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POLICE USE OF FORCE INVESTIGATION

OR-27-0216



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Prepared for the Office of the State Attorney

Seventh Judicial Circuit

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OFFICE OF THE STATE ATTORNEY 7TH JUDICIAL CIRCUIT

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Florida Department of Law Enforcement

Case Number: OR-27-0216

Seventh Judicial Circuit of Florida



Investigative Summary:

Police Use of Force

Volusia County Sheriff's Office

Incident Date: March 4, 2015

Case Agent:

Special Agent Troy K. Cope

SUBJECT:

Derek Andre Cruice
White/Male
DOB: 01/26/1989

LAW ENFORCEMENT:

Deputy Todd Raible
Volusia County Sheriff's Office
1691 Providence Boulevard
Deltona, FL 32725

INCIDENT LOCATION:

831 Maybrook Drive
Deltona, FL 32725

INVESTIGATIVE SUMMARY

FDLE's Initial Response to 831 Maybrook Drive

(IR #1)

On Wednesday, March 4, 2015, 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 VCSO Deputy Todd Raible, which resulted in the death of Derek Cruice. The incident occurred at 831 Maybrook Drive in Deltona, Florida, during a narcotics search warrant (VCSO Case #150005942).

This investigation revealed that on Wednesday, March 4, 2015, at approximately 0630 hours, members of the VCSO Deltona Narcotics Enforcement Team (DNET), which included Deputies Todd Raible, Jeremy Patterson, Aaron Blais, Austin Raimundo, John Frazzini, and Sergeant Jimmie Carlisle, along with VCSO District IV Street Crimes Unit Sergeant Jason Stickels and Deputy Cody Cochran, were serving a search warrant at 831 Maybrook Drive in Deltona, Florida.

During the search warrant, Deputy Cochran knocked on the front door to the residence, made contact with Matthew Grady, removed him from the residence, and secured him in handcuffs next to the front door. The DNET investigators approached the front door when Deputy Raible found that the door was closed. Deputy Raible attempted to open the door with his hand, found that it was locked, and subsequently kicked the front door open, where he encountered Derek Cruice in the doorway. Deputy Raible fired one round from his firearm, which struck Cruice in the face.

The remaining DNET investigators entered the residence and secured the remaining occupants: Steven Cohron, Samantha Sterrett, Gerald Bishop, and Kristina Rodriguez. The investigation found that Cruice, Sterrett, Cohron, Grady, Bishop, and Rodriguez were friends and roommates, all residing at 831 Maybrook Drive. The City of Deltona Fire / Rescue (DFR) and EVAC Ambulance personnel responded and treated Cruice at the scene. Cruice was transported to Florida Hospital Fish Memorial located in Orange City, Florida, where he was pronounced deceased at approximately 0707 hours.

Narcotics Investigation and Search Warrant

(IR #38)

On Tuesday, March 3, 2015, Deputy Frazzini obtained a search warrant for 831 Maybrook Drive in Deltona, Florida. The search warrant was signed by the Honorable Matthew M. Foxman, Circuit Judge for the Seventh Judicial Circuit.

The warrant encompassed a search for cannabis, any other controlled substances, and associated paraphernalia, kept at 831 Maybrook Drive. The potential occupants of the residence listed in the search warrant included Pamela Marie Powell, Derek Andre Cruice, and Samantha Marie Sterrett.

The affidavit indicated that in February of 2015, Deputy Frazzini received anonymous information about narcotics activity occurring at 831 Maybrook Drive and that Derek Cruice and his girlfriend, Samantha Sterrett, lived at the residence. The affidavit further stated that both individuals were known to use and sell a variety of illegal narcotics to include cannabis. On two

separate occasions in February of 2015, "trash analysis" was conducted by DNET at the residence, resulting in positive results for cannabis in the trash.

On Wednesday, March 4, 2015, between 0545 and 0600, Deputy Frazzini conducted a briefing behind the Publix, located at 915 Doyle Road in Deltona, Florida. The members of DNET assisting with the search warrant were present, as well as the two marked patrol vehicles operated by Sergeant Stickels and Deputy Cochran. The plan was for DNET investigators to serve the search warrant and Sergeant Stickels and Deputy Cochran would be utilized to make the initial contact with the occupants of the residence.

