

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

The preliminary investigation revealed that VCSO Deputy Joel Hernandez and Deputy Matthew Andracke were conducting an investigation at Fryer's Towing Service at 722 North Segrave Street, Daytona Beach, FL. At the same time that VCSO Deputy Joel Hernandez and Deputy Matthew Andracke were conducting the investigation, Edward Prescott Miller and his son, Edward Daniel Miller, were retrieving Edward Daniel Miller's 1999 Ford F-350 truck that had been previously towed to Fryer's Towing after an incident with Edward Daniel Miller involving the Port Orange Police Department (POPD) on September 18, 2014 (POPD Case Number 140008803). Edward Prescott Miller and Edward Daniel Miller attempted to retrieve the vehicle on September 19, 2014, at which time an argument occurred between the Miller's and the employees from Fryer's Towing that resulted in Daytona Beach Police Department (DBPD) being summoned to the scene. On September 20, 2014, while finally retrieving the vehicle, the Millers again were in an argument with the employees at Fryer's Towing.

After an employee with Fryer's Towing drove the truck outside of the south gate of Fryer's Towing and parked it on Madison Avenue, Edward Daniel Miller entered the vehicle and was examining the vehicle as Edward Prescott Miller continued to argue with Fryer's Towing employees from outside of the south gate of Fryer's Towing on Madison Avenue. Edward Prescott Miller entered his vehicle, a 1999 Jeep Grand Cherokee, and parked it on the outside of the south gate of Fryer's Towing on Madison Avenue. After Deputy Joel Hernandez and Deputy Matthew Andracke completed the investigation they were conducting, they walked towards the south gate with the intention of making contact with Edward Prescott Miller. Deputy Joel Hernandez reached the front passenger door of Edward Prescott Miller's 1999 Jeep Grand Cherokee and confronted Edward Prescott Miller, while Deputy Matthew Andracke stood behind Deputy Joel Hernandez. A conversation ensued between Deputy Joel Hernandez and Edward Prescott Miller which led to Deputy Joel Hernandez opening the front passenger door to Edward Prescott Miller's vehicle. Edward Prescott Miller produced a firearm from his pocket, at which time Deputy Joel Hernandez drew his weapon and fired four (4) rounds at Edward Prescott Miller. Edward Prescott Miller was struck by the four rounds fired by Deputy Joel Hernandez,

Case Number: OR-27-0198	Serial #: 1
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:09/20/2014
Approved By: Woehr, Christopher	

Description:Initial Response

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which caused fatal injuries to Edward Prescott Miller.

FDLE Assistant Special Agent in Charge Rich Piccininni, Special Agent Supervisor Christopher Woehr, Special Agents Steve Brenton, Bill Lee, Lloyd Randolph, and Troy Cope responded to conduct an investigation into the use of force incident by the VCSO. VCSO Crime Scene responded to the incident location and processed the scene under the direction of the FDLE.

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On September 22, 2014, Special Agent (SA) Steve Brenton of the Orlando Regional Operations Center received the CAD Notes from VCSO Detective William Maxwell, and 911 calls which were provided by VCSO Public Information Officer Gary Davidson. A synopsis of the information obtained from the items listed above is as follows:

CAD Notes - Police Event # P142631255

The following is a summation of the events listed in the CAD notes:

- 14:35:12 - A call was received by Deputy Hernandez that he was at Fryer's Towing and that shots were fired.
- 14:36:11 - Two officers were involved with the shooting.
- 14:36:46 - Deputy Hernandez is armed with a firearm, and that Deputy Hernandez is wearing a grey shirt, and that the condition of the subject who was shot is unknown.
- 14:37:22 - The male inside of the car is armed and refusing to come out of the car.
- 14:37:41 - They are at the gate (of Fryer's Towing) off of Madison Avenue.
- 14:37:44 - Both deputies are inside of the yard, and "S/O (firearm) is on the vehicle".
- 14:37:51 - A red Ford F150 was also on the scene and is involved.
- 14:37:58 - "Deputies are 10-4 (okay)."
- 14:38:34 - Suspect is (incorrectly) identified as "Edward Precoft".
- 14:38:38 - First backup arrival as Daytona Beach Police Department (DBPD) Captain James Newcomb, and the arrival of other officers immediately follow.
- 14:40:47 - Officer on scene tells dispatch, "Rescue can come in."
- 14:41:42 - Arrival of Daytona Beach Fire Rescue "E5".
- 14:42:39 - "10-33" (emergency) traffic was cleared

The remainder of the CAD notes indicated mostly administrative callout contact information. At the same time that Deputy Hernandez was on the phone with the 911 operator relaying the

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Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:09/20/2014
Approved By: Warren, Daniel J.	

Description:CAD / 911 Calls / Radio Transmission

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information that appeared above in the CAD notes, two employees from Fryer's Towing were also on the phone with 911. The two employees from Fryer's Towing were relaying similar information that was being reported by Deputy Hernandez was also being placed into the CAD notes.

911 Calls

On September 22, 2014, SA Brenton was provided with a total of three separate 911 calls from this incident by Gary Davidson, the VCSO Public Information Officer. Davidson forwarded SA Brenton a secured website link via email, which allowed SA Brenton to access and download the 911 calls. The audio files of the 911 calls were each titled separately, which are "092014_S36A_DeputyHernandez", "092014_S37A_call_1", and "092014_S37A_call_2". The file with the title "092014_S36A_DeputyHernandez" was the call made by Deputy Hernandez to the 911 operator. The file with the title "092014_S37A_call_1" was the call made from the 911 operator to Fryer's Towing where the 911 operator spoke with Fryer's Towing employee [REDACTED]. [REDACTED] had called 911 and hung up the phone when she realized that another employee had called 911, which prompted the 911 operator to return the call to Fryer's Towing. The file with the title "092014_S37A_call_2" was the call made by [REDACTED] an employee with Fryer's Towing, to the 911 operator. A synopsis of each of the calls is as follows:

"092014_S36A_DeputyHernandez"

The recording of the 911 call between Deputy Hernandez and the 911 operator lasted approximately three (3) minutes and fifty-two (52) seconds. When the call connects, Deputy Hernandez is heard yelling, "Car". Deputy immediately identifies himself to the 911 operator and said that he is at Fryer's Towing, and that shots were fired. The 911 operator asks if anyone was injured, and Deputy Hernandez says "yes." Deputy Hernandez then informed the 911 operator that there is someone inside a vehicle and provided the license plate on the vehicle as "1521JP". The 911 operator asks who was shot, and Deputy Hernandez provided additional information as to his exact location, and then tells the 911 operator that there is an individual inside of the vehicle and the individual is also armed. Deputy Hernandez could then be heard yelling at someone to get out of the way. The 911 operator asks if the subject is a white male or a black male, Deputy Hernandez said that it was a white male and that he is still inside of the vehicle. Deputy Hernandez also stated that another subject was secured and taken into custody. Deputy Hernandez then reveals the vehicle to be a silver Jeep 4x4. The 911 operator asked Deputy Hernandez if there was anybody shot, and Deputy Hernandez said yes. The 911 operator then said that she needed to contact fire rescue. Deputy Hernandez then told the 911 operator to notify the responding backup officers that Deputy Hernandez had his gun out, and that he was wearing a grey t-shirt and jeans. Deputy Hernandez said that there was a red Ford F-350 on the scene as well that was related and one person was removed from inside of it, but was unaware if anyone else was inside the vehicle. Shortly thereafter, sirens could be heard in the background. Deputy Hernandez said that he and the other deputy were putting on tactical vests so that the responding officers could recognize them. Deputy Hernandez then indicates that a backup officer was on scene with him, therefore he disconnected the call with the 911 operator.

"092014_S36A_call_1"

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This recording depicted the call from the 911 operator to Fryer's Towing, after a 911 call was received from the number and hung up. The call lasted approximately four (4) minutes and forty-three (43) seconds. Fryer's Towing employee [REDACTED] answered the call when the 911 operator called [REDACTED] indicated that she hung up because one of the other employees was on the phone with 911. [REDACTED] said that she had two officers at the tow yard dealing with a car. The 911 operator asked [REDACTED] if there was an officer shot, at which time [REDACTED] said "no, the officer shot someone." [REDACTED] said that the other officer had the "other guy" and said that there were "two guys." [REDACTED] said that the officers were deputies with the VCSO. The 911 operator asked [REDACTED] if the person who was shot was still conscious and breathing, [REDACTED] said that she did not know. [REDACTED] told the 911 operator that the two guys were at Fryer's Towing on the previous day trying to get the car and had a gun; therefore DBPD was called and responded on the previous day. [REDACTED] said that she was walking towards where the officers were at, and the 911 operator told [REDACTED] not to get close. [REDACTED] was heard asking someone else if the suspect had been shot, and whoever it was that she asked indicated that they did not know.

The 911 operator asked [REDACTED] if the deputies were ok, and she said "yes". When asked, [REDACTED] said there was only one person in the car and identified him as "Edward Prescott." The 911 operator asked [REDACTED] what had happened, and [REDACTED] said that the two guys were there to pick up a Ford F-350 that was towed by Port Orange Police Department (POPD). [REDACTED] continued that the two had come to the Fryer's Towing on the previous day to pick up the vehicle, and both men were "drunk" and they had a gun, so she called DBPD. [REDACTED] said that when DBPD responded on the previous day, the two men were told to leave and come back to pick up the vehicle tomorrow. [REDACTED] said that on this day the two men returned and paid to get the car released and one of the employees drove the Ford F-350 out of the gate. [REDACTED] said that the two officers had just finished dealing with the other car that they were at Fryer's Towing for, when the officer heard the two men who had just picked up the Ford F-350 were screaming at and threatening the Fryer's Towing employees. [REDACTED] said "and when the one deputy walked up to the passenger door, I guess the gun must have come out and the deputy shot four or five times." [REDACTED] indicated that other officers had arrived on the scene, and the call was terminated shortly thereafter.

"092014_S36A_call_2"

This recording depicted a call to 911 from [REDACTED], a Fryer's Towing employee. The call lasted approximately five (5) minutes and seventeen (17) seconds. [REDACTED] indicated that there were shots fired and identified his location at Fryer's Towing. [REDACTED] told the 911 operator that a VCSO deputy had a suspect at gunpoint and identified two vehicles involved, a Jeep and a red truck. [REDACTED] said that they were at the bottom gate off of Madison Avenue and said that the deputies were inside the fence. [REDACTED] told the 911 operator that they needed additional officers on scene. When asked, [REDACTED] indicated that he did not know if anyone had been hit, but said that one deputy at a suspect in the vehicle at gunpoint. [REDACTED] also indicated that a second suspect was in custody. [REDACTED] said that the suspect in the vehicle was not showing the deputy his hands. Someone can be heard talking to [REDACTED] directing [REDACTED] to remain with the second suspect. [REDACTED] tells the 911 operator that the second suspect "has an empty

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holster on him." The 911 operator told [REDACTED] that officers are on the way and asked [REDACTED] if anyone was hurt, [REDACTED] indicated that he did not know. Shortly thereafter, [REDACTED] indicated that officers were arriving on the scene, and the 911 operator then terminates the call.

Radio Transmissions

On January 21, 2015, SA Brenton was provided with a CD-ROM which contained digital audio files containing the recorded radio transmissions related to the use of force incident which occurred on September 20, 2014 at Fryer's Towing Service. The file, titled "VP 140025681 Radio" contained the recording of the dispatching of VCSO deputies and DBPD officers to the scene (VCSO and DBPD dispatches on the same radio frequency). The other file, titled "F142630149 RADIO" contained the recording of the dispatching of Daytona Beach Fire Rescue.

"VP 140025681 Radio"

This audio file is the recording of the dispatching of VCSO deputies and DBPD officers to Fryer's Towing. The total length of the audio file is 10:01. The recording begins with alert tones and the dispatcher announcing to all units "emergency traffic" regarding a "36-A" (shot person) located at Fryer's Towing; 722 N. Segrave Street. Several officers acknowledged responding to the scene. An officer asked if there was a deputy was involved, at which time the dispatcher responds that Deputy Hernandez is involved and no other information was available. The dispatcher announced that Deputy Hernandez had one at gunpoint, and that Deputy Hernandez was inside of the gate wearing a grey t-shirt. The dispatcher indicated that the condition of the person shot was unknown. At approximately 2:20 after the call is dispatched, the first officer, DBPD Officer Tammy Pera, announces on scene. Shortly thereafter several additional officers announce that they too are on scene. At approximately 3:53 after the call is dispatched an unknown officer announced "they are making the extraction right now". At approximately 3:59 after the call is dispatched, Officer Pera announces "I've got one down, I need rescue code-3". The dispatcher announced that fire-rescue is staged on scene and would be informed to move in. Officer Pera announced that the scene is "code-4" (clear) and it is ok for rescue to come into the scene. Shortly thereafter, an officer announced to the dispatcher to clear the emergency radio traffic. The remainder of the radio traffic consists of the setting up of the crime scene and other activities.

"F142630149 RADIO"

This audio file is the recording of the dispatching Daytona Beach Fire Rescue to Fryer's Towing. The total length of the audio file is 5:06. The recording begins with alert tones and the dispatcher announcing a call of a person shot at Fryer's Towing at 722 N. Segrave Street. The call was dispatched at 14:36 hours. The dispatcher is asked if the scene is secured, which the dispatcher responds that the scene is not secured and that the rescue units should stage near the scene until told to respond in to the scene. At 14:40 hours, the dispatcher announced to the responding rescue units that the scene is clear and they can respond directly to the scene. A minute later, the rescue units announce they are arriving on the scene. At 14:42, Engine-5 announced to cancel Rescue-1 due to "no code - no vitals".

The CAD Notes, 911 calls, and radio transmissions will be copied onto a CD-ROM and will be

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maintained as related items with this investigative report.

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On September 25, 2014, Special Agent (SA) Steve Brenton received a letter from Attorney Michael Lambert (via an email from Megan Prather, a legal assistant for Mr. Lambert) who represents Deputy Hernandez for the deadly use of force that occurred at Fryer's Towing on September 20, 2014. In the letter, Mr. Lambert indicated that Deputy Joel Hernandez would not provide a statement regarding his involvement in the deadly use of force. Mr. Lambert indicated that the reason Deputy Hernandez would not make a statement was due to the fact that it was Mr. Lambert's opinion that Deputy Hernandez was justified, and authorized, to use deadly force for the following reasons:

1. Sworn statements of Fryer's employees, to include the belligerent/bellicose demeanor of the Millers both on Friday evening, and again on Saturday afternoon;
2. The fact that the Miller's appeared at Fryer's Towing on both Friday and Saturday with firearms;
3. That senior Miller on Saturday informed Darcie Podgorski-Beneddix, the female employee at Fryer's, that he "had something for her";
4. That though the Millers business with Fryer's had concluded, they remained;
5. The of video recording of the Millers Friday evening;
6. The video recording of the Millers Saturday afternoon to include Deputies Andracke and Hernandez approaching the Jeep;
7. Lastly, the sworn statement taken yesterday from Deputy Matt Andracke.

A copy of the letter from Mr. Lambert was uploaded to this investigative report and will be

Case Number: OR-27-0198	Serial #: 3
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 09/25/2014	Activity End Date:09/25/2014
Approved By: Woehr, Christopher	

Description:Letter from Attorney for VCSO Deputy Joel Hernandez

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maintained as a related item.

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On September 24, 2014 at approximately 11:19 am Special Agent (SA) Steve Brenton conducted a sworn interview of Deputy Matthew Andracke at the Florida Department of Law Enforcement Daytona Beach Satellite Office at 210 North Palmetto Avenue, Suite 220, Daytona Beach, FL. The interview with Deputy Andracke was recorded using a digital voice recorder. Present during the interview was SA Troy Cope, VCSO Investigator William Maxwell, and Attorney Michael Lambert, who was representing Deputy Matthew Andracke.

Deputy Andracke is currently employed with the VCSO and has been employed with VCSO for four (4) years. Deputy Andracke has been assigned to the Volusia Bureau of Investigations since July 2013. Deputy Andracke was on duty on September 20, 2014 at the time the deadly use of force had occurred, and was engaged in performing his normal duties as a police officer. Deputy Andracke indicated that on September 20, 2014, his assignment at Fryer's Towing was assisting Deputy Joel Hernandez.

SA Steve Brenton started the interview by asking Deputy Andracke to provide his statement as to what had occurred when Deputy Hernandez and Deputy Andracke became involved in the incident that lead to the deputy involved shooting. The following is a synopsis of Deputy Andracke's statement:

Deputy Andracke indicated that the individuals who were "in the Jeep" were being loud and causing a problem with the wrecker company. Deputy Andracke indicated that when he and Deputy Hernandez completed their assignment, they both went into the office at the tow company to wash up. Deputy Andracke said that while looking out the south gate of the tow yard which leads to Madison Avenue, he observed the Jeep on the outside of the south gate blocking the exit. Deputy Andracke indicated that he told Deputy Hernandez that the Jeep was blocking where the deputies were going to exit, and that they would have to make contact with the driver of the Jeep to get him to move along. Deputy Andracke indicated that Deputy Hernandez agreed, and Deputy Hernandez placed his badge, gun, and handcuffs holder with

Case Number: OR-27-0198	Serial #: 4
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 09/24/2014	Activity End Date:09/24/2014
Approved By: Woehr, Christopher	

Description:Sworn Interview of VCSO Deputy Matthew Andracke

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extra magazine on his belt and tucked in the front of his shirt.

Deputy Andracke indicated that he and Deputy Hernandez then walked through the tow yard towards the south gate as a tow yard employee opened the south gate. Deputy Andracke indicated that he and Deputy Hernandez went up to the Jeep, at which time Deputy Hernandez approached the front passenger side window and identified himself by saying "Sheriff's Office" while Deputy Hernandez knocked on the front passenger side window. Deputy Andracke indicated that the window was rolled up and the door was closed when Deputy Hernandez made contact with the driver. Deputy Andracke said that Deputy Hernandez motioned his hands to communicate to the driver to roll down the passenger side window. Deputy Andracke said that the Jeep then rolled forward for about a car's length, and then stopped. Deputy Andracke indicated that he and Deputy Hernandez again approached the car and made contact with the driver of the vehicle, Edward Prescott Miller. Deputy Andracke indicated that the front passenger side door was still closed and the window was still up. Deputy Andracke indicated that Deputy Hernandez again said "Sheriff's Office" and told Edward Prescott Miller to "roll down the window", and according to Deputy Andracke, Deputy Hernandez repeated this several times.

Deputy Andracke said that Edward Prescott Miller did not comply, at which time Deputy Hernandez opened the door to the Jeep and again said "Sheriff's Office". Deputy Andracke said that Edward Prescott Miller, seated in the driver's seat, had his hand in his pocket. Deputy Andracke said that Deputy Hernandez said, on several occasions, "Sheriff's Office, show me your hands" and ordered Edward Prescott Miller to "take his hands out of his pocket." Deputy Andracke said that he was standing slightly to the rear and to the right of Deputy Hernandez at the door seam between the wheel and the mirror of the Jeep. Deputy Andracke said that Edward Prescott Miller did not comply with Deputy Hernandez' orders to take his hands out of his pocket, at which time Deputy Hernandez drew his firearm and continued to order Edward Prescott Miller to take his hand out of his pocket. Deputy Andracke said at this time Deputy Andracke looked towards the red truck and observed what he believed to be one occupant inside of the red truck facing forward. Deputy Andracke said that he believed that the truck was preparing to leave because the brake lights were illuminated on the red truck.

Deputy Andracke said that he then looked back towards the Jeep, at which time he saw that Edward Prescott Miler's hand was no longer in his pocket, and that Edward Prescott Miller was holding a silver revolver. Deputy Andracke said that Edward Prescott Miller was holding the revolver up equivalent to as high as Edward Prescott Miller's stomach or chest and was over the center console. Deputy Andracke added that he could see the firearm from where Deputy Andracke was standing. Deputy Andracke said that Deputy Hernandez fired four (4) to five (5) shots at Edward Prescott Miller, at which point Deputy Hernandez and Deputy Andracke retreated to behind wall within the tow yard on the side of the gate. According to Deputy Andracke, Deputy Hernandez continued giving verbal commands to Edward Prescott Miller, with no response by Edward Prescott Miller. Deputy Andracke said that at this point, the occupant inside of the red Ford pickup truck, Edward Daniel Miller, exited the truck and came around the driver's side of both the truck and the Jeep with his hands up. Deputy Andracke said that Edward Daniel Miller was saying that he did not shoot, and he did not have a gun, and once Edward Daniel Miller came around the rear of the Jeep, Deputy Andracke made contact with him. Deputy Andracke moved Edward Daniel Miller into the compound of Fryer's Towing, laid him on the ground to secure him.

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Deputy Andracke said that he and Deputy Hernandez moved to the east side of the open south gate as they both now put on their tactical bullet proof vests. Deputy Andracke said that they had moved to the east side of the open south gate of the Fryer's Towing compound to get a better view of the Jeep and the truck. SA Steve Brenton asked Deputy Andracke how he was dressed when Deputy Andracke and Deputy Hernandez approached the Jeep. Deputy Andracke indicated that he was wearing a t-shirt, pair of shorts, and tennis shoes. Deputy Andracke, when asked, indicated that he did not have a badge or a firearm on his person when he and Deputy Hernandez approached the Jeep. Deputy Andracke was asked if he had given any verbal commands when he and Deputy Hernandez approached the Jeep, or if he just had stood behind Deputy Hernandez as a back-up, Deputy Andracke said that he only stood by as a back-up and did not give any verbal commands until Edward Daniel Miller exited the Ford pickup truck.

