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November 13, 2020

Sheriff John Mina
 Orange County Sheriff's Office
 2500 West Colonial Drive
 Orlando, FL 32804

RECEIVED

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OC SO
 PROFESSIONAL STANDARDS DIVISION

Re: FDLE Case No. OR-27-0348

Dear Sheriff Mina:

According to reports cited by the *Journal of the American Academy of Psychiatry and the Law*, <http://jaapl.org/content/early/2019/09/24/JAAPL.003863-19> approximately 1,000 people in the United States were fatally shot by police officers during 2018, and people with mental illness were involved in approximately 25 percent of those fatalities. Data from the *Washington Post* shows this rate has remained roughly constant between 2015 and 2018.

We are mindful of the fact that police officers have a difficult job, and that their actions during rapidly evolving events are often harshly and unfairly judged. We also are aware that many first responders may not have sufficient training in responding to situations involving people with mental illness in acute distress. As you may know, Crisis Intervention Teams have existed in one form or another for over twenty years. We support any community effort that aims to reduce the risk of serious injury or death during an emergency interaction between persons with mental illness, particularly those experiencing an acute crisis, and police officers.

This letter details my review of the June 11, 2019, call for service wherein Deputies Jeffrey Ferris and Thomas Sturgill engaged in a use of force that included Deputy Ferris' discharge of his agency issued firearm and Deputy Sturgill's Taser deployment. This review is limited to determining whether criminal charges should be filed against the deputies involved in the use of force. The standard of proof for filing a criminal case is whether there is enough evidence to prove any violations of the criminal laws beyond a reasonable doubt to a jury. The prosecution also bears the burden of proving beyond a reasonable doubt that the use of force was **not** justified pursuant to Florida law. This review does not evaluate the appropriateness of the actions of the involved officers, whether sheriff department policies were followed, or whether the policies, practices, or training of the agency involved were sufficient. That evaluation is left to the administrative review mechanism of the agency.

Generally speaking, criminal liability is established when the evidence is sufficient to prove all the elements of a crime beyond a reasonable doubt. In addition to proving the elements of a crime,

the prosecution must disprove any statutorily recognized justification or defense beyond a reasonable doubt.

The use of physical force by law enforcement officers is governed by Florida Statute § 776.05 and provides an affirmative defense to criminal liability as follows:

A law enforcement officer...need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. The officer is justified in the use of any force:

- (1) Which he or she reasonably believes to be necessary to defend himself or herself or another from bodily harm while making the arrest;
- (2) When necessarily committed in retaking felons who have escaped; or
- (3) When necessarily committed in arresting felons fleeing from justice.

However, this subsection shall not constitute a defense in any civil action for damages brought for the wrongful use of deadly force unless the use of deadly force was necessary to prevent the arrest from being defeated by such flight and, when feasible, some warning had been given, and:

- (a) The officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or
- (b) The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person.

The United States Supreme Court provides the following instruction in assessing the reasonableness of an officer's belief when using physical force:

The "reasonableness" of a particular use of force must be made from the perspective of the law enforcement officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments---in circumstances that are tense, uncertain, and rapidly evolving---about the amount of force that is necessary in a particular situation. *Graham v. Conner*, 490 U.S. 386 (1989).

In addition to the affirmative defense provided by F.S. 776.05, law enforcement officers, like any other person, can invoke the protections of Florida Statute 776.012 and 776.032, commonly referred to as Florida's *Stand Your Ground* law. See *State v. Pereza*, 259 So.3d 728 (Fla. 2018).

In charging any individual with a crime, it is important to remember that the defendant does not have to present evidence or prove anything. Instead, at a pre-trial Stand Your Ground hearing, the State of Florida is required to prove by clear and convincing evidence that the person is not entitled to self-defense immunity. If the prosecution is successful at the hearing, the State still must prove, beyond a reasonable doubt to a unanimous jury, that the force was **not** justified.

A comprehensive look at the facts of this June 11, 2019 incident results in the conclusion that criminal charges not be filed against Deputy Ferris or Deputy Sturgill regarding their individual uses of force during the course of the incident.

As revealed during the investigation by the Florida Department of Law Enforcement (FDLE), the Orange County Sheriff's Office (OCSO) received a 911 call at 12:38pm from Mrs. Adalida Paula, who was requesting assistance at 8404 Fort Clinch Avenue, Orlando. Her request was based on the fact that her son, Mr. Eddie Segura, was "too angry" and was breaking "everything." Mrs. Paula told dispatch that her son did not have any weapons. Dispatch relayed additional information to the responding deputies that the subject was labelled a "hazard" due to aggressive behavior toward law enforcement during previous calls for service, that he was bipolar and schizophrenic, there was an axe in the house and that OCSO responded to a prior mental health call five days earlier on June 6, 2019.

Deputy Jeffrey Ferris arrived at the house first. His body worn camera (BWC) was activated during the entire incident. FDLE Special Agent Danielle Wiles detailed the contents of the BWC as follows [time is elapsed time in minutes and seconds since the start of the BWC, not actual time]:

