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Begin forwarded message:

From: "Barra, Deborah" <DBarra@sao9.org>
Date: May 30, 2018 at 4:45:04 PM EDT
To: "Demings, Jerry (OCSO)" <jerry.demings@ocfl.net>
Cc: "Banks, Danny" <DannyBanks@fdle.state.fl.us>
Subject: Deputy Anthony Claudio FDLE OR-27-0250

Good Evening,

Attached is a letter regarding Deputy Sheriff Anthony Claudio. Please let me know if you have any questions or would like to discuss my findings.

Have a good night,

Deborah

DATE: May 30, 2018

To: Jerry L. Demings, Sheriff, Orange County, Florida

FROM: Deborah Barra, Chief Assistant State Attorney

RE: Florida Department of Law Enforcement Investigative Case #OR-27-0250 – Use of Force Review regarding Orange County Deputy Sheriff Anthony Claudio

I have completed a review of the investigation into the use of deadly force by Orange County Deputy Sherriff Anthony Claudio. The incident occurred within the Ninth Judicial Circuit of Florida on April 30, 2016. Based upon the sworn statements of the people present and the physical evidence found at the crime scene, the following facts have been established.

On the date mentioned, Deputy Claudio and his wife, Cynthia Claudio, attended a birthday party at Senor Frogs located on International Drive. After leaving the bar, Deputy Claudio's personal vehicle was struck on the left back side panel by another vehicle. The other vehicle did not stop. The collision resulted in minor damage to Deputy Claudio's vehicle. Neither Deputy Claudio or Cynthia Claudio were injured during the incident.

Deputy Claudio believed he identified the vehicle that struck his car and proceeded to follow that vehicle onto State Road 528. The vehicle was later determined to be driven by Mr. Vinod Persaud. While following Mr. Persaud, Cynthia Claudio called 911 and relayed tag and location information to the 911 dispatcher. The dispatcher repeatedly told Deputy Claudio and Cynthia Claudio to pull over. Despite this instruction, Deputy Claudio continued to follow Mr. Persaud.

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Mr. Persaud exited State Road 528 at Orange Blossom Trail and pulled into an empty parking lot by a warehouse. The warehouse was equipped with an operational motion activated camera. The camera did not capture the use of deadly force; however, it does show Deputy Claudio pulling into that location after Mr. Persaud, parking his car a distance away from Mr. Persaud and exiting his vehicle. It also captured Deputy Claudio tactically positioning himself behind a parked red truck prior to advancing toward Mr. Persaud's location.

At approximately 11:00 pm, Deputy Claudio, wearing blue jeans and a button-down shirt and carrying a firearm, approached Mr. Persaud. Deputy Claudio pointed his firearm at Mr. Persaud and ordered him to get on his knees. Deputy Claudio then made physical contact with Mr. Persaud. Mr. Persaud attempted to grab Deputy Claudio's firearm and a physical struggle between Deputy Claudio and Mr. Persaud ensued. During this struggle, Deputy Claudio verbally identified himself as a police officer. The struggle ended with Deputy Claudio's firearm expelling a projectile. The projectile struck Deputy Claudio's finger, Mr. Persaud's hand, and then entered the abdomen of Mr. Persaud. Deputy Claudio retreated to his vehicle and Mr. Persaud entered his vehicle and drove away. Deputy Claudio was taken to the hospital and received treatment for the injury to his finger. After a lengthy surgery, waking up from a coma, and a several week stay in the hospital, Mr. Persaud eventually was discharged and months later recovered from his gunshot wound.

The facts pertaining to the use of deadly force by Deputy Claudio are troubling.

If Mr. Persaud was in fact the individual who struck Deputy Claudio's car, and if the State was able to prove Mr. Persaud knew he struck another vehicle when he left the scene, Mr. Persaud's conduct would fall under criminal Florida Statute 316.061. This statute classifies

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Mr. Persaud's potential behavior as "Leaving the scene with Property Damage" - a second degree misdemeanor. The conduct displayed by Deputy Claudio in response to this misdemeanor offense was dangerous and unnecessary. Had Deputy Claudio exercised good judgment at any stage of the encounter Mr. Persaud would not have been shot.

Deputy Claudio was traveling with his wife in the car when he decided to follow the vehicle. Prior to pulling over, Deputy Claudio and Cynthia Claudio were able to provide dispatch with the location and tag number of the vehicle in question. At that point, it would have been reasonable for Deputy Claudio to adhere to the request of the 911 operator and pull over. He instead chose to follow Mr. Persaud.

When Deputy Claudio reached the parking lot, Mr. Persaud had already stopped, parked and exited his vehicle. Deputy Claudio and his wife were still on the phone with dispatch and could have easily remained in their vehicle until marked units arrived. Instead, wearing plain clothes and exiting an unmarked car, Deputy Claudio chose to confront Mr. Persaud.

