

**OFFICE OF THE WASHOE COUNTY  
DISTRICT ATTORNEY**

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REPORT ON THE MARCH 2, 2017,  
OFFICER INVOLVED SHOOTING OF RAFAEL NAVARRO-  
GARCIA

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## Introduction

On February 24, 2017, a homicide occurred at the intersection of Smithridge Drive and Filbert Road in Reno. One man was killed and another was shot. Rafael Navarro-Garcia (hereinafter "Navarro-Garcia") was a suspect in that homicide. He was also a multi-convicted felon, a documented gang member, and had an active warrant for his arrest for violating his supervised release from federal prison.

As a part of the homicide investigation, a decision was made to attempt to locate Navarro-Garcia and conduct surveillance in the hopes of obtaining additional evidence that may further connect him to the case. On March 2, 2017, detectives surveilled several locations associated with Navarro-Garcia.

Soon into the surveillance, Navarro-Garcia was located in a residential area on Smithridge Park Drive in Reno. He parked the vehicle he was driving, a Chrysler Sebring, under a carport in the parking lot of his mother's condominium complex. Navarro-Garcia stayed in the vehicle for several hours. A majority of that time was spent sleeping but he also had intermittent interactions with his mother and a fellow gang member, a 17 year old male juvenile (hereinafter referred to as "Juvenile B."). Juvenile B. was also wanted by law enforcement.

Eventually, Navarro-Garcia exited the Sebring and entered his mother's Nissan along with his mother, a 14 year old female juvenile relative (hereinafter referred to as "Juvenile A."), and Juvenile B. His mother drove, Juvenile A. sat in the front passenger seat, Juvenile B. sat in the back driver's side seat and Navarro-Garcia sat in the back passenger side seat. The party left the area and was followed by law enforcement.

While the group was away, a detective approached the Sebring and looked through the windows. In plain view on the passenger seat was an AK-47 style assault rifle along with an AK-47 magazine tucked between the driver's seat and center console. This assault rifle was later identified as the gun used in the February 24, 2017, homicide. The detective immediately notified surveilling law enforcement of his discovery.

At that time, the Nissan and its occupants were returning to the Smithridge condominium complex. Due to the concern that upon their arrival Navarro-Garcia would return to the Sebring housing the AK-47, law enforcement abandoned the surveillance plan and

opted to conduct a traffic stop on the Nissan so they could apprehend Navarro-Garcia and Juvenile B.

Reno Police Department (hereinafter "RPD") officers Rand Hutson and Mike Harding initiated a traffic stop on the Nissan on Kietzke Lane. Unbeknownst to the officers, both Juvenile B. and Navarro-Garcia had handguns in their possession. Officer Hutson approached the passenger side of the SUV and Officer Harding approached the driver's side. Officer Harding ordered Juvenile B. out of the vehicle. Juvenile B. refused and began to reach for his waistband area. Officer Harding grabbed Juvenile B.'s arm and a struggle ensued.

Observing the struggle, Officer Hutson opened the rear passenger door to gain control of Navarro-Garcia and assist Officer Harding. As Officer Hutson was grabbing Navarro-Garcia, Navarro-Garcia produced a Glock .45 automatic handgun and shot Officer Hutson at close range in the lower torso. Officer Hutson recoiled away from the Nissan and fell to the ground.

Officer Harding heard the shot and Officer Hutson's subsequent statement, "He shot me!" He then saw Navarro-Garcia attempting to get out of the vehicle. Fearing for his safety, the safety of others in the area including Officer Hutson, Officer Harding fired towards Navarro-Garcia through the Nissan. He then saw Navarro-Garcia standing outside the vehicle holding a handgun.

Meanwhile, RPD Sergeant Andy Carter had also arrived at the traffic stop. He saw Officer Hutson and Harding struggling with individuals in the rear seat of the SUV. He began to run towards the SUV when he heard a gunshot and Officer Hutson's statement that he'd been shot.

Knowing that Navarro-Garcia had just shot a fellow officer and believing Navarro-Garcia was a continuing deadly threat to the public, both Sergeant Carter and Officer Harding fired their guns at Navarro-Garcia as he began running in the center of Kietzke Lane towards oncoming occupied vehicles, a restaurant with patrons, and a gas station with patrons. Navarro-Garcia was hit and fell to the ground.

Emergency personnel arrived on scene and transported Officer Hutson and Navarro-Garcia to the hospital. Navarro-Garcia succumbed to his injuries. Officer Hutson survived the gunshot.

Consistent with the regionally-adopted Officer Involved Shooting (OIS) Protocol, the Washoe County Sheriff's Office (WCSO) led the investigation into the shooting of Navarro-Garcia. The

Sparks Police Department (SPD) provided secondary investigative support, RPD provided further needed support, and the Washoe County Crime Laboratory (WCCL) and Washoe County Medical Examiner's Office (WCME) provided forensic services. The investigation included interviewing witnesses, collecting physical evidence, photographing the shooting scene, 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 May of 2018, for a determination of whether the shooting of Navarro-Garcia was legally justified. No criminal charges were recommended by WCSO.

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

Based on the available evidence and the applicable legal authorities, it is the opinion of the District Attorney that the shooting of Navarro-Garcia by RPD Officer Harding and RPD Sergeant Carter was justified and not a criminal act.

I. STATEMENT OF FACTS<sup>1</sup>

A. Decedent Rafael Navarro-Garcia<sup>2</sup>

Navarro-Garcia, 25 (DOB 12/27/91), was a documented member of the South Side Locos criminal gang. He was also a multi-convicted felon. In 2010, he was arrested and convicted for possessing a stolen firearm. He failed his probation and was sent to state prison in Nevada. He was paroled in June of 2012. In November of 2012, he was arrested for Ex-Felon in Possession of a Firearm. Federal authorities granted him pretrial release so

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

<sup>2</sup> The criminal history and current criminal conduct of a person shot in an OIS is not relevant in all OIS reviews. However, involved officers were relatively aware of such in this case prior to their encounter with Navarro-Garcia. Consequently, his criminal history and then current criminal activity is relevant in this review as it created a heightened danger and officer safety concern. It further provides insight into Navarro-Garcia's actions.

that he could get treatment for his methamphetamine addiction. He violated his pretrial release and a warrant for his arrest was issued.

