

**OFFICE OF THE WASHOE COUNTY
DISTRICT ATTORNEY**

September 14, 2017



REPORT ON THE NOVEMBER 4, 2015, OFFICER INVOLVED
SHOOTING OF GREGORY STUART KACHMAN

CHRISTOPHER J. HICKS

WASHOE COUNTY DISTRICT ATTORNEY

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I. INTRODUCTION

On November 4, 2015 Washoe County Sheriff's Deputies Chad Ross and Joseph Durbin were dispatched to 5544 Thorn Berry Court to investigate a report of domestic violence. Amanda Ferguson ("Ferguson") reported that during a verbal argument with her boyfriend, Gregory Stuart Kachman ("Kachman"), he had dragged her through the house, rifled through her purse, damaged her cell phone, disconnected her Wi-Fi connection, and disabled all electrical power to the house. Kachman had fled the scene

Upon arrival Deputy Ross and Deputy Durbin were able to re-establish the electrical connection to the house. Then they contacted Ferguson about the battery and noted that she had injuries consistent with the reported battery. They also interviewed Ferguson's friend, Jamie Holloway ("Holloway"). Holloway was on scene with her teenage daughter ("C.P."), and her daughter's boyfriend Gregory MacDonald ("MacDonald") to help Ferguson deal with the situation.

As the deputies continued their investigation, they suddenly heard Kachman's pickup truck driving in the street outside. Deputy Durbin left in his police vehicle to pursue Kachman. Deputy Ross stayed on scene to continue the investigation.

Deputy Durbin was not able to locate Kachman. Kachman was able to elude Durbin and drive back to the scene. Deputy Ross was outside when Kachman arrived. Deputy Ross approached Kachman's truck, drew his pistol, and ordered Kachman to stop. Kachman stopped the vehicle. Deputy Ross gave a series of commands to get Kachman out of the vehicle. Kachman was partially compliant but would not show Deputy Ross both of his hands.

Suddenly Kachman yelled at Ross that he "didn't do anything", placed the vehicle in drive and accelerated at Deputy Ross. In fear for his life, Deputy Ross simultaneously jumped out of the way and fired his pistol at Kachman. A total of three shots were fired. One of the bullets struck Kachman, incapacitating him. The truck barreled down the street, struck a parked vehicle, and came to rest in the driveway of 5535 Thorn Berry Court.

Deputy Ross ran to the crash scene and called for medical attention for Kachman. Medical personnel arrived and transported Kachman to the hospital. Doctors discovered that

the bullet had struck Kachman's left side and injured his spine—Kachman was paralyzed.

The Washoe County Officer Involved Shooting Protocol was activated. The investigation was led by Sparks Police Department ("SPD") with the Reno Police Department ("RPD") providing secondary support. The Washoe County Crime Lab provided forensic services. The Washoe County District Attorney's Office provided assistance in obtaining search warrants.

The investigation included interviewing witnesses, collecting physical and digital evidence, obtaining search warrants, photographing various scenes relevant to the incident, and forensically testing collected evidence.

All investigation materials were submitted to the Washoe County District Attorney's Office for a determination of whether the shooting of Kachman was legally justified. After a review of all submitted evidence, this report follows.¹

Based on the available evidence and the applicable legal authorities, it is the opinion of the District Attorney that the shooting of Gregory Stuart Kachman is legally justified.

The evidence will be summarized below followed by analysis of applicable Nevada law.

A. Witness Statements

1. Deputy Chad Ross

Deputy Ross was interviewed at the Reno Police Department. Ross reported that he was dispatched to 5544 Thorn Berry Court to investigate a report of domestic violence. He was assigned as the primary officer and Deputy Durbin was assigned as the second, or cover, officer. Ross was driving a department patrol vehicle emblazoned with a large "Sheriff" decal and equipped with emergency lights and sirens. He was dressed in a long sleeve standard issue uniform which clearly identified him as a deputy sheriff.

¹ A criminal prosecution was pursued against Kachman for his criminal actions discussed in this report. The district attorney's review of the shooting and the release of this report was deferred until the criminal case against him was adjudicated.

Dispatch information indicated that the suspect disabled the power to the home and had left the scene after possibly slashing the victim's tires. After meeting Deputy Durbin at the scene, the two deputies removed a padlock from the breaker to restore power to the home. Then they knocked on the front door and heard a female voice exclaim "Oh my god, who is it?" After announcing that they were deputies, Ferguson opened the door and led the deputies inside.

Ferguson reported that the incident began as a verbal argument with Kachman. As the argument escalated, Kachman removed the SIM card from her cell phone then destroyed it by stomping on it. She said Kachman grabbed the collar of her jacket and dragged her around the house and into the office. Once in the office, Kachman tore the modem cords out of the wall. Deputy Ross saw that Ferguson had a bruise on her bicep, a red mark on her chest, and a broken fingernail from the struggle. Ferguson told Deputy Ross that Kachman had an outstanding warrant for a prior domestic battery against her.

