

**OFFICE OF THE WASHOE COUNTY
DISTRICT ATTORNEY**

January 15, 2021



REPORT ON THE FEBRUARY 5, 2020 OFFICER INVOLVED
SHOOTING OF DANIEL MURILLO

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INTRODUCTION

On February 5, 2020 Reno Police Department (hereinafter "RPD") Officer Javen Lindsay (hereinafter "Officer Lindsay") and his trainee Officer Nicholas Triplett (hereinafter "Officer Triplett") were in their vehicle near the area of Sutro Street and Wedekind Road when at about 8:02 p.m. dispatch advised there was a report of an assault with a deadly weapon. According to the report, the subject, later identified as Daniel Murillo (hereinafter "Murillo"), was in the parking lot of the Northern Nevada Literacy Center at 2100 Centennial Way chasing people with a knife. As Officers Lindsay and Triplett were responding, additional details were broadcast that the subject was a white male, about 45-50 years of age, 5'6" wearing a black hoodie and black pants. The knife was described as a possible pocketknife or kitchen knife with a medium blade.

Officers Triplett and Lindsay arrived on scene at approximately 8:03 pm and contacted the reporting party, Rachel Moreno (hereinafter "Ms. Moreno"). She confirmed the description of the suspect and pointed to officers that she had last seen the subject traveling northbound through the El Chaparral Apartments immediately behind their location. Officer Triplett drove into the south west parking lot of the El Chaparral complex and he and Officer Lindsay exited the vehicle.

At approximately 8:04 pm Officers Lindsay and Triplett observed Murillo in a grassy area of the apartment complex. Murillo was ripping fence boards off a bordering 6-foot wooden fence, appearing to officers that he was trying to escape. Both officers yelled at Murillo to stop and get on the ground. Officer Lindsay broadcast that they had one at gunpoint.

Murillo stopped tearing down the boards and turned toward officers Lindsay and Triplett, who were approximately twenty (20) feet away. As Murillo turned, Officer Triplett saw Murillo put his hand inside the pocket of his hoodie and come out with an object he believed to be a knife. Officer Lindsay saw the flash of a silver metallic object in Murillo's hand, and also believed Murillo to be armed with a knife. Murillo bent over slightly at the waist as if he was going to tackle someone. Officer Triplett yelled for Murillo "put it down," and Officer Lindsay commanded Murillo to "get on the ground." However, Murillo moved aggressively towards Officer Lindsay and said,

"Come On. You guys said you wanted this!" When Murillo reached approximately twelve to fifteen feet from Officer Lindsay, Officer Lindsay, fearing for his life and that of his partner, fired four rounds at Murillo. Murillo stopped his advance, fell to the ground and dropped the silver metallic object in his hand (this object was later determined to be a screwdriver). Immediately after firing his weapon, Officer Lindsay broadcast "Shots fired." Additional RPD officers arrived and Murillo was provided medical response and taken to Renown Hospital. He did not survive his injuries.

The subsequent investigation determined Murillo was a multi-convicted felon who had methamphetamine and marijuana in his system. Additionally, he was an escapee from the Nevada Department of Corrections who had been sentenced in June 2019 to 5 years in prison, with parole eligibility after 2 years were served. Shortly after sentencing, he had been transferred from prison to a transitional housing unit for inmates in Reno. On January 31, 2020, Murillo failed to return to the housing unit and a warrant issued for his arrest.

Consistent with the regionally-adopted Officer Involved Shooting (hereinafter "OIS") Protocol, the Sparks Police Department (hereinafter "SPD") led the investigation into the shooting of Murillo. The Washoe County Sheriff's Office (hereinafter "WCSO") provided secondary investigative support, and the Washoe County Crime Laboratory (hereinafter "WCCL") provided forensic services. The investigation included witness interviews, collection of physical evidence, photography of the shooting scene and other evidence, forensic evidence testing, review of body camera footage and other video evidence, and an interview of Officers Lindsay and Triplett.

On June 16, 2020, all investigation reports along with WCCL forensic reports, photographs, body camera footage, recorded interviews, and other investigation materials were submitted to the Washoe County District Attorney's Office for a determination of whether the shooting of Daniel Murillo was legally justified. The investigators did not recommend criminal charges against Officer Lindsay. The District Attorney's evaluation included reviewing approximately 600 pages of reports and documents, which included interviews of police and civilian witnesses,

photographs, diagrams, body camera footage and video surveillance. 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 Daniel Murillo by RPD Officer Javen Lindsay was justified and not a criminal act.