In February of 2014, he was arrested for Resisting a Police Officer and Ex-Felon in Possession of a Firearm as he was again found with a gun in his possession. He was subsequently convicted for both Ex-Felon in Possession of a Firearm offenses (11/12 and 2/14) and sent to federal prison.

He was granted supervised release from federal prison in November of 2016. By December 2016 a warrant was issued for his arrest for failing to comply with the drug testing requirements of his supervised release. This warrant was still active on March 2, 2017.

Navarro-Garcia was a methamphetamine user. He was actively using methamphetamine leading up to the March 2, 2017 altercation with RPD. A toxicology test conducted by the WCME on his blood upon his death revealed Amphetamine and Methamphetamine in his system.<sup>3</sup>

#### B. Homicide - February 24, 2017

On February 24, 2017, RPD officers were dispatched to the intersection of Smithridge Drive and Filbert Drive on several reports of numerous shots fired and a subject down in the road. Upon arrival, they located a victim in the roadway suffering from several gunshot wounds. This victim ultimately died from the wounds. Another man, who was with the deceased victim at the time of the shooting, was also shot in the leg.

The ensuing investigation revealed that a verbal affray occurred between two groups, a victim group of 3 and a suspect group also comprised of 3 who were riding in a dark blue sedan. The suspect group exited their vehicle and shot at the victim group.

Multiple spent casings were found at the scene of the murder some of which were consistent with an AK-47 rifle. As the

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<sup>3</sup> Amphetamine is a schedule II phenethylamine CNS-stimulant. It is used therapeutically in the treatment of narcolepsy and obesity and also in the treatment of hyperactivity in children. It has a high potential for abuse and is also a metabolite of methamphetamine.

Methamphetamine is a DEA schedule II stimulant drug capable of causing hallucinations, aggressive behavior and irrational reactions. It is an abused substance because of its stimulatory effects and is also addictive.

investigation continued, Navarro-Garcia and Juvenile B. emerged as persons of interest in the homicide.

The AK-47 ultimately discovered in Navarro-Garcia's blue/gray Chrysler Sebring on March 2, 2017, (explained *infra*) was identified as the gun that fired the spent casings found at the homicide scene. Moreover, the ammunition in the AK-47 magazine located in the Sebring matched the spent casings found at the homicide scene. Subsequent DNA testing, matched Navarro-Garcia's DNA with DNA found in swabs taken from the rifle. An interview conducted by investigators, after Navarro-Garcia's death, of an eye-witness to the homicide revealed that Navarro-Garcia shot at the deceased victim with the AK-47 rifle.

### C. Surveillance of Navarro-Garcia

On March 2, 2017 at approximately 1:30 p.m. the Regional Street Enforcement Team (SET) was briefed on the investigation of the February 24, 2017 homicide and notified that Navarro-Garcia was a suspect. Upon this briefing SET created an operational plan to conduct surveillance on locations where Navarro-Garcia would likely be found. If found, detectives planned to surveil and follow Navarro-Garcia in order to further the homicide investigation.

At approximately 3:40 p.m. SET Sergeant Robert Hanifan arrived at 374 Smithridge Park Drive in Reno. This address was one of the predetermined locations where Navarro-Garcia may be found. Sergeant Hanifan then looked in the area for known vehicles associated with Navarro-Garcia. One of these vehicles was a blue/gray Chrysler Sebring. Finding no matching vehicles, Sergeant Hanifan parked his vehicle.

Approximately 5 minutes later, Sergeant Hanifan observed the Chrysler Sebring drive by his location. Sergeant Hanifan notified other officers and followed the vehicle which parked under a carport in the condominium parking lot at 374 Smithridge Park Drive. Sergeant Hanifan parked his vehicle in a vacant guest parking space that afforded him a partial view of the Chrysler Sebring. He identified Navarro-Garcia as the driver of the Chrysler Sebring and began surveilling the area.

Soon thereafter, a male juvenile (later identified as Juvenile B.) entered the front passenger seat of the Sebring. Sergeant Hanifan observed Juvenile B. and Navarro-Garcia talk for approximately 30 minutes before Juvenile B. walked away from the

area. Navarro-Garcia then reclined his seat and appeared to fall asleep. At approximately 5:15 p.m. RPD detective Wes Keller relieved Sergeant Hanifan.

Detective Keller watched Navarro-Garcia for approximately 3 hours and 15 minutes. During that time, he saw Navarro-Garcia's mother, Maria, who lived at that location, return from her job at McDonalds and give Navarro-Garcia some food. She was driving a gray Nissan. This car was also previously identified as one associated with Navarro-Garcia.

At approximately 8:40 p.m., 4 people entered the Nissan. They were Maria, Juvenile A., Juvenile B., and Navarro-Garcia. Maria drove, Juvenile A. was in the passenger seat, Juvenile B. was in the rear driver's side seat, and Navarro-Garcia was in the rear passenger seat. SET detectives followed the SUV to the Washoe County Sheriff's Office.

The surveillance revealed that the party of 4 went to the Washoe County Jail for the purpose of placing monetary credits in an inmate's account. The funded inmate was discovered to be Navarro-Garcia's girlfriend. Upon doing so, the party of 4 left the Sheriff's Office in the Nissan seated in the same locations. They were again followed traveling south on U.S. 395 toward 374 Smithridge Park Drive.

Before Navarro-Garcia and the 3 people with him could return to 374 Smithridge Park Drive and the Chrysler Sebring, Detective Keller looked inside the vehicle. With the use of his flashlight, Detective Keller illuminated the interior of the vehicle. Therein, he immediately observed an AK-47 style assault rifle laying in plain sight on the passenger seat. He further noted an AK-47 magazine tucked between the driver's seat and center console.

