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**STATE ATTORNEY**  
NINTH JUDICIAL CIRCUIT  
ORANGE AND OSCEOLA COUNTY, FLORIDA

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December 1, 2014

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

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CHIEF'S OFFICE

RE: **State Attorney's Office Use of Force Review Numbers:** UF14-000019 & UF14-000020  
**Other Law Enforcement Department Case Number(s):** ORPD 2014-211161  
**OFFICERS:** Officer Anthony Mongelluzzo, Officer Aaron Goss

This letter details my review of the May 21, 2014 incident wherein Officers Anthony Mongelluzzo and Aaron Goss engaged in a use of force that included the discharge of their agency firearms. This review is undertaken to determine whether or not criminal charges are an appropriate response to the use of 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 himself or another. Fla. Stat. § 776.012(1)(2012). A comprehensive look at the facts of this incident results in the conclusion that Officers Anthony Mongelluzzo and Aaron Goss' use of force was justified and appropriate in this instance.

On September 17, 2014, the State Attorney's Office received a Use of Force case investigation report authored by Special Agent Bill Lee of the Florida Department of Law Enforcement (FDLE). A thorough review was conducted of this document and all attachments forwarded by Special Agent Bill Lee. The following observations were noted during this review:

On May 21, 2014, the Orlando Police Department (OPD) requested the FDLE to conduct an investigation into the use of deadly force by Officers Anthony Mongelluzzo and Aaron Goss, which resulted in the death of Jermassioun Viondrey Rodgers. The incident occurred on Malibu Street, Orlando, Florida.

On May 21, 2014, at approximately 0233 hours, Officer Nathan Stack was flagged down on Ivey Lane, near the intersection of Malibu Street, by Henry Donaldson. Mr. Donaldson reported he was the victim of an armed robbery and carjacking which had occurred moments



earlier. Mr. Donaldson was working in the capacity of a food delivery driver when he traveled to 4513 College Drive, for the purpose of make a delivery. Upon arriving at the location, Mr. Donaldson was approached by three black males wearing black masks over their faces. Two were purportedly armed with handguns and one was purportedly armed with a long gun. The men then robbed Mr. Donaldson of money, his cellular telephone and his silver 2004 Buick LaSabre automobile. Mr. Donaldson advised the suspects fled the scene in the stolen vehicle, at which time they traveled down Malibu Street. Officers Mongelluzzo and Goss, who briefly stopped out with Officer Stack as he spoke with the victim, heard Mr. Donaldson's account of the incident. Officers Mongelluzzo and Goss immediately drove to the area of Malibu Street, where they observed suspects in Mr. Donaldson's stolen vehicle.

As they drove towards the vehicle, the emergency overhead lights of their fully marked OPD patrol car were activated. The vehicles made contact with each other (nose to nose), which resulted in the stolen vehicle being pinned between the patrol vehicle and a tree in front of 4449 Malibu Street. Officers Mongelluzzo and Goss both stated they perceived deadly threats, which led to both officers discharging their firearms in attempt to utilize deadly force. This encounter resulted in the death of the driver, later identified as Mr. Rodgers. The passenger in the stolen vehicle, later identified as Nikema Owens, fled the area on foot. He ran northbound between the residences carrying a long gun. Mr. Rodgers was pronounced deceased on scene.

Officer Goss gave a sworn taped statement as to his observations and actions. He stated, *"As it (the suspect vehicle) was stopping we saw the passenger raise a gun up, like a long gun and Mongo (Mongelluzzo) yell, 'gun, gun, gun!'"* Officer Goss stated, he drew his handgun and prepared to shoot through the windshield of the patrol vehicle if needed. Officer Goss exited the patrol vehicle and immediately started backpedalling to the rear of the vehicle, searching for cover. Officer Goss stated, as he did so he gave the driver the verbal commands, *"Police, show me your hands, Show me your hands"*. As Officer Goss moved to the rear of the patrol vehicle, the driver of the Buick, Mr. Rodgers, exited the vehicle while still wearing the mask described by the victim. As Mr. Rodgers cleared his door, he immediately reached straight into his waistband. Officer Goss said, *"Based on my training and experience I know subjects carry guns in their waistband... Based on the information we also had, I was under the presumption that he did have a gun on him from the robbery. I was in fear for my life at that time, I raised my service weapon and I fired."*

Officer Goss stated he believed he fired two shots, the second of which hit Rodgers causing him to fall to the ground. Officer Goss said he fired a couple more rounds as he continued to move across the street to a position of cover behind a concrete pillar. Officer Goss said, during this time he realized Officer Mongelluzzo was shooting at the passenger of the stolen vehicle.

Officer Mongelluzzo also gave a sworn taped statement as to his observations and actions. He advised, as they were nose to nose with the stolen vehicle, he could clearly see two suspects inside the vehicle. Both suspects were wearing black masks at the time of contact. He also stated, *"I looked at the passenger and I noticed in his right hand a long gun and him trying to lift it up... At that point, being stuck in the car and in such close proximity, I was extremely in fear for my life and the life of my partner; I jumped out of the car."* Mongelluzzo went on to



*unholstered, I started shooting from the hip, two shots and I shot one in the windshield... I saw he (the passenger) was moving out of the car and I shot another couple towards the door." [sic]*

Based on the information provided and reviewed, it was reasonable for the officers to have believed the suspects had committed an armed robbery and carjacking moments prior to their arrival at the scene. Mr. Donaldson advised the officers he observed the suspects were armed with firearms, one of which was purportedly a long gun. Upon contact with the stolen vehicle, in the immediate area of the aforementioned crimes, Officers Mongelluzzo and Goss observed masked and what appeared to be armed suspects. Both officers stated they feared for their safety and the safety of others, which appear to have been direct results of the actions taken by the suspects.

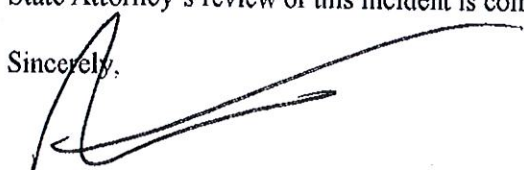
Although there is no evidence in this instance indicating the use of poor judgment by any of the officers, it is instructive here and in all instances to note the words of our appellate court when reviewing law enforcement uses of force:

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 any officer committed intentional misconduct or acted with any degree of malice. To the contrary, the evidence suggested they acted in self-defense with force they believed reasonably necessary to prevent imminent death or great bodily harm to themselves or fellow officers. Therefore, a complete review of the investigation leads me to conclude that criminal charges against Officers Anthony Mongelluzzo and Aaron Goss are not warranted, and the Office of the State Attorney's review of this incident is complete.

Sincerely,



Jeffrey L. Ashton  
State Attorney

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