

**OFFICE OF THE WASHOE COUNTY
DISTRICT ATTORNEY**

June 28, 2019



REPORT ON THE AUGUST 4, 2017, OFFICER INVOLVED
SHOOTING OF CORY STEPHENS

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INTRODUCTION

On August 4, 2017, at approximately 9:31 a.m., Washoe County Sheriff's Office (WCSO) Deputy Yancy Butler was dispatched to the area of Calle De La Plata and Echaniz Court, Sparks, Nevada on a report of a comatose person inside a white GMC pickup truck. REMSA medics and firefighters were also dispatched in the event the subject in the truck needed medical attention.

At 9:37 a.m., Deputy Butler arrived and noted firefighters were also on scene. Deputy Butler contacted the sole occupant of the truck, a white male adult, and asked him to step outside the vehicle. Deputy Butler parked his police vehicle facing northbound on Echaniz Court directly in front of the truck.

After several seconds, the male in the truck, later identified as Cory Stephens (hereinafter "Stephens") stepped out of the truck. Deputy Butler asked for identification, which Stephens claimed not to have. Deputy Butler then conducted a pat-down search of Stephens for officer safety reasons and requested medics evaluate him for injuries or medical issues. While he was being evaluated by medics, Deputy Butler asked Stephens to verbally provide his identifying information.

Stephens provided his birthdate and Social Security Number but not his name. Rather, he provided his brother's name, "Casey Stephens." A short time later, medics left the scene after assessing the male and finding no medical issue or complaints.

Deputy Butler ran the identifiers given to him through dispatch and was informed that the male was possibly Cory Stephens who had a felony warrant for his arrest. In fact, On May 17, 2017, Stephens pled guilty in the Second Judicial District Court to two felonies: one count of Eluding a Peace Officer, Endangering Other Person or Property, and one count of Transporting of a Controlled Substance. Sentencing was scheduled for July 26, 2017 where Stephens faced a number of years in prison. On that date, Stephens failed to appear for sentencing and a bench warrant was issued for his arrest.

Deputy Butler verified the identity of the male by checking for a known tattoo reading "Stephens" on his right forearm and a known four inch scar on his back. Deputy Butler told dispatch he wanted to wait for a cover unit before confirming Stephens'

warrants as Stephens was becoming agitated. While waiting for the cover unit, Stephens became more animated by throwing his hands up and telling Deputy Butler that he wanted to leave. Deputy Butler informed Stephens that he was not free to leave and that he was being detained until Deputy Butler could verify Stephens' identity.

Stephens began walking backward (northbound) away from Deputy Butler, refusing to cooperate with the order to stay in place. Deputy Butler drew his Taser and told Stephens several times to stop. Stephens did not comply and kept walking backwards away from Deputy Butler. Deputy Butler followed Stephens with his Taser drawn approximately 200 feet from where the white truck was parked. Stephens then suddenly stopped and took a fighting stance towards Deputy Butler.

Deputy Butler requested dispatch to expedite cover officers and then deployed his Taser at Stephens, which partially struck his chest. Stephens fell to the ground but was able to pull the wires off the Taser probes, rendering the Taser ineffective.

As Stephens rolled to his hands and one of his knees, Deputy Butler sprawled on top of him in an attempt to arrest and control Stephens. Deputy Butler struggled to keep Stephens on the ground, and could feel Stephens using his left hand to pull and yank at the left side of his duty belt. In doing this, Stephens was able to grab Deputy Butler's police radio from his belt and repeatedly struck the deputy on the top of his head with the radio.

Deputy Butler broke contact with Stephens, hoping to transition to his baton, but Stephens was able to quickly get to his feet. In response, Deputy Butler drew his firearm and put Stephens at gunpoint, ordering him several times to stop and get on the ground. Stephens refused and began walking backwards away from Deputy Butler and back towards the vehicles. Deputy Butler's police vehicle was running and contained a loaded shotgun in the center console of the front compartment area as well as an unsecured rifle in the back cargo area.

Stephens continued walking backward past his truck and towards Deputy Butler's patrol vehicle. Deputy Butler followed Stephens while still holding Stephens at gunpoint and giving verbal orders. Stephens continued to refuse to obey commands to stop

and opened the unlocked driver door of Deputy Butler's patrol vehicle. He then reached inside the front compartment area toward the loaded shotgun.

Seeing this, Deputy Butler feared Stephens would gain access to his shotgun or rifle and shoot him or would steal his car and run him over. Deputy Butler also feared Stephens would flee in a marked patrol vehicle putting himself, other deputies, and citizens at risk. Deputy Butler then fired three shots at Stephens, striking him once.

Shortly after Deputy Butler fired at Stephens, WCSO Deputy Nicoles Huynh arrived on scene and began rendering medical aid to Stephens. When REMSA arrived, paramedics assessed Stephens and found that he had sustained a fatal injury. Stephens was pronounced dead at the scene.

Consistent with the regionally adopted Officer Involved Shooting (OIS) Protocol, the Reno Police Department (RPD) led the investigation into the shooting of Stephens. The Sparks Police Department (SPD) provided secondary investigative support, and the Washoe County Crime Laboratory (WCCL) provided forensic services. The investigation included interviewing witnesses, collecting physical evidence, photographing the shooting scene, forensically testing collected evidence, and interviewing the officer involved in the shooting.

All investigation reports along with WCCL forensic reports, photographs, and recorded interviews were then submitted to the Washoe County District Attorney's Office on March 21, 2019 for a determination of whether the shooting of Cory Stephens was legally justified. No criminal charges were recommended by RPD.

The District Attorney's evaluation included reviewing over 500 pages of reports and documents, which included interviews of police and civilian witnesses, photographs, diagrams, video surveillance 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 Cory Stephens by Washoe County Sheriff's Deputy Yancy Butler was justified and not a criminal act.