Upon observing the weapon, Detective Keller immediately notified surveilling SET detectives. At that time, the Nissan and following detectives were still southbound on U.S. 395 nearing Moana Lane. With the Nissan gaining proximity to the 374 Smithridge Park Drive location, concerns that Navarro-Garcia may return to the Chrysler Sebring housing the AK-47 led to the decision to cease the surveillance and apprehend Navarro-Garcia.

The Nissan exited U.S. 395 at Moana and headed westbound until it reached Kietzke Lane. It then turned southbound onto Kietzke



Lane. Regional Gang Unit (RGU)<sup>4</sup> Officers Rand Hutson and Mike Harding conducted a traffic stop of the Nissan on Kietzke Lane.

D. Witness Accounts

a. RGU Officer Rand Hutson

Officer Hutson was interviewed on March 16, 2017, by WCSO Detective West Urban and SPD Detective Curtis English.<sup>5</sup> At the time of the interview, Officer Hutson had been employed as an officer with RPD for six years. He had been assigned to RGU since October of 2016.

On March 2, 2017, Officer Hutson started his shift at 1:00 p.m. and was partnered with RGU Officer Mike Harding. The vehicle they occupied that shift was a clearly marked RPD patrol vehicle. Due to his assignment in RGU, he was not wearing a standard police uniform. However, he was wearing black BDU pants and a black shirt with police written in bold white letters on the sleeves and back. He was also wearing a RGU sweatshirt. Additionally, he was wearing a tactical vest with police written on the front and back. He also carried equipment identifying him as an officer including a firearm, magazines, a Taser, and a flashlight.

RGU had received a general briefing on March 2, 2017 about the operational plan for the surveillance being conducted by SET on Navarro-Garcia. They were also provided with a general briefing on the February 24, 2017 homicide that precipitated the surveillance.

At approximately 9:00 p.m. Officer Hutson and Harding heard the radio traffic coming from SET involving the discovery of the AK-47 and the decision to conduct a traffic stop on the Nissan. Officer Hutson and Harding were in the area of Moana Lane and began to follow the Nissan at the intersection of Kietzke lane and Moana lane.

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<sup>4</sup> The Regional Gang Unit is a multi-agency unit that focuses on gathering gang intelligence, gang diversion, gang suppression, graffiti abatement and investigating gang crimes.

<sup>5</sup> Officer Hutson was shot by Navarro-Garcia when he and Officer Harding attempted to apprehend Juvenile B. and Navarro-Garcia during the traffic stop on Kietzke Lane. He suffered significant injuries and required multiple surgeries. As such, he was not interviewed by investigating officers until he was released from the hospital.

As the vehicle turned southbound onto Kietzke Lane, Officer Harding activated the patrol vehicle's overhead lights to signal the Nissan to stop. Peculiarly, the Nissan stopped in the center turn lane of Kietzke Lane, rather than pull to the side of the road. Officer Harding approached the driver's side of the Nissan and Officer Hutson approached the passenger side. Officer Hutson utilized his flashlight to help see inside the vehicle. He could see 4 occupants, including the two males in the back seat.

He heard Officer Harding open the rear driver's side door and order Juvenile B. out of the car. He then saw Juvenile B. and Officer Harding struggling in the rear area of the Nissan. Officer Hutson then noticed Navarro-Garcia reaching for something in his waist area or under his leg. Concerned, Officer Hutson holstered his flashlight, opened the rear passenger side door, and grabbed a hold of Navarro-Garcia to remove him from the vehicle.

Navarro-Garcia turned toward Officer Hutson and produced a handgun that he had been sitting on. Officer Hutson described it as happening "so quick". Navarro-Garcia pointed the handgun toward Officer Hutson's abdominal area. Officer Hutson let go of Navarro-Garcia and attempted to move and draw his weapon. Navarro-Garcia then pulled the trigger. Officer Hutson saw the flash and knew instantly he had been shot.

Unable to draw his weapon due to the excruciating abdominal pain, Officer Hutson began moving back towards his patrol vehicle attempting to get away from more gunfire. After a few steps, he fell to the ground between the Nissan and the RPD patrol vehicle. He was able to then remove his firearm and have it ready in case Navarro-Garcia continued his attack.

Officer Hutson heard additional gunshots and saw RPD Sergeant Andy Carter moving towards the Nissan. He then heard additional gunshots but could not see who was firing. Officer Hutson never fired his weapon. He holstered his weapon and attempted to figure out where he had been shot. Officer Hutson could not feel his legs or feet and believed he may be paralyzed. He was then dragged to a more secure location behind the patrol vehicle and tended to by Officer Hutson, while Sergeant Carter supported his head off of the ground. They were able to locate the entrance wound in his abdominal area and apply pressure to the wounds until REMSA arrived.

Once REMSA arrived on scene, Officer Hutson was loaded onto a gurney and transported to Renown Medical Center where he underwent emergency surgery.

b. RGU Officer Mike Harding

Officer Harding was interviewed at the Reno Police Department on March 3, 2017 at approximately 5:00 a.m. by WCSO Detective Urban and SPD Detective English.

At the time of the interview, Officer Harding had approximately 8 years of law enforcement experience. He had been with the Reno Police Department for about three and a half years and had been assigned to RGU for approximately fourteen months.

On March 2, 2017 Officer Harding started his shift at 1:00 p.m. He wore readily identifiable police apparel. The word "police" was written down both sleeves of the shirt he was wearing. Additionally, his tactical vest worn over his shirt said "police" on both the front and back. He also carried other police equipment including handcuffs, a police radio, and firearm with 3 extra magazines. He was partnered with Officer Rand Hutson on March 2, 2017.

During an early-shift briefing he was informed of SET's surveillance plan of Navarro-Garcia. Officer Harding was instructed to monitor SET's radio channel throughout his shift in case a traffic stop needed to be completed on one of the targeted vehicles associated with Navarro-Garcia.

