deputies proceeded towards the residence with Deputy Wike leading the way. The deputies parked their patrol vehicles in the street in front of the residence.

¹The Statement of Facts is synopsised from recorded witness interviews, photographs, police reports, and forensic reports.

Deputy Wike exited his vehicle and encountered a female, later identified as Olita Garcia, "hunched over" on the front deck of the residence. Deputy Wike approached Olita and noticed her left arm was clinched near her torso and she was holding a cellphone in her right hand. Deputy Wike asked Olita to come to his location and inquired if she had been stabbed. Olita responded that she had been stabbed, though Deputy Wike saw no obvious injuries. Deputy Wike asked Deputy Spaulding to take Olita to the rear of the patrol vehicles after asking her where the suspect was. Olita said that he was inside the trailer and gave deputies verbal consent to enter the residence.

Deputy Wike approached the front door with Deputy Goodman and found a security door in addition to the entry door. Deputy Wike tried the security door but found it was locked. He knocked on the door with his flashlight, while announcing himself as "Washoe County Sheriff's Office" and requested that Garcia exit the residence. Garcia refused to exit while stating "fuck you" on several occasions.

The deputies did not know if Garcia was the only occupant of the residence and had yet to locate the male who was reportedly stabbed. Given Garcia's actions, the deputies moved away from the door and took positions near the front porch. Deputies Goodman and Spaulding then moved to the rear of the residence in case Garcia attempted to leave through the rear door. Deputy Wike's position was approximately 10 feet from the front door.

Suddenly Deputy Wike saw the front door open about 8 inches and saw the crown of Garcia's head standing behind the opening. The security door remained closed. Deputy Wike repeatedly ordered Garcia to exit the residence while identifying himself as a Sheriff's Deputy. Garcia eventually asked Deputy Wike where his sister was and Deputy Wike assured him she was okay and asked him to exit the residence.

Approximately 30 seconds later Garcia presented what Deputy Wike believed was a handgun. Deputy Wike could see the barrel of the gun and, feeling that he was in immediate danger of being shot, he fired what he estimated to be 13 or 14 times while retreating towards parked vehicles behind him (Audio recordings indicate Deputy Wike's first shots is separated by seconds as he retreats, leading to differing accounts of three or four volleys of shots heard). Deputy Wike stated he continued to fire his duty weapon, as he did not see a reaction from Garcia and discharging his weapon was his only protection from Garcia.

As Deputy Wike moved to cover at the rear passenger side of a Jeep adjacent in the driveway, Garcia retreated and shut the door to the residence. Responding to this, Deputies Goodman and

Spaulding returned to the area and asked him if he was okay. Deputy Wike advised WCSO dispatch that shots had been fired and that Garcia was armed with a gun. He also told the other deputies to take cover behind the Jeep.

Deputy Wike changed ammunition magazines in a "tactical reload" while still behind cover. Approximately 45 seconds later, the front door opened, and Garcia faced Deputy Wike, still armed with a gun. Garcia pointed the gun at Deputy Wike and Deputy Wike responded by firing an estimated 12 to 13 shots at Garcia. Deputy Wike stated he could see Deputy Spaulding, who was close by and thought he was also firing at Garcia. The shooting stopped and Garcia dropped to his knee and raised his hand while he remained in the doorway. Seeing this, Deputy Wike believed Garcia may have been struck by a bullet. Garcia then stood up and began pacing in the interior of the residence. He yelled something to Deputy Wike, but Deputy Wike could not remember what Garcia said.

Garcia suddenly opened the security door and exited the residence onto the deck. Seeing this, Deputy Wike and Spaulding yelled for Garcia to drop the gun but received no response. Instead, Garcia held one hand in the air while concealing his other hand behind his back. Garcia began to walk towards the stairs leading to the driveway as deputies continued to yell at him to drop the gun. Garcia did not comply and asked where his sister was. Deputies told him his sister was okay and pleaded with him to comply with orders to drop the gun. Deputy Wike specifically recalled telling Garcia "things don't have to be this way". Another unknown male who had come to the scene (Torrecillas) yelled at Garcia to stop and listen to the deputies.

Deputy Wike stated, the pleas had no effect on Garcia who yelled, "Tell my sister I love her", moved his hand away from behind his back, and raised the handgun directly towards Deputy Ross. Fearing that Deputy Ross was in imminent risk of losing his life, Deputy Wike fired approximately 2 rounds at Garcia. Deputy Wike stated he heard additional gunfire erupt before seeing Garcia fall face forward down the stairs. Deputy Wike and Deputy Ross then converged on Garcia and handcuffed him. Deputy Ross immediately started medical aid and directed Deputy Spaulding to retrieve a first aid kit before tearing away Garcia's clothing to address the gunshot wounds. During this, Deputy Wike noticed a black handgun, possibly a Beretta semi-automatic pistol just to the left of Garcia. He also went towards the residence to ensure the safety of all on scene and in the area. Deputy Wike stated he remembered that the initial call included another male being involved and he did not know

where that male was. While checking the residence, Deputy Wike realized the home was equipped with video surveillance cameras. Deputy Wike believed it was necessary to disable the cameras out of concern someone inside may be watching them as they secured the trailer and area, so he began walking to his patrol vehicle to retrieve his 40 mm non-lethal launcher. However, another deputy disabled the cameras and he was relieved pursuant to the OIS protocol.

2. Washoe County Deputy Sheriff Richard Spaulding

Deputy Spaulding was interviewed at the Washoe County Sheriff's Office by Sparks Police Department Detective Jennifer Vaught and Reno Police Department Detective Sean Sheahan. Deputy Spaulding has been employed with the Washoe County Sheriff's Office for about nine years. He has been assigned to the patrol division for two years. He carries a Glock 21 Generation 4 .45 ACP caliber handgun and four magazines, including one in his weapon. He loads his magazines with 13 rounds each. He carries less lethal items that include a Taser, baton, knives, and Oleoresin Capsicum. In his assigned vehicle he carries an AR15 and a backup pistol. Deputy Spaulding is a Field Training Officer and was training Deputy Goodman who was driving their assigned vehicle for their graveyard shift.

