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September 2, 2015

Orange County Sheriff's Office  
Attn: Sheriff Jerry Demings  
2500 West Colonial Drive  
Orlando, Florida 32804

RECEIVED  
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OCSD Professional Standards Division

Dear Sheriff Demings:

This letter details my review of the February 1, 2015 incident wherein Deputies Aaron Jenkins and Matthew Fewless engaged in a use of force that included the discharge of their agency firearms. This review was 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 themselves or another. Fla. Stat. § 776.012(1)(2012). A comprehensive look at the facts of this incident results in the conclusion that Deputies Aaron Jenkins and Matthew Fewless' use of force was justified and appropriate in this instance.

On May 18, 2015, the State Attorney's Office (SAO) received a Use of Force case investigation report authored by Special Agent Alphonso Williams of the Florida Department of Law Enforcement (FDLE). State Attorney's Office Investigator Emmett Browning conducted a thorough review of all applicable reports and attachments provided by FDLE as well as documents related to the criminal investigation conducted by Orange County Sheriff's Office Detective Troy Heyer. Chief Investigator Eric Edwards conducted a secondary review and the following observations were noted. The following excerpts are taken from the FDLE report authored by FDLE Agent Williams:

*"The investigation revealed that on February 1, 2015, OCSO Deputies Aaron Jenkins (driver) and Matthew Fewless (passenger) operating as a two-person unit, attempted to conduct a traffic stop on a white Chevy Impala (Tag: E64-9IB) in the parking lot of 4700 South Orange Blossom Trail. The vehicle was occupied by Danny Layne Wright (driver) and Allen Grant (passenger). During the stop, the Chevy Impala circled around the parking lot and drove back toward the OCSO marked patrol vehicle. Deputy Jenkins and Deputy Fewless exited their patrol vehicle as the Chevy Impala drove directly toward them. Deputy Jenkins fired two rounds, and Deputy Fewless fired seven rounds at the Impala. During the incident, the Impala struck the driver's*

*side of the patrol vehicle and pinned Deputy Jenkins between the patrol vehicle and the Chevy Impala. Wright and Grant were struck by the deputies' rounds, and were transported to ORMC..." (Emphasis added)*

*"... Wright sustained a life threatening gunshot wound to the forehead and was unconscious. ... Grant sustained two gunshot wounds. One gunshot wound was to the left cheek area, where the projectile came to rest in the left neck area. The second projectile struck Grant in the left elbow, fracturing his arm. ..."*

**Note:** Due to the fact both of the deputies carried and discharged .45 caliber issued duty ammunition, it is not definitively known by investigators which rounds fired by the deputies struck which of the occupants inside the suspect vehicle.

On the date of this incident, Orange County Sheriff's Office Deputies Aaron Jenkins and Matthew Fewless were working in their official capacity as sworn law enforcement officers at the time of the aforementioned traffic stop. During the course of the use of force investigation conducted by FDLE investigators, it was established Mr. Wright solicited the assistance of Mr. Grant for the purpose of purchasing "dope" prior to the traffic stop. According to the sworn statement collected from Mr. Grant, he believed Mr. Wright intentionally struck Deputy Jenkins.

During the interview of Deputy Jenkins he explained, "*I believed he was trying to kill me, you know, run me down with the vehicle, so I was doing it [discharging his firearm] to protect my life. ... I was kind of locked in on the driver. I mean, I mean, I saw it was two people in the vehicle, but I kind of locked on the driver at that time, because that's the biggest threat in my mind. I mean, you know, that was where my focus was.*" (Emphasis added)

Deputy Fewless, who reportedly moved towards the back of the police vehicle from the passenger side, explained to investigators, "...*I heard [Deputy] Jenkins, I heard him, he was just 'stop, stop your car, stop your car.' So, I started screaming too. I didn't see the car, but I started screaming.*" As Deputy Fewless tactically moved towards a position of cover he heard two gunshots. He explained, "*I thought for sure he [Deputy Jenkins] was a goner. ... I was so worried that the driver was going to keep coming that's when I came around.*" Deputy Fewless moved to the rear driver side of the patrol vehicle and engaged what he perceived as being a deadly threat. Deputy Fewless discharged seven (7) rounds at the approaching vehicle.

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

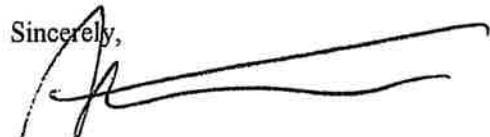
As an observation, we question whether a law enforcement officer should ever be, in the absence of intentional misconduct or some degree of malice, criminally responsible for using poor judgment. A police officer, under the circumstances here, is ordered into a life threatening situation. The call usually 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 either deputy committed intentional misconduct or acted with any degree of malice. To the contrary, the evidence suggested they acted in self-defense with force they believed reasonably necessary to prevent imminent death or great bodily harm to themselves or fellow officers. Therefore, a complete review of the investigation leads me to conclude that criminal charges against Deputies Aaron Jenkins and Matthew Fewless are not warranted, and the Office of the State Attorney's review of this incident is complete.

Sincerely,



Jeffrey L. Ashton  
State Attorney

Cc: Danny Banks, Special Agent in Charge,  
Florida Department of Law Enforcement, Orlando

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