As he was interviewing Ferguson, Deputy Ross suddenly heard a vehicle outside in the street. Ferguson and Holloway told him that it sounded like Kachman's truck. Deputies Ross and Durbin went outside and saw taillights of a truck as it drove away. Deputy Durbin left in his patrol car in an attempt to locate the vehicle. Deputy Durbin did not return until after the shooting.

Deputy Ross decided to move his patrol vehicle from down the street to a spot in front of Ferguson's house. In the process he noticed that Ferguson's friend, Ryan Kempf ("Kempf"), had arrived. Kempf had parked his white van directly in front of the house in a manner that left room for only one vehicle to travel on the street at a time.

Deputy Ross then examined the tires of Ferguson's Jeep, which was parked in the driveway. Looking closely it appeared that the tires were merely underinflated and not slashed.

Kachman's vehicle then returned, passed Deputy Ross' position, and turned around in the cul-de-sac. Moving from the driveway, Deputy Ross drew his flashlight and pistol, then approached Kachman's truck. Deputy Ross announced that he was a deputy sheriff and ordered Kachman to stop the truck. He radioed dispatch that he had "one at gunpoint".

Deputy Ross positioned himself at the front of the vehicle on the driver's side. Deputy Ross explained that he stood corner of the vehicle in order to get the best view of the driver. Deputy Ross further explained that the driver's side window was heavily tinted, preventing him from clearly seeing the driver. By standing at the front corner of the vehicle Deputy Ross gained a clearer view into the vehicle through the un-tinted windshield.

Deputy Ross maintained this position as he pointed his pistol and flashlight at Kachman and commanded Kachman to put his hands up. He saw Kachman's mouth moving but was not able to hear what Kachman was saying. Deputy Ross then ordered Kachman to put his hands up and to place the vehicle in park. Appearing to comply, Deputy Ross saw an upward motion of Kachman's right hand as though he was placing the transmission in park. Kachman appeared to put both his hands up, but due to Ross' position he could not see Kachman's left hand or the left side of his body.

Unable to see both of Kachman's hands, Deputy Ross ordered Kachman to roll the driver's window down and to put his hands outside of the vehicle. Deputy Ross planned to have Kachman exit the vehicle so that he could hold him at gunpoint until backup officers arrived. Deputy Ross was now positioned approximately one foot in front of the truck's hood. Kachman yelled "I didn't fucking do anything" and simultaneously placed the transmission in drive and revved the engine.

The vehicle accelerated directly at Deputy Ross. Deputy Ross fired his pistol as he jumped out of the way of Kachman's approaching vehicle. Deputy Ross explained that his immediate concern was either being run over by Kachman or being pinned between Kachman's truck and Kempf's van. He knew there was very little space between Kempf's van and a blue minivan parked against the opposite curb. He also knew that Kempf, Holloway, C.P., and MacDonald were all in the front of the house but was not certain where they were at the moment. Deputy Ross explained that:

"I was in fear for my life. I thought he was going to run me over or ram me into the van that was behind me".

Deputy Ross recalled firing between three and four rounds. After the shots, Kachman's vehicle continued driving down the street. Deputy Ross saw it travel down the street where he heard a crash at the end of the block. He ran down to the crash site. When he arrived he saw that Kachman was laying outside the vehicle, which had rolled onto its driver's side. Deputy Ross waited until cover officers arrived and he was handcuffed. Medical personnel arrived shortly afterwards and transported Kachman to the hospital.

At the interview, detectives noticed mud on the knee of Ross' left pant leg. Ross did not know how the mud got there as he did not remember being struck by the vehicle or falling down during the incident. Deputy Ross later went to the hospital. Doctors diagnosed him with a bone bruise to his right knee. He did not remember how or when he injured his knee. Deputy Ross stated that at the time he first approached Kachman's vehicle he had already developed probable cause to arrest Kachman for domestic battery.

Deputy Ross diagramed a map depicting his location at the time of the shooting and the location of the vehicles, as below:



The diagram confirms the position of the vehicles on scene. His position on the diagram is corroborated by other evidence.

2. Deputy Durbin

Deputy Durbin submitted a written report about the incident. He reported that he and Deputy Ross were dispatched to 5544 Thorn Berry Court to investigate the domestic battery and vandalism report. Dispatch informed him that Kachman had an active warrant for domestic battery, that Kachman was known to abuse drugs, had violent tendencies and was an expert in martial arts. Durbin was also aware that Kachman was a convicted felon for aggravated stalking and assault.

When they arrived he and Deputy Ross first restored power to the house by removing a padlock from the circuit breaker. He also observed that the left rear tire of Ferguson's Jeep appeared to be low, but was not able to ascertain if it was slashed or just under inflated.

