

**OFFICE OF THE WASHOE COUNTY
DISTRICT ATTORNEY**

May 11, 2017



REPORT ON THE JULY 3, 2016, OFFICER INVOLVED
SHOOTING OF RAUL SAAVEDRA-VARGAS

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INTRODUCTION

On July 3, 2016 at approximately 1:30 p.m. Reno Police Department (RPD) Motor Officer Curtis Kaiser encountered a van being driven the wrong way on a one-way street. Officer Kaiser attempted to make a traffic stop utilizing his lights and siren. Unfortunately, the driver of the van, Raul Saavedra-Vargas (Saavedra), refused to stop. Saavedra accelerated and began driving towards downtown Reno at high speeds.

Officer Kaiser maintained a pursuit of Saavedra observing him once again travel the wrong way on another one-way street, Commercial Row. At the intersection of Commercial Row and Center Street, Saavedra's van crashed into the passenger side of a car traveling northbound on Center Street.

Despite the significant collision, Saavedra continued driving now going northbound on Center Street. Fearing for the public's safety if the pursuit continued, Officer Kaiser terminated his lights and siren pursuit and stopped to check on the victims that had been struck by Saavedra. He saw Saavedra turn westbound onto E. Plaza Street traveling towards N. Virginia Street and the largely attended Reno "Wing Fest" outdoor street festival.

RPD Officers Bryan Schuster and Marshall Eason were working foot patrol at the Wing Fest in the area of the intersection of E. Plaza Street and N. Virginia Street when they heard Officer Kaiser's radio account of the pursuit and travel path of Saavedra. Therefore, they began to move towards E. Plaza Street to place themselves on the east side of the barriers blocking N. Virginia Street. It was then they heard the van's screeching tires as it turned westbound onto E. Plaza Street. It was coming towards them and the hundreds of Wing Fest patrons at a high rate of speed.

Reacting, the Officers yelled for bystanders to get down and yelled for Saavedra to stop. The van did not slow down. Officer Eason began to backpedal towards the sidewalk to evade the van. It swerved towards him and bystanders on the sidewalk. Fearing for his own safety and the safety of the public, Officer Eason fired his gun at the driver. Saavedra did not stop.

He maneuvered the van past the N. Virginia Street barriers and toward the Wing Fest patrons and booths. Officer Eason and Schuster chased the van as it drove towards the public. Now at the side of the van, Officer Eason yelled again for Saavedra to stop. Instead, Saavedra revved the engine and continued moving forward. Fearing for the safety of the hundreds of people in Saavedra's path, Officer Eason fired more shots at Saavedra. The van crashed into a display booth and stopped. Saavedra was hit and later died from his injuries.

Numerous witness bystanders in the area provided statements to law enforcement. The gist of their statements involved a genuine fear that Saavedra was trying to rundown citizens with the van. Moreover, many of those witnesses praised Officers Eason and Schuster for protecting the public.

Consistent with the regionally-adopted Officer Involved Shooting (OIS) Protocol, the Washoe County Sheriff's Office (WCSO) led the investigation into the shooting of Saavedra. Sparks Police Department (SPD) provided secondary investigative support, RPD provided further needed support, and the Washoe County Crime Laboratory (WCCL) provided forensic services. The Washoe County District Attorney's Office provided scene assistance and facilitated obtaining search warrants.

The investigation included interviewing a large number of witnesses, collecting physical evidence, obtaining a search warrant, photographing various scenes relevant to the incident, forensically testing collected evidence, obtaining relevant surveillance video and interviewing the officers involved in the shooting.

All investigation reports along with WCCL forensic reports, photographs, surveillance video and recorded interviews were then submitted to the Washoe County District Attorney's Office in April of 2017, for a determination of whether the shooting of Saavedra was legally justified. No criminal charges were recommended by WCSO.

The District Attorney's evaluation included reviewing hundreds of pages of reports and documents including witness accounts. It further included the review of photographs, diagrams, video,

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 Saavedra by RPD Officer Marshall Eason was legally justified.

I. STATEMENT OF FACTS¹

A. Raul Saavedra-Vargas

On July 1, 2016, Saavedra and his girlfriend drove to Reno for the weekend from their residence in California. They drove in a 2002 Honda Odyssey van that was registered to her. They arrived in Reno on Friday, July 1, 2016 and attended the downtown Wing Fest on Saturday.

On Saturday evening the two got into an argument and his girlfriend decided to fly home early Sunday morning, the day of the shooting. Recovered text messages illustrate some of the argument.

- 7/3/2016 - 4:34 a.m. (from girlfriend)
"Bye Raul, I will always care for u. But ur no good for me"
- 7/3/2016 - 4:35 a.m. (from Saavedra)
"That's fuck up u leftme with no how am post to get back"
- 7/3/2016 - 4:48 a.m. (girlfriend)
"Thanks for killing everything. Thans for fkn my weekend up thanks for fkn my life up. Thanks a lot. I hope u find what ur looking for in life"
- 7/3/2016 - 4:49 a.m. (Saavedra)
"Fuck you bitch you left me you call your parents you're fucking dumb bitch that's not even koo"
- 7/3/2016 - 4:50 a.m. (girlfriend)
"I dont care bout you anymore"
- 7/3/2016 - 4:51 a.m. (Saavedra)
"Fucking hate you hope you fucking die bitch"
- 7/3/2016 - 4:52 a.m. (Saavedra)
"You kill my whole fucking life either want to call your prayers that killed me"

¹ The Statement of Facts is synopsised from witness interviews, videos, and police reports.

- 7/3/2016 - 4:52 (girlfriend)

"U need help bye"

At 12:05 p.m. on July 3, 2016 Saavedra went to the Grand Sierra Resort. He remained there for over an hour, gambling and drinking at the bar, and then left. Surveillance cameras from the Grand Sierra Resort last captured the van he was driving heading westbound on E. Second Street at approximately 1:29 p.m.

Saavedra had a lengthy criminal history record. He was previously convicted of Driving Under the Influence 3 times. He'd also been convicted for Evading a Peace Officer, Possession of Marijuana, and Driving with a Suspended License. His driver's license was suspended at the time of this incident.