Deputy Spaulding and Deputy Goodman handled several calls for service during the night. Afterwards, they returned to the station at 911 Parr Boulevard to complete paperwork where Deputy Spaulding heard a dispatch for a call regarding a battery with a deadly weapon involving a female and male on Budger Way. He recalled, that this call was dispatched around 11:30pm-12:00am. and they were both assigned and immediately left the station.

As they drove to the location with lights and sirens activated, Deputy Spaulding went to a tactical channel and talked with Deputy Ross, Deputy Wike, and Sgt. McGill to plan to meet at a nearby 7-11. However, dispatch updated the call that the male was now chasing another male with a knife, so Deputy Spaulding decided they would go directly to the house since the crime was still in progress. Deputies Wike, Spaulding and Goodman arrived on scene together and positioned their vehicles in front of the trailer. Deputy Wike's vehicle was positioned in the street on the left side of the driveway area with his and Deputy Goodman's vehicle positioned to the right side.

Once on scene, Deputy Spaulding saw a Hispanic female whom he believed was the victim holding the left side of her chest area. The female was about 20 feet from the porch and began to walk toward them. For safety reasons, Deputy Spaulding told her to show her hands. The female said she was the one that called 911

and that she was stabbed. She also said that the assailant was still in the trailer. The deputies asked her if anyone else was in the trailer, but in the interview, Deputy Spaulding was not able to recall her answer.

The woman (Olita) was directed to leave the area and sit on a patrol vehicle bumper. The three deputies approached the door, announced their presence, and banged on the door. The front door had a black heavy-duty privacy screen door, which was locked. They announced their presence a few more times and from inside the trailer Deputy Spaulding heard Garcia respond, "Fuck you, go away."

Hearing this, Deputy Spaulding and Deputy Goodman walked to the right side of the trailer to ensure Garcia did not escape out the back, while Deputy Wike stayed at the front door. When he was about halfway around the right side of the trailer, Deputy Spaulding heard Deputy Wike talking to Garcia. Believing that Garcia had exited the trailer, Deputy Spaulding returned to the porch area. He took a position to Deputy Wike's right while Deputy Goodman was to Deputy Spaulding's right. However, Garcia had not exited the trailer, but was inside the doorway and out of his view.

Deputy Spaulding had his service pistol out and he and the other deputies continued to give verbal commands to Garcia. Deputy Spaulding heard Garcia cursing back at the deputies. At that time, Olita came back towards the deputies and Deputy Spaulding intercepted her and began to walk her back to the patrol vehicles. Another man (Torrecillas), also came towards Deputy Spaulding and escorted Olita away from the area. Deputy Spaulding retook his position as the other deputies were still ordering Garcia to exit the trailer. From Deputy Spaulding's position he could not see through the metal security door.

Suddenly Deputy Spaulding heard three or four-gun shots being fired by Deputy Wike but could not ascertain what Deputy Wike was shooting at or why. Deputy Spaulding advised WCSO dispatch that shots were fired and moved to cover behind a Jeep Wrangler.

Deputy Spaulding heard Deputy Wike say that Garcia had a gun. Deputy Spaulding then relayed this information to Deputy Goodman and heard about five or six more-gun shots fired and saw Deputy Wike complete a tactical reload. The deputies were still making loud announcements to Garcia to drop the gun and come out of the trailer. Dispatch was again advised about shots being fired.

At this time, Deputy Spaulding moved closer to Deputy Wike's position behind a separate vehicle to Deputy Spaulding's left. From this new location, Deputy Spaulding could see through the

security door. Both deputies yelled more commands for Garcia to come out of the trailer with his hands up.

Garcia then opened the screen door with his right hand up and held his left hand behind his back. Deputy Spaulding heard Deputy Wike giving commands to Garcia to drop the gun, but could not see whether Garcia had a gun. Garcia moved from the door and turned slightly to his right. That's when Deputy Spaulding saw a gun in Garcia's left hand. Deputy Spaulding yelled out to the other deputies that Garcia had a gun.

Garcia was ordered to drop the gun, and instead kneeled and Deputy Spaulding thought that he was praying. He heard Garcia say to "tell my sister" something but Deputy Spaulding said that he could not recall the exact words, but it was something like telling his sister he was sorry. Deputy Spaulding could also hear Olita in the background screaming.

Deputy Spaulding heard Deputy Wike say "This is not how you want this to go." The deputies continued giving verbal commands for Garcia to drop the gun and to put his hands up. Garcia then stood up and pointed the gun at the deputies that were to Deputy Spaulding's right side (Deputy Goodman and Deputy Ross). Fearing for the lives of his fellow deputies, Deputy Spaulding fired seven to eight rounds at Garcia. Deputy Spaulding estimated there were about 30-45 seconds of verbal commands given to Garcia before he raised his gun and pointed it at deputies.

Deputy Spaulding saw Garcia fall to the ground and onto his back. Once on the ground he no longer had the gun in his hand. However, the gun was still close to his body, so Deputy Spaulding and the other deputies handcuffed Garcia. They then began medical aid until the fire department arrived and took over medical care.

When questioned about what Deputy Spaulding was thinking when Garcia raised the gun and pointed it at the deputies, he responded that he was "scared to death" that Garcia was going to start shooting at the deputies and potentially kill or injure one of them.

3. Washoe County Sheriff Deputy Ashley Goodman

Deputy Goodman was interviewed at the Washoe County Sheriff's Office by Sparks Police Department Detective Eric Curtis and Reno Police Department Detective David Nevills. Deputy Goodman has been employed with the Washoe County Sheriff's Office for about five years. She recently transferred to the patrol division and is enrolled in the Field Training Program assigned to Deputy Spaulding, her Field Training Officer. Deputy Goodman was in the third week of phase three of the training program.

After completing several unrelated calls for service, Deputy Goodman and Deputy Spaulding were at the Washoe County Sheriff's Office headquarters when assigned the call in this case, which came out as a man stabbing people with a knife. They began responding to the address with lights and siren. On the way they planned to meet with Deputy Wike and Deputy Ross at a 7-Eleven on Lemmon Drive. However, dispatch relayed additional information indicating that the suspect was chasing one of the victims with a knife. Due to this escalation, Deputy Wike asked Deputy Goodman to meet him on Fleetwood Drive, just down the street from 560 Budger Way. After rallying at Fleetwood Drive, the three deputies proceeded to 560 Budger Way.