At the briefing, Deputy Frazzini presented information from the case file that he had with him. Deputy Frazzini identified who may possibly be inside the residence to include Cruice, Sterrett Powell, and Gerald Bishop. It was also discussed that the address numbers to the right of the front door were currently affixed to the residence in a way to display the house number at "813," and not "831". The information presented at the briefing was developed from Deputy Frazzini's knowledge of investigation and the following documents:

- Search Warrant for 831 Maybrook Drive
- Volusia County Property Appraiser's Office "Property Record Card" and building sketch of 831 Maybrook Drive
- Directions from 1281 Providence Boulevard to 831 Maybrook Drive
- "Investigative Progress Notes" for Case #15-3792
- Two VCSO "Property Reports" related to evidence obtained from the "trash analysis"
- VCSO "Operation Plan"
- Six color photographs of the front of 831 Maybrook Drive
- Criminal history and Florida driver's license information for the suspected occupants

Following the briefing, the DNET investigators rode to 831 Maybrook Drive in two trucks driven by Sergeant Carlisle and Deputy Raimundo, accompanied by Sergeant Stickels and Deputy Cochran in the two marked units. Deputy Frazzini and Deputy Patterson rode with Sergeant Carlisle, and Deputies Blais and Raible rode with Deputy Raimundo. Upon their arrival at 0630 hours, Sergeant Stickels and Deputy Cochran parked their vehicles in front of the residence and the DNET investigators parked in front of the house, to the right (west) of 831 Maybrook Drive. The DNET investigators approached from the west and positioned themselves at the front right corner (west) of the residence, next to the garage. Sergeant Stickels walked to the front left corner (east) of the residence, while Deputy Cochran knocked on the front door.

Interview of Deputy Cody Cochran

(IR #4)

On Wednesday, March 4, 2015, FDLE Special Agents (SA) Troy Cope and Bill Lee conducted a voluntary, sworn, recorded interview of Deputy Cody Cochran. Also present was Deputy Cochran's attorney, Michael H. Lambert. A synopsis of the interview is as follows:

On Wednesday, March 4, 2015, Deputy Cochran assisted DNET with conducting a search warrant at 831 Maybrook Drive. Deputy Cochran was assigned to make the initial contact with the occupant(s) of the residence by knocking on the front door to gain entry into the residence.

Deputy Cochran parked his patrol vehicle directly in front of the residence on the street, so that someone looking from the front door or windows of the residence would be able to see his vehicle. Deputy Cochran said that he left the head lights and tail lights on, with the engine

running, as he exited his vehicle. Deputy Cochran walked up the driveway and checked to see if anyone was in any of the three vehicles parked at the residence. Deputy Cochran proceeded to the front door from the driveway. Deputy Cochran said the lighting condition outside of the residence was dark and that it was foggy, but the front porch light was on.

Deputy Cochran knocked on the front door seven to eight times and waited for a response. No response came and Deputy Cochran knocked again. As Deputy Cochran knocked, he observed the lower right corner of the blinds to the front window of the residence pull back approximately a foot and a half from the window. Deputy Cochran announced, "Sheriff's office." A male answered, "Who is it?" Deputy Cochran stated, "Sheriff's office, can you come to the door?" and the male replied, "Give me a minute."

Deputy Cochran waited for the individual to answer the door, and knocked again. The blinds moved back again, and Deputy Cochran walked over to the window and shined his flashlight in the opening of the blinds. Deputy Cochran observed a white male with dark hair through the window and requested the individual to come outside. Approximately five to ten seconds later, Matthew Grady opened the door.

Deputy Cochran asked Grady to come outside and advised Grady that he was with the sheriff's office and that he had a search warrant. Subsequently, Deputy Cochran grabbed Grady's arms, turned him around, and pushed his torso against residence, just to the right of the front door, directly under the address numbers on the wall. Deputy Cochran was not sure if Grady pulled the door close as he exited the residence or left it open, and did not recall hearing the door close. At the same time, the DNET investigators were moving from the garage area toward the front door to enter the residence.