Together Durbin and Ross knocked on the door and were admitted to the residence. They began to interview Ferguson. Ferguson reported that Kachman had grabbed her by the back of her jacket and dragged her through the residence. She showed them several red marks on her chest. Ferguson said that Kachman had thrown her purse on the floor and stomped on it, knowing that her cell phone was inside. Deputy Durbin asked Holloway, C.P., and MacDonald if they had witnessed the attack. They said that Ferguson had called them after the attack and they had only recently arrived at the house.

Suddenly Deputy Durbin heard a vehicle accelerate rapidly in front of the residence. This caused Ferguson to exclaim "that's him, that's his truck." Deputy Ross and Deputy Durbin both ran outside and observed the taillights of a truck accelerating westbound on Thorn Berry Court approximately 50 yards from the residence. Deputy Durbin ran to his vehicle and gave chase but was unable to locate Kachman.

As he was searching for Kachman, Deputy Durbin heard Deputy Ross announce on the radio that the suspect was back on scene and was being held at gunpoint. Deputy Durbin immediately started driving back towards Thorn Berry Court. Before he got there, he heard Deputy Ross radio "shots fired". A short time later Deputy Ross radioed that the suspect vehicle had crashed at the end of Thorn Berry Court.

Deputy Durbin arrived at the crash scene a few seconds later. He saw Deputy Ross standing near the rear of Kachman's truck giving verbal commands to Kachman. Kachman's truck was laying on its side with the engine running and the rear wheels were spinning. This caused smoke to billow around the vehicle. Kachman was laying on the ground to the left of the vehicle. Deputy Durbin handcuffed Kachman and waited for medical responders and additional officers to arrive. Once additional police officers arrived Deputy Durbin approached Kachman and searched him for weapons. Kachman told him that he could not feel his legs. Medical responders arrived and the scene was turned over to RPD.

3. Ryan Kempf

Ryan Kempf ("Kempf") gave a recorded statement to investigators. Kempf said that he was called by Holloway, his longtime friend, who was frantic. She explained that Ferguson was fighting with her boyfriend and they needed help. Kempf left work and drove to Ferguson's house to help Holloway move Ferguson out of the house. He parked his white work van in the street in front of the house. When he arrived he saw that Deputy Ross was in front of the house. Kempf and Deputy Ross both examined the tires of Ferguson's Jeep to see if they were slashed. They discovered that one tire was flat and in fact not slashed. Holloway, C.P. and MacDonald were all in the front yard. They were all frantic and Deputy Ross was trying to calm them. Kempf then saw Deputy Ross move his vehicle closer to Ferguson's house.

Kachman then drove up the street and turned around in the cul-de-sac. Holloway told Deputy Ross, "That's him". Kempf decided to stay near the deputy in case Deputy Ross needed help. Kempf recognized that Deputy Ross was the only deputy present. Kempf moved to the front of Deputy Ross' vehicle to be closer to him.

Kempf saw Deputy Ross shine his flashlight on Kachman and order him to "stop...stop...stop the vehicle". Deputy Ross then drew his gun and pointed it at the truck. Deputy Ross had to almost get in front of the vehicle and order Kachman to stop four times before Kachman finally stopped. Deputy Ross ordered Kachman to put the vehicle in park. Kempf said the vehicle was in park but it seemed like the driver was "still on the gas a little bit". Deputy Ross then ordered Kachman to put his hands on the steering wheel then to use his left hand to open the driver's

door from the outside. Kachman did not respond. Deputy Ross ordered Kachman to put his hands in the air but Kachman did not respond or comply. Deputy Ross gave commands three or four times without any response. Finally Kachman partially rolled down a heavily tinted window and put his hands out and started yelling at the deputy.

Kachman then threw the vehicle in gear, pointed the vehicle at Deputy Ross and tried to run him over. From Kempf's perspective "[Kachman's] intent one hundred percent in my heart was that he was going to run that cop over". Kempf then heard three or four shots as Deputy Ross jumped back "for his own safety". Deputy Ross "was in jeopardy of his life". Kempf said that it seemed as if Kachman turned the wheels of the vehicle towards Deputy Ross as he accelerated. Kempf heard the engine revving as the truck gained speed, drove down the street, flipped over and crashed. Deputy Ross ran down the street to the crash scene.

Kempf left the scene in his van as officers were attending to Kachman at the crash site. He returned to work then went to the police station for the interview when his shift was over.

4. Gregory Kachman

Kachman was interviewed twice. The first interview (on November 6, 2015) occurred at the hospital. In the interview Kachman said that on November 3rd and into November 4th he and Ferguson were arguing, but that it never got physical. When Holloway showed up at the house (on Ferguson's request) he got angry. In an effort to force Holloway to leave he turned off the electrical breaker so that the house would get cold. He then left in in his truck to get gas.

When he returned he saw an unknown white van parked in front of the house. After turning around in the cul-de-sac he saw a person with a flashlight. He determined the person was in fact a police officer. Kachman said that Deputy Ross approached the driver's side of Kachman's truck. He said Deputy Ross stayed off to the side of his truck and was yelling at him. Kachman said he rolled his window down and told Deputy Ross that he had done nothing wrong. Deputy Ross then approached the driver's door and was near Kachman's side mirror so Kachman turned his truck on. Kachman said the truck started rolling because the transmission was in neutral.

