



JEFFREY L. ASHTON  
STATE ATTORNEY  
NINTH JUDICIAL CIRCUIT  
ORANGE AND OSCEOLA COUNTY, FLORIDA

IR 12-70

LINDA DRANE BURDICK  
CHIEF ASSISTANT STATE ATTORNEY

RICHARD J. WALSH  
CHIEF ASSISTANT/EXECUTIVE DIRECTOR

April 1, 2013

Orlando Police Department  
Attn: Paul Rooney  
P.O. Box 913  
100 South Hughey Ave.  
Orlando, FL 32802-0913



Dear Chief Rooney:

This letter details my review of the September 5, 2012 incident wherein Officer Benjamin Chisari engaged in a use of force that included the discharge of his agency firearm and a suspect's death. This review is undertaken to determine whether or not criminal charges are an appropriate response to the use of deadly 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. Kadel*, 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 the officer or another. Fla. Stat. § 776.012(1)(2012). A comprehensive look at the facts of this incident results in the conclusion that Officer Chisari's use of force was justified and appropriate in this instance.

Officer Benjamin Chisari provided sworn testimony to investigators with the Florida Department of Law Enforcement ("FDLE") indicating that his involvement in this incident began when he responded—along with Officers Alberto Negron and Travis Lamont—to a 911 call in reference to an armed robbery at approximately 9:00 p.m. on the evening of September 5, 2012. Officer Chisari stated dispatch described two (2) suspects for the robbery. One suspect was described as a Hispanic male wearing a white t-shirt while the second suspect was described as a black male wearing a blue shirt and black pants. Officer Chisari testified he rode as a rear seat passenger to the scene, the Camden Reserve Apartments located at 5244 Lake Margaret Drive, in an unmarked police vehicle identified as a blue Chevrolet Impala. Officer Chisari stated that he heard gunshots as he exited the rear, passenger floor of the Impala on the east side of the apartment complex's clubhouse. Officer Chisari indicated that he took cover behind another vehicle in the parking lot before returning fire at suspect [REDACTED] with his agency-issued SigSauer P226m 9mm pistol. Officer Chisari indicated the incident ended when he and other officers approached the suspect behind a ballistic shield and he personally pulled suspect [REDACTED] from the bushes. Chisari then remained in the parking lot until he was transported to the Orlando Police Department. This testimony is primarily consistent with the sworn testimony of the other law enforcement officers and civilian witnesses on the scene, the crime scene photos provided, and the forensic evidence collected following the incident.

FDLE investigators also conducted sworn, recorded interviews with Officers Negron and Lamont, whom Officer Chisari indicated were occupants in the unmarked, police Chevrolet Impala when he arrived on scene. Officer Negron testified he saw a black male matching the previously provided suspect's description as the unmarked Impala drove into the subject apartment complex's primary entrance.



Negron stated he witnessed suspect [REDACTED] firing shots at he and the other officers immediately upon exiting the driver's door of the Impala. Officer Negron also testified that he sought cover behind another vehicle in the parking lot and—like Officer Chisari—began shooting in the suspect's direction with his agency-issued Sigsaue P226m 9mm pistol. Once Officer Negron obtained his ballistic shield, Officer Chisari followed Officer Negron to the body of suspect [REDACTED] located in the hedges near the fence surrounding the clubhouse pool. Officer Negron then testified that Officer Chisari pulled suspect [REDACTED] from the hedge and they all waited for emergency medical care to arrive. Officer Travis Lamont's actions and testimony were consistent with witness statements provided by Officers Negron and Chisari with two additions. First, Officer Lamont indicated he actually made eye contact with suspect [REDACTED] as he exited the front passenger side of police vehicle and before [REDACTED] discharged his firearm in the direction of the law enforcement officers. Second, Officer Lamont testified that he sought cover from the suspect's gunfire first behind a tree, and then in a structure in close proximity to the prior event. This testimony from Officers Negron and Lamont is consistent with that provided by Officer Chisari.

