

**OFFICE OF THE WASHOE COUNTY
DISTRICT ATTORNEY**

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REPORT ON THE JULY 17, 2018, OFFICER INVOLVED
SHOOTING OF ROLANDO BRIZUELA

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INTRODUCTION

On July 17, 2018 at 8:43 p.m., Sparks Police Officer ("SPD") Brian Sullivan responded to a suspicious circumstance call involving reporting party Gabrielle Guardon-Castillo and her neighbor, later identified as Rolando Brizuela. Guardon-Castillo described in the call that she had arrived home on London Circle with her three-year-old daughter when Brizuela began intently staring at her. She then observed Brizuela attack a young man on a skateboard, ultimately taking the skateboard while the young man ran away down London Circle. Guardon-Castillo was too scared to exit her vehicle or enter her residence and contacted 911. The 911 operator advised her that an officer would meet her at Sparks Middle School to escort her home. Guardon-Castillo further advised the 911 operator that she believed Brizuela to own a firearm.

Officer Sullivan met Guardon-Castillo at Sparks Middle School. Guardon-Castillo relayed what had happened with Brizuela and explained that multiple neighbors have had issues with him. Officer Sullivan then escorted Guardon-Castillo back to her residence on London Circle.

While en route, SPD dispatch advised Officer Sullivan that there was another 911 call from the area. At 8:54 p.m., 16-year-old Nicholas A. reported that he was skateboarding towards his house when an older Hispanic male in a white tank top (later identified as Brizuela) pushed him to the ground. Brizuela then punched Nicholas in the face and took his skateboard. When Nicholas tried to retrieve the skateboard, Brizuela's wife, Rosa, came out and yelled at Nicholas to run away before Brizuela grabbed a gun. Hearing this, Nicolas A. left the area and called police.

Officer Sullivan arrived on London Circle and exited his marked patrol vehicle. He observed Brizuela in his front yard at 1753 London Circle wearing a white collared shirt with his sleeves rolled up. Brizuela was staring at Officer Sullivan, and Officer Sullivan suspected he was the male involved with both Guardon-Castillo and Nicholas based on his appearance and demeanor.

Officer Sullivan asked Brizuela if he was getting along with everybody to which Brizuela immediately responded, "Are you

going to shoot me?" Officer Sullivan responded back that he was not going to shoot Brizuela and that he was there to talk to somebody else. Brizuela followed up by saying he was standing in front of his house and he had a right to be where he was. Officer Sullivan then asked if Brizuela had gotten into a fight with a guy on a skateboard, to which Brizuela replied, "No. How did you know that?" Officer Sullivan explained to Brizuela that he was there because of a report that somebody had gotten into a fight with a guy on a skateboard, but since that person was not Brizuela, that he was going to walk down the street. The two then separated and Officer Sullivan continued to Nicholas' residence.

Officer Sullivan met with Nicholas at his residence on London Circle. Nicholas relayed the incident with Brizuela to Officer Sullivan and advised that he wished to file a complaint. Officer Sullivan then met up with Officer Eli Maile, who had responded to London Circle as a cover officer. Officer Sullivan updated Officer Maile regarding the statements of Guardon-Castillo and Nicholas. The decision was made to secure Brizuela immediately in handcuffs pending further investigation into the robbery of Nicholas's skateboard.

At 9:10 p.m., Officers Sullivan and Maile approached Brizuela's residence at 1753 London Circle. The front of the house has a front patio area with a lattice fence. Officer Sullivan approached the front door when he noticed Brizuela in the front patio area. Brizuela demanded Officer Sullivan leave his property. Officer Sullivan explained to Brizuela that he needed to talk to him and positioned himself on the top step leading to the front door. Officer Sullivan continued speaking with Brizuela but he ignored Officer Sullivan. Officer Maile then took over verbal communication while Officer Sullivan knocked on the front door.

Brizuela began yelling at Officer Sullivan to stop knocking on the door. Brizuela's wife Rosa answered and began opening the door. Brizuela yelled at Rosa to close the door and not let Officer Sullivan inside. Officer Maile continued to talk to Brizuela in an effort to calm him down. Brizuela then reached underneath a patio cushion and drew a Ruger 9mm semi-automatic firearm to his side. Officer Maile yelled "Gun!" and both officers drew their firearms in response.

Both officers repeatedly yelled commands at Brizuela to drop the gun, which Brizuela ignored. Officer Sullivan was positioned on the step towards the front door while Officer Maile was in front of the entrance gate to the patio. Brizuela accused the officers of being thieves, to which Officer Maile responded that they were not. Brizuela then yelled "Go ahead, Shoot! Shoot!" Both officers responded by yelling at Brizuela again to drop the firearm. Brizuela racked the slide of the firearm which raised the concern for the officers as they continued to order Brizuela to drop the weapon. Brizuela continued to ignore commands to drop the gun and began to raise the firearm towards the officers. Both officers responded by firing at Brizuela.

At 9:13 p.m. Officer Sullivan advised dispatch of the officer involved shooting. At Officer Sullivan's direction, Officer Maile went inside the residence to check on the welfare of Rosa, who was unharmed. Officer Sullivan advised responding officers that the adjacent residence at 1751 London Circle needed to be checked for safety reasons as well.

At 9:15 p.m. several SPD officers arrived on scene and provided medical aid to Brizuela. The Sparks Fire Department and REMSA personnel arrived shortly thereafter and attempted life saving measures but determined that Brizuela had suffered fatal injuries. At 9:29 p.m. REMSA EMS supervisor Andrew Massey contacted Dr. John Sorenson who was working at Renown Medical Center. Massey consulted with Dr. Sorenson and obtained approval to pronounce Brizuela deceased. It was determined that his body would not be transported from the scene.

Consistent with the regionally-adopted Officer Involved Shooting (OIS) Protocol, the Reno Police Department (RPD) led the investigation into the shooting of Brizuela. The Washoe County Sheriff's Office (WCSO) provided secondary investigative support, and the Washoe County Crime Laboratory (WCCL) provided forensic services.

The investigation included interviewing witnesses, collecting physical evidence, photographing the shooting scene, forensically testing collected evidence, reviewing body camera footage, and interviewing the officers involved in the shooting. On March 23, 2020, all investigation reports along with WCCL forensic reports, photographs, body camera footage, and recorded

interviews were then submitted to the Washoe County District Attorney's Office for a determination of whether the shooting of Rolando Brizuela was legally justified. No criminal charges were recommended by RPD. The District Attorney's evaluation included reviewing over 1,000 pages of reports and documents, which included interviews of police and civilian witnesses, photographs, diagrams, body camera footage 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 Rolando Brizuela by Sparks Police Department Officers Brian Sullivan and Eli Maile was justified and not a criminal act.

I. STATEMENT OF FACTS¹

A. Witness Accounts

1. SPD Officer Brian Sullivan

Officer Sullivan was interviewed at the Sparks Police Department on July 18, 2018, at 3:35 a.m. by RPD Detective Pat Blas and WCSO Detective Stefanie Brady. Brian Sullivan has been employed as a police officer with the Sparks Police Department for five years.

On July 17, 2018, Officer Sullivan was assigned to patrol and was working a shift from 3:00 p.m. to 1:00 a.m. While on duty, he noticed a call for service pending in his assigned beat area regarding a neighbor disturbance. Officer Sullivan dispatched himself to the call and noticed that the female reporting party requested to meet at Sparks Middle School.

Officer Sullivan met with Gabrielle Guardon-Castillo at Sparks Middle School where he learned that she was having an issue with a particular neighbor (Brizuela). Guardon-Castillo described how she had arrived home with her young daughter and parked in the driveway when she noticed Brizuela standing outside in his yard just staring at her. Because of the known history with Brizuela, Guardon-Castillo was suspicious so she decided to leave and call her husband. When she was on the phone with her

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

husband, Guardon-Castillo saw Brizuela attack a young man on a skateboard, punching him in the face and then taking the skateboard.

