

**OFFICE OF THE WASHOE COUNTY
DISTRICT ATTORNEY**

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REPORT ON THE MARCH 10, 2016, OFFICER INVOLVED
SHOOTING OF ARTEAIR PORTER

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INTRODUCTION

On March 10, 2016 at 8:13 p.m. Arteair Porter (hereinafter "Porter") called 911. He explained that he was near the Amazon Fulfillment Center in Lemmon Valley and was armed with a rifle. He claimed he was upset over the death of his 6 month old daughter and that the idea of shooting someone was on his mind. It was later discovered that Porter did not have any children. Due to the obvious public safety concerns, regional law enforcement quickly responded.

At 8:59 p.m., Porter called 911 again. This time he sounded more agitated. He asserted that he had a 12 gauge shotgun and was going to shoot the next car that drove by. He further stated that if the police came, he was going to shoot them as well.

Reno Police Department (hereinafter "RPD") officers, members of the Washoe County Sheriff's Office (hereinafter "WCSO"), and officers in regional specialized law enforcement task forces, all responded to the area. The Amazon Fulfillment Center still staffed with employees was placed on lockdown. WCSO RAVEN helicopter was launched for air support. A law enforcement perimeter was established to secure the area and to find Porter. The Nevada Highway Patrol (hereinafter "NHP") began working to shut down the nearby on and off ramps of U.S. Route 395.

Eventually, Porter was located by law enforcement on Lemmon Drive. He was in possession of a long gun that was consistent with the appearance of a rifle or a shotgun. For the next 19 minutes, law enforcement negotiated with Porter in the hopes of a peaceful resolution.

Throughout the majority of the stand-off Porter held the gun in his right hand with his finger on the trigger. He was agitated and animated. He consistently swung the gun to his right and left, often times pointing it in the direction of responding law enforcement. They asked him to drop the gun multiple times and offered him assistance with his problems. Porter refused and repeatedly told the officers to shoot him and that he wanted to die.

Porter finally squared his body to the closest law enforcement officers on scene who had been talking with him for that approximate 19 minutes. He then held the gun with both hands in

a shooter's position and lifted the barrel towards the officers. At that time, fearing for their safety and the safety of their fellow officers, multiple law enforcement members fired at Porter. Porter was shot and later died. After the shooting when the scene was secured, it was discovered that Porter had been holding a BB gun rifle.

The regionally-adopted Officer Involved Shooting (OIS) Protocol was initiated. The Sparks Police Department (hereinafter "SPD") led the investigation into the shooting of Porter. WCSO and RPD provided secondary investigative support and the Washoe County Crime Laboratory (WCCL) provided forensic services. The Washoe County District Attorney's Office was present for OIS scene review, witness interviews, autopsy and evidence review.

The investigation included interviewing witnesses, collecting physical evidence, creating a scene diagram, an autopsy, photographing the shooting scene, forensically testing collected evidence, obtaining relevant video, reviewing the history of Porter, and interviewing the officers involved in the shooting.

Upon completion of the entire investigation, police reports, WCCL forensic reports, collected documentation, photographs, witness statements, dispatch logs, recorded audio and video of the incident, and recorded interviews were submitted to the Washoe County District Attorney's Office in November of 2016, for a final determination of whether the shooting of Porter was legally justified. No criminal charges were recommended by SPD.

The District Attorney's evaluation included reviewing over 1100 pages of reports and documents as well as interviews of police and civilian witnesses. It further included the review of hundreds of photographs, diagrams, video and audio 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 Porter was justified and not a criminal act.

I. STATEMENT OF FACTS¹

A. Scene Overview

The Lemmon Drive/U.S. Route 395 area is a mix of industrial, residential and retail properties. In the west quadrant of that intersection are several blocks of inhabited residential homes. The Amazon Fulfillment Center is in the southeast quadrant of that intersection. It is a 630,000 square foot facility that handles tens of thousands of items per day. It employs hundreds of people working both day and night. To the northeast of U.S. Route 395 on both sides of Lemmon Drive are several restaurants and retail establishments that also are open in the day and night.



¹ The Statement of Facts is synopsised from recorded witness interviews, video surveillance, photographs, police reports, and forensic reports.

B. 911 Calls

Porter made 2 emergency phone calls to 911 on March 10, 2016 that precipitated the law enforcement response. A citizen who encountered Porter in the area during the incident also made an emergency 911 call to report his interaction with Porter and his whereabouts.

1. Arteair Porter Call #1

At approximately 8:13 p.m. Porter called 911. He explained to the dispatcher that he was outdoors in a neighborhood by the Amazon Fulfillment Center in Lemmon Valley. Porter provided his name and said that he had a gun. He also explained that his 6-month old daughter had died that day due to a heart problem.²

Upon the dispatcher's questioning about his intentions with the gun including the question, "Are you going to shoot someone", Porter replied, "That's what's on my mind." The dispatcher explained that she was going to send someone to help him to which he responded that taking him to jail is not going to help.

As the emergency call progressed, the dispatcher elicited additional information including his general location, what he was wearing, and his age.

In an apparent effort to calm Porter, the dispatcher asked if there was going to be a gathering for his deceased daughter. Porter replied, "Fact is, I fucked it up already,... I fucked it up already. Look at this shit I'm putting my family through... with all this gun shit." He further said he had a "one-barrel" rifle in his possession. When asked if it was loaded, he replied "yes". The dispatcher asked, "would you be willing to put it down when you see the officers" to which Porter replied, "I don't know, I don't like police." He then repeated that sentiment several more times.

Porter went on to say his wife was pregnant with another girl and that he was going to call her. At the end of the call, he says that he can see the police responding to the area. The dispatcher asks him to put that gun down and he says "alright."

² The subsequent investigation revealed that Porter did not have a daughter nor did he have a pregnant wife as he would later report in the 911 phone call and to law enforcement.

The emergency call ended at approximately 8:27 p.m., lasting approximately 14 minutes.

2. Arteair Porter Call #2

At approximately 8:59 p.m., Porter called 911 again. He sounded agitated. He immediately stated "Hey, where those police at that were supposed to meet me up here? Next car that drives by I'm definitely shooting it." He repeated his threat to shoot the next car that he sees. When asked if he had a gun he replied, "I got my 12 gauge rifle, one barrel. Next car that drives by is getting shot, and the Police roll up, they getting shot too."

Porter explained that he was around Memorial Drive and to come find him. The dispatcher asked if he could put his gun down. He replied "no" and sounded like he was getting more upset as he hung up the phone.

Porter's second emergency call lasted approximately 1 minute and 19 seconds.

3. Citizen Call

At approximately 9:20 p.m., a citizen called 911. He explained that he had driven by a black male approximately 5 minutes earlier whom he believed law enforcement was looking for. He explained that the male was wearing a grey sweatshirt, dark pants, and had a "big old cop's baton." He saw him by the cemetery on Military Road (later determined to be Memorial Drive). He further reported that the black male said "What up blood, you got a problem?" when he drove past him and that the he was also talking on the phone.³

C. Emergency Response To 911 Calls

The incident involving Porter was treated as a legitimate, high response threat to public safety. Due to the threatening nature of Porter's 911 calls, multiple officers, deputies and supervisors from the Reno Police Department, Washoe County Sheriff's Office and regional law enforcement units responded to the area. Employees at the Amazon warehouse were contacted and

³ The investigation suggests that Porter was talking to an RPD negotiator, Officer Sean Moran on the phone when the citizen passed by Porter. As explained later in this report, Officer Moran was speaking with Porter on the phone at approximately 9:15 p.m. when Porter said to someone outside the phone call, "What're you looking at nigga, I'll shoot your ass too."

advised of the incident. They were further directed by law enforcement to lock down their facility. The WCSO Raven helicopter was requested and launched for air support. A law enforcement perimeter was established in the area to assist in locating Porter. NHP began efforts to close down the nearby on and off ramps of U.S. Route 395.