Later in his shift, he heard over the radio that one of the targeted vehicles, the Nissan, had traveled to the jail and that it was believed Navarro-Garcia was in the vehicle. He further became aware of the discovery of the AK-47 and the decision to stop the Nissan. As he and Officer Hutson were in the area of the Nissan, they responded to conduct the traffic stop.

Officer Harding activated the overheard lights on the patrol vehicle as the Nissan began traveling southbound on Kietzke Lane. The driver of the Nissan did not pull over immediately. Instead, it jerked into the center turn lane and parked despite Officer Harding and Hutson's commands over a loudspeaker to do otherwise.

Both officers then exited their patrol car and approached the Nissan. Officer Harding approached the vehicle on the driver side and could see a female driver. Due to the dark tint of the

rear driver's side window he could not see inside the rear passenger area of the car. Knowing there was at least one male in the car, he asked the driver to roll down the rear driver's side window. When she did, he saw Navarro-Garcia, whom he did not recognize, and Juvenile B., whom he immediately recognized due to prior contacts. Officer Harding knew Juvenile B. had an active warrant for his arrest and was commonly armed and very dangerous. He opened the door and ordered Juvenile B. out of the car.

Juvenile B. denied his identity and refused to get out of the car. When Juvenile B. reached for his own waistband, Officer Harding grabbed his arm to stop him. Officer Harding then heard a gunshot to his right. He did not know who had shot. He saw Navarro-Garcia attempting to get out of the car and saw Officer Hutson fall to the ground as he said, "He shot me!"

According to Officer Harding, he withdrew from Juvenile B. and ran to the back passenger side of the Nissan. He could not see Officer Hutson or Navarro-Garcia at that time. He then heard gunshots and ran back around to the driver side of the Nissan. It was then he saw Navarro-Garcia standing with a gun in his hand.<sup>6</sup>

Officer Harding believed Navarro-Garcia was going to start shooting at him or Officer Hutson. As such, he fired four or five shots at Navarro-Garcia. Navarro-Garcia then turned and began to run southbound on Kietzke Lane. Officer Harding was now concerned for the public as well. There were open businesses in the area and there were occupied vehicles on Kietzke Lane that posed a carjacking opportunity for Navarro-Garcia. In explaining his safety concerns, Officer Harding stated,

"I thought he was either gonna turn and engage with me more, or continue running and go into that store and take a hostage, or find a car stopped at a stoplight and possibly kill a civilian to take their car you know what I mean? He already, you know, shot an officer to get away, so to me, he was willing to do

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<sup>6</sup> The entire investigation reveals that Officer Harding was mistaken in his recollection during his interview. Upon Navarro-Garcia shooting Officer Hutson, Officer Harding initially fired at Navarro-Garcia as he was exiting the passenger side of the Nissan and then again, once Navarro-Garcia was outside the Nissan on Kietzke Lane.

whatever it took, ether take my life, or a civilian's life to be able to get away from us."

Officer Harding heard other officers now in the area. He holstered his gun and ran back to assist Officer Hutson. He dragged him to a more secure location behind their patrol vehicle. He rendered medical aid to Officer Hutson until REMSA arrived.

c. RGU Sergeant Andy Carter

Sergeant Carter was interviewed at the Reno Police Department on March 3, 2017 at approximately 3:44 a.m. by SPD Detective English and WCSO Detective Urban.

Sergeant Carter has been an RPD Police Officer for 15 years. He also served as a Military Police Officer for 4 years while he was in the Marine Corps. During his time with RPD, Sergeant Carter has worked in drug interdiction, patrol, and as a Field Training Officer. At the time of the interview, he had been the RGU Sergeant the previous 3 years overseeing the daily duties of the unit.

Sergeant Carter started his shift on March 2, 2017 at 1:00 p.m. Later in his shift, he was notified about the operation being conducted by SET in conjunction with RPD's investigation into Navarro-Garcia. Throughout his shift, he received periodic updates regarding the operation.

At approximately 8:30 p.m. he was notified by Officer Harding of the Navarro-Garcia group traveling to the jail, the discovery of the AK-47, and SET's request for assistance in stopping the Nissan. Officer Harding advised Sergeant Carter that the Nissan was exiting U.S. 395 at Moana Lane. As such, Sergeant Carter began responding to that area.

As he was travelling southbound on Kietzke Lane, he heard Officer Harding call out the traffic stop over the radio. He could also see the red and blue lights of Officer Harding's patrol vehicle in the distance. Seeing no other police vehicles in the area, Sergeant Carter sped up to assist in the stop.

As he approached, he noted that the Nissan had parked in the center turn lane. Sergeant Carter could see Officer Hutson approaching the passenger side of the vehicle. Sergeant Carter pulled his car in the southbound travel lane parallel to Officer Harding's patrol car. He was concerned that due to the way the

Nissan had stopped in the center turn lane that the occupants may flee or try to drive away from the traffic stop. For these reasons, Sergeant Carter remained in his patrol car.

Sergeant Carter then heard yelling and saw Officer Hutson in a "pulling match" with the occupant in the rear passenger side seat of the Nissan. He also saw Officer Harding's head dip into the rear driver's side of the vehicle, leading him to believe Officer Harding was also involved in an altercation.

Sergeant Carter exited his vehicle and began running towards Officer Hutson. When he got within 3 to 5 feet of Officer Hutson he heard a gunshot and saw Officer Hutson backing away from the vehicle while proclaiming he'd been shot. Sergeant Carter removed his firearm and momentarily repositioned himself further west of the Nissan to get a better angle of the rear passenger in the Nissan. During this time, he heard a couple more gunshots and could see Officer Harding standing at the left rear of the Nissan engaging someone (Navarro-Garcia) towards the front driver's side of the Nissan.

Sergeant Carter then saw Navarro-Garcia running from the front driver's side of the vehicle. He believed Navarro-Garcia was the one who shot Officer Hutson. In that moment, he also believed Navarro-Garcia may have shot Officer Harding as Sergeant Carter could no longer see Officer Harding standing at the rear of the Nissan. Sergeant Carter began to chase Navarro-Garcia while commanding him to stop and show his hands. Navarro-Garcia did not comply.