Based on her concerns, Guardon-Castillo requested a public service escort back to her house. Officer Sullivan agreed and followed Guardon-Castillo back to her residence. Prior to arriving in the neighborhood, SPD dispatch advised Officer Sullivan that another call for service had come in regarding a victim riding a skateboard who had been attacked in the same neighborhood.

When Officer Sullivan arrived in the London Circle area, he parked his patrol vehicle and noticed a Hispanic male, in his 40's, wearing a white collared shirt with his sleeves rolled up, standing across the street staring at him. The man, later identified as Brizuela, was not being confrontational but was just staring at Officer Sullivan. At this time, Officer Sullivan suspected that Brizuela was the neighbor referred to by Guardon-Castillo. As he was walking to Guardon-Castillo's home he asked Brizuela if he was okay. Brizuela responded, "Are you going to shoot me?" in an aggressive tone. Officer Sullivan told Brizuela that he was not going to shoot him, and felt that the exchange was strange.

Brizuela then demanded Officer Sullivan tell him why he was in the neighborhood. Officer Sullivan responded and asked if Brizuela was getting along with his neighbors. Brizuela did not answer him. Officer Sullivan then asked Brizuela if he had gotten into a fight with a skateboarder to which Brizuela replied, "How did you know that?" At that point, Officer Sullivan was certain that Brizuela was the neighbor involved in the skateboard incident and knew he would need to talk to him about the events.

Once Officer Sullivan ensured Guardon-Castillo made it safely inside her home, he walked down London Circle to find the residence of the second caller regarding the skateboard robbery. As he was walking down the street, Brizuela was leaning up against a white car parked along the road. Brizuela continued staring at Officer Sullivan and again demanded to know why he was in the neighborhood.

Officer Sullivan made his way to the other reporting party's residence (later identified as Nicholas A.) and encountered another resident along the way (later identified as Zena Aguilar) who stated that Brizuela had tried to chase him in his truck earlier in the evening.

Officer Sullivan was becoming more suspicious of Brizuela. Prior to meeting with Nicholas A., he decided to update Officer Eli Maile, who was en route to cover him on the call, about the new information he had learned and to give Brizuela's location near Officer Sullivan's patrol vehicle.

Officer Sullivan then met with Nicholas A. at his home. Nicholas told him that he was riding his skateboard home when he was punched by a male subject (later identified as Brizuela) who took his skateboard and ran into a nearby house. Nicholas tried to chase after Brizuela to get his skateboard back but a female (later identified as Rosa Brizuela) came out of the house to stop him and said it was "too risky." Nicholas gave up trying to retrieve his skateboard and went home.

Officer Sullivan asked Nicholas where he had been punched and Nicholas showed him his left eyebrow. Officer Sullivan examined Nicholas's head and observed an injury. Nicholas told Officer Sullivan that he wanted to file a complaint. Officer Sullivan then decided to recontact Brizuela.

At this time, Officer Maile arrived and spoke with Officer Sullivan regarding the strategy in contacting Brizuela. Because of Brizuela's actions, they made the decision to immediately detain Brizuela in handcuffs once they contacted him for officer safety. Officer Sullivan wanted to continue his investigation into Child Abuse and Robbery charges. Both officers then walked towards Brizuela's residence at 1753 London Circle.

Upon approaching the residence, Officer Sullivan noticed that the front patio area had a lattice fence and he could not see into the residence or the front patio. As Officer Sullivan walked up to the front door, he noticed Brizuela standing in the patio area. Upon seeing the officers, Brizuela demanded that Officer Sullivan get off his property. Officer Sullivan told Brizuela that he needed to talk to him.

Officer Sullivan was positioned on the very top step leading up to the front door of the residence so he could get a better view

over the gate of the enclosed patio where Brizuela was standing. Brizuela was about four feet away from Officer Sullivan and continued being confrontational and verbally aggressive telling both officers that they were violating his rights and violating their own rules.

Officer Sullivan was not having success calming Brizuela down so Officer Maile took over verbal communication. The goal was to get Brizuela to calm down and come talk to them with the ultimate goal of securing and detaining Brizuela. However, Brizuela continued to yell at both officers and ignored all communication from Officer Maile. At one point, Brizuela walked away from the officers to the other side of the patio where the sliding door of the residence was located.

Officer Sullivan then started knocking on the storm screen door at the front of the residence. Brizuela walked back out on the patio and yelled at Officer Sullivan that he was not allowed to knock on his door. Officer Sullivan explained that based on the fact that Brizuela had committed a robbery (of Nicholas A.'s skateboard) that he would continue his investigation.

A female (Rosa Brizuela) then answered the front door and Officer Sullivan asked her to open the screen door. Brizuela then yelled at Rosa not to open the door and not to let the police officers into the residence. Officer Maile continued trying to talk to Brizuela while Officer Sullivan tried to talk to Rosa.

Officer Sullivan suddenly heard Officer Maile yelling, "Gun, gun, he's got a gun!" Officer Sullivan felt a brief moment of panic while trying to ascertain what Officer Maile was yelling. Officer Sullivan turned his attention to Brizuela and saw him holding a black semi-automatic pistol in his right hand. Brizuela was in a slightly bladed stance with the gun pointing down to the ground. Officer Sullivan drew his firearm, but did not immediately fire. Officer Sullivan stated he felt confident that were Brizuela to raise the gun towards him that he would be able to react faster to prevent his own death or Officer Maile's.

Officer Sullivan repeatedly yelled at Brizuela to drop the gun, estimating he did this approximately 20 times. Officer Sullivan also heard Officer Maile yelling for Brizuela to drop the gun as

well. However, Brizuela was not complying with the commands to drop the gun and continued in his stance while yelling back at the officers.

Officer Sullivan then saw Brizuela use his left hand to reach down to the gun and rack the slide, intentionally loading the gun. Officer Sullivan interpreted Brizuela's maneuver as escalating the situation to a deadly threat. Brizuela then started to raise the gun with his right hand. Seeing this, Officer Sullivan stated that he was afraid Brizuela would kill him or Officer Maile. Officer Sullivan began firing at Brizuela simultaneous to Officer Maile, who he believed fired the first shot. Brizuela fell to the ground. Officer Sullivan thought he fired his gun approximately six or seven times.

After firing, Officer Sullivan could not see Officer Maile, so he yelled out to him asking if he was okay. Officer Maile responded back affirmatively. Officer Sullivan was also concerned about Rosa, so he asked Officer Maile to go inside the house and check on her.

Officer Sullivan then called out on his police radio to advise shots had been fired, that he had a male subject on the ground and that they needed medical personnel to respond. Officer Sullivan continued to maintain his cover on Brizuela while giving out information on the police radio. Officer Sullivan updated dispatch that the adjacent residence at 1751 London Circle needed to be checked to make sure the residents were unharmed.

Once other officers were on scene, they took over covering Brizuela. Officer Sullivan advised that Officer Maile was inside the residence with Rosa. Officer Sullivan was then relieved from the scene.

2. SPD Officer Eli Maile

Officer Maile was interviewed at the Sparks Police Department on July 18, 2018 by RPD Detective Pat Blas and WCSO Detective Stefanie Brady. Officer Maile has been employed by SPD for approximately nine years. Officer Maile normally works a shift from 1:00 p.m. to 11:00 p.m.

On July 17, 2018, Officer Maile was assigned to patrol and started his shift early at 10:00 a.m. At approximately 8:45

p.m. Officer Maile was dispatched to a call at Sparks Middle School with Officer Sullivan. Officer Maile learned that the call involved a female that had a previous altercation with one of her neighbors and she was afraid to go home because the neighbor was sitting outside on his porch. Officer Maile was unclear at that time whether a gun was displayed during the altercation or whether the reporting party had prior knowledge of him having a gun.

While en route to the call, Officer Maile was updated by Officer Sullivan that he was escorting the female reporting party back to her residence to make sure she got home safely. Officer Maile also received an update that there was an additional possibly related call for service from a 16-year-old advising he was beat up by a neighbor and had his skateboard stolen.

