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

Dear Sheriff Demings:

This letter details my review of the incident on December 20, 2015, where Deputy Ryan Oberlander 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, §776.05, and §776.06 (2016). A comprehensive look at the facts of this incident results in the conclusion that Deputy Ryan Oberlander's use of force was justified in this instance.

On February 22, 2016, the State Attorney's Office (SAO) received a Use of Force investigative package, for the purpose of review, from the Florida Department of Law Enforcement (FDLE). Investigators Patrick Schneider and Nelson Espinosa conducted a thorough preliminary review of the investigative report submitted by FDLE and of all other supporting arrest documents and attachments provided by the Orange County Sheriff's Office. A secondary review of the case package was later conducted by Chief Investigator Wm. Eric Edwards. The following excerpts were taken from the investigative report authored by FDLE Agent David Hubbard:

On December 20, 2015, the Orange County Sheriff's Office (OCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Ryan Oberlander, which resulted in non-life threatening injuries to James M. Sanders. The incident occurred on Carter Street near the intersection of Collier Boulevard, Orlando, Orange County, Florida. (OCSO# 15-113143)

This investigation revealed that on December 20, 2015, at approximately 2153 hours, OCSO deputies responded to a carjacking of an orange Hummer. At approximately 2157 hours OCSO deputies observed the stolen Hummer and initiated a pursuit of this vehicle. During the pursuit, Deputy Oberlander became the lead OCSO deputy behind the Hummer. The driver of the Hummer, James Sanders, drove to Carter Street near Collier Boulevard where he exited the vehicle with a firearm and fled on foot. OCSO Deputy Ryan Oberlander stopped behind the Hummer, exited his patrol car and fired seven rounds at Sanders. Sanders ran to Midori Street where Deputy Oberlander fired three additional rounds at Sanders. Sanders was placed in custody on Midori Street at Luna Negra Drive after receiving two gunshot wounds that were not life-threatening. Sanders was transported to Orlando Regional Medical Center (ORMC) where he was treated for his injuries.

On December 23, 2015, Deputy Oberlander provided FDLE Agent Hubbard a sworn statement regarding the aforementioned use of deadly force incident. As Deputy Oberlander provided his recollection of Mr. Sanders actions he stated, *"When he [Mr. James Sanders] bailed out of the vehicle, like I say, the very first thing I saw was his handgun coming out, and my thought was he was coming out of that vehicle to kill me. And I wasn't going to give him an opportunity to do that."* (Emphasis added)

Deputy Oberlander explained to investigators the reason he fired a second volley of shots/rounds at the suspect, saying, *"I remember that he kind of glanced towards my direction and I could see the gun in his hand as he was running. At that point, I was still in fear for my own safety and I was in fear for any other officers that were responding to the scene and these people in this neighborhood because this guy was still armed. At that point, I made the decision to continue firing at him."* (Emphasis added)

He also expressed, *"My thought was, is I just shot at this guy because he's armed with a handgun. If he didn't have intentions to hurt somebody, he would have dropped the gun. But he didn't, he continued to run. And -- I remember thinking in my head that, even if this guy's at this point running from me, he's still armed with a handgun. All it takes is for him to do one of these, behind him and take me out with a lucky shot."* (Emphasis added)

NOTE: On December 21, 2015, investigators collected a sworn recorded statement from Mr. James Sanders. When asked if he was in possession of a weapon at the time he was shot, Mr. Sanders stated, "No." On December 28, 2015, a second recorded statement was collected from Mr. Sanders. During that interview, Mr. Sanders was asked if he could recall when he dropped his gun; Mr. Sanders explained, *"I think I dropped it when I was running ... or when I got shot."* (Emphasis added)

The information available establishes Mr. Sanders was armed with a handgun as he fled from Orange County Sheriff's Office marked patrol cars while driving a stolen vehicle. Deputy Oberlander observed Mr. Sanders exit the stolen vehicle while in possession of a handgun. Mr. Sanders fled the scene on foot. After discharging his issued weapon towards Mr. Sanders, Deputy Oberlander gave chase and discharged a second volley of rounds, striking Mr. Sanders.

Deputy Sheriff Ryan Oberlander utilized deadly force, during a rapidly evolving and dynamic life threatening event, as a direct result of what he perceived as aggressive action by Mr. Sanders who possessed a handgun at the time of the incident. Considering the totality of the circumstances, the actions of Deputy Oberlander were reasonable and justified.

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.

There is no evidence that Deputy Ryan Oberlander 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 Deputy Ryan Oberlander are not warranted, and the Office of the State Attorney's review of this incident is complete.

Sincerely,



Linda Drane Burdick

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CC: David Hubbard, Florida Department of Law Enforcement

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