I. STATEMENT OF FACTS¹

A. Witness Accounts

1. RPD Officer Javen Lindsay

Officer Lindsay was interviewed at the Reno Police Department main station on February 6, 2020, by SPD Detective Shawn Congdon (hereinafter "Detective Congdon") and WCSO Detective Joey Lear (hereinafter "Detective Lear"). A summary of his statement appears below.

Officer Lindsay has been with RPD for approximately six and a half years and is currently assigned to patrol. He has worked patrol for the entirety of his career at RPD, and he has been a Training Officer for the last three years. Officer Lindsay had been working with trainee Officer Triplett for the last five weeks. On February 5, 2020, Officer Lindsay and his assigned trainee, Officer Triplett started their shift at 2:00 p.m. and the shift was scheduled to end at midnight.

Officer Lindsay said he was wearing a standard issue Reno Police Department Class A uniform. He described his uniform as being a dark blue shirt and pants with striping down the legs. On his shirt were two RPD patches, one on each shoulder. His badge was on the left, his name plate was on the right, and the body worn camera was in the middle of the shirt. Trainee Officer Triplett was similarly dressed.

Officer Lindsay was a passenger in the patrol unit and Officer Triplett was driving. They had responded to assist other officers on calls that evening. The last call put them in the area of Sutro Street and Selmi Drive. As they were traveling south on Sutro, dispatch put out alert tones and advised there was a call of a subject with a knife chasing people in the area

¹The Statement of Facts is a synopsis of recorded witness interviews, photographs, police reports, videos, and forensic reports.

of 2100 Centennial. Officer Lindsay advised dispatch that they were in the area and would be responding to the call.

Officer Lindsay said as they arrived in the area of Wedekind Road and Centennial Way, a female (Ms. Moreno) approached their car. She appeared "panicked" and was pointing to the El Chaparral apartments. Officer Lindsay clarified with Ms. Moreno that she last saw the subject going northbound into the apartment complex. As Ms. Moreno was providing him with the subject description, Officer Lindsay could hear the same description being broadcast by dispatch. The suspect was described as a white male adult, approximately 5'6" and last seen wearing a black hoodie and black pants.

Officer Lindsay instructed Officer Triplett to pull the patrol car into the driveway on the southwest corner of the El Chaparral Apartments, and they both exited the vehicle. As they exited the vehicle, Officer Triplett reported seeing movement to the north of their location, and began heading north into the complex with his flashlight on. Officer Lindsay followed Officer Triplett and saw a person in dark clothing who was acting erratically and appeared to be "punching the fence."

Officer Triplett and Officer Lindsay started toward the person (Murillo) who turned and ran further north along a grassy area that is bordered to the left by a six-foot wooden fence and a retaining wall on the right. Officer Lindsay said that Murillo then started ripping the wooden fence boards from the fence in what Officer Lindsay felt was an apparent attempt to escape into the neighboring apartment complex.

Officer Lindsay shouted commands to "stop" and to "get on the ground" as he and Officer Triplett approached Murillo. He then broadcast that they had "one at gunpoint." Officer Lindsay believed he was about 20 feet away from Murillo at this point and he continued to issue commands for Murillo to "stop" and "get on the ground." Murillo turned toward Officer Lindsay and Officer Lindsay saw a flash of silver reflecting from his left hand. Murillo was "hunched" slightly at the waist as if he were preparing to tackle someone, and he stated something to the effect of "come at me, bro" or "Come at me or I'm coming at you!" and he began "striding" toward Officer Lindsay.

Murillo advanced on Officer Lindsay, and Officer Lindsay started backing up. Murillo accelerated toward Officer Lindsay and got somewhere between twelve and fifteen feet away. At that point Officer Lindsay said he felt he could not let Murillo get any closer to him or his trainee and he fired four rounds into Murillo's chest. Murillo fell to the ground, and Officer Lindsay notified dispatch that shots had been fired. He then approached Murillo to attempt medical aid. He turned Murillo over and saw a large amount of blood and realized there was nothing he could do. At that point, Officer Lindsay backed away and Officer Triplett held Murillo at gunpoint until other officers arrived.

Officer Lindsay described the lighting conditions as dark, with ambient light from the apartment complex and light from Officer Triplett's flashlight. Officer Lindsay explained that his first thoughts were for the safety of persons in the neighboring apartment complex if Murillo made his way through the fence. He felt Murillo would not hesitate to use his weapon because he had reportedly already chased several people with the knife. Once Murillo focused on Officer Lindsay and Officer Triplett, Officer Lindsay explained his thoughts were for his and his trainee's safety. He explained that if Murillo "got to me with the knife, he would absolutely be using it on me."

2. Officer Nick Triplett

Officer Triplett was interviewed at the Reno Police Department main station on February 5, 2020 by Detective Lear and Detective Congdon. A summary of his statement appears below.