SA Steve Brenton asked Deputy Andracke when he and Deputy Hernandez were still inside of the office area of Fryer's Towing, before the decision was made to approach the Jeep, if there was any conversation with any employee of Fryer's Towing about Edward Prescott Miller and Edward Daniel Miller regarding anything they had said, or their prior actions. Deputy Andracke indicated that while he and Deputy Hernandez were conducting their separate investigation, Deputy Andracke did hear the employees talking about the fact that the individuals had been causing a disturbance, and had caused a disturbance on the previous day, but that was about it. Deputy Andracke said that he was also aware, based upon the Fryer's Towing employees conversations that the individuals were there to retrieve their red Ford truck that had previously been towed by Port Orange Police Department (POPD). SA Steve Brenton asked if the Fryer's Towing employees had mentioned that the Daytona Beach Police Department (DBPD) had been called on the previous day because of a disturbance involving the Millers, and Deputy Andracke indicated that he recalled the Fryer's Towing employees mentioning that as well. SA Steve Brenton then asked Deputy Andracke if he recalled any conversations about the Millers being armed or not, and Deputy Andracke said "not before, no."

SA Steve Brenton asked Deputy Andracke what happened which led to the decision to approach the Jeep. Deputy Andracke said that after he and Deputy Hernandez had completed their previous assignment and had finished cleaning up, Deputy Andracke observed the Jeep blocking the exit from the south gate on the outside of the fence. Deputy Andracke indicated that he had thought that the Jeep and the red Ford pickup truck had left the area. Deputy Andracke said that he indicated to Deputy Hernandez that the individual in the Jeep, who was at Fryer's Towing causing the problem, was back and blocking their exit. Deputy Andracke said that he told Deputy Hernandez that it looks like they are going to have to "contact them and tell them to move it along." Deputy Andracke indicated that the position of both his and Deputy Hernandez' police vehicles would have forced them to exit through the south gate, and that their exit was impeded by the fact that the Jeep was blocking the outside of the gate.

Deputy Andracke indicated that he had known that the Millers were parked at one point closer to the office on Segraves Street because they were being loud and arguing with the Fryer's Towing employees. Deputy Andracke also stated that when the Jeep appeared at the south gate, he again heard the Millers being loud and argumentative. When SA Steve Brenton asked Deputy Andracke if he could hear what the Millers were saying or yelling, or if he knew why they were yelling, Deputy Andracke indicated that he believed that the Millers were angry because

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their vehicle had been towed. SA Steve Brenton asked Deputy Andracke when they approached the Jeep at the south gate, if he and Deputy Hernandez were alone, or if anyone else accompanied them when walking towards the Jeep. Deputy Andracke indicated that as he and Deputy Hernandez walked through the Fryer's Towing compound towards the south gate, a Fryer's Towing employee walked with them in the compound to open the south gate because the employee had the remote to open the gate.

SA Steve Brenton asked Deputy Andracke that when he and Deputy Hernandez reached the Jeep at the front passenger door, could Deputy Andracke see if Edward Prescott Miller was looking at Deputy Hernandez as he attempted to make contact with Edward Prescott Miller. Deputy Andracke indicated that he did not remember Edward Prescott Miller looking at Deputy Hernandez, but Deputy Andracke indicated that as Deputy Hernandez knocked on the window and identified himself as a Sheriff's deputy, Deputy Andracke could hear that Edward Prescott Miller was talking, but could not hear what he was saying. Deputy Andracke indicated that it was his belief that Edward Prescott Miller was aware that Deputy Hernandez was there. SA Steve Brenton asked Deputy Andracke if he remembered if Deputy Hernandez had anything in his hands while he was tapping on the front passenger window of the Jeep, and Deputy Andracke said that he did not recall anything being in Deputy Hernandez' hands.

Deputy Andracke went on to say that Deputy Hernandez was tapping on the front passenger window on the Jeep as he identified himself as a Sheriff's deputy and telling Edward Prescott Miller to roll the window down. Deputy Andracke said that Deputy Hernandez was making hand gestures in a motion to indicate to Edward Prescott Miller to roll down the window. According to Deputy Andracke, the Jeep then moved forward approximately one car length, at which time he and Deputy Hernandez re-approached the vehicle and continuously identified himself as a Sheriff's deputy and told Edward Prescott Miller to roll the window down. Deputy Andracke indicated that when Edward Prescott Miller wasn't complying with Deputy Hernandez' commands, Deputy Hernandez opened the front passenger door and again identified himself as a Sheriff's deputy. Deputy Andracke said that at this time Edward Prescott Miller had his hand in his pocket. SA Steve Brenton asked Deputy Andracke if he knew why Deputy Hernandez opened the door to the Jeep, and Deputy Andracke stated, "to make contact with him because he wasn't rolling down the window." Deputy Andracke said that once Deputy Hernandez opened the door to the Jeep, he continued to identify himself and told Edward Prescott Miller to show Deputy Hernandez his hands. Deputy Andracke indicated that he remembered looking at Edward Prescott Miller and observing his hand in his pocket, not complying with Deputy Hernandez' commands.

Deputy Andracke indicated that Deputy Hernandez then drew his weapon after Edward Prescott Miller was not complying with Deputy Hernandez' commands, and continued giving commands. Deputy Andracke said he then looked towards the truck, observed the occupant still inside the truck at which time Deputy Andracke looked back towards Edward Prescott Miller. Deputy Andracke said this was when he observed the firearm in Edward Prescott Miller's right hand. When SA Steve Brenton asked Deputy Andracke if he had seen where Edward Prescott Miller had retrieved his firearm from, Deputy Andracke answered, "I don't think, I didn't see him bring it out of his pocket... when we originally contacted him his hand was in his right pocket... and when I glanced at the red truck and looked back his hand wasn't in his pocket anymore and there was a firearm in his hand about chest high." SA Steve Brenton asked Deputy Andracke if he could describe the firearm, at which time Deputy Andracke indicated that it was a silver

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revolver. SA Steve Brenton asked Deputy Andracke which direction the firearm was pointed, and Deputy Andracke answered, "I couldn't tell."

SA Steve Brenton requested Deputy Andracke to prepare a diagram of the area of the tow yard and where the Jeep and the red Ford pickup truck were located, along with the streets and which direction was north. SA Steve Brenton also asked Deputy Andracke to indicate where Deputy Hernandez was standing in relation to the Jeep, and where Deputy Andracke was standing in relation to the Jeep, at the time the shooting occurred. Deputy Andracke indicated that Deputy Hernandez was standing within the open door area of the Jeep, close enough where if the door closed on the Jeep, Deputy Hernandez would prevent the door of the Jeep from closing. Deputy Andracke was standing to the rear and to the right of Deputy Hernandez on the outside of the door area of the Jeep. SA Steve Brenton asked Deputy Andracke if he had his weapon, would Deputy Andracke have drawn his weapon as well, Deputy Andracke responded, "After Deputy Hernandez drew his weapon because the driver was not complying... I would have because (1) the driver wasn't complying but (2) the red truck who was with that vehicle we didn't know the status of that truck... we didn't know who was inside there... we didn't know if they were armed... we didn't know any of that." SA Steve Brenton then asked Deputy Andracke that if he had a weapon, would he have fired his weapon as well once he saw that Edward Prescott Miller had a weapon. Deputy Andracke responded, "...I would have come on target... yes I may have fired... I may have had the time to... but I don't know with the reaction time and everything... if I was in Deputy Hernandez' position I definitely would have." SA Steve Brenton asked "why would you have fired" at which time Deputy Andracke said "I was in fear for both of our lives... the driver had a gun... was not complying... and brought that gun out of his pocket despite Deputy Hernandez telling him to show us his hands and having his firearm out." SA Steve Brenton then asked Deputy Andracke if there was any criminal predicate, or any reason other than the failure to comply with the commands, to approach or contact the driver of the Jeep. Deputy Andracke indicated that the only reason for the approach was for the failure to comply, and because of the earlier argument with Fryer's Towing, the intent on contacting the driver of the Jeep was to prevent any further confrontations from taking place. SA Steve Brenton then asked Deputy Andracke if he believed that it was necessary to open the door of the Jeep to complete this task, and Deputy Andracke said that it was necessary to open the door to the Jeep to make contact with, and speak to, the driver of the Jeep.

At this point during the interview, SA Troy Cope questioned Deputy Andracke. SA Troy Cope asked Deputy Andracke if Deputy Hernandez was wearing anything to identify himself as a police officer as Deputy Hernandez approached the Jeep. Deputy Andracke indicated that Deputy Hernandez was wearing his badge on his right hip in front of his firearm, which was on his right side. Deputy Andracke indicated that Deputy Hernandez also indicated that he was wearing handcuff and an extra magazine in a pouch on his left side. Deputy Andracke used Deputy Hernandez' handcuffs to secure Edward Daniel Miller after Deputy Andracke placed Edward Daniel Miller on the ground. SA Troy Cope then asked Deputy Andracke if he was aware, or was made aware that Edward Prescott Miller had a hearing impediment. Deputy Andracke indicated that he was not aware of that until after the shooting had occurred.

The interview of Deputy Andracke concluded at 12:12 pm.

A copy of the digital recording of the interview with Deputy Andracke, along with the diagram prepared by Deputy Andracke, will be maintained as a related item with this investigative report.

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IR Number	4

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On September 20, 2014, at approximately 1830 hours, Special Agent (SA) Lloyd Randolph conducted a sworn, digitally recorded interview with DBPD Officer Jason Cole (Cole). The interview was conducted in SA Randolph's FDLE vehicle at the intersection of Segrave Avenue and Madison Street, Daytona Beach, in Volusia County, Florida. The following is a summary of the interview:

Cole responded to a shots fired call broadcasted by the DBPD Communications Center (Comm. Ctr.) The Comm. Ctr. advised that Volusia County Sheriff's Deputies were on scene. Cole stated it took him approximately eight (8) minutes to arrive at the scene, because he was responding from the west side of the city. Upon Cole arriving, he saw several DBPD officers approaching a silver color Jeep with their handguns drawn.

Cole exited his marked police vehicle and he approached the Jeep. Cole observed a deceased, white male in the driver's seat of the Jeep. Cole stated he did not remember if he activated his body worn video camera (Axon) before or after he had exited his vehicle. Cole's body worn camera was utilized to memorialize the vehicles involved at the scene. The Axon video camera footage is maintained on a remote storage location provided by Taser International.

Cole then maintained security around the crime scene.

The digital recording of the interview will be maintained in the related items section of the case file.

No further activity occurred.

Case Number: OR-27-0198	Serial #: 5
Author: Randolph, Lloyd Joseph	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:
Approved By: Woehr, Christopher	

Description: Sworn Interview of DBPD Officer Jason Cole

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**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez (Hernandez), which resulted in the death of Edward Prescott Miller (Miller). The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On September 20, 2014, at approximately 1840 hours, Special Agent (SA) Lloyd Randolph conducted a sworn, digitally recorded interview with DBPD Officer Dale Kelley (Kelley). The interview was conducted in SA Randolph's FDLE vehicle at the intersection of Segrave Street and Madison Avenue, Daytona Beach, in Volusia County, Florida. The following is a summary of the interview:

Kelley was dispatched to 722 N. Segrave Street, reference to "Shots fired." Kelley stated the called was first dispatched as deputies had been shot. Kelley responded using the department installed emergency lights and siren to the scene in his marked police vehicle. Kelley stated as he arrived, he observed DBPD Captain Newcomb and DBPD Officer Tammy Pera at the gate entrance to Fryer's Wrecker Service. Kelley was told to stop by Pera and Newcomb where he was, just east of the gate.

Captain Newcomb told Kelley that Miller was still inside the vehicle (Jeep) and was armed. Officer Pera told Kelley to cover her as she and Captain Newcomb approached the Jeep on the passenger side. Prior to Kelley approaching the Jeep, he activated his department issued body worn video camera (Axom). Kelley approached and opened the driver's door of the Jeep. Officer Pera told Kelley, she could see the handgun.

Kelley reached in and turned the ignition off and placed the Jeep in park. Pera reached in from the passenger side, removed the handgun and placed it on the ground. Kelley stated he could not see the handgun from his position. Kelley then attempted to see if the Miller still had a pulse. Kelley could not obtain a pulse on the Miller. Kelley stated the video captured him turning off the vehicle, placing it in park and checking Miller for a pulse.

Shortly afterward the Daytona Beach Fire Department arrived and pronounced Miller deceased.

Kelley then escorted Edward Daniel Miller to his police vehicle and placed him in the back seat. Kelley removed the Axom camera off his person and wedged the camera on the headrest of his

Case Number: OR-27-0198	Serial #: 6
Author: Randolph, Lloyd Joseph	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:
Approved By: Woehr, Christopher	

Description: Sworn Interview of DBPD Officer Dale Kelley

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seat to record Edward Daniel Miller in the back seat. The video was then uploaded to a remote storage location provided by Taser International.

Kelley stated Edward Daniel Miller made a comment that he was worried about his father and wanted to know what hospital he was transported to. Kelley stated he then assisted in placing crime scene tape up around the scene.

The digital recording of the interview will be maintained in the related items section of the case file.

No further activity occurred.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez (Hernandez), which resulted in the death of Edward Prescott Miller (Miller). The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On September 20, 2014, at approximately 1830 hours, Special Agent (SA) Bill Lee obtained a sworn recorded statement from Daytona Beach Police Department (DBPD) Officer Tammy Pera (Pera). This interview was conducted in SA Lee's vehicle at Madison Avenue and Segrave Street, in Daytona Beach, Florida. In summary, Pera provided the following testimony:

Pera has been employed with the DBPD for twenty-two (22) years. She is assigned to the Patrol Division, Beachside Eastside and was working in that assignment when at approximately 1435 hours, she heard a call dispatched over the police radio of a shooting involving a deputy sheriff. Pera responded in emergency mode, utilizing the lights and siren on her police cruiser, to the location of the call at Segrave Street and Madison Avenue. When she arrived Captain James Newcomb was behind her in an unmarked car. Pera parked in front of a business called Pacesetters on Madison Avenue, approximately 50 yards behind a silver Jeep Cherokee that had a red truck parked in front of it. Pera heard over the radio information of a man with a firearm, deputies involved and they were inside the compound of Fryers. Pera headed toward the inside gate that faces southbound where she thought the incident was occurring Pera had her weapon drawn. Pera observed two deputies standing off just to the east, behind the brick wall, yelling there is a guy with a gun in the silver colored jeep in the middle of the road. The deputies had their handguns drawn pointed towards the Cherokee. Pera ran to the west side of the compound and Captain Newcomb was behind her.

Officer Dale Kelley pulled up near Pera's vehicle and exited his vehicle gun drawn.

Captain Newcomb and Pera moved around the fence and approached the Jeep Cherokee and Pera made an announcement "Daytona Beach Police, Daytona Beach Police." Pera got up to the opened passenger door and "the deputies are yelling he's got a gun he's got a gun look for the gun." The subject in the Jeep Cherokee was sitting in the driver seat slumped over to the right side, he was still shaking and he had a small amount of blood on his right side at the time.

As Officer Kelley and Captain Newcomb were attempting to cut the seat belt, Pera observed

Case Number: OR-27-0198	Serial #: 7
Author: Lee, Billy R. Jr	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:
Approved By: Woehr, Christopher	

Description:Sworn Interview of DBPD Officer Tammy Pera

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between the subject's leg and the seat a gun. The butt of the gun was sticking out/up about two inches. The barrel had fallen in between the seat and the center console. The subject's forearm was on the center console and his right hand "was positioned like the gun fell out of his hand", palm facing down.

The guy in the Jeep Cherokee was an older white male with graying hair he was in a pair of shorts and a t-shirt.

Pera grabbed the gun to secure it for officer safety because it was in such close proximity to the subject. She placed the gun on the ground and stepped on it with her foot so she could keep it under control and provide cover for Captain Newcomb and Officer Kelley. Officer Kelley said the subject had no pulse. Pera called Rescue to respond and they came in and pronounced the subject deceased.

Pera asked DBPD Officer Donald Aldridge (Aldridge) to unload the firearm so she could secure it in her vehicle. Aldridge unloaded five unspent rounds from the gun. Pera described the gun she removed from the subject's Cherokee as a silver colored, black handled, 38, five shot revolver. When Aldridge opened the cylinder there were rounds in each position in the cylinder. Aldridge handed the gun and the rounds to Pera and she place them in her patrol vehicle and locked it. Pera later gave the firearm taken from the Jeep Cherokee and the rounds to VCSO Deputy Lee (first name unknown).

Pera did not recall the deputies saying what happened. "It was a dynamic situation and I didn't have time to ask them what happened." She did not hear them recount the events of the shooting. The deputies involved in this incident were moved into the compound and she did not have an opportunity to talk to them.

When Pera arrived on scene she observed an individual, later identified as the son of the deceased subject, approximately fifty yards into the compound handcuffed with his hands behind his back lying prone on the ground. The only statement Pera heard the subject's son make was when they were yelling the commands of "Daytona Beach Police Department, Daytona Beach Police Department come out with your hands up" he said "he can't hear very well, he can't hear very well." That subject's son was moved to the back seat of Officer Kelly's patrol vehicle. The son of the deceased subject, was dressed in a black t-shirt, jeans, a hat and his head appeared to be shaved.

She did not hear the subject in the Jeep Cherokee ever make any comment or respond to their verbal commands.

Pera did check the red truck, which was the son's truck, and found a 45 caliber semi-automatic handgun in the passenger seat.

Officer Kelly reached in the Jeep Cherokee and put it in park and turned the ignition off when Captain Newcomb was going to cut the seat belt, according to Pera.

A compact disc containing the recording of the interview with Officer Pera will be maintained as a related item to this case file.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez (Hernandez), which resulted in the death of Edward Prescott Miller (Miller). The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On September 20, 2014, at approximately 1804 hours, Special Agent (SA) Bill Lee obtained a sworn recorded statement from Daytona Beach Police Department (DBPD) Officer Donald Aldridge. The interview was conducted in SA Lee's vehicle on Madison Avenue at Segrave Street, in Daytona Beach, Florida. In summary, Aldridge provided the following testimony:

Aldridge has been a police officer with the DBPD for eleven (11) years, prior to that he was employed as a corrections officer with the Florida Department of Corrections at the Tomoka Correctional Institute for five (5) years. Aldridge is assigned to the Patrol Division, District Two, and was working in that assignment at the time of this incident.

Aldridge was at the District Two Office writing a report when a call was dispatched over the police radio of a shooting involving a deputy sheriff. Aldridge activated his body camera when he left the precinct office. He reported via his mobile computer terminal that he was enroute and responded with emergency lights and siren activated on his patrol vehicle. While responding to the scene he heard over the police radio a report that "a deputy has one on the ground at gunpoint on the fence line." Aldridge parked his patrol vehicle at Willie's Bar, a block east of the incident location, and retrieved his shotgun from the trunk of his vehicle before approaching the scene.

Aldridge and other officers approached the subject vehicle, a Jeep Cherokee, parked on Madison Avenue, outside of the tow yard. Aldridge notified Officer Donald (Donald) that she had long gun cover on her left side. Officer Tammy Pera (Pera) was in front of Donald on the passenger side of the Cherokee. The passenger side front door of the Cherokee was open. Aldridge could see no movement from a white male, later identified as Miller, in the driver seat of the Cherokee.

Captain James Newcomb and Officers Dale Kelley and another officer were on the driver side of the Cherokee and opened the driver door. "They said the gun is on the floorboard or something like that." Captain Newcomb asked for a knife which Aldridge gave him. Captain

Case Number: OR-27-0198	Serial #: 8
Author: Lee, Billy R. Jr	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:
Approved By: Woehr, Christopher	

Description: Sworn Interview of DBPD Officer Donald Aldridge

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Newcomb cut the seat belt. Officer Kelley said he checked the subject for a pulse.

"Pera reached in and takes the gun from here on the floorboard." Aldridge pointed to the center console of the vehicle, and said "in the area where the gentleman would have his right hand, you know within constructive possession, within reach before he deceased."

Donald opened the rear passenger door and they "cleared" the vehicle to ensure there were no other occupants.

Pera, who was standing on the sidewalk holding the subject's gun, asked Aldridge, "Can you make this safe for me." The handgun looked like a Smith and Wesson, 38, hammerless, five shot revolver, according to Aldridge. He opened the cylinder, dumped the rounds out and gave Pera the handgun and rounds. Aldridge indicated it did not look like any of the rounds had been fired.

A Sergeant Ryan directed Aldridge to film some of the scene. Aldridge observed a shell casing on the passenger floorboard, a lot of coagulated blood on the center console from Miller. Miller was seated in the driver seat, slumped to his right, with his right arm extended and laying along his right side palm down, in the same area Pera had retrieved the gun. There was a casing in the passenger floorboard and one on the sidewalk, midline of the Cherokee on the sidewalk.

The Cherokee and the red truck were in the same position as when he initially approached them. It appeared to Aldridge that Miller's foot came off the brake causing the Cherokee to roll forward into the truck. Aldridge believed Officer Kelley turned off the Cherokee's engine.

Miller did not make any comments during this incident.

Aldridge assisted in putting crime scene tape and started a crime scene log. Deputy Lee with VCSO took over the crime scene log.

Aldridge did not see the VCSO deputies that were involved this incident while on scene.

Aldridge learned that the subject's son was at the scene but he did not see him.

A compact disc containing the interview of Officer Aldridge will be maintained as a related item to this case file.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On October 15, 2014 at 11:12 am Special Agent (SA) Steve Brenton conducted an sworn interview at the Daytona Beach Police Department (DBPD); 129 Valor Boulevard, Daytona Beach, FL with Captain James Newcomb regarding his involvement with the deadly use of force which occurred at Fryer's Towing on September 20, 2014. The interview with Captain Newcomb was digitally recorded.

Captain Newcomb has been with DBPD for twenty-three (23) years and is the commander of DBPD District 2. Captain Newcomb was on duty at the time the incident occurred at Fryer's Towing on September 20, 2014. Captain Newcomb was operating an unmarked vehicle, and was dressed in Polo style shirt with the DBPD name and badge and pants. Captain Newcomb was wearing his badge and gun for identification purposes.