B. RPD Officer Curtis Kaiser

Officer Kaiser was interviewed at the Reno Police Department by SPD Detective Erick Chavez and WCSO Detective Greg Sawyer on July 5, 2016. Officer Kaiser has been a police officer for 9 years and was assigned to the traffic division on a motorcycle in July of 2016.

At approximately 1:30 p.m. on July 3rd, Officer Kaiser left the Reno Police Department located at 455 E. Second Street heading eastbound on E. Second Street. E. Second Street is a one-way eastbound direction street. At that time, he encountered Saavedra approaching him driving westbound on the Street.

Officer Kaiser activated the emergency lights on his motorcycle and swerved out of the way of Saavedra. As Saavedra passed, he appeared to wave apologetically to Officer Kaiser. Officer Kaiser turned his motorcycle around, initiated his siren, and attempted a traffic stop.

Saavedra turned northbound on Park Street but refused to stop for Officer Kaiser. He then failed to stop for the stop sign while turning westbound onto Kuenzli Street. Saavedra continued on Kuenzli Street, which merges into E. Second Street, in excess of 50 miles per hour. Upon reaching Lake Street, Saavedra turned northbound until reaching Commercial Row an eastbound one-way street where he then traveled westbound.

At the intersection of Center Street and Commercial Row, Saavedra crashed into the passenger side of a car being driven by Albert DeMello. After a brief slow down due to the

collision, Saavedra then drove away northbound on Center Street. Officer Kaiser ceased his pursuit to check on the victims in the car. He then saw Saavedra turn westbound on E. Plaza Street.



(The above image depicts DeMello's car and the damage it sustained.)

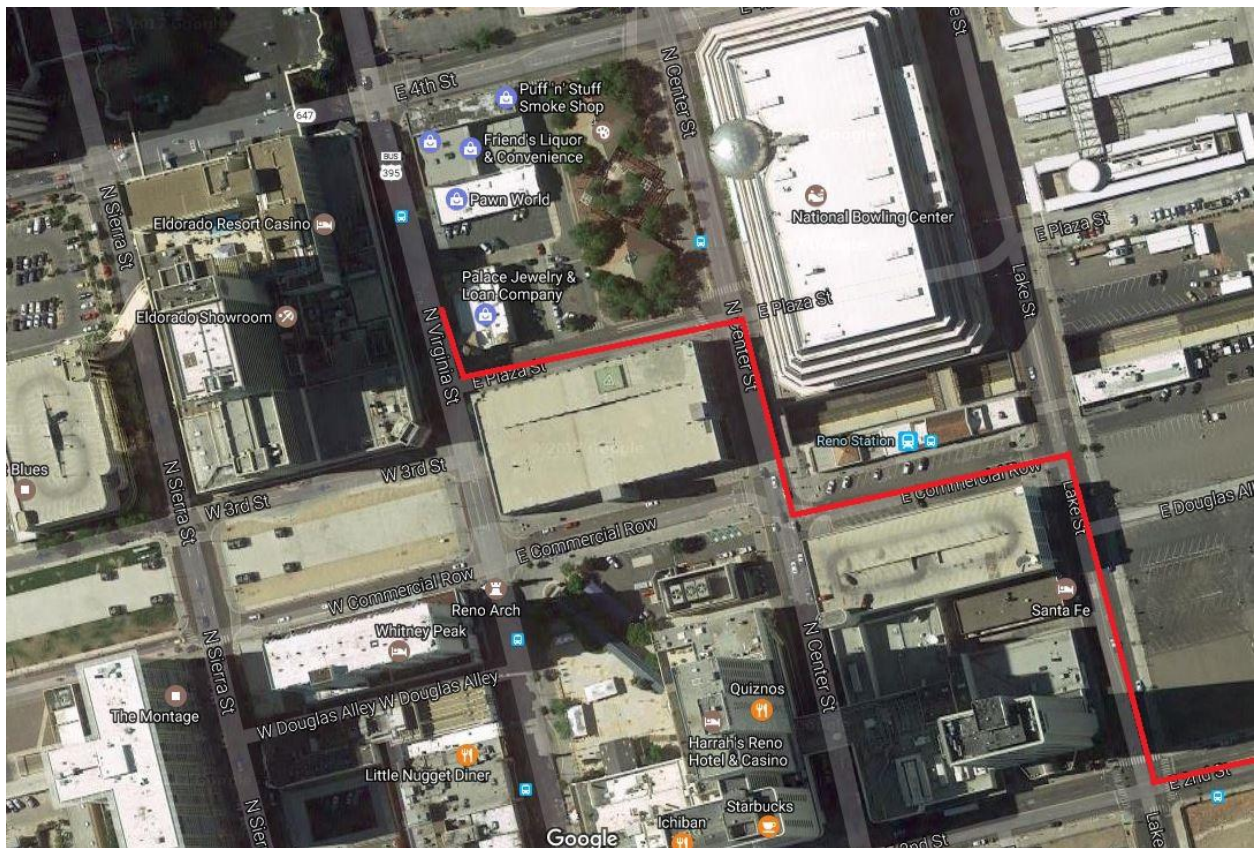


(The above image depicts the front left fender of the van and the damage it sustained when it struck DeMello's car.)

This heightened Officer Kaiser's concerns. He knew that the Wing Fest event was occurring with "tons of people down there." He was afraid that Saavedra was going to drive onto N. Virginia Street where there were "hundreds of people" "sidewalk to sidewalk." As such, he continued following Saavedra.

When Officer Kaiser reached the intersection of Center Street and E. Plaza Street, he saw Officers Eason and Schuster facing the approaching van. Officer Eason had his gun drawn and was motioning with his other hand for the vehicle to stop. Officer Kaiser then heard an unknown number of gunshots as the van turned northbound on to N. Virginia Street.

Officer Kaiser caught up to the van as it continued northbound on N. Virginia Street. He activated his siren in an attempt to alert the crowd to the danger. He saw officers on the passenger side of the van and heard additional gunshots as the van continued toward the vendor booths. The van then drove into one of the vendor booths and stopped.