When Officer Maile arrived on London Circle he parked his patrol vehicle behind Officer Sullivan's. Officer Maile then began looking for Officer Sullivan and saw him walking down a driveway towards him. Officer Sullivan told Officer Maile that the reporting party he escorted home confirmed that her call involved the same neighbor that attacked the juvenile (Nicholas A.). Officer Sullivan explained that he had spoken to Nicholas who reported that he was passing the subject's (Brizuela) house on his skateboard on the sidewalk when Brizuela came out and punched Nicholas in the face, leaving a knot on his forehead. Brizuela then took Nicholas's skateboard.

While the officers were talking, a couple other residents from the neighborhood approached them (Zena Aguilar and Nicole Boelow) and explained that they had seen Brizuela earlier in the evening as well, "carrying something in his hand." Brizuela went to his car, a white Nissan, and then went back to his house. They pointed out the car to both officers.

Officer Sullivan told Officer Maile that he wanted to contact Brizuela and that he had enough probable cause to arrest him for Robbery. As they were approaching the white Nissan, Officer Sullivan called in the license plate to dispatch to confirm the registered address of 1753 London Circle. The white Nissan was parked in front of that address. Officer Maile noticed a female neighbor (Shelly Register) sitting on her front step.

Brizuela's residence had a small walkway that lead to the front door, which had a storm door attached. To the left of the walkway, just prior to the front steps was a gate that led to a patio area. As both officers approached the front door, the gate opened and Brizuela leaned out.

Brizuela immediately became confrontational with the officers saying, "Don't come up here. You're not allowed up here. You're trespassing. You know you guys are breaking your laws. You can't come up here without a judge saying you can." Brizuela was acting irrational, agitated, and angry. Officer Sullivan tried to explain to Brizuela that they could be there but was unsuccessful in calming Brizuela down.

Both officers continued towards the gate, however Brizuela closed it preventing them from entering the patio area. The gate was approximately five to five-and-a-half feet tall, so it did not block the officer's view of Brizuela. Officer Maile was on the walkway looking over the gate while Officer Sullivan stood on the step to the front door.

Officer Maile interjected into conversing with Brizuela and tried to get his attention by explaining their reason for being on the property. Officer Maile asked Brizuela, "Did something happen between you and a kid on a skateboard?" Brizuela got really upset and agitated at the question and responded, "Well how do you know about that?"

Officer Maile tried to ask Brizuela for more details about what happened but as he was talking, Brizuela began backing up further into the patio. Officer Maile thought Brizuela was going to go inside the residence through the patio sliding glass door. At that time, Officer Sullivan began knocking on the front door. Brizuela then focused his attention on Officer Sullivan and told him, "Don't knock on the door, don't do that." Officer Sullivan responded that he was going to knock and continued to knock several more times. Officer Maile could hear a female voice coming from within the residence but could not understand what she was saying. Brizuela then started yelling at the female (Rosa Brizuela) to close the door and not talk to the officers. He continued to tell the officers to leave.

Officer Maile then heard Brizuela yell at Rosa in Spanish. Brizuela turned and walked further into the patio as if he was

going to go inside the residence. However, as Officer Sullivan was continuing to talk to Rosa, Officer Maile saw Brizuela reach down toward what looked like a low flat chair or cot. Brizuela reached behind some pillows located on the cot and grabbed something. As Brizuela turned around, Officer Maile recognized he was holding a gun.

Officer Maile thought Brizuela was going to kill him or Officer Sullivan. He yelled out, "Gun!" to get Officer Sullivan's attention and drew his weapon. Brizuela was positioned perpendicular to Officer Maile with the gun pointed at the ground. Officer Maile pushed the emergency button on his radio and advised they had a subject at gun point.

Both officers began repeatedly yelling at Brizuela to drop the gun but Brizuela did not comply and responded by saying, "Shoot me." After multiple failed commands, Brizuela suddenly reached over and racked the slide of the gun. Brizuela then turned towards the officers and Officer Maile shot at him.

Officer Maile moved to his left to get out of the way of Brizuela and to seek cover behind a large tree in the front yard. Officer Maile heard Officer Sullivan calling out to dispatch, "Shots fired, one down!" Officer Maile then knew Brizuela was down on the ground so he moved back towards Officer Sullivan.

Officer Sullivan asked Officer Maile to check on Rosa inside the residence. Officer Maile realized he was not sure who else was inside the residence, so he went into the home and asked Rosa to sit on a couch in the living room, allowing Officer Maile to keep watch on his surroundings as well as watch Officer Sullivan.

Within minutes, multiple SPD officers arrived on scene. Officer Maile asked officers to check on the adjacent residence due to his fear that some of the fired shots had struck them. Officer Maile was then relieved from the scene.

3. Gabriela Guardon-Castillo

Gabriela Guardon-Castillo was interviewed at the Sparks Police Department on July 18, 2018, at 1:02 a.m. by RPD Detective Jeff Boyd and WCSO Detective Kathleen Bishop. Guardon-Castillo lives at 1765 London Circle with her fiancé and three-year-old

daughter. Guardon-Castillo recalled moving into the neighborhood approximately five years prior and being welcomed with a barbecue thrown by the Brizuela family. A couple years ago, someone at the Brizuela residence called the police to complain about Guardon-Castillo's dogs going to the bathroom on their lawn and not cleaning up the mess.

After the incident with her dogs, every time she saw Brizuela he would stare at her and make her feel uncomfortable. The staring incidents would only occur when her fiancé was not home.

Guardon-Castillo said that several months ago, her mother and her fiancé called her while she was at work and said the police were at Brizuela's house calling him out by a loudspeaker.

Guardon-Castillo did not have many details about the incident other than that he possibly had a gun during the incident.²

After the incident with the police, Brizuela continued his strange behavior and would sit in his car or stand outside and stare at Guardon-Castillo when she was by herself. Guardon-Castillo was uncomfortable with the behavior, but she tried to ignore it and mind her own business.

On the day of the shooting, Guardon-Castillo arrived home, but her garage door was broken so she parked out in front of her residence. She got out of the driver's seat and then opened the back door of her car to get her daughter. Guardon-Castillo heard a car on the street, so she closed the passenger door slightly. She saw that the car was Brizuela's and he was parking in front of his residence.

Brizuela got out of his car and stood on the sidewalk staring straight at Guardon-Castillo with a blank look on his face. Guardon-Castillo felt uncomfortable and decided not to get her daughter out of her car and instead got back into the driver's seat. She called her fiancé who advised her to stay on the phone with him and wait to see what Brizuela would do. Brizuela continued to stand where he was for several minutes, so Guardon-Castillo once again exited the vehicle to get her daughter.

As she was getting her daughter out of the back seat, a tall young man (Nicholas A.) on a skateboard came by her on the sidewalk. She next heard arguing between Brizuela and Nicholas.

² The incident Guardon-Castillo referred to is SPD 17-9852 which will be discussed later in this report.

Brizuela was now standing by a tree near the sidewalk. Nicholas had gone by her on the skateboard and by the time she looked back up, Nicholas was getting up off the ground. Nicholas appeared scared and ran down the street towards the south end of London Circle. As Nicholas ran south, an angry Brizuela had Nicholas's skateboard and threw it towards his own residence.

Guardon-Castillo was concerned about Brizuela's behavior so she called 9-1-1. She went to Sparks Middle School to meet an SPD officer (Officer Sullivan). Officer Sullivan arrived and she told him what had occurred. Guardon-Castillo asked Officer Sullivan what she could do if Brizuela acted towards her the way he did towards Nicholas. Officer Sullivan explained to her the process of filing for a protection order. Officer Sullivan then offered to follow her back to her home and ensure she could get inside safely with her daughter. Guardon-Castillo returned home and pulled into her driveway. She saw her neighbor, (Shelly Register) outside on the front porch. She also saw Brizuela still outside on the sidewalk near his car. Officer Sullivan continued past Guardon-Castillo, but she did not see where he stopped. Guardon-Castillo pulled her car in front of her garage and got her daughter out of the car. She then went inside the residence, opened her garage, pulled her car in, and went inside.

Minutes later, Guardon-Castillo was downstairs and turned on a television show for her daughter. She heard arguing outside, so she called her fiancé who told her to stay inside. Guardon-Castillo took her daughter upstairs and then she heard approximately four gunshots. She did not see the incident.