Captain Newcomb indicated that he was conducting checks of business on the East side of Daytona Beach when a call came in over the radio of a shooting at Fryer's Towing. Captain Newcomb indicated that there was not a lot of information initially with the call, and he was unaware if someone had been shot, or if it was an active shooter situation. Captain Newcomb indicated that he then responded to Fryer's Towing and that he and DBPD Officer Tammy Pera were the first to arrive on the scene. Captain Newcomb indicated that he first observed the silver Jeep Grand Cherokee and the red Ford F350 pickup truck on Madison Avenue. Captain Newcomb indicated that as he approached the scene and reached the south gate of Fryer's Towing, he observed the VCSO deputy (Deputy Andracke) that had a suspect on the ground. Captain Newcomb then observed the other VCSO deputy (Deputy Hernandez) around the wall on the east side of the open south gate of Fryer's Towing, at which time Captain Newcomb was able to determine that the deputies were engaging the Jeep where the suspect that was shot was inside. Captain Newcomb indicated that he asked the deputy "where is he?" at which time the deputy pointed towards the Jeep.

Captain Newcomb said that he and Officer Pera then drew their weapons and approached the

Case Number: OR-27-0198	Serial #: 9
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 10/15/2014	Activity End Date:10/15/2014
Approved By: Woehr, Christopher	

Description:Sworn Interview of DBPD Captain James Newcomb

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Jeep. Captain Newcomb said that he and Officer Pera approached the Jeep along the wall on the east side of the open south gate of Fryer's Towing, inside of the compound, to gain a vantage point to see inside of the Jeep. Captain Newcomb said that DBPD Officer Dale Kelley had arrived on the scene and was approaching the driver's side of the Jeep. Captain Newcomb indicated that once he observed the individual inside of the Jeep, Captain Newcomb made the observation that the individual did not appear to be moving. Captain Newcomb said that he and Officer Pera continued an advance to the passenger side of the Jeep, while giving verbal commands, "let me see your hands." When Captain Newcomb and Officer Pera reached the passenger side of the vehicle, Captain Newcomb said that Officer Pera indicated that she saw a firearm, at which time Captain Newcomb instructed Officer Pera to retrieve the firearm. Officer Pera then reached into the car and retrieved, and took custody of the firearm.

Captain Newcomb indicated that Officer Kelley reached the driver's side of the Jeep, reached in and checked for a pulse on Edward Prescott Miller. Captain Newcomb said that Officer Kelley indicated that there was no pulse; therefore they decided to remove Edward Prescott Miller from the Jeep to perform first aid. Captain Newcomb said that they were unable to remove Edward Prescott Miller from the inside of the Jeep because his seat belt was buckled. Captain Newcomb said that they decided to leave Edward Prescott Miller in the seat while they waited for fire rescue to arrive.

SA Steve Brenton asked Captain Newcomb if Officer Pera said where exactly she saw the firearm, Captain Newcomb responded that Officer Pera had seen the firearm next to the center console. Captain Newcomb indicated that as he and Officer Pera were at the passenger side of the Jeep, Captain Newcomb was a little bit behind Officer Pera, and that Officer Pera had the better vantage point to see inside of the vehicle. Captain Newcomb said that he told Officer Pera to retrieve the firearm because they were not sure if Edward Prescott Miller was still alive or not. Captain Newcomb said that when Officer Pera reached into the Jeep to retrieve the firearm, she reached way into the car, meaning that the firearm was not on the passenger side, and that Officer Pera had to reach over the center console to get the firearm. SA Steve Brenton confirmed with Captain Newcomb that Officer Pera was on the passenger side of the Jeep the entire time, and Captain Newcomb said "yes". SA Steve Brenton asked Captain Newcomb if it was possible for Officer Pera to be able to see the firearm from her vantage point if the firearm was wedged way down between the driver's seat and the center console, at which time Captain Newcomb said that the firearm would have had to have been up on the driver's seat for Officer Pera to have seen it.

SA Steve Brenton asked Captain Newcomb that when he first arrived on the scene and made contact with the VCSO deputies, if Captain Newcomb remembered anything specific of what the deputies had said; Captain Newcomb indicated that the only conversation with the VCSO deputies was about the suspect being inside of the Jeep and that he was armed. Captain Newcomb said at that point they (meaning DBPD) took over from there. SA Steve Brenton asked Captain Newcomb if he was aware who had eventually cut the seat belt off of Edward Prescott Miller, and Captain Newcomb indicated that he believed that it was either Officer Kelley, or DBPD Officer Donald Aldridge, who had now arrived on the scene. SA Steve Brenton asked Captain Newcomb if Edward Prescott Miller had said anything while Captain Newcomb was present at the Jeep, and Captain Newcomb indicated that Edward Prescott Miller did not say anything and that Captain Newcomb believed that Edward Prescott Miller was deceased by the time Captain Newcomb, Officer Pera, and Officer Kelley reached the Jeep.

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The interview with Captain Newcomb concluded at 11:20 am.

A CD-ROM containing a copy of the digital recording of the interview with Captain Newcomb will be maintained as a related item with this investigative report.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On September 20, 2014 at approximately 5:37 pm, Special Agent (SA) Steve Brenton conducted a sworn interview with Edward Daniel Miller (hereinafter referred to as D. Miller), the son of the victim Edward Prescott Miller (hereinafter referred to as P. Miler). Present during the interview was VCSO Detective William Maxwell. The interview was conducted inside of the VCSO mobile command post vehicle, which was located on the scene where the incident occurred. The interview with D. Miller was recorded using a digital voice recorder.

At the beginning of the interview, SA Brenton obtained personal biographical information from D. Miller. During such time, SA Brenton asked D. Miller if he had consumed alcohol or had taken any illegal or prescribed medication on this date. D. Miller had indicated that earlier in the morning (approximately 5:00 am) he had taken a Xanax, which he takes for anxiety; however he did not feel that he was feeling the effects of the prescription medication, indicating that he is speaking to SA Brenton just fine. D. Miller said that he does not have to take the Xanax every day, only when he feels that he needs to take it. Afterwards SA Brenton asked D. Miller regarding his knowledge and involvement in the incident which culminated with the shooting of P. Miller by Deputy Joel Hernandez. The following is a synopsis of the interview conducted with D. Miller:

D. Miller was driven to Fryer's Towing; 722 N. Segrave Street Daytona Beach, FL, by his father, P. Miller, on this date so that D. Miller could retrieve his red Ford F-350 pickup truck, which had been impounded at Fryer's Towing. After receiving the truck from Fryer's Towing, D. Miller was sitting in the cab of the truck, using the truck's computer to conduct a diagnostic check of the truck's engine and computer system. D. Miller indicated that while doing the diagnostic check, he all of a sudden heard gunshots. D. Miller said that he exited the truck and was directed by a police officer to come toward him, and was eventually placed on the ground and placed into handcuffs.

D. Miller, when asked, indicated that his truck had been towed on the previous Thursday by the

Case Number: OR-27-0198	Serial #: 10
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:09/20/2014
Approved By: Warren, Daniel J.	

Description:Sworn Interview of Civillian Witness Edward D. Miller

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Port Orange Police Department (POPD), because a POPD police officer came upon D. Miller in his truck, and the officer believed that D. Miller was intoxicated. D. Miller indicated that the POPD officer had his truck towed by Fryer's Towing, and the officer drove D. Miller home.

D. Miller indicated that on Friday, September 19, 2014 he and his father came to Fryer's Towing to retrieve his truck. D. Miller said that he learned that Fryer's Towing would only accept a cash payment to release the vehicle. D. Miller indicated that he and his father then left Fryer's Towing to cash a check at a check cashing store, and then returned to Fryer's Towing to pay and have his truck released. D. Miller indicated that when he returned to Fryer's Towing, which he believed was approximately 5:00 pm; he was told that they were already closed for the day. D. Miller said that he was told to return the following day. SA Brenton asked D. Miller if there was a time that the police were called when he and his father were at Fryer's Towing on Friday, September 19, 2014. D. Miller indicated that there was an argument between his father and employees with Fryer's Towing which resulted in the Daytona Beach Police Department (DBPD) being called. D. Miller blamed the incident on a misunderstanding because, according to D. Miller, his father is deaf which probably led to his father not understanding what the Fryer's Towing employee was telling him. D. Miller said that DBPD responded to Fryer's Towing and spoke to all parties involved. D. Miller said that he possesses a concealed weapons permit and had a firearm on his person when dealing with the officers with DBPD. D. Miller said that the DBPD officers took possession of the gun, "ran" the gun and returned it to D. Miller. SA Brenton asked D. Miller if his father was carrying a gun when they were at Fryer's Towing on Friday, September 19, 2014, at which time D. Miller replied "no." D. Miller said that the police eventually left and he and his father went home and planned to return to Fryer's Towing on the following day to retrieve D. Miller's truck.

D. Miller said that on this date he and his father returned to Fryer's Towing with the cash on hand to retrieve D. Miller's truck. D. Miller stated that when the employee from Fryer's Towing drove his truck outside of the gate and parked it along the street outside of the Fryer's Towing gate, D. Miller entered the truck with the intention of running the diagnostics on the truck. D. Miller said that he feared that whoever may have driven his truck might have done something to harm the truck by not knowing how to properly drive it, which is why he decided to run the diagnostics. D. Miller said that once he entered his truck, he noticed that the center console and the glove compartment were open and paperwork was strewn about the cab of the truck. D. Miller also stated that he discovered that his Apple iPod was missing from inside of his truck. D. Miller indicated that he specifically remembered that when the POPD officer towed the truck, he had left his Apple iPod on the seat, and it was now missing. D. Miller indicated that he did not talk to any Fryer's Towing employee about the missing Apple iPod because his father was so agitated; they only wanted to leave and go home. D. Miller said that the entire time he was looking in his vehicle and running the diagnostics, his father was sitting in his silver Jeep parked behind D. Miller's truck.

SA Brenton then asked D. Miller if on this date he was in possession of the same weapon he was carrying while at Fryer's Towing on the previous day, which he replied "yes". SA Brenton asked D. Miller if his father was carrying a weapon today as well, and he said "yes". D. Miller said that his father was carrying a Smith and Wesson .38 caliber snub nose revolver. SA Brenton asked D. Miller if there was any argument on this date, and he replied "no". D. Miller said that his father had told the Fryer's Towing employees that he did not want them to bring the truck outside of the gate until he had a chance to look into the vehicle to make sure nothing was

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missing. D. Miller said that the Fryer's Towing employee stated that they would not do that and drove the truck outside of the gate and parked it on the street. When asked, D. Miller indicated that he did not see, nor hear, anything that happened prior to the gunshot being fired. SA Brenton asked D. Miller if while he was running the diagnostics on his truck if he had the radio on, or if the windows were up or down. D. Miller said that his radio in the truck was broken, so it was not on, and the windows in his truck were rolled up. D. Miller said that the only sound that was being made in the truck was the chime that sounds because the driver side door is open, that the truck was on but not running.

D. Miller reiterated that he did not see anything or hear anything when the gunshots were fired. D. Miller said that after the gunshots stopped, he exited his vehicle and looked around to see what had happened, and who had fired the gunshots. D. Miller said that he did not know who had fired the gunshots. D. Miller said that once outside of the vehicle, he then heard orders being given by the police officer to put his hands on top of his head and walk backwards towards the direction of the police officer who was standing inside the compound of Fryer's Towing (just inside of the south gate). When asked if he remembered what the officer looked like, D. Miller said that the officer was wearing a hat, but didn't remember anything else because of the fact he was walking backwards towards the officer. SA Brenton asked D. Miller how he knew that the individual giving commands was a police officer, and he replied that he identified himself as a police officer. D. Miller indicated that he did not see a badge, but that the officer did have a weapon drawn, pointed at D. Miller. D. Miller then said he wasn't sure if the officer was an employee of Fryer's Towing or maybe an armed security guard. D. Miller said that he also saw another officer or security guard off to his right while he was walking backwards and when asked, indicated that he believed that the officer giving the verbal commands was a person of authority. When asked if he saw anything on the officer's clothing that indicated that they were police officers, any markings or logos, and he said "no." D. Miller said that he believed that one of the officers was wearing a t-shirt with the Fryer's Towing logo on it. D. Miller said that he believed that employees of Fryer's Towing carried firearms on their person based upon the fact that his father had told D. Miller that they did, and that his father was aware of this based upon a previous experience with Fryer's Towing.

D. Miller said that when he exited his truck, he saw his father in the front seat of the silver Jeep and had spoken to his father. When asked to elaborate on this, D. Miller said that since he had heard the gunshots, he looked at his father and told him about the gunshots (D. Miller indicated that since his father was deaf, he believed that maybe his father did not hear the gunshots) and asked if he was ok. D. Miller said it was at this moment that the officer started to give him commands to walk backwards towards him. D. Miller said that his father never responded to D. Miller asking him if he was ok. D. Miller was later again asked to clarify about speaking to his father. D. Miller indicated that he had approached his father's car on the driver's side, and said that the driver's door was closed. When asked if the windows in his father's vehicle were up or down, D. Miller said that the windows in his father's vehicle are broken and do not roll down, therefore they were up. D. Miller said that he had asked his father if he was ok, and said that his father would have been able to read his lips with the window rolled up. D. Miller did not indicate whether or not his father had responded his question. D. Miller said that he could see that his father's hands were on the steering wheel, and he did not see the weapon on his father's person or in his lap. When later asked, D. Miller indicated that he had heard between five (5) to six (6) gunshots. SA Brenton asked D. Miller if he believed if the shots were fired by his father, and he replied that he didn't think that his father fired the shots and that he was

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hoping that his father hadn't been hit. D. Miller said that after he was placed on the ground and handcuffed, he was then placed in the back seat of a police car shortly thereafter. SA Brenton asked D. Miller if he had his weapon on his person at the time he was taken into custody, and he said "no", but that he was wearing a holster on his belt. D. Miller said that the officer searched him for a weapon at which time D. Miller told the officer that his weapon was on the seat in his truck.

D. Miller was then asked to draw a diagram of the area where the incident took place, including the placement of his vehicle, his father's vehicle, and where the officers were standing. D. Miller drew the diagram as asked.

When D. Miller was asked about his father's mental state on the previous day when they were at Fryer's Towing, D. Miller indicated that his father was very angry because of the hassle that they experienced when they went to get the truck. SA Brenton asked D. Miller if he routinely carries a concealed firearm, and he said that he probably carries his weapon three (3) times a week. SA Brenton asked D. Miller what makes him decide to carry his firearm, and he said it is because they live in a rural area he comes across wild animals. SA Brenton then asked D. Miller how many times his father carries a weapon when he leaves the house, and D. Miller replied, "rarely, maybe two (2) times out of the month." D. Miller stated that when he and his father were at Fryer's Towing on Friday, September 19, 2014, his father was not carrying a gun. SA Brenton asked D. Miller if he was aware of the reason that his father carried his gun on this date, and D. Miller replied, "I don't know he just wanted to carry his gun today". D. Miller continued by saying that he told his father, "I told him if you want to carry it I can't stop you from carrying it since you have a concealed weapons permit". SA Brenton asked D. Miller if this was a conversation he had with his father, and he replied that D. Miller did not say this to his father, that he only thought it in his head. D. Miller was asked if the decision his father made to carry the gun was because he believed that he would need it because of any confrontation that may occur at Fryer's Towing, and he said "no." When asked again, D. Miller said that his father indicated that he wanted to carry his gun and D. Miller told him it would be ok to carry the gun. D. Miller said that the conversation occurred this way because D. Miller has a gun safe where his father's gun was located, and that D. Miller would have to get the gun from the safe and give it to his father.

When asked if he knew why his father wanted to carry the gun, D. Miller said that his father wanted to feel safe. SA Brenton asked D. Miller how many times he goes to the range to practice shooting, and he indicated that he goes often. SA Brenton asked D. Miller how many times his father goes to the range to practice shooting, and he indicated that his father does not go often. SA Brenton then asked D. Miller if he was more qualified with a weapon than his father, and he replied "yes." D. Miller was asked how his father was wearing the firearm, and he indicated that his father had the gun in a holster that was inside of his waistband. SA Brenton asked D. Miller if his father wears his gun while he is inside of his vehicle, or if he puts the gun inside of the glove compartment or anything like that, and D. Miller said that his father would always leave it on his person. SA Brenton then asked D. Miller if it would be unusual for his father to remove the weapon from his holster, and he said that it would be unusual.

D. Miller was asked if his father was taking any medications. D. Miller indicated that his father was prescribed Gavipen, Percocet, Morphine, and Xanax from a previous back injury and because of anxiety. D. Miller was asked if he was aware if his father had taken any of these

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medications on this date, and D. Miller indicated that he does not keep up with his father's medication. When asked if his father usually takes his medication in the morning, D. Miller said "yes." When asked if his father had consumed any alcohol on the previous night or on this date, D. Miller said that his father had drunk beer on the previous evening.

The initial interview with D. Miller then concluded. A second interview was conducted shortly thereafter at 6:54 pm with D. Miller where SA Brenton and Detective William Maxwell informed D. Miller that his father, P. Miller, was deceased. At the beginning of the second interview, D. Miller was asked to clarify his actions immediately following the gunshots being fired. D. Miller said that he left his weapon on the seat of the truck in case he needed to retrieve it in case whoever was shooting reloaded and continued to shoot. D. Miller was then asked to clarify a statement that he made to Detective Maxwell off tape before the second interview commenced. D. Miller said that he recalled that when he approached his father's vehicle after the shooting occurred and asked his father if he was ok, his father responded to his question by shaking his head and said "yeah I'm alright." D. Miller said that his father was looking at him when he said this. D. Miller also said he recalled that after the gunshots, his father's vehicle lurched forward and struck D. Miller's truck and his the Reese hitch on the rear of the truck. D. Miller said that he recalled feeling the hit while he sat in his vehicle when his father's vehicle hit his truck.

SA Brenton then asked D. Miller if he knew what had happened when the gunshots occurred, and he said "no" and that he didn't know if anyone had been hit. When asked if D. Miller was aware if his father had been injured in the shooting, at which time he said that he believed that something may have happened because he thought that he saw two bullet holes in the windshield of his father's vehicle. It was at this time that D. Miller was informed that his father was deceased.

SA Brenton discussed with D. Miller specifics of what was going to occur, at this point in the investigation as it related to evidence and the crime scene. SA Brenton later discussed with D. Miller that SA Brenton and Detective Maxwell were going to accompany D. Miller's to make contact with his mother, Gina Miller, at her place of employment to notify her of what had occurred. After the conclusion of the second interview, SA Brenton and Detective William Maxwell followed D. Miller, who removed his vehicle from the scene after the crime scene investigators concluded their investigation, to Gina Miller's place of employment.

The recorded interviews of D. Miller were copied onto a CD-ROM. The CD-ROM containing the recorded interviews and the diagram prepared by D. Miller, were placed in an envelope and will be maintained as a related item and will accompany this investigative report.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On this date, from 1757 and 1828 hours and 2019 and 2023 hours, FDLE Special Agent Troy Cope of the Orlando Regional Operations Center conducted a sworn-recorded interview of Darcie Podgorski-Benedix (Podgorski). The interview was conducted in the business office of Fryer's Towing Service, located at 722 North Segrave Street in Daytona Beach, Florida. Podgorski is an employee of Fryer's Towing Service. A synopsis of the interview is as follows:

On Friday, September 19, 2014, at approximately 1730 hours, the Daytona Beach Police Department (DBPD) was called to Fryer's Towing Service related to a disturbance. Podgorski contacted the police after an argument ensued between Edward P. Miller (father) and Edward D. Miller (son) on obtaining Edward D. Miller's truck, describe as a red "F-350." During the argument, it was brought to Podgorski's attention by some customers that Edward D. Miller had a firearm. The customers would not leave the "building [garage area]," because they did not "feel safe," according to Podgorski. The customers had seen the gun in Edward D. Miller's back, right, pocket." Podgorski indicated that one of the Millers had "alcohol on their breath." Based on the fact that the Edward D. Miller had a firearm and alcohol may be involved, Podgorski contacted the Daytona Beach Police Department (DBPD) to assist in releasing the vehicle.

Podgorski indicated that a police officer with DBPD responded to Fryer's Towing Service to assist. The officer spoke with the Millers and determined that they did not have enough money to retrieve the truck that evening and were instructed to return the next day with the proper amount. The Millers left, and the DBPD officer notified Podgorski that she could contact the DBPD again should she need assistance in releasing the truck to the Miller's when they returned.

Subsequently, on Saturday, September 20, 2014, between 1400 and 1430 hours, the Millers returned to obtain the truck from Fryer's Towing Service. Podgorski met with Edward D. Miller. Podgorski stated the son did not have any attitude on this date. Podgorski and Edward D. Miller completed the paperwork, and she requested him to wait outside of the "bottom gate [south

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Author: Cope, Troy K	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:09/20/2014
Approved By: Woehr, Christopher	

Description:Sworn Interview of Civilian Witness Darcie Podgorski-Benedix

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entrance], while they retrieved his truck. Podgorski stated that she went to the office to finish the last of the paperwork she needed to regarding returning the truck, when she was advised by Erik Stewart (Fryer's Towing Service employee) that there were two (2) "undercover officers" [REDACTED].

Once Podgorski finished the paperwork, Jamie Odom (Fryer's Towing Service employee) drove the truck outside of the "bottom gate" and custody was turned over to Edward D. Miller. Upon the "bottom gate" being closed, Edward P. Miller, who was driving a silver Jeep Cherokee, and was outside of the "bottom gate" with Edward D. Miller, began yelling insults and threats at Podgorski and other Fryer's Towing Service employees. According to Podgorski, Edward P. Miller accused the employees of driving the truck when it was in their custody and that "he was not scared of us," and "he had something for all of us [Fryer's Towing employees]." Podgorski requested that everyone return to the garage area and not speak to Edward P. Miller based on the altercation that occurred the previous day, as Podgorski felt threatened by Edward P. Miller's actions.

When Podgorski returned to the garage area, she was requested to obtain the "price of the vehicle" the two (2) officers (later identified as VCSO Deputies Joel Hernandez and Matthew Andracke) were putting the "tracker" on so they could leave. When Podgorski returned to where Deputies Hernandez and Andracke were waiting, she noticed that the Edward P. Miller was still at the "bottom gate." Podgorski stated, "The gentleman [Edward P. Miller] was still at the bottom gate, walking back and forth, yelling and screaming towards everybody." Podgorski advised Deputies Hernandez and Andracke about the altercation with the Miller's the prior day, and that Edward D. Miller had a firearm in his possession the previous day. Podgorski indicated that Deputies Hernandez and Andracke then walked to the "bottom gate" to "see what this gentleman's problem was," as the deputies did not want to leave and have something occur between the Millers and the Fryer's Towing Service employees.