D. Timeline

On March 10, 2016 at approximately 8:13 p.m., the initial 911 call came into Reno Police Dispatch. The following approximate timeline from the RPD dispatch log depicts the progression of the incident including law enforcement's response to the scene while trying to locate Porter and the discovery of Porter until just after shots were fired.⁴

- At 8:17 p.m., Amazon security was advised to lockdown the building. Additionally, RPD dispatch advised the responding units Porter was "10-96" (history of mental health issues) and was noted to have previous hazards in his contacts with law enforcement.
- At 8:25 p.m., The WCSO RAVEN helicopter was requested to assist in the search for Porter.
- At 8:27 p.m., responding units were updated that Porter was advised by dispatch to put down the gun and was no longer on the phone with dispatch.
- At 8:29 p.m., the RPD Critical Incident Negotiation Team (Critical Incident Negotiations Team, CINT) was requested to respond to the scene.⁵
- At 8:38 p.m., responding law enforcement units were advised RAVEN's estimated time to lift-off was 30 minutes.
- At 8:43 p.m., it was advised that Porter lived at 285 Kennedy Drive and was a black, male 5'09, 150 pounds with brown hair and brown eyes.
- At 8:59 p.m., RPD dispatch updated units that Porter was back on the phone with dispatch stating he was armed with a 12 gauge shotgun and was going to shoot the next car that drove

⁴ Although the 911 call came into RPD dispatch, the timeline from the RPD dispatch log reflects information that was disseminated regionally to all on-duty agencies and their sworn personnel.

⁵ CINT is RPD's resource for handling hostage situations, barricaded subjects and similar incidents. Their focus is on protecting the lives and the safety of citizens and police officers. Members have received specialized training.

by. Dispatch further advised, Porter sounded very upset and had disconnected the call.

- At 9:00 p.m., NHP was advised to shut down the freeway (U.S. Route 395)
- At 9:09 p.m., it was advised that a CINT officer was going to call Porter on his cell phone.
- At 9:11 p.m., it was advised that an officer was talking to Porter via phone.
- At 9:15 p.m., it was advised Porter had cut off communication and sounded like he was yelling at someone.
- At 9:17 p.m., an additional call to Porter was attempted but he did not answer.
- At 9:18 p.m., REMSA arrived at Lemmon Drive and Buck Street for a possible medical emergency. A short time later, it was advised that officers had located Porter.
- At 9:20 p.m., RPD dispatch relayed the following information obtained from SPD dispatch: "SPD had extensive history with Porter - He has mental health issues, is extremely hostile, in the past he has had to have two people watching him 24/7 - has a history of gun violence towards his own relatives and fights with law enforcement."
- At 9:21 p.m., it was decided that WCSO RAVEN helicopter now circling the area would not move closer to Porter nor put a spotlight on him.
- At 9:24 p.m., WCSO Sergeant Wallace advised that officers were negotiating with Porter from the but could not hear what he was saying. Seconds later, WCSO Lieutenant Bloom advised on the radio that Porter is still talking to officers, has a long gun or shotgun next to his feet, and that he may have a handgun shoved in his right rear pants.
- At 9:27 p.m., a Deputy in RAVEN advised that Porter threw something on the ground from his waist which was identified as his cellular phone.
- At 9:29 p.m., WCSO Lieutenant Bloom asked if the personnel at the SWAT vehicle had a less-lethal plan in place and if negotiations with Porter were occurring. WCSO Sergeant Wallace responded the negotiator was talking with Porter who was agitated.

- At 9:33 p.m., it was advised that Porter does not like the K-9 dog near the SWAT vehicle. WCSO K-9 Deputy Allen responded and said he was putting the dog in the backseat and out of Porter's view.
- At 9:37 p.m., shots were fired.
- At 9:39 p.m., the REMSA unit was called to treat Porter.
- At 9:40 p.m., law enforcement personnel reported they were actively administering first aid to Porter.

E. Witnesses Accounts From Involved Shooting Officers⁶

1. Sparks Police Officer Edward Wilson

Officer Wilson was interviewed by RPD Detective Dave Millsap and WCSO Detective West Urban at the Sparks Police Department on March 11, 2016. Officer Wilson has worked for SPD for approximately 8 years. Prior to that, he worked for the WCSO for 4 years. He is a member of the SPD SWAT team. At the time of the interview he was a member of the Regional Gang Unit (RGU).⁷

On March 10, 2016, Officer Wilson started his shift at 1:00 p.m. at the Reno Police Department. After attending the daily RGU briefing, Officer Wilson partnered up with RPD Officer Caprioli in SPD vehicle 48316.

When Officer Wilson and Officer Caprioli were advised of the situation involving Porter, they responded with lights and sirens activated to the area of the Amazon Fulfillment Center. While in route, Officer Wilson was notified by an emergency dispatcher that Porter was armed with a gun and wanted to kill himself. Officer Wilson also recalled hearing over the radio that Porter was armed with a 12 gauge shotgun.

Upon arrival, Officers Wilson and Caprioli were assigned to take up a perimeter spot at the intersection of Lemmon Drive and North Virginia Street. They decided to block vehicle traffic from going northeast on Lemmon Drive from North Virginia Street for public safety. They received information from dispatch that

⁶ Each summarized witness account is taken from their individual witness interview.

⁷ RGU is a single multi-jurisdictional gang unit comprised of officers from SPD, RPD, and WCSO. The officers from each agency have been deputized by the Sheriff to investigate cases anywhere in Washoe County.

Porter was on Memorial Drive which was northeast of their location.

Shortly after setting up in their position, Officer Wilson noticed a marked WCSO Chevrolet Tahoe vehicle #020 approaching their position on North Virginia Street (later determined to be occupied by Deputy Grulli and Schuette). The WCSO vehicle proceeded to turn northeast on Lemmon Drive toward Memorial Drive.

Approximately one to two minutes after the WCSO patrol vehicle passed them, Officer Wilson heard over the radio that contact had been made with Porter. Believing that the WCSO unit that had just passed him was the one who reported finding Porter, Officer Wilson began driving northeast on Lemmon Drive. As they approached, Officer Wilson saw the activated overhead lights on the WCSO vehicle. Once closer, he also saw Porter standing on the right side of the roadway.

Officer Wilson parked his vehicle behind the WCSO vehicle and exited with his AR-15 rifle. He handles his AR-15 left-handed. Thus, he made his way to the driver's side of the WCSO vehicle. Once on the driver's side of the WCSO vehicle, he discovered WCSO Deputy Grulli outside the vehicle using the open driver's door for concealment. Officer Wilson took a kneeling position next to Deputy Grulli. Once Officer Wilson was in this position, he was able to see Porter clearly.

Officer Wilson had interacted with Porter on several prior occasions. Most recently, he had dealings with Porter approximately two weeks before this incident. Porter had been a victim in a robbery that was being investigated by RGU. Officer Wilson was working when Porter came into RPD for an interview. At the conclusion of the interview, Porter requested a ride to Northern Nevada Medical Center in Sparks, Nevada. Officer Wilson gave Porter a ride to the hospital.

Based on Officer Wilson's prior contacts with Porter, he believed that they shared a decent rapport. Consequently, he began trying to communicate with him saying, "Hey, it's Wilson from the gang unit, remember me?" To this, Porter stated, "Just shoot me already." Porter said this statement or a variation of "shoot me" multiple times while Officer Wilson was trying to communicate with him. Officer Wilson continued saying, "Hey,

drop the gun... we can help you... just drop the gun... Arteair, we can help you out. Just drop the gun." Officer Wilson and other officers asked Porter to drop the gun multiple times.

Officer Wilson saw that Porter had a long gun in his hands and described it as having a wood stock and black barrel. Based on the information given, Officer Wilson believed that Porter was armed with a 12 gauge shotgun. Porter was holding the long gun in just his right hand.

Porter became upset over a K-9 dog that was near the parked SWAT vehicle. He stated, "If that dog comes over here, I swear, I swear". Officer Wilson realized the presence of the K-9 was making Porter upset so he broadcast this information over the police radio. WCSO Sergeant Wallace responded by broadcasting they would put the dog away. Officer Wilson then told Porter that the dog was getting put away and that he did not have to worry about the dog. He continued to tell Porter to "drop the gun, we'll get you help." Porter's response was something to the effect of, "Just shoot me, just shoot me already...Just let me kill myself".