(The above image depicts the approximate pathway of Saavedra once he reached Lake Street.)

C. RPD Officer Marshall Eason

Officer Eason was interviewed at the Reno Police Department by WCSO Detective Greg Sawyer and SPD Detective Erick Chavez on July 5, 2016. In July of 2016, Officer Eason had been a police officer for 3 ½ years.

On July 3, 2016, he was assigned foot patrol at the Wing Fest and was doubled up with RPD Officer Bryan Schuster. He was wearing his standard issue police uniform and an RPD hat. After a 12:30 p.m. briefing, the two officers began patrolling the Wing Fest. They had made a lap through the event noticing the large amount of people and vendor booths on N. Virginia Street when they heard over their police radio the communications from Officer Kaiser regarding the pursuit of Saavedra.

Officer Eason and Schuster were in the vicinity of Virginia Street and Plaza Street when they heard that Saavedra was heading in that direction. They positioned themselves outside the barriers on E. Plaza Street protecting the eventgoers on N. Virginia Street. There were people sitting on the sidewalks on E. Plaza Street. Officer Eason could hear the screeching of tires before he saw the van "ripping around the corner" onto Plaza Street at a "high rate of speed."

He drew his gun and started yelling for everyone to get down. He immediately realized that if the van got through the barrier onto N. Virginia Street "it's gonna kill people." Thus, he placed himself in the center of E. Plaza Street in front of the barriers. He continued yelling for the public to get down and began yelling at Saavedra to stop. He also began motioning with his free hand for Saavedra to stop. Saavedra ignored all commands and maintained his path towards N. Virginia Street without slowing down.

As the van was approaching Officer Eason, he noted that it was solely occupied by Saavedra. Saavedra then swerved the van towards Officer Eason. Officer Eason began backpedaling to the south to avoid being hit by Saavedra. Fearing for his safety as well as the hundreds of bystanders in the area, Officer Eason fired his gun at Saavedra. He then tripped backwards over the sidewalk as he continued to backpedal away from the van.

Saavedra did not stop. He proceeded past the barrier and began driving northbound on N. Virginia Street towards the eventgoers

and the vendor booths. Chaos ensued. People began to scream and attempt to flee the area. Officer Eason got up and began to chase the van along with Officer Schuster.

Officer Eason managed to get to the passenger side window of the van and again screamed at Saavedra to stop. Saavedra looked at him and continued to drive. The engine revved. Officer Eason then fired more rounds into the van striking Saavedra. Officer Eason and Schuster were then able to reach into the van and bring it to a stop as it crashed into a vendor's booth.

Officer Eason then began tending to the distraught event-goers to ensure no one was injured.

D. RPD Officer Bryan Schuster

Officer Schuster was interviewed at the Reno Police Department by WCSO Detective James Cox and SPD Detective Adam Harris on July 3, 2016. In July of 2016, he had been a police officer for approximately 3 ½ years. On July 3, 2016 he was assigned foot patrol of the Wing Fest with Officer Eason. On that day, he was wearing his customary RPD uniform.

While patrolling the Wing Fest with Officer Eason, he heard radio traffic concerning Officer Kaiser's pursuit of Saavedra. He could also hear Officer Kaiser's siren from his motorcycle in the background. He knew the evading vehicle was in the area.

He and Officer Eason were at the intersection of E. Plaza Street and N. Virginia Street when he heard Officer Eason shout out "There's the car." Officer Schuster then saw the van screeching around the corner. He noted that it was not in its own travel lane and was accelerating while coming directly at them.

Officer Schuster began repeatedly yelling at the bystanders to "get down" and at the driver to "stop." He could hear the bystanders screaming. The van continued toward them swerving in their direction. Officer Schuster felt the van was going to hit them. They both began moving to the right (driver's side) of the vehicle.

As they were dodging the van, Officer Schuster heard Officer Eason fire his gun. He then saw Officer Eason, who was on his left, fall to the ground and believed that he had just been hit by the van. The van continued around the barrier and began driving northbound on N. Virginia Street. Officer Schuster did

not fire his gun because he believed his angle into the van was impeded and was concerned that he would be firing towards the crowds of people on the other side of the van. Officer Schuster began to chase the van.

He noticed that Officer Eason was up again and running alongside the passenger side of the vehicle. They both told Saavedra to stop. He heard people screaming. Officer Eason then fired again into the van. Officer Schuster was able to open the passenger door, jump into the van, and slam the car into park just as it crashed into a vendor's booth.

E. Witnesses to the Incident

Many citizens who were at or near the Wing Fest event witnessed Saavedra's driving on E. Plaza Street, the RPD officers' initial intervention, and Saavedra's ultimate entrance into the event thoroughfare resulting in the RPD Officers' final intervention.

WCSO and SPD detectives and officers interviewed available witnesses. The statements provided are largely consistent and provide a harrowing glimpse into the dangerousness of Saavedra's actions. Many individuals recounted fearing for their life and that of their loved ones and believed Saavedra intended to injure multiple people.² Witnesses commended the actions of the officers as heroic, life-saving, and necessary. This section of the report will offer a summation of several of those accounts.

1. William Batiz

Batiz was attending the Wing Fest with his son. They were standing on the corner of E. Plaza Street and N. Virginia Street when Batiz heard the screeching of tires. His attention was then drawn to Saavedra driving down E. Plaza Street at a high rate of speed. He saw both officers run towards the vehicle directing it to stop.

When Saavedra drove past the barriers to N. Virginia Street, Batiz saw Saavedra look left and right, and in Batiz' opinion, make a conscious decision to drive towards the largest congregation of people. He believed as Saavedra drove north on N. Virginia Street people were going to be run over. He then

² Several witnesses compared what they saw to the tragic Reno case involving Priscilla Ford. On Thanksgiving Day in 1980, Priscilla Ford deliberately drove her car down a sidewalk in downtown Reno killing 6 people.

witnessed the shooting, resulting in the vehicle veering to the right and coming to a stop.