When they arrived on scene, Deputy Goodman saw a female (Olita) bleeding from her wrist running from the residence. As they met with Olita they tried to get information from her, but she was extremely distraught. Olita told Deputy Goodman that the suspect was inside the residence just before they approached the front door.

On arrival, they had noticed the front door was covered with a security door, which was locked. This prevented them from knocking on the exterior door of the residence, so they knocked on the side of the residence and door frame. Deputy Goodman recalled specifically identifying herself as, "Sheriff's Office." A male voice from inside the residence told them something to the effect of go away and leave him alone. They continued to knock on the door as they identified themselves and asked Garcia to come out while showing his hands. Garcia refused and told them to go away. Deputy Wike asked Deputy Goodman to go to the back of the residence to cover any rear exits. As she walked to the back of the residence, she heard Deputy Wike giving verbal commands. Believing Deputy Wike had contacted Garcia she returned to the front of the residence.

Once in front, she heard Deputy Wike yell "Show me your hands, show me your hands." Then she heard Deputy Wike announce that Garcia had a gun and start shooting toward the front door. Deputy Goodman was not able to see Garcia and did not know how many shots Deputy Wike fired but described it similar to how Deputy Wike described the first volley.

After the first volley, Deputy Goodman moved to cover behind a Jeep parked in the driveway. She could not see the suspect, or the front door, and had not fired her weapon. Deputy Goodman then heard a second volley of shots from Deputy Wike but was not sure where Deputy Wike was when that took place. Deputy Goodman was not sure if the second volley of shots from Deputy Wike was from the same position as the first or was from behind the Jeep.

Because she could not see Garcia or the front door of the residence, she moved to a position of cover behind a Ford Truck that was also parked in the driveway. She stood near the tailgate of the truck where she had a good view of the front porch. She thought Deputy Wike and Spaulding were holding positions behind the Jeep.

Deputy Goodman heard Deputy Wike continue to say, "Come out, show me your hands." Then she saw Garcia step out on to the front porch with his right hand held up and his left hand held behind his back. Deputy Goodman yelled for Garcia to show his hands. As Garcia's body came more into view, she heard Deputy Wike announce, "he has a gun." Garcia then told the deputies to tell his sister he loved her. As Garcia turned away from her, she was able to clearly see he was holding a gun behind his back with his left hand.

Garcia then turned back toward her while removing his left hand from behind his back and pointed the gun toward her. She felt Garcia was going to shoot her or one of her partners so she fired her pistol at Garcia. Deputy Goodman estimated she shot four rounds at Garcia and believed Deputy Wike and Deputy Spaulding were also shooting at the same time, but said their gunshots sounded faint to her.

Deputy Goodman described Garcia falling to the ground, at which time Deputy Ross began approaching from the rear of her position. She had not known that Deputy Ross was on scene until then. Deputy Goodman provided cover on Garcia while Deputy Ross handcuffed him. After Garcia was handcuffed, she covered the front door of the residence, while other deputies attended to Garcia.

Based on Garcia's actions, coupled with what he asked them to tell his sister, Deputy Goodman said she felt Garcia was attempting "suicide by cop."

4. Washoe County Sheriff Deputy Chad Ross

Deputy Ross was interviewed at the Washoe County Sheriff's Office by Sparks Police Department Detective Eric Curtis and Reno Police Department Detective David Nevills. Deputy Ross has been employed at the WCSO for fifteen years and is currently assigned to the patrol division. On the date of the incident he was dressed in a standard patrol uniform. Deputy Ross was one of the initial patrol units dispatched to the call. Initially he planned to meet at the 7-Eleven in Lemmon Valley, but that changed when information was received that the suspect was armed with a knife and chasing someone in the street. Deputy Ross requested a channel be secured for the units responding to the

scene and heard Deputies Wike, Spaulding and Goodman announce that they had arrived on scene.

Deputy Ross arrived on scene a short time after and observe a male (Torrecillas) and female (Olita) near the other patrol cars parked in the street. After exiting his patrol vehicle (which was parked east of the residence) he heard gunfire. He did not know where the gunfire was coming from, so he took cover behind a nearby vehicle. He then contacted Torrecillas and Olita. Torrecillas told Deputy Ross that Olita had been stabbed and was injured. Olita was uncooperative and was attempting to return to the residence. At that time, he saw that Deputy Wike was actively shooting from an area near a red sedan on the property, so Deputy Ross asked Torrecillas to help him remove Olita from the area for her safety.

Deputy Ross and Torrecillas escorted Olita back to Ross' patrol vehicle where a patrol sergeant had just arrived. Deputy Ross then returned to the patrol cars in front of the residence. As he started to approach the residence, he heard someone say the suspect had a gun and retreated to a position of cover.

Deputy Ross then saw Garcia exit the residence with his left hand tucked behind his back and heard Deputy Wike ordering Garcia to show his hand, but Garcia did not comply. Instead, Garcia started to walk down the steps of the porch while bringing his left hand from behind his back, revealing a black handgun. Deputy Ross heard Garcia saying something before raising the handgun in his direction. Deputy Ross responded by firing his handgun approximately three times because he believed Garcia was going to engage Deputy Wike in a gunfight, even though the gun was pointed in his direction because Garcia seemed focused on Deputy Wike. At the time of the shooting, Deputy Ross did not know the exact locations of Deputies Spaulding or Goodman and estimated he fired from approximately 15 yards.

After Deputy Ross fired, Garcia fell down the stairs. Deputy Ross then went to Garcia, who was laying on the ground near his knees. He placed Garcia in handcuffs and checked him for injuries. Deputy Ross found injuries to Garcia's abdomen, shoulder and leg and administered first aid until relieved by fire and medical personnel.

5. Maurice Garcia

On February 15th Garcia was interviewed at the intensive care unit by Sparks Police Department Detectives Eric Curtis and Shawn Congdon. Garcia said that he had been at a Super Bowl party in Sparks where he drank alcohol and felt intoxicated. He

said he did not use any narcotics at the party, after which a friend drove him to his sister's house at 560 Budger Way.