Porter still had the long gun in one hand but was moving it in a sweeping motion, back and forth (right to left). The weapon was pointed down at about a 45 degree angle during this time. Porter's finger was inside the trigger guard giving him the ability to fire the gun at any time.

Porter stated, "Just do it already, just do it!" In response, Officer Wilson answered, "No, we don't wanna shoot you, Art. We can get you help. Put the gun down, drop the gun." At this point, Officer Wilson was confident that Porter was going to drop the gun and they would be able to resolve the issue. He noted that at times during the stand-off Porter was calm and appeared to be contemplating dropping the gun. However, he would then become upset and yell, "Just-just do it. Just shoot me, man. Let me shoot myself."

Porter then placed his left hand on the foregrip of the long gun. This changed the scenario for Officer Wilson. With both hands on the gun, Porter would be able to control the aim and ability to fire much better. Once Porter grabbed the long gun with two hands, Porter's demeanor changed. He then began lifting up the barrel toward law enforcement at WCSO vehicle #020. At

that moment, Officer Wilson in fear of his safety and the safety of the other officers on scene, fired his weapon at Porter. At the same time, other officers also fired their weapons multiple times.

2. Reno Police Officer Chris Caprioli

Officer Caprioli was interviewed at RPD on March 11, 2016 by SPD Detective Shawn Congdon and WCSO Detective Joe Digesti. He has worked for RPD for 5 years and also served a year in the WCSO. He has been assigned to the RGU for a year and a half.

Officer Caprioli started his shift around 1:00 p.m. on March 10th and was doubled up with Officer Wilson in SPD RGU vehicle #48316.

Upon hearing of the incident involving Porter, Officer Caprioli said he and Officer Wilson drove to Lemmon Drive and North Virginia Street. Once on scene, he learned of Porter's discontent over the loss of his daughter and his potential suicidal thoughts. He further learned Porter was reportedly armed with a 12 gauge shotgun and intended on shooting at the next passing car.

Upon hearing over the radio that a WCSO unit had made contact with Porter on Lemmon Drive between North Virginia Street and U.S. Route 395, Officer Caprioli rode with Officer Wilson to cover the unit, WCSO vehicle #020. The vehicle's overhead emergency and take-down lights were on.

Officer Caprioli took cover behind the passenger side and stood next to Deputy Schuette. Officer Caprioli believed the gun Porter had in his hands was a rifle with a wooden stock and a metal barrel. He could see Porter had his finger in the trigger guard and was waving the gun around transferring it from one hand to the other. Officer Caprioli ordered Porter on several occasions to put the gun down. Porter did not.

Porter was claiming he was going to shoot himself over a break up with his girlfriend. He also threatened to shoot the K-9 dog near the SWAT vehicle. Officer Caprioli along with Officer Wilson continued to offer help and asked him to put the gun down.

Porter then started to blade his stance and raised the gun towards Officer Caprioli and other nearby law enforcement with

his finger in the trigger guard. Caprioli felt his life and other officers' lives were in danger. Believing he had no other option, he fired.

3. Washoe County Sheriff Deputy John Schuette

Deputy Schuette was interviewed by RPD Detective Dave Millsap and SPD Detective Kevin Dach on March 11, 2016. Deputy Schuette has been employed with Washoe County Sheriff's Office for approximately 12 years. He has worked in the jail and on patrol. He is a 3 year member of the SWAT team and a Field Training Officer. He has specialized Crime Scene Investigation training, is a Drug Recognition Expert and a Firearm's Instructor.

On March 10, 2016, Deputy Schuette worked the graveyard shift and was assigned WCSO Chevrolet Tahoe #020. He was getting dressed in his uniform at WCSO, when he was advised of the incident on Lemmon Drive. He was told that the SWAT vehicle was being deployed because the caller claimed he was going to shoot someone at the Amazon Fulfillment Center.

Once in uniform, Deputy Schuette and Deputy Jason Grulli left the Sheriff's Office to go to the scene. Deputy Grulli was driving the vehicle on Lemmon Drive when they encountered Porter standing on the right side of road. Deputy Schuette used the spot light on the right side of the patrol vehicle and shined it on Porter. Deputy Schuette could see he had a long black rod type object in his hand. Within seconds, Deputy Schuette saw the object was a long rifle.

He made contact with Porter and told him to drop the gun. Porter refused and was very animated, agitated, and paranoid. His voice was escalating up and down during the conversation. Porter yelled something similar to, "You guys can't help, I can't put down the gun, I don't want to go to jail." He stated that he wanted the police to shoot him and didn't want help because he lost his child.

The RGU vehicle arrived and Officer Wilson began speaking with Porter. Porter was listening and appeared to calm down for a short time. However, when the K-9 unit arrived and the dog was outside of the vehicle, Porter became agitated again. He threatened to shoot the dog resulting in the dog being put away. Porter calmed down but did not drop the gun as directed to.

After he removed a cell phone from his front left pocket and tossed it on the ground, Porter became more agitated and began moving the gun from hand to hand. His finger was inside the trigger guard while the gun was in his right hand. Porter then "squared off to me," put two hands on the gun and raised it. In that instant, Deputy Schuette thought he, or a nearby officer, was going to be shot. He fired his weapon in response from the apparent threat from Porter.

4. Washoe County Sheriff Deputy Jason Gulli

Deputy Gulli was interviewed by SPD Detective Jace Thelin on March 11, 2016 at the Washoe County Sheriff's Office. Deputy Gulli has worked as a Deputy at the WCSO for seven years with one month in patrol. He previously was assigned to the Detention Response Team while working in the Jail. He works the graveyard shift. In March of 2016 Dep. Gulli was in training and Deputy Schuette was his training officer.

After being advised of the situation involving Porter, Deputy Gulli drove to the area of Lemmon Drive. As he was driving on Lemmon Drive, he saw Porter walking near the side of the road. Deputy Schuette turned the spotlight on him and saw that he was holding a rifle.

Deputy Gulli stopped the marked WCSO Chevrolet Tahoe #020, turned on his emergency red and blue lights and exited the vehicle. Deputy Gulli stood behind the driver's door while Deputy Schuette stood behind the front passenger door. Both deputies gave Porter commands to put the gun down. Deputy Gulli told him approximately twenty times to drop the gun. Both deputies offered help but Porter responded that they couldn't help him and that he had a young child who had passed away earlier that day.

Deputy Gulli stated that it seemed like a long time that they were telling him to drop the gun and offering help. However, Porter repeated that they couldn't help him. Porter told the two deputies to leave and let him kill himself. He also said several times, "Why don't you just kill me."

Other officers arrived. SPD Officer Wilson came up to the left of Deputy Gulli, while RPD Officer Michael Harding stood on his right. RPD Officer Caprioli was on the side with Deputy Schuette. Deputy Gulli could see the SWAT vehicle to the north

on Lemmon Drive with officers next to it. He could also see the K-9 unit.

Officer Wilson took over verbal commands calling Porter by name. Officer Wilson reminding Porter that he had helped him the week before and he could help him again. He also asked Porter to drop the gun as did all of the other officers. At one point, Porter leaned like he was going to put the gun down but stopped saying that he couldn't.

While Porter was talking to Officer Wilson, he was waving the rifle around. Deputy Grulli could see his finger on the trigger. Porter was concerned about the K-9 dog. Officer Wilson asked on the radio for the K-9 to be pulled back and out of view of Porter. After that occurred, Officer Wilson told Porter he would take care of him but he needed to put the gun away.

Several times it looked like Porter wanted to raise the gun up but he stopped. Based on Porter's actions of slightly raising the gun and then lowering it, Deputy GRULLI thought that Porter wanted them to shoot him.

After Porter tossed his cellular phone, he continued saying that they couldn't help him, and that he didn't want to go back to jail and wanted to die. He was emotional and sounded like he was about to start crying. Porter continued swinging the gun around telling them to shoot him. He then began to raise the gun with his right hand and brought his left hand up underneath the barrel. Deputy Grulli thought Porter was going to shoot one of the officers. In his interview, he said that as Porter grabbed the gun with two hands and began to raise it, he was scared for his life and didn't want the subject to get the gun up to shoot them. Deputy Grulli then fired. Other shots were fired at the same time.

