

OFFICE OF THE WASHOE COUNTY DISTRICT ATTORNEY

September 9, 2024



REPORT ON THE DECEMBER 9, 2020
OFFICER INVOLVED SHOOTING OF GINGER KRIVAC

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INTRODUCTION

On December 9, 2020, at approximately 23:31 hours, Sparks Police Department (“SPD”) dispatch received a 911 call regarding a suspicious subject. The reporting party, a woman, reported that she saw a woman waving a knife around, and cursing and yelling at people in the parking lot of Dotty's Casino (1144 Victorian Ave, Sparks). She also reported that the suspect was in a blue Mazda sedan.

The caller was later revealed to be Ginger Krivac (“Krivac”) calling 911 to provoke officers into using deadly force against her, i.e. to commit “suicide by cop.”

At 23:50 hours, Sparks Police Department Officer Bryan Yee (“Officer Yee”) and Officer Grant Phillips (“Officer Phillips”) drove to the area of Dotty's Casino in search of the blue Mazda. The Officers each drove a marked “Sparks Police” patrol vehicle.

Officer Yee saw a blue Mazda sedan driving eastbound on Victorian Avenue that matched the description of the call. The vehicle was speeding; Officer Yee estimated the vehicle was travelling 40 mph in a marked 25 mph zone. Officer Yee made a U-turn and began following the Mazda. Officer Phillips followed behind Officer Yee.

The vehicle turned north onto Pyramid Highway. Officer Yee saw the Mazda run the red traffic light at Prater Way. In response, Officer Yee turned on his emergency lights and siren to conduct a traffic stop. Officer Phillips also turned on his emergency lights. The vehicle did not stop. Instead, it continued northbound on Pyramid Highway in disregard of the activated emergency lights and siren. The Mazda increased its speed and Officer Yee continued in pursuit. The vehicle continued north on Pyramid Highway, passing Greenbrae Drive. Officer Yee was able to broadcast the vehicle’s Nevada license plate, 966K05. Officer Phillips followed the pursuit from behind Officer Yee. The pursuit continued as the Mazda sped north on Pyramid Highway.

Officer Yee decided to abandon the vehicle pursuit. He turned off his emergency lights and siren and slowed his vehicle at the intersection of York Way and Pyramid Highway. He broadcast to other officers that he was terminating the pursuit. In turn, Officer Phillips turned off his emergency lights. Officer Yee’s emergency lights were activated from Prater Way to York Way for a total of 33 seconds.

The Mazda, which was in the left lane, slowed as it approached the red light at Pyramid Highway. When the light turned green, the Mazda abruptly stopped directly on a crosswalk. Officer Yee stopped his vehicle behind the Mazda. Officer Phillips quickly braked, then stopped his vehicle behind Officer Yee.

The driver's door of the Mazda suddenly opened. Krivac stepped from the vehicle and yelled, “Come on, come on!” Officer Yee put his vehicle in park and exited his vehicle. Krivac appeared to be holding a firearm. Officer Yee later described the weapon as appearing to be an “AR-15 pistol” and having a “long barrel.” Officer Yee drew his handgun and placed Krivac at gunpoint. Officer Yee broadcast that he was holding “one at gunpoint.”

Krivac held the rifle to her shoulder and started advancing, or charging, towards Officer Yee. Officer Phillips jumped out of his vehicle and placed Krivac at gunpoint. Officer Phillips saw Krivac holding a rifle with a “long barrel.”

Officer Yee yelled for Krivac to “STOP!” Krivac continued to aggressively advance on Officer Yee with the rifle raised. Fearing that Krivac was going to shoot him or Officer Phillips, Officer Yee fired at Krivac. Officer Phillips also believed Krivac was going to shoot him or Officer Yee, so he fired at Krivac.

Krivac immediately fell to the ground, dropping the rifle. Officers Yee and Phillips checked on each other. Then they approached Krivac and began medical aid. Backup officers quickly arrived and took over first aid. During this process the officers first learned Krivac’s identity.

The rifle that Krivac drew on the officers was determined to be a black Spyder paintball gun. The paintball gun was missing an air tank, a hopper, and paintballs. The paintball design included a portion to look like a rifle magazine. An investigating detective described the rifle as appearing “consistent with a real rifle.”

Krivac was transported to Renown hospital where she was treated for multiple gunshot wounds, including to her chest, abdomen, right thigh, right arm, and left hand. When medical staff asked Krivac what had happened, she responded that she “just could not go on.” Krivac survived her injuries.

Consistent with the regionally adopted Officer Involved Shooting (“OIS”) Protocol, Reno Police Department (“RPD”) led the investigation into the shooting of Krivac. The Washoe County Sheriff’s Office (“WCSO”) provided secondary investigative support, and the Washoe County Crime Laboratory (“WCCL”) provided forensic services. The investigation included interviews with witnesses, involved officers, scene photographs, collection of evidence, a review of relevant medical records, a review of video evidence, and the forensic testing of collected evidence.

All final and completed OIS investigative reports, along with FIS forensic reports, photographs, BWC footage and recorded interviews were subsequently submitted to the Washoe County District Attorney’s Office for review on September 10, 2023. No criminal charges were requested by RPD for Officers Yee or Phillips.

Prior to the OIS case submittal, a criminal case against Krivac was submitted to this Office for prosecution. To ensure the integrity of this criminal case, and consistent with this Office’s common practice, the OIS review was held in abeyance pending the outcome of her criminal case. Ginger Krivac was charged with Resist, Delay, or Obstruct a Public Officer With the Use of a Dangerous Weapon, a felony. On March 28, 2022, Krivac pleaded guilty to the offense. On June 9, 2022, the Honorable Barry Breslow sentenced Krivac to probation with an underlying sentence of 19-48 months.

The District Attorney's Office is tasked with reviewing the shooting of Krivac by SPD Officers Yee and Phillips in accordance with Nevada law. This evaluation included reviewing hundreds of pages of reports and documents which included interviews of police and civilian witnesses, photographs, BWC footage, 911 calls, video surveillance 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 Krivac by Officer Yee and Officer Phillips was justified and not a criminal act.

I. STATEMENT OF FACTS¹

A. 911 Calls

Krivac reported a false emergency at 23:31:36 hours on December 9, 2020. She claimed that someone was making threats, stating “I’m at Dotty’s on Victorian and there’s a little blue car there and the person’s acting very distraught and, like, threatening people.” She claimed to be calling from the area of the Galaxy movie theater.