4. Nicholas A.

Nicholas A. was interviewed at the Sparks Police Department on July 18, 2018 at 12:44 a.m. by RPD Detective Pat Blas and WCSO Detective Stefanie Brady. Nicholas is 16 years old.

Nicholas left his house at 1735 London Circle on his skateboard at around 8:30 p.m. to go to a nearby store. Nicholas bought some chips at the store and began skating back home on the sidewalk. As he neared his home, a male subject (Brizuela) ran up to him and shoved him off his skateboard. Brizuela then punched Nicholas in the face and took his skateboard.

After punching Nicholas, Brizuela ran into his house with the skateboard. Nicholas started chasing after Brizuela, but a female (Rosa Brizuela) and a younger male (Morgan Brizuela) told him not to worry about his board and to run away before Brizuela grabbed a gun. Nicolas recalled that Rosa had been standing in the front yard during the incident while Morgan was in a vehicle.

Nicholas abandoned his attempt to get his skateboard back and began running towards his house. Nicholas looked back as he ran to make sure Brizuela was not trying to shoot at him. When Nicholas got home, he called 9-1-1 to report what happened.

An officer (Officer Sullivan) then came to his house to speak with Nicholas. Officer Sullivan asked Nicholas to fill out a statement. While he was filling the statement out, another officer (Officer Maile) met with Officer Sullivan and they left Nicholas's residence. Within approximately two minutes, Nicholas heard six to twelve continuous gunshots.

5. Morgan Brizuela

Morgan Brizuela was interviewed at the Sparks Police Department on July 18, 2018 at 1:37 a.m. by WCSO Detective Stefanie Brady and RPD Detective Pat Blas. Morgan is the son of Rolando and Rosa Brizuela and lived part-time at 1753 London Circle.

Initially, Morgan said he did not know any of the details that took place with Brizuela earlier in the evening. Morgan got off work at an unknown time and then went to CVS located at 680 North McCarran Boulevard to pick up gauze for Rosa. Morgan went to 1753 London Circle but did not see Brizuela, and noted Rosa was the only one home. Morgan was there about five minutes and then left for his girlfriend's house. Morgan did not see anything that happened with Brizuela and only learned of the shooting from Rosa.

Later in the interview, Morgan was questioned again about being at the residence prior to the shooting, specifically about being present during an incident with a kid on a skateboard (Nicholas A.). Morgan was advised that his mother Rosa was being interviewed simultaneously with himself and that she had stated Morgan was home during the incident with Nicholas. Morgan then changed his narrative and admitted he did see some of the

incident with Nicholas. Morgan then retold his account of the evening in question.

Morgan did not recall what time he left work but that he went straight to CVS.³ After leaving CVS, Morgan went to his parent's home. When he got there, Rosa was the only one there. Morgan did not stay long, just to drop off the gauze and use the restroom. As Morgan was leaving his parent's home, Rosa stopped him to advise that Brizuela was home from work unexpectedly.

Morgan walked outside towards his car which was parked right in front of the house. He saw Brizuela and said, "Hi Dad," to which Brizuela did not respond. Morgan got to his car and as he approached the driver's door, he saw Brizuela picking up a skateboard from the sidewalk. He also saw Nicholas A. running from the area of the skateboard away from the house.

Rosa, who was outside as well, told Morgan to leave because Brizuela was "in one of his moods." Morgan knew that something had happened between Brizuela and Nicholas. Morgan thought Rosa would call the police or make sure that Nicholas got his skateboard back.

Morgan left the house, and about ten to fifteen minutes later he got a call from Rosa who was "freaking out" and then hung up. Morgan immediately went back to the house and saw multiple police cars and officers.

6. Zena Aguilar

Zena Aguilar was interviewed at the Sparks Police Department on July 17, 2018 at 11:58 p.m. by RPD Detective Pat Blas and WCSO Detective Stefanie Brady. Aguilar lives in the neighborhood and is employed as a maintenance worker for the property management firm that manages the housing complex on London Circle.

Aguilar started work at 9:00 a.m. on the corner of London Circle and York Way when he was approached by Rosa Brizuela. Rosa told Aguilar that something was wrong with her husband and to disregard and not pay attention to him because, "He's not right in the head." Rosa said there were "voices talking to him to do

³Detectives later discovered Morgan's CVS receipt showing he made purchases on July 17, 2018 at 8:22 p.m.

bad things to people." Rosa also added that Brizuela had kicked her and her kids out of their house.

Aguilar later left the area to do another job. At around 7:45 p.m., he and his wife were on their way home when they turned onto London Circle from York Way. Aguilar noticed Brizuela standing on the sidewalk. As Aguilar approached Brizuela's residence, Brizuela walked out onto the street. As they passed, Brizuela began screaming at Aguilar and his wife while holding a gun in his hand. Brizuela was about a foot from Aguilar's vehicle, but did not raise or point the gun.

Aguilar drove past Brizuela and pulled into the driveway. Aguilar looked back towards Brizuela and noticed him walking towards his residence. A police car then came into the area (Officer Sullivan's marked patrol vehicle) and Brizuela turned around and began walking back towards his house.

Aguilar saw the officer (Officer Sullivan) talk to Brizuela for a couple minutes and then began walking towards Aguilar's residence. Officer Sullivan asked Aguilar where 1735 London Circle was (Nicholas A.'s residence) and Aguilar directed Officer Sullivan to the house. A short time later, a second officer arrived on scene (Officer Maile).

Aguilar saw the two officers meeting with Nicholas. Meanwhile, Aguilar observed Brizuela go into a white, possible Nissan sedan which was parked in front of his residence. Brizuela put something in or took something out of the car and walked back into his house.

When the officers were done talking to Nicholas, Aguilar approached them and told them about his own incident with Brizuela. Both officers then walked to Brizuela's house. The officers had their flashlights out looking for the residence. Aguilar remained in front of his residence and watched the officers make contact with Brizuela. One of the officers was facing the front porch and the other was around the corner by the front door.

Aguilar then saw the officers point their guns and heard them yelling, "Drop the gun!" about five to six times. Aguilar also heard the officers say, "Do not move," and "Listen, drop the gun." Aguilar heard about eight to ten consecutive gun shots

and then everything was calm. Other officers then showed up on the scene.

7. Shelly Register

Shelly Register was interviewed at the Sparks Police Department on July 17, 2018 by WCSO Detective Kathleen Bishop and RPD Detective Jeff Boyd. Shelly Register lives at 1761 London Circle which is directly next door to the north of the Brizuela residence at 1753 London Circle. Register moved to the complex in 2012. Each unit in the complex has four condominium units with two in the front that are side by side sharing a common wall. The two rear units are side by side directly behind the front units.

Register arrived home from work at approximately 6:00 p.m. and did not see anyone out in the neighborhood when she got home. Register went inside and watched television and had dinner. At around 8:30 p.m., Register left her house on foot and took her dogs for a walk. Everything was quiet in the neighborhood at that time. Register walked her dogs south on London Circle and continued to the neighborhood park and came back down London Circle on the other side of the street. Register's walk took about 20 minutes and then she sat on her front porch with her dogs.

Register had been home a short time when she saw an SPD marked patrol car drive past her house and park somewhere down on London Circle. A short while later, an officer (Officer Sullivan) walked down the street. Her dogs began barking at Officer Sullivan and she said good evening to him. Officer Sullivan walked to the end of Register's building and then turned back around. At this time, it was getting dark outside and Register could not see where Officer Sullivan had parked but saw that he walked in the direction of where his patrol car was. Officer Sullivan stayed down the street for several minutes and then she saw Officer Sullivan and another officer (Officer Maile) walking back towards her on London Circle. The officers walked up to Brizuela's residence which is only separated by a driveway from her residence.

Officer Sullivan went to the front door near the patio gate. Brizuela's residence has a walkway that leads directly to the front door. There is a fenced patio area to the left of the

walkway with gate access. The other officer stayed back a little and was near the sidewalk. Register did not know why the officers were at Brizuela's house.