The deputies exited the "bottom gate," which had been opened by a Fryer's Towing Service employee and the deputies approached the passenger side of the Jeep from the rear (no guns drawn). Edward P. Miller had got back into the Jeep in the driver's seat by this time. The Jeep was parked, near the "bottom gate," facing westbound on Madison Avenue. Deputy Hernandez was in the lead position and opened the passenger side door. Edward P. Miller was yelling something (inaudible to Podgorski) when Deputy Hernandez opened the door. Subsequently, Deputy Hernandez ordered Edward P. Miller to "Put your hands up," according to Podgorski. This command was followed by "four pows [gunshots]."

Deputies Hernandez and Andracke retreated to behind the opened "bottom gate." Deputies Hernandez and Andracke then gave commands to Edward D. Miller at gunpoint, who was outside of his truck. Podgorski believed Edward D. Miller had exited his truck during the shooting incident. Edward D. Miller complied with the deputies' commands and was ultimately secured in handcuffs inside the tow yard by Deputy Andracke. Podgorski did not observe any movement from Edward P. Miller inside the Jeep after the shooting. Podgorski indicated that Deputy Hernandez, from behind the "bottom gate," continued to point his firearm at the Jeep until backup arrived. At some point after the shooting, Podgorski contacted 911 to report the incident. Subsequently, multiple officers with DBPD and VCSO arrived on-scene and "swarmed" the Jeep to secure Edward P. Miller.

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After more time elapsed, an ambulance arrived at the incident location. Podgorski recalled that EMS personnel appeared to attempt to remove Edward P. Miller from the driver's side of the Jeep, but he was ultimately left inside the vehicle. Podgorski did not witness any further actions by the law enforcement officers.

Podgorski elaborated on Deputy Hernandez's proximity to Edward P. Miller upon opening the Jeep door by indicating that the Jeep's passenger side door would have closed on Deputy Hernandez from his position.

Podgorski stated that she had dealt with the deputies before, but did not know their names. The deputy who discharged his firearm, Deputy Hernandez, was described as wearing a black t-shirt and jeans. Deputy Hernandez was also displaying a badge and firearm, holstered on his right hip when he approached the Jeep. Deputy Andracke was described as wearing a white t-shirt by Podgorski. Podgorski opined that based on how the deputies were dressed, the Miller's would have thought they were Fryer's Towing Service employees.

Podgorski indicated that she and Stewart were walking toward the "bottom gate," inside the tow yard, just prior to the shooting incident. Stewart was closer to the deputies' position and Podgorski witnessed the incident from the tow yard, half way between the "bottom gate" and the garage area. Podgorski believed she witnessed the incident from approximately ten to fifteen (10-15) feet away.

The sworn-recorded interviews and an incident scene diagram prepared by Podgorski will be maintained in the Related Item section of the case file, labeled INV-10 and INV-11, respectively.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On September 20, 2014, at approximately 1745 hours, Special Agent (SA) Lloyd Randolph conducted a sworn, digitally recorded interview with Erik Stewart (Stewart). The interview was conducted in the office of Fryer's Wrecker Service at 722 North Segrave Street, Daytona Beach, in Volusia County, Florida. The following is a summary of the interview:

Stewart works part-time at Fryer's Wrecker Service (Fryer's). Stewart stated Edward Prescott Miller, and his son Edward D. Miller had come to Fryer's to pick up his son's truck (1999 Ford F350 truck). The truck had been towed from Port Orange, Florida. Both Millers were at Fryer's the day before (September 19, 2014) trying to pick up the truck, but they were told they didn't have enough money to get the truck out. Both Miller's then began to cause a disturbance at Fryer's. During the disturbance one of Fryer's customers (NOI) told the employees at Fryer's that they saw a handgun in the waist band of Edward D. Miller's pants. The Daytona Beach Police Department (DBPD) was called to Fryer's remove the Millers from the property.

On September 20, 2014, both Edward Prescott Miller and Edward D. Miller returned to Fryer's to retrieve the son's truck. When the Millers arrived at Fryer's, there were two (2) VCSO Deputies (later identified as being D/S Joel Hernandez and D/S Matthew Andracke) already at Fryer's conducting an investigating on a different case.

Edward D. Miller paid the Fryer's employee (Darcie Podgorski-Benedix) for the cost of the towing and storage of his truck. Edward D. Miller was then told he would have to meet over by the gate on the south side of the wrecker compound. The truck was then driven outside the gate and parked on the west side of the gate. Edward Prescott Miller by this time had driven his Jeep Cherokee over to the south side by the gate. Stewart and Podgorski-Benedix walked to the gate and had Edward D. Miller sign the release documents for his truck.

Stewart and Podgorski-Benedix then closed the compound gate and walked back up to the office. As Stewart and Podgorski-Benedix walked back to the office, Edward Prescott Miller exited his Jeep and began walking in front of the gate. Edward Prescott Miller yelled profanity

Case Number: OR-27-0198	Serial #: 12
Author: Randolph, Lloyd Joseph	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:
Approved By: Woehr, Christopher	

Description:Sworn Interview of Civilian Witness Erik Stewart

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and threats at Stewart and Podgorski-Benedix.

VCSO D/S Hernandez and D/S Andracke heard the disturbance and asked Stewart if they were done with the folks with the truck. Both Deputies then told Stewart, they were going to go down and see what their problem was. Stewart then told Matthew Conway (Fryer's Wrecker Helper) to walk down with the Deputies and open the gate. The gate was then opened and turned off so that it would not close. Conway was then told by the deputies to go back up to the office.

Stewart then walked outside the office and watched as the deputies approached the Jeep vehicle being driven by Edward Prescott Miller. Stewart observed D/S Hernandez open the passenger side front door. Stewart believes D/S Hernandez had his badge in his hand displaying it to Edward Prescott Miller when he opened the door on the Jeep. Stewart stated he heard D/S Hernandez tell Edward Prescott Miller that he was a deputy sheriff. Stewart stated Edward Prescott Miller began yelling at D/S Hernandez. Stewart stated he heard D/S Hernandez yell "show me your hands." Stewart then heard approximately three (3) gunshots.

Stewart then observed the deputies retreat back into the wrecker compound, at the same time the Jeep rolled forward behind the Ford F-350 truck. Stewart lost site of the Jeep once it rolled forward. Stewart repositioned himself closer toward the gate and could observe the deputy covering the Jeep with his firearm. Stewart then called 911, requesting police officers to respond. Stewart stated the deputies continued to give verbal commands of "Show me your hands." Stewart could not see who the deputies were giving the orders to.

After the gunshots, the deputies retreated back into the wrecker compound and requested Matthew Conway to go to their unmarked police vehicle to retrieve their vest and Deputy Andracke's firearm. Both D/S Hernandez and D/S Andracke repositioned themselves on the opposite side of the gate to tactically cover the Jeep. D/S Andracke gave commands to Edward D. Miller to walk backwards back into the wrecker compound, where D/S Andracke handcuffed him. Once handcuffed, Stewart watched over Edward D. Miller, while D/S Andracke assisted D/S Hernandez.

Stewart stated that Edward D. Miller started yelling to the deputies that Edward Prescott Miller was deaf. Stewart stated that during the incident the day before it seemed as if Edward Prescott Miller could hear just fine. Stewart stated he could not hear the deputies yell "gun."

The digital recording of the interview and diagram will be maintained in the related items section of the case file.

No further activity occurred.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On September 20, 2014, at approximately 1813 hours, Special Agent (SA) Lloyd Randolph conducted a sworn, digitally recorded interview with James Odom (Odom). The interview was conducted in the office of Fryer's Wrecker Service at 722 North Segrave Street, Daytona Beach, in Volusia County, Florida. The following is a summary of the interview:

Odom stated he has been employed at Fryer's towing for the past sixteen (16) years. Odom's the vehicle mechanic. Odom stated the day before (September 19, 2014) the old man was mouthy to the Fryer's employees because he did not have enough money to get his son's truck out. Odom arrived at Fryer's at approximately 1100 hours on September 20, 2014. Odom had to leave Fryer's for a short while and when he returned the old man (later identified as being Edward Prescott Miller and his son Edward D. Miller) and his son had returned to get the truck.

Odom stated while Edward D. Miller was paying the towing charges, he stood by with two (2) VCSO Deputies (later identified as D/S Joel Hernandez and D/S Matthew Andracke), who were working on a vehicle in the yard.

Once the towing charges were paid for Odom was instructed by Darcie Podgorski-Benedix to drive Edward D. Miller's, 1999 Ford F-350 out of the compound and park it. Odom drove the truck out and parked it on the west side of the gate. Odom stood by with Darcie Podgorski-Benedix as Edward D. Miller signed the release paperwork. Odom recalled seeing a red box on the hood of the Jeep, but could not see what was in the box. Once the paperwork was signed, Edward Prescott Miller began yelling telling them that he was going to get them.

Odom stated he then walked back up to the vehicle that the deputies were working on to see if they needed anything. The deputies then told Odom that they were going to see what the problem was with the Millers. Odom stated he stayed at the vehicle. Odom stated the gate was opened for the deputies, he went down and turned off the gate as that the deputies could get back into the compound.

Case Number: OR-27-0198	Serial #: 13
Author: Randolph, Lloyd Joseph	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:
Approved By: Woehr, Christopher	

Description:Sworn Interview of Civilian Witness James Odom

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Odom then turned around and started walking back up to the office area. Odom stated he heard the deputies giving commands "show me your hands" and heard several gunshots. Odom stated he did not witness of the shooting incident.

The digital recording of the interview and the diagram will be maintained in the related items section of the case file.

No further activity occurred.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On September 20, 2014, at approximately 1802 hours, Special Agent (SA) Lloyd Randolph conducted a sworn, digitally recorded interview with Matthew Conway (Conway). The interview was conducted in the office of Fryer's Wrecker Service (Fryer's) at 722 North Segrave Street, Daytona Beach, in Volusia County, Florida. The following is a summary of the interview:

Conway stated he was hanging out at the Fryer's wrecker service. Conway stated he was at Fryer's the day before (September 19, 2014) when both Edward D. Miller and Edward Prescott Miller (father of Edward D. Miller) began to cause a disturbance at Fryer's while they were trying to pick-up Edward D. Miller's truck. Conway stated Daytona Beach Police Department was called to Fryer's to remove the Millers from the property.

Conway stated he arrived at Fryer's at approximately 0930 hours and the Millers showed up at approximately 1330 hours. Conway told Edward Prescott Miller that the woman that takes care of the car towing charges would not be there until 1400 hours. Conway stated Edward Prescott Miller began to yell and scream at him.

Conway stated two (2) VCSO Deputies (later identified as D/S Joel; Hernandez and D/S Matthew Andracke) arrived at Fryer's at approximately 1300 hours. Conway stated Edward D. Miller paid for the towing charges at the gate on the east side of the business on Segrave Street. Once the charges were paid, another employee (NOI) drove Edward D. Miller's truck (1999 Ford F-350) out the gate on the south side (Madison Ave) of the compound. The truck was parked on the west side of the gate. While the truck was being driven out of the compound Conway stated he was up by the office.

Conway stated Edward Prescott Miller had driven the Jeep Cherokee they arrived in to the south side of the compound on Madison Street. Edward Prescott Miller then exited the Jeep and began to yelling profanity at the Fryer's employees. Conway stated D/S Hernandez and D/S Andracke told them they were going to see what the problem was with the Millers.

Case Number: OR-27-0198	Serial #: 14
Author: Randolph, Lloyd Joseph	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:
Approved By: Woehr, Christopher	

Description:Sworn Interview of Civilian Witness Matthew Conway

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Conway walked with the Deputies to open the compound gate. Once the gate was open Conway turned around and walked back up to the office. As Conway walked back to the office, he heard someone identify themselves as a Deputy Sheriff. Conway also heard a vehicle door open and heard someone giving the command of "let me see your hands." Conway stated he heard "he got the gun."

Conway stated he did not witness any of the shooting incident. Conway stayed up at the office after the incident.

The digital recording of the interview and the diagram will be maintained in the related items section of the case file.

No further activity occurred.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On Monday, September 22, 2014, from 1535 to 1543 hours, FDLE Special Agent Troy Cope of the Orlando Regional Operations Center conducted a sworn-recorded interview of Eugene Haun. The interview was conducted at Haun's residence, located at 729 North Segrave Street Unit 130 in Daytona Beach, Florida. Haun's residence is located across the street from Fryer's Towing Service to the northeast. A synopsis of the interview is as follows:

On Saturday, September 20, 2014, at approximately 1430 hours, Haun was standing near the opening to his garage. Haun had just finished turning off all of his fans in the garage to he could leave to go get lunch and cigars, when he heard the following:

Haun heard an individual state "I'm with the Volusia County Sheriff's Office," followed by another individual yelling obscenities such as "You son-of-a-bitch," who continued "hollering and cussing and carrying-on." Subsequently, Haun heard the officer state, "Stand down, put your hands up," followed by "three, quick, rapid," gunshots from an automatic weapon (Haun believed from a 9mm).

Haun then closed his garage and left his residence. Haun stated that he did not think much about it after that, because it is not uncommon to hear gunshots at all different times during the day in his neighborhood. Haun indicated he was very familiar with firearms as he was in the "weapons division" in the military.

The sworn-recorded interview will be maintained electronically in the Related Item section of the case file, labeled INV-12.

Case Number: OR-27-0198	Serial #: 15
Author: Cope, Troy K	Office: Orlando
Activity Start Date: 09/22/2014	Activity End Date:09/22/2014
Approved By: Woehr, Christopher	

Description:Sworn Interview of Civillian Witness Eugene Haun

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**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On Thursday, September 25, 2014, from 1237 to 1254 hours, FDLE Special Agent (SA) Troy Cope of the Orlando Regional Operations Center conducted a sworn-recorded interview of Guy Jones. The interview was conducted in SA Cope's state issued vehicle (#2410), in the parking lot of Advance Auto Parts, located at 700 North Ridgewood Avenue in Daytona Beach, Florida. A synopsis of the interview is as follows:

On Saturday, September 20, 2014, Jones was making repairs to his truck in the front yard of 525 Madison Avenue. This location is west of Fryer's Towing Service, on the south side of Madison Avenue, across the train tracks, which run parallel to the property line of Fryer's Towing Service. Jones indicated that he noticed a "red truck" and a grey Jeep Cherokee parked outside of the "gate" of Fryer's Towing Service. The two (2) vehicles remained there for approximately thirty to forty-five (30-45) minutes, while Jones continued to repair his truck.

Subsequently, Jones witnessed an individual exit the "gate" of Fryer's Towing Service on Madison Avenue and approach the Jeep on the passenger side. Jones described the individual as wearing jeans and a black t-shirt. This individual then began yelling, "Get out the car man." and "Put your hands up." After these statements were made, Jones heard "bam, bam, bam, bam, bam," indicating the individual in the black t-shirt shot a firearm four to five (4-5) times into the Jeep from the passenger side. Jones believed he had just witnessed a "bad drug deal."

After the gunshots ceased, Jones witnessed another individual exit the "red truck," and exclaimed, "What the fuck man." This individual was then commanded by the individual in the black t-shirt to put his hands up and "Put your hands on your head." The individual from the "red truck" was ultimately secured behind the "gate" in the tow yard of Fryer's Towing Service. Then, the individual in the black t-shirt, from behind the "gate," continued to point his firearm at the Jeep. After further time elapsed, Jones observed several (approximately 8) Daytona Beach Police Department (DBPD) cars arrive at the incident location and several of the DBPD officers then approached the Jeep.

Case Number: OR-27-0198	Serial #: 16
Author: Cope, Troy K	Office: Orlando
Activity Start Date: 09/25/2014	Activity End Date:09/25/2014
Approved By: Woehr, Christopher	

Description:Sworn Interview of Civillian Witness Guy Jones

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Jones stated that there was another person with the individual in the black t-shirt, but was unable to give any description. Jones reiterated that only the individual in the black t-shirt discharged a firearm and was the only one Jones witnessed to be in possession of a firearm.

Jones indicated that the individual in the black t-shirt was standing just outside the passenger side window, close enough to where he could have touched the Jeep when he discharged the firearm. Jones also believed the passenger side door was closed, but that the window was down.

Jones did not observe the individual who was in the Jeep get out and yell any statements into the tow yard when he was working on the truck, but Jones did indicate he was not outside the entire time, as he had gone inside the residence during the thirty to forty-five (30-45) minutes he recalled the two (2) vehicles being parked outside of Fryer's Towing Service. Jones did not hear the individual in the black t-shirt make any statements of being a police officer or being with VCSO prior to the shooting incident.

It should be noted that during the interview Jones indicated he was in front of 325 Madison Avenue when he witnessed the shooting incident. After the interview was completed, SA Cope followed Jones to the location he was standing when he witnessed the incident, which actually in the area of 525 Madison Avenue.

The sworn-recorded interview will be maintained electronically in the Related Item section of the case file, labeled INV-18.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On this date, between 1706 and 1708 hours, FDLE Special Agent Troy Cope of the Orlando Regional Operations Center with Mary Aldrich, contacted Glenn Landau via telephone, the owner of Landau Enterprises, Inc. d/b/a Fryer's Towing Service. Landau was contacted for the purpose of obtaining verbal consent for Aldrich to access Fryer's Towing Service's surveillance video to determine if any video evidence of the shooting incident was captured by the cameras.

Landau confirmed to SA Cope that he was the owner of Fryer's Towing Service, located at 722 North Segrave Street in Daytona Beach, Florida. This fact was also confirmed by SA Cope through the Florida Department of State, Division of Corporations public website (sunbiz.org). Landau gave verbal consent for Aldrich to access Fryer's Towing Service's surveillance video and provide SA Cope with any relevant video recordings.

Subsequently, Aldrich and SA Cope reviewed the surveillance videos for September 19 and September 20, 2014, related to events relevant to the investigation of the shooting incident. Aldrich provided two (2) USB thumb drives to SA Cope containing the surveillance videos.

The audio-recorded verbal consent given by Landau to SA Cope will be maintained electronically in the Related Item section of the case file, labeled INV-13. The two (2) USB thumb drives given of the surveillance videos will be maintained in the Related Item section of the case file, labeled INV-14.

Case Number: OR-27-0198	Serial #: 17
Author: Cope, Troy K	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:09/20/2014
Approved By: Woehr, Christopher	

Description:Consent and Receipt of Video Camera Recordings from Fryer's Towing Service

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**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On September 20, 2014 at approximately 20:30 hours, Special Agent (SA) Steve Brenton and VCSO Detective William Maxwell escorted Edward Daniel Miller (hereinafter referred to as D. Miller) to the Wal-Mart Supercenter, located at 1101 Beville Road in Daytona Beach, for the purpose of making contact with D. Miller's mother at her place of employment to make notification to the next of kin. Once at the Wal-Mart Supercenter, SA Brenton and Detective Maxwell made contact with Gina Marie Miller (hereinafter referred to as G. Miller), the wife of the victim Edward Prescott Miller (hereinafter referred to as P. Miller). SA Brenton and Detective Maxwell were also able to make contact with Leon Prescott Miller (hereinafter referred to as L. Miller) who is G. Miller's other son and also employed at the Wal-Mart Supercenter and was working at the time.

SA Brenton and Detective Maxwell escorted G. Miller, D. Miler, and L. Miller into the Loss Prevention Office at the Wal-Mart Supercenter and informed G. Miller and L. Miller of the passing of P. Miller. SA Brenton and Detective Maxwell provided as much information to G. Miller as the active investigation would allow. SA Brenton then spoke with G. Miller about P. Miller's vehicle and requested G. Miller's consent to enter the vehicle for the purposes of continuing the necessary crime scene investigation as it related to the ongoing investigation. G. Miller indicated that she would provide consent for investigators to enter the vehicle for the purpose of the crime scene investigation. SA Brenton then started recording the conversation with G. Miller using a digital voice recorder, for the purpose of recording G. Miller's consent to enter the vehicle. The following is a synopsis of the recorded interview with G. Miller:

The recording started on September 20, 2014 at 21:07 hours with SA Brenton stating the investigation reference and the case number. Present during the recorded interview with SA Brenton was Detective Maxwell, G. Miller, D. Miller, and L. Miller. SA Brenton then directed the interview to G. Miller relating to the 1999 Jeep Grand Cherokee, silver in color, bearing Florida license plate 152-1JP. SA Brenton read from a "Consent to Search Vehicle" form provided to SA Brenton by Detective Maxwell. The following is what SA Brenton read to G. Miller:

Case Number: OR-27-0198	Serial #: 18
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:09/20/2014
Approved By: Warren, Daniel J.	

Description:Notification of Kin / Consent to Search Miller's Jeep Grand Cherokee

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- You have not been promised anything in exchange for consenting to this search.
- You have not been threatened in any way or forced to compel to give voluntary consent to search your vehicle and your consent is freely given.
- You understand that anything found during the search of the vehicle could be used in a court of law as to any criminal investigation.
- You have the right to refuse the search of the vehicle.
- You can read and understand the English language.

SA Brenton asked G. Miller if she understood and accepted each of the above statements, which she stated she did. SA Brenton asked G. Miller if the registration of the 1999 Jeep Grand Cherokee, silver in color, bearing Florida license plate 152-1JP reflected G. Miller as the co-owner, and she said "yes". SA Brenton then read the following statement to G. Miller:

"You hereby authorize SA Brenton and the crime scene investigators with the Volusia County Sheriff's Office to conduct a complete search of your vehicle including any containers or contents within it, and the vehicle to be searched is a 1999 Jeep Grand Cherokee, silver in color, bearing Florida license plate 152-1JP. The law enforcement officers mentioned are permitted by you to take from the vehicle any contraband or property or any possession that violates state or federal law."

G. Miller then acknowledged understanding the above statement and provided consent to SA Brenton to search the 1999 Jeep Grand Cherokee, silver in color, bearing Florida license plate 152-1JP and provided her name, date of birth, and home address during the acknowledgement of the consent.