Krivac said the suspect’s car “looked like a Mazda...a four door, little.” When the dispatcher asked if the person was by themselves, Krivac answered “yes.” Krivac then told the dispatcher that she thought the person had a knife, and that the person was waving it in the air. Krivac identified the suspect only as “a female.” The dispatcher asked if Krivac “knew the person’s name”, to which Krivac responded “no.” Krivac went on to describe the fictitious suspect as white, in her 40’s, 5 foot 6 inches tall, thin and wearing a black or dark colored robe.

The dispatcher asked if the suspect was intoxicated, to which Krivac responded, “Something, she’s something.” The dispatcher clarified whether the suspect was either on drugs or drinking and Krivac stated “She’s something, I don’t know what’s wrong with her.”

Krivac went on to report that the “person is waving something around, I’m not sure, she kind of went by real fast.” The dispatcher then asked whether the suspect was yelling at anyone specifically or whether it was more general. Krivac responded, “There’s people around, I don’t know if she knew them.”

Krivac told the dispatcher that her name is “Ginger Krivac²” (‘Kree-vac’). Finally, the dispatcher asked if Krivac was walking by or driving by, to which Krivac responded “driving.” She then gave the dispatcher her phone number.

B. Witness Accounts

1. Officer Yee

Officer Yee was interviewed at the Sparks Police station on December 10th beginning at 0414 hours. The interview was conducted by Reno Police Department (“RPD”) Detective P. Blas (“Detective Blas”), RPD Detective C. Caprioli (“Detective Caprioli”), and WCSO Detective S. Brady (“Detective Brady”). A summary of Officer Yee’s statement follows.

Officer Yee has been a police officer for 12 years and is assigned to the patrol division working the graveyard shift from 4:00 p.m. to 4:00 a.m.

¹ The Statement of Facts is a synopsis of witness statements, body worn cameras, photographs, police reports, and forensic reports.

² Dispatcher logged the caller as “Ginger Prevat”.

On December 9th he was dressed in a patrol uniform that included clearly visible badges, insignia, and lettering designating him as a Sparks police officer. He drove a Chevy Tahoe patrol vehicle with clearly marked badging, insignia and "Police, City of Sparks" and "Sparks Police" lettering. He wore his department issued body worn camera (hereinafter "BWC"). The BWC was activated and recorded during this incident.

During his duties, Officer Yee noticed a call for service at Victorian Avenue near Dotty's Casino (hereinafter "Dotty's") for a subject waving a knife. Given the nature of the call and the reported potential for escalation, Officer Yee assigned himself to the call. Officer Phillips then assigned himself to the call as cover officer for Officer Yee.

As Officer Yee arrived in the area, he noticed a blue sedan matching the dispatch description near Pyramid Highway and Victorian Avenue. The vehicle was driving 40 to 50 miles per hour in a posted 25 mile per hour zone. After the vehicle passed him, Officer Yee made a U-turn.

He saw that the car, later identified as a blue Mazda sedan bearing Nevada plate 966K05, had made a left turn onto northbound Pyramid Highway. Officer Yee caught up to the vehicle and turned on his emergency lights to signal the vehicle to stop. The Mazda did not stop; instead, it continued speeding northbound and drove through a red light at Prater Way.

Officer Yee decided to terminate the pursuit, i.e. abandon his attempt to stop the vehicle. Officer Yee stated he terminated the pursuit because the driver had committed only minor traffic infractions, and he did not want to risk injury to the public or to the driver of the Mazda. He turned off his emergency lights and resumed normal speed as he reached York Way.

He continued driving towards the intersection of Pyramid Highway and McCarran Boulevard. He considered making a U-turn but was prevented by a raised center divider. As a result, he was still travelling in the same direction as the Mazda, but not in pursuit. He planned to make a U-turn at McCarran and drive south, in the opposite direction of the Mazda.

The Mazda abruptly stopped on a crosswalk at McCarran Boulevard, "right in the middle of the intersection." Officer Yee initially thought that the driver had decided to submit to the traffic stop, so he turned his emergency police lights on and opened his door to exit his vehicle.

Officer Yee saw the driver exit her vehicle. Officer Yee responded by hurrying out of his vehicle. Krivac had something in her hands. Krivac turned towards Officer Yee and yelled "Let's do this!" Krivac held what looked "like an AR-15 pistol...it had a long barrel and um... she started walking towards me."

Officer Yee drew his gun. Officer Yee stated that:

“When she said, “Let’s do this,” and I saw the gun in her hand, I thought she was getting ready to present the weapon towards us and just basically start... start firing at us so I just immediately drew my gun out and started firing at her before she was able to get any rounds off at us.”

As Krivac advanced on Officer Yee, he felt “that she was ready to get in a shootout...[to] shoot at me and my partner.” He fired at Krivac because “I didn’t want my partner or myself to get shot.”

Officer Yee stated he did not have time to tell Krivac to put the weapon down³. Officer Yee fired at Krivac, knocking her to the ground. He believed he had fired four of five times.

For the first time, Officer Yee noticed that Officer Phillips was standing next to him. He described that he and Officer Phillips then approached Krivac and rendered medical aid to Krivac. Officer Yee saw a gunshot wound on Krivac’s upper chest.

Once backup officers arrived, he was then removed from further involvement in the case.

2. Officer Phillips

Officer Phillips was interviewed on December 10th at the Sparks Police Department beginning at 0450 hours by Detective Blas, Detective Caprioli, and Detective Digesti. His interview is summarized below.

Officer Phillips is a patrol officer assigned to the graveyard shift. He became a police officer in June 2019 and was assigned to the patrol division in January 2020. On December 9th he was dressed in a patrol uniform including clearly visible badges, insignia, and lettering designating him as a police officer.

Officer Phillips drove a Chevy Tahoe patrol vehicle with clearly marked badging, insignia and lettering (“Police, City of Sparks” and “Sparks Police”). His department issued BWC was activated and recording during this incident.

Officer Phillips first became involved in this incident when he overheard Sgt. E. Hurley’s (“Sgt. Hurley”) radio traffic about the call. Sgt. Hurley was seeking clarification from dispatchers about whether the suspect was actively threatening the public with a knife or simply waving the knife within a car. Dispatch relayed that the suspect was described as waving a knife outside of a car.

³ Officer Yee is heard commanding Krivac to “Stop!” on BWC footage.