5. Reno Police Officer Michael Harding

Officer Harding was interviewed on March 11, 2016, at RPD by SPD Detective Chris Rowe and WCSO Detective Stefanie Brady. Officer Harding has worked for the Reno Police Department for two and a half years. Prior to RPD, he worked at Northern Nevada Correctional Center for three years and the WCSO for just under a year. He also served eight years in the Marine Corps

Reserves. Officer Harding has been a member of RGU for three months and works the swing shift.

On March 10, 2016 Officer Harding was partnered with RPD Officer Jason Schaur and Homeland Security Officer Darin Baclayon. Harding stated that they were riding in a RPD RGU vehicle #106. After he heard dispatch advise that there was a suicidal subject who was armed with a gun threatening to shoot people at the Amazon Fulfillment Center, he responded to the call.

Officer Harding stated that he heard Washoe County deputies Grulli and Schuette announce over the radio that they had located Porter armed with a long gun. In order to provide assistance, he followed officers Wilson and Caprioli on Lemmon Drive and located the Washoe County vehicle with its emergency lights activated.

Officer Harding observed WCSO deputies Grulli and Schuette standing outside of the patrol vehicle engaging Porter. He heard them giving Porter commands to drop the gun. Officer Harding went to the driver's side of the Washoe County Vehicle with Officer Wilson.

Officer Wilson told Porter, "Hey Arteair drop the gun, we can work this out." Porter said, "I can't do it, I can't put this down." Officer Harding recognized Porter's gun as being some type of lever action rifle or shotgun. He saw Porter's finger on the trigger throughout the encounter.

Officer Harding heard Porter say "I don't want to do this. Just go on and do it, I don't want to live." Officer Harding stated that officers responded by telling Porter to "Put the gun down, we can work it out."

Ultimately, Porter looked in Officer Harding's direction and placed his other hand on the weapon so that both hands were holding it. This was the first time he had held the weapon with both hands. Officer Harding stated that Porter then began to raise the weapon in his direction. In his interview, Officer Harding stated "I didn't feel like I had any other action to do but to fire upon him to protect myself and the other officers." He further stated, "I felt that if he pulled the trigger it was going to hit me and might kill me. So, I was in fear for my life." Officer Harding fired.

6. Washoe County Sheriff Deputy David Dunham

Deputy Dunham was interviewed on March 1, 2016 by RPD Detective Scott Johnson and SPD Detective Nick Pagni at the WCSO. He has worked for WCSO for 9.5 years and is assigned to patrol. In March of 2016 he worked swing shift (2:00 p.m. - 12:00 a.m.). Deputy Dunham's special assignments include the SWAT team and Field Training Officer.

Deputy Dunham was on patrol when he was informed that RPD was in the area of Lemmon Drive and North Virginia Street attempting to locate an individual that was suicidal and homicidal. Deputy Dunham responded to assist.

Once there, Deputy Dunham was told to be a part of the Emergency Action Team being assembled by WCSO Sergeant Wallace. The team was going to ride on the SWAT vehicle. It consisted of Dunham, WCSO Deputy Martin Obos, SPD Detective Eric Marconato and RPD officer Chris Johnson.

Once Porter was located, the SWAT vehicle was driven to his vicinity. Once the SWAT vehicle stopped, Deputy Dunham climbed out taking a position on the roof with his rifle. Once on top of the SWAT vehicle Deputy Dunham saw WCSO vehicle #020 and Porter standing on the side of the road.

Initially it appeared Porter was holding a black stick. Upon watching him further, Deputy Dunham saw a stock on the object and recognized it to be a shotgun. At this time, Porter was 35-40 yards away from Deputy Dunham and the SWAT vehicle. Deputy Dunham could hear a male voice telling Porter to put the gun down and to come out and talk.

Deputy Dunham described Porter as being agitated and repeatedly saying, "Just finish it... Just shoot me...Just kill me." Porter then brought the gun back in to himself and held it with two hands. His right hand was on the stock near the trigger guard and his left hand on top of the barrel.

Porter began to rub the barrel with his left hand. He started to turn his body toward the SWAT vehicle holding the gun level. Deputy Dunham knew that other officers were outside of the SWAT vehicle and feared for their safety. Consequently, he fired. In his interview, Deputy Dunham explained, "The position he was taking was a shooter's position, he was getting ready to point

the barrel at somebody. He was not nonchalant, the gun was elevated and if he would have discharged it, it would have hit somebody. The way his hand was on the stock near the trigger I believed he was getting ready to fire the gun."

7. Reno Police Officer Dan Parker

Officer Parker was interviewed by WCSO Detective Arick Dickson and WCSO Detective Joey Lear on March 11, 2016, at RPD. Officer Parker has worked for RPD for 26 years. He is assigned to patrol and works swing shift. In addition to his patrol duties, Officer Parker has been trained in sniper duties and is a team leader on the SWAT team of which he has been a member for 20 years.

On March 10, 2016, he was on another call when officers were originally dispatched to the incident involving Porter. Upon hearing the initial information regarding the incident, Officer Parker responded to the scene to assist and provide equipment that was in his vehicle. He was driving RPD vehicle #618. Due to the threats being made and the need for a sniper in the area, he obtained his duty rifle from his vehicle.

Soon thereafter, Officer Parker spotted Porter and saw WCSO patrol vehicle #020 arrive and shine lights on him. He also observed the SWAT vehicle take its position. He then positioned himself alongside a parked WCSO vehicle.

Officer Parker observed Porter with a long gun in his hand. He was agitated. He could hear Porter shouting but could not hear what the other officers were saying. On a couple occasions when Porter raised his weapon, Officer Parker came very close to shooting him due to his concern that Porter was going to shoot towards him or the officers behind him. However, he refrained stating that if he had raised the gun a few more inches he would have felt compelled to shoot.

Porter moved the gun from his right hand into his left hand and then back to his right. Officer Parker then saw the barrel of the weapon being raised towards the officers closest to Porter. He described this act as different than the previous manipulation of the gun. It was more deliberate and raised it approximately a foot higher than before. He then heard a shot fired. Officer Parker believed Porter had fired at the officers and fired one round from his rifle.

F. Witness Accounts

1. Reno Police Officer Sean Moran

Officer Moran is a member of the Critical Incident Negotiations Team (CINT). On March 10, 2016, he was dispatched to negotiate with Porter. At approximately 9:09 p.m., Officer Moran made his first call to him. Porter was agitated and sounded very dedicated to the idea that he was going to shoot someone stating, "I have business to take care of."

When asked by Officer Moran why he felt the need to hurt someone he responded that his baby had died that morning at St. Mary's hospital due to heart complications. He became more upset when Officer Moran asked his baby's name and provided no answer. Officer Moran pressed, asking how shooting someone would make him feel any better, to which he replied, "I gotta do, what I gotta do." Porter stated that he was going to shoot the next car that drove by. Towards the end of the call, he was declaring "I'm going to shoot the next cop that drives by."

Officer Moran then overheard Porter talking to someone else presumably the citizen who called 911, stating, "What're you looking at nigga, I'll shoot your ass too." Porter then ended the call at 9:15 p.m.

2. Washoe County Sheriff Sergeant Sean Wallace

On March 10, 2016, Sergeant Wallace was driving a fully marked Chevrolet Tahoe. He was riding as a double unit with WCSO Sergeant Beard when he was advised by Washoe County dispatch of a 22 year old male walking around the Amazon Fulfillment Center with a rifle who was despondent over the death of a child.

Upon his arrival on Lemmon Drive under the U.S. Route 395 overpass, he met with RPD personnel and offered assistance. Sergeant Wallace started calling in resources to assist, such as the RAVEN helicopter crew and SWAT personnel. He was asked to run an Emergency Action Team. The team consisted of WCSO Deputy Martin Obos, WCSO Deputy Dunham, SPD Detective Marconato and RPD Officer Chris Johnson who was a trained negotiator.