I. STATEMENT OF FACTS¹

A. Witness Accounts

1. WCSO Deputy Yancy Butler

Deputy Butler was interviewed at the Washoe County Sheriff's Office (hereinafter "WCSO") on August 4, 2017, by RPD Detective Allison Jenkins and SPD Detective Nicholas Pagni. Yancy Butler has been employed as a sheriff's deputy with WCSO for four years. On August 4, 2017, Deputy Butler was assigned to patrol and working a shift from 7:00 a.m. to 7:00 p.m.

After attending a briefing at the beginning of his shift, Deputy Butler was dispatched to the area of Calle De La Plata on a report of a person down, inside a white SUV in a ditch. Deputy Butler responded with lights and sirens activated in the event the person in the SUV was injured or needed medical attention.

Deputy Butler saw a fire engine turn onto Pyramid Way ahead of him, responding to the same call, and followed it into the area of the reported call. As he and the fire department neared the intersection of Calle De La Plata and Echaniz Court, Deputy Butler saw a white pickup truck parked on the east side of Echaniz Court just north of and facing Calle De La Plata.

The fire engine stopped on Echaniz Court. Because the intersection was small, Deputy Butler parked his patrol vehicle nose to nose with the pickup truck, facing north. Deputy Butler saw a white male adult, later identified as Stephens, sitting in the driver seat of the truck moving things around.

Deputy Butler noted Stephens seemed somewhat unconcerned with his or the fire department's presence. Deputy Butler approached Stephens, who he identified as the sole occupant of the truck, from the front passenger side. As he made his approach, Deputy Butler saw the truck had several pieces of property inside the bed and cab to include a television and other random items that looked like they came from a house. In the cab of the truck with Stephens was a large black dog.

Deputy Butler asked Stephens to exit the truck to talk to him so that he could check his welfare and figure out why he was there.

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

Deputy Butler noticed Stephens shuffling unknown objects inside the car. Stephens exited the driver seat, into the heavy brush below and walked around the front of the truck to meet him. Deputy Butler asked him if he had any weapons on his person. Stephens told him he did not and consented to a pat-down search. While conducting the pat-down, Deputy Butler smelled urine and felt that the front of Stephens' pants and the bottom of the front of his shirt were wet. Deputy Butler asked him if he had wet himself and he confirmed he had.

Deputy Butler felt no weapons during the pat-down and was worried Stephens was suffering a medical issue that needed attention and therefore passed him over to firefighters to check his welfare as REMSA medics had not yet arrived.

While doing so, Deputy Butler asked Stephens for his identification and was told he did not have any.² REMSA arrived on scene at that time and replaced the fire department. While Stephens received a medical evaluation inside the back of the ambulance, Deputy Butler asked him for his identifying information. At that time, Stephens verbally provided the name "Casey Stephens", a date of birth of August 10, 1981, a Social Security Number, and an address.

Deputy Butler asked Stephens why he was on the side of Echaniz Court and was told he ran out of gas at around midnight and was waiting for his sister to bring him gas. Deputy Butler ran the identifying information he was given through dispatch to check its validity and to check for any outstanding warrants.

Deputy Butler was aware WCSO Deputy Nicoles Huynh was coming to cover him and canceled Deputy Huynh's response because he believed he would not be taking enforcement action and that the call would be handled medically. REMSA cleared the call a short time later, leaving Deputy Butler on scene alone with Stephens.

Shortly after REMSA medics left, dispatch informed Deputy Butler over the radio that the information provided was a possible match to a wanted subject with the name "Cory Stephens" and asked him to verify his identity by checking for a tattoo and a large scar on his back. Deputy Butler saw the described tattoo

² It was later learned Stephens was in possession of his wallet which contained his Nevada identification card.

on one of Stephens' arms and also confirmed the scar on his back.

Deputy Butler informed dispatch that the man matched the physical description of the described wanted subject. Deputy Butler could not remember exactly what Stephens' warrants were for but remembered dispatch telling him he had a misdemeanor warrant and a felony warrant from either SPD or RPD.

Deputy Butler believed Deputy Huynh was driving back to his location at that time and also believed dispatch, knowing his subject had a warrant, sent him a cover unit per standard procedure.³

Dispatch asked Deputy Butler if he wanted them to confirm Stephens' warrants. He asked them to standby so that he could further investigate and wait for the cover unit he believed was coming. Deputy Butler was not comfortable with Stephens' story of running out of gas at midnight and felt there was more to what he was actually doing there. Deputy Butler saw a gas can inside the pickup truck and wondered why Stephens would stay on scene all night rather than making the short walk to the gas station or why it would take someone so long to get help. Deputy Butler also saw a hubcap and lug wrench on the hood of the truck but Stephens could not explain why he had taken it off.

During the conversation, Stephens became agitated, shaky, and nervous, and said Deputy Butler was "pissing him off." Deputy Butler asked Stephens why he was nervous and told him that his behavior was making Deputy Butler nervous as well. Deputy Butler asked Stephens if he had any warrants. Stephens told Deputy Butler he didn't know if he had warrants.

Stephens then told Deputy Butler he had a pack of cigarettes on the dashboard of his truck and requested to retrieve them to smoke. Deputy Butler allowed Stephens to retrieve the pack of cigarettes, believing he would grab them through the open driver window of the truck. However, when Stephens went to the truck, he opened the driver's door, grabbed the cigarettes, and something else Deputy Butler could not see, and placed it inside his right front pants pocket. When asked, Stephens initially

³ It was later learned that at that point, no cover unit had been dispatched.

denied putting anything in his pocket, but ultimately pulled a pair of keys from his pocket and claimed they were the only thing he grabbed from the truck.

As they continued to talk, Stephens began to raise his voice and told Deputy Butler to let him go because he was going to walk to get the gas himself. Deputy Butler told Stephens that although he was not under arrest, this was an investigation and that he was still waiting for his partner to arrive so that he could figure out what was going on.