The interview of G. Miller concluded shortly thereafter.

The recorded interview of G. Miller was copied onto a CD-ROM. The CD-ROM containing the recorded interview will be maintained as a related item and will accompany this investigative report.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On September 24, 2014, Special Agent (SA) Steve Brenton received a CD-ROM from VCSO Detective William Maxwell. The CD-ROM contained the digital video files of the AXON body cameras from the officers of the Daytona Beach Police Department (DBPD) who responded to the scene of the shooting involving Deputy Hernandez. SA Brenton signed the property receipt taking chain of custody of the CD-ROM from Detective Maxwell. SA Steve Brenton reviewed the eight (8) video files that were contained on the CD-ROM. Each of the video files contained a PDF document which details the chain of custody for each video file, including the name of the officer who the camera is assigned to, the date and time of the start and end of each recording. SA Brenton discovered that one (1) of the video files contained the recording of the AXON body camera of DBPD Officer Donald Aldridge, which started at 14:37 hours and ended at 14:58 hours on September 20, 2014. SA Brenton then discovered that one (1) of the video files contained the recording of the AXON body camera of DBPD Officer Monica Lee, which started at 14:38 hours and ended at 14:48 hours on September 20, 2014

SA Brenton then discovered that the remaining seven (6) video files contained the recording of the AXON body camera of DBPD Officer Dale Kelley. The video files of Officer Kelley's AXON body camera were consecutive recordings which started at 14:40 hours and ended at 17:38 hours on September 20, 2014. The seven (6) video files of Officer Kelley were broken up into approximately 30 minute recordings each. The first video file of Officer Kelley's AXON body camera contained the video footage of when Officer Kelley activated the camera after he arrived on the scene and was at the driver's side door of the vehicle where the deceased victim was located. Officer Kelley was the officer who took custody of Edward D. Miller and secured Miller in the back seat of Officer Kelley's police vehicle. When Officer Kelley secured Miller in the back seat of his police vehicle, Officer Kelley took his body camera off and positioned the camera to record Miller in the back seat of the police vehicle, which is the video footage that encompasses the remaining five (5) video files of Officer Kelley's AXON body camera.

As this investigation continued, SA Brenton discovered that another officer with DBPD was

Case Number: OR-27-0198	Serial #: 19
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 09/24/2014	Activity End Date:10/15/2014
Approved By: Warren, Daniel J.	

Description:Receipt of Daytona Beach PD AXON Cameras / CAD Report

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wearing an AXON body camera as well. On October 15, 2014, SA Brenton met with DBPD Officer Donald Rininger, who is assigned to the DBPD Support Services as a Training Officer / Armorer. Officer Rininger is also the DBPD training officer for the AXON body cameras and has the ability to retrieve the footage of the body cameras assigned to DBPD officers. Officer Rininger provided SA Brenton with a CD-ROM containing the video file of the AXON body camera assigned to DBPD Officer Jason Cole. The CD-ROM also contained the PDF file detailing the chain of custody including the officer's name and the start and end time of the video file. SA Brenton later reviewed this video file and discovered that the file contained the recording of Officer Cole's AXON body camera, which started at 14:41 hours and ended at 15:02 hours on September 20, 2014.

After reviewing all of the above mentioned video files, SA Brenton determined that the video footage that was captured was consistent with the statements that were made by the DBPD officers who were on the scene. It should be mentioned that the DBPD officers who responded to the scene arrived after the shooting had taken place, and none of the AXON body cameras had captured the shooting itself, nor any of the actions of anyone involved which led up to the shooting.

The CD-ROM containing the video footage of the AXON body cameras of Officer Aldridge, Officer Lee, and Officer Kelley, the CD-ROM containing the video footage of the AXON body camera of Officer Cole, and the chain of custody receipt prepared by Detective Maxwell will be maintained as a related item and will accompany this investigative report.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On October 15, 2014 at 11:53 am Special Agent (SA) Steve Brenton conducted an sworn interview at the Daytona Beach Police Department (DBPD); 129 Valor Boulevard, Daytona Beach, FL with Detective Monica Lee regarding her involvement with the deadly use of force which occurred at Fryer's Towing on September 20, 2014. The interview with Detective Lee was digitally recorded.

Detective Lee has been a police officer with the DBPD for 8 ½ years, and was on duty at the time the incident occurred. Detective Lee indicated that she was wearing full uniform, and was operating an unmarked police vehicle. When the incident occurred on September 20, 2014, Detective Lee was assigned to uniform patrol. At the time of the interview, Detective Lee had since been promoted to the rank of detective.

On the date the incident occurred, Detective Lee was wearing her assigned AXON body camera, which she activated while on scene at the incident at Fryer's Towing. SA Steve Brenton had already obtained a copy of the video footage from Detective Lee's AXON body camera.

Detective Lee indicated that when she arrived on the scene at Fryer's Towing, she observed that DBPD Captain James Newcomb, DBPD Officer Tammy Pera, and DBPD Officer Donald Aldridge arrived simultaneously on the scene. Detective Lee said that she, Captain Newcomb, and Officer Pera approached the vehicle (where the victim of the deputy involved shooting was seated inside) in a tactical single file formation because they were aware based upon information that was received during the dispatch, that a deputy needed assistance relating to shots being fired.

Detective Lee said that when she reached the silver vehicle (Jeep), she recalled that Officer Pera had retrieved a firearm from inside of the Jeep. Detective Lee said that she continued to the red pickup truck that was in front of the Jeep. Detective Lee said that it had appeared that

Case Number: OR-27-0198	Serial #: 20
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 10/15/2014	Activity End Date:10/15/2014
Approved By: Woehr, Christopher	

Description:Sworn Interview of DBPD Detective Monica Lee

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the Jeep had collided with the red pickup truck. Detective Lee cleared the red pickup truck and discovered that nobody else was inside of the red pickup truck. Detective Lee said that she observed a firearm on the center of the bench seat on the red pickup truck. Detective Lee said that she then came back to the driver's side of the Jeep and observed that the male in the driver's seat of the Jeep was wounded, and that blood was coming from the area of the male's chest.

Detective Lee said that because she didn't know what was going on and thought that maybe the two vehicles were involved in a road rage incident, she approached the two plain clothed deputies what had happened. Detective Lee indicated that the deputy said to her that he was not going to say anything until his supervisor arrived on the scene. Detective Lee said that she then realized that the deputies were involved in the use of force incident. SA Steve Brenton asked Detective Lee if she recalled seeing where Officer Pera had located the firearm inside of the vehicle, and Detective Lee said that she didn't recall where exactly the firearm was located because her focus was on the red pickup truck in front of the Jeep. Detective Lee said that she did not hear Edward Prescott Miller make any statements, and other than the deputy saying that he was going to wait for his supervisor to arrive on the scene, Detective Lee did not hear the deputies make any statements.

The interview with Detective Lee concluded at 12:01 pm.

A CD-ROM containing a copy of the interview with Detective Lee will be maintained as a related item with this investigative report.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On October 16, 2014 at approximately 15:00 hours, Special Agent (SA) Steve Brenton conducted an interview of Daytona Beach Police Department (DBPD) Sergeant Siegfried Schlieper. The interview with Sergeant Schlieper was conducted via telephone and was recorded using a digital voice recorder. Sergeant Schlieper has been a uniform patrol supervisor for the past five (5) years, and has been with the DBPD for fifteen (15) years.

Sergeant Schlieper stated that on September 20, 2014, he was the on duty east side supervisor when the shooting involving Deputy Hernandez occurred. Sergeant Schlieper said that he responded to a dispatched call of the shooting and responded to the scene. Sergeant Schlieper said that when he arrived on the scene, he parked his patrol vehicle at the intersection of Madison Avenue and Segrave Street. Sergeant Schlieper stated that he observed several officers standing by the Jeep Cherokee, at which time the "Code 4" radio signal was relayed indicating that the officers were okay. Sergeant Schlieper said that he never approached the Jeep Cherokee, and that he immediately retrieved crime scene tape from his patrol vehicle and started to put the crime scene tape up across the intersection to secure the scene. Sergeant Schlieper stated that he then gave coordinated the responsibilities of the DBPD officers who were on the scene, and later left the scene to make himself available to respond to other calls for service.

Sergeant Schlieper said that he had never approached close to the scene where the shooting occurred, nor did he hear any statements made by anyone involved in the shooting. The interview with Sergeant Schlieper concluded at 15:05 hours.

The audio recording of the interview with Sergeant Schlieper was copied onto a CD-ROM which will be maintained as a related item and will accompany this investigative report.

Case Number: OR-27-0198	Serial #: 21
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 10/16/2014	Activity End Date:10/16/2014
Approved By: Warren, Daniel J.	

Description:Sworn Interview of DBPD Sergeant Siegfried Schlieper

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**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 22, 2014, Special Agent Stephen Brenton contacted Senior Crime Intelligence Analyst I Susie Murphy and requested analytical assistance in furtherance of a deputy -involved shooting investigation.

A biographical profile was requested on Edward Prescott Miller.

Analytical resources were utilized to compile available intelligence and information and results were provided to the requestor.

Any positive [REDACTED] results were placed in the related items section of this case file.

Case Number: OR-27-0198	Serial #: 22
Author: Murphy, Susie	Office: Orlando
Activity Start Date: 09/22/2014	Activity End Date:09/22/2014
Approved By: Paukner, Laura Marie	

Description:Analytical Assistance - Edward Prescott Miller

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**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On this date, from 1840 to 1849 hours, FDLE Special Agent (SA) Troy Cope of the Orlando Regional Operations Center conducted a sworn-recorded interview of Daytona Beach Police Department (DBPD) Sergeant Eric Ryan. The interview was conducted in SA Cope's state issued vehicle (#2410) while parked at the intersection of North Segrave Street and Madison Avenue in Daytona Beach, Florida. Sergeant Ryan has been employed by the DBPD for fifteen (15) years. A synopsis of the interview is as follows:

Sergeant Ryan was at the DBPD precinct, located at 510 Harvey Avenue in Daytona Beach, Florida, when the "alert tone" sounded on his radio, followed by a notification of a shooting at Fryer's Towing Service. Subsequently, Sergeant Ryan responded to the scene. While en route Sergeant Ryan was advised by dispatch that "there was a deputy involved" in the shooting and that the deputy had an individual in custody.

Sergeant Ryan arrived at Fryer's Towing Service heading westbound on Madison Avenue, and stopped his vehicle just past the intersection of Madison Avenue and Segrave Street. Sergeant Ryan witnessed several officers (approximately 4) approaching a silver Jeep Cherokee on the north side of Madison Avenue. Sergeant Ryan exited his vehicle, unholstered his firearm, and approached the driver's side of the Jeep. Sergeant Ryan observed DBPD Captain James Newcomb and DBPD Officer Dale Kelly attempting to cut the seatbelt off of the driver, later identified as Edward P. Miller. Captain Newcomb stated, "I think he has expired." Subsequently, Sergeant Ryan went to the passenger side of the vehicle and witnessed Officer Tammy Para securing a firearm next to her foot.

Sergeant Ryan observed "medical personnel" arrive at the Jeep and they pronounced Edward P. Miller deceased. Sergeant Ryan then went into the tow yard of Fryer's Towing Service and observed Edward D. Miller "on the ground, handcuffed, wearing a pair of blue jeans, dark colored shirt and he had a plastic holster on his hip." Sergeant Ryan asked where Edward D. Miller's firearm was, if the holster was empty. Sergeant Ryan was advised that it was in Edward D. Miller's "red pick-up truck."

Case Number: OR-27-0198	Serial #: 23
Author: Cope, Troy K	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:09/20/2014
Approved By: Woehr, Christopher	

Description:Sworn Interview of DBPD Sergeant Eric Ryan

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Sergeant Ryan then exited the tow yard approached the truck, which had its driver's side door open at this time. Sergeant Ryan observed a firearm in the driver's seat of the truck, and ordered DBPD Officer Jason Cole to maintain the crime scene as it was. Subsequently, Sergeant Ryan ordered other DBPD officers to block traffic in the area and secured the crime scene until FDLE arrived.

Sergeant Ryan stated that Edward P. Miller was "slumped over to his right," while sitting in the driver's seat. Edward P. Miller's right arm was "on the center console and his hand was kind of cupped, like he was holding something at one point." Sergeant Ryan indicated that it was evident that Edward P. Miller had sustained injuries to his right arm and "chest cavity" as that is where blood was present.

Sergeant Ryan was advised that a firearm was located next to Edward P. Miller's leg, inside the Jeep, which was removed by DBPD Officer Tammy Pera. Officer Pera placed the firearm on the ground, outside of the passenger side of the Jeep. Sergeant Ryan then observed DBPD Officer Christopher Aldridge pick up the firearm, and unload it in front of Officer Aldridge's AXON camera.

Sergeant Ryan did not have any substantial conversation with Deputy Hernandez regarding any specifics related to the shooting incident.

The sworn-recorded interview will be maintained electronically in the Related Item section of the case file, labeled INV-27.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On November 3, 2014 at approximately 16:01 hours, Special Agent (SA) Steve Brenton conducted an interview of Daytona Beach Police Department (DBPD) Officer Frank Geremia. The interview with Officer Geremia was conducted via telephone and was recorded using a digital voice recorder. Officer Geremia is assigned to uniform bicycle patrol "Boardwalk Unit", however on September 20, 2014 was in a marked patrol vehicle. Officer Geremia has been with the DBPD for nineteen (19) years.

Officer Geremia said that he responded to the dispatched call for assistance relating to the shooting involving VCSO Deputy Hernandez. Officer Geremia said that the radio transmissions would indicate that he was first to arrive on the scene, however Officer Geremia said he has misunderstood the location where the dispatched location was, and had arrived at the Firestone Auto Service Store at 300 South Ridgewood Avenue. Officer Geremia said that when he realized the scene was at Fryer's Towing, which is approximately a mile and a half away from where he was, he then responded to Fryer's Towing. Officer Geremia said that he arrived on the scene and parked his vehicle on Madison Avenue just west of Segrave Street. Officer Geremia said that he immediately went to the VCSO deputy that had Edward Daniel Miller secured on the ground. Officer Geremia said that he asked the deputy, whose name Officer Geremia did not know, if Miller had been searched. Officer Geremia said that the deputy indicated that Miller had not been searched, therefore Officer Geremia searched Miller. Officer Geremia said that he then assisted directing Miller, along with DBPD Officer Dale Kelley, to Officer Kelley's police vehicle where Miller was placed in the back seat.

SA Brenton asked Officer Geremia if Miller had made any statements in the presence of Officer Geremia. Officer Geremia said that Miller did make a statement of, "How's my dad, how's my dad." Officer Geremia said that he did not know what was going on and told Miller that he would find out. Officer Geremia said that he was not on the scene when the shooting had occurred, and did not approach the scene other than taking Miller to Officer Kelley's police vehicle. Officer Geremia said that he did not hear any statements made by any other persons

Case Number: OR-27-0198	Serial #: 24
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 11/03/2014	Activity End Date:11/03/2014
Approved By: Warren, Daniel J.	

Description:Sworn Interview with DBPD Officer Frank Geremia

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involved in the shooting. Officer Geremia said that after assisting placing Miller into Officer Kelley's police vehicle, Officer Geremia maintained his position on the west side of the crime scene, until he was told by DBPD Captain James Newcomb that there were enough officers on the scene and that Officer Geremia could clear the scene if he wanted to. Officer Geremia said that he then left the scene and returned to the Boardwalk area.

The interview with Officer Geremia then concluded at 16:09 hours.

The audio recording of the interview with Officer Geremia was copied onto a CD-ROM which will be maintained as a related item and will accompany this investigative report.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

From September 20, 2014 through September 22, 2014, Crime Scene Investigator (CSI) Eugene Mefford with VCSO processed the crime scene and collected evidentiary items related to the shooting incident. The following supplemental reports related to crime scene activities for VCSO Case #140025681, were provided to FDLE Special Agent (SA) Steve Brenton of the Orlando Regional Operations Center by CSI Mefford, via email, on Friday, October 3, 2014:

On September 20, 2014 at approximately 15:58 hours, CSI Mefford responded to the scene of Fryer's Towing; 722 N. Segrave Street, Daytona Beach, FL to conduct a crime scene investigation relating to the deputy involved shooting. CSI Mefford noted that the weather conditions were cloudy, with steady rain. CSI Mefford indicated that he spoke with VCSO Sergeant James Turner and FDLE SA Troy Cope to be briefed about what facts of the case were known, after which CSI Mefford started conducting the crime scene investigation.

Scene

CSI Mefford observed a Jeep (silver in color), bearing Florida tag# 152-1JP, and a Ford F-250 truck (red in color), bearing Florida tag# C31-5GY in the 400 block of Madison Avenue facing southwest. CSI Mefford observed that the front of the Jeep had impacted the rear of the Ford truck.

CSI Mefford documented that he discovered three (3) shell cases (.40 caliber Speer) on the ground near the right rear of the Jeep. CSI Mefford documented that the shell cases were photographed with and without evidence placards. CSI Mefford documented that the placards depicted in the photographs were "1", "2", and "3", which corresponds with the order that the shell cases were collected.

CSI Mefford indicated that measurements were taken and a sketch of the scene was completed by VCSO Deputy Peter Bethea.

Case Number: OR-27-0198	Serial #: 25
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:10/03/2014
Approved By: Warren, Daniel J.	

Description:Crime Scene Activities

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Weapons

CSI Mefford documented that on September 20, 2014 at approximately 20:30 hours, he received from VCSO Investigator Chuck Lee, Deputy Hernandez' issued firearm along with the firearm that was located inside the red Ford truck, which was learned to belong to Edward Daniel Miller, the son of the victim.

CSI Mefford documented that Deputy Hernandez' firearm was a Glock 27, .40 caliber pistol with a serial number of 1EUL880US. The magazine was seated in the magazine well with a cartridge in the chamber. CSI Mefford removed the magazine and observed it contained six cartridges.

CSI Mefford documented that Miller's firearm was a Smith and Wesson .38 special serial number DAN7690. CSI Mefford received the firearm with the cylinder open. The five cartridges it previously contained were received in a separate bag. The firearm reportedly had been unloaded by first responding officers.

1999 Jeep Grand Cherokee, Florida Tag: 152-1JP, VIN: 1N6SD16S6TC357632:

Both the driver and front passenger door were open on the vehicle. The vehicle was off and in the park position. CSI Mefford documented that he observed a set of keys in the back seat. CSI Mefford documented that the victim was in the driver's seat of the vehicle, slightly slumped over to the right. CSI Mefford documented that the seat belt had been cut away from the victim's body and was lying partial on the ground outside the vehicle. CSI Mefford documented that the victim appeared to have an injury to his upper right arm and right chest area. CSI Mefford documented that a fourth shell casing was located on the front passenger floor board of the Jeep. CSI Mefford documented that the shell casing was consistent with the others collected from outside the vehicle (.40 caliber Speer). CSI Mefford documented that the shell casing was not collected at the scene due to the vehicle being sealed and processed at a later time.

CSI Mefford documented that he observed the windows on the Jeep were up and intact. CSI Mefford documented that he also observed there were no defects to any of the glass on the vehicle. After a further inspection CSI Mefford observed there were no strikes or bullet holes to the interior or exterior of the vehicle.

CSI Mefford sealed the Jeep with evidence tape and it was turned over to VCSO Sgt. Turner, who followed Universal Towing as the vehicle was being transported to VCSO Evidence.

1999 Ford F-350, Florida Tag: C31-5GY, VIN: 1FTSW31F1XEA69336:

CSI Mefford documented that after the Ford truck was moved, it appeared there was no damage to the vehicle. CSI Mefford documented that it was requested by FDLE that the firearm located on the front seat be taken for safekeeping. CSI Mefford documented that he observed that the firearm was an FN pistol lying unsecured on the front seat of the vehicle. CSI Mefford documented that he later examined the firearm and observed it was loaded with one cartridge in the chamber and 21 cartridges in the magazine.

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Victim, Edward Prescott Miller:

Investigator Tara Clark with the District 7 Medical Examiner's Office responded to the scene. The victim was removed from the vehicle and placed on the ground (on top of a body bag) next to the vehicle for further examination. CSI Mefford documented that he observed rigor mortis had begun to set in the victim's appendages.

CSI Mefford documented that four (4) suspected gunshot wounds were observed in the victim's person; One (1) to the upper right arm, and three (3) to the right side of the victim's chest. CSI Mefford documented that no exit wounds were observed. CSI Mefford documented that a leather Galco holster was removed from the victim's right front pocket. CSI Mefford documented that the victim's wallet and a checkbook were also collected.

Autopsy:

On September 22, 2014 at approximately 09:00 hours, CSI Mefford attended the victim's autopsy. The autopsy was conducted by Dr. Marcela Chiste. CSI Mefford documented that during the autopsy, a fragmented projectile was removed from the victim's right arm. CSI Mefford documented that also during the autopsy, two (2) projectiles were removed from the victim's right chest and one (1) from the victim's spine. CSI Mefford documented that hair samples, FTA card, cuticle scrapings, clothing, and personal items obtained from the victim during the autopsy were turned over to CSI Mefford.

Post-Scene:

CSI Mefford documented that on September 22, 2014 at approximately 13:30 hours, CSI Mefford utilized sterile swabs and water to scrub the high friction surfaces of the victim's firearm for touch DNA.

CSI Mefford documented that on September 22, 2014 at approximately 14:00 hours, CSI Mefford responded to VCSO Evidence to process the victim's Jeep. SA Cope had told CSI Mefford that consent to search the vehicle was obtained from the victim's wife (who is a co-owner of the vehicle). CSI Mefford documented that he re-photographed the exterior and interior of the Jeep. CSI Mefford documented that he also collected the shell casing located on the front passenger floor board.

CSI Mefford documented that touch DNA was collected from the following areas of the Jeep:

- Left front door handle, interior and exterior.
- Right front door handle, interior and exterior.
- Left rear door handle, interior and exterior.
- Right rear door handle, interior and exterior.
- Steering wheel and shifter.

CSI Mefford documented that he also collected a sample of blood from the vehicle's center console. CSI Mefford documented that he observed all vehicle window controls were inoperable; the main driver's control and all vehicle door controls.

