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January 7, 2015

REFERENCE:

Investigation type: Use of Deadly Force Case Review

SAO Use of Force Case number: 48-2014-UF-0003

SAO Investigation number: 2014-IN-0029

(Review by Chief Investigator Eric Edwards)

Assisting: Investigator Jeffery Harris
Investigator Emmett Browning

FDLE Investigation number: OR-27-0183

(Report by Special Agent Daniel Wallace)

OPD Investigation number: 2013-495877

Officer Involved: Officer Derek Briscoe

Suspect/decedent: Mr. Brian Christopher Leggitt

REPORTER:

Chief Investigator Eric Edwards

Office of the State Attorney, Ninth Judicial Circuit of Florida

RECOMMENDATION:

Forward to State Attorney Jeffrey Ashton for his consideration.

On March 20, 2014, the State Attorney's Office received a Use of Force Deadly Force case investigation report, authored by Special Agent Daniel Wallace of the Florida Department of Law Enforcement (FDLE), for the purpose of review. A thorough review was conducted of this document and all attachments forwarded by Special Agent Wallace. The following narration outlines observations made and additional actions taken during the course of the State Attorney's Office case review process:

On November 26, 2013, at approximately 0558 hours, Orlando Police Department Patrol Officer Sergio Ramos initiated a traffic stop on a vehicle driven by Brian Christopher Leggitt. Mr. Leggitt fled from Officer Ramos and a description of the driver and the vehicle was forwarded to other law enforcement officers. At approximately 0603 hours, Officer Derek Briscoe located the vehicle driven by Mr. Leggitt and attempted a second traffic stop which was initiated on Wentwood Avenue near Thorpe Street.

Mr. Leggitt pulled the vehicle into the driveway of 4719 Thorpe Street. Officer Briscoe exited his fully marked patrol vehicle, while wearing an issued Orlando Police Department patrol uniform, and approached Leggitt's vehicle on foot. Officer Briscoe positioned himself directly next to the driver's side front door of Mr. Leggitt's vehicle. During the course of the contact, Mr. Leggitt accelerated in reverse as he swung the front of the vehicle toward Officer Briscoe. Perceiving the vehicle was going to strike him and potentially run him over, Officer Briscoe fired three (3) rounds at Mr. Leggitt, striking Mr. Leggitt all three (3) times. Mr. Leggitt's vehicle struck the patrol car and then accelerated forward striking a light pole where the vehicle came to rest. Mr. Leggitt was pronounced dead at the scene.

On December 3, 2014, Officer Briscoe provided a sworn statement to Special Agents Wallace and Watts. The following excerpts are taken from the document authored by Special Agent Wallace:

"Officer Briscoe 'indexed' his service weapon and approached the suspect's vehicle on the driver's side door. Officer Briscoe stood near the driver's side mirror, angled towards the suspect. ...

... Then the suspect looked at Officer Briscoe and stated 'I'm not going to fucking jail.' At that time, the suspect lowered his right hand, turned the steering wheel, and accelerated the vehicle in the reverse, making contact with Officer Briscoe. The driver's side door and driver's side mirror of the suspect's vehicle struck Officer Briscoe on his waist and leg area. Officer Briscoe was approximately six (6) to ten (10) inches away from the suspect's vehicle when it made contact with Officer Briscoe and began forcing him backwards. ... Officer Briscoe fired three (3) rounds with his service weapon at the driver. Officer Briscoe was 'right up on the car' when he fired his service weapon. ... Officer Briscoe stated that, 'I had no other choice. Um...my life was in fear, I was, was, literally scared from my life.' ... 'If my car wasn't there, that car would have ran me over, without a doubt.' ..." (Report pages six (6) & seven (7))

According to Officer Briscoe, the suspect was backing down the driveway towards the marked patrol car when Officer Briscoe fired his service weapon. He reported to the investigators that the suspect car drove forward and struck a light pole after backing into his patrol car.

During the course of this case review, it was noted several individuals were contacted during the area canvas conducted by investigators. According to the report, witness Arin Gorman was awoken by three (3) gunshots; witness Ernestine Rinks heard three (3) gunshots, witness Ellen Morgan heard a "thud" followed by three (3) gunshots, witness Tiffany Phelps was awoken by the sound of glass breaking followed by three (3) pops and witness James Johnson witnessed parts of the incident. Information regarding the order of events provided by these witnesses conflicted somewhat with the account provided by Officer Briscoe during his sworn interview.

Note: On May 19, 2014, a request was made for the Florida Department of Law Enforcement investigators to collect sworn recorded statements from the individuals they identified as being non-eye witnesses.

Witness James Johnson provided a sworn written statement on the date of the incident. The following excerpt is taken from the Orlando Police Department statement form:


"Then a few minutes later I heard a big thud + I came out + seen they [sic] vehicle hit the O.P.D. car. The car then tried to get away + hit a fence. The Officer was standing outside the car with his weapon drawn [sic]. I heard him give a couple of commands, but can't remember what. Then he fired 3 or 4 shots. The officer was standing outside the vehicle towards the front of vehicle [sic]."

Mr. Johnson provided a sworn audio recorded statement to Special Agent Watts on the date of the incident. The following excerpt is taken from the report authored by Special Agent Wallace regarding the interview of Mr. Johnson:

"... Johnson heard a 'big ol' thud' and went outside. ... 'That's when the car had backed out and hit the cruiser.' Johnson said the officer was standing to the side towards the front. The driver 'threw it in gear and that's when they hit the fence [light pole] and then that's when the shots was [sic] fired.' Johnson heard three to four shots. ... 'I seen the car was pulling away and that's when it hit the fence [light pole]. The officer said a couple commands or something then the shots was [sic] fired.' ... Johnson was not sure if the vehicle was stopped or moving when the shots were fired. Johnson did not hear any voices after that, and he stayed outside and made sure the officer was okay. ... Johnson was not sure if the vehicle was stopped or moving when the shots were fired. The officer was 10-15 feet in front of his patrol car, and 10-15 feet from the side of the final rest of the silver car." (Report page nine (9))

The statements provided by Mr. Johnson, shortly after the incident, coupled with the applicable narration authored by Special Agent Wallace presented a clear confliction between the accounts provided by Officer Briscoe and witnesses regarding when and where Officer Briscoe may have discharged his service weapon.

Investigator Jeff Harris has authored a thorough supplemental report regarding the additional investigative efforts surrounding this use of deadly force shooting review.


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1/7/2015
Date signed