Officer Phillips heard Officer Yee assign himself to the call. Officer Phillips assigned himself as backup to Officer Yee. They drove onto Victorian from Prater, Officer Yee followed by Officer Phillips. Officer Phillips heard Officer Yee confirming with dispatch that the vehicle in question was a blue Mazda. Both patrol vehicles then executed U-turns. The blue Mazda was now driving northbound on Pyramid Highway. Both officers began to follow the Mazda. Neither Officer had activated their emergency lights. Sgt. Hurley radioed Officer Yee that the officers had little information about whether a crime had been committed.

Just then the Mazda ran a red light. Officer Yee broadcast this information to dispatch, the vehicle “just ran a red light.” The Mazda continued northbound on Pyramid Highway. At Greenbrae Drive, Officer Yee and Officer Phillips each activated their emergency lights and sirens to signal the vehicle to stop.

Officer Phillips saw Officer Yee catch up to the Mazda. Officer Yee then broadcast the vehicle’s license plate. Officer Phillips noticed that the next three traffic lights approaching McCarran were green. Officer Phillips heard Officer Yee broadcast something like “[we’re] approaching McCarran north on Pyramid, uh... we’re terminating.”

Both officers terminated their pursuit by turning off their lights and sirens. Officer Phillips described that under SPD policy, “If we terminate a pursuit, we find a way to turn around...we weren’t going to follow.” Officer Phillips planned “to go the other direction.”

Officer Phillips saw that the light was green light at McCarran. Instead of driving through the green light, Officer Yee stopped at the intersection. He stopped so abruptly that Officer Phillips had to “stomp on the brakes” to avoid hitting Officer Yee’s vehicle.

Officer Yee then exited his vehicle and stood near his open door. Officer Phillips also exited his vehicle. He saw that Officer Yee had his pistol drawn. Officer Phillips then drew his pistol and walked to Officer Yee’s position.

Officer Phillips saw Krivac advancing on Officer Yee with a weapon that looked like “a long gun with a barrel.” Krivac was screaming at Officer Yee and raising the weapon towards Officer Yee.

Officer Phillips heard Officer Yee fire. Officer Phillips also fired at Krivac. He fired because Krivac was approaching the officers “with a deadly weapon in her right hand.” Officer Phillips stated that he was in fear for his life and the life of Officer Yee. Officer Phillips described being in “shock of fear” due to Krivac’s actions.

Within 30 seconds to a minute, Sgt. Hurley arrived on scene. Officer Yee and Officer Phillips approached Krivac and administered medical aid. Officer Yee assessed her torso while Officer Phillips tended to her lower body. He applied a tourniquet above a gunshot wound to Krivac’s upper thigh. Backup officers and medical personnel arrived

on scene and took over medical care of Krivac. Officer Phillips was then removed from further involvement at the scene.

3. Sergeant Eron Hurley

Sgt. Hurley was interviewed by Det. Digesti on December 10th at the Sparks Police Department beginning at 0314 hours. A summary of his interview follows.

Sgt. Hurley works as a patrol sergeant and has been with SPD for over sixteen years. He is assigned to the graveyard shift. On December 10th, Sgt. Hurley was dressed in a typical patrol uniform driving a marked police vehicle. Sgt. Hurley recalled that he saw information about the call appear on his patrol computer. He radioed dispatch seeking clarification whether anyone was in active danger. Sgt. Hurley recalled that dispatch reported that it did not appear that anyone was in immediate danger.

A few minutes later Officer Yee and Officer Phillips assigned themselves to the call and drove towards Dotty's. Sgt. Hurley then heard Officer Yee broadcast that he saw the vehicle travelling northbound on Pyramid Highway. Sgt. Hurley radioed Officer Yee reminding him to be cautious and not to stop the vehicle unless there was a legal basis to do so. Meanwhile, Sgt. Hurley drove towards Dotty's to see if there was any further issue there.

Officer Yee radioed that the vehicle had run a red light. Then he broadcast the vehicle's license plate. Next Officer Yee broadcast that the vehicle was not stopping on Officer Yee's signal. Sgt. Hurley then heard Officer Yee broadcast that he was "terminating" the pursuit.

Sgt. Hurley then heard "shots fired!" over the radio. He drove to Pyramid and McCarran. When he arrived, the blue Mazda was in the intersection. Officer Yee and Officer Phillips still had their weapons drawn. Sgt. Hurley went to the officers and directed them to administer medical aid to Krivac.

Near the suspect's feet, Sgt. Hurley saw what appeared to be a black AR-15 style rifle. Sgt. Hurley only realized the weapon was an airsoft rifle when he stood within 3 to 4 feet of it.

"Yeah, it looked like an actual gun, you know, shape, black... all black. There was no orange tip on it. There was no funky coloring. It was straight black, and it looks like a rifle laying on the ground."

Once backup officers arrived, Officer Yee and Officer Phillips were removed from further involvement.

4. Krivac's family

Krivac's daughter, Alyssa Abrego, was interviewed by Det. Caprioli on December 15th. Ms. Abrego stated that she keeps her mother at arms' length due to Krivac's drug use, specifically methamphetamine use. Ms. Abrego stated that her mother had been diagnosed with bipolar disorder and possibly depression. Abrego confirmed that Krivac's phone number is the same number that Krivac used to dial 911 on December 9th. She also identified her mother's voice on a recording of the call.

Courtney McGregor, also Krivac's daughter, was interviewed by Det. Blas on December 15th. Ms. McGregor also described her mother as having a history of substance abuse and mental illness.

Krivac's brother, Adam McGregor, was interviewed by Det. Joseph Aceves and Det. Jason Daniels. Mr. Gregor said that he suspected that Krivac had recently relapsed and started using methamphetamine again. He further explained that Krivac had a history of mental health issues and a prior suicide attempt.

II. PHYSICAL EVIDENCE

A. Countdown of Officer's Firearms

1. Officer Yee

On December 10th at 0201 hours WCSO Forensic Science Division (hereinafter "FSD") Investigators Elvira Koeder and Elise LaRocco documented the equipment worn and used by Officers Yee and Phillips. Det. Blas, Det. Caprioli, Det. Brady, and Det. Hubbel were also present.

Investigators photographed the officers in full uniform and documented the condition of their firearms, ammunition, BWCs, and other equipment.