Sworn interviews were also conducted with Officers Jason Hajek, Chad Goodling, Cesar Hernandez, and Clarence Eide. Officer Hajek testified that he responded to the scene with Officer Clarence Eide and initially parked outside the main gate of the apartment complex. Officer Hajek stated he heard a single gunshot, followed by six (6) to eight (8) gunshots in quick succession, while parking his police vehicle at the gate. This is consistent with the testimony of the three (3) officers who confronted the suspect and stated they were immediately fired upon before discharging their own firearms. Officer Hajek further stated that he then responded to the scene of the shooting on foot and heard other officers giving the suspect loud, verbal commands. Officer Eide testified to the statement provided by Officer Hajek before providing additional facts. Eide indicated he actually witnessed five (5) officers—Negron, Chisari, Lamont, Goodling, and Hernandez—actively shooting and focusing their fire on a group of bushes near the pool and clubhouse. Officer Eide stated that he was then asked to obtain a "long gun" from his vehicle and provide lethal cover thereafter. Officers Goodling and Hernandez testified they arrived on scene as partners and in the same vehicle the night of the incident. Both of these officers testified they arrived after the shooting had stopped and helped apprehend the suspect following the encounter. The testimony of all four (4) of these responding, backup officers corroborates the testimony provided by the three (3) officers that engaged suspect [REDACTED] as to the timing and location of shots fired, as well as the location of the suspect and officers at the time shots were fired. Significantly, the forensic and physical evidence collected at the scene also corroborate and are consistent with the testimony provided by Officer Chisari.

Crime scene technicians responded to the area east of the clubhouse at the Camden Reserve Apartments shortly after the shooting. The technicians as a group collected 100 items of evidence and took nearly 400 photographs of the crime scene and evidence collected from it. Most importantly for purposes of this investigation, the technicians recovered one (1) Taurus .380 semi-automatic pistol from the hedges where suspect [REDACTED] attempted to conceal himself from the law enforcement officers, as well as one fired .380 cartridge near the same hedges where the Taurus firearm was recovered. The location and recovery of these items corroborate the testimony of Officers Chisari, Negron, and Lamont—all of whom testified that suspect [REDACTED] fired upon them and fled to the hedges before they responded to the threat by returning gunfire and ultimately deadly force. Moreover, photographs of suspect [REDACTED] taken prior to his removal from the scene show him wearing a blue shirt and black jeans, just as described by the alleged victim of the purported armed robbery and dispatchers speaking to Officer Chisari prior to his response to the scene. Finally, reports detailing dispatched radio traffic and 911 recordings confirm the suspect descriptions law enforcement stated they received and the sequence of events described in their testimony.



The only inconsistent statements obtained by the FDLB investigators came from the civilians who initially contacted 911 as alleged victims of a purported armed robbery. Witnesses Jaime Moreno and [REDACTED] provided testimony indicating suspect [REDACTED] robbed witness [REDACTED] at gunpoint, but provided no reason for [REDACTED] doing so. Witnesses Victor Torres and [REDACTED] both acquaintances of suspect [REDACTED] gave statements contradicting those provided by Moreno and [REDACTED] and indicating suspect [REDACTED] was blameless. These inconsistencies, however, have no bearing on Officer Chisari's use of force since none of the civilian statements contradict the testimony Officer Chisari and the other law enforcement officers provided in the case. In fact, the testimony of these witnesses in regards to hearing shots fired is consistent with that provided by law enforcement officers that responded in good faith to the scene with a heightened awareness of the potential threat due to the nature of the report.

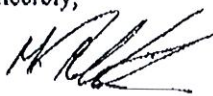
The testimony and forensic evidence obtained in the course of this investigation demonstrates that Officers Chisari, Negron, and Lamont responded to a 911 call with information that the suspect was in possession of a firearm at the time of a purported robbery. Officer Chisari's testimony that an individual matching the description of the suspect fired upon him immediately upon his arrival at Camden Reserve is consistent with the testimony provided by Officers Negron and Lamont as well as photographs of suspect [REDACTED] clothing. Officer Chisari's testimony he was fired upon is further corroborated by the recovery of a .380 Taurus firearm and spent cartridge casing in the immediate vicinity of suspect [REDACTED]. Although there is no evidence in this instance indicating the use of poor judgment by Officer Chisari, 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.