Officer Triplett graduated the Northern Nevada Law Enforcement Academy on December 3, 2019. He had no prior law enforcement experience and was in his fourth week of training at RPD with Training Officer Lindsay. On February 5, 2020, he was working swing shift, from 2:00 pm to midnight. He was driving a marked patrol unit and in full police uniform.

Officer Triplett and Officer Lindsay were in the area of Sutro Street when alert tones and a call for service came out from dispatch. Officer Lindsay advised they were only two streets away from the call for service and put them out as responding to the call. Dispatch broadcast that the call was related to an

assault with a deadly weapon with a white male suspect threatening people with a knife.

Officer Triplett explained that they arrived in the area of Wedekind Road and Centennial Way where they met with a Hispanic female (Ms. Moreno) who said, "He went that way" and pointed at the apartment complex behind them. She also provided a further description of the suspect as wearing a black hoodie and black pants, and waiving a knife.

Officer Triplett turned his patrol vehicle around and traveled northeast on Wedekind Road and pulled his patrol vehicle into the south entrance of the El Chaparral apartment complex located at 2153 Sutro Street. While exiting his patrol vehicle, and attempting to turn on his body worn camera, Officer Triplett heard something north of the parking lot. Officer Triplett grabbed his flashlight and shined it toward the noise. He saw a subject in a black hoodie and dark pants no more than 100 yards away down the fence line trying to rip the fence down. He called to Officer Lindsay, "I think that's him." Officer Lindsay said "Go." Officer Triplett stated he ran towards the subject, shined his flashlight on him, drawing his firearm on the run. The subject pointed one fence board toward Officer Triplett, holding it like it was a gun. Officer Triplett yelled "drop it" and "stop."

The subject (Murillo) pulled down two more fence boards, turned, and said something unintelligible. Officer Triplett explained Murillo yelled something that sounded like "Come on, do it!" "Fuck you, come on, let's go!" Murillo then reached into his hoodie pocket and pulled a knife. He stopped, squared up on the officers and postured "like a bear" with the knife in his right hand. Officer Triplett reported he could see a knife reflecting in the light from the apartments, his flashlight and the light affixed to Officer Lindsay's firearm.

Officer Lindsay was standing five to eight feet to Officer Triplett's left with his gun drawn. Murillo advanced two or three steps and then started to take larger, faster steps. Officer Triplett reported yelling commands at the subject to "Stop" "Look at me" "Let me see your hands." Officer Lindsay fired three shots and the subject dropped to the ground.

Officer Triplett explained that as Murillo closed on him and Officer Lindsay, he believed that Murillo was going to use the knife against either Officer Lindsay or himself. Further, that he was in the process of bringing his weapon to bear on the subject when Officer Lindsay fired.

Officer Triplett reported he next observed Officer Lindsay holster his firearm, bend down on his knees next Murillo, and attempt to provide aid. Murillo had blood pooling around his face and Officer Lindsay's hands were covered in Murillo's blood. Officer Triplett told Officer Lindsay to step away and Officer Triplett stood by with Murillo. A request for medical aid was put out, and RPD Officers Kevin Hendrix (hereinafter "Officer Hendrix") and Travis Orange (hereinafter "Officer Orange") arrived to assist. One of the officers illuminated the ground around Murillo, at which time Officer Triplett observed what he believed to be a knife near Murillo.

Officer Orange escorted Officer Triplett away from the shooting scene and it was at that point that Officer Triplett realized his body worn camera was upside down on his belt. Officer Orange instructed Officer Triplett to fix his camera and it was then that Officer Triplett realized he had not activated his camera when he stepped from his vehicle.

3. Rachel Moreno

On February 5, 2020, Ms. Moreno was interviewed at the Reno Police Department by SPD Detective Kevin Dach (hereinafter "Detective Dach") and WCSO Detective Stefanie Brady (hereinafter "Detective Brady"). Ms. Moreno lives on Wedekind Road in Reno, and is the original person who called 911 to report a male with a knife was threatening people at the Northern Nevada Literacy Center (NNLC) school.

At her interview, Ms. Moreno relayed that she was walking home from the 7-11 at Sutro St. and Oddie Blvd. between the Salvation Army and NNLC, when she saw a white male with a beard wearing a black hoodie, and black pants. This man (Murillo) was acting like a "psycho" and he was screaming at three people who were coming out of the NNLC school. Murillo was waving his knife in the air toward them saying that he was going to stab them or kill them.

Ms. Moreno started walking faster and tried to ignore Murillo; however, he started yelling at her. As she pulled out her phone, Murillo yelled "What the fuck you gonna do, call the police?" She reports being scared and nervous by Murillo's behaviors and as he was coming toward her, she saw him strike the windshield of a car in the parking lot with the hand that had the knife. As Ms. Moreno walked away, she called 911 and told the police about the subject with the knife.