Officer Yee's duty weapon is a STI Staccato P 9mm semiautomatic pistol. The firearm is equipped with Surefire brand X300 Ultra model flashlight and Trijicon RMR sights. Officer Yee is issued Speer ammunition which bears a "Speer 9mm Luger" headstamp.

Officer Yee carries a total of three magazines: one in the firearm and two spares. Officer Yee carries a total of 61 rounds in two 21-round magazines, a 17-round magazine, and one chambered round.

A round was in the chamber of the firearm. The magazine in the firearm contained 21 rounds. A second magazine, (labeled "1" by FSD personnel) contained 21 rounds. The third magazine (labeled "2" by FSD personnel) contained 11 rounds.

Officer Yee explained that after firing at Krivac, he performed a tactical reload, by removing a partially spent magazine and replacing it with a full magazine.

A total of fifty-four rounds were recovered from Officer Yee. Officer Yee discharged his duty weapon seven times.

2. Officer Phillips

Officer Phillips' duty weapon is a Glock 17 Gen 4 9 mm semiautomatic pistol. The firearm is equipped with a Streamlight brand TLR 1-HL model flashlight. Officer Phillips is issued Speer ammunition which bears a "Speer 9mm Luger" headstamp.

Officer Phillips carries a total of three 17-round magazines, one in his firearm and two spare magazines on his vest. He carried a total of 52 rounds.

Officer Phillips was asked if he manipulated his firearm or magazines after discharging it and he stated "yes", he performed a tactical reload after firing his weapon on scene and the original magazine that was in his firearm at the beginning of shift was now in the magazine pouch carrier on his vest.

A round was in the chamber of the firearm. The magazine in the firearm contained 18 rounds. A second magazine contained (labeled "1" by FSD personnel) contained 15 rounds. A third magazine labeled (labeled "2" by FSD personnel) contained 16 rounds.

A total of fifty rounds were recovered from Officer Phillips. Officer Phillips discharged his duty weapon twice.

B. Body Worn Cameras (BWCs)

The body worn cameras of Officer Yee, Officer Phillips, and Sgt. Hurley were recovered during the investigation.

1. Officer Yee

Officer Yee's BWC begins at 23:53:02⁴ hours and depicts Officer Yee driving his patrol vehicle. As a result, the first portion of the video shows the interior of Officer Yee's vehicle from chest level.

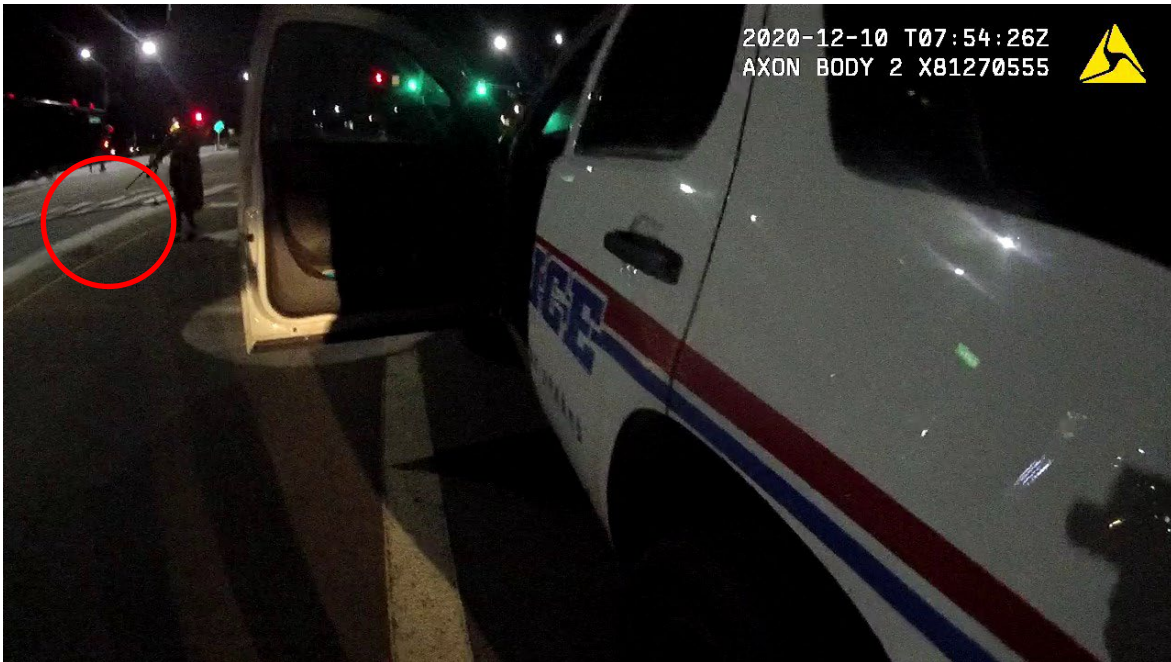
At 23:53:49 hours Officer Yee is heard broadcasting the license plate of the suspect vehicle, 966K05. At 23:53:55 hours he announces that "it's not stopping" and that he's "going to terminate" the pursuit.

At 23:54:17 hours Officer Yee suddenly places the vehicle in "park" and opens his door. As he steps from his vehicle, Krivac yells, "come on, come on".

Once out of his vehicle, Officer Yee draws his pistol and raises it at Krivac. Krivac is advancing towards Officer Yee with the rifle held to her shoulder. Officer Yee broadcasts "I have one at gunpoint." Krivac again yells "come on" and advances on Officer Yee. Officer Yee orders Krivac to "stop!" Krivac continues to advance on Officer Yee and starts screaming.

⁴ The time stamp reflects universal coordinated time (UTC) and is converted to local time in this report for purposes of clarity.

As Krivac continues to advance on Officer Yee, he fires seven rounds. Krivac falls to the ground. Officer Yee immediately radios “shots fired, shots fired!”.



Krivac holding a paintball gun.



Detail: paintball gun held by Krivac.

Officer Yee quickly asks Officer Phillips if he is okay, then tells him to wait before approaching Krivac. Officer Phillips then shines a flashlight towards Krivac, which illuminates the weapon.



Paintball gun illuminated by Officer Phillips.

Officer Yee then tells Officer Phillips that he is going to do a tactical reload. Officer Yee completes the reload and begins walking towards Krivac. Responding to radio traffic, Officer Yee radios that the officers are in the north bound turn lane at Pyramid and McCarran.