Kachman heard two bangs. After the second bang Kachman's whole body went numb. He was unable to move as the truck barreled down the street and crashed. Kachman claimed the officer waited between ten and fifteen minutes before coming down to the truck. When asked if he saw the deputy's marked SUV (which was parked just a few feet from the shooting) he said that he saw the vehicle but because his own window tint was so dark he did not see police lights on the roof of the deputy's SUV. Kachman thought the SUV belonged to one of Ferguson's friends.

When asked what was going through his mind when he started his vehicle Kachman said that he thought the deputy would not shoot him because the deputy was standing to the side of Kachman's truck. Kachman claimed he turned the steering wheel to the right (away from Deputy Ross) when he started the truck. When asked why he did not just listen to the officer's commands, Kachman said he was just trying to leave. He said he did not try to run the officer over.

The second interview (on November 14, 2015) also occurred at the hospital. In the interview Kachman again described the argument between him and Ferguson. This time he admitted that he had grabbed Ferguson's arm during the argument. He said that he decided to leave the house to avoid continuing the argument.

When Kachman returned to the house Holloway was there with two children. Holloway's presence angered him and caused the argument with Ferguson to escalate. That is when he decided to shut off the power, figuring that it would make the house cold and cause Holloway to leave. After turning the power off he left the house to get cigarettes hoping that Holloway would be gone when he returned.

Kachman said when he returned to the neighborhood, he noticed a large white van parked in front of the house. He noticed that the exterior house lights were on. He drove away again.

After a few minutes, he returned to the cul-de-sac. He saw a person with a flashlight who said something to him as he was turning around in the cul-de-sac. The person kept talking to him as Kachman rolled his driver's side window down and said to the person "Sir, I didn't do nothing wrong, what the hell is going on?" Kachman then turned his truck off. Kachman claimed the person with the flashlight did not identify himself.

Kachman noticed another vehicle parked behind the van (Deputy Ross' police vehicle) but he did not recognize it. He thought it was Holloway's vehicle and only described it as a large white SUV. He claimed there were no police markings or emergency lights on the vehicle.

Kachman said the person then told him to "kill it" meaning he wanted him to turn the truck off. Kachman said he complied. Kachman said the person "never got in front of my truck" but stood next to the driver's side window shining the flashlight at him. Kachman then started his truck, turned the wheels to the right and heard two shots. On the second shot he felt paralyzed. His truck rolled down the street out of control as he could not move his arms or legs. He remembered crashing into a truck in the driveway of the house at the end of the block.

The interviewing detective pressed Kachman about the identity of the "person with the flashlight". Kachman said he was 90% certain the person was a police officer.

Kachman said he was using methamphetamine that night and that he had been using \$300 worth of methamphetamine per week.

In light of the statements of other witness statements, the physical evidence, and Kachman's guilty plea to Assault on an Officer with a Deadly Weapon², his statements appear to lack credibility.

5. Amanda Ferguson

Amanda Ferguson was interviewed at RPD in the early morning hours after the shooting. Ferguson said that she had been in a dating relationship with Kachman for approximately two years. Since the beginning, Kachman was physically and mentally abusive. In April of 2014 Kachman beat her severely. He was arrested and later convicted of Domestic Battery. Due to the violence, Kachman's roommate kicked him out. Ferguson reluctantly let Kachman move in with her on Thorn Berry Court.

Despite the prior arrest Kachman continued to threaten, intimidate, and physically and emotionally abuse her. She felt trapped and was unable to get away from Kachman because she was afraid of more violence. She felt that he would have no problem killing her. Ferguson knew that Kachman's best friend murdered

² Discussed below.

his girlfriend in a domestic dispute within the last year and felt that Kachman was capable of the same thing. The incident Ferguson referenced is documented by the RPD investigation that resulted in the arrest and conviction of Cory Brewer for the July 2015 murder of his girlfriend. Ferguson said that Kachman's volatility has increased as he has become a heavy methamphetamine user.

On Tuesday November 3rd 2015, Ferguson came home from work at around 6:15 pm. Kachman was home but she did not speak with him. A short time later Kachman left the residence in his truck. Ferguson texted Holloway to come and pick her up so Ferguson could go to Holloway's house. Holloway picked up Ferguson and both of them went to Holloway's house.

Ferguson returned to her house at about 10:00 pm after receiving text messages from Kachman asking her "who the fuck is Mike Fuller?" and "I'm going to bash his head in". In the messages he also called her a "'N**** lover³" and accused her of being a "dry snitch".

Once home, they began to argue. The argument turned physical when Kachman grabbed her by her jacket sleeve and pushed her up against the washer and dryer. Kachman said, "you think you're scared of me now? You ain't seen nothing." Then he dragged her into the bedroom by her arm where he took her purse, threw it on the ground, and stomped on it. Kachman kept "ranting and raving" which scared Ferguson so much that she sent a text to Holloway and told her to come over there right away. Kachman was in such a rage that his eyes were "just black". She thought that Kachman was either going to beat or kill her.

