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Orange and Osceola County, Florida

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**RECEIVED**

Date: February 13, 2019  
To: John Mina, Sheriff of Orange County  
From: Aramis D. Ayala, State Attorney  
Re: Florida Department of Law Enforcement Investigative Case # OR-27-0258, Use of Force Review regarding the following Deputy Sheriffs:

R.O. FEB 20 2019  
UCSO CE  
Professional Standards Division

Sergeant Fred Westerberg  
Deputy Gerald Cavis  
Deputy Matthew Futch

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A review of the investigation into the use of deadly force used by the above listed law enforcement members of the Orange County Sheriff's Office on June 12, 2016 has been completed. It has been determined that these members of your agency fired their agency issued firearms during an engagement at the Pulse Nightclub. This engagement occurred within the Ninth Judicial Circuit of Florida. Based upon the sworn statements of the people present, ballistic evidence, video evidence and physical evidence at the scene, the following facts have been established.

On June 12, 2016 the above listed members of law enforcement responded to an active shooter at Pulse Nightclub. Upon arrival, multiple patrons of the club had been killed or wounded by an armed terrorist. It later became known to your deputies that the terrorist was positioned in the north bathroom located on the west side of the building. The terrorist was with hostages and heavily armed. He also claimed to have explosive devices. Your deputies were positioned in the grassy field that led directly up to the west side wall of the building.

In an effort to rescue civilians who were trapped in the club, a series of holes were created in this concrete wall. One of the five holes created was at the end of the hallway between the two bathrooms and another hole was made along the exterior wall of the south bathroom. As members of law enforcement were actively pulling civilians through the hole created in the south bathroom, the terrorist fired additional shots in the north bathroom.

Upon hearing the shots fired, officers utilized 2 flash bangs to distract the terrorist. As a result, the terrorist appeared in a hole in the concrete at the end of the hallway between the bathrooms. The terrorist was armed with an assault rifle and a handgun. The terrorist fired his handgun a minimum of two times at members of law enforcement. Upon seeing the terrorist, the listed deputies from your agency fired their agency issued firearms at the terrorist. The terrorist eventually fell backwards and was ultimately pronounced dead at the scene. The following is a breakdown of how many times each member of your agency fired their weapons:

Sergeant Fred Westerberg	a minimum of 20
Deputy Gerald Cavis	a minimum of 8, no more than 17
Deputy Matthew Futch	14

Based upon the totality of the circumstances, it was reasonable for all of the above members of your agency to believe their lives and the lives of others were in danger. Therefore, every time each member of your agency fired their weapon their actions were justifiable and no criminal charges will be brought forth for their actions during this encounter.

  
Aramis D. Ayala  
State Attorney