Officers arrived quickly and Ms. Moreno told the officers what Murillo was wearing and that she had seen him walk north across Wedekind Road toward the El Chaparral apartment complex. Ms. Murillo heard the officers yelling "freeze" and shortly thereafter she heard approximately four gunshots.

4. Francisco Ortiz

On February 5, 2020, Francisco Ortiz (hereinafter "Mr. Ortiz") was interviewed by SPD Officer Adrian Berumen (hereinafter "Officer Berumen") and Detective Brady. Mr. Ortiz is a Spanish speaker, so the interview was conducted by Officer Berumen in Spanish.

Mr. Ortiz resides on Sutro Street in the El Chaparral Apartments. On the evening of February 5, 2020, he was in the laundry room having just put his clothes into the dryer. As he was standing in the doorway of the laundry room, he observed a male running towards him from the south parking lot, from the area of Wedekind Road. Mr. Ortiz described this person as a white male, short in stature, wearing an all-black hooded jacket or sweatshirt with the hood up. This man, later identified as Murillo, was making odd noises, not using words, rather, just yelling like a "crazy person."

Mr. Ortiz reported that Murillo punched at him with a fist, causing Mr. Ortiz to step back into the laundry room to avoid being attacked. His impression was that Murillo wanted to get into the laundry room to hide, and that Murillo swung at him to get him out of the way. As Murillo punched at Mr. Ortiz, he tripped or lost his balance and fell to the ground in front of the laundry room door. Mr. Ortiz could see that Murillo had something in his right hand, and thought it could've been a small yellow knife, but Mr. Ortiz couldn't be certain what it was. Murillo then got up off the ground and ran through the

apartment complex, scaring a girl who was at the mailboxes near the laundry room. Mr. Ortiz next heard Murillo yelling as if he were arguing with someone, and then he heard several gunshots.

Mr. Ortiz relayed he was frightened by Murillo. He was afraid Murillo was going to attack him because Murillo was acting crazy and growling, but not using words.

5. Yesica Gallegos-Lopez

On February 5, 2020, Yesica Gallegos-Lopez (hereinafter "Ms. Gallegos-Lopez") was interviewed at the Reno Police Department by SPD Detective Jose Zendejas (hereinafter "Detective Zendejas") and WCSO Detective Arick Dickson (hereinafter "Detective Dickson"). Ms. Gallegos-Lopez is primarily a Spanish speaker, so the interview was conducted in Spanish.

Ms. Gallegos-Lopez said she was near the Manager's office on her way to drop off her rent check when she first saw the subject, a white male, wearing a black jacket with the hood up and dark pants. The man (later identified as Murillo) was running toward her. He had his hands in his jacket pockets, and he ran past her toward the laundry room. She heard an argument and sounds of a fight from the area of the laundry room. She saw Murillo get up off the ground, and she moved out of his way to avoid contact with him. Murillo pulled up the hood on his jacket, looked directly at her, and then with his hands in his jacket pockets, pulled his jacket open and said, "Nothing happened, nothing happened." He walked past her and then continued to look at her and he backed away from her, and he moved further into the apartment complex.

Ms. Gallegos-Lopez, dropped off her money order at the Manager's Office, checked on Mr. Ortiz in the laundry room, and then went to get her mail. She described, pulling her mail out of the mailbox, and hearing "arguing" which was followed by four or five gunshots. She dropped her mail and called 911 to request help. Not hearing any other shots, she peeked around the corner, and told dispatch that the police were already there. She told investigators that she was able to identify the officer by his blue uniform and his badge. She said the officer appeared "scared" and the white male was on the ground not moving.

6. David White

On February 5, 2020, David White (hereinafter "Mr. White") was interviewed at the Reno Police Department by Detective Dickson, assisted by Detective Zendejas.

Mr. White lives in the El Chaparral Apartments located on Sutro Street in Reno. He was outside his apartment the evening of February 5, 2020, when he heard several people yelling. He heard a command of "Let me see your hands!" repeated at least three times. He heard another voice issue commands like "Stop!" and "Get down!" He looked around the corner of his apartment and saw what appeared to be flashlights illuminating the white fence that separates the El Chaparral Apartments from those directly to the west. Seconds later he heard approximately three gunshots and saw an individual collapse on the ground.

Mr. White reports seeing a Reno Police Officer who had his hands on his head and was obviously distraught, saying "Oh, God! Oh, God!" Another officer yelled at him to go back inside his apartment. He recognized these individuals as Reno Police Officers by their dark uniforms, with full length pants. Their badges reflected in the light and they were wearing gun belts. Mr. White was clear that the commands of "Stop!" "Get down!" and "Let me see your hands!" were all issued prior to his hearing the sound of gunfire.

