

**OFFICE OF THE WASHOE COUNTY
DISTRICT ATTORNEY**

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REPORT ON THE JANUARY 25, 2016, OFFICER INVOLVED
SHOOTING OF SERGIO ALVARADO-MORALES

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INTRODUCTION

On January 25, 2016, at approximately 5:10 p.m., Reno Police Department Officers Robert Garlock and Eric Hague responded to a traffic collision involving multiple vehicles in the area of McCarran Boulevard and Smithridge Drive in Reno, Nevada. While responding the officers were informed that a man involved in the collision was armed with a knife and was cutting himself.

Now with heightened concerns about the safety of the public, the officers escalated their response to Code 3, lights and sirens. They approached from the west on McCarran Boulevard and found four involved vehicles in the westbound travel lane just short of the intersection with Smithridge Drive. It appeared that the easternmost vehicle, a grey 2005 Honda Civic having substantial front end damage, forcefully struck the vehicle in front of it causing a domino effect with the remaining vehicles.

The officers were directed to the driver of the grey Civic later identified as Sergio Alvarado-Morales (hereinafter "Alvarado-Morales"). Alvarado-Morales was standing at the passenger rear of the Honda Civic armed with a serrated kitchen knife and was actively cutting his own throat. It was later discovered in the investigation that after the collision he had also attempted to stab the sharp end of a screwdriver into his temple and eye socket. He also had been acting paranoid and unpredictable with family and friends leading up to the day of collision. He also had a concentration of THC (the psychoactive component of marijuana) in his system above the legal limit. Additionally, subsequent investigation suggested he deliberately caused the high speed collision.

Officer Garlock gave repeated verbal commands to drop the knife. Alvarado-Morales ignored these commands. Fearing for the safety of Alvarado-Morales and others nearby, Officer Garlock attempted to subdue Alvarado-Morales with a deployed Taser. It had no effect on Alvarado-Morales.

Alvarado-Morales, with the knife now pointed at Officer Garlock, moved aggressively towards him. Officer Garlock dropped his Taser, retreated and drew his firearm. Officer Hague intervened and moved closer to the two in order to create a safe scenario wherein the man wielding the knife could be incapacitated.

Alvarado-Morales, still armed with a knife, then turned and moved aggressively towards Officer Hague. Officer Hague fired several rounds at Alvarado-Morales. He was incapacitated and taken into custody by other responding officers. He was treated and transported by REMSA medics to Renown Medical Center where he died as a result of the gunshot wounds.

Consistent with the regionally-adopted Officer Involved Shooting (OIS) Protocol, the Sparks Police Department ("SPD") led the investigation into the shooting of Alvarado-Morales. The Washoe County Sheriff's Office ("WCSO") provided secondary investigative support, and the Washoe County Crime Laboratory provided forensic investigative services ("FIS"). The Nevada Highway Patrol ("NHP") investigated the collision. The Washoe County District Attorney's Office provided scene presence and assistance in facilitating search warrants.

The SPD led investigation included interviewing witnesses, collecting physical evidence, an autopsy, photographing and examining the shooting scene and reviewing the recent criminal and social history of Alvarado-Morales.

Upon completion of the entire investigation, all police reports, collected documentation, photographs, witness statements, and recorded interviews were submitted to the Washoe County District Attorney's Office on April 20, 2016, for a final determination of whether the shooting of Alvarado-Morales was legally justified. No criminal charges were recommended by SPD.

The District Attorney's evaluation included reviewing approximately 652 pages of reports and documents which included interviews of police and civilian witnesses. It further included the review of photographs, diagrams, 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 death of Alvarado-Morales by Officer Hague was justified and not a criminal act.

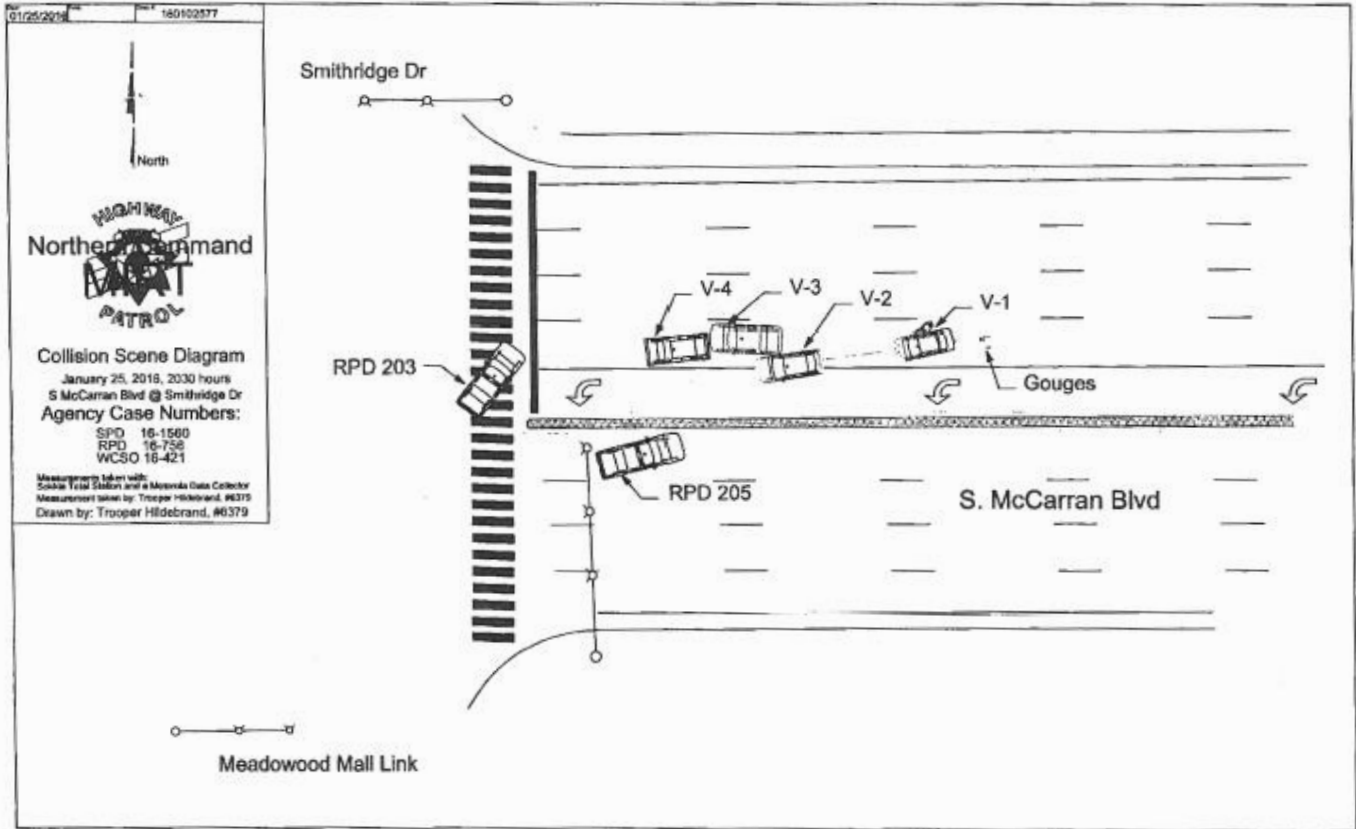
I. SCENE / AREA OVERVIEW / PHYSICAL EVIDENCE