Stephens became more animated by raising his voice and throwing up his hands and said again that he wanted to leave to get gas. Deputy Butler continued to tell Stephens he was not free to leave and to stay where he was, to which Stephens responded "No. You're not going to keep me here. What are you going to do? Are you going to arrest me?"

Deputy Butler told Stephens he was going to detain him in order to figure out what was going on and who exactly he was because he had not shown him any identification. Stephens responded that he was not going to allow that while backing away from Deputy Butler.

Deputy Butler told Stephens to turn around and put his hands behind his back, which Stephens refused to do. Instead, Stephens backed away from Deputy Butler northbound (while facing south) from the front bumper of the truck. As Stephens backed toward the passenger side of the truck, Deputy Butler became concerned Stephens was going to try to access the interior of the truck from the passenger door where the contents of the truck were unknown to him.⁴

At that point, Deputy Butler pulled his Taser from his holster and aimed it at Stephens while ordering him to get on the ground. Instead of complying, Stephens continued walking backward away from Deputy Butler at a brisk pace. Deputy Butler told Stephens something to the effect of "You don't want to do this. It's not worth it. You don't want to fight me, this is stupid." Stephens continued backwards until he suddenly stopped and took a fighting stance with his hands in front of him.

⁴ On August 7, 2017, a search was conducted of the GMC pickup truck. Located inside a Nike backpack found in the cargo area was a Smith and Wesson .32 caliber firearm with serial number 167541.

Deputy Butler believed Stephens was either going to fight him or flee from him so he used his police radio to request expedited cover units. Deputy Butler deployed his Taser at Stephens, aiming for the area of his abdomen. One of the two Taser darts hit Stephens in the area of the upper chest but Deputy Butler did not know the result of the other dart. Initially, Stephens stiffened and fell backward, consistent with a typical reaction to a Taser. However, Stephens was able to pull the Taser dart off and immediately tried to get up.

Deputy Butler felt he did not have enough time to load a second Taser cartridge and considered using his Taser to "drive stun" Stephens by making contact with the Taser directly onto Stephens' person but knew it would not be effective without good probe contact from the initial deployment. Stephens pushed himself up with his hands and one of his knees, preparing to stand. Not wanting him to get up, Deputy Butler got on top of Stephens (Deputy Butler's chest to Stephens's back) with his legs sprawled out behind him and attempted to control Stephens' arms until his cover arrived.

Deputy Butler grabbed Stephens' right arm with his right hand and put his left arm over Stephens' left shoulder to grab his own right arm for support in trying to control Stephens' right arm. He did not have control of Stephens' left arm. While grappling with Stephens, Deputy Butler continued to give Stephens commands to lay flat on his stomach and to stop resisting. Stephens continued to physically resist despite the commands. At times, Stephens would feign compliance multiple loosening his right arm, but then would rip it away as Deputy Butler attempted to pull the right arm towards himself in attempt to get Stephens on his stomach.

While struggling, Stephens began using his left hand to hit Deputy Butler on the head. Additionally, he used his left hand to grab at Deputy Butler's gun belt, reaching for different tools, and trying to pull the belt off by removing the belt loops that secure the gun belt to its inner belt. Stephens called Deputy Butler a "fucker" and yelled "Get off me, fucker!" Deputy Butler was worried Stephens was going to remove his gun belt and get access to his gun or his baton. He also began getting tired and felt like it was taking his cover units a long time to arrive.

Stephens then grabbed Deputy Butler's radio from his belt with his left hand and began using it to strike Deputy Butler over the head with it several times. The radio strikes were hard and Deputy Butler was scared Stephens was going to daze him or knock him unconscious allowing Stephens to get his gun and kill him.

Deputy Butler broke contact with Stephens to get his baton in the hopes of keeping him on the ground and under control until his cover unit arrived. However, when Deputy Butler got to his feet, Stephens was able to rise quickly to his feet as well. Therefore, Deputy Butler drew his gun instead and continued to give Stephens verbal commands to stop and get on the ground. Stephens continued to ignore the commands and began walking backwards towards the vehicles. Deputy Butler noticed his radio was dragging on the ground behind him, tethered to his uniform only by his shoulder microphone on his right lapel.

As Stephens walked backward, he kept his hands near his face, with his palms facing Deputy Butler. Stephens continued to look around him, possibly for a route in which to escape. Deputy Butler followed Stephens with his firearm drawn, continuing to give him commands to stop and get on the ground.

Deputy Butler was concerned Stephens would enter his truck and possibly retrieve a weapon. However, Stephens passed by the pickup truck and continued to walk backwards toward Deputy Butler's patrol vehicle, which was running with the keys in the ignition. Stephens stopped walking when he reached the driver's door of Deputy Butler's patrol vehicle which greatly concerned Deputy Butler as there was an unsecured rifle in the rear compartment as well as a shotgun secured by a two-button press release mechanism in the front passenger compartment. Deputy Butler also feared that if Stephens gained access to his marked patrol vehicle, he could use it to run him over or use it to flee and potentially hurt or kill someone else on the road.

Stephens opened the driver's door of Deputy Butler's patrol vehicle and reached inside the vehicle. Deputy Butler yelled at Stephens again to stop as he was turning in to reach inside the vehicle, but Stephens continued to ignore him. Deputy Butler felt it was clear that Stephens would do anything he could to keep from being arrested and would try to kill him either with the shotgun he had inside his patrol vehicle or by getting inside his patrol vehicle to run him over. Deputy Butler felt

Stephens knew the gravity of the situation and only a person with no care would fight a deputy, ignore repeated commands at gunpoint, and still be bold enough to reach inside a police vehicle with a shotgun in plain sight.

As Stephens reached forward inside the vehicle towards the center area in what he perceived could be an attempt to unsecure the shotgun, Deputy Butler fired two shots at Stephens through his driver window, one immediately after another.⁵

Deputy Butler heard Stephens yell as if he was struck by one of the rounds and watched him fall to the ground on his back. Immediately after the shooting, Deputy Butler used his shoulder microphone to announce shots were fired and to request REMSA medics for Stephens.