CSI Mefford documented that he utilized a department issued tint meter to test the tint level on

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all windows. The results are as follows:

Front driver and passenger: 100%

Rear passenger windows: 24%

Rear cargo windows: 24%

Rear windshield: 17%

On September 26, 2014 at approximately 09:30 hours, CSI Mefford met with SA Cope at VCSO Operations. At that time all evidence relating to this case was turned over to SA Cope. CSI Mefford documented that he uploaded 349 images from this case into the Digital Crime Scene photo management system under call Id's 121, 9150, 9167, 9212, and 9288. CSI Mefford also presented SA Cope with a CD-ROM containing digital copies of all of the crime scene photographs.

No further action was taken by CSI Mefford. On October 3, 2014, CSI Mefford forwarded a copy of the thirteen (13) page crime scene investigation report, which was authored by CSI Mefford. The crime scene investigation report included the narrative prepared by CSI Mefford, and property reports indicating the evidence which was seized.

SA Cope returned to FDLE Orlando Regional Operations Center and turned the evidence that he had obtained from CSI Mefford to SA Brenton. SA Brenton then immediately entered the evidence into the FDLE Evidence Section. SA Brenton indicated to the evidence section which items should be forwarded to the Biology Laboratory Section, and the Firearms Laboratory Section, for the purposes of processing the evidence recovered. The following is the list of the evidence that was seized indicating the item number and the description of each item:

Item Number	Item Description
1	FN Pistol 5.7x28
2	(22) 5.7x28 cartridges
3	Smith and Wesson .38 Special
4	(5) Winchester Cartridges .38 cal
5	Glock 27 .40 cal Pistol
6	(7) Speer .40 cal cartridges
7	.40 cal Shell Casing (#1)
8	.40 cal Shell Casing (#2)
9	.40 cal Shell Casing (#3)
10	.40 cal Shell Casing (#4)
11	Partial projectile (fragments)
12	Projectile from right arm
13	Projectile from chest
14	Projectile from chest #2
15	Projectile from spine
16	Fingernail Scraping - Right
17	Fingernail Scraping - Left

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18	Pubic Hair Sample
19	Head Hair Sample
20	Swab used to collect touch DNA from revolver
21	Swab used to collect touch DNA from door handle from Jeep
22	Swab used to collect touch DNA from L/F exterior door handle of Jeep
23	Swab used to collect touch DNA from L/R interior door handle of Jeep
24	Swab used to collect touch DNA from L/R exterior door handle of Jeep
25	Swab used to collect touch DNA from R/F interior door handle of Jeep
26	Swab used to collect touch DNA from R/F exterior door handle of Jeep
27	Swab used to collect touch DNA from R/R interior door handle of Jeep
28	Swab used to collect touch DNA from R/R exterior door handle of Jeep
29	Swab used to collect touch DNA from Steering Wheel / Shifter of Jeep
30	Swab used to collect blood from center console of Jeep
31	Galco Gun Holster from Miller R/F Pocket
32	FTA card from Edward Miller
33	Checkbook and Wallet from Miller
34	Size 40 Jean Shorts and Belt
35	Underwear Size Large
36	2 Socks
37	2 Icon Boots
38	T-Shirt Size XL
39	Set of Keys

The evidence will be maintained at the FDLE Evidence Section for the purposes of conducting laboratory analysis in the biology and firearms section of the lab. Upon completion of the lab results, the evidence will be transferred back to VCISO.

A copy of the crime scene investigation report, along with CD-ROM containing the crime scene photographs, will be maintained as a related item with this investigative report.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On September 22, 2014, Special Agent (SA) Steve Brenton received copies of various police reports that either directly or indirectly relate to this investigation from VCSO Detective William Maxwell. Brief descriptions of each of the reports, in chronological order, are as follows:

VCSO Location Inquiry Response for address 1955 Avocado Drive

- The query of the address in the VCSO computer database revealed a total of five (5) calls for service from April 17, 1997 through August 28, 2006.
- No further calls for service at the address were recorded beyond August 28, 2006.
- The first three (3) calls for service did not include names of any of the person(s) involved in this investigation and reflect possibly a previous resident at the address.
- A call for service on April 27, 2006, which was listed as "22D" (domestic disturbance) VCSO case # 061170390, included Edward Prescott Miller as an involved person and no report was written.
- A call for service on August 28, 2006, which was listed as "Assault & Battery" VCSO case # 060029008, included Edward Prescott Miller as an involved person and a report was written and is described in this investigative report.

Aggravated Battery - August 28, 2006 - VCSO case # 06002908

SA Brenton reviewed the documentation for this case, prepared by VCSO Deputy Chastity Burke, which consisted of an offense report, arrest affidavit, and accompanying domestic violence reports. A review of the narrative revealed that on August 28, 2006 at approximately 23:13 hours, deputies from VCSO arrived at [REDACTED] after a "911 hang-up" call was received from that address. Once deputies made contact with [REDACTED] (hereinafter referred to as [REDACTED]), she indicated that there was an argument between she and her [REDACTED], Edward Prescott Miller (hereinafter referred to as P. Miller). [REDACTED] said that during the argument, P. Miller was throwing items around the inside of the house, and had pushed a

Case Number: OR-27-0198	Serial #: 26
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:10/02/2014
Approved By: Warren, Daniel J.	

Description:Law Enforcement / Other Agency Documents

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bookcase over, which struck [REDACTED] on the leg causing swelling. Additionally, [REDACTED] stated that P. Miller armed himself with a rifle, pointed it directly at [REDACTED] while stating, "You don't love me anymore." [REDACTED] stated that she made two attempts to call 911, once from a land line that P. Miller ripped out of the wall, and once from a cellphone that P. Miller grabbed from [REDACTED] hand and broke in half. [REDACTED] stated that her juvenile sons were able to retrieve the firearm from P. Miller, and shortly thereafter deputies arrived on the scene. [REDACTED] stated that during the disturbance she received an injury to her finger, which she believed to be broken. As a result of the incident, P. Miller was placed under arrest, charged with aggravated battery / domestic violence, and transported to the Volusia Branch Jail.

Neighbor Disturbance - January 12, 2014 - VCSO case # 140001069

SA Brenton reviewed this incident report prepared by VCSO Deputy Jeffrey Wiles documenting a neighbor dispute between P. Miller and his neighbor. The narrative of the report documents P. Miller complaining about his next door neighbor making accusations about blowing up an engine in one of P. Miller's vehicle, alleging a conspiracy against P. Miller by his neighbor and Judge Kim Hammond the (former) chief judge for the seventh (7th) judicial circuit. According to Deputy Wiles, P. Miller would erupt into fits of anger while relating his complaints about his neighbor. When Deputy Wiles spoke to the neighbor, he was shocked at the allegations by P. Miller; even stating that he has been very friendly with the Miller's and helped them out on occasions. The neighbor stated that P. Miller's demeanor changed when he received an injury to his back and was prescribed pain medication. The neighbor also told Deputy Wiles that P. Miller has a large collection of firearms inside of his house. Deputy Wiles stated at the end of his report, "Due to the firearms and [P. Miller's] demeanor, Deputy Wiles requested Central Dispatch attach a hazard warning to 1955 Avocado Drive for future calls."

Information Report - August 28, 2014 - VCSO Case number 140023368

SA Brenton reviewed this incident report prepared by Deputy Wiles. The narrative of the report documents that P. Miller called VCSO to report a burglary and theft. According to the report, P. Miller told Deputy Wiles that someone broke into P. Miller's house while he was asleep, struck P. Miller in the head causing him to pass out, at which time the unknown subject(s) stole P. Miller's medication. The report indicates that fire rescue was on scene and checked P. Miller's vitals and found them to be normal. Deputy Wiles located P. Miller's medications and discovered that the prescriptions were recently filled, and that all of the medication was still in the prescription bottles. Deputy Wiles indicated in the report that he asked Miller several questions to determine his state of mind and whether or not P. Miller was a threat to himself. Deputy Wiles indicated that P. Miller was not a danger to himself or others, only that P. Miller is sometimes delusional and makes up stories. Deputy Wiles also talked to P. Miller's son, Edward Daniel Miller (hereinafter referred to as D. Miller), who told Deputy Wiles that his dad always acts like this. Deputy Wiles inspected the residence and did not find any indications of a break in or forced entry into the residence. When Deputy Wiles further questioned P. Miller about the burglary, P. Miller became agitated and wanted Deputy Wiles to leave.

Suspicious Incident - September 18, 2014 - Port Orange P.D. case number 140008803

On September 29, 2014, Special Agent Supervisory (SAS) Christopher Woehr received a telephone call from Port Orange Police Department (POPD) Chief Gerald Monahan regarding

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this investigation. Chief Monahan told SAS Woehr that the incident that led to D. Miller's truck being towed was handled by POPD. Chief Monahan said that one of his officer's towed the truck because the officer didn't believe that D. Miller's faculties would allow him to further operate a motor vehicle. Chief Monahan said that the officer drove D. Miller home and once there the officer was confronted by an angry P. Miller. Chief Monahan said that all of his officers carry digital voice recorders and that the officer who drove D. Miller home recorded the incident when he arrived at P. Miller's residence and the confrontation occurred. Chief Monahan said that a copy of the report and audio recording would be forwarded to FDLE.

On October 3, 2014, SA Brenton received and reviewed an incident report prepared by POPD Officer John Santana. The report documents that on September 18, 2014 at approximately 19:14 hours, Officer Santana came in contact with D. Miller at Yorktowne Blvd and Dunlawton Avenue after Officer Santana came upon the red Ford truck, bearing Florida tag C31-5GY parked in the left turn lane on Yorktowne Blvd. Officer Santana was dispatched to the area after the call of a traffic crash was reported. Officer Santana stated that he discovered D. Miller lying on the sidewalk on the west side of Yorktowne Blvd with his feet hanging off the curb into the street. After getting D. Miller to stand up, Officer Santana noted that he believed that D. Miller was intoxicated based upon cues noted by Officer Santana in the report. Officer Santana also stated that he could see the bottom of a holster peeking from below D. Miller's shirt. Officer Santana placed D. Miller in handcuffs for officer safety and conducted a pat down search. Officer Santana located a knife on D. Miller's person, but the holster was empty. Officer Santana stated that D. Miller indicated that his firearm was located in the glove compartment of his truck.

Officer Santana stated that he then questioned D. Miller about the traffic crash. According to the report, D. Miller said that he had struck the rear bumper of a Mercedes-Benz, at which time the driver of the Mercedes-Benz exited his vehicle, yelled at D. Miller for striking his vehicle, and then left the scene of the crash. According to Officer Santana, attempts to locate the Mercedes-Benz or the driver were met with negative results. Officer Santana stated that because he did not observe D. Miller in actual physical control of his vehicle, Officer Santana did not have probable cause to continue with a driving under the influence investigation against D. Miller. Officer Santana stated that he then offered D. Miller the opportunity to call someone to pick up D. Miller and his vehicle, however D. Miller was unable to reach anyone. Officer Santana then had D. Miller's truck towed by Fryer's Towing, and transported D. Miller home in Officer Santana's patrol vehicle.

Upon arriving at D. Miller's residence, Officer Santana told D. Miller that he wanted to speak to his father to inform him why the truck was towed. Officer Santana stated that D. Miller told Officer Santana that his father was deaf and would not be able to hear Officer Santana knock on the door. Officer Santana said that he and D. Miller entered the residence, at which time Officer Santana discovered P. Miller sleeping in a reclining chair with an assault rifle lying across P. Miller's upper body, and a long rifle by P. Miller's left arm. Officer Santana stated that D. Miller woke up his father, at which time P. Miller became belligerent and irate when he discovered Officer Santana inside of his house. Officer Santana attempted to explain to P. Miller about D. Miller's car being towed, as P. Miller interrupted Officer Santana stating, "this is fucking cop brutality man" as P. Miller stood in front of Officer Santana with closed fists. Officer Santana stated that he continued to try and explain to P. Miller what happened as P. Miller continued to interrupt Officer Santana, saying "get the fuck out of my house." Officer Santana

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eventually left his business card with P. Miller and left the residence. Officer Santana noted that he had recorded the encounter with P. Miller with his digital audio recorder and submitted a copy of the recording into evidence.

SA Brenton reviewed the audio recording of the incident that occurred when Officer Santana had arrived with D. Miller at his house and attempted to inform P. Miller about what had occurred. SA Brenton discovered that the audio recording was consistent with the report prepared by Officer Santana.

Disturbance - September 19, 2014 - Daytona Beach P.D. Case number 140017076

SA Brenton reviewed this incident report prepared by Daytona Beach Police Department (DBPD) Officer Michael Robinson. The narrative documents a disturbance that occurred at Fryer's Towing at 722 N. Segrave Street in Daytona Beach on September 19, 2014 at approximately 17:33 hours. The report documents that an employee with Fryer's Towing called DBPD because P. Miller and D. Miller were causing a disturbance at the business. When Officer Robinson arrived on the scene, the employee from Fryer's Towing informed Officer Robinson about the actions of P. Miller and D. Miller, and also informed Officer Robinson that D. Miller had a gun holstered on D. Miller's hip. Officer Robinson stated that while talking to D. Miller, Officer Robinson asked D. Miller to give Officer Robinson his firearm, and produce a concealed weapons permit. D. Miller did give Officer Robinson his firearm, and did produce a concealed weapons permit. Officer Robinson verified that the firearm was not stolen and returned it to D. Miller. Officer Robinson stated that D. Miller and P. Miller were unable to retrieve the truck because they did not have the money to do so. Officer Robinson stated that he told D. Miller and P. Miller that when they had the proper amount of money to retrieve the truck, they could return to Fryer's Towing to do so. Officer Robinson stated that D. Miller and P. Miller said they would return the following day with the money to retrieve the truck, and left Fryer's Towing without any further incident. Officer Robinson stated that at no time did D. Miller or P. Miller threaten anyone at Fryer's Towing; therefore no further action was taken.

SA Brenton also received a CD-ROM which accompanied this report by Officer Robinson. On the CD-ROM was a copy of the call that was placed to 911 from the Fryer's Towing employee.

Information Report - September 20, 2014 - Daytona Beach P.D. Case number 140017122

SA Brenton reviewed this incident report which was prepared by DBPD Officer Tammy Pera. This report documents the response of DBPD to the scene of the deadly use of force involving VCSO Deputy Hernandez. The incident report included supplemental reports prepared by other DBPD officers who were on the scene. SA Brenton also received the CAD sheet from DBPD with this incident report. After reviewing the incident report and the CAD sheet, SA Brenton determined that the documents were consistent with the findings of this investigation into the deadly use of force. It should be noted that the CAD sheet was consistent with the CAD sheet from VCSO, due to the fact that VCSO also dispatches for DBPD.

Information Report - September 20, 2014 - Volusia County S.O. case number 140025681

SA Brenton reviewed this incident report which was prepared by VCSO Deputy Christopher Lee. This report documents the response of VCSO to the scene of the deadly use of force

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involving VCSO Deputy Hernandez. This incident report included supplemental reports prepared by VCSO Sergeant James Turner and VCSO Deputy Richard Graves. The report was authored by Deputy Lee to document the incident, although his involvement was to maintain a perimeter point for the crime scene and other support duties such as maintain the crime scene log. Deputy Lee was not on scene and did not witness the deadly use of force. The report prepared by Sergeant Turner describes his activities as the on scene supervisor and his actions. Sergeant Turner also arrived after the fact and was not a witness to the deadly use of force. The supplemental report prepared by Deputy Graves indicated that he assisted Deputy Eugene Mefford with the crime scene investigation, which has already been documented in previous investigative reports in SA Brenton's investigation.

Copies of all of the aforementioned reports, along with a CD-ROM containing a copy of the audio recording of the POPD encounter with P. Miller, and a CD-ROM containing a copy of the audio recording of the 911 call made to DBPD for the disturbance at Fryer's Towing on September 19, 2014 will be maintained as a related item and will be included with this investigative report.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On September 24, 2014, Special Agent (SA) Steve Brenton received a copy of the disciplinary history for Deputy Hernandez from VCSO Detective William Maxwell. SA Brenton reviewed the documents relating to the discipline history of Deputy Hernandez and discovered the following:

The discipline history that was provided to SA Brenton regarding Deputy Hernandez included internal affairs investigations which were completed and the findings were sustained. Most of the policy violations that were discovered were minor in nature, and related to the careless handling of equipment, general proficiency, and use of profanity. Of these violations of policy, the actions that were taken after the violation was sustained ranged from counseling to written reprimand. These violations that were noted included only a violation of VCSO policy, and no violations of Florida State Statutes.

The discipline history did include an "excessive force resulting in injury" complaint from February 17, 2013. After reviewing the narrative of the incident, SA Brenton discovered that the incident stemmed from an arrest of an individual who resisted arrest. The individual who was arrested did not file a complaint, nor did he cooperate with the internal affairs investigation. The result of the complaint was sustained as a violation of VCSO policy, and Deputy Hernandez was given a written reprimand.

None of the discipline history provided to SA Brenton involved Edward Prescott Miller.

A copy of the discipline history will be maintained as a related item and will accompany this investigative report.

Case Number: OR-27-0198	Serial #: 27
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 09/24/2014	Activity End Date:09/24/2014
Approved By: Warren, Daniel J.	

Description:Discipline History

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**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On November 1, 2014, FDLE Special Agent (SA) Steve Brenton of the Orlando Regional Operations Center (OROC) obtained the "FDLE Laboratory Report" from the Firearms Section (FDLE Lab #20140511036), authored by FDLE OROC Crime Laboratory Analyst (CLA) Christine Murphy, on October 30, 2014. CLA Murphy examined the following items that were submitted to the FDLE Lab on October 7, 2014, by FDLE OROC Crime Laboratory Technician Jacqueline Blue:

FDLE Item #	Agency Exhibit #	Description
1	3	One 38 Special caliber Smith & Wesson Airweight model 642-2 five-shot revolver with serial number DAN7690
2	5	One 40 caliber Glock model 27 semiautomatic pistol with serial number 1EUL880US and one magazine and one black plastic gun case
3	4	Five 38 Special caliber cartridges
4	6	Seven 40 S&W caliber cartridges
5	7	One fired 40 S&W caliber cartridge case
6	8	One fired 40 S&W caliber cartridge case
7	9	One fired 40 S&W caliber cartridge case
8	10	One fired 40 S&W caliber cartridge case
9	11	One fired copper-jacketed bullet fragment
10	12	One fired copper-jacketed bullet and two fired copper-jacketed bullet fragments (A & B)
11	13	One fired copper-jacketed bullet
12	14	One fired copper-jacketed bullet
13	15	One fired copper-jacketed bullet
Case Number: OR-27-0198		Serial #: 28
Author: Brenton, Stephen A		Office: Orlando
Activity Start Date: 11/01/2014		Activity End Date: 11/01/2014
Approved By: Warren, Daniel J.		

Description: Firearms Lab Report

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14	31	One holster
15	38	One T-shirt

RESULTS

FDLE Item #	Agency Exhibit #	Description
1	3	The revolver was test fired using laboratory ammunition and was found to be functional. The trigger pull was measured to be between 10 and 10 ¼ pounds. Cartridge cases fired in revolvers do not meet requirements for imaging per NIBIN protocol.
3	4	The cartridges were not further examined.
2, 4	5, 6	The pistol was test fired using the submitted magazine and was found to be functional. The trigger pull was measured to be between 4 ¼ and 4 ½ pounds. Cartridge cases fired in the pistol do not meet requirements for imaging per NIBIN protocol. Maximum distance tests were generated using the pistol and five of the submitted cartridges; little to no gunpowder is deposited at distances greater than four feet. The remaining two cartridges and the gun case were not further examined.
5, 6, 7, 8	7, 8, 9, 10	The cartridge cases were identified as having been fired in the Exhibit 5 pistol.
9	11	The bullet fragment could neither be identified nor eliminated as having been fired from the Exhibit 5 pistol due to a lack of corresponding individual characteristics.
10	12	The bullet and one of the bullet fragments (A) could have been fired from the Exhibit 5 pistol; however, a lack of sufficient corresponding individual characteristics precludes identification. The remaining bullet fragment (B) could neither be identified nor eliminated as having been fired from the Exhibit 5 pistol due to a lack of corresponding individual characteristics.
11, 12, 13	13, 14, 15	The bullets were identified as having been fired from the Exhibit 5 pistol.
14	31	The holster was not further examined.
15	38	The shirt displays one hole in the right sleeve and three holes in the right chest area. The shirt was microscopically examined and chemically processed for gunshot residues. Residues were found around all four of the holes which are consistent with the discharge of a firearm.

A copy of the complete "FDLE Laboratory Report" will be electronically maintained as a related

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item with this investigative report.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On November 20, 2014, FDLE Special Agent (SA) Steve Brenton of the Orlando Regional Operations Center (OROC) obtained the "FDLE Laboratory Report" from the Biology Section (FDLE Lab #20140511036), authored by FDLE OROC Senior Crime Laboratory Analyst (SCLA) Laura Wenz, on November 18, 2014. SCLA Wenz examined the following items that were submitted to the FDLE Lab on October 7, 2014, by FDLE OROC Crime Laboratory Technician Jacqueline Blue:

FDLE Item #	Agency Exhibit #	Description
1	3	Smith & Wesson .38 Special
3	4	(5) Winchester cartridges
14	31	Galco gun holster from Miller R/F pocket

RESULTS

FDLE Item #	Agency Exhibit #	Description
1	3	Smith and Wesson .38 Special A sample from exhibit 3 was collected in an attempt to determine the possible handler of this exhibit. Exhibit 3 failed to give chemical indications for the presence of blood. Due to the limited nature of the DNA results obtained from exhibit 3, this data is insufficient for inclusion purposes, but may be suitable for exclusion. This DNA profile is consistent with originating from at least one male individual.

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Case Number: OR-27-0198	Serial #: 29
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Author: Brenton, Stephen A	Office: Orlando
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Activity Start Date: 11/20/2014	Activity End Date: 11/20/2014
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Approved By: Warren, Daniel J.