A. Satellite Photo (from Google Maps)

The scene of the collision and shooting was on the roadway between the Jack in the Box restaurant (located on the north side of S. McCarran Blvd) and the Plumas Bank (located on the south side of S. McCarran Blvd). At that location S. McCarran Blvd has three westbound lanes approaching Smithridge Drive and one west-to-south left turning lane, which turns south into the Meadowood Mall Link. The collision and shooting occurred in the "fast" westbound lane of S. McCarran Blvd, the lane immediately adjacent to the left turn lane.



B. NHP Scene Diagram and Accident Investigation Report



The NHP Accident Report found that the driver of V1 travelling westbound on S. McCarran failed to brake as V1 approached traffic stopped at the red light at Smithridge Drive. It further revealed that V1 was travelling at range of 50-60 miles per hour when it struck the traffic stopped at the light. The posted speed limit was 45 miles per hour. V1 traveled 24 feet after impact. The report attributed Aggressive/Reckless/Careless driving by V1 as factors in the collision.

C. Photos of involved vehicles¹:

V1 is Alvarado-Morales' 2005 grey Honda Civic;



V2 is Lisa Fitzpatrick's black Subaru Tribeca;



¹ Day light/dusk existed at the time of the shooting; these photos were taken at night during the investigation. The lighting conditions in these photos do not reflect those at the time of the collision/shooting.

V3 is Krista Bates' white Honda Ridgeline;



V4 is Sonny Newman's Blue Jeep;



RPD 203 is Officer Hague's police truck;



RPD 205 is Officer Garlock's police truck.



D. Photo of shooting location (behind the Honda Civic):



E. Items of evidence²:

1. Screw driver:



² These photos are identified by numbered placards as placed by Washoe County Forensic Investigator Toni Leal-Olson who used them to replace temporary lettered placards initially placed by members of the Reno Police Department.

2. Knife:



3. Taser probe:



4. Shell casings

Six WIN 9mm Ruger shell casings were recovered from the scene (5 were on the roadway and 1 was caught up in Alvarado-Morales' sweatshirt).

5. Alvarado-Morales clothing

Alvarado-Morales was wearing a polo style collared shirt, a blue sweatshirt and a heavy blue jacket at the time of the shooting.

II. STATEMENT OF FACTS³

A. Witness Accounts

1. Reno Police Officer Robert Garlock

Officer Garlock works at Reno Police Department ("RPD") as a sworn peace officer. He is a 10 year veteran and has been assigned to the SWAT team since 2007. Prior to working for RPD he worked for the Washoe County Sheriff's Office. Officer Garlock works swing shift (2 p.m. to midnight).

January 25, 2016, Officer Garlock started his shift responding to several routine calls. At 5:00 p.m. he was near Moana Lane and Lakeside Drive when he heard a call regarding an accident on McCarran Blvd. near Smithridge Drive. While in route, on Lakeside Drive near Peckham Lane, Officer Eric Hague, who was also in a marked police truck, joined him in response. Dispatch notified the officers that one of the parties to the collision was cutting own throat with a knife. Consequently, the two officers escalated their response with lights and sirens. Learning that a potential driver in the collision was cutting at his own throat, Officer Garlock, as an accident investigator, wondered whether the collision was intentional.

Upon arrival Officer Garlock saw four cars involved in a collision and parked his truck in the fast lane of eastbound McCarran Blvd., just past the intersection with Smithridge Drive. Officer Hague parked his truck directly in front of the collision.

Officer Garlock was told by a woman that Alvarado-Morales was on the far, east end, of the collision and was cutting himself with

³ The Statement of Facts is synopsised from witness interviews, videos, and police reports.

a knife. As the two officers proceeded eastward along the involved vehicles, Officer Garlock drew his Taser and Officer Hague drew his firearm so that each tactical option was available if needed.

Officer Garlock first saw Alvarado-Morales near the rear passenger side of the Honda Civic, agitated and digging at his own throat with a knife. He could see lacerations and blood on each side of Alvarado-Morales' neck. Officer Garlock approached along the passenger side of the Honda Civic while Officer Hague approached along the driver's side. Alvarado-Morales, who wore a heavy jacket, continued to cut at his neck with the knife and moved towards the driver's rear of the vehicle. The three were in a triangle position relative to one another at the rear of the Honda Civic. The immediate area was filled with bystanders and vehicles.

Alvarado-Morales was looking around but did speak. He did not stop cutting at his neck and would not obey Officer Garlock's repeated commands to drop the knife. Several of the bystanders started yelling at the officers, telling them to leave Alvarado-Morales alone and calling them names.