Deputy Butler heard other units informing dispatch they were en route to him and asking him for his exact location, but his focus remained on Stephens, who was still moving around on the ground. Deputy Butler was not sure where Stephens had been hit or of the severity of his injuries. Therefore, Deputy Butler held Stephens at gunpoint until Deputy Huynh arrived. When Deputy Huynh arrived, both deputies approached Stephens and handcuffed him.

2. Jayson Hill

Jayson Hill was interviewed at his residence on Echaniz Court on August 4, 2017, by SPD Detective Jaimie Adhunko and RPD Detective Patrick Blas. Jayson Hill was the original reporting party regarding Stephens.

At 09:03 a.m., Hill's wife left their residence on Echaniz Court. She called Hill in reference to a vehicle parked on the end of Echaniz Court with a male sleeping in the driver's seat with the driver's door open. She was concerned and Hill advised her not to stop and that it was probably a young adult passed out.

Hill left his residence a few minutes after and saw the vehicle his wife was referencing, a white GMC extended cab pickup bearing NV License Plates (NV 65F-262). Hill noted that the driver's side door was open and there was a large amount of items in the back of the truck. As Hill passed the vehicle he

⁵ Further investigation revealed Deputy Butler fired his firearm three times.

could see a male subject sleeping in the driver's seat of the truck.

Hill was concerned that the subject might be under the influence of drugs or alcohol and in a vehicle so he called the police non-emergency number at 9:29 a.m. to report the suspicious vehicle and possible DUI.

Hill returned to his residence around 11:30 a.m. and noticed that the police were already on scene and an investigation was being conducted. Hill did not observe the shooting incident because he was not home or in the area at the time.

3. WCSO Deputy Nicoles Huynh

Deputy Huynh was interviewed at the Washoe County Sheriff's Office (WCSO) on August 4, 2017, by RPD Detective Allison Jenkins and SPD Detective Nicholas Pagni. On August 4, 2017, Deputy Huynh was assigned to patrol in the Sun Valley area and working a shift from 7:00 a.m. to 7:00 p.m.

Deputy Huynh heard over the police radio that Deputy Butler was dispatched to a report of a person down on Calle De La Plata. Deputy Huynh began driving to Deputy Butler to cover him, but prior to his arrival, Deputy Butler announced he was okay and cancelled Deputy Huynh's response. Deputy Huynh cancelled his response and remained in Sun Valley.

Minutes later, Deputy Huynh heard Deputy Butler call for expedited cover over the police radio. Deputy Huynh confirmed Deputy Butler's location through dispatch and began responding to him again with lights and sirens activated. While en route to Deputy Butler, Deputy Huynh heard Deputy Butler announce he had deployed his Taser.

Deputy Huynh then heard Deputy Butler announce that shots were fired, which occurred also while he was en route to help. Deputy Huynh was the first deputy to arrive at Deputy Butler's location and saw Stephens on the ground near the driver's door of Deputy Butler's patrol vehicle. Deputy Butler was standing near Stephens with his firearm in hand. Immediately after exiting his car, Deputy Huynh directed Deputy Butler to him to conduct a quick assessment for injuries. Deputy Butler told Deputy Huynh he was okay.

Deputy Huynh said he did a quick assessment of the pickup truck on scene to ensure there were no outstanding suspects and then

began rendering aid to Stephens on the ground. Stephens' head was pointing south and his feet pointing north. Deputy Huynh rolled Stephens from his back to his stomach to handcuff Stephens and assess his injuries. Deputy Huynh lifted Stephens' shirt and saw what he thought was a gunshot wound before medics arrived and assumed life saving measures.

Deputy Huynh saw Deputy Butler's police radio on the ground near the northwest corner of the intersection of Calle De La Plata and Echaniz Court. Deputy Huynh also saw Deputy Butler's Taser and other equipment on the ground further north on Echaniz Court. Deputy Huynh stayed on scene and directed other units to control traffic in case Care Flight was needed to transport Stephens.

5. Casey Stephens

Casey Stephens was interviewed at the Reno Police Department on August 7, 2017, by SPD Detective Nicholas Pagni. Casey Stephens (hereinafter "Casey") is the brother of Cory Stephens.

Casey said his brother had been going down a "rocky road" recently and was in trouble with law enforcement. Stephens had missed a recent court date and believed that a warrant had been issued for him.⁶ According to Casey, Stephens had been using drugs heavily. Casey last had contact with Stephens on August 3, 2017, at approximately 10:00 a.m. through text messages.

For the past couple of weeks, Stephens had been driving a white pickup truck similar to a 2001 Chevy Silverado. Casey believed that the truck was stolen because Stephens does not have a job and according to Casey, he was tired of struggling and being "down and out."

⁶ On May 17, 2017, Stephens pled guilty in the Second Judicial District Court (Case CR17-0696) to two felonies: one count of Eluding a Peace Officer, Endangering Other Person or Property, and one count of Transport a Controlled Substance. Sentencing was scheduled for July 26, 2017. On that date, Stephens failed to appear for sentencing and a bench warrant was issued for his arrest.

6. Lindsi Jurado

Lindsi Jurado was interviewed at the Reno Police Department on August 7, 2017, by RPD Detective Allison Jenkins. Jurado was Stephens' girlfriend for approximately a year and half.

According to Jurado, Stephens was arrested by SPD in February of 2017 for fleeing from the police in a stolen car. Stephens was later booked for drug trafficking after the police searched the stolen car he was in and found illegal drugs. Stephens was supposed to appear in court at the end of July for his February arrest but failed to appear and believed a warrant had been issued for his arrest. Stephens also believed he would be sentenced to prison as a result of his missed court date. Stephens had already been to prison once in Alaska and was worried about going back again. Jurado and Stephens temporarily broke up during that time because of his failure to appear.