Deputy Raible was the first DNET investigator to approach the door. Deputy Cochran indicated that Deputy Raible spoke to Grady, stating that the investigators were with VCSO and that they had a search warrant for the residence. Deputies Cochran and Raible also asked Grady if there were any additional occupants inside, and Grady indicated that there were additional individuals inside the residence.

Deputy Raible arrived at the front door, and attempted to open it by pushing down on the door handle, but he could not open the door. Deputy Cochran observed Deputy Raible kick the door multiple times, with his right leg, just to the side of the door handle. This caused the door to open. Deputy Cochran indicated that following the door opening he heard a "pow," which was later determined to be Deputy Raible discharging his firearm. Deputy Cochran indicated that from the time the door opened to the gunshot was approximately three to five seconds. Deputy Cochran stated the "pow" was muffled so much that Deputy Cochran did not know it was a gunshot at first. Deputy Cochran did not observe the gunshot because Deputy Raible was just inside the doorway and Deputy Cochran was holding Grady to the right of the door. Deputy Cochran did not recall if Deputy Raible made any announcements when Deputy Raible was kicking the door or when the door opened.

Following the shooting, the remaining DNET investigators, except for Sergeant Carlisle and Deputy Raible entered the residence. Deputy Cochran handcuffed Grady and had Grady "go to the ground" from where Grady stood. Deputy Cochran stepped to the doorway and looked inside the residence. Deputy Cochran indicated the lighting conditions inside the residence were "poor," but Deputy Cochran observed the other DNET investigators clearing the residence. Deputy Cochran also saw Cruice, lying on his back, approximately five feet from the open door, and stated that Cruice's face was "extremely bloody."

Deputy Cochran waited for the house to be cleared, before he went inside the residence. When Deputy Cochran entered the residence, he went to the left and down the hallway to the back bedroom, where he secured Samantha Sterrett, escorted her out of the front of the residence, and had her sit outside the door near Grady. Later, Grady and Sterrett were moved to the end of the driveway. After Deputy Cochran moved the occupants from the front door area, Deputy Cochran returned inside the residence to assist with rendering aid to Cruice. Deputies Blais, Patterson, and Raimundo were already rendering aid to Cruice who was unconscious and unable to communicate with the deputies.

Interview of Deputy Todd Raible

(IR #5)

On Tuesday, March 10, 2015, SA Cope and SA Lee conducted a voluntary, sworn, recorded (audio and video) interview of Deputy Todd Raible. Also present was Deputy Raible's attorney, Michael H. Lambert. A synopsis of the interview is as follows:

Deputy Raible has been employed with VCSO for approximately ten years and is assigned as an investigator with DNET. In addition to working as an investigator with DNET, Deputy Raible is also a member of the VCSO SWAT Team, and has been on the SWAT Team for approximately eight years. Prior to joining VCSO, Deputy Raible was an officer with the Volusia County Beach Patrol for approximately 3 ½ years.

On Wednesday, March 4, 2015, Deputy Raible was serving in his official capacity as a DNET investigator, serving a narcotics search warrant at 831 Maybrook Drive. Deputy Raible was assigned to make the "initial entry" into the residence, meaning he would be the first one going inside. Deputy Raible indicated that this is his normal position when serving search warrants with DNET, as he has the "most amount of training and experience conducting entries," compared to the other DNET investigators.

Deputy Raible was positioned in front of the garage on the right side (west) of the residence. This made him the closest DNET investigator to Deputy Cochran, who was positioned at the front door. Deputy Raible could not see the front door but could see Deputy Cochran as he waited for an answer at the door. Deputy Raible indicated that Deputy Cochran knocked on the door once, received no answer, and knocked again. After some time elapsed, Deputy Cochran appeared to be engaged in dialogue with someone inside the residence through the door or front window.

