



Aramis D. Ayala
State Attorney
Ninth Judicial Circuit
Orange and Osceola County, Florida

Deborah Barra
Chief Assistant State Attorney

Kamilah L. Perry
Executive Director/General Counsel

Date: July 1, 2019
To: John Mina, Sheriff of Orange County
From: Deborah Barra, Chief Assistant State Attorney
Re: Florida Department of Law Enforcement Investigative Case # OR-27-0327, Use of Force
Review regarding the following Law Enforcement Officers from the Orange County
Sheriff's Office:
Deputy Sheriff Thomas Boggs
Deputy Sheriff David Belardes
Deputy Sheriff Carlos Landin

I have completed 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 September 26, 2018. It has been determined that these members of your agency fired firearms during a traffic engagement. This incident occurred within the Ninth Judicial Circuit of Florida. The evidence concerning this engagement was received by the State Attorney's Office on January 3, 2019. Based upon the sworn statements of the individuals present, ballistic evidence, video evidence and physical evidence at the scene, the following facts have been established.

On September 26, 2018, the above-listed members of law enforcement were patrolling a residential area of Taft as part of the tactical anti-crime unit. The three deputy sheriffs were riding together in an unmarked Jeep Cherokee. Deputy Boggs was the driver, Deputy Belardes was the front passenger and Deputy Landin was seated in the backseat.

Deputy Boggs decided to follow a silver truck that he saw pulling away from a residence. The residence was described by Deputy Boggs as a "known drug house". According to all three deputies, the vehicle failed to stop at, at least, one stop sign (Deputy Boggs indicated he failed to stop at one stop sign, Deputies Belardes and Landin said the driver failed to stop at two stop signs). Despite the one or two observed traffic infractions, a traffic stop was not conducted at that time. Deputy Boggs continued to follow the truck. At some point, the driver of the truck (later identified as James Johnson) stopped his vehicle. According to Mr. Johnson, he was concerned the vehicle behind him was following him, so he decided to do a "brake check". As a result of Mr. Johnson stopping his vehicle, Deputy Boggs stopped his unmarked vehicle (which was directly behind Mr. Johnson). No emergency lights or commands were given to Mr. Johnson by any of the deputy sheriffs. Instead, Deputy Boggs and Deputy Landin exited their unmarked vehicle and approached the truck. Deputy Landin shined his flashlight into the vehicle. Due to the headlights shining into the truck as well as the flashlight, Mr. Johnson remained unaware that the people approaching him were deputy sheriffs. As a result of seeing unknown individuals approach with flashlights, and not knowing who they were, Mr. Johnson drove away from the scene of this contact.

The deputies returned to their vehicle and continued to follow Mr. Johnson. Mr. Johnson turned on two or three additional streets, and Deputy Boggs continued to follow directly behind Mr. Johnson still failing to identify himself as a law enforcement officer. Mr. Johnson, fearing that he was about to be robbed, stopped his vehicle again. He placed the truck in reverse, backed up towards the unmarked police vehicle, stopped his truck again and quickly exited. When he exited his truck, he held a firearm in his left-hand (dominate hand for Mr. Johnson) and pointed it towards the unknown individuals in the Jeep Cherokee. He announced, "I have a gun." Mr. Johnson indicated that he exited his vehicle with a firearm and announced that he had a firearm because he was attempting to scare the people who were

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following him. His intention was to show potential force so that the individuals following him would not harm him.

Upon seeing Mr. Johnson pointing a firearm in their direction, and still failing to identify themselves, all three deputies fired their agency issued firearms at Mr. Johnson. Deputy Boggs and Deputy Landin fired from inside the vehicle. They fired a total nine rounds through the front windshield towards Mr. Johnson. Deputy Belardes fired approximately three rounds from the doorway on the passenger side. Deputy Boggs fired an additional round after exiting his vehicle. At no point did any of the three deputies verbally identify themselves as law enforcement officers. In addition, at no time were any emergency lights activated prior to the three deputies shooting. Mr. Johnson never fired his firearm.

The three deputies combined fired a minimum of 13 rounds.

Deputy Boggs – approximately 8- 9 rounds

Deputy Belardes – approximately 3 rounds

Deputy Landin – approximately 1-2 round

Mr. Johnson was struck by two rounds and received non-life-threatening injuries. The firearm Mr. Johnson pointed at the deputies was located in close proximity to Mr. Johnson.

Because none of the three deputies identified themselves as members of law enforcement, I believe Mr. Johnson had a reasonable fear he was being followed and targeted by unknown individuals who had a malicious intent. This fear, which was created by law enforcement, led to Mr. Johnson making the decision to exit his truck with his firearm. Because Mr. Johnson had other options available to him to seek safety, his decision to exit his vehicle and point a firearm at the people he believed were following him was unacceptable and unlawful. In addition to suffering from two gunshot wounds, Mr. Johnson has been prosecuted for his unlawful behavior.

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At the time the deputies fired their weapons at Mr. Johnson, Mr. Johnson was pointing a firearm in their direction. Therefore, it was reasonable for all of them to believe their lives and the lives of each other were in danger. As a result, it is my finding that every time each member of your agency fired their weapon their actions were justifiable and therefore, no criminal charges will be brought forth regarding their use of force.

However, despite the fact that no criminal charges for excessive use of force will be filed, based upon my completed investigation of these facts, I do have grave concerns regarding the conduct and truthfulness of Deputy Boggs during FDLE's investigative process.

Deputy Boggs was interviewed by two agents from FDLE for just over 30 minutes. During the interview, he was asked to describe the driving pattern of Mr. Johnson from the moment he saw the truck pull away from the residence. On approximately 4 separate occasions within the interview, Deputy Boggs omitted any mention of the first occasion Mr. Johnson stopped his vehicle in the roadway. Deputy Boggs failed to mention that he and Deputy Landin approached Mr. Johnson's vehicle on foot. Deputy Boggs failed to mention that Deputy Landin shined a flashlight into Mr. Johnson's vehicle, and Deputy Boggs failed to mention that they all returned to their vehicle (in the same positions as previously seated) and continued to follow Mr. Johnson. Instead, when describing the traffic pattern of Mr. Johnson, Deputy Boggs responded with, "we only made two turns with him. For him to think we were following him or anything like that would be insane."

Deputy Boggs was placed under oath prior to his testimony. The omissions by Deputy Boggs and the above quoted statement by Deputy Boggs are in direct conflict with the facts of this case as established by the four other witnesses involved in this incident.

Both Deputy Landin and Deputy Belardes mention the initial stop of Mr. Johnson during their interviews. In fact, Deputy Landin describes getting out of the vehicle with Deputy Boggs and shining his

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flashlight as he approached the truck. Both Mr. Johnson and his passenger, Ms. Greer, also describe the stop and the flashlight being shined into their vehicle. These facts are significant when describing the events that led to the shooting.

As you are aware, in the prosecution of any case, it is paramount that the sworn statements of each member of law enforcement be credible and complete. The account provided by Deputy Boggs is at best incomplete and misleading, and at worst, intentionally deceptive and self-serving. Therefore, I am formally requesting that your agency conduct an internal investigation into the conduct and truthfulness of Deputy Boggs. Please let me know if you have any questions or need additional information.

Thank you,

A handwritten signature in black ink, appearing to be 'D. Barra', with a stylized flourish at the end.

Deborah Barra

Chief Assistant State Attorney

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