*Kadet, 455 So.2d at 390-91 (emphasis in original).*

There is no evidence in this instance that Officer Benjamin Chisari committed intentional misconduct or acted with any degree of malice. To the contrary, the evidence suggested he acted in self defense. Therefore, a complete review of the investigation leads me to conclude that criminal charges against Officer Benjamin Chisari are not warranted, and that Office of the State Attorney's review of this incident is complete.

Sincerely,

  
M. Ryan Williams  
Assistant State Attorney  
Intake Bureau Chief

Cc: Danny Banks, Special Agent in Charge,





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Dear Chief Rooney:

This letter details my review of the September 5, 2012 incident wherein Officer Travis Lamont engaged in a use of force that included the discharge of his agency firearm and a suspect's death. This review is undertaken to determine whether or not criminal charges are an appropriate response to the use of deadly 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 the officer or another. Fla. Stat. § 776.012(1)(2012). A comprehensive look at the facts of this incident results in the conclusion that Officer Lamont's use of force was justified and appropriate in this instance.

Officer Travis Lamont provided sworn testimony to investigators with the Florida Department of Law Enforcement ("FDLE") indicating that his involvement in this incident began when he responded—along with Officers Benjamin Chesari and Alberto Negron—to a 911 call in reference to an armed robbery at approximately 9:00 p.m. on the evening of September 5, 2012. Officer Lamont stated dispatch described two (2) suspects for the robbery. One suspect was described as a Hispanic male wearing a white t-shirt while the second suspect was described as a black male wearing a blue shirt and black pants. Officer Lamont testified he was the front seat passenger as all three (3) officers responded to the scene, the Camden Reserve Apartments located at 5244 Lake Margaret Drive, in an unmarked police vehicle identified as a blue Chevrolet Impala. Officer Lamont stated that he made eye contact with a suspect subsequently identified as [REDACTED] as he exited the Impala, and seconds later [REDACTED] pulled out a handgun and fired at him. Officer Lamont testified he responded to this fire by seeking cover behind a tree and then ultimately in a breezeway of the apartment complex, returning fire at suspect [REDACTED] with his agency-issued Sigsaue P226m 9mm pistol while taking these actions. Officer Lamont indicated the incident ended when he and other officers approached the suspect behind a ballistic shield and called for medical attention once the suspect was pulled from the bushes. This testimony is primarily consistent with the sworn testimony of the other law enforcement officers and civilian witnesses on the scene, the crime scene photos provided, and the forensic evidence collected following the incident.

FDLE investigators also conducted sworn, recorded interviews with Officers Chisari and Negron, whom Officer Lamont indicated were the other occupants of the unmarked police Impala and members of the East TAC Unit that responded to the Camden Reserve Apartments on September 5, 2012. Officer Chisari



testified he saw a black male matching the previously provided suspect's description as the unmarked Impala drove into the subject apartment complex's primary entrance. Chisari stated that he witnessed suspect [REDACTED] firing shots at he and the other officers immediately upon exiting the rear, passenger side of the Impala. Officer Chisari also testified he sought cover behind another vehicle in the parking lot and—like Officer Negron—began shooting in the suspect's direction with his agency-issued Sigsaue P226m 9mm pistol. Once Officer Negron obtained his ballistic shield, Officer Chisari followed Officer Negron to the body of suspect [REDACTED] located in the hedges near the fence surrounding the clubhouse pool. Officer Chisari then testified he personally pulled suspect [REDACTED] from the hedge and waited for emergency medical care to arrive. Officer Alberto Negron's testimony was consistent with witness statements provided by Officers Lamont and Chisari with no significant variation or inconsistencies.