Approximately an hour later Olita came home and Garcia noticed that a man (Torrecillas) unknown to him had also arrived. He had a brief conversation with Torrecillas but said that he could not remember what the conversation was about. During the conversation Garcia got mad and there was an altercation between him and Torrecillas, which caused Torrecillas to leave. Garcia then followed Torrecillas out of the house and down the street. When Garcia returned, he saw that his sister was on the phone with police. He yelled at her and walked inside the house, locking Olita outside.

Garcia said when the deputies arrived, he made the decision to have the police "take him out". Garcia reluctantly referred to the statement as suicidal. He stated that he and Olita had recently been arguing about family related problems. Garcia grabbed a handgun located inside the trailer, which he thought belonged to his sister but did not know the make or caliber of the weapon. When questioned, he said he assumed the gun was real. Knowing the deputies were outside, he opened the door and flashed the gun at one of them. He remembered hearing the deputies tell him to drop the gun. Garcia remembered yelling at the deputies, including "fuck you guys". Garcia could hear the deputies yelling that "he had a gun".

After the deputies fired at him a couple times, Garcia realized that none of the bullets had struck him. He paced back and forth in the doorway to demonstrate that he had not been shot. He realized that he was going to have to go outside to make the deputies shoot him and yelled at the officers that he was coming out. He came out with his right hand raised with the gun concealed behind his back in his left hand. He heard the deputies yelling at him to drop the gun and to put his hands up. Garcia said he stood up and brought the gun up from behind his back resulting in the deputies shooting him. He said he raised the gun because he wanted the deputies to "put me down". Garcia said he did not know how Torrecillas or his sister were injured. He only acknowledged chasing them in the street.

6. Olita Garcia

After being treated for her stab wound at the hospital, Olita was interviewed at the Washoe County Sheriff's Office by Sparks Police Department Detective Jennifer Vaught and Reno Police Department Detective Sean Sheahan.

Olita said she has lived at 560 Budger Way for approximately five years. Her brother Maurice moved in with her approximately

three months ago. Maurice sleeps on the couch and stores some of his property in her spare bedroom.

On February 4, 2018, Olita drove to a Super Bowl party at the residence of Torrecillas. Olita and Torrecillas are co-workers. At the party she consumed three mixed drinks and two beers. Garcia was scheduled to start a new job on February 5th and Olita had taken that day off to take him to work at 7:00 a.m. Olita left the party and Torrecillas followed her in his own car to make sure she got home, since she had been drinking. On the way home, they purchased more alcohol. Torrecillas and Olita decided they were going to drink some more at her house. Olita went inside first to let Garcia know that she invited a friend over. Garcia was on the couch asleep in the living room, so Olita woke him and told him to go into her bedroom to sleep. Garcia looked "not himself" and she believed he was drunk or on drugs.

Torrecillas came in the house and Olita introduced him to Garcia. As they all stood in the kitchen, Garcia and Torrecillas shook hands. Torrecillas offered Garcia a beer. Olita did not think this was a good idea for Garcia to drink anymore and pushed him toward the living room area and told him to go to bed. Olita said, Garcia "snapped" and lunged at them. She and Torrecillas were on one side of the kitchen table and Garcia was on the other side.

Torrecillas ran outside and Garcia chased after him. Torrecillas ran out of the yard and down the street and Olita ran after them and separated them. Torrecillas was telling Garcia to calm down. Then Torrecillas ran back towards Olita's house and she yelled for Garcia to go back inside. After Garcia went in the house, Olita felt that she had something wet and warm on the left side of her breast. Torrecillas told her that Garcia had stabbed him. She realized that Garcia had also stabbed her.

Olita walked onto the porch and found that Garcia had locked the front door. Olita told him to come out. Then she used Torrecillas' cellphone to call police. The police arrived quickly and told her to get away from the house. Olita said she recalled being near a patrol car in the street near a female deputy who was trying to keep her away from the house. Olita said she was physically struggling with the deputy to get away because she did not want Garcia to get shot. Olita said everything happened fast and she could not recall everything that happened in the kitchen.

Olita estimated she and Torrecillas had only been in the house for about two minutes before the altercation with Garcia began. Olita never saw Garcia with a knife, but acknowledged that he carries a pocketknife. Olita said she owns an AR-15 that was

disassembled and a .380 that was locked in a safe in her spare bedroom. She also said she kept an airsoft pistol in the living room by the front door for safety reasons.

Olita clarified that she had an argument with Garcia over the phone prior to leaving Torrecillas' house. She called Garcia and learned that he was at a Super Bowl party at a friend's house. Olita said she believed Garcia's friend sold drugs and she did not like that Garcia was with him at his house. Olita told Garcia that if he was not home by the time she got there, she would kick him out of the house because she wanted Garcia to be responsible and make his first day at his new job.

Later that day Olita was re-interviewed at the Fairfield Inn by Sparks Police Department Detectives Jennifer Vaught and Eric Curtis. Olita said that she had invited Garcia to come with her to Torrecillas's residence for a Super Bowl party. Garcia wanted to go to his friend's house instead. She knew this was going to be a problem because every time Garcia hung out with his friend, Garcia came home intoxicated. Throughout the night she called Garcia several times and offered him a ride home if he needed one. Garcia told her that his friend would take him home. She could tell that Garcia was intoxicated, which made her mad. In turn, Garcia got angry, and asked why he had to be home when she was not home yet. She told him that if he did not come home and go to work in the morning that she would kick him out of the house.

Olita said Garcia has anger issues and thought he got this trait from their father, who is violent. Olita said Garcia had never done anything to this extent before and she did not think he was in his right mind on the night in question. She believed that Garcia was under the influence of some substance other than alcohol. She said Garcia has used pain pills and heroin in the past.

Olita said when she got home, she wanted Garcia to go into her bedroom to go to sleep. When he stood up from the couch, Garcia could not stand up straight and was stumbling. Olita told Garcia that she had invited a friend to the house, and he became irritated and asked who the man was. She added that Garcia was staring down Torrecillas.