2. Atoria Foley

Foley was standing in the southeast corner of E. Plaza Street and N. Virginia Street when she heard the accident at the intersection of Center Street and Commercial Row. She saw Saavedra then driving west on E. Plaza Street towards her and other bystanders. She described Saavedra as "driving as fast as he can trying to hit people." Foley then saw Officer Eason fire shots at Saavedra as he swerved towards him and the other bystanders. She believed there were approximately 10 people on the corner at that time in Saavedra's pathway. She believed Saavedra was trying to hit them.

Foley then saw the van hit a portion of the barricade and turn onto N. Virginia. She estimated she saw at least 100 people in the area that were screaming and running. In her opinion, if Saavedra had not been stopped by the officers he was going to try to hit as many people as he could.

3. Lonny Dill

Dill was an attendee at the Wing Fest. He was standing at the intersection of E. Plaza Street and N. Virginia when he heard the screeching of the tires from the van driven by Saavedra. He then saw the van turn westbound onto E. Plaza Street. Dill estimated that there were hundreds, if not thousands, of people in the same area he was when he witnessed the incident. The van was sliding out of control as it made the turn and, in his estimation, was traveling between 70-80 miles per hour towards his direction.

Dill ran for safety and hid behind a concrete wall. As he hid, he heard the initial shots Officer Eason fired at Saavedra. Thereafter, he looked around the corner of the wall and saw the van turn north onto N. Virginia Street. He saw Officer Eason and Schuster running along the passenger side of the van. Dill then saw Officer Eason fire his gun into the van again. The van then struck a vendor booth just as Officer Schuster entered the vehicle and brought it to a stop.

Dill then made the following statement to WCSO Detective Koski, "My personal thought is this police officer reacted in a perfect

manner. He didn't have a choice. He saved lives. He clearly saved lives. This guy was crazy. This guy was outta control. This guy had a total blatant disregard for people and safety and I don't know how else I woulda... I would done the same thing if I was in his shoes if I was capable you know."

4. Michael Rodriquez

Rodriguez was attending the Wing Fest with his son. He was standing in front of the Eldorado Hotel and Casino at the corner of E. Plaza Street and N. Virginia Street when he heard the loud screeching of tires coming from Center Street. He then saw the van heading toward the metal barricade on E. Plaza Street that was in place to keep vehicle traffic out of the event.

Rodriquez estimated the van's speed at 50 to 70 miles per hour.

He saw the van veer towards Officer Eason and Schuster. He then saw Officer Eason fire his gun into the driver's side door glass. The van slowed but continued north onto N. Virginia Street.

He then saw Officer Eason sprint alongside the passenger side of the vehicle and fire more rounds through the passenger door window. The van crashed into a vendor's booth and stopped. Rodriquez then saw another officer remove Saavedra and begin administering life saving measures.

5. Destiney Bailey

On July 3, 2016 Bailey worked for ESI security and was working security at the Wing Fest event. She was stationed at the corner of N. Virginia Street and E. Plaza Street. She was standing at that corner when she heard the initial vehicle crash. She then saw the van driven by Saavedra speeding towards N. Virginia Street on E. Plaza Street. She estimated the vehicle's speed between 60 and 100 miles per hour.

She saw Officer Eason and Schuster step onto E. Plaza Street and motion the vehicle to stop while also yelling for it to stop. It did not. The van then drove up onto the sidewalk where she was standing. She stepped back to avoid being hit by the van.

As the van attempted to go around the barricade she heard two shots. She heard several more before the van crashed into the vendor's booth on N. Virginia Street. Bailey then checked on bystanders to see if anyone was injured. She also assisted in

keeping the crime scene secure from people. She estimated that if the police had not shot Saavedra he would have hurt up to 50 to 100 people.

F. The Annual Biggest Little City Wing Fest

The Silver Legacy and Downtown Reno host the Annual Biggest Little City Wing Fest. The 4th annual festival occurred July 2-4, 2016. The 4th annual event's promotions described it as an "All-American event that spices up Virginia Street with over 65,000 attendees and serves over 20,000 pounds of chicken wings each year! This year's event is sure to be the biggest yet with three days of finger lickin' chicken wings, live entertainment on outdoor stages, street faire vendors, a VIP Hen House and local celebrity wing judges!"

A review of surveillance video taken from the Eldorado Casino, Palace Jewelry & Loan Pawn Shop, and an RPD Traffic Camera indicates that there were thousands of people attending the Wing Fest at the time of the shooting. The videos depict patrons of all ages from infants to elderly. In addition to the eventgoers there were multiple vendor tents lining N. Virginia Street.