The officers then each don latex gloves. Sgt. Hurley arrives on scene at 23:56:38 hours. Sgt. Hurley immediately begins coordinating medical aid for Krivac. Upon arrival of backup officers, Officer Yee is removed from further involvement at the scene.

2. Officer Phillips

Officer Phillips' BWC begins at 23:53:02 hours. Radio traffic, including Officer Yee's announcement that he is going to terminate the pursuit, can be clearly heard on the recording. Officer Phillips then broadcasts that the vehicle has run two red lights and the officers are approaching McCarran.

As Officer Phillips arrives at the intersection, he suddenly stops his vehicle, puts the vehicle in park, and steps out of the vehicle. Krivac is seen advancing on Officer Yee and screaming. Officer Phillips draws his pistol and points it at Krivac. Both officers then fired at Krivac.

After the shooting stops, Officer Phillips walks up to Officer Yee's position. The Officers then ask each other if they are okay. Officer Yee announces that he is going to do a tactical reload. Afterwards, Officer Phillips does a tactical reload of his own, during which he announces that he fired two rounds. As Officer Phillips covers Krivac, the rifle is clearly visible. When Officer Phillips approaches Krivac, he steps around the rifle, advising Officer Yee that "the gun's behind me, the gun's behind me."



Paintball Rifle visible as Officer Phillips maintains cover.



Detail: paintball rifle

C. Dash Camera

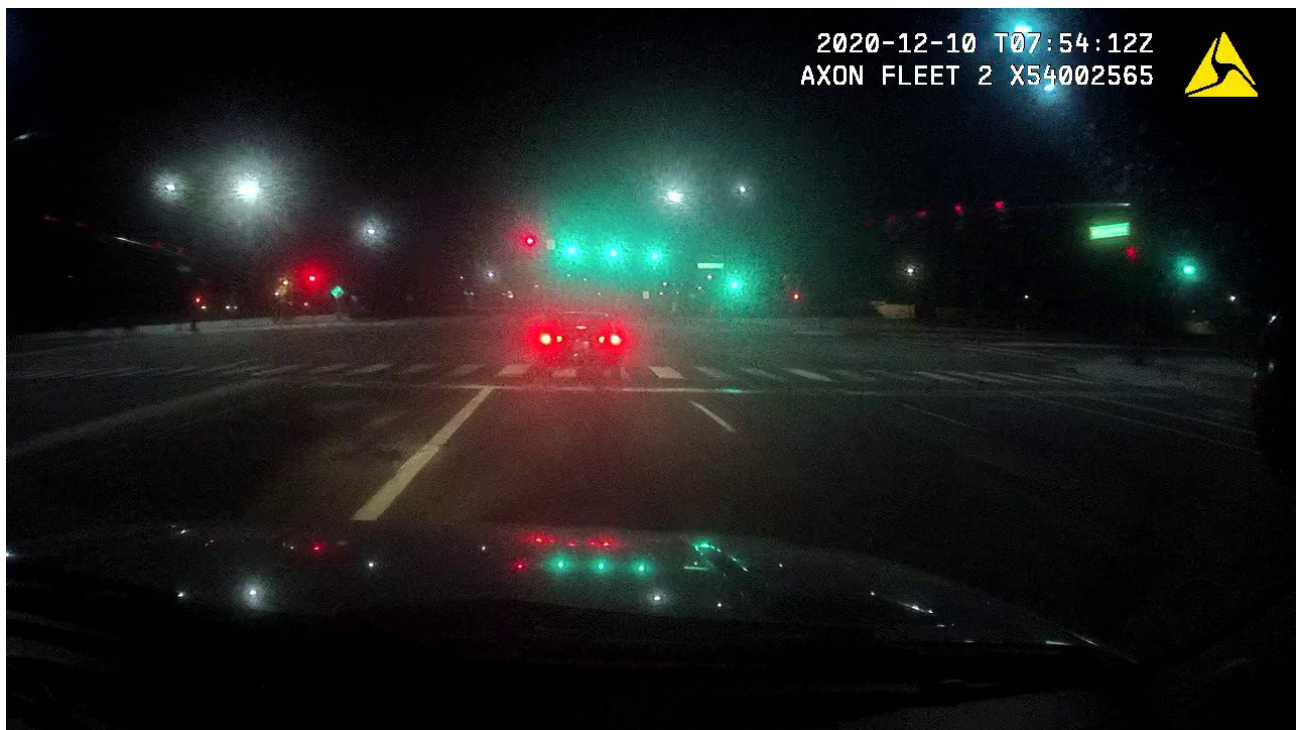
Dash cameras from the patrol vehicles of Officer Yee and Officer Phillips were recovered during the investigation.

1. Officer Yee

Footage from Officer Yee's dash camera begins at 23:53:03 hours. He is driving northbound on Pyramid Highway approaching Oddie Blvd. At Greenbrae Boulevard, Krivac's vehicle stops at the red light. As Officer Yee slows at the intersection, Krivac suddenly runs the red light.