Brizuela was on his front porch and when Officer Sullivan approached the patio gate, Brizuela opened it and immediately began speaking fast and defensively towards the officers. She heard one of the officers ask if they could come into the house and talk to Brizuela. Brizuela responded no and if they did not have a court order they could not come onto his property. Brizuela then closed the patio gate. The patio gate is low and the officers were still able to see and talk to Brizuela.

The officers were very professional towards Brizuela and tried to calm Brizuela down. They explained that they were with the Sparks Police Department and they just needed to ask him some questions. Brizuela walked away from the gate and further into the patio. Officer Sullivan then knocked on the front door which has a metal screen on it. An agitated Brizuela said, "Don't open that door, don't open that door." Register did not know if anyone came to the door but assumed Brizuela was talking to someone at the front door.

Register then heard an officer yell, "Gun!" and repeatedly heard both officers telling Brizuela to put the gun down. Register heard one shot fire and then heard at least four or five more shots.

As soon as she heard shots, Register laid down on the ground and tried to protect her dogs. Register could not see, but heard the shots stop and then heard one of the officers say, "One down," and then the officers asked each other if they were okay. Both officers responded that they were okay. Register then got up and went inside her residence.

8. Rosa Brizuela

Rosa Brizuela was interviewed on July 18, 2018 at the Sparks Police Department by RPD Detective Dave Millsap and WCSO Detective West Urban. Since Rosa speaks primarily Spanish, RPD Detective German Rodriguez assisted with translation. Rosa is the wife of Rolando Brizuela and lives at 1753 London Circle.

On the evening of the event, Rosa was inside her house when she heard yelling outside. When she went outside, she asked

Brizuela what was going on. Brizuela responded, "Nothing," and "Not to worry about it." Rosa then went back inside and started watching television.

Later while watching television, Brizuela came into the house and ran upstairs. While she did not see Brizuela with a pistol, she suspected Brizuela went upstairs to grab his pistol based on what she heard the officers say later in the evening. Brizuela normally keeps a pistol upstairs in a bedroom drawer. As he was exiting the home, Brizuela told Rosa to keep watching television.

Rosa continued watching television when she heard a knock at her front door. Rosa was in the process of opening the door but heard Brizuela from the patio telling her to keep the door closed. Rosa closed the door and heard "Put your hands up," and then heard several gunshots. Rosa did not see anything that happened outside during the shooting incident.

Earlier in the day before the police arrived at the door, Rosa saw an incident with one of her neighbors (Nicholas A.) At first, Rosa saw someone running but could not tell if it was her husband or someone else. Rosa could not provide any details about what she saw. Rosa eventually stated she saw a kid (Nicholas A.) running with a skateboard but that she did not know what happened before she went outside. Rosa told Nicholas to run away because her husband was "crazy." Rosa did not know if Brizuela did something to Nicholas nor did she see Brizuela bring anything into the house, and specifically did not see a skateboard.

Months prior to the shooting incident, Brizuela had been taken to the hospital and had his pistol taken from him.⁴ After the

⁴On November 15, 2017, at approximately 9:15 a.m., SPD officers responded to 1753 London Circle on a report of a mentally ill person with a gun (SPD 17-9852). An armored truck was set up in front of the residence using an intercom to coax Brizuela outside. Brizuela came out of the house and was taken into custody without incident. Officers spoke with Rosa Brizuela who called police because her husband pulled out his handgun to protect himself from "monsters." At 2:30 a.m. Brizuela made Rosa turn on all the lights in the house as he walked around the house with a handgun. Brizuela's actions scared Rosa so much that she left the home and stayed with a friend. Once Brizuela was in custody, Rosa gave officers permission to enter the home where they recovered a Ruger 9mm handgun and placed it into evidence for safekeeping. Brizuela was placed on an Emergency Committal Legal Hold. As a

incident, Brizuela kept calling SPD to get his gun back. Rosa thought the incident happened about four months prior. Brizuela was not arrested but he went to the hospital. Brizuela had never been diagnosed with a mental health disorder but Rosa believed Brizuela had issues because he was under stress. Brizuela never tried to hurt himself, but would talk to himself, thinking he was Jesus Christ.

Brizuela worked at the Eldorado Casino as a houseman. During the morning of July 17, 2018, Brizuela stayed home to help Rosa because of her recent shoulder surgery. Brizuela then went to work. To Rosa's knowledge, Brizuela was not using any alcohol, drugs, or medications. For unknown reasons, Brizuela came home early from work.⁵

B. Countdown of Officer Sullivan's Firearm

Officer Sullivan's primary weapon on July 17, 2018, was a Glock 17 Gen4 9mm pistol. The carrying capacity of the magazine used in his firearm was seventeen rounds. Officer Sullivan carried two additional magazines for his primary firearm. Officer Sullivan told investigators that he loads his firearm with one bullet in the chamber and seventeen (17) bullets in the magazine.

On July 18, 2018 Washoe County Forensic Investigator Toni Leal-Olsen collected Officer Sullivan's equipment worn and used during the shooting. The collection of Officer Sullivan's firearm and its contents revealed two Glock magazines with FC 9mm +P cartridges on his duty belt. One magazine contained ten (10) cartridges and the other contained seventeen (17). Officer Sullivan also had a Glock 17 Gen4 9mm pistol with attachment

result of the legal hold, Brizuela was given a psychological evaluation. Brizuela was transferred to West Hills Hospital where he was ultimately released. After his release, Brizuela repeatedly called SPD for the return of his firearm. On February 16, 2018, SPD released the firearm back to Brizuela as there was no legal reason to keep it. SPD evidence technicians reported a bizarre and inappropriate interaction with Brizuela when they returned the firearm. On February 20, 2018, SPD detectives began an investigation to determine if there was any legal reason that Brizuela would not be allowed by law to possess a firearm. As a result of the investigation, SPD found no law that allowed them to withhold the gun from Brizuela. Their investigation was closed.

⁵On July 17, 2018, Brizuela was suspended from work at the Eldorado for workplace violence. According to witnesses, Brizuela was suspended after berating a co-worker on a service elevator.

X300 Ultra-Light SureFire which contained one FC 9mm +P cartridge in the chamber and seventeen (17) in the magazine. All items were booked into evidence at the Washoe County Sheriff's Office.

C. Countdown of Officer Maile's Firearm

Officer Maile's primary weapon on July 17, 2018, was a Glock 17 Gen4 9mm pistol. The carrying capacity of the magazine used in his firearm was seventeen rounds. Officer Maile carried two additional magazines for his primary firearm. Officer Maile told investigators that he loads his firearm with one bullet in the chamber. While Officer Maile could not recall how many bullets the magazine held, he indicated he loads it to capacity.

On July 18, 2018 Washoe County Forensic Investigator Toni Leal-Olsen collected Officer Maile's equipment worn and used during the shooting. The collection of Officer Maile's firearm and its contents revealed two Glock magazines with FC 9mm +P cartridges on his duty belt. Both magazines contained seventeen (17) cartridges. Officer Maile also had a Glock 17 Gen4 9mm pistol which contained one FC 9mm +P cartridge in the chamber and six (6) in the magazine. All items were booked into evidence at the Washoe County Sheriff's Office.

II. PHYSICAL EVIDENCE

A. Shooting Scene

1753 London Circle is located on the west section of London Circle. London Circle is south of York Way and intersects York Way at two locations. Manchester Way runs parallel to York Way and is south of York Way. Manchester Way bisects the west and east sections of London Circle.

1753 London Circle is part of a duplex on the north side. 1751 London Circle is on the south side of the duplex. 1753 London Circle is on the west side of the street and is just south of the intersection with Manchester Way.



(1753 London Circle - Courtesy of Google Maps)

The front door of 1753 London Circle faces east. The front door also has an exterior metal security door. In between the front door and sidewalk is a concrete walkway leading to the front door. There is a grass yard on both sides of the walkway. The concrete walkway has three square blocks leading up to two raised platforms which are level with the patio gate and then the front door of the residence.