Description: Biology Report

<p><i>THIS REPORT IS INTENDED ONLY FOR THE USE OF THE AGENCY TO WHICH IT WAS DISSEMINATED AND MAY CONTAIN INFORMATION THAT IS EITHER PRIVILEGED OR CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. ITS CONTENTS ARE NOT TO BE DISTRIBUTED OUTSIDE YOUR AGENCY.</i></p>
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Case Number	OR-27-0198
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3	4	<p>A sample from exhibit 4 was collected in an attempt to determine the possible handler of this exhibit. No DNA results were obtained from exhibit 4.</p>
14	31	<p>Galco gun holster from Miller R/F pocket A sample from exhibit 31 was collected in an attempt to determine the possible handler of this exhibit and tested as exhibit 31-handler. Exhibit 31 gave chemical indications for the presence of blood (stain A).</p> <p><i>31 holster handler</i> The DNA profile obtained from exhibit 31-handler demonstrated the presence of a mixture of at least 2 individuals. DNA profiles for the major and minor contributors could not be determined but are consistent with originating from at least one male individual.</p> <p><i>31 holster stain A</i> Due to the limited nature of the DNA results obtained from exhibit 31-stain A, this data is insufficient for inclusion purposes, but may be suitable for exclusion.</p>

A copy of the complete "FDLE Laboratory Report" will be electronically maintained as a related item with this investigative report.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On December 22, 2014, Special Agent (SA) Steve Brenton received the medical examiners report for Edward Prescott Miller. Accompanying the report was a CD-ROM which contained the digital photographs which were taken during the autopsy.

The following is a summary of the Medical Examiner District 7 & 24 Autopsy Report on Edward Prescott Miller:

Decedent: Edward Prescott Miller
Race: White
Sex: Male
Age: 52 years
Case Number: 14-07-473

Date of Death: September 20, 2014
Date/Time of Autopsy: September 22, 2014 at 09:00 hours

Performed by: Marcela Chisté, M.D., Associate Medical Examiner

Manner of Death: Homicide
Cause of Death: Gunshot wounds of torso.

Autopsy Findings:

- I. Penetrating Gunshot Wound of Torso ("A")
 - A. Entrance: Right side of chest (#1)
 - B. Path of projectile: Skin, subcutaneous tissue and muscles, right fifth rib, pericardium, left diaphragmatic leaf, stomach, spleen, left diaphragmatic leaf, left eighth rib, lateral muscles of left side of chest
 - C. Direction of projectile: Right-to-left, front-to-back and downwards

Case Number: OR-27-0198	Serial #: 30
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 09/20/2014	Activity End Date:09/22/2014
Approved By: Warren, Daniel J.	

Description:Medical Examiners Report

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- D. Exit: None, projectile recovered
- E. Associated injuries: Hemopericardium, Hemothorax, hemoperitoneum
- F. Postmortem radiograph: Projectile identified

II. Penetrating Gunshot Wound of Chest ("B")

- A. Entrance: Right side of chest (#2)
- B. Path of projectile: Skin, subcutaneous tissue and muscles, right fifth intercostal space, right lung, right diaphragmatic leaf, liver, left diaphragmatic leaf, left ninth intercostal space
- C. Direction of projectile: Right-to-left, front-to-back and downwards
- D. Exit: None, projectile recovered
- E. Associated injuries: Hemothoraces, hemoperitoneum, rib fracture, fragmentation of liver
- F. Postmortem radiograph: Projectile identified

III. Penetrating Gunshot Wound of Chest ("C")

- A. Entrance: Right side of chest (#3)
- B. Path of projectile: Skin, subcutaneous tissue and muscles, right seventh rib, right lung, right diaphragmatic leaf, ascending colon, right renal artery, intervertebral disc between twelfth thoracic vertebra and first lumbar vertebra
- C. Direction of projectile: Right-to-left, front-to-back and downwards
- D. Exit: None, projectile recovered
- E. Associated injuries: Hemoperitoneum
- F. Postmortem radiograph: Projectile identified

IV. Penetrating Gunshot Wound of Right Arm ("D")

- A. Entrance: Lateral aspect of right arm (#4)
- B. Path of projectile: Skin, subcutaneous tissue and muscles, right humerus
- C. Direction of projectile: Back-to-front, right-to-left and downwards
- D. Exit: None, projectile and fragments recovered
- E. Associated injuries: Comminuted fracture of right humerus, transection of vascular structures
- F. Postmortem radiograph: Projectile and fragments identified



Toxicology:

The following are the results of the toxicology test performed on a blood specimen collected from Edward Prescott Miller:

Compound	Result	Units	Matrix Source
Ethanol	24	mg/dL	001 - Chest Blood
Blood Alcohol Contration	0.024	g/100 mL	001 - Chest Blood
Alprazolam	92	ng/mL	001 - Chest Blood
Morphine - Free	1700	ng/mL	001 - Chest Blood
Hydromorphone - Free	3.6	ng/mL	001 - Chest Blood

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Conclusion:

The manner of death is homicide caused by gunshot wounds of torso.

A copy of the Medical Examiner's Autopsy Report and the CD-ROM containing the autopsy photographs will be maintained as related items with this investigative report.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On February 4, 2015, Special Agent (SA) Steve Brenton received a copy of a "Hearing Evaluation Report" for Miller from the attorney representing Miller's family, Mr. Ward T. Berg. SA Brenton had been several conversations with Attorney Berg about the return of certain property and other matters.

On December 11, 2014, SA Brenton was at Attorney Berg's office returning property that had been seized for safekeeping, and during a conversation SA Brenton asked Attorney Berg if the Miller's could provide any documentation relating to the claim that Miller was deaf. Attorney Berg told SA Brenton that he would have Miller's wife, Gina Miller, provide the medical records relating to Miller's disability to Attorney Berg, who would in turn provide it to SA Brenton.

On February 4, 2015, SA Brenton received the "Hearing Evaluation Report" from Attorney Berg. SA Brenton reviewed the report and found that the report was from Taylor & Associates Hearing; 328 N. Ridgewood Avenue, Edgewater, FL 32132. The date of the report / evaluation was January 13, 2010 and the client's name was indicated as Edward P. Miller. Further review of the report revealed that the only section of the report which contained any information was a graph showing the "Hearing Level in Decibels" and the "Frequency in Hertz". There was no narrative, findings, or any other data associated with this report. The report was signed by Kim Taylor, who is a Licensed Hearing Aid Specialist, on January 4, 2015.

On February 6, 2015, SA Brenton received a second report from Attorney Berg. The second report was a letter prepared by and signed by Taylor on February 5, 2015. The letter by Taylor described that Taylor had last performed a hearing examination on Miller on January 13, 2010, and that the results of that examination revealed "a profound bilateral hearing loss. With this level of hearing ability Mr. Miller was unable (sic) hear speech regardless of the volume of the speech. This was true with or without the hearing aid."

A copy of the "Hearing and Evaluation Report," and the letter prepared by Taylor, were

Case Number: OR-27-0198	Serial #: 31
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 02/04/2015	Activity End Date:02/04/2015
Approved By: Warren, Daniel J.	

Description:Hearing and Evaluation Report provided by Attorney Ward Berg

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electronically uploaded to be maintained as a related item to accompany this investigative report.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On April 20, 2015 at 11:37 hours a second sworn interview was conducted with Darcie Podgorski-Benedix regarding this investigation. The interview was conducted at the Law Offices of Michael Lambert at 428 N. Halifax Avenue, Daytona Beach, FL and was digitally recorded. The purpose of the interview was to clarify a few issues from the first interview that was conducted by SA Troy Cope on September 20, 2014.

SA Brenton started by asking Podgorski-Benedix about the incident which occurred on September 19, 2014, the day prior to the shooting incident, when Edward P. Miller (P. Miller) and Edward D. Miller (D. Miller) were attempting to retrieve their vehicle and a disturbance occurred which led to the calling of Daytona Beach Police Department (DBPD). SA Brenton specifically asked Podgorski-Benedix if she was involved in an argument, and with whom, on that day. Podgorski-Benedix indicated that there was an argument between her and P. Miller and that the argument was because P. Miller was accusing the tow truck company of stealing their vehicle and also that P. Miller was inside of the secured compound and not supposed to be there. SA Brenton asked Podgorski-Benedix if she held a conversation with P. Miller, and Podgorski-Benedix said that she did. SA Brenton asked Podgorski-Benedix if P. Miller communicated back with Podgorski-Benedix and she said that he continued yelling at her, and eventually left the gated area after Podgorski-Benedix told him to do so. SA Brenton told Podgorski-Benedix that it was alleged that P. Miller was hearing impaired and asked Podgorski-Benedix if she believed that P. Miller was hearing impaired based upon her communication with P. Miller. Podgorski-Benedix said that she did not believe that P. Miller was hearing impaired based upon the fact that he appeared to understand what she was saying, even that P. Miller responded to her communication while P. Miller's back was turned to Podgorski-Benedix.

SA Brenton then spoke to Podgorski-Benedix about the date that the shooting incident occurred. SA Brenton asked Podgorski-Benedix if at any time while P. Miller and D. Miller were at the tow yard if she or anybody else at the tow yard told the P. Miller or D. Miller that the police were already present at the tow yard. Podgorski-Benedix indicated that neither she, nor anyone

Case Number: OR-27-0198	Serial #: 32
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 04/20/2015	Activity End Date:04/20/2015
Approved By: Warren, Daniel J.	

Description:Re-Interview with Civilian Witness Darcie Podgorski-Benedix

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else, had told P. Miller and D. Miller that the police were at the tow yard. Podgorski-Benedix added that she was the only employee that both P. Miller and D. Miller were talking to on the date that the shooting incident occurred.

Podgorski-Benedix then continued by recalling the incident leading up to the shooting. Podgorski-Benedix said that Deputy Joel Hernandez was speaking to her about the bill for the vehicle that was involved in the separate investigation that he and Deputy Matthew Andracke were investigating. Podgorski-Benedix said that she went into the office to pull up the charges for the bill, and when she came back out, she saw that P. Miller was at the bottom (south) gate yelling and making threats. Podgorski-Benedix said that she asked fellow employee, Erik Stewart, where Deputy Hernandez went to, and Stewart pointed to the bottom gate. Podgorski-Benedix said that she then followed Deputy Hernandez and Deputy Andracke to the bottom gate to give Deputy Hernandez the bill, at which time "everything broke loose." SA Brenton asked Podgorski-Benedix if she was referring to the shooting, and she said "yes." SA Brenton asked Podgorski-Benedix where she was at that time when the shooting occurred, and she said "probably five (5) to ten (10) feet away from the gate." SA Brenton questioned Podgorski-Benedix about this statement and if she was sure that she was only five (5) to ten (5) feet away from Deputy Hernandez when the shooting occurred, and she said "yes." Podgorski-Benedix even drew a diagram of where she was standing when the shooting occurred. SA Brenton then spent some time discussing this issue with Podgorski-Benedix, even reviewing the surveillance video from the tow yard that had been obtained from when the shooting incident occurred. SA Brenton pointed out that the fact that Podgorski-Benedix was five (5) to ten (10) feet away from the shooting incident was contradictory to the evidence, and even showed Podgorski-Benedix the video that showed her walking from the bottom gate to the office before the shooting incident occurred, and that she walked back down towards the bottom gate after the shooting occurred. Podgorski-Benedix eventually conceded that she was by the office when the shooting incident occurred, and eventually walked down to the bottom gate after the shooting occurred while she was on the telephone with the 911 dispatcher.

SA Brenton then spoke with Podgorski-Benedix about her original statement to SA Cope about having a conversation with Deputy Hernandez and Deputy Andracke prior to the shooting incident. SA Brenton asked Podgorski-Benedix if she had informed either Deputy Andracke or Deputy Hernandez about the incident from the previous day when DBPD was called for the disturbance involving P. Miller and D. Miller. Podgorski-Benedix said that she told both Deputy Hernandez and Deputy Andracke that P. Miller and D. Miller were present at the tow yard on the previous day causing a disturbance, and that D. Miller had a gun on him. SA Brenton asked Podgorski-Benedix what Deputy Hernandez and Deputy Andracke were doing at the time she told them about the previous incident, and she said that they were all just standing around the cars talking. SA Brenton asked Podgorski-Benedix how much time elapsed from when she told Deputy Hernandez and Deputy Andracke about the previous incident until they went to make contact with P. Miller and D. Miller, and she said she believed it was about twenty (20) minutes. SA Brenton asked Podgorski-Benedix if P. Miller was at the bottom gate with his Jeep Cherokee when she was telling the deputies about the previous incident, and she said "yes."

A CD-ROM containing the audio recorded interview with Podgorski-Benedix, along with the diagram that was prepared by Podgorski-Benedix, will be maintained as a related item and included with this investigative report.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On April 20, 2015 at 12:22 hours SA Steve Brenton conducted a second sworn interview was conducted with Erik Stewart regarding this investigation. The interview was conducted at the Law Offices of Michael Lambert at 428 N. Halifax Avenue, Daytona Beach, FL and was digitally recorded. The purpose of the interview was to clarify a few issues from the first interview that was conducted by SA Lloyd Randolph on September 20, 2014.

After a brief conversation with Stewart about his status as an employee for Fryer's Towing on the date that the incident occurred, Stewart then discussed the incident that occurred on the previous day, September 19, 2014, when the Daytona Beach Police Department (DBPD) was called because of the disturbance with Edward P. Miller (P. Miller) and Edward D. Miller (D. Miller). SA Brenton asked Stewart if he had communicated with P. Miller during the previous day's incident, and Stewart indicated that he had. SA Brenton asked Stewart if P. Miller understood him and was able to communicate with Stewart. Stewart indicated that he heard that P. Miller had a hearing impairment and did not believe this to be true. Stewart said that P. Miller's did communicate with Stewart and even understood Stewart when he spoke to P. Miller while P. Miller had his back to Stewart.

SA Brenton then spoke with Stewart regarding the day of the shooting incident, September 20, 2014. SA Brenton asked Stewart if he had any conversation with either Deputy Joel Hernandez or Deputy Matthew Andracke about the incident that had occurred on the previous day. Stewart said that he did not talk to the deputies about the previous incident, but he was aware that Fryer's Tow employee Darcie Podgorski-Benedix' did have a conversation with the deputies about the previous day. Stewart continued to speak about the events just prior to the shooting, indicating that the reason he believed that the deputies went to confront P. Miller was just to move him along as P. Miller and his vehicle were down at the bottom (south) gate. Stewart indicated that he recalled Deputy Hernandez retrieving his badge from the trunk of his vehicle, although he was not sure about his firearm. Stewart said that he recalled that when Deputy Hernandez was speaking with P. Miller at his vehicle, Deputy Hernandez had his badge in his

Case Number: OR-27-0198	Serial #: 33
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 04/20/2015	Activity End Date:04/20/2015
Approved By: Warren, Daniel J.	

Description:Re-Interview with Civilian Witness Erik Stewart

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hand. Stewart said that he and Podgorski-Benedix were standing up by the office when he saw Deputy Hernandez standing by P. Miller's vehicle talking to P. Miller, at which time Stewart heard shots fired. SA Brenton asked Stewart to draw a diagram of where he was standing in relation to where the shooting incident occurred, which Stewart did. SA Brenton asked Stewart what he believed was the distance between where he and Podgorski-Benedix were standing and where P. Miller's vehicle was located when Deputy Hernandez shot P. Miller, and Stewart responded "150 feet."

SA Brenton then asked Stewart if he or anyone else, before the shooting incident occurred, had told either P. Miller or D. Miller that the police were present at the tow yard, and Stewart said "no." SA Brenton then asked Stewart if anyone from the tow company had indicated to Deputy Hernandez or Deputy Andracke that employees of Fryer's Towing wanted to file a report or prosecute P. Miller for making any threats, and Stewart said "no."

A CD-ROM containing the audio recorded interview with Stewart, along with the diagram that was prepared by Stewart, will be maintained as a related item and included with this investigative report.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On April 20, 2015 at 12:57 hours a second sworn interview was conducted with Deputy Matthew Andracke regarding this investigation. The interview was conducted at the Law Offices of Michael Lambert at 428 N. Halifax Avenue, Daytona Beach, FL and was digitally recorded. The purpose of the interview was to clarify a few issues from the first interview that was conducted on September 24, 2014.

SA Steve Brenton started by asking Deputy Andracke to recall the events which led to the shooting of Edward P. Miller (P. Miller), specifically starting when Deputy Joel Hernandez went to the trunk of his vehicle. SA Brenton asked Deputy Andracke what Deputy Hernandez retrieved from the trunk, and Deputy Andracke said that Deputy Hernandez retrieved his badge and his gun. SA Brenton asked Deputy Andracke if Deputy Hernandez was wearing a handcuff and extra magazine holder, and Deputy Andracke said that Deputy Hernandez had retrieved that from his trunk as well. SA Brenton asked Deputy Andracke where Deputy Hernandez put his firearm, and Deputy Andracke responded "on his right hip." SA Brenton asked Deputy Andracke where Deputy Hernandez put the handcuff and extra magazine holder, and Deputy Andracke indicated he did not specifically recall, but assumed that it would have been on Deputy Hernandez' left hip based upon the fact that this would have been where Deputy Andracke would have routinely placed the holder as well. SA Brenton asked Deputy Andracke where Deputy Hernandez placed his badge, and Deputy Hernandez replied "next to his firearm on his right hip."

SA Brenton then asked Deputy Andracke about the events once Deputy Hernandez reached the Jeep Cherokee and attempted to make contact with P. Miller. SA Brenton asked Deputy Andracke if he recalled how Deputy Hernandez identified himself to P. Miller. Deputy Andracke said that Deputy Hernandez stated "sheriff's office" multiple times. SA Brenton then asked Deputy Andracke if Deputy Hernandez ever had his badge in his hands when Deputy Hernandez attempted to make contact with P. Miller and Deputy Andracke indicated that he believed Deputy Hernandez had his badge on his belt the entire time.

Case Number: OR-27-0198	Serial #: 34
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 04/20/2015	Activity End Date:04/20/2015
Approved By: Warren, Daniel J.	

Description:Re-Interview of VCSO Deputy Matthew Andracke

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SA Brenton then spoke with Deputy Andracke about the position of Deputy Hernandez after Deputy Hernandez had opened the passenger side door of P. Miller's vehicle. SA Brenton asked Deputy Andracke if Deputy Hernandez had his body leaning inside of the vehicle or if he was standing at the open doorway. Deputy Andracke indicated that he did not recall if Deputy Hernandez' body was inside the vehicle, only that he recalled that Deputy Hernandez was standing in the open doorway on the passenger side of the vehicle. Deputy Andracke indicated that he was standing by the door post on the passenger side of P. Miller's vehicle. SA Brenton asked Deputy Andracke to be more specific about what Deputy Andracke meant by "the door post," and Deputy Andracke stated that he was in between the front wheel (on the passenger side) and the open passenger side door. SA Brenton asked Deputy Andracke about how far away Deputy Andracke was from the vehicle, and he said "two to three feet." SA Brenton asked Deputy Andracke at what point did he see P. Miller holding a firearm. Deputy Andracke said that as Deputy Hernandez was giving P. Miller multiple commands, Deputy Andracke was keeping his focus on the pickup truck parked in front of P. Miller's vehicle. Deputy Andracke said that he kept looking back and forth between P. Miller and the pickup truck. Deputy Andracke stated that he heard Deputy Hernandez say, "gun" at which time Deputy Andracke looked back to P. Miller and saw P. Miller with a silver revolver in his hand. SA Brenton asked Deputy Andracke how he remembered seeing the firearm, whether it was pointed in any particular direction. Deputy Andracke stated that P. Miller brought the firearm up from his pocket and "started to bring it around towards myself." Deputy Andracke added, "it would have been me first and then Deputy Hernandez, it would have crossed me before (Deputy Hernandez), if he continued down the same path." Deputy Andracke continued, "it was pointed, I guess towards the front of the vehicle moving towards me and it would have eventually made its way towards (Deputy Hernandez)." SA Brenton asked Deputy Andracke if P. Miller had his arms extended or if he had the firearm closer to his body as if he were shooting "from the hip." Deputy Andracke said that the firearm was not at P. Miller's hip, and that it was more "chest high." SA Brenton asked Deputy Andracke if he was in fear for his life, and Deputy Andracke said "yes" and stated it was because P. Miller had a firearm and was not complying Deputy Hernandez' commands, and that when P. Miller took the gun out, the "trajectory was towards me." SA Brenton then asked Deputy Andracke if he saw P. Miller get hit by the bullets after Deputy Hernandez fired his weapon, and Deputy Andracke said "no."

SA Brenton then spoke with Deputy Andracke about the events just prior to the shooting while he and Deputy Hernandez were completing the assignment they were at Fryer's Towing for. SA Brenton asked Deputy Andracke that during or after the time when he and Deputy Hernandez were washing up, if Deputy Andracke recalled any of the employees from Fryer's Towing speaking to either of them about the Miller's. Deputy Andracke stated as he and Deputy Hernandez were getting ready to leave, they noticed the green Jeep and mentioned to the employees about the "ruckus" that the Millers were causing. Deputy Andracke also mentioned that the Jeep was blocking their exit from the tow yard. SA Brenton spoke to Deputy Andracke about his previous statement where he indicated he was aware of the previous day's incident involving the Millers where Daytona Beach Police Department (DBPD) was called. SA Brenton reminded Deputy Andracke that he had indicated that he had remembered the employees talking about the previous day's incident, but he had indicated that nothing was directly discussed with him. SA Brenton then asked Deputy Andracke if he had remembered anything else that may have been discussed, and Deputy Andracke had said "no." SA Brenton asked Deputy Andracke if he recalled any conversation with the employees about the fact that either of

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the Millers were armed on the previous day, and Deputy Andracke said that the conversation with the Fryer's Towing employees about the previous day incident was related to him after the shooting occurred, and not before. SA Brenton asked Deputy Andracke if he was aware if Deputy Hernandez was made aware of the previous day's incident involving the Millers prior to the shooting incident and Deputy Andracke stated, "Not that I'm aware of."