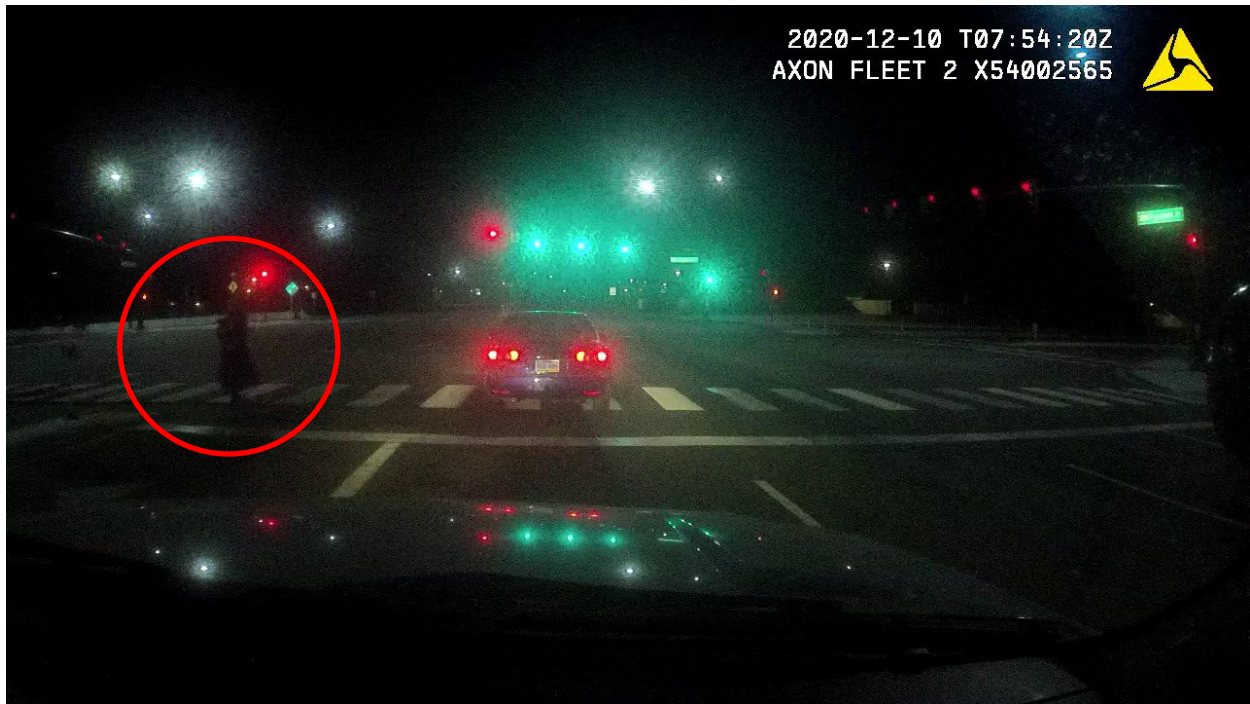
Officer Yee turns on his emergency lights and follows Krivac northbound on McCarran. Thirty seconds later, at York Way, Officer Yee can be heard broadcasting that he is terminating the pursuit. At Roberta Lane, Officer Yee turns off his overhead flashing lights and slows his vehicle.

As Krivac approaches the McCarran intersection, she is in a lane to travel straight. There is no traffic in front of her. The light is initially red, but as her vehicle approaches the intersection it turns green. Instead of proceeding on the green light, Krivac stops her vehicle on the crosswalk.

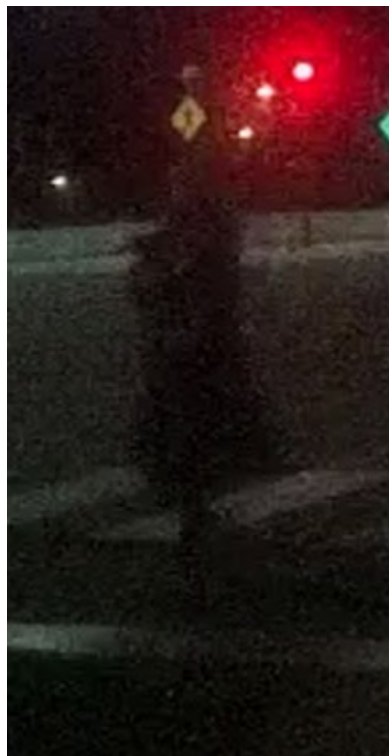


Krivac's vehicle stopped at a green light, McCarran Blvd.

The driver's door immediately opens and Krivac steps from the vehicle. The rifle is visible in her hands as she exits. Krivac turns towards Officer Yee's vehicle and shouts, "come on, come on" and advances towards Officer Yee, raising the rifle to her shoulder as she advances. Officer Yee announces that he has Krivac at gunpoint.



Krivac rushes Officer Yee.



Detail Krivac rushes Officer Yee.

Krivac continues advancing on Officer Yee with the weapon held to her shoulder.

Officer Yee orders Krivac to stop. Ignoring the order, Krivac rushes Officer Yee, screaming. Seven distinct gunshots are heard as both officers fire at Krivac. Krivac falls to the ground and drops the rifle.

The officers then coordinate their approach to Krivac and begin rendering medical aid.

2. Officer Phillips

Footage from Officer's Phillips' dash camera begins at 23:53:03 hours. Officer Phillips follows Officer Yee on northbound Pyramid Hwy. Of note, Officer Yee's overhead lights are activated for 33 seconds, from Greenbrae Drive to Roberta Lane.



Officer Yee turns off his emergency lights at Pyramid Highway at Roberta Lane.

Officer Phillips stops very close to Officer Yee's vehicle. As a result, the view from the dash cam does not capture Krivac's actions.

D. Forensic Processing

1. Pyramid Highway at McCarran Boulevard

The shooting scene was processed by Criminalists Shaun Braly, Elise LaRocco, and Elvira Koeder of the Washoe County Sheriff's Forensic Science Division with the assistance of RPD Detective Ben Rhodes and WCSO Detectives Brian Atkinson and Mike Alamaraz.

The shooting scene was located in the #1, or northbound travel, lane of Pyramid Highway at McCarran Boulevard. From north to south, three vehicles were located in the travel lane: Krivac's Mazda 6, Officer Yee's Sparks Police patrol vehicle #2205, followed by Officer Phillips' Sparks Police patrol vehicle #2209.



Overview of scene, Pyramid Highway looking north.

Two “Speer 9mm Luger” fired cartridge cases were located at placards 2 and 3 in the roadway near the open driver door of Officer Phillips’ patrol vehicle.