Deputy Raible heard Deputy Cochran identify himself as being with the sheriff's office, and requested that this individual come outside. Again, there was a delay, but subsequently, the individual, later identified as Grady, opened the door and exited the residence. Deputy Raible headed to the front door; as he approached, he could see that the front door was open approximately three to four inches.

Deputy Raible looked right at Grady, who was standing with Deputy Cochran, and stated, "Sheriff's office, we have a search warrant. Is there anybody else inside?" As Deputy Raible finished the statement, the front door closed. From Deputy Raible's perspective, he surmised that the door had been purposely shut from the inside. Deputy Raible stated, "When the door closed, I'm up...this is not going the way it should." Deputy Raible indicated that the delay in answering the door by any occupant(s), coupled with the door closing, increased Deputy

Raible's "sense of urgency" to open the door and enter the residence. Deputy Raible believed they would be facing resistance or whoever was inside would be uncooperative.

Subsequently, Deputy Raible arrived at the front door, depressed the thumb latch, and attempted to push the door open. Deputy Raible did not believe the door had been locked, so he expected it to open. Deputy Raible said, "I almost smashed my face into the door, because it did not open," as he thought he would be able to walk inside. Deputy Raible tried to open the door again, fully depressing the door latch, but the door did not open. Deputy Raible announced, "Sheriff's office, search warrant. Open the door." Sergeant Carlisle ordered a forced entry into the residence, by stating, "Break it."

At this moment, it "started feeling dangerous," like "there was something more going on here," according to Deputy Raible. Deputy Raible wanted to be able to see what was happening inside the residence. Deputy Raible said, "I did not like what I felt, so I gave the door a kick," and the door did not "budge." Deputy Raible indicated that the door did not feel like it moved at all, so Deputy Raible kicked the door a second time, which caused the door to fly open.

After the kick, Deputy Raible's foot landed on the patio, just outside of the open front door. Deputy Raible paused to get a "read" of the inside of the residence, stating it was dark inside. Deputy Raible observed the outline of "a person's body," (Cruice) that moved around the door, to Deputy Raible's right, to avoid being hit by the opening door. Cruice then moved "aggressive," "fast," and "determined" toward Deputy Raible. Deputy Raible felt as if Cruice was trying to "get square with me to come at me." Deputy Raible did not hear Cruice state anything to him when the door came open. Deputy Raible could not recall if he said anything at that moment, but stated, "Generally, when confronted by a person, I say, 'Hands up.' It's an automated response. I do it every single time."

Deputy Raible saw Cruice's left hand and right shoulder / chest / bicep area moving forward at him. Deputy Raible indicated that Cruice's left hand was extending toward Deputy Raible's chest and appeared to be meeting something else. Deputy Raible stated, "It seems like an object moving through the air and they are trying to marry up." Deputy Raible interpreted the motion by Cruice stating, "The only thing that I can think is this is how somebody tries to draw on you or point at you, with a gun to shoot you."

Subsequently, Deputy Raible extended his firearm half way out with his right hand, pointed at the "center of motion" he observed coming toward him, and discharged one round at Cruice. Deputy Raible said that he felt that Cruice was very close to him, "about to invade" his personal space, and was within arm's reach, when he discharged the firearm. Deputy Raible began to reset the trigger to take another shot when Cruice became more visible in the doorway. Deputy Raible observed Cruice stand "straight up," and Cruice's hands draw towards Cruice's chest from being extended outward. When Cruice fell straight back, Deputy Raible saw that there was nothing in Cruice's hands. Deputy Raible indicated that the duration of the encounter from when the door was kicked opened to when Cruice was shot was approximately two to three seconds. Deputy Raible indicated that it happened so fast, he did not have time to activate the flashlight on his firearm, nor place his left hand on the firearm, since he was only concerned about protecting himself at that moment.

Deputy Raible assessed that Cruice was no longer a threat to him, so he scanned the living room area of the residence. At this time, Deputy Raible was still standing in the doorway. Deputy Raible heard Sergeant Carlisle ask if "rescue" was needed, which Deputy Raible said,

"Yes, we need rescue." Deputy Raible stepped to the side to let the other DNET investigators enter the residence to check for and secure the other occupants.