After Stephens' February arrest, he attempted to stop using drugs and got a job as a carpenter in Carson City. Stephens was fired a few months later for being late to work several times. Jurado and Stephens then moved to Fallon to find an inexpensive place to live that would also accommodate their two large dogs, Rocky and Molly. Rocky was the dog with Stephens on August 4, 2017.

The day before the shooting occurred, Jurado and Stephens moved out of their trailer in Fallon because they could not pay their rent. Neither Jurado nor Stephens were working at the time and they planned to move to Spokane, Washington where Jurado has family, however, Stephens was still dealing with his potential warrant.

Jurado stayed the night of August 3, 2017, with a girlfriend of hers in Fernley and was waiting for Stephens to arrive because he had gone to a home in Sparks to pick up their dogs and some of their property Stephens was storing there. Jurado last saw Stephens around 7:00 p.m. on August 3, 2017.

Jurado talked to Stephens over the phone while he was driving at around 2:30 a.m. on August 4, 2017, when he called her to say he was on his way back to Fernley. While they were on the phone, Stephens ran out of gas and told her he was stuck off of Pyramid Highway. During the call, Stephens was very despondent and

hopeless on the phone. The fact one of their dogs, "Molly", had recently been seized by Animal Control especially upset him.

Stephens had struggled with heroin when Jurado started dating him and he had only briefly done better after his arrest in February. Jurado was not exactly sure when Stephens started using heavily again, but knew he was currently using drugs. Jurado and Stephens were both currently struggling with methamphetamine use.

B. Countdown of Deputy Butler's Firearm

Deputy Butler's primary weapon on August 4, 2017, was a HK VP9 .9mm caliber semi-automatic handgun. The carrying capacity of the magazine used in his firearm was fifteen rounds. Deputy Butler carried two additional magazines for his firearm, both loaded with fifteen rounds. Deputy Butler told investigators that he loads his firearm with fifteen rounds in the magazine and does not top off the firearm with an additional round.

On August 4, 2017 Washoe County Forensic Investigator Elvira Koeder collected Deputy Butler's equipment worn and used during the shooting. The collection of Deputy Butler's firearm and its contents revealed one live .9mm caliber Winchester hollow point round in the chamber and eleven live .9mm caliber Winchester hollow point rounds in the magazine. Two magazines taken from Deputy Butler's duty belt contained fifteen rounds of .9mm caliber Winchester hollow point rounds in each. Thus, Deputy Butler fired his gun three times.

II. PHYSICAL EVIDENCE

A. Shooting scene

Echaniz Court is a short street extending north from Calle De La Plata. It is approximately 800 feet in total length and the roadway is approximately 16 feet wide. Echaniz Court does not extend south of Calle De La Plata. Echaniz Court is located approximately six tenths of a mile east of Pyramid Highway. The scene is located in an open area with very few structures. Most of the area is a desert environment with flat ground surfaces. There is sagebrush in the open fields.



(Echaniz Court and Calle De La Plata - Google Maps)

On Echaniz Court approximately 20 feet north of Calle De La Plata was the involved deputy vehicle. It was a white Chevrolet SUV with WCSO markings and was fully equipped with overhead lights. The engine was running and the overhead lights were activated. It was stopped facing north in the right (north) travel lane. It was facing towards a white pickup. The white pickup was facing south towards the deputy vehicle on the east side of the street. All doors and windows of the deputy vehicle were closed at the time of investigation.



(Deputy Butler's patrol vehicle and the white GMC pickup on Echaniz Court)

Approximately 75 feet north of the involved truck is a driveway on the east side of the street that leads to the residence of 408 Echaniz Court. In line with the north end of the driveway into 408 Echaniz Court, the street of Echaniz Court turns from pavement into gravel. The rest of the road to the north of this point is gravel. Just north of this pavement break there were two parallel lines of scuff marks in the gravel going north for approximately 15 feet. There were small breaks in the scuff marks for this distance. West and slightly north of the scuff marks was one Taser prong and two Taser wires. This was approximately five to ten feet west of the scuff marks.

Approximately 10 feet north of these scuff marks there were additional scuff marks in the gravel heading north for approximately 40 feet. These scuff marks were also 2 parallel lines and had small breaks in the scuff marks for this distance. Just north of where this second set of scuff marks ends, there was a large circular area of several scuff marks consistent with the location of where a physical struggle had occurred. Within

and surrounding this circular area of scuff marks, were several items of evidentiary value to this investigation.



(Scuff marks indicating a physical struggle between Deputy Butler and Stephens)

A few inches to the east of the north end of scuff marks was a small yellow piece of plastic on the ground which was determined to be a part of a Taser. In approximately the middle of the gravel roadway's width was a black colored Taser. It had an expended cartridge still attached with the doors missing. It had an unfired spare cartridge attached to the grip handle.

Approximately eight feet to the north and slightly west of the Taser was an empty radio holster on the ground. It was a black basket weave style holster. It was missing the radio. This holster was within the large circular area of scuff marks.

On the northeast edge of the circular area of scuff marks was a "Brisk" brand beverage bottle which was empty and had the cap on it. This was an iced tea with a raspberry flavor. Next to the bottle was some loose change which consisted of one quarter, three dimes, and one nickel. All of the change appeared clean, consistent with being recently placed on the gravel/dirt road.

Southwest of the Deputy Butler's patrol vehicle was a handheld police radio with a "Butler" sticker on it. The radio had a shoulder cord attachment with the radio microphone on the end of the cord. The radio was turned on and was on the Washoe County "Green" channel. This radio was approximately 15 feet southeast of the driver's side bumper of Deputy Butler's patrol vehicle.