Sergeant Carter saw oncoming occupied vehicles approaching. He also noted there was an open convenience store and gas station in their pathway. Based on his belief that Navarro-Garcia had just shot Officer Hutson, had possibly shot Officer Harding, and was still armed and now fleeing towards members of the public, Sergeant Carter decided to shoot at Navarro-Garcia. After several shots, Navarro-Garcia fell to the ground.

Upon noting that other responding SET detectives were covering Navarro-Garcia, Sergeant Carter began to run back to Officer Harding and Officer Hutson. As he neared the front driver's side of the Nissan he noted a black handgun on the ground. Upon reaching Officer Hutson, he saw Officer Harding tending to Officer Hutson. Sergeant Carter then assisted until REMSA arrived.

d. SET Detective Jamie McGuire

Detective McGuire is assigned to SET. On March 2, 2017 she was involved in the surveillance of Navarro-Garcia while driving an undercover truck. As such, she was traveling on Kietzke Lane when officers Harding and Hutson initiated the traffic stop of the Nissan.

While observing the stop, she heard gunshots and saw Officer Hutson fall to the ground. She then saw Navarro-Garcia running from the Nissan. She began to chase Navarro-Garcia in her vehicle. She also saw Sergeant Carter chasing him by foot.

She saw Navarro-Garcia then fall to the ground. Detective McGuire exited her vehicle and held Navarro-Garcia at gunpoint while giving him verbal commands to not move. Realizing Navarro-Garcia was subdued she looked back at the Nissan and noted Juvenile B. exit the passenger side of the vehicle and run westbound towards the Atlantis Hotel and Casino. Due to the chaos of the scene, Juvenile B. was not followed at that time.

e. Juvenile A.

Juvenile A. submitted to a voluntary interview at the Reno Police Department on March 3, 2017 at approximately 4:00 a.m. At the time of the interview Juvenile A. was 14 years old.

On March 2, 2017 Juvenile A. was at Maria Navarro-Garcia's (Navarro-Garcia's mom) condominium when Navarro-Garcia came to the residence with Juvenile B. Navarro-Garcia wanted to go to the jail to put money on his girlfriend's account. Juvenile A., Maria, Juvenile B. and Navarro-Garcia went to the jail. While on the way home, Maria noted that the police were behind them.

Juvenile A. said that Navarro-Garcia "got nervous" and Juvenile B. stated, "they're gonna lock me up". Maria was nervous as well because she knew Navarro-Garcia and Juvenile B. were in a gang and knew her son "starts doing dumb stuff" when nervous. Maria started praying.

Juvenile A. recognized Officer Hutson and Officer Harding as police officers as they approached the vehicle because of their uniforms. Juvenile A. explained that Navarro-Garcia regularly carried a gun in his pants near his waist or back. She believed there was going to be a shooting because of her knowledge of Navarro-Garcia's propensities.

Juvenile A. heard Juvenile B. denying his identity when being asked by Officer Harding and then saw Officer Hutson attempting to get Navarro-Garcia out of the vehicle. According to Juvenile A., Navarro-Garcia then "took his gun out" and started shooting because he did not want to "get locked up". Juvenile A. explained that Navarro-Garcia regularly carried a gun in his pants near his waist or back.

At that time, Juvenile A. heard the police begin shooting. Navarro-Garcia got out of the car and began to run away. The police were telling Navarro-Garcia to stop. He was then shot and fell to the ground. Juvenile A. exited the car. Police officers were commanding Juvenile A. and Maria to get on the ground. Juvenile A. went to the driver's door to tell Maria what to do because she could not understand the police officers' commands. Juvenile A. then saw Juvenile B. now in the front passenger seat with his hand on the gearshift demanding that Maria drive away. Maria did not and Juvenile B. exited the car and ran away.

f. Maria Navarro-Garcia

Maria is Navarro-Garcia's mother. She participated in two interviews with investigating officers. The first was on March 3, 2017 at the Reno Police Department. The second one was requested by Navarro-Garcia's family and occurred at the Washoe County Sheriff's Office.

Regarding the events of March 2, 2017, Maria explained the trip to the jail, the individuals in her car, and their locations. In describing the traffic stop on Kietzke Lane she indicated she pulled into the middle lane because it was the closest spot to her travel lane. She offered little account of the shot fired by Navarro-Garcia indicating only she heard shots and saw Navarro-Garcia run from the car before falling to the ground.

She also described how Juvenile B. moved to the front passenger seat and tried to force her car into gear. She further observed Juvenile B. reaching into the glove compartment (it was later discovered that Juvenile B. placed his handgun in the glove compartment at that time) just prior to fleeing the scene.

g. Juvenile B

During the shooting incident on Kietzke Lane, Juvenile B. fled from the Nissan towards the Atlantis Hotel & Casino. Investigating officers were able to obtain video surveillance



that captured him running through the parking lot and entering a taxi.

Through the investigation Juvenile B. was ultimately located in Portola, California where he was arrested on March 8, 2017. Juvenile B. voluntarily agreed to interview with RPD detectives on that date.

Juvenile B. is a member of the South Side Locos gang and met Navarro-Garcia approximately a month before. The two began spending time together due to their gang affiliation. Since that time, Juvenile B. frequently used methamphetamine with Navarro-Garcia.

He described Navarro-Garcia as intimidating and scary. Juvenile B. attributed this opinion to Navarro-Garcia's distrust of Juvenile B., his violent propensities, and his gun collection which included 3 AR-15 assault rifles and an AK-47. According to Juvenile B., Navarro-Garcia stated that he would never go back to prison and said he would "get the cops before they got him".