Deputy Raible walked from the front patio area, to the driveway, thinking to himself, "It was there. The gun was there...He was pointing something at me," but Deputy Raible did not see anything fall from Cruice's hands. Deputy Raible took off his gun belt and fell to his knees in the driveway. Deputy Raible indicated that a wave of emotions overcame him. Deputy Raible thought to himself, "No one is going to understand, and they are going to take me from my sons, and they are going to take me to jail." Deputy Raible indicated that he may have made these statements out loud, but was not certain if he did or not.

Deputy Raible elaborated on the emotions and thoughts he was feeling at that moment. In the driveway, it dawned on him that Cruice did not have anything in his hands. Deputy Raible stated, "Everything that I believed was true, and correct, and real, all of a sudden seemed like it wasn't." Deputy Raible stated that no one would understand that at the moment he discharged his firearm, Deputy Raible "thought that he [Cruice] was trying to hurt me or kill me...I did it. I had to do it."

From the driveway, Sergeant Carlisle took Deputy Raible to his truck where he waited to be removed from the scene. Deputy Raible had no further contact or interaction with Cruice or any of the occupants of the residence. Deputy Raible was consoled by the other DNET investigators and VCSO Sergeant Brodie Hughes. Shortly after the shooting incident, Deputy Raible recalled someone, possibly Sergeant Carlisle, asked him what happened. Deputy Raible responded, "Did you see it? It was there. It was a gun. Did you find it?" Deputy Raible also demonstrated the motion he observed from Cruice to who he was speaking to, by extending his arms from his chest, hands together, straight out.

According to Deputy Raible, the last SWAT training he attended prior to the shooting incident was on the previous Wednesday (February 25, 2015). Deputy Raible indicated that SWAT trainings consist of practicing entry techniques, hostage situations, active shooters, and dynamic entries. Firearms training is also a part each SWAT training. Deputy Raible said that when he first became a member of the SWAT Team, the trainings were held three times a month, but due to "financial reasons," SWAT training is now held twice a month. Deputy Raible stated that the number of SWAT Team search warrants he has participated in is "in the hundreds." For the past year, Deputy Raible was assigned to be the second officer through the door on SWAT Team search warrants. Deputy Raible stated that in the close to four years he has been a part of DNET, he has conducted over a hundred search warrants.

Deputy Raible was asked if he had ever encountered a similar situation in which a door was "breached" and an individual was standing in a similar position as Cruice. Deputy Raible indicated that he had, and the difference with the other person was that they "stayed motionless" and made no advancement toward Deputy Raible. The individual also placed their hands up when commanded to do so. Deputy Raible has practiced scenarios in training where someone is in the proximity of a "breached" door, but the individuals did not come aggressively toward Deputy Raible, but instead complied with commands or waved their hands in the air with no forward motion.

On Wednesday, March 4, 2015, SA Cope and SA Lee conducted a voluntary, sworn, recorded interview of Deputy Jeremy Patterson. Also present was Deputy Patterson's attorney, Michael H. Lambert. A synopsis of the interview is as follows:

On Wednesday, March 4, 2015, Deputy Patterson was positioned behind Deputy Raible at the garage, making him the second DNET investigator in the "stack" in front of the garage.

Deputy Patterson observed Deputy Cochran knock on the door "six or seven times," receiving no answer. After some time elapsed, Deputy Patterson heard Deputy Cochran state, "This is the Sheriff's Office...can you come outside?" Deputy Patterson heard a response from inside the residence, "Hold on a minute." Approximately 30 seconds later, Deputy Cochran knocked on the door again. Deputy Patterson heard someone on the inside speaking, followed by Deputy Cochran stating, "Sheriff's office, will you come outside?"

Subsequently, an individual, later identified as Grady, answered the door. Then, in a ruse to get Grady to come outside, Deputy Cochran notified Grady that a car out in front of the residence had been broken into. Grady, walked outside, and the DNET investigators began to move toward the front door since it was opened.