(Deputy Butler's radio located approximately fifteen feet from his patrol vehicle)

There were two defects to the driver's window of Deputy Butler's patrol vehicle. The window was still intact, but had cracks extending outward in all directions from the defects. There was also a defect to the doorframe of the rear driver's side door. It was on the very front of the door at the edge of where the front door and rear door meet. The defect was partially covered by the closed driver's door. It was therefore suspected that the door had been open when the defect was caused as there was not damage to the back of the driver's door.



(Deputy Butler's patrol vehicle)

A shotgun was located in the center console, secured by a two-button press system. The shotgun was a 12 gauge of an unlisted make and model. The shotgun was in "car" condition with five rounds in the magazine tube and five additional rounds on an external storage area on the outside of the gun. There were no rounds in the chamber.



(Shotgun located in the center console of Deputy Butler's patrol vehicle)

There was a storage box in the back of the vehicle taking up most of the width of the cargo area. The storage box contained evidence bags, first aid kits, a blood borne pathogen kit, and other police stationary. On top of the storage box was a tan colored gun bag which was unzipped and had a rifle in it. The rifle was a Colt M4, 5.56 mm. Behind the rifle and rifle bag was a black "Pelican" hard case on top of the storage box. The Pelican box contained a 40 mm less lethal gun and ammunition.

The involved GMC truck was an extended cab pickup bearing a rear NV license plate of 65F-262.⁷ It did not have a front plate attached. This pickup was partially in the north travel lane

⁷ It was later determined that the license plate on the GMC pickup truck had been stolen from a vehicle owned by Nevada Backyard. The owner had reported it stolen that morning. Additionally, the GMC pickup truck itself was determined to be stolen out of Fallon. Upon contact with the truck's owner it was discovered he left the truck the weekend prior at a friend's car lot in Fallon to be sold. The car had not been reported stolen as it was not discovered until after the owner was contacted by investigating detectives.

and partially off the road in the brush east of the travel lane. There was a black dog inside the pickup which had an open front passenger window. The dog was moving around in the front cab. The driver's window was also partially lowered.

The front hood of the pickup had a "GMC" lug nut hubcap on it near the passenger side of the vehicle. Lug nut covers for each lug nut were contained in this cap. The passenger side front tire was missing the lug nut cap and lug nut covers. All three of the other wheels of the vehicle had a lug nut cap and lug nut covers which perfectly matched the ones on the hood. It did not appear that any of the vehicle tires were flat.

The bed of the vehicle was completely full of items stacked in the bed. This included several cardboard boxes. One of these boxes was open on the top and had clothes attached to hangers in it. There was a flat screen television at the back of the bed which spanned the width of bed. There was a red plastic gasoline can in the bed.

B. WATCHGUARD DASH MOUNTED CAMERA FOOTAGE

Each Washoe County Sheriff's vehicle is equipped with Watchguard dash cam mounted cameras. The cameras have video and audio capabilities that can be activated by the deputy. Video footage for the investigation was downloaded from Deputies Butler, Huynh and Turner's patrol vehicle. The following table is a summary of what was depicted from Deputy Butler's Watchguard dash mounted camera footage:⁸

Start time	Description
7:58	Deputy Butler's audio function is activated and police sirens can be heard as he travels east on Eagle Canyon Road toward Pyramid Highway, in response to the call for service of a man down. A fire truck, also responding with lights and sirens turns north onto Pyramid Highway, just before Deputy Butler does. Deputy Butler follows this fire truck east, onto Calle De La Plata, to Echaniz Court. As they approach Echaniz Court, Deputy Butler is heard marking arrival over the police radio. Deputy Butler parks his patrol vehicle directly in front of the white pickup truck Stephens was in. As he pulls in front of the pickup, Stephens is observed in the driver's seat with the driver's

⁸ Audio is only available for a portion of Deputy Butler's interaction as it was not activated. Additionally, there is no time and date associated with the footage. Therefore the times referenced in the table below will correspond with the time elapsed in the captured footage.

	<p>door hanging open, over heavy brush on the side of the road. The fire truck pulls north of the pickup truck and stops on Echaniz Court. As Deputy Butler puts his patrol vehicle in park, the audio function is disabled but the video function continues to record. Deputy Butler walks between his patrol vehicle and the pickup truck, toward the driver's side of the truck, where Stephens is sitting. Two firemen exit the truck and walk to the passenger side of the truck. Deputy Butler also walks to the passenger side and appears to tap at the passenger window, consistent with him summoning Stephens from the truck. Stephens remains in the truck for several seconds and can be seen moving around inside. Prior to Stephens exiting the pickup, REMSA is seen arriving and parking just south of the fire truck on Echaniz Court. Deputy Butler walks between his patrol vehicle and the truck to meet Stephens as he exits the truck. Stephens is observed as a white male with visible tattoos on his left forearm wearing tan cargo shorts, a black tee shirt, white crew socks and black tennis shoes. Stephens exits the truck and has a short conversation with Deputy Butler. After the conversation, Stephens walks to the hood of the truck and puts his hands behind his head so that Deputy Butler can pat search him for weapons, which he does.</p> <p>After completing the pat search, REMSA medics talk to Stephens at the hood of the truck.</p>
15:48	Stephens enters the back of the ambulance. The ambulance pulls forward, allowing firefighters to leave with their fire truck. Deputy Butler enters the ambulance from the side door.
20:23	Deputy Butler exits the ambulance through the rear door, which he shuts behind him.
23:29	Stephens exits the ambulance from the side door. Stephens and Deputy Butler talk for several seconds outside the ambulance before they walk south from the ambulance to the area of the GMC pickup and patrol vehicle. They stop near the bed of the GMC pickup where they appear to talk for a few seconds longer before approaching the front of the truck.
25:19	Deputy Butler allows Stephens to enter the truck from the driver's side door. Stephens retrieves a cigarette and a drink bottle and then reaches into the car for something else that cannot be seen before making a motion consistent with putting that object in his pockets. Stephens then walks away from the pickup with the cigarette and drink bottle. Stephens shows Deputy Butler a set of keys inside his right shorts pocket. As he walks back to the front of the truck, Stephens appears unsteady on his feet and seems to rock backwards as he stands. Stephens removes a cigarette lighter from his left shorts pocket and lights the cigarette which he smokes while leaning on the front hood of the truck. Deputy Butler stands in front of his patrol vehicle facing Stephens.
28:48	Deputy Butler puts his cell phone to his right ear indicating he was making or receiving a phone call. The phone call ends less than a minute later. Stephens remains leaning back on the hood of the truck.