B. Countdown of Officer Javen Lindsay's Firearm

On February 5, 2020, Washoe County Sheriff Forensic Investigation Section Criminalist Elvira Koeder (hereinafter "Criminalist Koeder") completed a countdown of Officer Lindsay's duty weapon. Also present for the countdown were Washoe County Sheriff Forensic Science Supervising Criminalist David Jackson (hereinafter "Supervising Criminalist Jackson"), Washoe County Sheriff Detective Kirkham, Reno Police Department Detective Jenkins, and Sparks Police Department Detective Jaime Ahdunko.

The firearm Officer Lindsay carries is a Glock 17 Gen 4, chambered in 9mm with an attached Streamlight TLR-1 flashlight. Officer Lindsay told investigators that he loads his pistol with a 17-round magazine plus one in the chamber (for a total of 18 rounds). He carries two spare 17-round magazines on his duty belt.

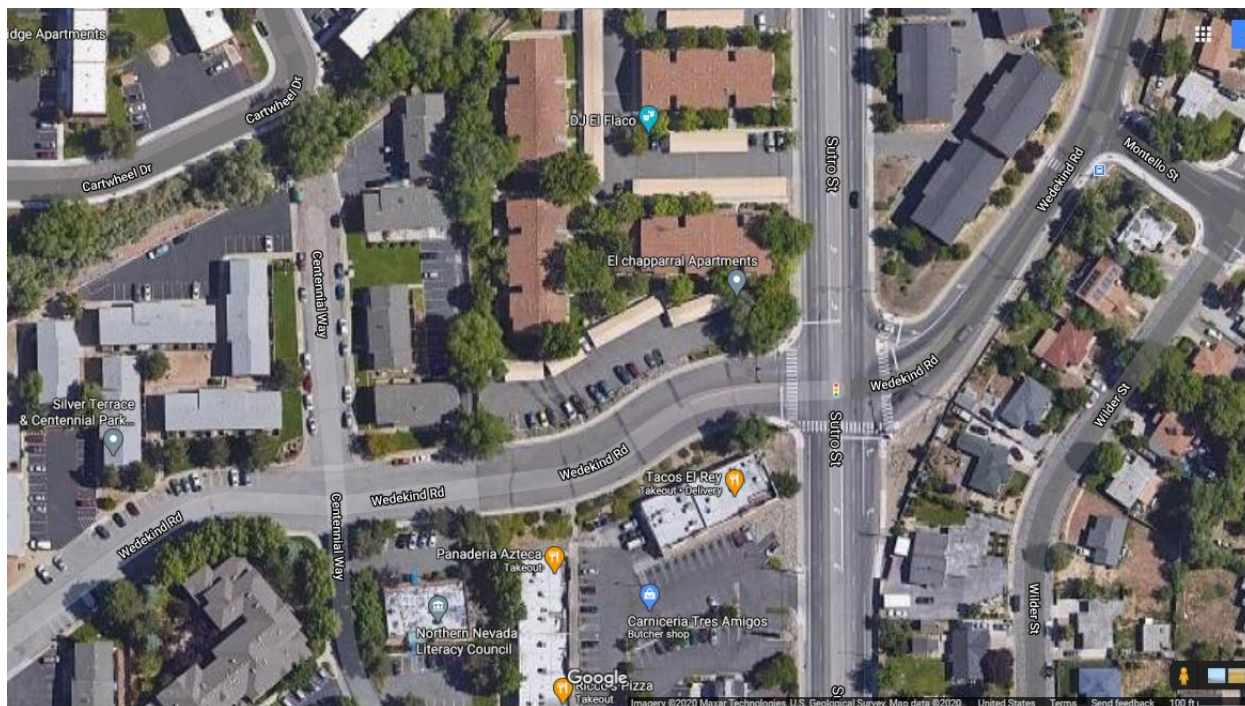
The countdown revealed one round in the chamber of the pistol. The magazine from within the firearm contained thirteen rounds. The two magazines from Officer Lindsay's' duty belt each contained seventeen rounds. All rounds had a "Speer 9mm Luger +P" headstamp. The firearm, ammunition and magazines were photographed and collected by Criminalist Koeder.

II. PHYSICAL EVIDENCE

WCCL Criminalist Koeder and Supervising Criminalist Jackson processed the scene with the assistance of SPD Detective Eric Curtis and WCSO Detectives Kim Frankel and Victor Gamboa. A crime scene diagram was prepared by the SPD Major Accident Investigation Team (MAIT).