Officer Garlock yelled to Officer Hague, "He's not listening, I'm gonna tase him." At that point Alvarado-Morales started turning towards Officer Garlock. The Taser was fired and at least one of the probes struck Alvarado-Morales in the middle of the back of his jacket. He briefly tensed then lunged towards Officer Garlock. Officer Garlock was 8-10 feet away and Alvarado-Morales was approaching with the knife, now away from his neck, and pointed at Officer Garlock.

Fearing that he, or possibly other citizens, was going to be stabbed or attacked with the knife, Officer Garlock dropped the Taser and started to retreat, reaching for his duty weapon. Officer Hague yelled something and Alvarado-Morales turned around and started towards Officer Hague. The knife was now pointed towards Officer Hague who appeared to Officer Garlock, to be moving as if trying to get a better angle for a line a fire that would not put people immediately behind the scene at risk.

Officer Garlock drew his gun, and before he had a clear shot that would not endanger the witnesses behind Officer Hague,

Officer Hague fired his gun an estimated 4 times. Alvarado-Morales was less than 8 feet from Officer Hague when he fired.

Alvarado-Morales dropped to the ground. Officer Garlock picked up his Taser, called out the shooting over the radio and started to approach. Alvarado-Morales was on his side. Officer Garlock stopped because Officer Hague informed him that Alvarado-Morales was still armed with the knife and again actively cutting at his own throat.

Officer Garlock tried to fire his Taser again to get Alvarado-Morales to stop. Alvarado-Morales neither cried out in pain nor appeared to stop cutting at his own neck. Seeing that another responding officer, Officer Meseberg, had gloves on, Officer Garlock asked him to start handcuffing Alvarado-Morales. Officer Garlock then began stopping cars and started identifying witnesses himself.

2. Reno Police Officer Eric Hague

Officer Hague is also a 10 year veteran of RPD, works swing shift, is a member of the SWAT Team, and had enforcement experience prior to working at RPD. On January 25, 2016, Officer Hague answered several routine calls and then was dispatched to the collision at McCarran Blvd. and Smithridge Drive. He responded at a normal speed because REMSA and Fire had already been dispatched. He was responding from the area of Lakeside Drive and Moana at the same time as Officer Garlock.

On route he learned that one of the people involved in the collision had a knife to his throat. This caused him to escalate their response with lights and sirens. He parked in the intersection in front of the involved vehicles and learned that the involved person was now cutting at his own neck.

Due to the nature of the call, Officer Garlock had his Taser drawn and Officer Hague his firearm as they proceeded east along the line of cars. Officer Hague explained that when one officer draws a less-than-lethal weapon in a potentially violent encounter it is standard procedure for another officer to draw a lethal weapon in case the less-than-lethal weapon is used and fails.

Officer Hague first saw Alvarado-Morales behind the last car in the collision. Alvarado-Morales had a furrowed brow, was

agitated and cutting at his neck with a serrated kitchen type knife. Officer Garlock ordered Alvarado-Morales to drop the knife. Alvarado-Morales looked at them, did not obey or respond in any way and continued to cut at his neck.

Due to Alvarado-Morales's actions causing a serious risk of harm to himself and others, as well as a possible need for use of deadly force, Officer Hague noted that the area around Alvarado-Morales was congested with people on the sidewalk, on the median and in vehicles. The congested area caused Officer Hague and Garlock to move closer to Alvarado-Morales than they normally would. Officer Hague's concern for the bystanders grew even more when Alvarado-Morales briefly stopped cutting at his neck to look at other people before continuing cutting his own neck. Officer Hague also gave several orders to Alvarado-Morales that were unheeded.

Officer Garlock deployed his Taser on Alvarado-Morales. It appeared to have no effect. Alvarado-Morales charged at Officer Garlock with the knife. Officer Hague believed a stabbing was imminent. He was going to shoot Alvarado-Morales but did not because of the unsafe position of the bystanders behind his line of fire.

Officer Hague believed the only safe option left was to rush at Alvarado-Morales, where the angles were better in that bystanders would no longer be behind the line of fire, and shoot him upon contact. As Officer Hague started to move towards Alvarado-Morales, Alvarado-Morales quickly turned with a clenched jaw and took several deliberate steps toward him with the knife. Officer Hague was now in fear, not only for the lives and safety of others lives, but also his own.

The background of his line of fire was still congested so he moved sideways and allowed Alvarado-Morales to get within 10 feet before firing his gun. He felt that it would have been better to be stabbed than to accidentally shoot a person in the background. With his gun raised high and pointed at a downward angle, to keep the background safe, Officer Hague finally opened fire, shooting Alvarado-Morales numerous times.

Alvarado-Morales fell onto his right side facing Officer Hague and away from Officer Garlock. Alvarado-Morales began to cut at his neck again. Officer Hague had to stop Officer Garlock, who

could not see the knife, from rendering immediate aid. Officer Meseberg then arrived and struggled to handcuff Alvarado-Morales.

3. Reno Police Officer Kyle Meseberg

Officer Meseberg arrived on scene to see Alvarado-Morales lying on the ground behind the Honda Civic. He also observed Officer Garlock with his Taser out, the cartridge expended, and wires running to Alvarado-Morales. Officer Hague's gun was trained on Alvarado-Morales and he was yelling at Meseberg to stop traffic in order to identify witnesses.

Officer Meseberg, unaware shots had been fired, started stopping traffic. Officer Garlock saw Officer Meseberg was wearing gloves and asked him to handcuff Alvarado-Morales. In the process he saw a knife near Alvarado-Morales's head and tossed it to the side. Alvarado-Morales resisted, pulling his hands underneath his chest. Officer Danielle Miller arrived and assisted the handcuffing. As Officer Meseberg started to provide Alvarado-Morales medical assistance REMSA medics arrived and replaced him.