30:50	Deputy Butler answers a radio transmission. Deputy Butler and Stephens converse briefly before Stephens turns away from Deputy Butler and lifts his shirt. After dropping his shirt, Stephens faces Deputy Butler and leans on the hood of the truck again while conversing. Deputy Butler nods his head affirmatively and then responds to a radio transmission. Conversation continues between Stephens and Deputy Butler.
37:35	Stephens says something to Deputy Butler who responds by shaking his head "No." Stephens begins to show frustration with Deputy Butler who again shakes his head "No."
40:09	Stephens turns around (away from Deputy Butler) and Deputy Butler approaches him as if he is going to place Stephens in handcuffs. However, Stephens turns back around to face Deputy Butler and begins walking backward (northbound) away from Deputy Butler at a brisk pace. Deputy Butler unlatches his Taser holster but does not immediately draw his Taser as Stephens continues to back away from him. Stephens' dog pokes his head out the passenger window obscuring the view of both men as they walk northbound.
40:46	A physical struggle ensues between Deputy Butler and Stephens. Deputy Butler appears to go to the ground, but the struggle is almost completely obscured by Stephens' dog's head and the passenger side mirror of the GMC truck.
43:24	Deputy Butler gets to his feet. Stephens gets to his feet three seconds later and immediately begins backing away southbound away from Deputy Butler and towards the vehicles. Deputy Butler draws his firearm and follows after Stephens.
43:43	Stephens raises his arms over his head but does not stop or get on the ground. Deputy Butler's police radio is clearly seen dragging on the ground behind him as they walk southbound towards the vehicles.
44:31	Stephens passes the truck and continues backwards towards Deputy Butler's patrol vehicle. Stephens disappears from camera view. Deputy Butler continues following him until he disappears from camera view as well. Both Stephens and Deputy Butler can still be seen in the reflection of the metal front bumper of the GMC pickup.
44:41	Deputy Butler's patrol vehicle slightly rocks, consistent with the driver's door opening. Deputy Butler's reflection shows him moving towards the patrol vehicle while debris is seen flying into view.



(Deputy Butler following Stephens after he refused to be handcuffed - 40:16 into Deputy Butler's Watchguard dash mounted camera footage)



(Deputy Butler and Stephens rise to their feet after a physical struggle north of where the vehicles are parked. Virtually the entirety of the struggle is obscured by Stephens' dog as well as the passenger rear view mirror - 43:26 into Deputy Butler's Watchguard dash mounted Camera)

footage)



(Deputy Butler following Stephens back southbound towards the vehicles. Deputy Butler's radio is dangling by the cord attachment on Deputy Butler's right side - 44:29 into Deputy Butler's Watchguard dash mounted camera footage)

The following table is a summary of what was depicted from Deputy Huynh's Watchguard dash mounted camera footage:

Start Time	Description
41:06	Deputy Huynh begins responding to Deputy Butler's location with lights and sirens. In the background, Deputy Butler is heard announcing "One Tased," over the police radio.
44:58	Deputy Butler is heard announcing "Shots fired," over the police radio. At this time, Deputy Huynh is traveling east on Highland Ranch Parkway, not yet to Pyramid Highway.
46:18	Deputy Butler is heard requesting REMSA to his location.
49:14	Deputy Huynh arrives at Echaniz Court and Calle De La Plata. The driver's door of Deputy Butler's vehicle is open. Deputy Butler is standing toward the front quarter panel of the driver's side of his patrol vehicle with his gun drawn. Deputy Huynh stops his vehicle east of Deputy Butler's patrol vehicle. As Deputy Huynh exits he asks Deputy Butler "Is there anybody

else?" Deputy Huynh ensures Deputy Butler is not injured. Deputy Butler tells Deputy Huynh that Stephens was "trying to climb into the car."
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(Deputy Butler with his gun drawn at his patrol vehicle with the driver's door open - 49:15 into Deputy Huynh's Watchguard dash mounted camera footage)

B. EVIDENCE COLLECTED

The following relevant evidence was collected and photographed at Echaniz Court and Calle De La Plata:

- One (1) bullet - from inside/driver's side of the Washoe County Sheriff's Office vehicle
- Two (2) fired cartridge casings with the head stamp: "WIN 9mm Luger" - located on the asphalt road
- One (1) fired cartridge casing with the head stamp: "WIN 9mm Luger" - located on the dirt to the west of the asphalt road
- One (1) black radio holder located in the dirt road
- One (1) black plastic Taser gun located on the dirt road



(Taser located near scuff marks where physical struggle took place between Deputy Butler and Stephens)

D. Autopsy

The autopsy of Cory Stephens was performed by Washoe County Medical Examiner Ann Bucholtz who determined that the cause of Stephens' death was due to a gunshot wound to the chest. The autopsy revealed that Stephens was shot one time. Of note, the path of the bullet indicated Stephens had his right arm extended upwards when struck.

Toxicology results from Stephens' peripheral blood revealed 1.0 ng/mL of Delta-9 THC, 260 ng/mL of amphetamine, and 1000 ng/mL of methamphetamine.

III. 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. The Washoe County Medical Examiner's Office has deemed the death of Cory Stephens to be a homicide. Consequently, the Washoe County District Attorney's

Office is tasked with assessing the conduct of the deputy involved and determining whether any criminality on his 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 of 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."