Juvenile B. described March 2, 2017. Both Juvenile B. and Navarro-Garcia had been awake for a couple days on a methamphetamine binge. Juvenile B. met back up with Navarro-Garcia in the parking lot of Maria's condominium complex. Juvenile B. recounted, consistent with the SET surveillance, meeting with Navarro-Garcia in the blue car Navarro-Garcia was driving. Juvenile B. explained that Navarro-Garcia's AK-47 was in the vehicle. Navarro-Garcia was falling asleep while they talked in the car leading to both parties opting to get some sleep in their cars.

Juvenile B. talked of the trip to the jail later that night and subsequently being pulled over by the police. Juvenile B. was panicked upon the initiation of the traffic stop due to being wanted by the police. According to Juvenile B., Navarro-Garcia was oddly calm.

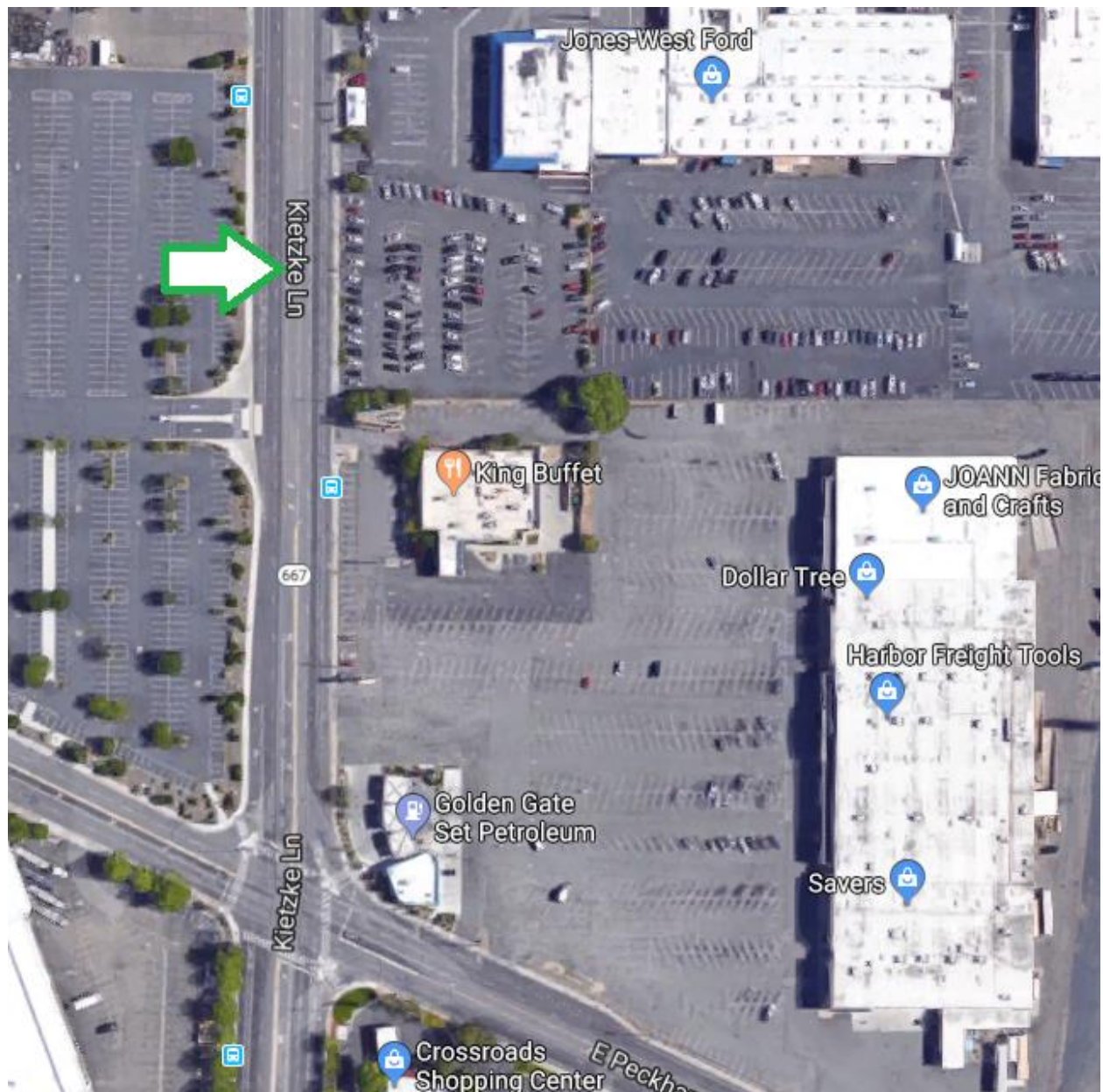
As the officers approached and focused on the two in the back seat, Juvenile B. denied his identity to the officer. As the officers attempted to remove Juvenile B. and Navarro-Garcia, Juvenile B. heard Navarro-Garcia fire his gun at the officer that was attempting to remove Navarro-Garcia.

As the officer on Juvenile B.'s side of the car reacted to the shot, Juvenile B pulled the car door closed and began to look

for an escape route. Juvenile B. had a 9mm handgun in his waistband that Navarro-Garcia had given him. Juvenile B. hid it in the glove compartment of the Nissan and fled.