Wallace then heard a commotion on the radio and saw that deputies Grulli and Schuette had located Porter on the south side of Lemmon Drive. As his Emergency Action Team had armor and an armored vehicle, unlike the officers engaging Porter, he

ordered the SWAT vehicle driven toward Porter. It was stopped between 40 and 45 yards away from him in the westbound lane of Lemmon drive to Porter's northwest. Sergeant Wallace observed two patrol vehicles (WCSO #020 and SPD #48316) to the southwest of Porter with their overhead emergency lights activated and their spotlights pointed toward him.

Sergeant Wallace instructed Deputy Dunham to go into the upper hatch of the SWAT vehicle and designated him as lethal cover. Deputy Obos was assigned to the 40mm less-lethal cover on the ground. Deputy Allen pulled in behind them with his K-9 vehicle and retrieved his dog.

Aside from Deputy Dunham, the Emergency Action Team was maintaining a visual on Porter by looking through the front windshield and around the right side of the SWAT vehicle. Officer Johnson attempted to establish communications with Porter over the loud speaker but was unsuccessful as the speaker malfunctioned. However, the officers to the southwest were able to establish verbal communication with him. Sergeant Wallace wasn't able to make out what was being said but could hear both the officers and suspect speaking with each other.

Porter sounded agitated and became more agitated as time went on. At one point the officers to the southwest reported that Porter could see the K-9 dog and didn't like it. At that point Deputy Allen put the dog in the back of his vehicle.

Sergeant Wallace was able to see Porter holding what appeared to be a shotgun in his right hand. He said Porter was initially just pointing the gun toward the ground but as time went on he began waving it around more frequently pointing it approximately three or four times in his direction which caused him to worry for the safety of his team.

Wallace began formulating an action plan with the team in case Porter surrendered. He began to retrieve necessary equipment, such as shields, from the back of the SWAT vehicle at which point he heard gunshots being fired. He could hear that several shots were coming from the area of the patrol cars on the south side of the road. He looked up at Deputy Dunham and could see that he was firing his weapon as well. He then looked over and saw Porter go down.

Sgt. Wallace advised on the radio for all the units in the area to hold their positions and requested medical personnel. Officer Johnson and Deputy Obos each obtained shields. Detective Marconato was designated cover for the team and Deputy Allen was designated as "hands-on". The Emergency Action Team then progressed toward Porter at which point they could see his gun was on the ground and approximately 3 feet away from him. Deputy Allen placed him into handcuffs at which point additional officers were requested to begin medical care. Porter was breathing. Officers applied tourniquets, pressure bandages and chest seals. They also searched for additional injuries. Deputy Obos was holding Porter's head and speaking to him.

Soon thereafter, a REMSA medic arrived in a REMSA truck and began providing medical care. Although Porter was breathing, he was unconscious. REMSA personnel arrived in an ambulance a while later and placed Porter inside.

Sergeant Wallace then directed officers to secure the scene of the shooting. RPD Sergeant Trent Johnson arrived on scene and met with Sergeant Wallace. Together they began identifying all officers and deputies who fired their weapons.

3. Department of Homeland Security Special Agent Darin Baclayon

On March 11, 2016 Department of Homeland Security Special Agent Baclayon was interviewed at the Reno Police. He is an agent with the Department of Homeland Security where he has been employed for six years. One of his duties is to assist the RGU.

Baclayon stated that prior to the incident the RGU was assisting him with an investigation involving suspected gang members who were in the country illegally. Baclayon stated that he heard a call on the radio of an armed subject near the Amazon warehouse.

On March 10, 2016, Baclayon was riding with RGU when they responded to the call involving Porter. Upon discovery of Porter by deputies Grulli and Schuette, he rode in a RGU vehicle with officers Wilson and Caprioli where he saw WCSO vehicle #020 stopped. Baclayon stated that he could see Porter in the spot lights of the WCSO vehicle. RGU Officers along with Agent Baclayon took positions alongside the WCSO vehicle and the deputies.

Porter was holding a rifle with a black barrel and a wood stock. It reminded Baclayon of a .22 caliber lever action rifle that he owns. Porter was very "shaky" and continually shook his hands out. He was holding the rifle in one hand. From his position, he could see that Porter had his finger on the trigger of the rifle.

While officers were giving Porter verbal commands they were calling him by name. Baclayon heard officers saying "Arteair you don't need to do this. Arteair put down the weapon. Arteair put down the weapon and come talk to us. We just want to talk, just put down the weapon."

While officers were attempting to speak with Porter he switched the gun from one hand to another. To Baclayon, it seemed as though Porter was "struggling." He heard Porter say "I don't know what I want to do, I don't know what I want to do." Porter got more "jittery" and Agent Baclayon could clearly still see Porter's finger on the trigger as he grabbed the gun with his other hand. Officers continued to give Porter verbal commands to drop the gun. They further stated, "We don't want to shoot you. We can talk about this. We know you're not like this."

Porter then started to raise the gun up towards officers at the WCSO Vehicle. Baclayon then heard officers shooting. He was kneeling behind Officer Caprioli and he didn't fire his weapon because he was concerned that Officer Caprioli would move in front of him while he was shooting.

G. Charles and Laura Porter

On March 11, 2016, at approximately 5:15 a.m., detectives with SPD and WCSO went to 285 Kennedy Drive to assist the Medical Examiner's Office in contacting members of Porter's family. This address was identified as Porter's residence. Once there they spoke with residents Charles and Laura Porter, Porter's uncle and aunt. The Porters explained that they allowed him to live with them at that location. Porter's mother had passed away and they did not know his father. They further explained that Porter was diagnosed as Schizophrenic and had mental disabilities. They confirmed that he had no children.

It was discovered that a BB gun rifle was missing from the residence and that Porter was having some recent mental health issues. On March 9, 2016 they had taken Porter to Northern

Nevada Adult Mental Health Services (NNAMHS) for medication and were trying to get him into a program. Unfortunately they were unable to see a doctor. According to the Porters, he had no issues or grievances with Amazon or anyone there. They attributed his recent mental instability to a girlfriend with whom he was carrying on a long-distance relationship. Evidently, Porter had never met her in person and she had a child that was not his. Nevertheless, they talked often on the phone which included many fights.

During the meeting, Mr. Porter provided an example of Porter's recent instabilities with his mental health. Approximately week prior to the OIS, Porter pointed a butcher knife at a Sheriff's Deputy near Smith's Food and Drug. Porter wasn't arrested but he was taken to NNAMHS. Mr. Porter stated that there was an officer on scene who knew Porter and he believed that officer was the only reason Porter wasn't shot during the incident. When asked his opinion of why Porter had done that, Mr. Porter stated it was likely his girlfriend caused that situation as well.

H. Arteair Porter⁸

Porter was 22 years old. He suffered from mental illness. Throughout his lifetime, he was frequently incarcerated or institutionalized due, at least in part, to his mental health. As such, it was not uncommon that he encountered law enforcement.

On February 28, 2016 Porter called 911 and expressed feelings to kill someone. He informed RPD responding officers he had recently purchased a pistol and had plans to kill his cousin. Porter was not taking his medications and was taken to a mental health facility.

On February 20, 2016 Porter called 911 stating he felt like he might stab someone and was armed with a knife. A WCSO deputy responded and discovered Porter with a 12 inch bread knife in his hand. Porter was not taking his medications and was taken for a mental health evaluation.

⁸ The criminal and mental illness history of a person shot in an OIS is not relevant in all OIS reviews. However, in this case, involved officers were professionally aware of Porter and his history making such knowledge relevant to their decision-making. Additionally, this information is illustrative of Porter's intentions during the standoff leading up to the OIS.