- 00:53 Deputy Ferris contacts Adalida Paula at the front door.
- 01:05 Eddie Segura enters the residence from the garage door, as Paula attempts to explain to Deputy Ferris how Segura is acting out.
- 01:19 Paula alleges Segura had struck her, but Segura states, "I did not hit her."
- 01:25 Deputy Ferris requests Segura to stay near the front door, so he can speak with Paula outside the front door.
- 01:43 As Deputy Ferris moved out the front door, Segura states, "[unintelligible]... Don't fuck with my shit. You don't want to fuck with me. You do not want to make me angry. Ok."
- 01:51 Deputy Ferris attempts to diffuse the situation, but Segura tries to entice Deputy Ferris into fighting him.
- 02:32-05:08 Deputy Ferris has Segura step out of the residence so they could speak. During this time Segura claims someone has stolen his "weed," accused him of using cocaine, and that he is a cop.
- 05:09 Deputy Angel Rivera appears in the video and moves toward Segura who starts to move back into the residence. Deputy Rivera grabs Segura's arm to bring him back outside, but Segura pulls away and goes into the house. Paula appears to acquiesce to Deputy Rivera entering the home to speak to Segura.
- 05:27 Deputy Rivera engages in conversation with Segura in Spanish, as Segura stands in the living room.
- 05:49 Segura sits down on the couch, while Deputy Rivera speaks with Paula and Humberto Segura near the kitchen. Deputy Sturgill and Deputy Ferris, who entered after Deputy Rivera, attempt to speak with Segura.
- 05:50-12:54 During this time Segura is seated on the couch telling Deputy Sturgill about his stolen drugs, how he is a cop and that there are things behind Deputy Sturgill that were not there. Deputy Sturgill tells Segura that he is

going to be taken to see a doctor for mental health and that he needs to stand up.. Segura refuses to stand up from the couch. The deputies explain to Segura that they do not want to fight him and Segura states, "I don't want to fight either." Segura continues to refuse to stand up for the deputies and refuses to walk out of the house.

12:55 Deputy Rivera and Deputy Ferris attempt to go hands on with Segura.

12:58 As the deputies grab Segura's arms, he begins to pull away and fight with the deputies as they try to detain him.

13:10 Deputy Sturgill states, "I'm going to tase you!" Segura continues to be combative with the deputies.

13:14 The sound of a Taser being deployed is heard.

13:17 Segura pulls away from the deputies and falls to the floor near the sliding glass door. Deputy Sturgill is giving commands, "Stop! Stop! Stop Eddie!"

13:19 While seated on the floor, Segura pulls the Taser probes from his side.

13:20 Deputy Ferris advises over the portable radio, "220, fighting one," as Segura starts to stand up.

13:21 Segura lunges towards a wooden stool as Deputy Ferris draws his firearm and tells Segura, "Get down!" Segura picks up the stool. Deputy Sturgill has his Taser in his hand pointed at Segura.

13:22-13:23 Segura lifts the stool above his head, Deputy Sturgill starts moving back. Deputy Ferris gives verbal commands, "Get down! Get down!"

13:24 As Segura strikes Deputy Sturgill with the stool, Deputy Ferris discharges his firearm three times at Segura. Deputy Sturgill continues to back up, where Segura is still holding the stool as the motion continued downward towards the floor.

13:25 As the stool hits the ground, Segura lets go of it and turns to move out the sliding glass door.

13:26 Deputy Ferris gives verbal command, "Get down!" As Segura opens the sliding glass door and begins to break the threshold of the door, Deputy Ferris discharges his firearm five more times.

13:28 Segura falls to the floor as he goes to grab the doorknob to the patio door. Deputy Sturgill can be heard yelling, "Cease fire! Cease fire."

13:32 Deputy Sturgill calls out, "Shots Fired! One down, need FD"

The BWC footage shows Eddie Seguro was having an acute mental crisis and the deputies, particularly Deputy Sturgill, spent several minutes trying to talk Mr. Seguro into accompanying them without resorting to physical force. Tragically, as soon as the deputies tried to go hands on, Mr. Seguro reacted with violence, first causing Deputy Sturgill to utilize his Taser without apparent effect, and then when Seguro picked up an object and was using it as a weapon, Deputy Ferris discharged his service pistol.

In his initial sworn statement to FDLE, Deputy Ferris explained that he feared Deputy Sturgill would suffer great bodily harm if the heavy wooden barstool that Mr. Segura raised struck Deputy Sturgill in the head; and in a later statement, Deputy Ferris said he continued to shoot after his initial volley of shots because, as Mr. Segura turned away from him after he was shot, there were other objects within his reach that Mr. Segura could use as a weapon against the officers. In fact,

the same barstool used to attack Deputy Sturgill had landed near the sliding glass door. Like Deputy Ferris, Deputy Sturgill stated he feared for his own safety and Deputy Angel Rivera indicated he was going for his firearm due to the threat, but Deputy Sturgill was in his line of sight.

An autopsy conducted by Dr. Jennifer Nara, Associate Medical Examiner, showed that Eddie Segura was shot six times: in the right jaw, the right earlobe, the right chest, the right back, the right forearm and the left shoulder. A Taser prong was found on the abdomen. After consultation with the Medical Examiner's Office, it appears likely that only one of the injuries noted was fatal. Based upon the location and wound path of that fatal injury and a review of the body camera footage, the most logical conclusion is that this gunshot occurred during the first volley of shots while Seguro was in the act of striking Deputy Sturgill.

It is instructive here to note the words of our appellate court when reviewing law enforcement use of force cases:

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. *State v. Kadet*, 455 So.2d 389 (Fla. 5th DCA 1984)

There is no evidence in this instance that either Deputy Ferris or Deputy Sturgill committed intentional misconduct or acted with any degree of malice or prejudice. To the contrary, the evidence suggests each deputy acted in self-defense with force each believed reasonably necessary to prevent imminent death or great bodily harm to themselves or to their fellow officers. Therefore, a complete review of the investigation leads me to conclude that criminal charges against Deputies Ferris and Sturgill are not warranted, and the Office of the State Attorney's review of this incident is complete.

Sincerely,



Linda Drane Burdick
Assistant State Attorney

Cc: Lee Massey, Special Agent in Charge,
Florida Department of Law Enforcement,
Orlando Regional Operations Bureau