Sworn interviews were also conducted with Officers Jason Hajek, Chad Goodling, Cesar Hernandez, and Clarence Eide. Officer Hajek testified that he responded to the scene with Officer Clarence Eide and initially parked outside the main gate of the apartment complex. Officer Hajek stated that he heard a single gunshot, followed by six (6) to eight (8) gunshots in quick succession, while parking his vehicle at the gate. This is consistent with the testimony of the three (3) officers who confronted the suspect and stated they were initially fired upon as they arrived on scene. Officer Hajek further stated that he then responded to the scene of the shooting on foot and heard other officers giving the suspect loud, verbal commands. Officer Eide testified to the statement provided by Officer Hajek before providing additional facts. Eide indicated he actually witnessed five (5) officers—Negron, Chisari, Lamont, Goodling, and Hernandez—actively shooting and focusing their fire on a group of bushes near the pool and clubhouse. Officer Eide stated he was then asked to obtain a "long gun" from his vehicle and provide lethal cover thereafter. Officers Goodling and Hernandez testified that they arrived on scene as partners and in the same police vehicle the night of the incident. Both of these officers testified they arrived after the shooting had stopped and helped apprehend the suspect following the encounter. The testimony of all four (4) of these responding, backup officers corroborates the testimony provided by the three (3) officers that engaged suspect [REDACTED] as to the timing and location of shots fired, as well as the location of the suspect and officers at the time shots were fired. Significantly, the forensic and physical evidence collected at the scene also corroborate and are consistent with the testimony provided by Officer Lamont.

Crime scene technicians responded to the area east of the clubhouse at the Camden Reserve Apartments shortly after the shooting. The technicians as a group collected 100 items of evidence and took nearly 400 photographs of the crime scene and evidence collected from it. Most importantly for purposes of this investigation, the technicians recovered one (1) Taurus .380 semi-automatic pistol from the hedges where suspect [REDACTED] attempted to conceal himself from the law enforcement officers, as well as one fired .380 cartridge near the same hedges where the Taurus firearm was recovered. The location and recovery of these items corroborate the testimony of Officers Lamont, Chisari, and Negron—all of whom testified that suspect [REDACTED] fired upon them and fled to the hedges before they responded to the threat by returning gunfire and ultimately deadly force. Moreover, photographs of suspect [REDACTED] taken prior to his removal from the scene show him wearing a blue shirt and black jeans, just as described by the alleged victim of the purported armed robbery and dispatchers speaking to Officer Lamont prior to his responding to the scene. Finally, reports detailing dispatched radio traffic and 911 recordings confirm the suspect descriptions law enforcement stated they received and the sequence of events described in their testimony.

The only inconsistent statements obtained by the FDLE investigators came from the civilians who initially contacted 911 as alleged victims of a purported armed robbery. Witnesses Jaime Moreno and [REDACTED] provided testimony indicating suspect [REDACTED] robbed witness [REDACTED] at gunpoint, but provided no reason for [REDACTED] doing so. Witnesses Victor Torres and [REDACTED]—both acquaintances of suspect [REDACTED]—gave statements contradicting those provided by Moreno and [REDACTED] and indicating suspect [REDACTED] was blameless. These inconsistencies, however, have no bearing on



Officer Lamont's use of force since none of the civilian statements contradict the testimony Officer Lamont and the other law enforcement officers provided in the case. In fact, the testimony of these witnesses in regards to hearing shots fired is consistent with that provided by law enforcement officers responding in good faith with a heightened awareness to the potential threat due to the nature of the complaint.

The testimony and forensic evidence obtained in the course of this investigation demonstrates that Officers Lamont, Chisari, and Negron responded to a 911 call with information that the suspect was in possession of a firearm. Officer Lamont's testimony that an individual matching the description of the suspect fired upon him immediately upon his arrival at Camden Reserve is consistent with the testimony provided by Officers Chisari and Negron as well as photographs of suspect [REDACTED] clothing. Officer Lamont's testimony he was fired upon is further corroborated by the recovery of a .380 Taurus firearm and spent cartridge casing in the immediate vicinity of suspect [REDACTED]. Although there is no evidence in this instance indicating the use of poor judgment by Officer Lamont, 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.