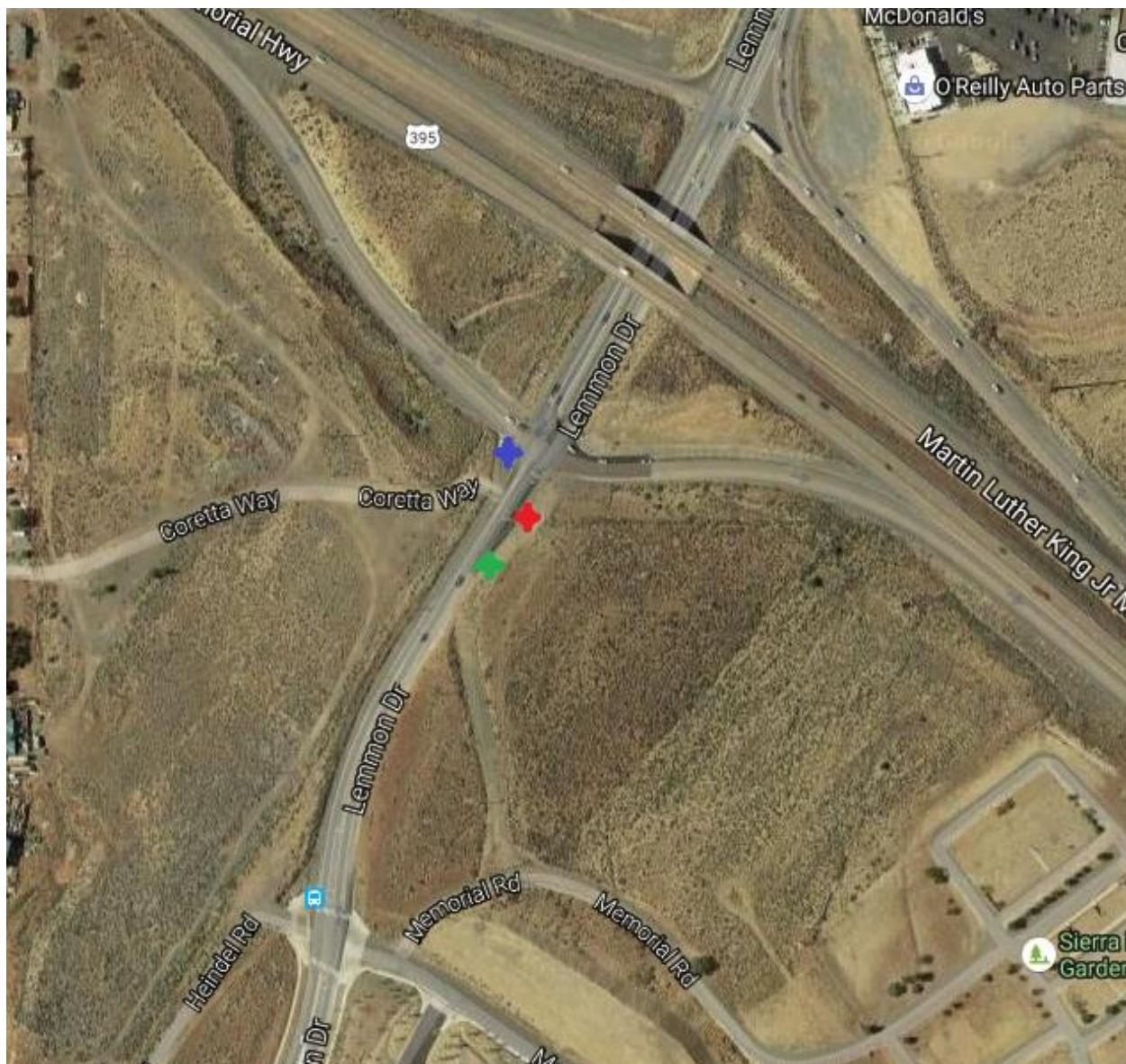
On July 1, 2015 SPD responded to a Sparks' caregiving group home and encountered Porter who was suicidal. Porter indicated that he needed to go to NNAMHS because he didn't want to do something violent. He was taken to NNAMHS.

In 2014, he had several encounters with law enforcement. In October, he was arrested at John Ascuaga's Nugget for trespassing where he was demanding to be taken to NNAMHS. In August, Porter was arrested for Destruction of Property after jumping on the hood of a vehicle and breaking its windows while yelling that he "was going to kill a cop." In April, he threatened to kill a 16 year old girl with a shotgun. He also threatened her Uncle. Additionally, he repeatedly called 911 when no emergency existed. He told responding officers that he called 911 because he wanted to go to jail. He further stated that he wanted to kill his girlfriend by beating her to death. He was arrested and transported to NNAMHS. During the transport he claimed that he had no problem killing or hurting anybody in order to go to jail.

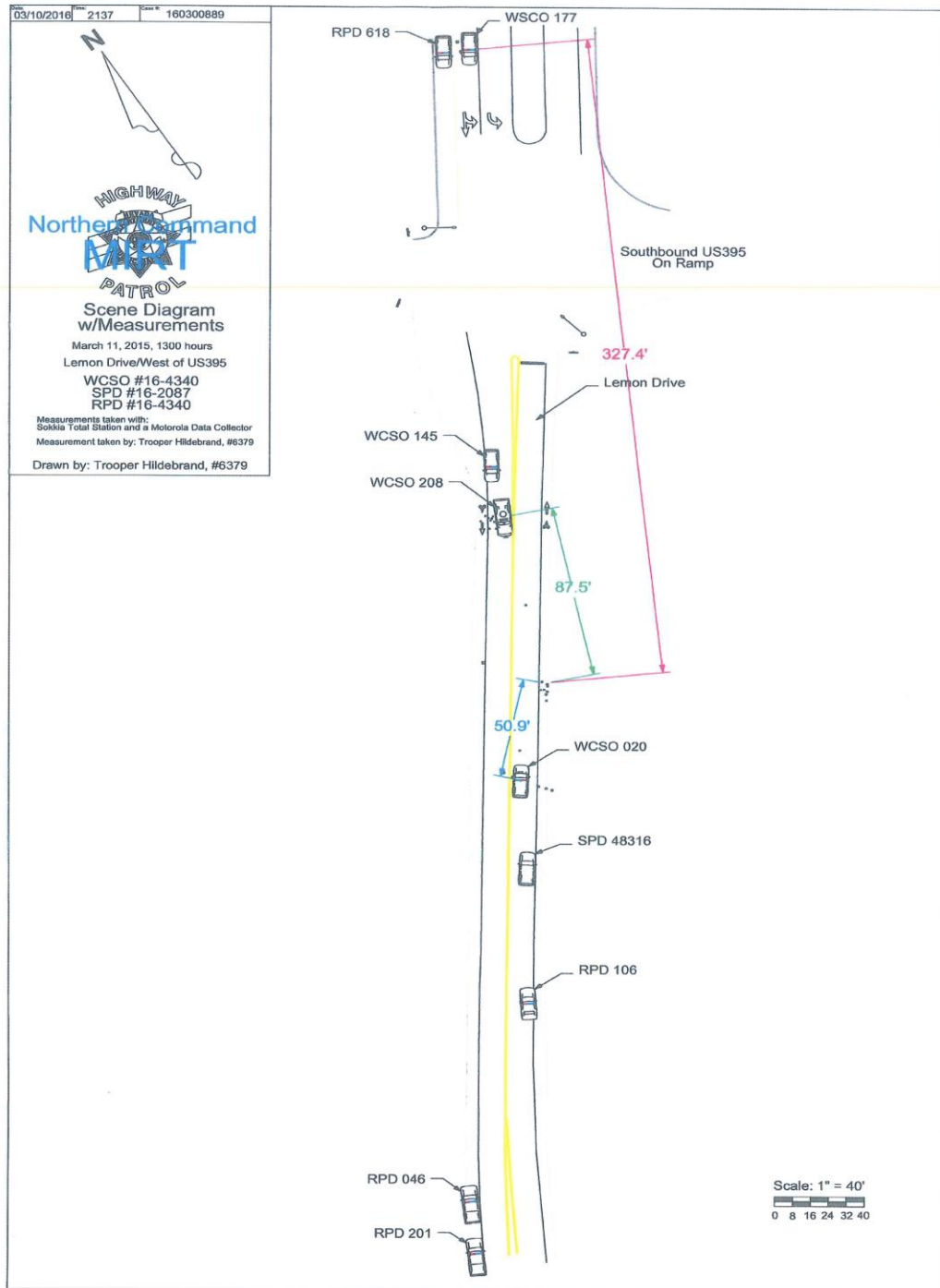
In 2013, he also had multiple encounters with law enforcement. In October, he was arrested for misuse of 911. Earlier that month, he was committed to a mental health facility by law enforcement after threatening to hurt somebody or commit some robberies. In May, he threw a rock through the glass entry door of the Sparks Municipal Courthouse. In March, he was again committed to a mental health facility after threatening to kill his family or break into a neighbor's house and hurt one of them.