A. Shooting Scene

The area where the shooting occurred, was the grassy area to the west of 2153 Sutro (El Chaparral Apartments) buildings A-D. A secondary crime scene was located at or near the laundry room of the apartment complex east of Building B.



Satellite image (cir. 2020) depicting area of Northern Nevada Literacy Council (Centennial Way) and the El Chaparral Apartments (Sutro & Wedekind)



Diagram: Scene diagram prepared by SPD Officer Lawson of MAIT. The patrol car is located in the southwest parking lot, and the shooting occurred to the north, along the wooden fence line.



Grassy area along the west side of El Chaparral Apartments, looking north between the fence line and Buildings A through D where the shooting occurred. Evidence placards can be seen in the distance.



Shooting scene looking south toward the parking lot & Wedekind Road. Evidentiary placards 2-9 are present, and Officer Lindsay's and Trainee Officer Triplett's patrol car can be seen in the parking lot.



Wooden fence and placard 9 depicting the fence boards that were torn from the fence by Murillo.

B. Evidence Collected from Shooting Scene

1. Screwdriver

A flathead screwdriver with a red/black handle was found within the shooting scene.



Black and red handled screwdriver at placard 6.

2. Fired Cartridge Cases

Investigators located four "Speer 9mm Luger +P" fired cartridge cases near the shooting scene. All four cartridge cases were located on the grassy area between the fence to the west and apartment building B to the east.

C. Laundry Room

A secondary crime scene was identified as occurring near the laundry and mailboxes at the El Chaparral Apartments. Witnesses Mr. Ortiz and Ms. Gallegos-Lopez describe Murillo running toward the laundry room and a scuffle occurring between Ortiz and Murillo. Photos of the laundry room were taken, and Washoe County Sheriff's Detective Bradley Sage (hereinafter "Detective Sage") observed a camera in the laundry room. Detective Sage watched video from the camera, but he did not see anyone in the video that was related to this incident.

Photos of the area with mailboxes, the manager office, and the laundry room provide a visual reference for Mr. Ortiz' and Ms. Gallegos-Lopez' statements. However, WCCL Forensic Investigators were unable to locate any items of evidentiary value.



Building where the laundry room, mailboxes and manager's office are located. The windows from the laundry room (above) look out on the south parking lot and Wedekind Road.



Mailboxes, Manager's Office (on the left) and open door into the Laundry Room (on the right). As described by witness Mr. Ortiz, there is a slight step up from the concrete into the Laundry Room.

D. Dispatch Log

The dispatch log from this case indicates that the call of an assault with a deadly weapon at the Northern Nevada Literacy Center, "subj is chasing people with a knife" was broadcast at 20:01:58. At 20:03:06 hours, the suspect's description is broadcast as a "WM- 45-50YOA- 5'06" last seen wearing a black hooded sweatshirt, black pants. The knife was described as possibly a "pocketknife" or "kitchen knife."

Officers Triplet and Lindsay contact the reporting person in the 2100 block of Centennial Way at 20:03:26 and at 20:03:39 she directs them to the El Chaparral Apartments. Officer Lindsay reports "One at gunpoint" at 20:04:35 and the shots fired call is logged at 20:04:44 hours.

The dispatch log then confirms Ms. Gallegos' call to 911 at 20:07:08 hours requesting assistance and then noting police are already on scene.

The first recording of radio traffic from Officer Lindsay states, "put us in the area" and requests a description of the suspect. He then reports "we have somebody telling us the apartments at ...El Chaparral." Moments later, Officer Lindsay can be heard saying, "clear the air, one at gunpoint" then, "shots fired." Officer Triplett requests medical to their location and Officer Lindsay confirms their location as the El Chaparral Apartments, and initially directs officers to come into the complex off Centennial. He later clarifies to "come in off Wedekind."

E. Body Worn Cameras

1. Officer Javen Lindsay

Officer Lindsay was wearing a functioning department issued body worn camera as part of his duty uniform during this incident. The camera recording begins as Officer Lindsay is in his patrol vehicle enroute to the call. It appears to capture Officer Lindsay's communication with the reporting witness, Rachel Moreno, and all contact with Mr. Murillo up to and including the four shots fired by Officer Lindsay at stamped time 04:04:36Z. The recording begins at 8:02:39 p.m. on February 5, 2020 (as converted from stamped time of 04:02:39Z, February 6, 2020). The audio portion of the recording begins thirty seconds into the recording, per manufacturer setting.²

The video begins with Officer Lindsay seated in the passenger's side of the patrol car. The sound on the camera begins as dispatch is broadcasting a description of the suspect. Arriving in the area of 2100 Centennial Way, Officer Lindsay exits the patrol vehicle at 04:03:18Z to speak with Ms. Moreno, and she points them to the El Chaparral Apartments at 2153 Sutro Street. Officer Lindsay directs his trainee, Officer Triplett to stop in the southwest parking lot of the El Chaparral Apartments and Officer Lindsay exits the patrol vehicle at 04:04:02Z. Officer Triplett is seen walking in front of Officer Lindsay northbound from the parking lot toward the grassy area to the west of the

² Publicly available manufacturer ("Axon") instructions explain that activating the device collects video from 30 second before activation (buffered video), but audio only from activation forward (audio is not buffered).

buildings, and at 04:04:21Z Officer Triplett says, "Right here, we got him. Hey, Stop. Stop! Stop!"