II. PHYSICAL EVIDENCE

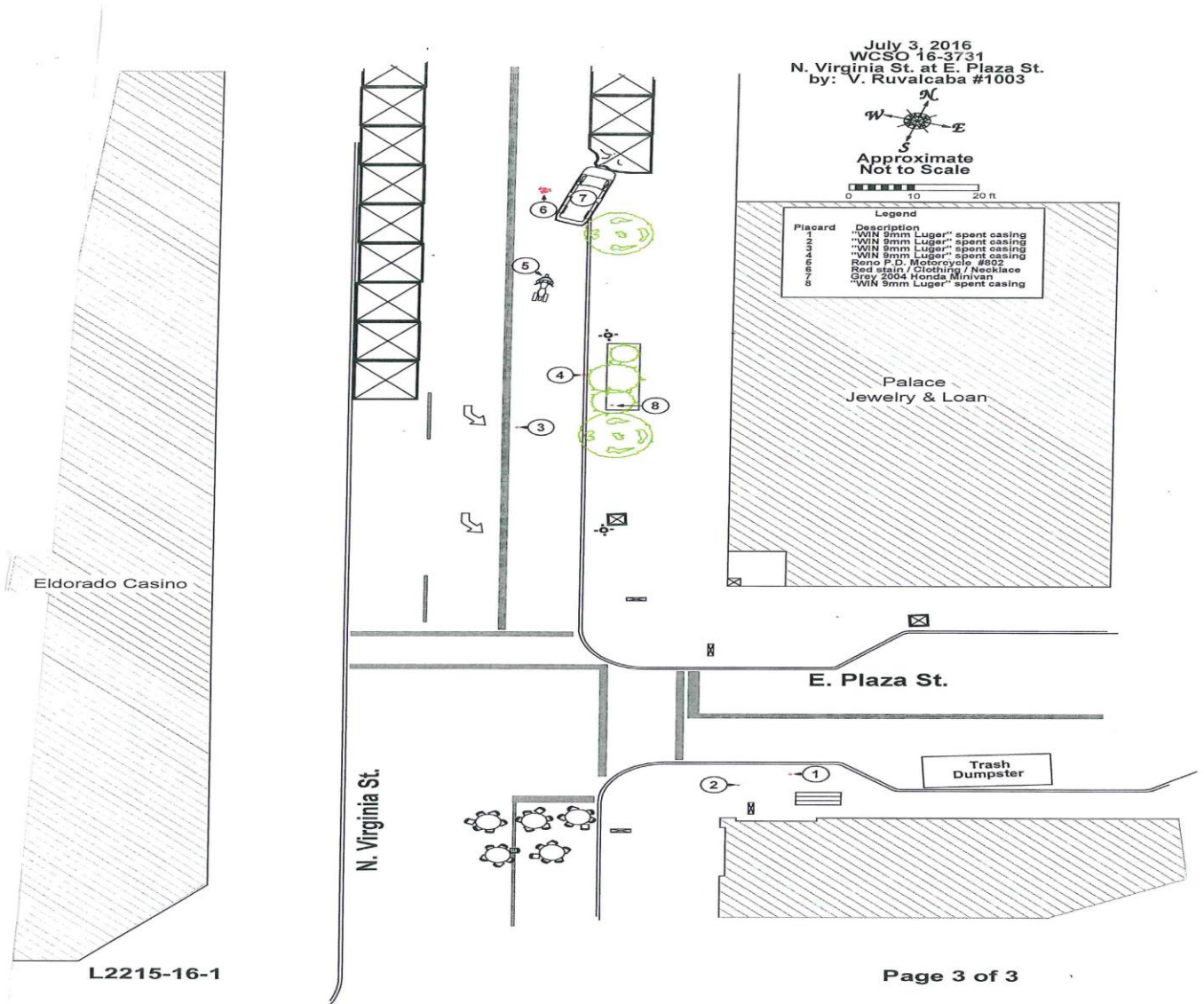
A. Countdown of Officer Eason's Firearm

July 3, 2016, at approximately 4:50 p.m. an evidentiary documentation of Officer Eason'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 and 3 cartridge magazines were examined.

The duty firearm is a Beretta Model 92 Brigadier 9mm handgun. Officer Eason had a total of 3 magazines. He carries 19 rounds in his handgun (18+1 in the chamber) and 18 and 15 rounds respectively in the two extra magazines.

When examined, there were twelve rounds in the magazine and one in the chamber of the duty weapon. The rounds were WIN 9mm Luger cartridges. Thus, six rounds were missing from the weapon. Both extra magazines were full.

B. Shooting Scene



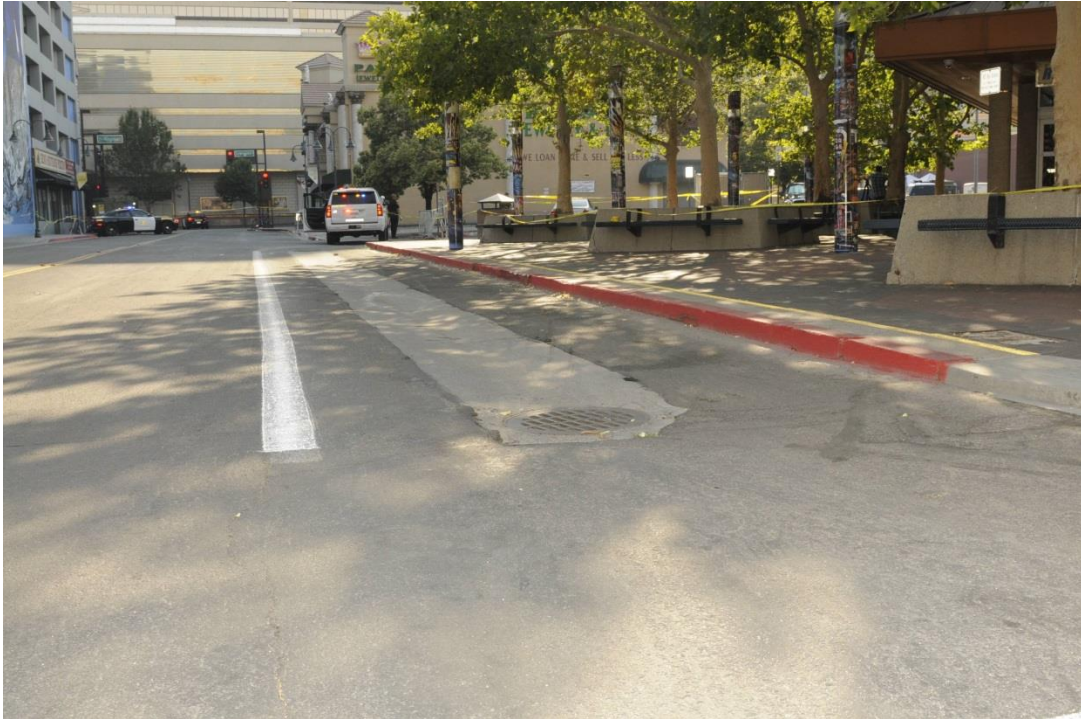
Six casings were found at the scene of the shooting. The WIN 9mm LUGER casings matched the cartridges recovered during the countdown of Officer Eason's firearm.

Two were recovered on the south sidewalk of E. Plaza Street. Three were recovered on or along Virginia Street with one recovered from an adjacent planter. One was later recovered from inside the van Saavedra was driving.

The casings recovered from the scene are memorialized in the scene diagram above. Also, depicted in the diagram is the

location where the van driven by Saavedra came to rest. Behind the van is Officer Kaiser's motorcycle

C. Scene Photographs



(The above image depicts E. Plaza Street and its intersection with N. Virginia Street taken from Center Street looking westbound.)