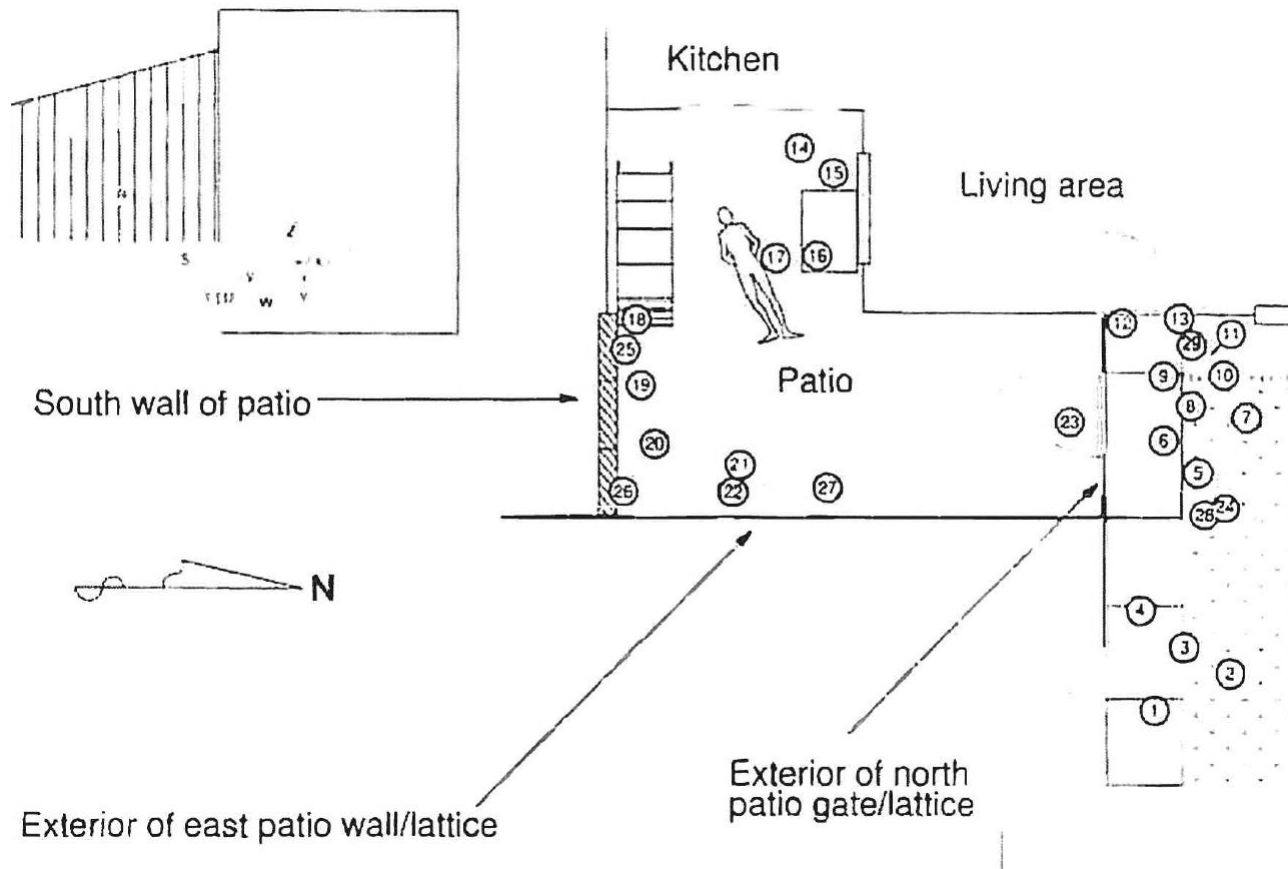
(Front entrance and patio area at 1753 London Circle)

A patio is located south of the front door. The patio gate is comprised of several vertical wooden panels next to each other. Surrounding the rest of the patio is a brick wall rising up to approximately 2 feet 10 inches above the ground. Above the wall is a lattice rising up to approximately 5 feet above ground. The patio door opened to the south of the gate. The patio is a squared off area where a sliding patio door gives access inside the residence. South of the wooden gate were 2 wooden clothes racks. There were other furniture items along the edges of the patio. Most of the middle sections of the patio floor were unobstructed.

Just outside the sliding glass door and against the left (north) wall were a chair and patio table. On top of the patio table was a box of handgun ammunition. The box of ammunition indicated the ammunition was Winchester PD Defender Hollow Point +P 9mm. The box was empty of any cartridges.

The south patio wall had a patio bed up against it. The bed was up against the wall length wise and had a blanket covering its surface. On top of the blanket were several pillows. On the patio just outside the sliding glass door and leaning up against the patio table chair was a skateboard. The skateboard matched

the description of that given by Nicholas A. and was later confirmed to be his.



Placard Legend

- 1 - Three "FC 9mm +P" fired cartridge cases
- 2-13 - One "FC 9mm +P" fired cartridge case per placard number
- 14 - Bullet fragment
- 15 - Skateboard
- 16 - Empty box of "Winchester PDX1 Defender 9mm Luger +P"
- 17 - Rolando Brizuela (black "Ruger 9E" handgun found underneath body)
- 18 - "Cricket ZTE Grand X" cell phone and wallet
- 19 - Fired bullet fragment
- 20 - Bullet fragment
- 21 - Fired bullet fragment
- 22 - Fired bullet
- 23 - "Streamlight" flashlight
- 24 - "FC 9mm Luger +P" fired cartridge case
- 25 - Bullet fragment
- 26 - Bullet fragment
- 27 - Fired bullet fragment
- 28 - "FC 9mm Luger +P" fired cartridge case
- 29 - "FC 9mm Luger +P" fired cartridge case

B. Body Camera Footage

Both Officer Sullivan and Officer Maile were wearing department issued body cameras upon their marked uniforms. Both cameras were functioning and turned on throughout the entirety of the incident. The following is a summary of what was depicted on the body camera of Officer Sullivan:

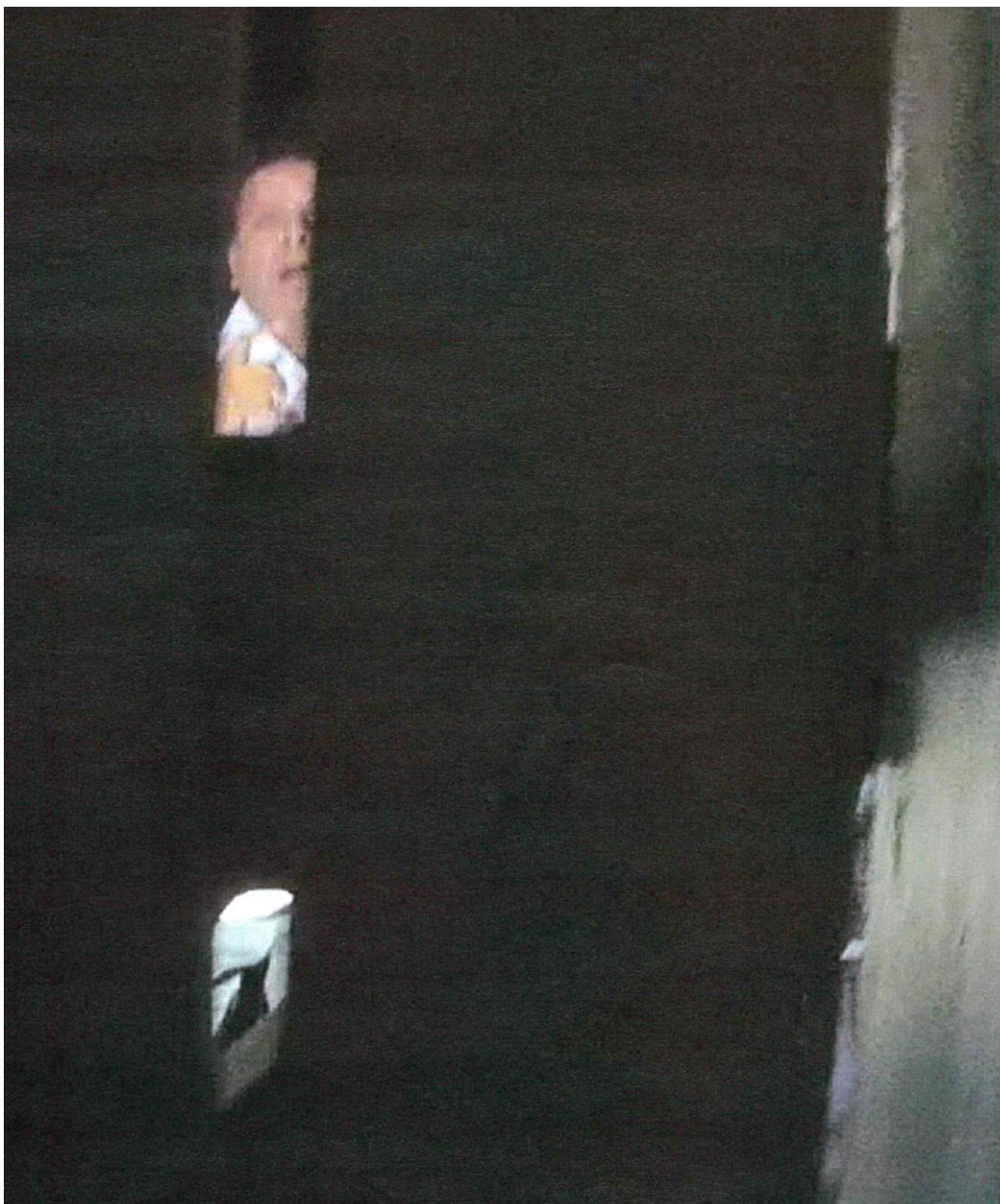
Start time	End Time	Description
8:54:42	8:58:15	Officer Sullivan meets with Gabriella Guardon-Castillo at Sparks Middle School. Guardon-Castillo explains her incident with Brizuela as well as seeing Brizuela attack Nicholas A. Officer Sullivan agrees to escort Guardon-Castillo back to her home.
8:59:02	8:59:47	Dispatch advises Officer Sullivan that Nicholas A. has called in to report his incident with Brizuela. Dispatch tells Officer Sullivan that Brizuela has a history with firearms and brandished it during the altercation with Nicholas A.
8:59:47	9:00:30	Officer Sullivan drives to Guardon-Castillo's residence.
9:00:50	9:01:48	Officer Sullivan says hello to Brizuela and asks if he's getting along with everyone today. Brizuela responds, "Are you going to shoot me?" Officer Sullivan says, "I'm just saying hi to you. I'm actually not even here to talk to you." Brizuela responds that he is at his house and that he has a right to be there. Officer Sullivan then asks if Brizuela got into a fight with a guy on a skateboard. Brizuela responds, "No, how did you know that?" Officer Sullivan says someone called in a fight with a guy on a skateboard. Brizuela responds "Really? Well go arrest him because I don't know nobody. This is my house I've got the right to be here." Officer Sullivan then asks Brizuela again if he got into a fight with a guy on a skateboard, which Brizuela denies. Officer Sullivan then tells Brizuela he is going to talk to someone else and walks away from Brizuela.
9:03:52	9:04:47	Officer Sullivan asks Zena Aguilar where 1735 London Circle is (Nicholas A.'s residence). Officer Sullivan then asks Aguilar if he's observed any arguments between neighbors. Aguilar describes his own incident with Brizuela as well as the conversation he had with Rosa Brizuela in the morning.
9:05:35	9:06:59	Officer Sullivan meets with Nicholas A. at his residence. Nicholas explains his incident with Brizuela to Officer

		Sullivan including that Rosa Brizuela told him that he has weapons. Officer Sullivan observes a knot on Nicholas's head and confirms that Nicholas wants to press charges.
9:07:15	9:09:09	Officer Sullivan meets with Officer Maile and updates him on his investigation. Officer Sullivan suspects that Brizuela went back inside his house. Aguilar updates the officers that his wife saw something in Brizuela's hand during their incident with Brizuela. Officer Sullivan tells Officer Maile that they will detain Brizuela immediately pending further investigation.
9:10:53	9:11:49	Officers Sullivan and Maile approach 1753 London Circle. Brizuela emerges from the patio area and tells the officers they cannot be on the property without a court order. Officer Sullivan asks Brizuela to come out and talk to them. Brizuela asks the officers if they are going to arrest him and that they are breaking the law. Officer Sullivan responds that they are not breaking the law. Officer Maile then takes over the conversation and tells Brizuela they are there to talk about something that happened between Brizuela and a kid. Brizuela asks Maile how he knows that and how can the officers blame him. Officer Maile says they are not blaming him and are only there to ask him questions.
9:11:49	9:11:57	Officer Sullivan begins knocking on the storm door. Brizuela tells Officer Sullivan not to knock on the door. Officer Sullivan says he will knock on the door and continues to do so. Brizuela is seen in the patio area waving his finger at Officer Sullivan.
9:11:58	9:12:06	Rosa Brizuela opens the door and Officer Sullivan identifies himself. Brizuela tells Rosa not to open the door. Officer Sullivan asks Rosa to open the door so he can talk to her and that it is for her own safety.
9:12:11	9:12:46	Officer Maile yells, "Hey, gun!" Then Officer Sullivan yells, "Gun!" Officer Maile yells at Brizuela approximately six times to put the gun down. Officer Sullivan yells to put the gun down approximately eight times. Both officers are seen with their guns drawn and aiming towards Brizuela. Brizuela responds, "You are a thief." Both Officer Sullivan and Officer Maile tell him one more time to put the gun down and Officer Maile tells him they are not thieves. Brizuela responds, "Go ahead, shoot." Officer Sullivan says to put the gun down. Brizuela responds, "Shoot." Officer Sullivan yells to drop the gun three more times while Officer Maile says to put the gun down two more times. The view is obstructed by the gate.
9:12:46	9:12:49	Shots are fired.

9:12:49	9:13:47	Officer Sullivan advises dispatch, "One down. Shots fired." Officer Sullivan and Officer Maile check with each other to make sure each is ok. Officer Sullivan advises dispatch again that one is down, the officers are okay, and that there is one person inside the house.
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(Brizuela moments after asking Officer Sullivan, "Are you going shoot me?" during their first encounter - Officer Sullivan's Body Cam Footage 9:01:09 p.m.)



(Brizuela waiving his finger at Officer Sullivan from his patio as Officer Sullivan was knocking on the front door of 1753 London Circle - Officer Sullivan's Body Cam Footage 9:11:51 p.m.)

C. Evidence Collected

The following relevant evidence was collected and photographed at 1753 London Circle:

- One (1) black "Ruger 9E" handgun (Serial #335-45451) containing one (1) "WIN 9mm Luger +P" cartridge from the chamber and one (1) black "Ruger" magazine removed from the

gun containing nine (9) "WIN 9mm Luger +P" cartridges- from underneath the body of Rolando Brizuela.



(Loaded "Ruger 9E" handgun found underneath the body of Rolando Brizuela)

On January 23, 2020, Firearms Examiner Don Carman reported the results of an examination of the above firearm. Carman determined that the black "Ruger 9E" handgun (Serial #335-45451) was in normal operating condition with the safety features functioning.

- Eighteen (18) white metal "FC 9mm +P" fired cartridge casings collected from the exterior of 1753 London Circle.

On January 23, 2020, Firearms Examiner Don Carman reported the results of an examination of the Glock 17 Gen4 9mm pistols used by Officer Sullivan and Officer Maile. Both firearms were in normal operating condition with the safety features functioning. Test bullets from the firearms bear the same class characteristics as the collected cartridge casings. However, there was insufficient individual characteristics for a more

conclusive identification to each cartridge casing to the respective firearm.

- One (1) multicolored skateboard collected from the northwest side of the patio, near the sliding door.



(Nicholas A.'s skateboard located on Brizuela's patio)

- One (1) empty box of "Winchester PDX1 Defender 9mm Luger +P" ammunition - collected atop a table in the patio area.