A short time later, Holloway arrived with her daughter (C.P.) and her daughter's boyfriend (Gregory MacDonald). Kachman came in from the garage and began yelling again. This prompted C.P. to call the police. Kachman walked back into the garage and then the lights in the house went off. Ferguson heard Kachman's truck start and drive off down the street. Ferguson remembered a story that Kachman had told her that when someone owed him money, he would turn off their power and then when they came outside to investigate he would "get them". She feared that he would do the same thing to her. MacDonald and C.P. went to the

³Redacted here but not in original.

garage to turn the power back on and discovered that Kachman had padlocked the breaker. Approximately five or ten minutes later, the lights turned on and Ferguson thought that Kachman was back and was going to "fuck with them." In fact, the deputies had turned the power back on.

The deputies began interviewing her and Holloway. Ferguson was showing Deputy Ross her injuries and the damage to the home when she heard Kachman's truck coming back into the area. She told the deputies that she recognized the sound to be Kachman's truck. Deputy Durbin left and Deputy Ross stayed to continue the investigation.

Ferguson heard Kachman's truck again, this time in front of the house. She said Deputy Ross went outside and the front door remained open. She could hear Ross saying "stop, stop." She then heard three or four gunshots. She heard the truck crash and went outside to see the police advancing on Kachman's crashed truck with their weapons drawn. They were saying "don't move" and she could hear Kachman faintly saying something but she couldn't hear what he was saying. Ferguson said that Holloway, C.P., and MacDonald were all outside and may have seen the whole incident. She said she was in her doorway when she heard the commands to stop and the gunshots but her view was blocked by a tree.

Ferguson said that when she heard the gunshots, her first thought was that Kachman was shooting at the police. She knew he had access to a gun even though he was an ex-felon as she had seen him with a black pistol in the garage.

6. Jamie Holloway

Jamie Holloway was interviewed by Reno Police detectives. Holloway explained that during her friendship with Holloway she learned of Kachman's history of domestic abuse against Ferguson. Ferguson had told her that she was scared of Kachman and that she had been trying to find a way to leave Kachman for the three weeks leading up to this incident.

Ferguson contacted her late in the evening of November 3rd. Ferguson asked Holloway to come over because she was arguing with Kachman. Holloway, C.P., and MacDonald all went to Ferguson's home.

At the house Holloway witnessed Kachman yelling at Ferguson and storming throughout the house and garage. Holloway said that she did not know Kachman but was afraid of the way that he was acting, describing his behavior as "terrifying". Holloway was afraid that Kachman was "going to kill everybody". At one point Ferguson told Holloway that if Holloway left, she believed that Kachman would kill her. Kachman then went to the garage and turned off the power to the residence. When Ferguson asked Kachman to turn the power on Kachman responded, "Why the fuck would I do that?" Holloway heard the garage door open and close. Holloway was concerned for Ferguson's safety because Ferguson had told her that Kachman had a gun at the house.

Kachman then got into his truck and drove away, nearly striking Holloway's parked vehicle (a Dodge pickup). Ferguson called 911 and handed the phone to Holloway. After the call ended, Holloway heard Kachman's truck return to the area and called 911 again asking for a police response. Holloway informed the dispatcher that Kachman had an active warrant.

A short time later the house lights came on. Holloway and Ferguson were "freaked out", thinking that Kachman had returned. They started crying. Soon they realized it was police officers, not Kachman.

Holloway and Ferguson were then interviewed by the deputies. As they were talking to the deputies, Holloway and Ferguson both heard Kachman drive by again. They told the deputies to go after him. Deputy Durbin left in his patrol car in search of Kachman.

A short time later Holloway started to get into her vehicle when she heard Kachman's truck return to the cul-de-sac. Deputy Ross asked if it was Kachman. Holloway answered "yes" because she recognized a large sticker on the back window advertising Kachman's business. The truck turned around in a counter-clockwise direction in the cul-de-sac. At this time C.P. and MacDonald were also outside.

Deputy Ross walked past her toward the pickup and approached with his gun drawn. Deputy Ross ordered Kachman to stop and to put his hands up. Kachman's truck stopped. Deputy Ross approached Kachman's pickup at an angle to the driver's side door and left front fender. Deputy Ross was two or three feet

from Kachman's vehicle. Kachman's hands went up then she saw the truck go forward and heard Deputy Ross fire 3-5 times. The truck drove down the street where she heard it crash. Deputy Ross told her to stay where she was then he ran down towards the crash. Due to the emotional nature of the experience for Holloway, she was not able to give additional details about the shooting.

7. C. P., age 17

C.P. was interviewed by detectives. She said that her mother asked her to go with her to Ferguson's house to help her deal with Kachman. Once they got to the door they heard Ferguson yelling at Kachman "I'm fucking scared of you, that's why I called her". Once inside the house C.P. heard more arguing between Kachman and Ferguson, with Kachman going into the garage multiple times.