Torrecillas asked Garcia if he was "good." Garcia responded "Yeah, I am good, are you good?" Garcia had a look on his face like he wanted to fight Torrecillas. Olita said maybe she did not handle the situation that well. She told Garcia to go to his room. Olita said she pushed Garcia toward the living room to get him to go. Torrecillas agreed with her and told Garcia to listen to his sister. This is when Garcia "snapped." Olita said her

brother does not like to be told what to do. This caused a pushing scuffle between her and Garcia, as he was trying to get at Torrecillas. She thought maybe Garcia in fact stabbed her, but she claimed she never saw Garcia with a knife. She said that she did not know if she was stabbed while inside or outside of the house, as she never felt any pain from the stabbing.

On February 6th, Detectives Vaught and Curtis spoke with Olita at 560 Budger Way. In this interview Olita revealed that Garcia had lost a bet while at his friend's house. The penalty for the lost bet was being sprayed in the face with mace or pepper spray.

7. Ramon Torrecillas

Ramon Torrecillas was interviewed at Renown hospital on February 5th by Sparks Police Department Detectives Nick Pagni and Kevin Dach. On February 6th a follow-up interview of Torrecillas was conducted at the Sparks Police Department by Detective Nick Pagni.

Torrecillas told detectives that after hosting a Super Bowl party at his house, he followed Olita to her residence at 560 Budger Way to assist with her brother, Garcia. Olita was unhappy that Garcia was intoxicated and not preparing to start a new job the next day. She wanted him out of her house. At the trailer, Olita and Garcia got into a fight in the kitchen area. Garcia separated from Olita and retrieved a knife from a back bedroom. Garcia then attacked Torrecillas with the knife, stabbing him in the right arm and the right side of his abdomen. Garcia also stabbed Olita. Torrecillas and Olita ran from the trailer, then called police. Garcia came out of the trailer and chased Torrecillas down Budger Way with the knife for a short distance before returning to the trailer. Torrecillas returned to the trailer and saw that multiple Sheriff's Deputies had arrived and were ordering Garcia to exit the trailer.

Torrecillas saw Garcia exit the front door of the trailer holding a gun behind his back. Torrecillas was standing in the street and pleading with Garcia to drop the gun. Then Garcia brought the gun up from behind his back and pointed it in the direction of the deputies. The deputies fired multiple shots at Garcia, and he fell to the ground.

B. Countdown of Officer's Firearms

1. Washoe County Sheriff's Deputy Justin Wike

Deputy Wike's weapon utilized in this incident was a Glock 17 Gen 4, which was chambered with 9mm Luger ammunition. Deputy Wike stated that he carries a total of 52 rounds, contained in three 17 round magazines, and a single round topping off the

pistol. On February 5th Washoe County Supervising Criminalist Renee Armstrong collected Deputy Wike's equipment worn and used during the shooting. The countdown revealed the following "WIN 9mm Luger" rounds: one round chambered in the pistol, one magazine containing 17 rounds, one magazine containing a single round, and one magazine containing two rounds.

2. Washoe County Sheriff's Deputy Richard Spaulding

Deputy Spaulding's weapon utilized in this incident was a Glock 21, Gen 4, which was chambered with .45 ACP ammunition. Deputy Spaulding stated that he carries a total of 56 rounds, contained in four 14 round magazines. On February 5th Washoe County Supervising Criminalist Renee Armstrong collected Deputy Spaulding's equipment worn and used during the shooting. The countdown revealed the following "Winchester 45 Auto" rounds: one round chambered in the pistol, one magazine containing a single round, and the remaining three magazines each containing 14 rounds.

3. Washoe County Sheriff's Deputy Ashley Goodman

Deputy Goodman's weapon utilized in this incident was a Smith & Wesson MP9, which was chambered with 9 mm Luger ammunition. Deputy Goodman stated that she carries a total of 51 rounds, contained in three 17-round magazines. On February 5th Washoe County Supervising Criminalist Renee Armstrong collected Deputy Goodman's equipment worn and used during the shooting. The countdown revealed the following "Win 9mm Luger" rounds: one round chambered in the pistol, one magazine containing 9 rounds, and two magazines each containing 17 rounds.

4. Washoe County Sheriff's Deputy Chad Ross

Deputy Ross's weapon utilized in this incident was a Glock 31 Gen 4, which was chambered with .357 SIG ammunition. Deputy Ross stated that he carries a total of 61 rounds, contained in four 15-round magazines, and a single round topping off the pistol. On February 5th Washoe County Supervising Criminalist Renee Armstrong collected Deputy Ross's equipment worn and used during the shooting. The countdown revealed the following "Winchester 357 Sig" rounds: one round chambered in the pistol, one magazine containing ten rounds, and the remaining three magazines each containing 15 rounds.

II. PHYSICAL EVIDENCE

A. Shooting Scene

560 Budger Way is in the area of Lemmon Drive and Fleetwood Drive in Lemmon Valley. Budger Way runs east to west. The property sits on the south side of Budger Way and contains a

single-wide trailer and a small garage. The front door of the trailer faces generally east, with northward facing stairs to the front porch.

The crime scene encompasses the entirety of the residence, the front yard and driveway, and the roadway in front of the address. Personnel from the Sparks Police Department, Reno Police Department, and Washoe County Sheriff's Office Forensic Science Division photographed the area and collected evidence.

B. Evidence Collected From Shooting Scene

1. Air Pistol

A black Model Firearms M-190 Special Forces airsoft style pneumatic pistol (6mm) was located on the ground where Garcia fell at the base of the stairs. It was forwarded to the Washoe County Sheriff's Office Forensic Science Division for testing.



Photo: M-190 Special Forces Airsoft style pistol (6mm) recovered at base of stairs.

2. Cartridge Cases

Investigators located 48 fired cartridge cases (35 9mm Luger, 11 .45 Auto, and 2 Sig .357 cases) in the yard of the residence. The cases are consistent with the caliber of the weapons carried by the involved deputies. The locations of the cases correspond generally to the position of the deputies at the time they fired their weapons.



Photo: Fired 9mm cartridge cases near Jeep.



Photo: Fired 9 mm cases near red Mercedes.