4. Sonny Newman

Sonny Newman ("Newman") was in his Jeep (V4) on westbound McCarran Blvd. stopped at the light at Smithridge Dr. He was in the fast lane and was the second vehicle back from the crosswalk. He heard a "huge boom" and was struck from behind by a white Honda Ridgeline. The collision knocked him into a truck in front of him that left the scene when the light turned green.

Newman assisted an injured woman and baby from the Subaru (V2) two cars back to Plumas Bank on the south side of McCarran Blvd. His attention was then drawn to a man, later identified as Alvarado-Morales, near a damaged Honda Civic (V1) behind the Subaru (V2), "sawing on his throat or neck pretty good and there was blood coming out." The knife appeared to be a steak knife and was intermittently being used by each hand. At one point Alvarado-Morales returned to his vehicle, retrieved a screwdriver and attempted to press it into his own eye socket. While Newman called 911, another bystander approached Alvarado-Morales and unsuccessfully attempted to calm him down.

Newman heard sirens and saw two uniformed officers arrive. After they approached Alvarado-Morales, who had moved behind the Honda Civic, he heard Taser fire followed by gunshots. Newman was to the west near his Jeep (V4) and was unable to see the tasing or shooting.

5. Krista Bates

Krista Bates ("Bates") was in her white Honda Ridgeline (V3) stopped behind Newman's Jeep (V4) when she was struck from behind by a white Subaru (V2). Bates called 911, walked south across McCarran Blvd. to the Plumas Bank parking lot and then called her employer. While on the phone she saw two uniformed police officers arrive and address Alvarado-Morales. Bates did not have a clear view of the scene. She heard yelling from it but could not hear what was said. One of the officers then fired a Taser. She then heard more yelling followed by gunshots.

6. Lisa Fitzpatrick

Lisa Fitzpatrick ("Fitzpatrick") was in stopped in her Subaru Tribeca (V2) behind Bates' Honda Ridgeline (V3) when she looked in her rearview mirror and saw a vehicle "barreling towards her at a high rate of speed." The car appeared to increase speed as it approached and struck her vehicle deploying her airbags. With a crying baby in tow and bleeding from the nose, she was helped to the south side of the street.

Her attention was drawn back to the scene, she saw the driver who struck her, Alvarado-Morales, exit his vehicle, the Honda Civic (V1), while cutting at his own throat with a knife. He was "acting crazy." Bystanders were trying to calm him down when two uniformed officers arrived and spoke to Alvarado-Morales, still cutting at his throat. Fitzpatrick could not exactly hear what they were saying but Alvarado-Morales neither put the knife down nor stopped trying to cut himself.

Fitzpatrick said an officer then tased Alvarado-Morales. Instead of falling down as expected, Alvarado-Morales "took the knife away from his neck and held it up in the air as he stepped towards the police." Alvarado was then shot about four times and fell to the ground.

Fitzpatrick noted that that other citizens in the background were yelling profanities at the police and people who were closer to the scene were yelling back at people using profanity and stating, "Shut up" ... "You don't even know what happened."

7. Kyle Whaley

Mr. Whaley is the branch manager of the Plumas Bank on Meadowood Mall Circle near the intersection of Smithridge Drive and McCarran Boulevard. At about 5:05 he was locking the doors to the bank when he noticed a vehicle accident in the westbound lanes of McCarran Boulevard at Smithridge. Two women were walking toward the bank, one was carrying a baby. The woman carrying the baby had blood on her face, asked for help and told him that the man that "hit her from the rear had come at her waiving a knife."

Whaley saw two uniformed officers arrive and approach Alvarado-Morales, who was walking "Very erratically" and holding a knife to his own throat. One or both of the officers ordered Alvarado-Morales to stop and drop the knife. Whaley could no longer see the man's hands but at that point but said they were no longer at his throat.

Alvarado-Morales did not comply and went towards one of the officers. That officer was about 8 feet away and tased him. Whaley said the Taser did not seem to have much effect, noting that Alvarado-Morales "kind of stumbled." Alvarado-Morales then turned back towards the other officer, who was a little further away, and was shot by that officer approximately 5 times. Once on the ground, Alvarado-Morales brought the knife back up to his own throat again.

Whaley stated that bank does not have any video surveillance that would have captured the scene. Whaley was also upset by a man in the background yelling profanities at the police.

8. Edward Coffman

Edward Coffman ("Coffman") was in the far right lane of McCarran Blvd. westbound, roughly parallel to the collision, when it occurred. Coffman parked his vehicle and ran to the silver Honda Civic (V1). The sole occupant and driver, Alvarado-Morales, was not seat-belted, had blood on his hands and forehead. Alvarado-Morales seemed "freaked out", appearing both

panicked and dazed and confused. Alvarado-Morales picked up a screwdriver from the passenger seat and began to hit himself on the side of the head near the temple with the sharp end of it.

Coffman attempted to calm Alvarado-Morales, asking him to remain calm, sit still and wait for the medics and police. Alvarado-Morales did not respond but instead picked up a knife from the passenger floorboard and started "sawing" at the left side of his neck. Coffman informed the other bystanders of the knife.

Alvarado-Morales then exited the vehicle with the knife. In fear for his own life, Coffman backed up, drew his own pocket knife and opened it in the pocket of his hoodie in case there was a need for self-defense.

Alvarado-Morales was behind the Civic, near the passenger side and still cutting at his neck when the police arrived. The officers approached on either side of the Honda. The officer to the rear of the passenger side of the Civic gave Alvarado-Morales orders to stop and drop the knife several times. After providing a "last warning", which was not heeded, that officer tased Alvarado-Morales.

Alvarado did not drop. He jerked around a little bit, then "spun" 180 degrees to face the officer with the gun at the rear driver's side of the Civic. Alvarado-Morales, still with the knife in his right hand, took a step and half towards the officer, as if lunging. Coffman estimated the two were four or five feet from one another when that officer fired upon Alvarado-Morales 4 to 5 times.