SA Brenton asked Deputy Andracke if the purpose of the deputies to make contact with P. Miller was because his Jeep was blocking their exit. Deputy Andracke stated that the primary reason to contact P. Miller was to move him along because he was blocking their exit, and to also speak to him about the disturbance that they were causing and to inform them to come back on another day to settle their differences. SA Brenton then spoke Deputy Andracke about the fact that on his first interview he stated that when Deputy Hernandez first made contact with P. Miller in the Jeep, the Jeep had moved forward after Deputy Hernandez first made contact. SA Brenton asked Deputy Andracke if this was still his recollection, and he said "yes." Deputy Andracke reiterated that it is his recollection that after Deputy Hernandez made contact with P. Miller, the vehicle rolled forward and then stopped again, which is when they re-approached Deputy Hernandez, re-initiated contact and eventually opened the door to the Jeep. SA Brenton asked Deputy Andracke if he knew why Deputy Hernandez opened the door to the Jeep, and Deputy Andracke said "I do not." SA Brenton asked Deputy Andracke if he had witnessed any criminal predicate that would have caused Deputy Hernandez to open the door, and Deputy Andracke said "not that I can recall."

SA Troy Cope then asked Deputy Andracke a few questions about specifically where he was standing when the shooting incident occurred. Deputy Andracke had indicated that when he was looking towards P. Miller, he was looking through the front windshield and that there was no glare on the windshield. SA Cope then asked Deputy Andracke if, before the shooting incident occurred, if any of the employees of Fryer's Towing had asked him or Deputy Hernandez to directly confront P. Miller. Deputy Hernandez said that when the deputies told the Fryer's Towing employees that they were going to talk to P. Miller that the employees just asked them to move the Millers along.

A CD-ROM containing the audio recorded interview with Deputy Andracke will be maintained as a related item and included with this investigative report.

**FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT**

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On April 21, 2015 at 16:31 hours a sworn interview was conducted with Deputy Joel Hernandez regarding this investigation. The interview was conducted at the Law Offices of Michael Lambert at 428 N. Halifax Avenue, Daytona Beach, FL and was digitally recorded. Present during the interview was Attorney Michael Lambert, the attorney for Deputy Hernandez, and Special Agent (SA) Troy Cope. The following is a synopsis of the interview:

Deputy Hernandez is a 12 year veteran deputy with the Volusia County Sheriff's Office, and is assigned to criminal investigations. Deputy Hernandez was on duty at the time the shooting incident occurred and was performing his duties as it related to his job as a sheriff's deputy. SA Steve Brenton spoke to Deputy Hernandez about a letter that was received by FDLE on September 25, 2014 from Attorney Michael Lambert that indicated that Deputy Hernandez would not be making a statement regarding this incident. SA Brenton asked Deputy Hernandez if it was his decision to now make a voluntary statement based upon his own decision, and Deputy Hernandez said yes. SA Brenton asked Deputy Hernandez to give a chronological sequence of the events which lead up to the shooting incident, the following is a summary of Deputy Hernandez' testimony:

Deputy Hernandez said that he and Deputy Andracke arrived at Fryer's Towing on September 20, 2014 at approximately 13:00 hours to place a tracker on a vehicle relating to a separate burglary investigation. Deputy Hernandez said that none of the employees from Fryer's Towing were present, and they had to wait for the employees to arrive to gain access into the tow yard. Deputy Hernandez said that after the employees finally arrived, he and Deputy Andracke entered the tow yard and started to place the tracker on the vehicle they were there for. Deputy Hernandez indicated that he saw people outside the gate waiting to pick up their vehicles from Fryer's and soon thereafter heard someone yelling and swearing, but did not think much of it at the time. Deputy Hernandez said that the yelling and swearing continued and Deputy Hernandez eventually looked and observed a white male standing at the gate for Fryer's Towing and that his yelling and cursing seemed to be directed at the tow yard.

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Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 04/21/2015	Activity End Date:04/21/2015
Approved By: Warren, Daniel J.	

Description: Interivew of VCSO Deputy Joel Hernandez

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Deputy Hernandez said that an employee from Fryer's Towing said that the male who was yelling and cursing had his vehicle towed by Port Orange Police Department (POPD) two days prior. According to Deputy Hernandez the Fryer's Towing employee said that the same male was at Fryer's Towing on the previous day causing a disturbance and that the Daytona Beach Police Department (DBPD) had to be called to throw them off their property. Deputy Hernandez said that after this conversation occurred with the employee, he and Deputy Andracke continued putting the tracker on the vehicle, while the screaming and cursing continued off and on. Deputy Hernandez said that he did not pay much attention to the male who was screaming and cursing, and that he was on the phone talking with another investigator while Deputy Andracke continued placing the tracker on the vehicle. Deputy Hernandez said that when Deputy Andracke finished placing the tracker on the vehicle, he and Deputy Andracke started to clean up and were planning to leave.

Deputy Hernandez said that after Deputy Andracke finished cleaning up, Deputy Hernandez went into the bathroom to also clean up. Deputy Hernandez said that when he came out of the bathroom, he noticed that the employees and Deputy Andracke were "huddled up" in an area of the garage. Deputy Hernandez said that Deputy Andracke approached Deputy Hernandez and said that the male who had been yelling and cursing, who later became known as Edward P Miller (P. Miller), was now at the bottom (south) gate, threatening the employees and blocking the bottom (south) gate. Deputy Hernandez said that Deputy Andracke continued by telling Deputy Hernandez that the Fryer's Towing employees requested the deputies to "get them out of here." Deputy Hernandez said that he then looked towards the bottom (south) gate and saw a grey Jeep SUV completely blocking their exit. Deputy Hernandez indicated that this gate was the main gate for the tow company to conduct their business through, and was the same gate that he and Deputy Andracke would need to leave through. Deputy Hernandez said that he believed that based upon the way that P. Miller parked his vehicle, and P. Miller's agitated demeanor, Deputy Hernandez believed that P. Miller was trying to get the Fryer's Towing employees to engage with him into a confrontation. Deputy Hernandez said that he told Deputy Andracke, "ok we will get them to leave."

Deputy Hernandez said that he went to the trunk of his police vehicle, tucked his t-shirt into his pants, placed his badge and gun onto his right hip, and placed a holster with a set of handcuffs and extra magazine onto his left hip. Deputy Hernandez included that he had his cellular telephone on his person as well. Deputy Hernandez said that he and Deputy Andracke started walking towards the bottom (south) gate. Deputy Hernandez said that he could see a male standing outside of the grey Jeep SUV on the driver's side, talking to the person sitting in the driver's seat of the grey Jeep SUV (P. Miller). Deputy Hernandez said that the male who was standing outside of the vehicle looked at Deputy Hernandez and said something to the driver of the grey Jeep SUV. This individual then walked towards the front of the grey Jeep SUV and then out of Deputy Hernandez' view. Deputy Hernandez said that he later saw where the pickup truck was parked and discovered that the male standing outside had gone towards the pickup truck. Deputy Hernandez said that he had previously been told by the employee of Fryer's Towing that the male (P. Miller) was accompanied by another male who was in a pickup truck. Deputy Hernandez said that he was unaware about any other information relating to the pickup truck. Deputy Hernandez said that when the male standing outside of the grey Jeep SUV looked up and saw Deputy Hernandez, both of their demeanors changed "as if they had just been caught with their hand in the cookie jar." Deputy Hernandez explained this by saying

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that both males were aware that the police were present and that is why their demeanor changed.

Deputy Hernandez said that as he and Deputy Andracke continued to approach the bottom (south) gate (which was still closed at this point), P. Miller was making eye contact with them. Deputy Hernandez said that a Fryer's Towing employee, who was walking with Deputy Hernandez and Deputy Andracke, opened the bottom (south) gate with a remote control. Deputy Hernandez said that as the bottom (south) gate was opening, he and Deputy Andracke were coming out of the gate, the grey Jeep SUV moved forward. Deputy Hernandez said that as he was exiting through the gate he observed the pickup truck, in front of the grey Jeep SUV. The pickup truck started to move forward at the same time the grey Jeep SUV started to move forward. Deputy Hernandez said both vehicles abruptly stopped, and the driver of the grey Jeep SUV was looking directly at Deputy Hernandez. Deputy Hernandez said that when he reached the front passenger side window of the grey Jeep SUV, the driver, P, Miller, was still looking at Deputy Hernandez.

Deputy Hernandez said that P. Miller had his left hand on the steering wheel and his right hand was down on his lap near his front pocket. Deputy Hernandez said that the front passenger side window was up, had a light tint to it, but he could see inside. Deputy Hernandez said that he announced "sheriff's office" as he walked up to the window, and P. Miller looked at Deputy Hernandez and said something from inside the vehicle, but he could not understand what P. Miller said. Deputy Hernandez said that he again said "sheriff's office" and then motioned for P. Miller to roll down the window. Deputy Hernandez said that P. Miller again said something from inside the vehicle and Deputy Hernandez was unable to hear what P. Miller said. Deputy Hernandez said that he opened the door and again announced "sheriff's office." Deputy Hernandez said that he observed that P. Miller had his hand inside of his pocket and he was "digging in there." Deputy Hernandez described that P. Miller's hand was in his pocket up to his knuckles. Deputy Hernandez said that he was not concerned with this at that time and thought maybe that P. Miller was reaching for his driver's license. Deputy Hernandez said that he started to say to P. Miller "hey sir, you guys..." at which time he saw P. Miller raise up his body in a way to reach deeper into his pocket. Deputy Hernandez described his position at this time as being "squared off" at the open door on the front passenger side of the vehicle.

Deputy Hernandez said that he then asked P. Miller to take his hand out of his pocket and P. Miller refused to comply. Deputy Hernandez said that he continued to order P. Miller to remove his hand from his pocket, and P. Miller still refused. Deputy Hernandez said that P. Miller was screaming something, but Deputy Hernandez said he was unable to understand what P. Miller was saying. Deputy Hernandez said that P. Miller sounded like he was intoxicated and that the only thing that Deputy Hernandez could make out what P. Miller was saying, was "out car." Deputy Hernandez said that the fourth time he ordered P. Miller to take his hand out of his pocket; he did so with a raised voice. Deputy Hernandez said that P. Miller was not paying attention to his commands, and P. Miller is starting to move more hesitant and appears to be stressed. Deputy Hernandez said that P. Miller looks like he is struggling with what he has in his pocket as Deputy Hernandez again ordered P. Miller to take his hand out of his pocket. Deputy Hernandez said that he then drew his duty weapon, a Glock 27 .40 caliber handgun, from the holster on his right hip. Deputy Hernandez said that P. Miller made a "jerk motion" at which time Deputy Hernandez recognized that P. Miller had a gun in his pocket, and saw a black pistol grip coming out of P. Miller's pocket. Deputy Hernandez said that he observed P.

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Miller continue to remove the gun from his pocket, and as Deputy Hernandez observed the cylinder of P. Miller's gun come out of his pocket, he raised his firearm in the two handed position and fired his weapon directly at P. Miller's body. Deputy Hernandez described that the shots took immediate effect as P. Miller dropped back with his back to the driver's side door, his hand dropped, and he slumped into the steering wheel.

Deputy Hernandez said that he saw the revolver in P. Miler's lap as P. Miller slumped towards the right side. Deputy Hernandez said that P. Miller's foot came off of the brake and the vehicle began to roll forward. Deputy Hernandez said that as the vehicle started to roll forward, Deputy Hernandez side stepped, keeping up with the vehicle until he realized that P. Miller was no longer a threat. Deputy Hernandez said that he moved away from the vehicle, when P. Miller's vehicle crashed into the red pickup truck. Deputy Hernandez said that he then started to concentrate on the occupant of the red pickup truck as he and Deputy Andracke started to back up around the concrete wall at the bottom (south) gate for cover.

Deputy Hernandez said that the occupant in the red pickup truck exited and he recognized that this was the same person who was standing at the driver's side of the grey Jeep SUV, when Deputy Hernandez approached the bottom (south) gate erlier. Deputy Hernandez ordered the male, later identified as Edward D. Miller (D. Miller), to walk back to behind the gate of the tow yard, when D. Miller was taken into custody. Deputy Hernandez said that he looked back towards the grey Jeep SUV and observed that P. Miller was still moving. Deputy Hernandez said that he gave orders to P. Miller to show his hands, but received no response. Deputy Hernandez said that he then used his cellular telephone to call 911 and informed the dispatcher what just occurred. Deputy Hernandez said that after relaying the information to 911, he continued to give commands in the direction of P. Miller, when D. Miller said to Deputy Hernandez that P. Miller was "deaf." Deputy Hernandez continued to make the commands and changed his position from the west side of the open bottom (south) gate to the east side to better cover the grey Jeep SUV. Deputy Hernandez said that DBPD arrived on the scene, and Deputy Hernandez told the DBPD officers that P. Miller was in the vehicle and he had a weapon on him. Deputy Hernandez said that he then went up to the office of Fryer's Towing while the investigation was being conducted.

SA Brenton asked Deputy Hernandez how much time elapsed when he first heard the shouting when Deputy Hernandez first got to Fryer's Towing, until he observed the grey Jeep SUV blocking the bottom (south) gate. Deputy Hernandez indicated the yelling and cursing began at approximately 13:25 hours, and lasted approximately one hour. SA Brenton asked Deputy Hernandez if he was aware of the previous day's incident involving the Millers at Fryer's Towing, and he said "yes." SA Brenton asked Deputy Hernandez who told him about the previous day's incident, and he said it was the driver from Fryer's Towing who was wearing the traffic vest. (Agent Note: This investigation revealed that this was Erik Stewart) SA Brenton asked Deputy Hernandez if the employee mentioned anything about a crime having occurred on the previous day, and Deputy Hernandez said "no" and only that DBPD asked the Millers to leave. SA Brenton asked Deputy Hernandez if the employee mentioned if either of the Millers were carrying a weapon on the previous day, and Deputy Hernandez said "I was never told that." SA Brenton spoke with Deputy Hernandez about the threats that had been made prior to the shooting incident. Deputy Hernandez stated that he was made aware by Deputy Andracke of the threats. SA Brenton asked Deputy Hernandez of any specific threats that had been made, and he said "no." SA Brenton asked Deputy Hernandez if any of the Fryer's Towing

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employees had requested a report to be made regarding the threats or wanted to press charges regarding the threats, and Deputy Hernandez said "no." SA Brenton asked Deputy Hernandez if there was ever an initiation of a criminal investigation, or was the purpose to make contact with P. Miller was just to tell them to leave. Deputy Hernandez said that the contact with P. Miller was just to tell him to leave.

SA Brenton asked Deputy Hernandez what kind of cars they were driving that day and where were they parked at Fryer's Towing. Deputy Hernandez said that his vehicle was a silver Ford Crown Victoria, and Deputy Andracke had a red Jeep Cherokee. Deputy Hernandez said that the vehicles were parked inside the yard facing the bottom (south) gate, closer to the garage and his vehicle was parked in front of Deputy Andracke's vehicle. SA Brenton asked Deputy Hernandez how he and Deputy Andracke were dressed, and Deputy Hernandez said that he was wearing a t-shirt and blue jeans, and Deputy Andracke was wearing a white t-shirt and shorts. SA Brenton asked Deputy Hernandez who was standing with Deputy Hernandez when he retrieved his badge and gun from the trunk and Deputy Hernandez said that Deputy Andracke, and the Fryer's Towing employee who had the remote to open the gate were there. SA Brenton asked Deputy Hernandez how they were positioned when they walked to the bottom (south) gate, and Deputy Hernandez said Deputy Andracke was to his right, and the Fryer's Towing employee was further behind them. SA Brenton asked Deputy Hernandez if P. Miller had direct eye contact with Deputy Hernandez when they were walking towards the vehicle, and Deputy Hernandez said he did not see eye contact, but the way that P. Miller's head and body was turned Deputy Hernandez knew that P. Miller could see him. SA Brenton asked Deputy Hernandez if while he was walking towards the bottom (south) gate and D. Miller was standing outside of P. Miller's vehicle talking to him, if Deputy Hernandez could hear any of their conversation, and he said "no." SA Brenton asked Deputy Hernandez how he was certain that the Millers were aware that they were police officers, and Deputy Hernandez said it was based upon the Millers demeanor. SA Brenton asked Deputy Hernandez if he was aware of anybody from Fryer's Towing, or anyone else, who may have told the Miller's prior to the shooting incident that the police were present at the tow yard, and Deputy Hernandez said "no." Deputy Hernandez later stated that there was a possibility that the Millers may not have known that he and Deputy Andracke were police officers while they were walking towards the bottom (south) gate.

SA Brenton asked Deputy Hernandez if when P. Miller moved his vehicle forward as the bottom (south) gate was opening, if P. Miller's vehicle was still blocking the exit, and Deputy Hernandez said "yes" indicating the vehicle had only moved about five (5) feet. SA Brenton asked Deputy Hernandez once he reached the grey Jeep SUV, and was standing at the front passenger side window, if P. Miller had the ability to see Deputy Hernandez' badge and gun. Deputy Hernandez said "no" that P. Miller would not have been able to see them. SA Brenton asked Deputy Hernandez if he could say with absolute certainty that P. Miller knew that Deputy Hernandez was a police officer, and he said "yes," because once Deputy Hernandez opened the door of the vehicle, P. Miller could see a badge and a gun. Deputy Hernandez added that P. Miller had a clear view of Deputy Hernandez' badge once Deputy Hernandez had the door open, and that the badge was not obstructed in any way. SA Brenton asked Deputy Hernandez if at any time he had taken his badge off of his belt to display it, or tap it on the passenger side window, and Deputy Hernandez said "no," the badge was clipped to his belt the entire time. SA Brenton asked Deputy Hernandez if, prior to Deputy Hernandez opening the passenger side door, if his certainty that P. Miller knew Deputy Hernandez was a police officer was based upon

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an assumption, or if Deputy Hernandez heard any statements by P. Miller which made it clear that he knew Deputy Hernandez was a police officer. Deputy Hernandez said that it was just an assumption.

SA Brenton asked Deputy Hernandez why he opened the door to P. Miller's vehicle. Deputy Hernandez said that it was to further communicate with P. Miller. Deputy Hernandez added that this was not only because he believed that P. Miller could not understand what Deputy Hernandez was saying, but also because he did not know what P. Miller was saying. SA Brenton asked Deputy Hernandez if P. Miller made any movement, motion, or communication inviting Deputy Hernandez to open the door, and Deputy Hernandez said "no." SA Brenton asked Deputy Hernandez how much time elapsed from when he first reached the passenger side of P. Miller's vehicle until Deputy Hernandez opened the door, and Deputy Hernandez said "five to six seconds." SA Brenton asked Deputy Hernandez if it is common for him to open someone's door, during the performance of his duties, if the purpose of opening the door is to communicate with the person, and Deputy Hernandez said "yes" that it happens often.

SA Brenton then spoke to Deputy Hernandez about P. Miller pulling his firearm out of his pocket. SA Brenton asked Deputy Hernandez if P. Miller ever got the firearm completely out of his pocket before Deputy Hernandez fired his weapon, and Deputy Hernandez responded "no." Deputy Hernandez said that sometime after he fired the shots at P. Miller, P. Miller's gun came out of his pocket because when Deputy Hernandez stopped firing his weapon, he noticed P. Miller's gun was in his lap. SA Brenton asked Deputy Hernandez how many shots he fired at P. Miller, and Deputy Hernandez said he fired four or five shots. SA Brenton asked Deputy Hernandez why he fired his weapon. Deputy Hernandez responded, "he was bringing a gun out. I know that he... I've already identified myself as a law enforcement officer... very clear... his actions continued on... you see me in there now you are bringing a gun out.. it's not to show it to me by now... because I've ordered you a couple of times to keep your hands out of your pocket... I've already brought a gun out and I've showed you that I will use lethal force... I want you to get that hand out of your pocket but now you're coming out with a gun... his demeanor said that he was going to kill me and Matt Andracke." SA Brenton asked Deputy Hernandez if there was a possibility that P. Miller thought that all three of them were Fryer's Towing employees and that the three of them were coming out to beat P. Miller up or something. Deputy Hernandez indicated that this was possible, maybe after they first were walking towards the gate, but not once they got closer because of the fact that Deputy Hernandez was wearing a badge and a gun.

SA Cope asked some follow up clarification questions, and asked Deputy Hernandez to prepare a diagram of the Fryer's Towing yard with locations of where the vehicles involved were located and the positions of Deputy Hernandez and Deputy Andracke. Afterwards, SA Brenton also asked a few more clarification questions just to reiterate the earlier testimony of Deputy Hernandez. A full depiction of the interview can be obtained by reviewing the digital recording of the interview.

A CD-ROM containing the audio recorded interview with Deputy Hernandez, along with the diagram prepared by Deputy Hernandez, will be maintained as related items and included with this investigative report.

FLORIDA DEPARTMENT OF LAW ENFORCEMENT
INVESTIGATIVE REPORT

On September 20, 2014, the Volusia County Sheriff's Office (VCSO) requested the Florida Department of Law Enforcement (FDLE) conduct an investigation into the use of deadly force by Deputy Sheriff Joel Hernandez, which resulted in the death of Edward Prescott Miller. The incident occurred at 722 North Segrave Street, Daytona Beach, FL. (VCSO Case Number: 140025681).

On May 22, 2015, Special Agent (SA) Steve Brenton of the Florida Department of Law Enforcement (FDLE) received and reviewed a letter from State Attorney R.J. Larizza of the Seventh Judicial Circuit of Florida. An excerpt from the letter is as follows:

"This letter is to advise that this office has reviewed all of the investigative reports, witness statements and officer statements provided by the Florida Department of Law Enforcement regarding the 'police use of force' of Deputy Joel Hernandez of the Volusia County Sheriff's Office that occurred on September 20, 2014.

Based on our review of the investigation and information provided, no further action is warranted by this office."

This case is hereby considered closed.

A copy of the letter by State Attorney R.J Larizza was digitally uploaded and will be maintained as a related item with this investigative report.

Case Number: OR-27-0198	Serial #: 36
Author: Brenton, Stephen A	Office: Orlando
Activity Start Date: 05/22/2015	Activity End Date:05/22/2015
Approved By: Warren, Daniel J.	

Description:Case Closure

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