## II. SHOOTING SCENE

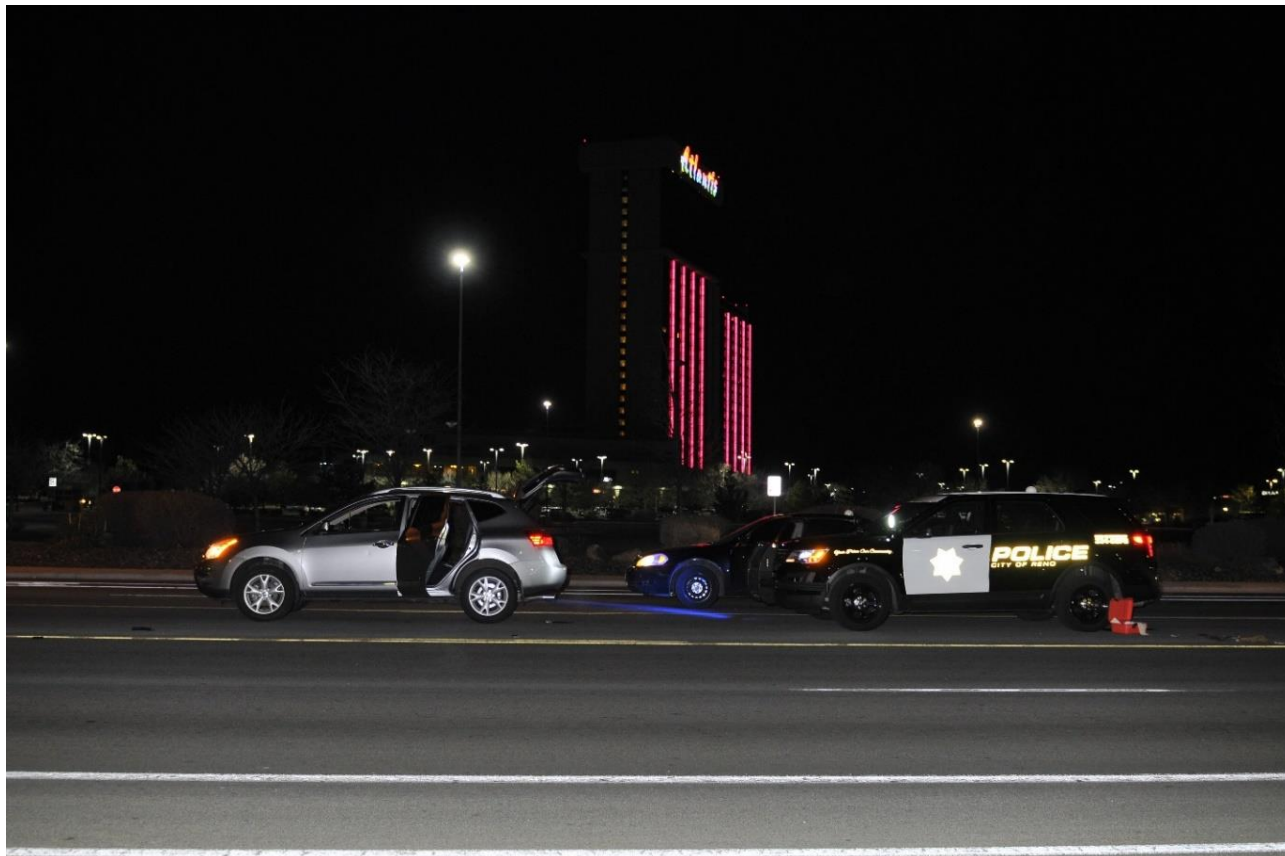
### A. Area Overview



The above aerial photograph depicts the area where the shooting incident occurred. The green/white arrow points to the approximate location where the Nissan came to a stop. There are multiple public businesses in the area, including the King Buffet restaurant, Jones West Ford auto dealership, and the

Golden Gate gas station. Both the King Buffet Restaurant and the Golden Gate gas station were open at the time of the shooting incident on March 2, 2017 and occupied by patrons.

B. Shooting Scene Overview



The above photograph depicts a westerly view of the Nissan stopped in the center turn lane. The patrol vehicle occupied by Officers Harding and Hutson is immediately behind the Nissan. Sergeant Carter's vehicle is just beyond the patrol vehicle. The Atlantis Hotel and Casino is in the distance. The orange case at the rear of the patrol vehicle marks the approximate location where Officer Hutson received on-scene medical treatment.



The above photograph depicts the opposing view of the previous photograph. Jones West Ford auto dealership is seen in the distance.



The above photograph depicts a view from the southeast looking at the front of the Nissan. Near the front left tire of the Nissan is the handgun used by Navarro-Garcia to shoot Officer Hutson that he subsequently discarded. The black object closest to the bottom of the picture is an ammunition magazine discarded by Sergeant Carter as he ran back to Officer Hutson.



The above photograph depicts a south looking view of the east side of the shooting scene in the morning daylight of the following day after the scene had been processed by WCCL. The yellow placards mark pieces of evidence including ammunition casings discharged from Officer Harding's firearm, Officer Hutson's blood mark by placard 4 at the rear of the patrol vehicle, and the firearm discarded by Navarro-Garcia marked by a placard just to the left of the front driver's side tire of the Nissan. In the near center of the picture, is Detective McGuire's undercover truck with the open driver's door. In the center of the picture and just beyond the truck's open driver's side door are placards marking the location Navarro-Garcia collapsed after being shot.



Similarly, this photograph depicts a south looking view of the shooting scene in the morning daylight of the following day after the scene had been processed by WCCL. The yellow placards mark potential pieces of evidence including discharged ammunition casings from Sergeant Carter's firearm. Again, in the center of the picture is Detective McGuire's undercover vehicle. The placards below and beyond her open driver's side door mark the location Navarro-Garcia collapsed after being shot.

III. PHYSICAL EVIDENCE

A. Firearms

Navarro-Garcia fired a Glock 21 .45 handgun. The firearm contained a 13 round capacity magazine. After the shooting, a spent shell casing S&B 45 Auto was left in the firing chamber and 11 S&B 45 Auto cartridges remained in the magazine. The spent shell casing remaining in the firing chamber of the automatic firearm suggests the firearm malfunctioned after it was fired rendering the gun inoperable unless the spent casing was manually ejected.



(The above photograph depicts the collected gun used by Navarro-Garcia to shoot Officer Hutson and the spent casing removed from the firing chamber as well as the loaded magazine.)

Officer Harding fired a Springfield XDM-9 9mm handgun. The firearm contained a 19 round capacity magazine. After the shooting, 1 WIN 9mm Luger cartridge remained in the chamber of the handgun and 8 WIN 9mm Luger cartridges remained in the magazine. It was determined that 10 rounds were fired by Officer Harding.