Murillo turns from the fence and faces the officers with a fence board in his hands at 04:04:29Z. Officer Lindsay announces to dispatch, "Give us the air. One at gunpoint!" At the same time, Officer Triplett continues to address Murillo saying, "Put it down!" "stop!" "Let me see your hands!"

Murillo drops the fence board and starts walking toward the officers. Officer Lindsay commands Murillo, "Hey, on the ground! On the ground!" Murillo crouches in a fighter-like stance. Officer Lindsay commands him again at 04:04:33Z, "On the ground!"

Instead of complying, Murillo advances toward the officers bringing his hands from his sides to the center of his body saying, "Come on. You guys said you wanted this!" Officer Lindsay fires four rounds hitting and dropping Murillo at 04:04:36Z. As Murillo falls to the ground, a shiny object drops from his right hand.



Video still: Murillo with a fence board in his hands.



2020-02-06 T04:04:30Z
AXON BODY 2 X81261372



Video still: Murillo coming toward officers. A fence board is on the ground in front of Murillo. Officer Triplett can be seen in the foreground.



2020-02-06 T04:04:33Z
AXON BODY 2 X81261372



Video still: Murillo takes a fighting stance with his hands near his waist. Murillo has continued to approach Officer Lindsay; his feet are even with the fence board. Officer Triplett with his firearm drawn can be seen in the foreground.



Video still: Murillo continues towards Officer Lindsay. The fence board on the ground is now well behind Murillo.



Video still: Murillo advances toward the officers bringing his hands from his sides to the center of his body saying, "Come on. You guys said you wanted this!"

Officer Lindsay fires four quick shots and Murillo starts to fall to the ground. As he does, a shiny object flies from Murillo's hands.



Video still: Murillo dropping a shiny object as he falls.



Video still: Screwdriver with red and black handle falling from Muriillo's grasp.

2. Officer Kevin Hendrix

RPD Officer Hendrix is the first to arrive to assist Officers Lindsay and Triplett. His body worn camera was functioning and recorded his involvement in this case. Officer Hendrix arrives to find Officer Lindsay kneeling in the grass with blood on his hands. After checking to make sure Officer Lindsay is alright, he moves toward Officer Triplett who is holding Murillo at gunpoint after the shooting. Officer Hendrix directs Officer Lindsay to secure Murillo, so it's safe for medical to come into the scene.

3. Officer Julian Castro

RPD Officer Julian Castro (hereinafter "Officer Castro") arrives on scene at 04:06:02Z, he reaches Officer Lindsay who is kneeling in the grass, wiping his hands on the grass. He stays with Officer Lindsay as other officers arrive. At the direction of Sgt. Michael Browett, Officer Castro's and Officer Lindsay's BWC are then turned off at 04:07:35Z.

4. Officer Travis Orange

RPD Officer Orange was initially dispatched to the call. His body worn camera captures multiple officers present at the scene and their initiating medical attention to Murillo after he had been handcuffed. At 04:08:18Z he escorts Officer Triplett away from the scene and confirms that Officer Triplett did not discharge his firearm.

5. Officer Josh Kent

RPD Officer Josh Kent (hereinafter "Officer Kent") also arrived as a backup officer. His body worn camera captures the remarks of the Ms. Moreno including "he's the one who chased me" (04:07:44Z) and "he was trying to kill us all." (04:08:09Z). Officer Kent's camera also documents his marking of the four expended shell casings and the weapon/screwdriver.

F. Autopsy

An autopsy was conducted on Murillo on February 6, 2020, at approximately 8:37 a.m. by Assistant Washoe County Medical Examiner Henry McNett. It was determined that Murillo died of multiple gunshot wounds to his torso, and the manner of death was determined to be homicide. Murillo sustained four gunshot wounds to his chest. Consistent with the routine practices of

the Washoe County Medical Examiner's Office during the course of an autopsy postmortem blood was collected from Murillo and submitted for forensic testing. A Toxicology Report, issued by NMS Labs on February 24, 2020, revealed the following positive findings: 200 ng/mL of methamphetamine, 21 ng/mL of amphetamine, 26 ng/mL of Delta-9 Carboxy THC, and 1.6 ng/mL of Delta-9 THC.