(The above image depicts the tire marks left by the van as it drove onto E. Plaza Street from Center Street at high speeds. It also shows the curbing it damaged when it collided with it along its pathway to N. Virginia Street.)



(The above image depicts the damage caused to the front right tire of the van as it collided with the curbing on E. Plaza Street.)



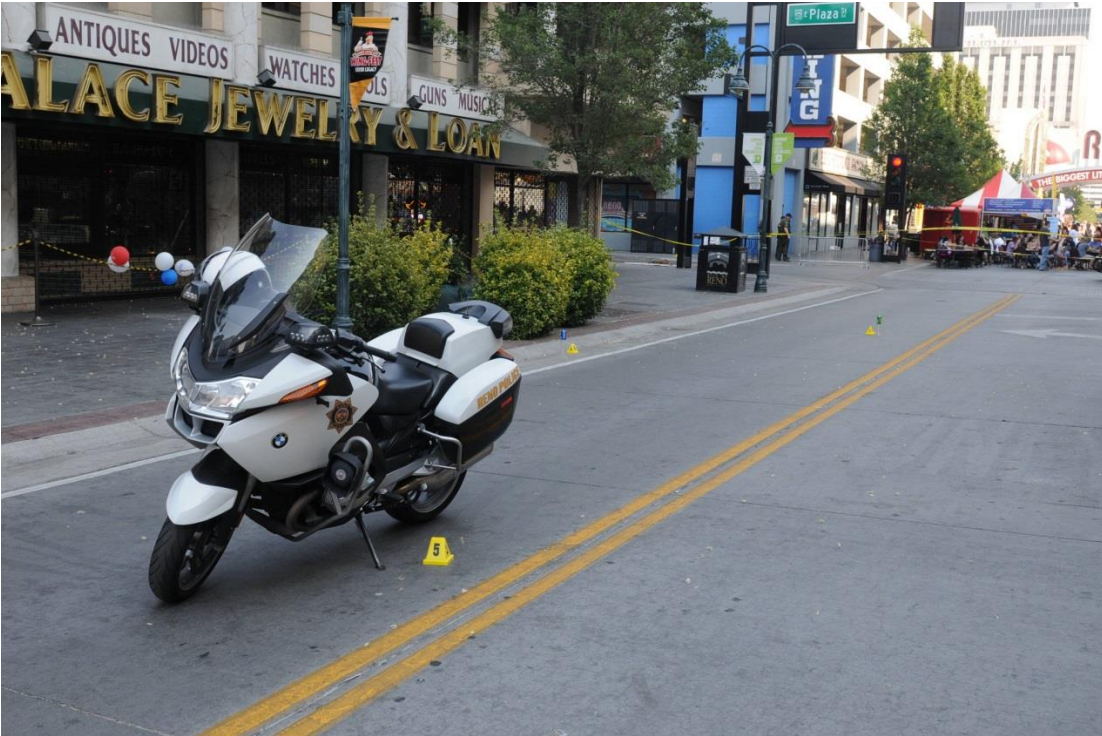
(The above image depicts the intersection of E. Plaza Street and N. Virginia Street looking eastbound. On the lower right side of the picture are the metal barriers that were used to block N. Virginia Street from E. Plaza. They were moved to the side after the shooting to allow an ambulance to enter and treat Saavedra. The middle right of the picture depicts the sidewalk that Officer Eason stumbled over as he retreated away from the van. Two casings from Officer Eason's initial shots were recovered on that sidewalk and are marked by plastic water bottles in this picture.)



(The above image depicts the northbound view onto N. Virginia Street from its intersection with E. Plaza Street. It shows the van's final location upon its collision with a vendor's booth.)



(The above image depicts the southbound view onto N. Virginia Street. It shows the opposite view of the van's location.)



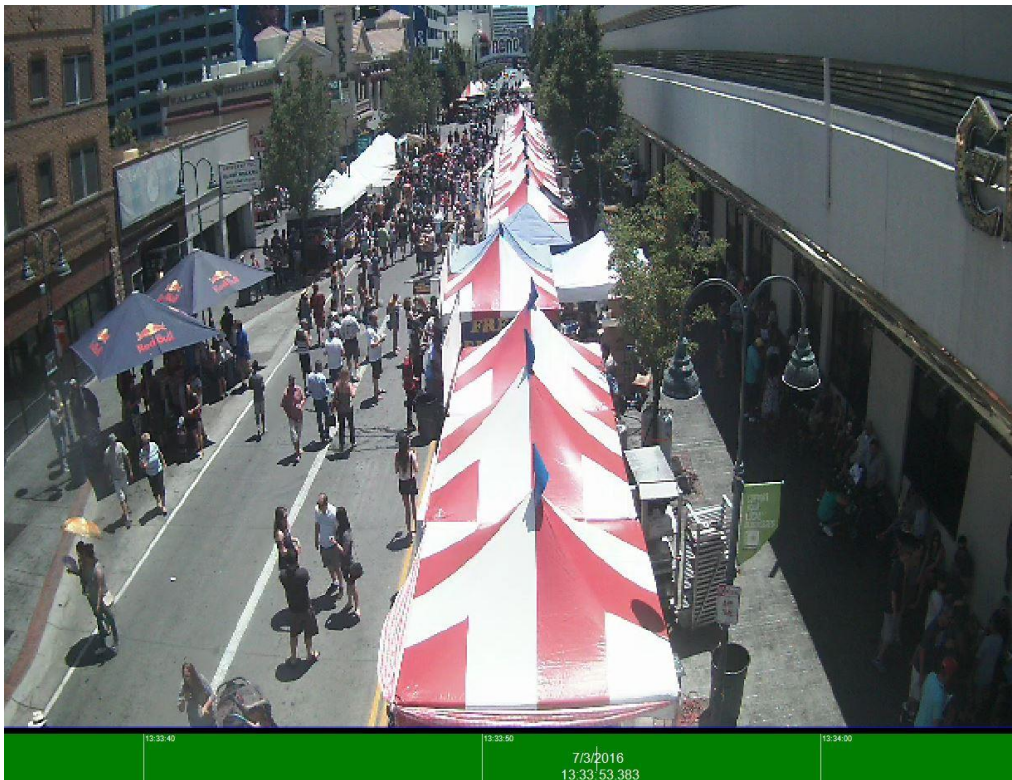
(The above image depicts the travel path of Saavedra, Officer Eason and Schuster, and Officer Kaiser from E. Plaza Street onto N. Virginia Street. The yellow pylons beyond the Officer Kaiser's motorcycle mark casings discharged from Officer Eason's firearm.)

