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NINTH JUDICIAL CIRCUIT
ORANGE AND OSCEOLA COUNTY, FLORIDA

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July 15, 2014

Sheriff Jerry Demings
Orange County Sheriff's Office
2500 West colonial Drive
Orlando, FL 32804

RECEIVED
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OCSD
Professional Standards Division
[Signature]

Re: Date of incident: February 16, 2014 11:47 hours
Deputy: Jonathon Brown (Orange County Sheriff's Office)
Suspect/Descendent: Timothy Oakes
FDLE Investigator: Special Agent Alphonso Williams (OR-27-0186)
SAO Internal No.: UF14-7

Dear Sheriff Demings,

This letter details my review of the February 16, 2014 incident wherein Deputy Jonathon Brown engaged in a use of force that included the discharge of his agency firearm. This review is undertaken to determine whether or not criminal charges are an appropriate response to the use of force in this instance. This state's highest court has—in at least one instance—affirmed the criminal conviction of a law enforcement officer for what was deemed an unlawful use of force. *See State v. Cobb*, 376 So.2d 230, 232 (Fla. 1979). However, the appellate court directly governing the Ninth Judicial Circuit has questioned whether criminal charges are ever appropriate against a law enforcement officer who exercises his or her judgment in difficult and dangerous circumstances. *See State v. Kadet*, 455 So.2d 389, 390–91 (Fla. 5th DCA 1984). The issue in these instances is whether the law enforcement officer's use of deadly force was justified because he or she reasonably believed that force was necessary to prevent imminent death or great bodily harm to himself or another. Fla. Stat. § 776.012(1)(2012). A comprehensive look at the facts of this incident results in the conclusion that Deputy Jonathon Brown's use of force was justified and appropriate in this instance.

On May 1, 2014, the State Attorney's Office received a Use of Force case investigation report authored by Special Agent Alphonso Williams of the Florida Department of Law Enforcement. A thorough review was conducted and the following observations were noted during this review:

On February 16, 2014, the Orange County Sheriff's Office received a 911 telephone call from Michele Oaks. Mrs. Oaks reported her husband, Timothy Oaks, suffered from depression and he recently took Xanax pills. She informed the Orange County Sheriff's Communications Center that Mr. Oaks was walking in and out of their residence while in possession of a loaded shotgun. Due to the behavior of Mr. Oaks, Mrs. Oaks and her two sons locked themselves in an upstairs

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bedroom. Deputies were dispatched and responded to the scene, which was located at 15126 Perdido Drive in Orlando.

During the course of this 911 call for service, uniformed members of the Orange County Sheriff's Office provided cover as Mrs. Oaks and her children exited the address. Mr. Oaks initially chose to remain inside the structure. Deputies observed him moving throughout the address. The following excerpts are taken from the *Investigative Summary* authored by FDLE Special Agent Alphonso Williams:

"As OCSO deputies arrived on scene and surrounded the exterior of the residence, deputies heard loud banging coming from the interior of the house. Deputies were informed that Timothy [Oaks] was trying to kick-in the bedroom door where Michele [Oaks] and the children were hiding.

During the standoff, Timothy was observed exiting the back sliding door of the residence with the long gun in hand. As Timothy pointed a shotgun at Deputy Jonathon Brown, Deputy Brown fired one (1) buckshot round from his agency issued shotgun. Timothy sustained a gunshot wound to the upper left chest area, and was pronounced dead at 1353 hours by the Orange County Fire Department (OCFD)."

On February 19, 2014, Deputy Johnathon Brown freely provided a sworn statement to FDLE Special Agents Williams and Randolph. During the course of the interview Deputy Brown was asked to explain why he chose to utilize deadly force during the incident. He informed, "*I challenged him [Timothy Oaks], ordered him to drop the weapon, a couple of times and he turned his entire body right at me, started lifting the shotgun toward my direction and I fired one round.*" Deputy Brown expressed, "*I was in fear, I knew he was going to shoot me.*"

Based on the totality of the circumstances, the actions of Deputy Brown were justified.

Although there is no evidence in this instance indicating the use of poor judgment by the deputy, it is instructive here and in all instances to note the words of our appellate court when reviewing law enforcement uses of force:

As an observation, we question whether a law enforcement officer should ever be, in the absence of intentional misconduct or some degree of malice, criminally responsible for using poor judgment. A police officer, under the circumstances here, is ordered into a life threatening situation. The call usually comes without warning. He does not ask for the assignment, but he is bound to protect society against the violent acts of the unlawful or mentally deranged. Now that same society seeks to punish him for using poor judgment. An officer, in such circumstances, should not be burdened with the knowledge that if he overreacts to the real or imagined dangers he may be committing a crime, especially when those who judge his actions do so with the benefit of perfect hindsight and from a position of safety.

Kadet, 455 So.2d at 390–91 (emphasis in original).

There is no evidence in this instance that the deputy committed intentional misconduct or acted with any degree of malice. To the contrary, the evidence suggested he acted in self-defense with force he believed reasonably necessary to prevent imminent death or great bodily harm to himself or fellow deputies. Therefore, a complete review of the investigation leads me to conclude that criminal charges against Deputy Jonathon Brown are not warranted, and the Office of the State Attorney's review of this incident is complete.

Sincerely,



Jeffrey L. Ashton
State Attorney

C.C. Danny Banks
Florida Department of Law Enforcement

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