The last time Kachman went into the garage he turned off the power and then left in his truck. Holloway went to check the circuit breaker, then came back and reported that it had been padlocked. C.P. said she called 911 on her phone and handed it to Ferguson to speak with the dispatcher.

About ten minutes later the police arrived and turned the power back on. The deputies talked to Ferguson. Then one of the deputies left to look for Kachman. Kachman returned a few minutes later in his truck. At this time Holloway, C.P., and MacDonald were all in front of the house. Deputy Ross asked Holloway if the truck was Kachman's and Holloway responded that she was not sure. Holloway then told C.P. to get in her truck. C.P. and MacDonald got in the cab of Holloway's Dodge pickup.

C.P. heard Deputy Ross yell "stop, stop". She heard him say something like "stay in the car". She then heard Kachman press on the throttle and heard two gun shots. She then saw Kachman's truck drive down the street and crash.

During C.P.'s interview she reflected that the Deputy Ross had saved her life and that Deputy Ross' life was in danger, saying:

"I mean he put his life on, in danger for us, like he could have gotten rammed over for, like because we didn't know if Greg had weapons on him or anything, you know. He could have gotten killed or something

happened to him and he pulled his gun out and saved us".

After the shooting C.P. remained on scene until officers arrived.

8. Gregory "Joey" MacDonald

Joey MacDonald was contacted by detectives but was uncooperative. He did not respond to repeated efforts at contact and would not give an interview.

9. Neighborhood Residents

Officers canvassed the neighborhood. Beyond hearing the shots and/or the crash, no resident saw the shooting. Most neighbors were asleep and reported being woken by either the sound of the shooting or the crash.

B. Dash Mounted Cameras

The vehicles of Deputy Ross and Deputy Durbin were both equipped with dash mounted cameras. The video from Deputy Durbin's car shows him arrive on scene then leave the area searching for Kachman. He arrives at the crash scene after the shooting.

The shooting occurs just off view of Deputy Ross' dash camera. The video has no sound. After his initial arrival, the video shows Deputy Ross move his patrol car to the front of 5544 Thorn Berry Court. Holloway's Dodge pickup truck is parked directly in front of the residence. A white van driven by Mr. Kempf is parked in the street nearly adjacent to the Dodge. A minivan is parked across the street. This circumstance led to a very narrow passage for vehicles traveling the street.



(The narrow travel lane, looking east, as Deputy Ross moves his patrol vehicle. Holloway's truck (far right) is partially visible, Kempf's van is center, and a minivan to the left)

The video also captures the arrival of Kachman's vehicle.



(Kachman's vehicle approaching from the west. Holloway's truck is to the left, and Kempf's van to the right.)

The video depicts Deputy Ross beginning his approach towards Kachman's vehicle.



(Glare from Deputy Ross' flashlight as he prepares to approach Kachman's vehicle)

Kempf's position just before and during the shooting is captured by the video. He stands at the front of Deputy Ross' vehicle watching the encounter. Holloway, C.P. and MacDonald can be seen entering Holloway's truck just before the shooting.



(Kempf's position as Ross approaches Kachman's vehicle. C.P. and MacDonald in cab of Dodge pickup)



(Kempf's position (left) just prior to shooting. Holloway has entered the driver's seat of the Dodge)

Kempf is seen reacting to the shooting shortly before Kachman's truck drives off.



(Kempf reacts (left) as Kachman's vehicle drives away after the shooting)

The dash cam footage is consistent with the statements of Deputy Ross, Kempf, C.P., Holloway and Ferguson. The encounter lasts about 40 seconds (from the arrival of Kachman to the shooting).

C. Additional Video Evidence

Pursuant to a search warrant, investigators seized a surveillance DVR from 5544 Thorn Berry Court that was believed to be Kachman's. After forensic analysis investigators discovered that the surveillance system was not operational on November 4, 2015. The last date the DVR recorded anything was on October 18, 2015.

Detectives recovered home surveillance footage from 5540 Thorn Berry Court. The video depicts a small portion of the street between the shooting scene and the crash scene. The video corroborates the involved vehicles travelling on Thorn Berry Court but does not capture the shooting.

D. Scene Evidence

The scene is divided into the shooting scene and the crash scene.



(Overview of shooting scene (1) in relation to crash scene (2).
Kachman's truck has been righted by tow operators in this photograph)

1. Shooting Scene

In the street in front of 5544 Thorn Berry Court investigators located and recovered three expended Winchester brand, .357 SIG caliber shell casings. Their location gave the investigators a very general idea of where the shooting occurred. The casings were analyzed at the Washoe County Forensic Lab and found to be a match to Deputy Ross' Glock 31C (chambered in .357 SIG) service pistol.

