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NINTH JUDICIAL CIRCUIT
ORANGE AND OSCEOLA COUNTY, FLORIDA

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December 18, 2015

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OCSO

Professional Standards Division

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

Dear Sheriff Demings:

This letter details my review of the May 11, 2015, incident wherein Deputy First Class Raymond Torrellas 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 DFC Raymond Torrellas' use of force was justified and appropriate in this instance.

On July 22, 2015, the State Attorney's Office received a Use of Force case investigation report authored by Detective Sergeant Mike Ruggiero of the Orange County Sheriff's Office (OCSO). State Attorney's Office Investigator Patrick Schneider conducted a thorough review of this investigative document and all following attachments, made available and later forwarded by Detective Sergeant Mike Ruggiero. A secondary review was conducted by Chief Investigator William Eric Edwards and the following was noted:

On May 11, 2015, Orange County Sheriff's Deputy First Class Raymond Torrellas assisted other law enforcement officers involved with a vehicle pursuit, related to the reported use of a shotgun during two (2) recent armed robberies, as suspects fled from both Osceola and Orange County Deputies in a Mercury Grand Marquis. While assisting other deputies who were attempting to tactically park the suspect vehicle, Deputy Torrellas approached the front of the car on foot and discharged his agency issued firearm twice, through the windshield, towards the front seat passenger.

On May 14, 2015, Deputy Torrellas provided his sworn account to Detective Sergeant Ruggiero who summarized the statement as follows:

Deputy First Class Raymond Torrellas quickly exited his vehicle and began to approach the Grand Marquis on foot ... observed the patrol units had initiated contact ... with their patrol vehicles ... Deputy First Class Raymond Torrellas advised he observed what he believed to be the barrel of a shotgun come above the dashboard from the passenger side of the Grand Marquis. Fearing for his safety as well as the safety of the deputies who were driving the patrol vehicles ... Deputy First Class Raymond Torrellas advised he fired two rounds into the passenger side of the front windshield of the Grand Marquis in an effort to stop the threat. (Emphasis added)

The investigation determined Mr. Daniel Smith was sitting in the front passenger side seat at the time of the use of deadly force, but was not struck by either projectile. A shotgun barrel was later discovered inside the suspect vehicle.

Given the totality of the circumstances and the information gleaned during the investigation and applicable review process, it is the opinion of this writer that the actions taken by Deputy First Class Raymond Torrellas were reasonable and justified.

Although there is no evidence in this case 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.

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

Sincerely,



Linda Drane Burdick

LDB:amz

CC: Mike Ruggiero, Orange County Sheriff's Office

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