Alvarado-Morales fell to the ground and still had the knife in his hand. Coffman believed that the officer who used the firearm then approached Alvarado-Morales and disarmed Alvarado-Morales.

Coffman said the incident occurred very quickly. Coffman was upset and stopped paying close attention after that. Coffman also noted that bystanders were yelling at the police. Coffman believed that the officers "were just doing their job". He believed they did not have any other options and "did what they had to do to make sure that they were safe as well as everybody else around them."

9. Dave Carsten

Dave Carsten ("Carsten") was in the left turn lane immediately adjacent to the collision when it occurred. His wife parked their vehicle and he ran to the collision. After helping Fitzpatrick and her baby from the Subaru to the bank he saw Alvarado-Morales cutting at his neck and wrists with a knife. Carsten approached and tried to talk Alvarado-Morales out of hurting himself. Carsten thought about charging at Alvarado-Morales to stop him but thought better of it when Alvarado-Morales retrieved a screwdriver from the vehicle and began holding both implements up to his own eyes.

The police arrived Carsten backed away. One of the officers ordered the knife dropped, there was no response and Alvarado-Morales was tased. The Taser had "very little effect", Alvarado-Morales appeared wobbly but was "moving, he was coming around toward the other Officer", and was ultimately facing the officer before he was shot numerous times. Carsten estimated the officers were 6 to 8 feet from Alvarado-Morales during the encounter. Alvarado-Morales never responded or spoke to anyone during the incident.

10. Katie Lindstrom

Katie Lindstrom ("Lindstrom") had stopped her vehicle immediately to the right of Fitzpatrick and her baby (V2) when the collision occurred. Lindstrom went to Alvarado-Morales vehicle (V1) and saw him scratching at his neck with his left hand and was armed with a knife in his right hand. Alvarado-Morales was rambling or mumbling to himself and she stepped back. Alvarado-Morales exited the vehicle and kept attempting to cut his own neck. At one point, before the police arrived, Alvarado-Morales lowered the knife and began swinging the knife in front of his body. It looked like he was talking to himself and gesturing with the knife in his hand.

When the police arrived Lindstrom was on the phone with dispatch. She was near the Subaru (V2) and could not hear what the police were saying or clearly see Alvarado-Morales or the first officer. She heard the Taser, then saw the second officer fire.

11. Cameron Miller

Cameron Miller ("Miller") was patrolling Plumas Bank for Martin Ross and Associates, a private security firm, when the collision

occurred. He watched Alvarado-Morales exit his vehicle. He saw an object in each of Alvarado-Morales' hands, one was bloody. Curious, he watched intently to see how the police handled such a scenario.

When the officers made their way to the back of the Honda Civic Alvarado-Morales approached them with at least one of the objects in his hands. The officer at the rear passenger side of the vehicle tased Alvarado-Morales. Alvarado-Morales "appeared to convulse for a second and kinda twitch and turn around." Next, Alvarado-Morales made "a conscious motion toward that Officer" and was shot.

12. Rebecca Dunn-Spomer

Rebecca Dunn-Spomer ("Dunn-Spomer") drove up on the right side of the Honda Civic (V1) just as two police officers were approaching a male near the back of the vehicle. Her windows were rolled up and she could see the police talking to Alvarado-Morales but could not hear what was said. Alvarado-Morales had an object in a hand directly in front of his stomach. Dunn-Spomer believed the officer on the passenger rear of the Civic fired his Taser. The officers were yelling at the man. The man moved towards the officer at the driver's rear of the Civic and was shot.

13. Robert Allerman

Robert Allerman ("Allerman") was westbound on McCarran Blvd. approaching the collision when two police officers approached Alvarado-Morales at the rear passenger side of the Honda Civic (V1). Allerman described Alvarado as "erratic", "crazy and aggressive". His movements were fast and it appeared as if he were not obeying orders to stop or sit down. Allerman's attention shifted back to traffic when he heard a Taser fire. He looked over and saw that the Taser was ineffective. He could not tell if there was anything in Alvarado-Morales' hands. Alvarado-Morales continued to move and was shot by the other officer.

14. James Mosingo

James Mosingo ("Mosingo") drove up next to the right side of what he described as a light gold sedan that had been involved in collision. Alvarado-Morales was near the back of the vehicle

cutting at the sides of his neck with a bloody knife. Two police officers approached from the median of the road and Alvarado-Morales approached them.

Mosingo had his windows up and could not hear what was said. One of the officers fired his Taser at Alvarado-Morales. Alvarado-Morales appeared "fairly unfazed." A few seconds later the other police officer shot Alvarado-Morales four times. Mosingo could not see whether Alvarado-Morales was still armed with the knife; however, during the interval between the tasing and the shooting, Alvarado-Morales did not put his hands up or drop anything. Mosingo described Alvarado-Morales as neither moving towards the officers with aggression nor submitting to them.

15. Mohammed Reza

Mohammed Reza ("Reza") was westbound on McCarran Blvd. and a few vehicles behind the collision when it happened. The cars in front of him cleared to the left. Reza had a clear view of Alvarado-Morales, his vehicle (V2) and the police officers who had arrived. Reza said Alvarado-Morales was "yelling and tried to go at the cop and that is when the cop actually uh... used the stun gun. And uh... then he didn't stop yelling... and he tried to run or went at the other cop... ." Reza said Alvarado-Morales was facing the officer with the Taser when he was tased. The Taser was not very effective and Alvarado-Morales proceeded towards the officer with the gun. That officer shot Alvarado-Morales.

16. Barry Thompson

Barry Thompson ("Thompson") was westbound on McCarran Blvd. trying to drive around the collision site. Due to traffic and a red light he stopped short and to the right of the accident. He did not want to be next to the smoking silver sedan (V1) if it caught on fire. Thompson saw Alvarado-Morales walk rearward along the passenger side of the sedan followed by a police officer. That officer was screaming for Alvarado-Morales to "stop" or "get on the ground". Alvarado-Morales "appeared to slow down and possibly turn back towards the officer" who then tased him. Thompson did not see whether Alvarado-Morales had anything in his hands.