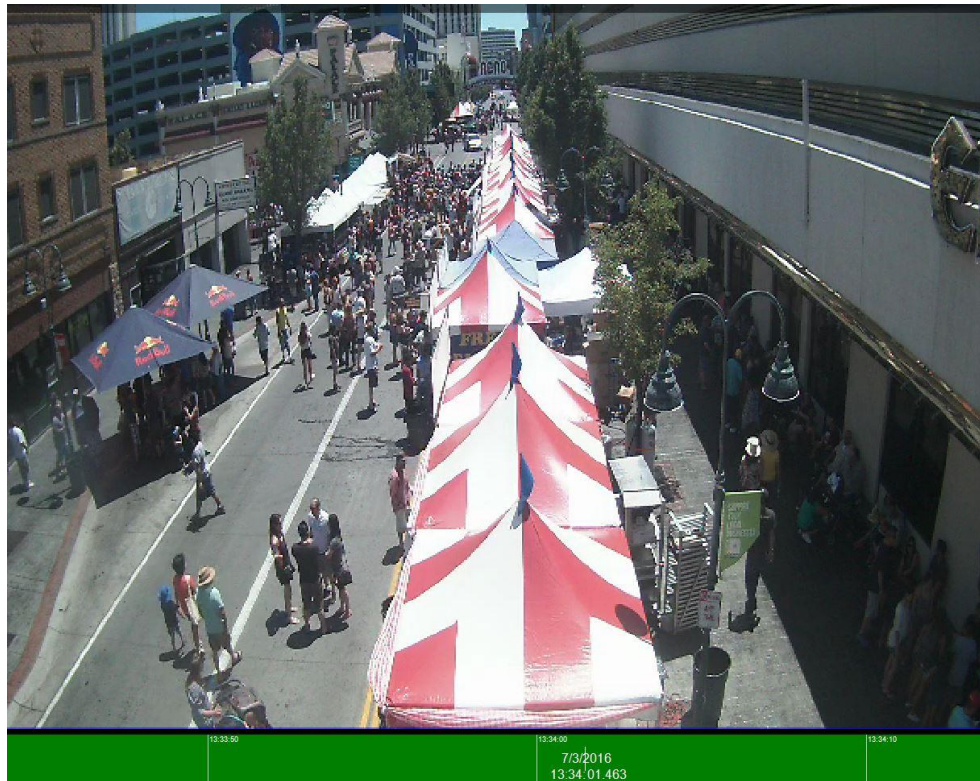
D. RPD Traffic Camera

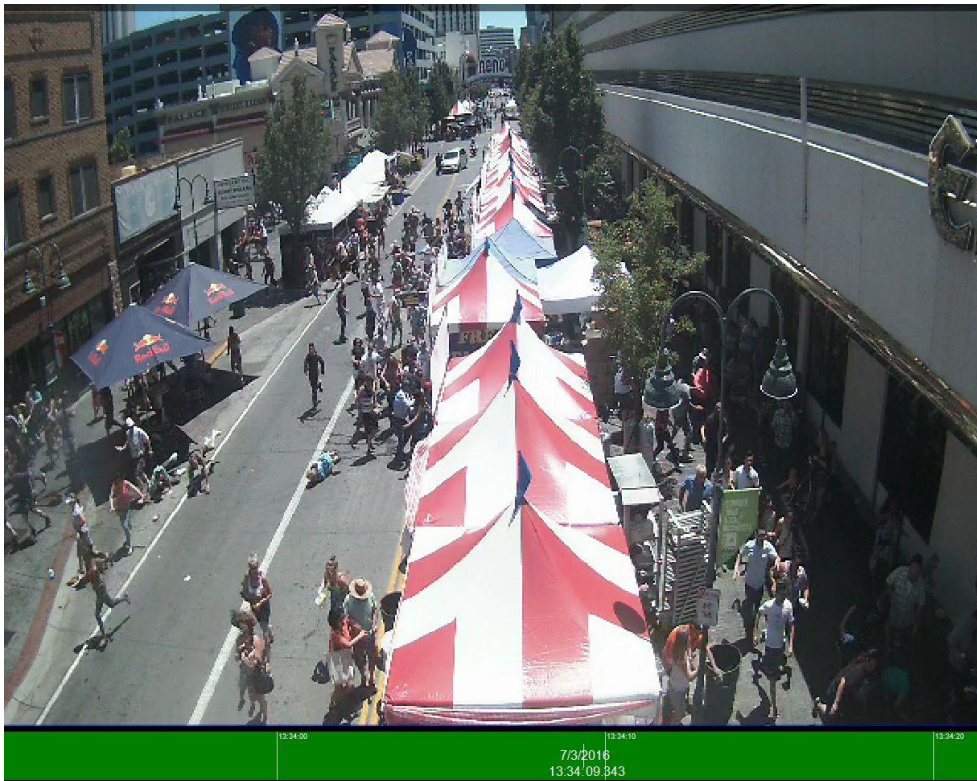
An RPD traffic camera that captures video looking south on N. Virginia Street from 4th Street, recorded the incident. It did not record what happened on E. Plaza Street. However, in addition to showing the volume of people at the Wing Fest, it shows Saavedra driving the van onto N. Virginia Street from E. Plaza Street and turning northbound towards the vending booths and the vast amount of eventgoers.