Sergeant Carter fired a Glock 17 Gen 4 9mm handgun. The firearm contained a 17 round capacity magazine. After the shooting, 1 WIN 9mm Luger cartridge remained in the chamber of the handgun and 6 WIN 9mm Luger cartridges remained in the magazine. It was determined that 11 rounds were fired by Sergeant Carter.

#### B. Autopsy

An autopsy was conducted on Navarro-Garcia on March 3, 2017 at approximately 8:40 a.m. by Assistant Washoe County Medical Examiner Julie A. Schrader. It was determined that Navarro-Garcia died of multiple gunshot wounds. He had gunshot wounds to his head and buttock. An analysis of his blood revealed the presence of Amphetamine and Methamphetamine.



C. Nissan

The investigation and evidence collected at the scene including an examination of the Nissan confirm that upon Navarro-Garcia shooting Officer Hutson, Officer Harding discharged his duty weapon in the direction of the rear passenger seat area of the Nissan where Navarro-Garcia was seated. Officer Harding shot from his position on the rear driver's side of the Nissan. Forensic examination of the Nissan and spent casings recovered on scene confirms the same.

The below pictures depict the trajectory of the bullets fired from Officer Harding's duty weapon towards Navarro-Garcia's location in the Nissan after Navarro-Garcia shot Officer Hutson.





#### 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 Navarro-Garcia to be a homicide. Consequently, the Washoe County District Attorney's Office is tasked with assessing the conduct of the officers involved and determining whether any criminality on their part existed at the time of the shooting.

In Nevada, there are a variety of statutes that define justifiable homicide. (see NRS 200.120, 200.140, and 200.160) There is also a statute that defines excusable homicide and one that provides for the use of deadly force to effect arrest. (see NRS 200.180 and NRS 171.1455) Moreover, 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 of 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".<sup>7</sup>

## 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

Rafael Navarro-Garcia was an extremely dangerous human being who had a proclivity for illegally possessing firearms. By the age of 25, he had already accumulated 3 felony convictions for illegal possession of firearms. He had served time in both State and Federal prison. He was a documented member of the South Side Locos gang and a methamphetamine addict.

On March 2, 2017, he was wanted by law enforcement. The federal authorities had a warrant for his arrest for violating the conditions of his supervised release from prison. Moreover, RPD was investigating a homicide he had committed just days before utilizing an AK-47 rifle. Additionally, he had been using methamphetamine for days. In light of these facts, Navarro-Garcia's dangerous propensities were heightened and due to materialize.

The traffic stop of the Nissan on Kietzke Lane turned dangerous quickly. Although Officer Harding gave lawful commands for Juvenile B. to exit the vehicle, Juvenile B. and Navarro-Garcia chose to escalate the situation. It is evident by their actions that the two had every intention of resisting. Juvenile B. denied his identity, refused to get out of the car, and reached

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<sup>7</sup> 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.

for his waistband. In spite of the fact that Navarro-Garcia was with his mother and Juvenile A., he also reached towards his waist area for a handgun. Due to these actions, Officers Harding and Hutson were forced to react and attempt to gain physical control of both Navarro-Garcia and Juvenile B.

Navarro-Garcia had recently proclaimed to others that he would never go back to prison. However, he knew there was a warrant for his arrest for not complying with his supervised release from prison. He knew he was a felon illegally in possession of a firearm and he knew that just a few days before he had killed a man and shot another. In the face of that glaring contradiction, he chose to shoot a police officer at close range with a .45 caliber handgun.

Officer Harding and Sergeant Carter were clearly aware of what Navarro-Garcia had done. They heard the gunfire and they heard Officer Hutson announce that he'd been shot followed by his collapse behind the Nissan.

Officer Harding returned fire first. In that moment, it was completely reasonable for Officer Harding to believe he, Officer Hutson, the other occupants of the vehicle, and nearby officers were in imminent danger of bodily harm or death at the hands of Navarro-Garcia. As such, Officer Harding's initial decision to use deadly force and discharge rounds towards Navarro-Garcia was justified.

Upon exiting the Nissan and still armed with a handgun, Navarro-Garcia maneuvered his way to the front driver's side of the vehicle. As he began to flee southbound on Kietzke Lane, Navarro-Garcia expanded the reasonable belief that he posed an imminent threat of serious bodily harm or death to the public. There were occupied vehicles traveling northbound on Kietzke Lane towards Navarro-Garcia. There were also two local businesses occupied by patrons in the near vicinity of Navarro-Garcia. In that instant, Sergeant Carter and Officer Harding actually and reasonably believed that it was absolutely necessary to use deadly force to stop the imminent threat of substantial bodily harm or death that Navarro-Garcia presented to the public. This unfortunate circumstance was well articulated by Officer Harding in his interview,

"I thought he was either gonna turn and engage with me more, or continue running and go into that store and take a hostage, or find a car stopped at a stoplight

and possibly kill a civilian to take their car you know what I mean? He already, you know, shot an officer to get away, so to me, he was willing to do whatever it took, ether take my life, or a civilian's life to be able to get away from us."

Both Sergeant Carter's and Officer Harding's decision to employ deadly force were clearly justified.

Although the subsequent investigation revealed that Navarro-Garcia had abandoned his malfunctioning firearm at the front driver's side of the Nissan either immediately before or at the start of his flight southbound on Kietzke Lane, it does not diminish the justification of the use of deadly force by Officer Harding and Sergeant Carter. No evidence suggests either officer knew the handgun had been abandoned. Their actions and subsequent explanations clearly show that they had a legitimate and reasonable, although mistaken, belief that Navarro-Garcia was still armed and presented an imminent threat to the public.

#### VI. CONCLUSION

Based on the review of the entire investigation presented and the application of Nevada law to the known facts and circumstances surrounding the March 2, 2017, officer involved shooting death of Navarro-Garcia, the Washoe County District Attorney has determined that criminal charges are not warranted. The actions of Officer Harding and Sergeant Carter were justified. Unless new circumstances come to light which contradict the factual foundation upon which this decision is made, this case is officially closed.