Thompson believed that the officer used the Taser on him several times and that one of the tazings eventually took Alvarado-

Morales to the ground. Thompson also thought, however, that the Taser did not work properly because when Alvarado-Morales went to the ground, "it wasn't like he went to the ground and he was incapacitated, he was still able to recover or whatever you call it to try to get up or get away." Thompson did recall seeing a second officer approach from the driver's side of the vehicle and shoot Alvarado-Morales 5 or 6 times.

B. Autopsy

Washoe County Medical Examiner's Office Pathologist Dr. Katherine Raven performed an autopsy on Alvarado-Morales on January 26, 2016. Dr. Raven located multiple superficial incised wounds, cuts, to each side of Alvarado-Morales' neck. His left wrist was cut and he had sharp and blunt force injuries to his right hand. There were gunshot wounds to his upper back, torso, abdomen, both legs and left hand. The gunshot wound pathways were, with the exception of the upper back wound, generally front to back and at a downward angle. Dr. Raven found that the Taser probes did not penetrate the clothing. Alvarado-Morales' blood was tested by NMS Labs. It contained marijuana. There was 11 ng/ml of THC, the psychoactive component of marijuana, and 17 ng/ml of the inactive THC, a marijuana metabolite). The active THC component of marijuana is metabolized quickly. Marijuana is a DEA Schedule I hallucinogen that acts as a depressant and has reality distorting effects.

C. Timeline / Mental Condition (Alvarado-Morales)

After the shooting, law enforcement located Alvarado-Morales' family to notify them of his death and determine if they had any information that may help explain his erratic behavior. The following family members and witnesses were located.

1. Hazel Mendoza

Hazel Mendoza ("Hazel") is Alvarado-Morales' 19 year old daughter and was the first to be found. She lives with her parents in Stead, Nevada. Her father was between construction jobs and currently took care of her two year old sister. She was not aware of any marital discourse between her parents, and her mother was eight months pregnant. She had not seen her father since 7:30 a.m. that morning when he took her mother to work at IHOP.

Hazel did not see her father recently exhibit any unusual behavior. However, 2 days prior, January 23, 2016, her father heard gunshots near the house and was so worried he had the family stay that night at the Nugget Hotel Casino. On January 24, 2016, the family returned home.

The next morning, January 25, 2016, her father stated that he heard someone trying to get into the back of the house. She did not hear anyone try to get into the house that morning or the night before. Her father asked her to make sure the door was locked and asked her boyfriend to call the police.

Hazel was reluctant to contact her mother, who had yet to be located, for law enforcement because she was worried that the news may cause her mother to have a miscarriage. During her interview her mother called, was located and subsequently interviewed.

2. Rosario Mendoza

Rosario Mendoza ("Mendoza") is Alvarado-Morales' wife. Concerning Alvarado-Mendoza's mental stability leading up to the collision, Mendoza reiterated the events described by Hazel. However, she was able to provide a few leads and more information regarding the events of that day, January 25, 2016.

That morning, Alvarado-Morales heard someone trying to get into the back of the house.⁴ Her husband was scared for their safety, so on her way to work that morning she attempted to file a police report at the Neil Road substation. The substation was closed and he dropped her off at work. He picked her up at about 3 p.m., drove her to a friend's house and left for a drive.

Alvarado-Morales was still scared, but not upset. Before he left for a drive, he was convinced people were following him and wanted the family to check into the Nugget again. He believed they would be safe there as the Nugget could "watch them". Alvarado-Morales left her friend's house sometime after 3 p.m. and she never saw him again.

⁴ Mendoza did not hear anyone trying to get into the house, either that morning or the night before. She did, however, describe historical incidents of theft and property damage that led to her husband being fearful of the neighborhood.

Two days later, January 27, 2016, Mendoza contacted law enforcement to relay more information she thought may be relevant to her husband's mental condition. Approximately five days before the collision and shooting, a childhood friend of her husband, named Israel Garcia ("Garcia"), stopped by their house. Mr. Garcia had travelled from his home in Iowa to California for a Quiceanera party and was on way back to Iowa.

During the visit there was a conversation regarding a young boy that had gone missing in Mexico some 28 years ago. Alvarado-Morales knew the boy. Mendoza said it sounded like Garcia believed Alvarado-Morales may have information regarding the child's disappearance and asked numerous questions.

She said Alvarado-Morales had no idea what happened to the boy and felt uncomfortable, as if he were being accused of something. After Garcia left, Alvarado-Morales started behaving paranoid; it continued until she last saw him. Alvarado-Morales told Mendoza that he believed that two brothers had been following him since his visit with Garcia. Alvarado-Morales was scared and told her if he were killed, these would be the two who did it. Mendoza provided law enforcement with the names of two of Garcia's friends, brothers Jose and Juan Roman.

3. Juan Roman

Juan Roman ("Juan") and Alvarado-Morales grew up together in Mexico. They were roommates in Reno about 16 years ago and Alvarado-Morales is Juan's son's godfather. Juan had not seen Alvarado-Morales for about a year, however, the two got together about a week before the shooting to take family pictures and a dinner. Alvarado-Morales appeared to be acting abnormal at that time.

Juan had no knowledge of anyone following Alvarado-Morales or breaking into his house. Juan was asked if he knew anything that would have upset him, such as a recent conversation regarding a young boy that was killed in Mexico when they were children. Juan speculated that Alvarado-Morales may have been referring to another childhood friend that was killed by a gang in Mexico when they were about 12 or 13 years old. Juan was not aware if Alvarado-Morales had such a conversation with anyone recently.

Juan verified that Garcia travelled through Reno the week before the collision/shooting with his wife and daughter. He said that Garcia stayed at Alvarado-Morales' home for a night. Juan had no idea why Alvarado-Morales would think that he or his brother would be following him or want to hurt him. To the contrary, the families had planned to possibly meet in the future for a Quiceanera.