II. PHYSICAL EVIDENCE

A. OIS Scene Aerial View



(This aerial provides a very general orientation of the location where the OIS occurred. The red star represents Porter's position. The blue star represents the SWAT vehicle's final position and the green star represents WCSO vehicle #020. The following image shows specific distances.)



The above scene diagram depicts the vehicles closest to Porter. Porter's position is reflected by a grouping of 8 dots in the approximate center of the diagram wherein each of the three listed measurements end.

Washoe County Sheriff vehicle 177 is a police-marked Chevrolet Tahoe. It was operated by WCSO Deputy Joe Rosa. RPD vehicle 618 is a police-marked Chevrolet Tahoe that was operated by RPD Officer Dan Parker. WCSO vehicle 145 is a police-marked K-9 Chevrolet Tahoe that was operated by WCSO Deputy Dennis Allen. WCSO vehicle 208 is the WCSO , or SWAT vehicle. WCSO vehicle 020 is a police-marked Chevrolet Tahoe that was operated by WCSO Deputy Grulli and occupied by WCSO Deputy Schuette. SPD vehicle 48316 is an unmarked white SPD SUV. It was initially occupied by RPD Officer Caprioli and SPD Officer Wilson. RPD vehicle 106 is a police-marked sedan that was utilized by RPD Officer Harding and Agent Baclayon. RPD vehicles 046 and 201 are police-marked patrol trucks associated to responding RPD Officers Hakin and Connelly.

B. Photographs



(This photograph depicts a view looking southwest on Lemmon Drive away from U.S. Route 395. Deputy Allen's K9 unit is behind the SWAT vehicle. In the distance, it shows WCSO vehicle #020. The items on the roadway in front of that vehicle including an orange bag generally represent Porter's position during the stand-off and subsequent medical treatment)



(This photograph depicts the SWAT vehicle and Deputy Allen's K9 vehicle)



(This photograph depicts a view looking northeast on Lemmon Drive towards U.S. Route 395. The first two RPD trucks are #046 and 201. Next are vehicles RPD #106, SPD #48316, and WCSO #020. Lastly shown is the SWAT vehicle)



(This photograph depicts the Daisy BB rifle or long gun that was possessed by Porter after the stock was damaged during the OIS)

C. Video

There were three types of videos that captured the incident involving Porter and the ultimate OIS. The first is from the RAVEN helicopter. The second is dash camera video taken from responding law enforcement vehicles. The last video was taken by local media who had responded to the scene. All videos are consistent with the witness accounts of the OIS.

1. RAVEN Helicopter Footage

Video captured from the RAVEN helicopter was primarily done through a Forward Looking Infrared Device (FLIR).⁹ The video is taken from an approximate altitude between 600 and 900 feet. The helicopter maintained an overhead circular pattern during the incident which affords an aerial view of Porter and the various law enforcement personnel and vehicles during the incident.

⁹ FLIR cameras use detection of infrared radiation, typically emitted from a heat source (thermal radiation), to create an image assembled for video output.



(This still shot from the FLIR video taken from the west side of Lemmon Drive from RAVEN depicts WCSO unit 020 with deputies Grulli and Schuette, SPD Officer Wilson, RPD Officers Caprioli and Harding, and Special Agent Baclayon. Porter is depicted in the center of the image)



(This still shot from the FLIR video taken from the southwest side of Lemmon Drive from RAVEN depicts WCSO vehicle 020, SPD vehicle 48316 behind it, and the WCSO SWAT vehicle in the top left corner)

2. Dash Camera Footage Washoe County Sheriff Vehicle 020

Washoe County Sheriff vehicle 020 occupied by deputies Grulli and Schuette was equipped with dash camera capabilities. This video provides a clear depiction of the entire interaction with Porter once he was located by law enforcement. WCSO vehicle 020 was the closest vehicle to Porter.

The video shows WCSO 020 traveling towards U.S. Route 395 from North Virginia Street on Lemmon Drive. It passes Memorial Drive and Porter is located standing in the dirt on the east shoulder. Once discovered, a spotlight is placed on Porter at 9:17:33 p.m. Other law enforcement vehicles staged for the set perimeter, including the SWAT vehicle, are scene to Porter's northwest.



Upon the spotlight being lit, Porter steps onto the roadway and immediately points the gun at the officers at 9:17:42 p.m. Porter then moves the gun to his right hand where it remains for the majority of the time leading up to the OIS. His right hand and right index finger are consistently in the trigger area of the gun. He also places his hood onto his head.



For the next approximate 19 minutes, Porter stands on the roadway neither facing the SWAT vehicle to his north or WCSO vehicle 020 to his southwest. Rather, he stands facing the west side of Lemmon Drive affording him the ability to watch both locations. Throughout that period of time, Porter is obviously agitated and engaging in dialogue with law enforcement. He is very animated often shrugging his shoulders. He frequently is moving his head and left hand. Also, he frequently is swinging the gun, in his right hand, up and down and left and right. During this time, he points the gun in the direction of law enforcement and U.S Route 395 over 15 times.



(This still shot from the dash camera video is representative of Porter's mannerisms during the conflict. It depicts one of many examples of his pointing the gun towards law enforcement and US-395)

At 9:36:56 p.m. he squares up his body to WCSO vehicle 020. He takes a prolonged look at the ground and then grabs the gun with both hands as one would to shoot a long gun. The right hand and index finger is still in the trigger area of the gun while the left hand is holding the handgrip area of the gun. He then manipulates the gun with his left hand consistent with cycling a shell in a shotgun from the magazine to the chamber. At 9:37:21 p.m. he raises the gun with the barrel pointed in the direction of WCSO vehicle 020. Shots are then fired and Porter is incapacitated.



3. Dash Camera Footage Washoe County Sheriff Vehicle 177

Video captured by WCSO vehicle 177 depicts a view from the northeast looking towards Porter. It depicts the SWAT vehicle and WCSO vehicle 145. It is taken from a much further distance than the video from WCSO vehicle 020.



(This still shot from the dash camera video of WCSO vehicle 177 depicts WCSO vehicle 145, the SWAT vehicle, and Porter standing in the spotlight just prior to the OIS)

4. Dash Camera Video Washoe County Sheriff Vehicle 145

Dash Camera video captured by WCSO vehicle 145 depicts a reverse angle of the discovery of Porter by the deputies in WCSO vehicle #020. In the video WCSO vehicle #145 along with the SWAT vehicle and other law enforcement vehicles are congregated near the U.S. Route 395 overpass at Lemmon Drive. This represents the time that law enforcement was still trying to locate Porter.

Upon the discovery, the video depicts the SWAT vehicle move west on Lemmon Drive to its final location. Soon thereafter, WCSO vehicle #145 with Deputy Allen and his K-9 moves behind the SWAT vehicle. From that point on, the video no longer provides a view of Porter. Rather, it depicts the officers at the back of the SWAT vehicle.



(This still shot from the dash camera video of WCSO vehicle 145 depicts the discovery of Porter by WCSO vehicle 020. He is standing to the left of the oncoming vehicle lights)



(This still shot from the dash camera video depicts the back of the SWAT vehicle and the driver's door of WCSO vehicle 020)

5. KRNV - News 4 Video Footage

A local news outlet responded to the Lemmon Drive/U.S. Route 395 area during the incident with Porter. They were able to take video of the OIS. The video was taken from Lemmon Drive east of U.S. Route 395. It depicts Porter with the gun, WCSO vehicle 020, SPD 48316 behind 020, the WCSO SWAT vehicle and WCSO vehicle 145.