IV. ANALYSIS

The morning of August 4, 2017, was a culmination of a series of criminal acts committed by Cory Stephens. To fully explain the actions of Stephens on August 4, 2017, it is important to understand the events leading up to the shooting. Stephens had recently pled guilty to two serious felonies: 1) Eluding a Peace Officer, Endangering Other Person or Property, and 2) Transport a Controlled Substance. Both of these crimes are category B felonies punishable up to six (6) years in the Nevada State prison. Sentencing on his case was scheduled for July 26, 2017.

Fearing he would likely go back to prison, Stephens failed to appear in court, another felony crime, and a warrant was issued for his arrest. Additionally, according to his family and friends, Stephens engaged in severe illicit drug use and repeatedly made suicidal statements. His actions and statements suggested a willingness to commit more violence in order to escape responsibility for his crimes.

The GMC pickup truck Stephens was driving at the time of the shooting was stolen from a car dealership in Fallon, Nevada. Of note, Stephens and his girlfriend were residing in Fallon in the weeks before August 4, 2017. The night before the shooting, Stephens drove the stolen pickup from Fallon to Sparks to gather belongings including his dogs. Stephens was able to retrieve several items that were later located in the truck, including one of his dogs. The loss of his other dog to Animal Control appeared to have a devastating effect on Stephens.

It is unclear exactly at what point Stephens ran out of gas, nor is it explained why he ended up in the area of Echaniz Court and Calle De La Plata. The investigation revealed Stephens had no ties to that particular area. Of note, Stephens had a gas can

as part of his belongings and easily could have walked to a gas station to fill up the pickup.

Instead, Stephens spent the night at the area of Echaniz Court and Calle De La Plata until he was discovered in the morning by reporting party Jayson Hill. Hill reported Stephens out of concern he may be under the influence of drugs or alcohol and in possession of a vehicle. Hill's fears bore true as Stephens was under the influence of a significant amount of methamphetamine, amphetamine, and THC.

Upon interaction with Deputy Butler and knowing he had warrants for his arrest, Stephens gave his brother's name in an attempt to conceal his own identity and further evade his inevitable incarceration.

Upon learning of Stephens' true identity and his arrest warrants, Deputy Butler intended to delay meaningful interaction with Stephens until a cover deputy arrived. Unfortunately, that delay led to Stephens increased frustration, which is clearly exhibited in Deputy Butler's Watchguard dash mounted camera footage. Stephens was cooperative for several minutes but his demeanor changed as time passed. Based on the investigation, it is clear that Stephens was internally going through the realization that his efforts to conceal his true identity would be discovered and he was going to be arrested for his warrants.

Deputy Butler then attempted to detain Stephens by placing him in handcuffs. However, Stephens refused Deputy Butler's commands. Dash camera footage shows that Deputy Butler gave Stephens several commands with which Stephens refused to comply. His actions, combined with his mental state as described by friends and family, show a man who would avoid capture by law enforcement at all costs.

Based on Deputy Butler's statements and the video footage it was apparent that Stephens was facing a fight or flight response to the reality of returning to jail and likely prison. Opting for the former, Stephens took a fighting stance forcing Deputy Butler to use his Taser.

The Taser proved partially effective. However, Stephens persisted with his obstructive plan pulling the Taser prongs from his body. Thus, Deputy Butler had to engage in hand to hand use of force.

Deputy Butler got on top of Stephens who was forcefully resisting and actively trying to reach for Deputy Butler's duty belt. Deputy Butler was in actual fear for his own life at this point as it was clear based on Stephens' actions that he was attempting to grab anything, including Deputy Butler's firearm, which would facilitate his escape.

Stephens grabbed Deputy Butler's radio and struck him in the head several times. Deputy Butler's fears heightened at this point as now Stephens demonstrated he would use whatever force necessary to escape, including putting Deputy Butler's life at risk.

Deputy Butler began to lose control of Stephens and made the tactical decision to stand up to grab his baton to escalate the use of force. However, Stephens was immediately able to rise as well, which was corroborated by the video footage. Deputy Butler made the quick decision to draw his firearm in an effort to gain compliance. Stephens, even with the firearm pointed at him, refused all commands and walked backwards towards the vehicles again.

Stephens passed the GMC pickup truck and went straight to Deputy Butler's running marked patrol vehicle. Deputy Butler was in legitimate fear of Stephens at this point, and Stephens had given no indication he would comply with commands. Stephens now had access to Deputy Butler's patrol vehicle which had a loaded shotgun in the console as well as a rifle in the back cargo area. Deputy Butler was also in fear of being ran over by his own patrol vehicle. The desert terrain provided virtually no cover for Deputy Butler had Stephens gained control of the vehicle.

As Stephens opened the driver's door to the patrol vehicle, Deputy Butler's fears were realized. Deputy Butler, afraid Stephens was reaching for the shotgun, fired at Stephens resulting in his death.

Of particular note to the investigation was the autopsy results that established when Stephens was shot, his right arm was extended up. This suggests Stephens was reaching towards the inside of the compartment area, likely for the shotgun, when he was shot.

In the moments surrounding Stephens' actions of entering Deputy Butler's patrol vehicle and presumably reaching for the shotgun, Deputy Butler reasonably believed that he was in imminent danger of great bodily harm or death. It was absolutely necessary for him to use deadly force against Stephens in order to save his life and potentially the lives of others had Stephens escaped in his patrol vehicle. In short, Deputy Yancy Butler had the right under Nevada law to use deadly force against Stephens in defense of his own person as well as others in the discharge of a legal duty.

V. CONCLUSION

Based on the review of the entire investigation presented and the application of Nevada law to the known facts and circumstances surrounding the August 4, 2017, officer involved shooting death of Cory Stephens, the actions of Deputy Yancy Butler were warranted under Nevada law. Unless new circumstances come to light that contradict the factual foundation upon which this decision is made, this case is officially closed.