4. Jose Roman

Jose Roman ("Jose") knew Alvarado-Morales growing up in Mexico. He is godfather to one of Alvarado-Morales' children. However, the two are not close and do not talk anymore. The two had a falling out because Alvarado-Morales previously accused another one of Jose's brothers, Carlos, of stealing some money when Alvarado-Morales and Carlos worked together in a taco truck. Jose had not seen Alvarado-Morales for several months and had never been to Alvarado-Morales' home in Stead, Nevada. Jose had no idea why Alvarado-Morales would think that he or his brother Juan would be following him or want to hurt him.

5. Israel Garcia

Israel Garcia ("Garcia") was interviewed by telephone and was aware of the collision and shooting. Garcia confirmed that on his way back to Iowa, about a week before the shooting, he stopped in Reno and had dinner with Juan Roman's family and Alvarado-Morales' family.

He did not see or hear Alvarado-Morales exhibit any strange behavior. He did recall speaking to Alvarado-Morales on the phone prior to the dinner. During that phone call Alvarado-Morales wanted to talk to President Obama regarding an idea for a vehicle that does not run on gasoline. Garcia did not understand that comment. Garcia left the next morning and had no further information.

6. Reno Police Sergeant John Silver

Sergeant John Silver ("Sgt. Silver") heard about the shooting of Alvarado-Morales and instantly recalled having contact with Alvarado-Morales the morning prior to the collision and shooting. Sgt. Silver was on a traffic stop near the IHOP restaurant at Virginia and Plumb when Alvarado-Morales approached on foot with his two year old daughter. Alvarado-

Morales asked to talk, and Sgt. Silver stated he would do so after the traffic stop. Before stepping aside to wait, Alvarado-Morales warned Sgt. Silver to be careful as he saw the subject of the traffic stop texting and making phone calls.

Video from a bank nearby shows the two meeting at 8:46 a.m. Alvarado-Morales told Sgt. Silver that people were following him around town. He said "the people" left a note on his neighbor's door telling the neighbors they "needed to get out". He then asked that RPD follow him around town.

Sgt. Silver found the statements odd and was concerned there may be a language barrier between the two. A Spanish speaking officer was not immediately available so he referred Alvarado-Morales to the main station. Alvarado-Morales was calm when they spoke.

7. Mellisa Desmond (Reno Police Department, Desk Clerk)

About 15 minutes later, Alvarado-Morales met with Mellisa Desmond ("Desmond") at RPD and made a series of statements that she could not follow or make sense of: (1) his neighbors were all moving out of the area because they heard there was going to be a shooting in his neighborhood and were scared; (2) while he was letting his car warm up in the morning, his daughter, who was apparently outside, went into the house and a man followed her in; (3) he returned home after a two day absence and "knew" people had been inside there because things had been moved around; and (4) he repeatedly told her that people were following him. Desmond then summoned Spanish-speaking Officer Juan Lopez.

8. Reno Police Officer Juan Lopez

Officer Lopez attempted to clarify Alvarado-Morales' concerns and comments to Desmond. Alvarado-Morales said the neighborhood shooting was supposed to have occurred about a week prior but never did. Alvarado-Morales could not explain why he thought the pending shooting may have involved him. Alvarado-Morales stated that he was being followed and suspected that Israel Garcia was involved. Those suspicions were based upon the fact that when he spoke to Garcia on the phone recently Garcia told him he was not in town; however, a few hours later he saw Garcia in town. Therefore, Alvarado-Morales thought Garcia had lied to him.

Officer Lopez believed Alvarado-Morales' paranoia could be drug-induced. When asked, Alvarado-Morales denied using substances other than marijuana. He also claimed it had been days since he last smoked. Alvarado-Morales was "all over the place" and Officer Lopez could not obtain any useful information upon which to believe any of what he was being told by Alvarado-Morales was true. Nonetheless, Officer Lopez took Alvarado-Morales' information so that he could forward the information to the Mobile Outreach Safety Team (MOST) for follow up. MOST is a cooperative effort that pairs up mental health social workers with police officers to intervene and help people having a mental health crisis.

9. Father Mark Hanifan (Little Flower Church)

Father Mark Hanifan's card was found in Alvarado-Morales' pocket at the autopsy. Father Hanifan said that Alvarado-Morales and Mendoza came to the church late in the afternoon of the day before the shooting. He asked to see a priest but none were available. According to an office worker, Alvarado-Morales was nervous and jittery, and did not say why he wanted to see a priest or otherwise indicate that the matter was an emergency.

D. Countdown - Officer Eric Hague

January 26, 2016, at approximately 12:14 a.m., an evidentiary documentation of Officer Hague's equipment used and worn during the shooting occurred at the Reno Police Department. It was conducted by FIS and a detective from the Sparks Police Department. The duty weapon that had been fired, his backup firearm and 2 extra magazines were examined.

The duty firearm is a Glock 34 9mm, and the backup is a Glock 26 9mm. Officer Hague said he carries all of his magazines loaded to capacity and has one extra round in the chamber of each (17+1 for the duty weapon and 10+1 for the backup weapon). The two extra magazines had capacity for seventeen rounds.

When examined, there were eleven rounds in the magazine and one in the chamber of the duty weapon. Thus, six rounds were missing from the weapon. Six casings were located at the scene. The backup weapon was full, having ten rounds in the magazine and one in the chamber. Both extra magazines had seventeen rounds in them.

E. Countdown - Officer Robert Garlock

January 26, 2016, at approximately 11:04 p.m. an evidentiary documentation of Officer Garlock's weapons occurred at the Reno Police Department. It was conducted by FIS and a detective from the Washoe County Sheriff's Department.

Officer Garlock carried a X-26 Taser bearing serial number X00-660495. The Taser was collected and its memory was later downloaded at the Washoe County Sheriff's Office. The download report indicates that it was activated 3 times at approximately 5:17 p.m. The consecutive bursts each lasted five seconds, four seconds and five seconds.