(This still shot from the News 4 video depicts Porter with the gun in his right hand just prior to raising it towards law enforcement)



(This still shot from the News 4 video depicts Porter with the gun raised a second prior to the OIS)

D. Autopsy

An autopsy was conducted on Porter on March 11, 2016, at the Washoe County Medical Examiner's Office by Deputy Chief Medical Examiner Dr. Laura Knight. On April 26, 2016, Dr. Knight opined the following:

Based on consideration of the circumstances surrounding this death, reviews of available medical history, autopsy examination, and toxicological analysis, the death of Arteair Porter is ascribed to multiple gunshot wounds. The decedent was shot by members of law enforcement after he raised a long gun in their direction. The wounds on the body and the projectiles and fragments recovered are consistent with the decedent having been shot by both rifles and handguns. No soot or gunpowder stippling was around any of the wounds, and no grossly evident soot or gunpowder was observed on the clothing available for examination at the time of the autopsy. All of the wounds are therefore of indeterminate range of fire. Based on the

circumstances surrounding the death, as currently known, the manner of death is a homicide.

E. Countdown of Firearms Used

1. Washoe County Sheriff Deputy John Schuette

Deputy Schuette discharged a Glock 31C Austria 375 handgun. After the OIS, there was 1 Winchester 357 SIG cartridge in the chamber of the gun. The 15 round capacity magazine removed from the gun contained 12 Winchester 357 SIG cartridges.

2. Washoe County Sheriff Deputy Jason Grulli

Deputy Grulli also discharged a Glock 31C Austria 375 handgun. After the OIS, there was 1 Winchester 357 SIG cartridge in the chamber of the gun. The 15 round capacity magazine removed from the gun contained 14 Winchester 357 SIG cartridges.

3. Sparks Police Officer Edward Wilson

Officer Wilson discharged a PWS Model MK1, Cal. Multi rifle. After the OIS, there was 1 Speer 13 223 REM cartridge in the chamber of the gun. The 30 round capacity magazine removed from the gun contained 25 Speer 13 223 REM cartridges. Officer Wilson routinely loads his rifle magazines with 28 rounds

4. Reno Police Officer Chris Caprioli

Officer Caprioli discharged a Kimber Custom TLD/RL II handgun. After the OIS, there was 1 Winchester 45 Auto cartridge in the chamber of the gun. The 8 round capacity magazine removed from the gun contained 5 Winchester 45 Auto cartridges.

5. Reno Police Officer Michael Harding

Officer Harding discharged a Springfield Armory XDM-9 handgun. After the OIS, there was 1 WIN 9mm Luger cartridge in the chamber of the gun. The 19 round capacity magazine removed from the gun contained 10 WIN 9mm Luger cartridges.

6. Washoe County Sheriff Deputy David Dunham

Deputy Dunham discharged a Colt M4 Commando 5.56mm rifle. After the OIS, there was 1 Speer 15 223 REM cartridge in the chamber of the gun. The 30 round capacity magazine removed from the gun contained 18 Speer 15 223 REM cartridges. Deputy Dunham routinely loads his rifle magazines with 28 rounds.

7. Reno Police Officer Dan Parker

Officer Parker discharged a Remington Model 700 .308 rifle. After the OIS, there was 1 FC 308 Win cartridge in the chamber of the gun. The internal weapon magazine contained 3 additional FC 308 Win cartridges. Officer Parker originally loaded the weapon with 5 rounds of ammunition.

III. LEGAL PRINCIPLES

Homicide is the killing of another human being, either lawfully or unlawfully. Homicide includes murder and manslaughter, which are unlawful, and the acts of justifiable or excusable homicide which are lawful. The Washoe County Medical Examiner's Office has deemed the death of Porter 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 refined the analysis of self-defense and, by implication defense of others, in Runion v. State, 116 Nev. 1041 (2000). In Runion, the Court set forth sample legal instructions for consideration in reviewing self-defense cases as follows:

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

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

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

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

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

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

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

Id. 1051-52.

B. Justifiable Homicide by Public Officer

NRS 200.140 provides in relevant part that "Homicide is justifiable when committed by a public officer... when necessary to overcome actual resistance to the execution of the legal process, mandate or order of a court or officer, or in the discharge of a legal duty" and "When necessary... in attempting, by lawful ways or means, to apprehend or arrest a person" and/or "in protecting against an imminent threat to the life of a person".¹⁰

C. Use of Deadly Force to Effect Arrest

NRS 171.1455 provides in relevant part "If necessary to prevent escape, an officer may, after giving a warning, if feasible, use deadly force to effect the arrest of a person only if there is probable cause to believe that the person... Poses a threat of serious bodily harm to the officer or to others.

IV. ANALYSIS

This OIS investigation strongly suggests that on March 10, 2016 Porter wished to commit suicide at the hands of law enforcement. This is evidenced by multiple facts; Porter's calls to 911, his knowledge of responding officers with weapons drawn and his refusal to drop his gun, his requests for law enforcement to shoot him, and his ultimate decision to raise and aim his gun at nearby officers aiming their guns at him. He caused a prolonged and tense stand-off that ended tragically in spite of law

¹⁰ 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.

enforcement's significant efforts to resolve the conflict peacefully.

Porter brought law enforcement to him. His calls to 911 created an emergency situation because of the threats made to the innocent public and law enforcement. Naturally, these threats were not taken lightly resulting in substantial law enforcement response to Porter's location. Although armed with a BB gun rifle, Porter made it a point to tell the 911 operator that he was armed with a loaded, single barrel, 12 gauge shotgun of which the BB gun rifle resembled. Moreover, Porter told the RPD negotiator over the phone, and before he was located, "I have business to take care of" and "I'm going to shoot the next cop that drives by".

Within seconds of his discovery by law enforcement, Porter stepped onto the roadway and aimed his gun at Deputies Grulli and Schuette. Once they exited their car, the tense 19 minute stand-off ensued. During that time, numerous officers repeatedly asked and demanded Porter to drop his gun. He refused. Moreover, multiple officers spoke to him, offering help. A K-9 was removed from the scene because it was upsetting Porter. Officer Wilson, who had previously established a rapport with Porter having helped him before, identified himself personally by name and offered support and assistance if he would drop the gun. Although seemingly contemplated by Porter one time, he did not.

Throughout the verbal exchange with law enforcement during the 19 minute period, Porter made it clear he wished to die. He made multiple statements such as, "Just shoot me, just shoot me already, just let me kill myself" and "Just go on and do it, I don't want to live".

Consistent with law enforcement accounts, the videos of the ordeal paint a very clear picture of what transpired and law enforcement's efforts to help Porter. The videos also demonstrate the officer's exhibited notable restraint in not firing their guns until absolutely necessary. Throughout the 19 minute stand-off, Porter's gun is out. It is in his right hand with his finger on the trigger. He is frequently moving the gun in a left to right and up and down manner. During that time,

his gun is pointed in the general direction of law enforcement and U.S. Route 395 over 15 times.

At 9:36:56 p.m., Porter squared his body and shoulders to the 6 armed officers that were positioned at WCSO vehicle #020. They were only approximately 15 yards from Porter. After a momentary pause while staring at the ground, Porter took a shooter's position holding the gun with both hands as necessary to effectively aim and fire a long gun. He then began to raise the gun towards those officers. All law enforcement involved reasonably believed Porter was in possession of a lethal weapon.

In that moment, the 7 officers who fired their weapons were confronted by an imminent danger which supported an honest and reasonable belief and fear that they, or their fellow officers, were about to be killed or suffer great bodily injury. It was absolutely necessary under the circumstances for them to use, in self-defense and defense of others, force that might cause the death of Porter in order to avoid death or great bodily injury to themselves or others.

V. CONCLUSION

After reviewing the applicable law and all of the photographs, evidence, witness statements and reports submitted in this matter for review, the Washoe County District Attorney agrees with the Sparks Police Department that criminal charges are not warranted. The March 10, 2016 shooting death of Arteair Porter was done so in justified self-defense and defense of others. Absent new and compelling evidence to the contrary, this case is officially closed.