Deputy Claudio approached Mr. Persaud, at night, in civilian clothes, in a tactical manner and drew his weapon immediately. At this point, and by his own conduct, Deputy Claudio became a threat to Mr. Persaud. In his statement, Mr. Persaud indicated he believed he "was being carjacked" and thought "the guy was going to kill me." It was reasonable for Mr. Persaud, under those circumstances, to fear and fight for his life. The introduction of a firearm by Deputy Claudio unnecessarily escalated the encounter and led to the shooting of an unarmed civilian. Throughout the encounter Deputy Claudio demonstrated poor judgement and needless aggression.

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Furthermore, several weeks after the incident, Deputy Claudio drafted a sworn statement that places his own credibility in question. Contained in his sworn statement are numerous assertions that are contrary to the evidence and appear to embellish facts to focus solely on his justification for the use of deadly force.

His first justification came in the form of a self-defense claim. He stated the reason why he drew his firearm was because Mr. Persuad moved his hands towards his pockets and looked at him in a threatening manner. As stated on page three of his statement, Deputy Claudio wrote Mr. Persuad "then looked up at me and I observed him reach towards his front pockets and waistband area while giving me a stare that alarmed me as he was pointing at me with his eyes."

It appears Deputy Claudio thought Mr. Persuad, who did not know Deputy Claudio was a member of law enforcement at the time, pointing at him with his eyes and reaching towards his pockets was a threat great enough to cause him to draw his firearm. This would indicate Deputy Claudio was acting in abundance of caution for his own personal safety and he drew his firearm when he reasonably believed he was encountering a potential threat. However, this is in direct contradiction to his actions moments later. According to his statement, when Mr. Persuad acted in a manner that was no longer a potential threat, but an actual threat to Deputy Claudio's safety, Deputy Claudio holstered his weapon. As stated in his sworn statement on page three, "he came towards me and the car and I reached both arms out and said look I have no gun, I'm not going to shoot..." If true, it is confusing as to why after the physical altercation which resulted in both men being shot, and after Deputy Claudio had to physically fight Mr.

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Persuad, Deputy Claudio would decide to holster his gun when Mr. Persuad "came towards me."

Deputy Claudio's second justification for deadly force was a claim of "suicide by cop." In his sworn statement, Deputy Claudio indicated after the gun went off, Mr. Persuad sat by a tree and stated, "shoot me I want to die, kill me now, I deserve to die." He also quoted Mr. Persuad as saying to him, "shoot me or I'm leaving." Deputy Claudio further wrote, "I thought this guy is depressed, high or wants a suicide by cop incident."

According to the timeline established by Deputy Claudio, Mr. Persaud's statements were made after the projectile had already struck Deputy Claudio in the finger and Mr. Persaud in the stomach. It is difficult to comprehend why Mr. Persuad would request to be shot immediately after being shot, and why Deputy Claudio would not immediately react to being shot in the finger by his own gun. According to his statement, Deputy Claudio also took the time to attempt to turn off the engine of Mr. Persuad's vehicle after he was shot in the hand. Furthermore, there is testimony from Mr. Persuad and Cynthia Claudio that states as soon as the gun went off, Deputy Claudio yelled out in pain and immediately ran to his vehicle. This obviously contradicts the physical description of Mr. Persuad sitting by a tree, the actions of Deputy Claudio and the stated dialogue that Deputy Claudio alleges took place.

In addition, Deputy Claudio's moment by moment description of the physical altercation raises concern. Weeks after the altercation, Deputy Claudio was able to detail each movement by himself and Mr. Persuad, including which hand Mr. Persuad allegedly used to swing at him, the exact position of where his firearm was pointing, and the whereabouts of his trigger finger throughout the altercation. This level of detail is highly unusual and appears incomplete when

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compared with the testimony of other witnesses. Several independent civilian witnesses called 911 and gave a description of the altercation. One 911 caller described Deputy Claudio as "grabbing the other guy around the throat." Another 911 caller's description of the incident included "someone kicking someone on the ground." Neither of these acts were mentioned in Deputy Claudio's detailed account of what transpired.

Deputy Claudio used poor judgement by following Mr. Persuad, exiting his vehicle and confronting Mr. Persuad in the way he did. By acting in this manner, Deputy Claudio created a dangerous scenario that lead to Mr. Persuad being shot.

Although the use of force was due to poor judgment by Deputy Claudio, it does not rise to the level of criminal behavior that would legally permit the filing of charges of aggravated assault and/or attempted manslaughter. Pursuant to State v. Price, 74 So 3d 528 (Fla.2d DCA 2011), an off-duty law enforcement officer may stop and detain someone suspected of a breach of the peace. A misdemeanor traffic offense qualifies as a breach of the peace. As such, although Deputy Claudio's initial actions of following Mr. Persaud's vehicle and his apparent intent to detain Mr. Persuad were legal, under these facts, Deputy Claudio's actions exhibited an aggression and impairment in judgment that is disconcerting.

The State Attorney's Office has concerns regarding not only the judgment of Deputy Claudio but also his credibility. His account of the incident, when examined within the totality of the circumstances, appears to be embellished and misleading. As you know, it is imperative for the Office of the State Attorney and the public to have confidence in the veracity and reliability of members of law enforcement.

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I look forward to reading your internal administrative review. Please let me know if there's anything I can do to assist in your process.

Sincerely,

Deborah Barra
Chief Assistant State Attorney

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

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