Officer Garlock's duty firearm is an HK USP .40 caliber handgun. Consistent with the witness testimony, it was found not to have been fired as the weapon's chamber, magazine and both extra magazines were loaded to capacity, and no spent .40 caliber casings were located on scene.

III. LEGAL PRINCIPLES

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 Alvarado-Morales to be a homicide. Consequently, the Washoe County District Attorney's Office is tasked with assessing the conduct of the officer 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, there is case law authority interpreting justifiable self-defense and defense of others. All of the aforementioned authority is intertwined and requires further in depth explanation:

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

NRS 200.120 provides in relevant part that "Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of... person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony..." against the other person. NRS 200.160 further provides in relevant part that "Homicide is also justifiable when committed... in the lawful defense of the slayer... or any other person in his or her presence or company, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished".

The Nevada Supreme Court refined the analysis of self-defense and, by implication defense of others, in Runion v. State, 116 Nev. 1041 (2000). In Runion, the Court set forth sample legal instructions for consideration in reviewing self-defense cases as follows:

The killing of another person in self-defense is justified and not unlawful when the person who does the killing actually and reasonably believes:

1. That there is imminent danger that the assailant will either kill him or cause him great bodily injury; and
2. That it is absolutely necessary under the circumstances for him to use in self-defense force or means that might cause the death of the other person, for the purpose of avoiding death or great bodily injury to himself.

A bare fear of death or great bodily injury is not sufficient to justify a killing. To justify taking the life of another in self-defense, the circumstances must be sufficient to excite the fears of a reasonable person placed in a similar situation. The person killing must act under the influence of those fears alone and not in revenge.

Actual danger is not necessary to justify a killing in self-defense. A person has a right to defend from apparent danger to the same extent as he would from actual danger. The person killing is justified if:

1. He is confronted by the appearance of imminent danger which arouses in his mind an honest belief and fear that he is about to be killed or suffer great bodily injury; and
2. He acts solely upon these appearances and his fear and actual beliefs; and
3. A reasonable person in a similar situation would believe himself to be in like danger.

The killing is justified even if it develops afterward that the person killing was mistaken about the extent of the danger.

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

Id. 1051-52.

B. Justifiable Homicide by Public Officer

NRS 200.140 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".⁵

⁵ A 1985 Nevada Attorney General Opinion limited the interpretation of NRS 200.140 to situations where the officer has probable cause to believe that the suspect poses a threat of serious physical harm either to the officer or to others.

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

January 25, 2016, during rush hour traffic in a very busy location in this community, RPD Officers Hague and Garlock responded to a four car traffic collision with the knowledge that one of the people involved was actively trying to cut his own throat. This information raised legitimate concerns regarding the mental stability and physical safety of the person in question, the safety of any other people in the immediate area and whether the collision, if caused by the man wielding the knife, could have been intentional.

Upon arrival, traffic was heavy and people were on the sidewalks, in vehicles, and on the median. The officers learned the man was still actively cutting at his throat and was at the back of the collision. It was there where they encountered Alvarado-Morales. He was cutting at his neck with a knife. Wounds and blood were apparent on each side.

The following information was unbeknownst to the officers at the time but is relevant to this analysis as it illustrates the state of mind of Alvarado-Morales. In the days leading up to the collision, he was acting paranoid and unpredictable with family and friends. At the time of the incident, he had THC, the psychoactive component of marijuana, in his system. In addition to cutting his throat with a serrated knife after the collision, he had also tried to push a screwdriver into his temple and through his eye socket. This behavior coupled with the NHP accident report revealing his high rate of speed and failure to brake strongly suggests that he deliberately crashed his vehicle into stopped traffic. Simply, the officers faced a deranged man who wished to harm himself and others.

Officer Garlock repeatedly ordered Alvarado-Morales to stop and drop the knife. He ignored lawful police commands and continued

to cut at his neck, save and except a moment where he stopped to take account of the people nearby. This reasonably heightened the officer's concerns for the safety of themselves and the bystanders who were less than a travel lane away.

After a final warning, Officer Garlock fired his Taser striking Alvarado-Morales' heavy jacket. All witness testimony reasonably leads to the conclusion that the jacket rendered the Taser largely ineffective. Alvarado-Morales then turned and lunged toward Officer Garlock with the knife pointed in his direction. Officer Garlock was less than ten feet away. Reasonably believing that he was going to be stabbed or killed in the impending attack, he was forced to drop his Taser, retreat and draw his firearm.

In that moment, Officer Hague reasonably believed that there was imminent danger that Alvarado-Morales would either kill or cause great bodily injury to Officer Garlock or the nearby bystanders and could have justifiably shot Alvarado-Morales in defense of others. Nevertheless, because he could not do so safely due to the bystanders behind his line of fire, Officer Hague refrained from using deadly force and pursued his next best option; moving closer to Alvarado-Morales in order to achieve a safe angle for a shot.

In doing so, Officer Hague yelled at Alvarado-Morales' which drew his attention. Alvarado-Morales turned 180 degrees and advanced towards him. The knife was now pointed at Officer Hague and the distance between the two was narrowing. At that time, Officer Hague reasonably believed that the risk of death or great bodily injury for himself or nearby citizens was imminent and justifiably could have shot Alvarado-Morales in self-defense or in defense of others. However, again he did not because his line of fire still endangered the public. Officer Hague then further risked his own life by allowing Alvarado-Morales to get within eight feet of him before he used deadly force to stop the threat that was presented.

V. CONCLUSION

After reviewing the applicable law and all of the photographs, evidence, witness statements and reports submitted in this matter for review, the Washoe County District Attorney agrees with the Sparks Police Department that criminal charges are not warranted. The January 25, 2016, shooting death of Alvarado-Morales by Officer Hague was done so in justified self-defense and defense of others. Absent new and compelling evidence to the contrary, this case is officially closed.