Deputy Raible was first in the "stack" and the "lead penetrator," followed by Deputy Patterson. Deputy Patterson indicated that Deputy Cochran turned Grady around and started to handcuff him. Deputy Raible, addressed Grady by stating, "We have a search warrant for the home, sheriff's office." Additionally, Deputy Raible asked Grady if there were any other occupants inside the residence. As Grady responded to the question, the door slammed shut.

Deputy Patterson indicated that he was not sure how far open the door was, but heard the door "deliberately slammed closed," followed by a "click," which was interpreted by Deputy Patterson as the door being locked. The door being "closed and locked" indicated to Deputy Patterson that the DNET investigators were going to meet some resistance. Deputy Patterson said that when the door closed, Deputy Patterson "had a really bad feeling." Deputy Patterson was concerned about the remaining occupants hiding themselves within the residence and / or "flushing" the drugs.

Deputy Patterson stated to Deputy Raible, "Someone locked the door. Someone locked the door." Deputy Patterson indicated the "stack" became "bunched up" near the door. At this point, Deputy Patterson is right behind Deputy Raible. Deputy Raible announced loudly, "Sheriff's office. Search warrant. Open the door!" There was no response to Deputy Raible's announcement at the door. Deputy Patterson saw Deputy Raible reach to open the door from the door handle, but it was locked. Deputy Raible then kicked the door, the door did not "budge," and Deputy Raible announced again, "Sheriff's office. Search warrant," followed by kicking the door a second time.

Subsequently, the door opened into the residence and Deputy Patterson saw Cruice, standing in the doorway, just past where the door had opened. Deputy Patterson indicated the inside of the residence was dark. The porch light was on outside of the residence, and the brightness of the porch light, in contrast to the darkness of the interior of the residence, visually made the inside appear darker. Deputy Patterson recalled being able to see the back of Cruice's hands illuminated from the light, but anything past the front of Cruice's hands was not clearly visible.

Deputy Patterson said he was surprised to see Cruice standing where he was. Cruice did not "flinch" or "move," but was just looking directly at Deputy Raible, standing, and leaning forward in a "fighting stance." Deputy Patterson indicated that Deputy Raible was stating something, possibly ordering Cruice to show his hands, but Cruice did not react to Deputy Raible. Deputy Patterson stated that Cruice's hands appeared to be together at his upper chest and "cupped," "like he was holding something." Deputy Patterson stated that his view of Cruice's hands was partially obscured, due to Deputy Raible's position, but he could see Cruice's left hand.

Deputy Patterson observed Cruice's shoulders "roll back," and Cruice's hands start to move forward. Deputy Patterson described the motion made by Cruice by saying, "The way that his hands were together was like he was holding a firearm, and the way his shoulders rocked back, it's the way that I shoot. You come out...you shrug, you're elevating the gun, you bring the sights to your eyes...That's how I shoot, that's how I see everyone shoot...the stance." Deputy Patterson said, "I felt like we were going to get shot at." Subsequently, Deputy Patterson heard a "pop," as Deputy Raible discharged his firearm once at Cruice. Deputy Patterson saw that Cruice had been struck by the round in his face, and Cruice fell to the ground.

Deputy Patterson further stated, "If Todd was not in my way, I would have shot him...I thought that he had a gun, and I thought he was going to shoot us." Deputy Patterson indicated that he did not discharge his weapon at Cruice, because it was Deputy Raible's responsibility to handle Cruice. Additionally, Deputy Raible was in the center of the doorway, blocking any possible shot, especially since he is left handed and he was on Deputy Raible's right side.

Deputy Patterson entered the residence, went to the right, and encountered Cohron, who was standing in the living room. Deputy Patterson indicated that Cohron was compliant and went straight to the ground, where Deputy Blais handcuffed him. Deputy Frazzini then came up to their position and assisted Deputy Patterson with clearing the remaining rooms on the right side of the residence. After clearing the right side of the residence, Deputies Patterson and Frazzini went back to the front door area, and cleared the left side of the residence. As the remaining occupants of the residence were secured, Deputies Patterson and Frazzini completed a "secondary sweep" of the residence. Deputy Patterson described the scene as "very chaotic."