Photo: Fired .45 ACP cartridge cases at evidence markers 34, 35, 36. Remaining evidence markers indicate 9 mm cartridge cases.



Photo: Fired 9mm cartridge cases. Note that patrol vehicle was moved to this location after the shooting.

3. Vehicles

Olita's green Jeep Wrangler was parked in the driveway. It had multiple bullet-related defects. Two bullets and two bullet fragments were found in the trunk area. One bullet core and one fragment were found in the interior driver side door frame.



Photos: Bullet defects to Jeep.

The silver Ford F150 belonging to Mr. Torrecillas had a single bullet related defect.



Photo: Bullet defect to truck with trajectory rod.

4. Blood trail

A trail of apparent blood was found in the street in front of the residence. Evidentiary samples were collected and forwarded to the Washoe County Sheriff's Office Forensic Science Division for analysis. DNA testing of the blood trail indicated that Olita Garcia was the source of the blood.



Photo: Blood trail in roadway in front of 560 Budger Way.

5. Trailer

The pistol, evidence of medical intervention, and Mr. Garcia's shoe were all located near the porch. There were many bullet related defects in the area. Forensic personnel placed trajectory rods into the defects to determine the trajectory of the fired rounds.



Photo: Porch.



Photo: Trajectory rods at porch area.



Photo: Trajectory rods exterior of front door.

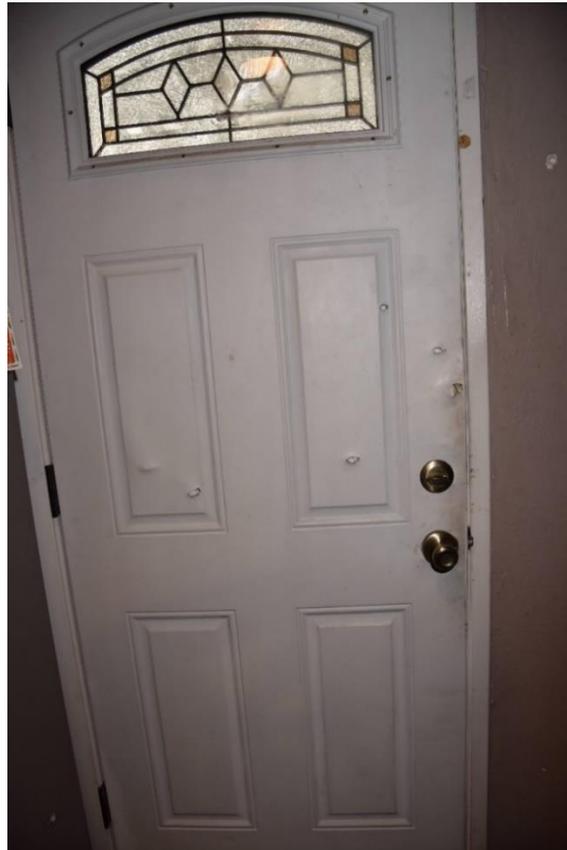


Photo: Bullet related defects to interior of front door.

6. Knife

On a dining table inside the trailer, investigators located a black and silver folding knife with a skull and flames design. It contained visible blood. Forensic DNA testing of the blade showed the presence of a mixed profile, with Olita Garcia being the source of one of the profiles. No conclusions could be made as to the minor male profile.



Photo: Knife.

7. Home Surveillance Footage: Channel 2

A DVR system containing surveillance footage of the incident was collected from Olita's residence. The video time stamp was determined to be accurate. There was no audio. The video shows Olita arriving at 11:04 p.m. and entering the front door. Torrecillas enters at 11:11 p.m. At 11:18:41 p.m. Torrecillas exits and is seen holding the door closed, preventing Garcia from pursuing him.



Still image: Torrecillas holds door.

As soon as Torrecillas releases his grip on the door and walks down the stairs Garcia exits, armed with a knife, and chases Torrecillas. Olita exits shortly after.



Still image: Garcia exits trailer armed with a knife.



Still image: Olita follows Garcia.

At 11:21:49 p.m. Garcia returns to the trailer. At 11:23:33 p.m., Garcia closes the security door. Olita returns to the door at 11:23:58 p.m. and is seen applying pressure to her chest. She finds the security door is locked.



Still image: Garcia returns to trailer.



Still image: Olita locked out of trailer, nursing chest injury.
At 11:24:41 p.m. Torrecillas escorts Olita Garcia from the porch.



Still image: Torrecillas escorts Olita from porch.

Seconds later, Garcia exits the trailer and descends the stairs, again holding a knife in his right hand.



Still Image: Garcia exits trailer armed with knife.

At 11:27:18 p.m. Garcia returns to the residence, still armed with a knife. Olita is right behind him. Garcia locks the door. Olita is then seen standing on the porch talking on a cell phone.



Still image: Garcia returns to the trailer holding a knife.



Still Image: Olita using cell phone on porch.

The video shows the splash of flashing emergency lights indicating the arrival of deputies at 11:29:30 p.m. Olita leaves the porch. The deputies climb the stairs where they find the security door locked.



Still image: Deputy Spaulding (yellow), Deputy Wike (red), and Deputy Goodman (green) at door.

Apparently reacting to something within the home, the deputies are seen retreating. Only Deputy Wike's arms and pistol are in view. At 11:30:06 p.m. Deputy Wike takes a position to the left of the screen, facing the front door. At 11:30:57 p.m. Deputy Wike fires multiple times at the door and retreats backwards.



Still image: Deputy Wike fires at door.

At 11:32:00 p.m., a towel or mat hanging on the porch appears to be struck by a gunshot or gunshots. At 11:32:38 p.m. the security door opens and Garcia partially exits the front door. His right hand is raised but the left side of his body is obscured. He lowers his right hand and appears to be speaking. He makes an obscene gesture.



Still image: Garcia in doorway.



Still image: Garcia gesturing from threshold.

Stepping from the threshold Garcia continues speaking. He holds his left hand behind his back. When he turns to close the interior door, a pistol is visible in his left hand.



Still image: Garcia conceals left hand behind his back.



Still image: Pistol visible in Garcia's left hand.