*Kadet*, 455 So.2d at 390-91 (emphasis in original).

There is no evidence in this instance that Officer Travis Lamont committed intentional misconduct or acted with any degree of malice. To the contrary, the evidence suggested he acted in self defense. Therefore, a complete review of the investigation leads me to conclude that criminal charges against Officer Travis Lamont are not warranted, and that Office of the State Attorney's review of this incident is complete.

Sincerely,



M. Ryan Williams  
Assistant State Attorney  
Intake Bureau Chief

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





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Dear Chief Rooney:

This letter details my review of the September 5, 2012 incident wherein Officer Alberto Negrón engaged in a use of force that included the discharge of his agency firearm and a suspect's death. This review is undertaken to determine whether or not criminal charges are an appropriate response to the use of deadly 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 the officer or another. Fla. Stat. § 776.012(1)(2012). A comprehensive look at the facts of this incident results in the conclusion that Officer Negrón's use of force was justified and appropriate in this instance.

Officer Alberto Negrón provided sworn testimony to investigators with the Florida Department of Law Enforcement ("FDLE") indicating that his involvement in this incident began when he responded—along with Officers Benjamin Chesari and Travis Lamont—to a 911 call in reference to an armed robbery at approximately 9:00 p.m. on the evening of September 5, 2012. Officer Negrón stated dispatch described two (2) suspects for the robbery. One suspect was described as a Hispanic male wearing a white t-shirt while the second suspect was described as a black male wearing a blue shirt and black pants. Officer Negrón testified he drove all three officers to the scene, the Camden Reserve Apartments located at 5244 Lake Margaret Drive, in an unmarked police vehicle identified as a blue Chevrolet Impala. Officer Negrón stated that he heard gunshots as he parked and exited the Impala on the east side of the apartment complex's clubhouse. As he looked up, Officer Negrón witnessed an individual subsequently identified as [REDACTED] firing in the direction of his police vehicle. Officer Negrón indicated that he took cover behind another vehicle in the parking lot before returning fire at suspect [REDACTED] with his agency-issued SigSauer P226m 9mm pistol. Negrón further testified that he eventually retrieved his Bushmaster .223 rifle from the unmarked Impala and fired two rounds in the suspect's direction. Officer Negrón indicated the incident ended when he and other officers approached the suspect behind a ballistic shield and called for medical attention once the suspect was pulled from the bushes. Officer Negrón testified he then called for medical assistance and began to secure the crime scene. This testimony is primarily consistent with the sworn testimony of the other law enforcement officers and civilian witnesses on the scene, the crime scene photos provided, and the forensic evidence collected following the incident.



FDLE investigators also conducted sworn, recorded interviews with Officers Chisari and Lamont, whom Officer Negron indicated were occupants in his unmarked police vehicle when he arrived on scene. Officer Chisari testified he saw a black male matching the previously provided suspect's description as the unmarked Impala drove into the subject apartment complex's primary entrance. Chisari stated he witnessed suspect [REDACTED] firing shots at he and the other officers immediately upon exiting the rear, passenger side of the Impala. Officer Chisari also testified he sought cover behind another vehicle in the parking lot and—like Officer Negron—began shooting in the suspect's direction with his agency-issued Sigsaue P226m 9mm pistol. Once Officer Negron obtained his ballistic shield, Officer Chisari followed Officer Negron to the body of suspect [REDACTED] located in the hedges near the fence surrounding the clubhouse pool. Officer Chisari also testified he personally pulled suspect [REDACTED] from the hedge and waited for emergency medical care to arrive. Officer Travis Lamont's actions and testimony were consistent with witness statements provided by Officers Negron and Chisari with some additional information. First, Officer Lamont indicated he actually made eye contact with suspect [REDACTED] as he exited the front passenger side of the unmarked, police Impala and prior to [REDACTED] discharging his firearm towards the law enforcement officers. Second, Officer Lamont testified that he sought cover from the suspect's gunfire first behind a tree, and then in a breezeway located in the apartment complex. This testimony from Officers Chisari and Lamont is consistent with that provided by Officer Negron.