(Empty box of "Winchester PDX1 Defender" 9mm Luger +P" ammunition found on patio table in patio area)

- One (1) "Ruger" handgun box (Serial #335-45451) - collected from the dresser drawer in the eastern upstairs bedroom.

D. Autopsy

The autopsy of Rolando Brizuela was performed by Washoe County Medical Examiner Katherine Callahan who determined that the cause of Brizuela's death was due to multiple gunshot wounds. The autopsy revealed that Brizuela was shot eleven times.

III. LEGAL PRINCIPLES

A homicide is the killing of another human being, either lawfully or unlawfully. Homicide includes murder and manslaughter, which are unlawful, and the acts of justifiable or excusable homicide, which are lawful. The Washoe County Medical Examiner's Office has deemed the death of Rolando Brizuela to be a homicide. Consequently, the Washoe County District Attorney's Office is tasked with assessing the conduct of the officer involved and determining whether any criminality on their part existed at the time of the shooting.

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

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

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

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

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

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

A bare fear of death or great bodily injury is not sufficient to justify a killing. To justify taking the

life of another in self-defense, the circumstances must be sufficient to excite the fears of a reasonable person placed in a similar situation. The person killing must act under the influence of those fears alone and not in revenge.

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

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

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

If evidence of self-defense is present, the State must prove beyond a reasonable doubt that the defendant did not act in self-defense. If you find that the State has failed to prove beyond a reasonable doubt that the defendant did not act in self-defense, you must find the defendant not guilty. Id. 1051-52.

B. Justifiable Homicide by Public Officer

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

C. Use of Deadly Force to Effect Arrest

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

IV. ANALYSIS

The officer involved shooting on the evening of July 17, 2018 was a culmination of several bizarre and violent acts exhibited by Rolando Brizuela. To fully explain the actions of Brizuela towards Officers Sullivan and Maile, it is important to understand the events leading up to the shooting.

Brizuela's behavior and mental health appear to have been in question since at least November of 2017. It was at that time that he was taken into custody on a mental health hold and eventually referred to West Hills for evaluation. He was ultimately released from West Hills and in February of 2018 was given his firearm back, as there was no legal impediment to keeping it from him. Rosa continued to monitor Brizuela's behavior and was concerned enough to warn multiple neighbors to ignore Brizuela's erratic actions.

On the morning of July 17, 2018, Rosa came up to Zena Aguilar to warn him of her husband's behavior. Rosa told Aguilar that something was wrong with her husband and to disregard and not pay attention to him because "he's not right in the head." Rosa said there were "voices talking to him to do bad things to people." Rosa also added that Brizuela had kicked her and her kids out of their house. Later that evening, Aguilar had the encounter with Brizuela in which Brizuela produced the handgun and moved towards Aguilar as he was in his car with his wife. This event is significant because Aguilar told Officer Sullivan about it just prior to Officers Sullivan and Maile's interaction with Brizuela.

Aguilar's interaction with Brizuela was one of three frightening events the evening of July 17, 2018, that show how dangerous Brizuela had become. Gabriella Guardon-Castillo had just parked in front of her home when Brizuela was seen intently staring at her, causing her to become frightened for herself and her three-

year-old daughter. Guardon-Castillo called 9-1-1 and requested a police escort back to her home. It was that call that prompted Officer Sullivan's involvement in the incident, as he was the one who responded to Sparks Middle School to meet with Guardon-Castillo and performed the police escort.

It was during Officer Sullivan's interaction with Guardon-Castillo that he first learned about the incident with Nicholas A. That incident prompted Officer Sullivan to eventually investigate Brizuela for several felony crimes including Child Abuse and Robbery. Nicholas A. had been traveling home on his skateboard when Brizuela attacked him for no reason. Brizuela knocked Nicholas to the ground, punched him in his face and took his skateboard. When Nicholas tried to retrieve it, once again it was Rosa who gave the warning to ignore Brizuela that included his having access to a firearm. It is clear that Rosa, as well as her son Morgan, who initially denied witnessing the encounter, were concerned about Brizuela's mental health and thought he may be a danger to himself and others.

While en route to Guardon-Castillo's residence, Officer Sullivan was updated by dispatch that indeed Nicholas had called 9-1-1 to report the incident with Brizuela. When Officer Sullivan parked on London Circle, he encountered Brizuela almost immediately. Brizuela was already on the defense asking Officer Sullivan if he was going to shoot him. Officer Sullivan deftly handled Brizuela initially by downplaying the obviously significant comment and refused to engage with Brizuela at that time, as he still wanted to meet with Nicholas. However, the question asked by Brizuela is significant as it suggests he was thinking about a potential violent encounter with police.

Officer Sullivan continued his investigation by speaking with Nicholas. His conversation confirmed that he wanted to speak with Brizuela about his involvement in the crime. It was at that time that Officer Maile arrived to back up Officer Sullivan. Both discussed how they were going to approach Brizuela, as they knew him to possess a weapon based on Aguilar's comments, and were aware at that point of his erratic behavior. The officers' plan was to engage with Brizuela and attempt to detain him for their own safety.

Upon approach to 1753 London Circle, Brizuela was in his enclosed front patio. Brizuela was immediately combative with

the officers. Both officers remained calm and attempted to assuage Brizuela's concerns but Brizuela ignored every command of the officers. The officers questioned Brizuela about the robbery, which clearly struck a nerve as Brizuela questioned the officers about how they could know about it. Officer Sullivan had a duty to investigate the crimes against Nicholas and knew Rosa to be a key witness in the investigation. Therefore, Officer Sullivan knocked on the front door. That appeared to be the moment that aggravated Brizuela to the point where lethal force would ultimately be needed.

Brizuela ordered Rosa not to engage with the officers and retreated further into the patio. It was there that Brizuela retrieved his firearm that appeared to be concealed on the patio bed underneath a pillow. Officer Maile astutely saw the firearm immediately and called out to his partner while drawing his duty weapon. Officer Sullivan also drew his firearm and both officers made valiant efforts to command the now armed Brizuela to drop the weapon. Rather than immediately fire, both officers repeatedly told Brizuela to drop the gun, which Brizuela had pointing down at his side. At two points, Brizuela told the officers to shoot him. It is clear from these statement that Brizuela wanted to force the officers to defend themselves. At that moment, the officers' lives as well as any witnesses nearby, such as witness Shelly Register, were in grave danger.

Both officers remained calm throughout the encounter even when Brizuela racked the slide of his weapon. Brizuela's actions signaled an increasing threat to the officers, yet they remained calm and actively tried to de-escalate the situation. It was not until Brizuela began raising his pistol that the officers defended themselves by shooting at Brizuela.

It is apparent from Brizuela's own statements that his likely intention on July 17, 2018 was to force Officers Sullivan and Maile into a deadly encounter. His comment to Officer Sullivan in their first interaction, as well as his request for the officers to shoot him, support that mental state. When the officers did not shoot him immediately, Brizuela escalated the situation to one where deadly force was necessary by raising his own firearm.

Several witnesses came forward and corroborated the accounts of Officers Sullivan and Maile. They also stated a belief that the

officers acted professionally and courteously. In the moments surrounding Brizuela's actions of arming himself and of raising his firearm towards Officers Sullivan and Maile, both officers reasonably believed that they were in imminent danger of great bodily harm or death. Further, witness Shelly Register was also in imminent danger of death or great bodily injury, as she was next door on her front patio during the entire incident.

Therefore, it was absolutely necessary for Officers Sullivan and Maile to use deadly force against Brizuela in order to save their own lives, the lives of each other, and potentially the lives of citizens in the area. In short, Officer Brian Sullivan and Officer Eli Maile had the right under Nevada law to use deadly force against Brizuela in defense of his own person as well as others in the discharge of a legal duty.

V. CONCLUSION

Based on the review of the entire investigation presented and the application of Nevada law to the known facts and circumstances surrounding the July 17, 2018, officer involved shooting death of Rolando Brizuela, the actions of Officer Brian Sullivan and Officer Eli Maile were warranted under Nevada law. Unless new circumstances come to light that contradict the factual foundation upon which this decision is made, this case is officially closed.