At 11:33:24 p.m. Garcia faces the camera, squats and appears to be yelling. His left hand is still held behind his back.



Still image: Garcia kneels in doorway.

At 11:33:40 p.m. Garcia stands, his left hand held behind his back. He steps forward, brings his left hand forward, holds the gun with two hands and raises the pistol in the direction of Deputies Ross and Goodman.



Still image: Garcia raises pistol.

At 11:33:43 p.m. Garcia collapses and falls down the stairs.



Still image: Garcia falls.

8. Home Surveillance Footage: Channel 4

A second angle portrays the driveway of 560 Budger Way. Olita is seen arriving in her Jeep and Torrecillas in his Ford pickup truck. Olita backs her vehicle into the driveway and Torrecillas parks near her. They both walk off screen by 11:04:40 p.m.



Still image: Torrecillas exits his vehicle, Olita Garcia's Jeep at bottom right of screen.

At 11:19:05 p.m. Garcia is seen chasing Torrecillas into the street. Olita runs into the street at 11:19:47 p.m.



Still image: Garcia chases Torrecillas.

At 11:21:38 p.m. Garcia returns from the street and walks towards the trailer.



Still image: Garcia returns from the street.

At 11:23:44 p.m. Torrecillas and Olita both return to the property. Torrecillas is seen lifting his shirt to reveal his bloody abdomen. Olita is seen applying pressure to her left chest.



Still image: Olita returns, nursing chest wound.



Still image: Torrecillas inspecting bloody abdomen.

Torrecillas stands near his truck while Olita walks off camera towards the trailer. At 11:24:50 p.m. Torrecillas leads Olita from the trailer toward his truck. At 11:25:06 p.m. Garcia confronts Torrecillas and Olita. He then chases them down Budger Way to the right of the screen.



Still image: Garcia confronts Olita and Torrecillas.

At 11:27:00 p.m. Garcia returns to the property followed by Olita. They both walk towards the trailer and out of view.



Deputies Wike, Spaulding, and Goodman arrive at 11:29:15 p.m. They meet with Olita in the driveway. As the deputies approach the trailer, Olita waits at a patrol vehicle. Torrecillas walks to the patrol vehicles from the east (screen right).



Still image: Deputies Wike, Spaulding, and Goodman encounter Olita. At 11:30:25 p.m. Deputies Spaulding and Goodman approach the rear of the trailer. At 11:30:55 p.m. they return to the front. Deputy Ross arrives in his patrol vehicle.



Still image: Deputy Spaulding walks towards rear of trailer.



Still image: Deputies Goodman (green) and Spaulding (yellow) return to front of trailer. Deputy Ross (blue) arrives.

Deputies Goodman and Spaulding are seen moving to cover. At 11:31:26 Olita runs towards the trailer. Torrecillas and Deputy Spaulding restrain her and mover her to cover. Deputy Ross exits his patrol vehicle.



Still image: Deputy Spaulding and Mr. Torrecillas restrain Olita.

Deputies Goodman, Spaulding, and Wike take positions of cover to the east of Torrecillas' pickup truck. Deputy Ross stands out of sight (screen left) at Deputy Goodman's patrol vehicle. Then Deputy Ross escorts Olita to his patrol vehicle. A patrol sergeant arrives and parks behind Deputy Ross's vehicle. Deputy Ross retakes his position of cover (off screen) as Torrecillas stands at Deputy Wike's patrol vehicle.



Still image: Deputy Goodman (green), Deputy Spaulding (yellow) and Deputy Wike (red) behind cover.

At 11:33:43 p.m. Deputies Goodman, Spaulding, and Wike are seen firing at Garcia. Afterwards, Deputy Ross moves to the driveway and provides cover. The deputies converge on Garcia's position.



Still image: Deputy Goodman (green), Deputy Spaulding (yellow), and Deputy Wike (red) fire their weapons.

9. Cell Phone Video

Edgar Rodriguez, who resides at 585 Budger way, recorded a 2 minute 40 second cellphone video of the incident from his property. Only police lights are visible due to several obstructions, but the audio quality is good. The recording captures the multiple round of gunshots. Deputy Wike and Deputy Spaulding are heard repeatedly yelling "Show me your hands", "Hands up", "Hold your hands up", "Hands in the air", "Show me both your hands", and "Show me your other hand." Then Deputy Goodman yells, "He has a gun!" The other deputies repeatedly yell "Drop the gun." At least two male deputies yell "Don't move" just before the final gunshots.

C. Evidence Collected from Law Enforcement Officers

1. Dash Mounted Camera

A dash mounted camera from Deputy Goodman's patrol vehicle captured a portion of the shooting. The audio portion of the recording captures radio traffic and portions of the deputies speaking in the background. The sound of the deputies discharging their firearms is clear. The dash mounted camera from Deputy Wike's vehicle does not capture the shooting because it contains no audio and the camera was not pointed at 560 Budger Way.

Deputy Goodman's dash camera shows roughly the eastern half of 560 Budger Way. Garcia's actions on the porch are just out of frame. Deputies are seen approaching the front of the trailer and heard giving indistinct verbal commands.

At 23:30:50 hours, a group of six shots are heard, along with at least one deputy yelling. Deputy Wike broadcasts "...gun at me" followed shortly by Deputy Spaulding announcing, "Shots fired." The deputies are not visible on screen. At 23:31:00 seven more gunshots are heard.

At 23:31:09 Olita runs, screaming, towards the trailer but is quickly removed by Deputy Spaulding and Torrecillas. Deputy Spaulding and Deputy Goodman are seen moving to cover at the Olita's Jeep and Torrecillas' Ford. Deputy Wike moves to a position near a stand-alone garage.

At 23:31:51 a third round of gunshots is heard, and muzzle gasses are seen discharging from Deputy Wike's position. Deputy Goodman is seen behind the Ford F150, Deputy Spaulding is near Olita Garcia's Jeep.



Still image: Deputy Wike (red), Deputy Spaulding, (yellow), and Deputy Goodman (green) at time of third round of gunshots.