A countdown of Deputy Ross' service pistol revealed that a total of three shots had been fired. Deputy Ross carried his duty pistol with a fifteen round magazine with two spare fifteen round magazines. He also carried a backup Glock 33 with a seven round magazine. His Glock 31C was found to have 11 unfired rounds in the magazine and one in the chamber, thus three were fired in the incident.



(Overview of shooting scene with Deputy Ross' patrol vehicle and placards marking location of expended shell casings. Note that Kempf's van had been removed before police could secure the scene)

2. Crash Scene

Kachman's vehicle collided with a pickup truck that was parked in the driveway of 5535 Thorn Berry Court and came to rest in the home's driveway. In the collision Kachman's vehicle flipped onto the driver's side. Kachman was partially ejected and the

vehicle was heavily damaged. The vehicle was photographed in place as well as after it was righted.



(Overview of crash site looking northeast. Kachman's truck is lying on its driver's side)

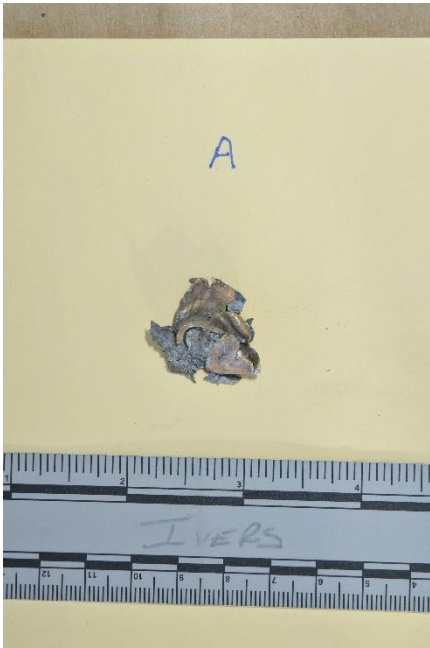
Examination of Kachman's truck found three bullet strikes. Two bullets struck the windshield/pillar area. A third struck the driver's window. Bullets were recovered from two of the strike areas.



(Overview of bullet strikes to Kachman's vehicle, showing two strikes (A, B) to windshield/pillar and one to driver's side window (C)).



(Detail of bullet strike A to windshield/pillar)



(Recovered bullet from strike area A)



(Detail of bullet strike B to windshield/pillar)



(Bullet recovered from strike area B)



(Overview of bullet strike C)



(Detail of bullet strike C)

The driver's side window was heavily damaged in the crash. As bullets were recovered from the other two strike areas (A, B)) and a bullet struck Kachman's left torso it is reasonable to conclude that the bullet that made strike C is the bullet that struck Kachman.

The recovered bullets were submitted for analysis at the Washoe County Forensic Lab. The bullets bore the same class characteristics as those test fired from Deputy Ross' Glock 31C. Due to extensive damage from the impact, there was insufficient microscopic detail to make a definitive identification or elimination.

The location of the bullet strikes is consistent with the statement of Deputy Ross as to his location at the time of the shooting. Specifically, the evidence is consistent with Deputy Ross firing his pistol as he jumped out of the way of Kachman's oncoming vehicle.

3. Methamphetamine

A bag of suspected methamphetamine was located in Kachman's truck. The substance was submitted for testing at the Washoe County forensic lab. The analysis confirmed the substance was 7.8 grams of methamphetamine.

E. Injury to Kachman

A gunshot entrance wound was located on Kachman's left torso, underneath his arm at chest level. There was no exit wound. Medical records indicate that Kachman suffered permanent paralysis when the bullet injured his spinal cord. Medical personnel did not remove the bullet.

F. Dispatch Recordings

The original call came from Holloway at 23:54 hours on November 3rd reporting that Kachman had battered Ferguson and that he had a warrant for his arrest. With the aid of Ferguson, Holloway reported Kachman by name and gave an accurate description of Kachman's vehicle, including the plate number.

Ferguson then takes the phone from Holloway and describes being battered by Kachman, gives a detailed description of his truck, and the reports that that he was possibly going to the 777 Motel.

The police dispatcher then broadcasts the call to Deputy Durbin and Deputy Ross, relaying the suspect and vehicle descriptions. Later the dispatcher updates the deputies regarding the power being off and the potential tire vandalism. Radio traffic later captures Kachman's brief return to the scene before Deputy Durbin attempts to locate him. Dispatch then updates both deputies that Kachman is reported to have violent tendencies and is a martial arts expert.

At 12:25 Deputy Ross announces that Kachman has returned and that he has Kachman at gunpoint. Less than a minute later Deputy Ross exclaims "shots fired". He then radios that the vehicle has crashed and that "he tried to run me over with the car".

G. Blood Sample Analysis

At the hospital, medical staff drew Kachman's blood when he was admitted for treatment. Pursuant to a court order the blood was seized and tested at the Washoe County Forensic Lab. The analysis found 109 ng/mL amphetamine in the sample, exceeding the legal driving limit of 100 ng/mL. The analysis also found 827 ng/mL of methamphetamine in the sample, exceeding the legal driving limit of 100 ng/mL by a factor of eight.