Sworn interviews were also conducted with Officers Jason Hajek, Chad Goodling, Cesar Hernandez, and Clarence Eide. Officer Hajek testified that he responded to the scene with Officer Clarence Eide and initially parked outside the main gate of the apartment complex. Officer Hajek stated that he heard a single gunshot, followed by six (6) to eight (8) gunshots in quick succession, while parking his vehicle at the gate. This is consistent with the testimony of the three (3) officers who confronted the suspect and stated they were initially fired upon as they arrived on scene. Officer Hajek further stated that he then responded to the scene of the shooting on foot and heard other officers giving the suspect loud, verbal commands. Officer Eide testified to the statement provided by Officer Hajek before providing additional facts. Eide indicated he actually witnessed five (5) officers—Negron, Chisari, Lamont, Goodling, and Hernandez—actively shooting and focusing their fire on a group of bushes near the pool and clubhouse. Officer Eide stated that he was then asked to obtain a "long gun" from his vehicle and provide lethal cover thereafter. Officers Goodling and Hernandez testified that they arrived on scene as partners and in the same police vehicle the night of the incident. Both of these officers testified that they arrived after the shooting had stopped and helped apprehend the suspect following the encounter. The testimony of all four (4) of these responding, backup officers corroborates the testimony provided by the three (3) officers that engaged suspect [REDACTED] as to the timing and location of shots fired, as well as the location of the suspect and officers at the time shots were fired. Significantly, the forensic and physical evidence collected at the scene also corroborate and are consistent with the testimony provided by Officer Negron.

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The only inconsistent statements obtained by the FDLE investigators came from the civilians who initially contacted 911 as alleged victims of a purported armed robbery. Witnesses Jaime Moreno and [REDACTED] provided testimony indicating suspect [REDACTED] robbed witness [REDACTED] at gunpoint, but provided no reason for [REDACTED] doing so. Witnesses Victor Torres and [REDACTED] both acquaintances of suspect [REDACTED] gave statements contradicting those provided by Moreno and [REDACTED] and indicating suspect [REDACTED] was blameless. These inconsistencies, however, have no bearing on Officer Negron's use of force since none of the civilian statements contradict the testimony Officer Negron and the other law enforcement officers provided in the case. In fact, the testimony of these witnesses in regards to hearing shots fired is consistent with that provided by law enforcement officers responding to the scene in good faith and with a heightened awareness of the potential threat due to the nature of the complaint.


The testimony and forensic evidence obtained in the course of this investigation demonstrates that Officers Negron, Chisari, and Lamont responded to a 911 call with information that the suspect was in possession of a firearm at the time of a purported robbery. Officer Negron's testimony that an individual matching the description of the suspect fired upon him immediately upon his arrival at Camden Reserve is consistent with the testimony provided by Officers Chisari and Lamont as well as photographs of suspect [REDACTED] clothing. Officer Negron's testimony he was fired upon is further corroborated by the recovery of a .380 Taurus firearm and spent cartridge casing in the immediate vicinity of suspect [REDACTED]. Although there is no evidence in this instance indicating the use of poor judgment by Officer Negron, 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.

*Kadet*, 455 So.2d at 390-91 (emphasis in original).

There is no evidence in this instance that Officer Alberto Negron committed intentional misconduct or acted with any degree of malice. To the contrary, the evidence suggested he acted in self defense. Therefore, a complete review of the investigation leads me to conclude that criminal charges against Officer Alberto Negron are not warranted, and that Office of the State Attorney's review of this incident is complete.

Sincerely,

  
M. Ryan Williams  
Assistant State Attorney  
Intake Bureau Chief

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