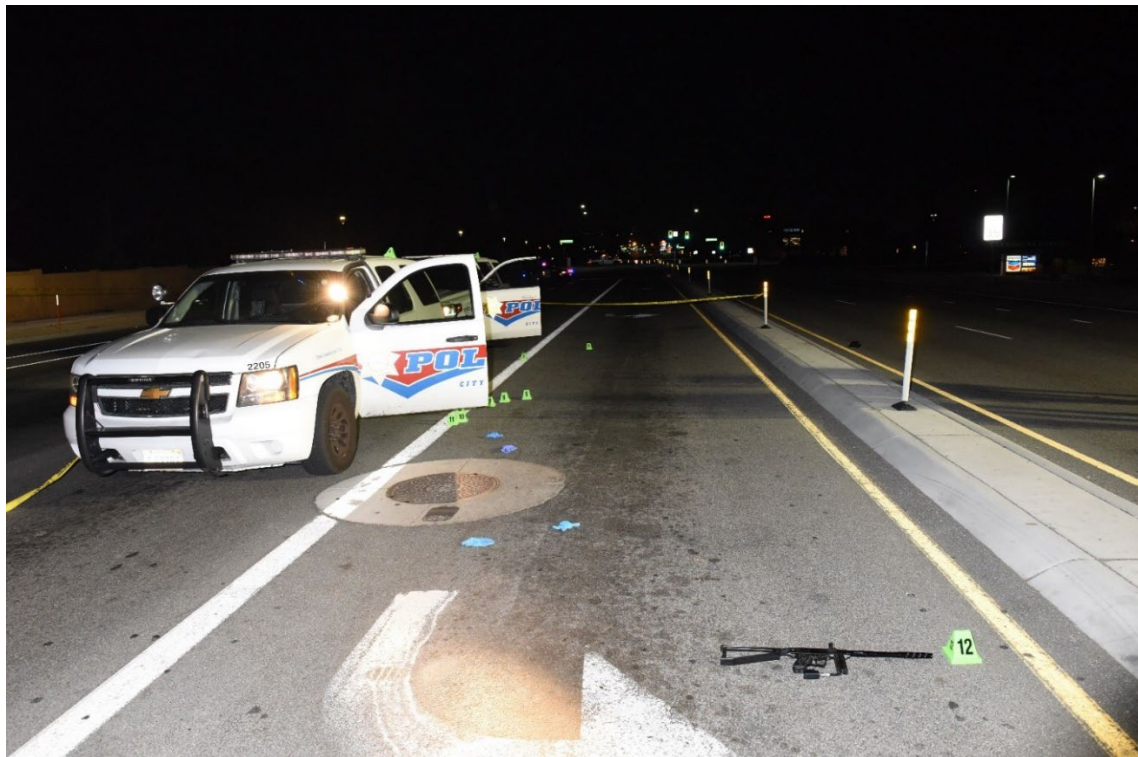
Fired “Speer 9mm Luger” cartridge cases at placard 2 and 3 at Officer Phillips’ patrol vehicle.

Seven “Speer 9mm Luger” cartridge cases were located in the roadway near the open driver door of Officer Yee’s patrol vehicle. The cartridge cases were marked as placards 5-11.



Seven “Speer 9mm Luger” fired cartridge cases in roadway near Officer Yee’s patrol vehicle.

A black "Spyder" brand, model MR1 paintball gun with serial number 0105196 was located in the roadway northwest of Officer Yee’s patrol vehicle and marked as placard 12. The paintball rifle was noted to have a fake magazine design and was missing a CO2 canister and a hopper. Det. Rhodes noted that from a distance the rifle appeared “consistent with a real rifle.”



“Spyder” paintball gun in roadway near Officer Yee’s patrol vehicle.



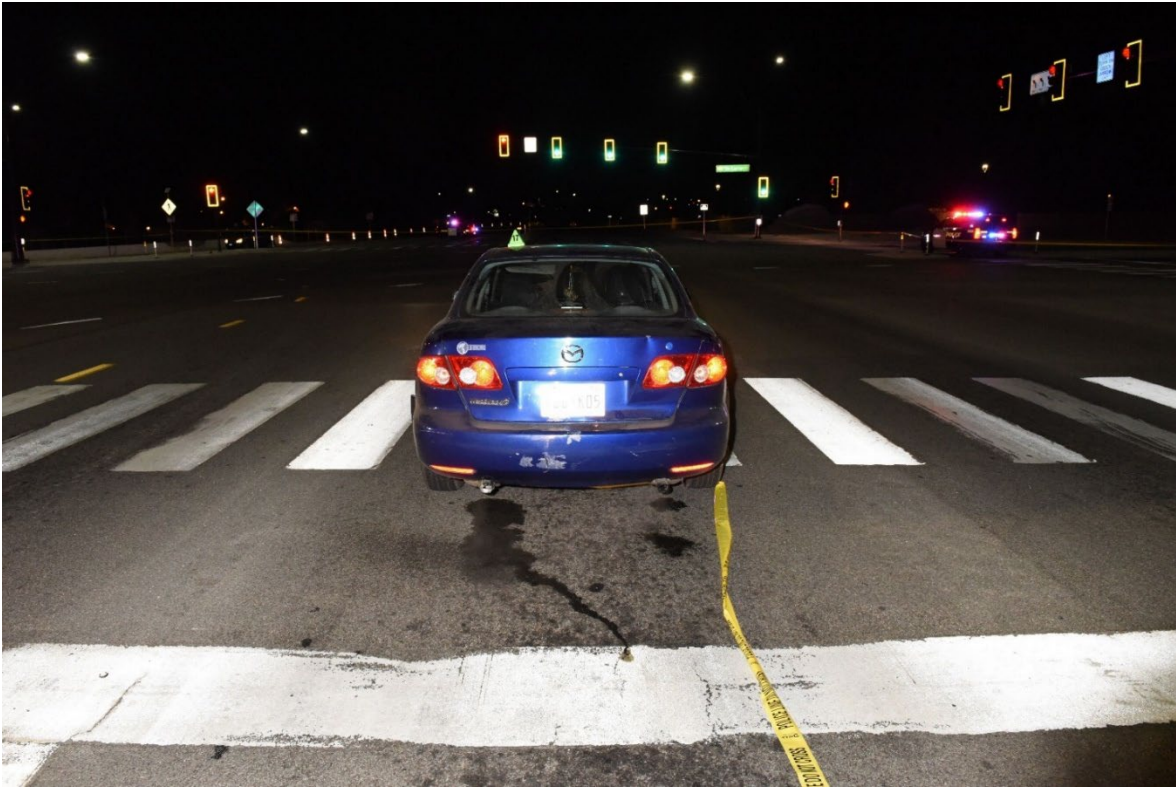
“Spyder” paintball gun at placard 12.

A pile of clothing and evidence of medical intervention was located to the north of the rifle. Two black shoes were marked as placards 13 and 14. A black and grey robe, a beige sweater, a black long sleeve shirt, and a black bra were located at placard 15. An area of blood staining was identified at placard 16.

A blue Mazda 6, four door sedan, registered to Ginger Krivac and bearing Nevada license plate 966K05 was parked on the marked crosswalk. The vehicle was running and all of its windows and doors were closed. The vehicle was marked with placard #17 and photographed in place.

The vehicle was noted to have duct tape on the exhaust and the rear passenger window. The vehicle was sealed with evidence tape and towed for later processing.

A copper colored bullet fragment was located north of the scene in the roadway of southbound Pyramid Highway. The fragment was marked as placard #18 and recovered. A fired projectile was located on Pyramway Way north of Emerson Way. Another fired projectile was located in the western portion of the crime scene intersection. A projectile was also located in the bicycle lane of southbound Pyramid Highway, just north of the intersection.