II. PROSECUTION AND CONVICTION

Kachman was charged with Assault on an Officer with Use of a Deadly Weapon, Trafficking a Controlled Substance, Driving Under the Influence, and Domestic Battery Second Offense based on this incident. He was also charged with Stalking for actions perpetrated against Ferguson after this incident. He later pleaded guilty to Assault on an Officer with Use of a Deadly Weapon (felony), Stalking (felony), and Domestic Battery Second Offense (a misdemeanor). In August 2017 he was sentenced to a combined prison term of 47-120 months.

In his guilty plea to Assault on an Officer with Use of a Deadly Weapon Kachman admitted to committing a felony against Deputy Ross. Kachman admitted that he did commit an assault against Deputy Ross, specifically admitting "I did attempt to drive over DEPUTY C. ROSS with my truck, and/or I did place DEPUTY C. ROSS in reasonable apprehension of immediate bodily harm by driving my truck at DEPUTY C. ROSS."

III. LEGAL ANALYSIS AND CONCLUSION

In Nevada, the shooting of Kachman is justifiable under one or all of three theories related to the concept of self-defense: (1) use of deadly force in self-defense/defense of others, (2) use of deadly force to effect arrest, and (3) justifiable homicide by a public officer. These theories will be discussed below. Under Nevada law, death does not need to result for any of these principles to apply. Davis v. State, 130 Nev. Adv. Op. 16, 321 P.3d 867, 871 (2014), see also Barone v. State, 109 Nev. 778, 779-81, 858 P.2d 27, 28-29 (1993).

A. The Use of Deadly Force in Self-Defense

The authority to kill another in self-defense is contained in statute. NRS 200.120 and 200.160. "Justifiable homicide is the killing of a human being in necessary self-defense" against the other person. NRS 200.120(1). Homicide is also lawful when committed: "[i]n the lawful defense of the slayer, or of 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 ...". NRS 200.160(1). Finally self-defense or defense of others is also

justifiable "in the actual resistance of an attempt to commit a felony upon the slayer". NRS 200.160(2).

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). The relevant jury instructions as articulated in Runion are as follows:

The killing of [a] person in [defense of another] 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 [the other person] or cause [the other person] great bodily injury; and
2. That it is absolutely necessary under the circumstances for him to use in [defense of another] force or means that might cause the death of the other person, for the purpose of avoiding death or great bodily injury to [the person being defended].

A bare fear of death or great bodily injury is not sufficient to justify a killing. To justify taking the life of another in [defense of another], 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 or defense of another]. 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 [the other person] 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 [the other person] 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 [that a killing was in defense of another exists], the State must prove beyond a reasonable doubt that the defendant did not act in [defense of another]. Runion at 1051-52.

The result is that under Nevada law if there is evidence of self-defense, the State must disprove that the person did not act in self-defense beyond a reasonable doubt.

In this case Deputy Ross was faced with a suspect who tried to run him over with his vehicle. By all accounts Kachman posed an objectively reasonable imminent danger to Deputy Ross. Deputy Ross also held a reasonable belief that Kachman posed a risk to the citizens in the area (Kempf, Holloway, C.P., and MacDonald). Finally, Ross was entitled to use self-defense against Kachman as Kachman was committing a violent felony against Deputy Ross, i.e. Assault on an Officer with Use of a Deadly Weapon. Therefore, Deputy Ross acted in a reasonable fear of a threat to his life and the lives of others at the time at the time he shot Kachman. Under those circumstances the shooting is justified.

B. 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".

Deputy Ross clearly had probable cause to believe that Kachman posed a threat of serious bodily harm to himself. The statements of Deputy Ross, the other witnesses, and Kachman's admissions show that Kachman tried to strike Deputy Ross with his vehicle. If successful this could result in serious bodily injury or death to Deputy Ross. Shooting Kachman is justified under these circumstances.

C. Justifiable Homicide by a Public Officer

"Homicide is justifiable when committed by a public officer ... [w]hen 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." NRS 200.140(2). This statutory provision has been interpreted as limiting a police officer's use of deadly force to situations when the officer has probable cause to believe that the suspect poses a threat of serious physical harm to either the officer or another. 1985 Nev. Op. Att'y Gen. 47 (1985).

The facts illustrate that Deputy Ross had probable cause to believe that Kachman posed a threat of serious physical harm to himself and possibly to others. Deputy Ross was faced with a noncompliant, mind-altered person who suddenly and without warning attempted to run him over with a pickup truck. Kachman represented a threat of serious physical harm to Deputy Ross. Shooting Kachman is justified under these circumstances.

IV. Conclusion

Based upon a review of the facts and circumstances presented and the application of Nevada law to the November 4, 2015 officer involved shooting of Gregory Stuart Kachman, the actions of Deputy Chad Ross are warranted. Unless new circumstances come to light which contradict the factual foundations upon which this decision is made, the District Attorney's review of this case is officially closed.