Olita screams in the background. The deputies hold their positions. Beginning at 23:32:00 a male deputy is heard yelling repeatedly, "Show me your hands" and "Show me both of your hands". The other male deputy yells "Show me your hands". Deputy Goodman yells inaudible commands. Other commands heard by the male deputies include "Hands in the air", "Let me see your hands", "Drop the gun", "Drop the gun now", and "Don't move". Garcia is not visible.

At 23:33:34 the final gunshots are heard. Deputy Goodman, Deputy Wike, and Deputy Spaulding all appear to fire. After the shooting, the deputies approach Garcia's position.



Still image: Deputy Spaulding (yellow), Deputy Wike (red, behind), and Deputy Goodman (green) at time of final gunshots.

D. HFC M190 Special Forces airsoft pistol

The Forensic examiner found that the pistol was missing a part or several parts and did not function in a normal manner. It contained neither CO2 nor pellets. When charged with CO2 gas, the pistol discharged pellets by pulling and releasing the slide without having to pull the trigger.

In appearance, the pistol is nearly indistinguishable from a Beretta 92FS 9mm Luger pistol on which it is modeled.



Photo: Forensic lab visual comparison of recovered pistol to Beretta 92FS 9mm Luger pistol.

E. Garcia's Injuries and Toxicology

Garcia was transported to the hospital where he underwent surgery. Garcia's had one gunshot entry wound to the front right shoulder, one entry wound to the right abdomen, and one entry wound to the upper part of his right thigh. One bullet was recovered from Garcia's right shoulder during surgery.

Hospital testing showed that Garcia had a blood alcohol content of .18%.

III. TRIAL

In December 2018, a jury convicted Garcia of Battery with Use of a Deadly Weapon and Battery with use of a Deadly Weapon Resulting in Substantial Bodily Harm for stabbing sister and Mr. Torrecillas. He was acquitted of Assault on a Peace Officer with Use of a Deadly Weapon. On January 30, 2019 Garcia was sentenced to a combined 68 to 204 months in prison, suspended for a 5-year probationary term.

IV. LEGAL PRINCIPLES

A homicide is the killing of another human being, either lawfully or unlawfully. Homicide includes murder and manslaughter, which are unlawful, and the acts of justifiable or excusable homicide, which are lawful. Although Mr. Garcia was not killed, "death does not have to be the result for self-defense to be applicable." Davis v. State, 130 Nev. 136, 141, 321 P.3d 867, 871 (2014). See also, NRS 200.275 ("In addition to any other circumstances recognized as justification at common law, the infliction or threat of bodily injury is justifiable, and does not constitute mayhem, battery or assault, if done under circumstances which would justify homicide."). Consequently, the Washoe County District Attorney's Office is tasked with assessing the conduct of the officers involved and determining whether any criminality on their part existed at the time of the shooting.

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 NRS 200.180 and NRS 171.1455). Moreover, case law authority interprets justifiable self-defense and defense of others. All the aforementioned authorities are intertwined and require 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 guidelines in 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 provides in relevant part that "Homicide is justifiable when committed by a public officer . . . 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" and "When necessary . . . in attempting, by lawful ways or means, to apprehend or arrest a

person" and/or "in protecting against an imminent threat to the life of a person."

C. Use of Deadly Force to Effect Arrest

NRS 171.1455 provides in relevant part "If necessary to prevent escape, an 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 . . . poses a threat of serious bodily harm to the officer or to others."

V. ANALYSIS

On February 4, 2018, Garcia was under the influence of alcohol when he returned to his sister's trailer after attending a Super Bowl party. His sister, Olita, arrived later with her friend Torrecillas. When she arrived, Garcia was on the couch and obviously intoxicated. Olita told Garcia to go to bed. Instead, Garcia became inexplicably angered at the presence of Torrecillas and began to argue with his sister. Garcia retrieved a knife and chased Torrecillas out of the trailer and into the street. Olita gave chase, trying to intervene. In the attack, Garcia stabbed Mr. Torrecillas in the abdomen and cut his sister's left breast. Olita Garcia called 911.

Responding deputies arrived to find two victims of a stabbing and Garcia locked inside a trailer. The deputies announced their presence and ordered him to exit the trailer. However, Garcia did not come out and responded by telling the deputies to go away and cursing at them. Around this time, Garcia's actions clearly show he made the decision to provoke the deputies into shooting him. He grabbed what he believed to be his sister's pistol, which unbeknownst to him was a pneumatic Airsoft style pistol visually indistinguishable from the Beretta that it is modeled after.

After refusing to obey commands for a time, Garcia then cracked the front door and pointed the pistol at Deputy Wike. Deputy Wike responded by firing his weapon at Garcia while retreating to cover. Garcia retreated into the trailer for a time, then pointed the pistol at Deputy Wike again. Again, Deputy Wike responded by firing at Garcia. In both instances, Deputy Wike fired in fear of being shot by Garcia who repeatedly pointed the pistol at him.

In these moments, Deputy Wike's use of deadly force was lawful as he actually and reasonably perceived imminent danger that Garcia would either kill him or cause him great bodily injury and that it was absolutely necessary for him to use deadly force to save his life.

Despite the critical situation that had just taken place, Garcia continued to refuse to obey numerous commands and instead confronted the deputies again. Deputy Wike, Deputy Spaulding, and Deputy Goodman all fired at Garcia when he raised the pistol in the direction of Deputy Goodman and Deputy Ross. These deputies actually and reasonably perceived imminent danger that Garcia would either kill or cause great bodily injury to one of them or their partners, which was absolutely necessary under the circumstances for them to use deadly force. The fact that the weapon pointed at the deputies turned out to be a pneumatic pistol does not change this analysis because deadly force is authorized against "apparent danger to the same extent as it would from actual danger." The deputies had no way of knowing the condition of the pistol so their actions in response to it were warranted. Garcia himself was under the impression the pistol was real.

VI. CONCLUSION

Based upon a review of the entire investigation presented and the application of Nevada law to the known facts and circumstances surrounding the February 4, 2018 officer involved shooting of Maurice Alfonso Garcia, the actions of Deputies Justin Wike, Richard Spaulding, Ashley Goodman, and Chad Ross have been found to be warranted under Nevada law. Unless new circumstances come to light which contradict the factual foundations upon which this decision is made, this case is officially closed.