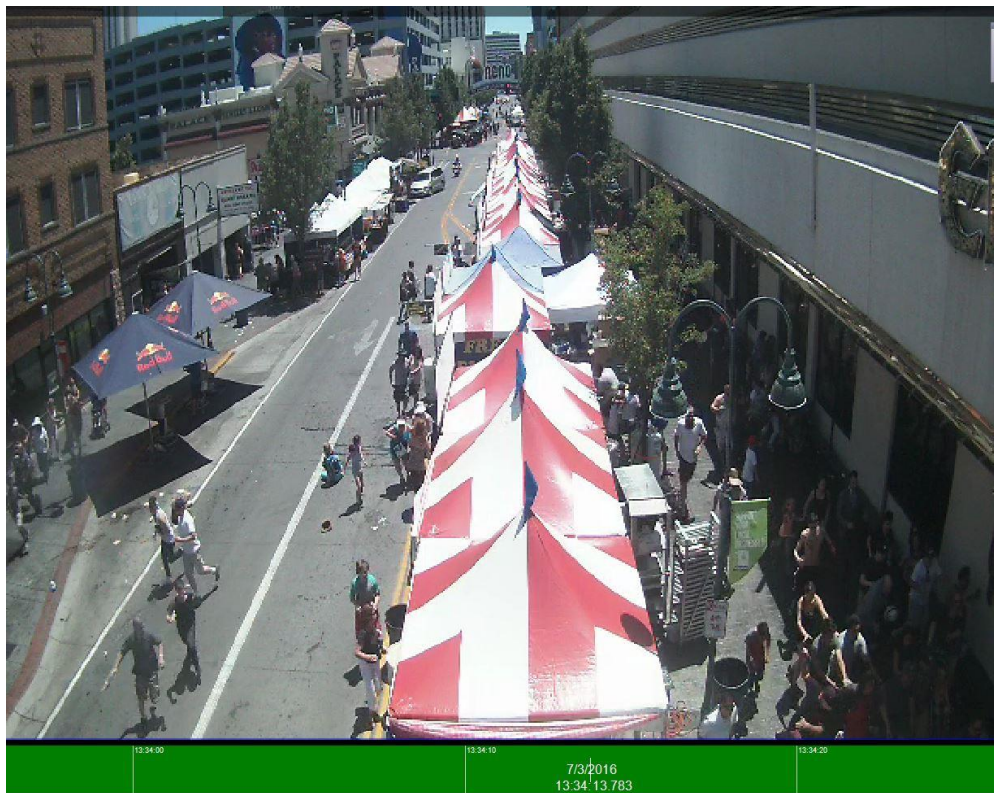
It further shows Officer Eason and Schuster running alongside the passenger side of the van followed by Officer Kaiser on his motorcycle. Additionally, it depicts eventgoers chaotically fleeing the area. It shows individuals falling to the ground and being stepped on. It is too distant of a shot to see Officer Eason discharge his firearm. Nevertheless, it depicts Saavedra crashing into a vendor's booth and being removed from the van by officers.

The following images are still shots taken from the RPD Traffic Camera video over the course of approximately 16 seconds. (The van will appear in the upper middle of the picture)









E. Autopsy

An autopsy was conducted on Saavedra on July 5, 2016 at approximately 8:45 a.m. Chief Medical Examiner Dr. Ellen Clark concluded that Saavedra died due to gunshot wounds of his torso and extremities. The gunshots included four wounds entering the chest and/or abdomen, two passing from left to right and two passing from right to left. Because the death occurred at the hand of another, it was deemed a homicide.

Toxicology testing of Saavedra's blood was conducted. The toxicology findings revealed that he had a blood alcohol concentration of .208 (2.5 times the legal limit) and a Delta-9 THC (active marijuana ingredient) of 6 (3 times the legal limit).

III. LEGAL PRINCIPLES

The Washoe County Medical Examiner's Office has deemed the death of Saavedra 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 has refined the analysis of self-defense and, by implication defense of others, in Runion v. State, 116 Nev. 1041 (2000). In Runion, the Court set forth sample legal instructions for consideration in reviewing self-defense cases as follows:

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

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

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

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

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

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

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

Id. 1051-52.

B. Justifiable Homicide by Public Officer

NRS 200.140 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".³

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 heroic and disciplined actions of Officers Eason and Schuster on July 3, 2016 cannot be overstated nor can the public threat presented by Saavedra be denied. A tragedy was prevented.

On July 3, 2016 while patrolling a street festival full of people, Officer Eason encountered an unhinged, potentially homicidal and highly intoxicated Saavedra operating a van in a reckless manner with complete disregard for public safety. Saavedra had already attempted to elude law enforcement from a traffic stop driving at high speeds in downtown Reno often traveling the wrong way on one-way streets. Moreover, during the pursuit he crashed into another occupied vehicle. Even that did not stop his wild course through downtown Reno towards the annual Wing Fest and its thousands of patrons. Simply, Saavedra represented a danger of the highest order.

³ 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.

Despite demands to stop from Officers Schuster and Eason, who had bravely placed themselves in his pathway, Saavedra continued. As he approached the officers, he swerved toward their direction leading them and bystanders to believe he was trying to run them down. In that moment, Officer Eason clearly had a reasonable belief that there was imminent danger that Saavedra would either kill him or cause him great bodily injury by hitting him with the van. Additionally, he had a reasonable belief that the surrounding public at large was in imminent danger of death or great bodily harm. As such, Officer Eason's initial shots at Saavedra as he recoiled to avoid being hit by the van were undoubtedly justifiable.

As the initial shots failed to be immediately effective, the extreme danger presented by Saavedra persisted as he drove into the Wing Fest. As Saavedra directed the van northbound onto N. Virginia Street towards eventgoers and vendor's booths, a potential catastrophe presented itself as hundreds of innocent citizens were in his pathway. Saavedra again refused to stop. Recognizing the eventgoers were in imminent danger of death or great bodily harm, Officer Eason rightly fired again. Thus, Officer Eason's second round of shots at Saavedra were again undoubtedly justifiable.

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 July 3, 2016 officer involved shooting of Saavedra, the actions of RPD Officer Marshall Eason are warranted under Nevada law. Unless new circumstances come to light which contradict the factual foundation upon which this decision is made, the District Attorney's review of this case is officially closed.