III. Criminal History and Additional Information

A. Lieutenant John Wilson (NDOC)

At the time of this shooting, Daniel Murillo was on escape status from the Nevada Department of Corrections (NDOC). NDOC Lieutenant John Wilson provided information that Murillo had been to prison seven times, the most recent from June 26, 2019. Murillo was currently serving a 60-month prison sentence with parole eligibility after 24 months were served for Possession of a Stolen Vehicle. He had been transferred from the Northern Nevada Correctional Facility in Carson City, to the NDOC transitional housing unit located at 225 Sunshine Lane in Reno. On January 31, 2020, Murillo failed to return to the Northern Nevada Transitional Housing from his job at a local catering company in Reno and a warrant was requested for his arrest.

IV. LEGAL PRINCIPLES

A homicide is the killing of another human being, either lawfully or unlawfully. Homicide includes murder and manslaughter, which are unlawful, and the acts of justifiable or excusable homicide, which are lawful. The Washoe County Medical Examiner's Office has deemed the death of Daniel Murillo 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 their part existed at the time of the shooting.

In Nevada, there are a variety of statutes that define justifiable homicide. (See NRS 200.120, 200.140, and 200.160) There is also a statute that defines excusable homicide and one that provides for the use of deadly force to effect arrest. (See NRS 200.180 and NRS 171.1455) Moreover, case law authority interprets justifiable self-defense and defense of others. All 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."

V. ANALYSIS

On February 5, 2020, Murillo assaulted multiple citizens with an object reported to be a knife. According to a witness to the

assaults, Murillo was acting like a "Psycho" as he waived a knife towards several people, threatening to kill them. Naturally, the police were called and responded quickly.

The investigation determined that Murillo had just recently fled from his Nevada Department of Corrections Transitional Housing facility where he was an inmate, resulting in a warrant being issued for his arrest. In addition to his escapee status, he had begun using methamphetamine and marijuana. In fact, he had methamphetamine and marijuana in his system that night.

It is under these circumstances that RPD Officers Lindsay and Triplet encountered Murillo. The officers were informed of Murillo's aggressive actions of chasing people with what appeared to be a knife and were given a description of him, both through RPD dispatch and a reporting victim on scene. Upon arrival, they were immediately directed to the vicinity of Murillo's location by the concerned party who reported his already violent actions.

Officer Triplett pulled the patrol car into the southwest driveway of the apartment complex and parked. The officers exited the patrol vehicle, and Officer Triplett heard a noise coming from the area to their north. He shined his flashlight toward the noise and saw Murillo who appeared to be trying to punch or rip down a wooden fence. Both Officer Triplett and Officer Lindsay started running toward him. Based on Murillo's actions leading up to that point, he presented as a danger to members of the community in the area should he escape through the fence and into the adjoining apartments. The officers began issuing commands for him to stop what he was doing, show his hands, and get on the ground. Murillo ignored these commands.

As Officers Lindsay and Triplett approached, Murillo pulled off a couple more fence boards, then turned toward the officers. When Murillo turned, both Officer Triplett and Officer Lindsay report seeing a flash of sliver reflect off an object in Murillo's hand, which they believed to be a knife. This belief was based on the information received by the officers and was reasonable in light of the circumstances known to them at the time.

Seeing this, Officer Lindsay again yelled for Murillo to get "On the ground!" and Officer Triplett shouted "Stop!" "Let me see

your hands!" However, instead of dropping to the ground, Murillo took a fighting stance, then charged at the officers, bringing his hands to the center of his body while stating, "Come on, you guys said you wanted this!" In doing this, Murillo quickly closed the distance between himself and the officers to between twelve and fifteen feet. Fearing for the safety of himself and his trainee, Officer Lindsay responded to Murillo's threat with the use of deadly force and fired four times in quick succession, striking Murillo in the chest.

The facts of this case clearly show that Murillo intentionally placed Officer Lindsay in an apparent deadly situation and ignored multiple commands by the officers to comply. Given this, Officer Lindsay's use of deadly force in this situation was lawful, as he actually and reasonably perceived there was imminent danger that Murillo would either kill him or his trainee or cause them great bodily injury. Therefore, under the totality of the circumstances, it was absolutely necessary for Officer Lindsay to use deadly force.

VI. CONCLUSION

Based upon a review of the entire investigation presented and the application of Nevada law to the known facts and circumstances surrounding the February 5, 2020, officer involved shooting of Daniel Murillo, the actions of Officer Javen Lindsay are warranted under Nevada law. Unless new circumstances come to light which contradict the factual foundations upon which this decision is made, this case is officially closed.