Krivac's vehicle parked on crosswalk at Pyramid Highway at McCarran Blvd.

2. Mazda 6

Pursuant to a search warrant, Krivac's vehicle was processed on December 11th by Criminalists Elvira Koeder and Elise LaRocco with the assistance of RPD Detective Ben Rhodes.

Investigators located suicidal writings on the front passenger seat of the vehicle. A handwritten note read "Im so sorry - I couldn't do it. I love you all so much. I can't do this" (sic). Other writings in a notebook discussed feeling "very depressed," "sad," "empty," "down and depressed," and experiencing "self-hate."

A large, brown-handled kitchen knife and a hand saw with a red and black handle were also found on the front passenger seat. A receipt in the vehicle showed that Krivac had purchased the saw and duct tape at 2:30 p.m. on December 9th.

On the front passenger seat, Krivac's purse contained identification cards, employment information, and a handwritten suicide note. A book of Dotty's matches was near the purse.

A roll of partially used gray duct tape was found on the rear driver's side floorboard. Three separate sections of green rubber hose, each with grey duct tape on one end, were found in the vehicle. The rear passenger window was broken and covered with duct tape. The middle section of this tape had a hole in it, allowing for an opening into the vehicle. Finally, the vehicle was observed to have two exhaust pipes. Duct tape partially covered the opening of the driver's tailpipe.

Together, these items are consistent with a suicide attempt by directing vehicle exhaust into the cab of the vehicle.



Photographs depicting evidence of recent suicide attempt.

3. Firearms testing

Criminalist Kulvir Sarai subjected the officers' firearms to forensic examination. The examination determined that seven of the 9mm cartridge cases recovered on scene were fired from Officer Yee's pistol. Two recovered 9 mm cartridge cases were fired from Officer Phillips' pistol.

4. Paintball gun

Criminalist Sarai also examined the "Spyder" paintball gun. With lab supplied hopper, air tank, and paintballs, the paintball gun was determined to be in normal operating condition with no noted malfunctions.

III. CRIMINAL PROSECUTION

Ginger Krivac was charged with Resist, Delay, or Obstruct a Public Officer With Use of a Dangerous Weapon, a felony. On March 28, 2022, Krivac pleaded guilty to the offense. On June 9, 2022, the Honorable Barry Breslow sentenced Krivac to probation with an underlying sentence of 19-48 months.

IV. LEGAL PRINCIPLES

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. Although Krivac survived this officer involved shooting, in order to conduct the appropriate assessment, the District Attorney's review is controlled by the relevant legal authority pertaining to justifiable homicides. This is because the analysis rests upon the decision to use deadly force, not the result.

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. The aforementioned authority is intertwined and requires further in-depth explanation:

A. The Use of Deadly Force in Self-Defense or Defense of Another

NRS 200.120 provides in relevant part that "Justifiable homicide is the killing of a human being in necessary self-defense, or in defense of...person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony..." against the other person. NRS 200.160 further provides in relevant part that "Homicide is also justifiable when committed...in the lawful defense of the slayer...or any other person in his or her presence or company, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished".

The Nevada Supreme Court has refined the analysis of self-defense and, by implication defense of others, in Runion v. State, 116 Nev. 1041 (2000). In Runion, the Court set forth sample legal instructions for consideration in reviewing self-defense cases as follows:

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

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

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

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

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

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

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

Id. 1051-52.

B. Justifiable Homicide by Public Officer

NRS 200.140 provides in relevant part that “Homicide is justifiable when committed by a public officer...when necessary to overcome actual resistance to the execution of the legal process, mandate or order of a court or officer, or in the discharge of a legal duty” and “[w]hen 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.”⁵

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.”

⁵ 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.

V. ANALYSIS

On December 9, 2020 Sparks Police Officers Bryan Yee and Officer Grant Phillips both used deadly force on Ginger Krivac. After a careful review of the facts and circumstance in this case, it is the determination of the District Attorney that the officers' use of such force was justified and lawful under Nevada Law.

Krivac was determined to commit suicide as evidenced by her actions, family accounts, and evidence recovered during the investigation. On the night of the shooting, Krivac embarked on a course of conduct that was designed to cause the officers to perceive her as an imminent and deadly threat. When she exited her vehicle following a brief pursuit, she was armed with a paintball gun that was presented in a manner that simulated an actual firearm. Krivac then challenged Officer Yee to "come on," and, when Officers Yee and Phillips responded by placing her at gunpoint she succeeded in creating a situation in which the responding officers had little time to react. Krivac then advanced on Officer Yee and Officer Phillips, with the apparent gun to her shoulder, and refused Officer Yee's command to "stop." In that moment, Krivac's actions caused Officer Yee and Officer Phillips to reasonably believe they, or their partner, were in imminent danger of death or serious bodily harm. It was therefore reasonable for them to believe that it was necessary to use deadly force in response to Krivac's actions in an effort to prevent harm to themselves or each other.

Furthermore, the fact that Krivac's weapon was later determined to be a paintball gun does not alter the above conclusions. Based on Krivac's actions, the speed of the encounter, and the circumstances in which the contact unfolded, neither Officer Yee or Officer Phillip could have known the weapon was a paintball gun. Under Nevada law, a person has a right to defend themselves from apparent danger to the extent they would from real danger. Krivac's deliberate selection of a simulated weapon, her holding of the weapon in a threatening manner and her failure to comply with officer direction, coupled with her hoax threat to 911 dispatch all combined to cause the officers to reasonably believe the weapon was a firearm and Krivac was a deadly threat. Though not known to the officers at the time, the investigation later found evidence to support an intention by Krivac to force a situation in which she could commit "suicide by cop."

Under the circumstances it was reasonable and absolutely necessary for Officer Yee and Officer Phillips to use deadly force in response to the threat posed by the actions of Ginger Krivac. The totality of the circumstances known to Officer Yee and Officer Phillips was sufficient to excite the fears of a reasonable person placed in a similar situation. Therefore, under Nevada law, the actions of both officers are justified.

VI. CONCLUSION

Based upon a review of the entire investigation presented and the application of Nevada law to the known facts and circumstances surrounding the December 9, 2020, officer involved shooting of Ginger Krivac, the actions of Officer Yee and Officer Phillips are warranted under Nevada law. 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.