After the residence was cleared, Deputy Patterson turned his attention to providing aid to Cruice. Deputy Patterson indicated that Cruice had an entry wound to his face, near his mouth, and was having difficulty breathing. Deputy Patterson indicated that either he or Deputy Raimundo went to get a "med pack" out of the truck, and Deputy Patterson told someone to open the blinds of the front window to let more light in. Deputy Patterson was concerned that Cruice was having difficulty breathing, so Deputies Patterson and Raimundo rolled Cruice onto his side to make sure his airway was not obstructed by blood. Deputy Patterson spoke to Cruice, telling him to "hang in there" and that EVAC was coming.

Once Cruice was rolled onto his side, Deputy Patterson began to look for a gun, but did not find one. Deputy Patterson then searched for other objects Cruice may have had in his hand, like a phone, but found nothing.

Deputy Patterson went outside of the residence looking for Deputy Raible after EVAC had arrived on scene. Deputy Patterson indicated that Deputy Raible was by Sergeant Carlisle's truck, on his knees, and visibly upset. Deputy Raible uttered to Deputy Patterson, "He had something in his hands." Deputy Patterson stated to Deputy Raible that he did not find anything

near Cruice. Deputy Patterson went back into the residence as EVAC personnel were putting Cruice on the stretcher, but again did not find anything.

Interview of Deputy John Frazzini

(IR #9)

On Wednesday, March 4, 2015, SA Cope and SA Lee conducted a voluntary, sworn, recorded interview of Deputy John Frazzini. Also present was Deputy Frazzini's attorney, Michael H. Lambert. A synopsis of the interview is as follows:

On Wednesday, March 4, 2015, Deputy Frazzini was the third DNET investigator in the "stack" in front of the garage.

Deputy Frazzini heard Deputy Cochran knock on the door several times without getting an answer. After "a couple of minutes" elapsed, Deputy Cochran made contact with someone inside the residence. Deputy Frazzini heard Deputy Cochran state, "It's the sheriff's office. I need you to come to the door." Deputy Cochran had to repeat this a couple of times, since the individual did not come to the door immediately. After "a solid minute, at least," an individual, later identified as Grady, opened the door, and Deputy Cochran began speaking to him.

Once contact was made with Grady, the "stack" moved toward the front door. Deputy Frazzini observed Deputy Cochran standing with Grady, away from the front door, when Deputy Frazzini saw the front door close. Deputy Frazzini said that Grady was away from the door, so he could not have closed it. Deputy Frazzini believed the door was closed from the inside.

Deputy Raible was in front of the door, Deputy Patterson was just to the right of Deputy Raible off of Deputy Raible's shoulder, and Deputy Frazzini was to the right of Deputy Patterson, approximately three to four feet from the door. When the door closed, Deputy Raible announced, "sheriff's office, search warrant." Deputy Raible tried to open the door, but it was locked, and Sergeant Carlisle ordered the door to be breached.

Deputy Frazzini saw Deputy Raible step back and kick the door, which did not open. Deputy Raible kicked the door a second time and it opened. Deputy Frazzini heard Deputy Raible give the command, "Sheriff's office, hands up," multiple times, followed by a "pop," which was Deputy Raible discharging his firearm. Deputy Frazzini estimated the time from when the door opened to Deputy Raible discharging his firearm was approximately three to five seconds. Deputy Frazzini indicated that he could not see into the residence from his position, and did not observe Cruice.

Following the shooting, Deputy Frazzini saw Deputy Raible step to the right of the door. Deputies Patterson, Blais, and Frazzini, entered the residence in that order. Deputy Frazzini went to the right side of the residence where he and Deputies Patterson and Blais encountered a white male, later identified as Cohron, who emerged from a back room. Deputy Blais secured Cohron, and Deputies Patterson and Frazzini cleared the kitchen and the garage. After the right side of the residence was cleared, Deputies Patterson and Frazzini went back to the left side of the residence. Deputy Frazzini went to the furthest bedroom, where he found a female, later identified as Sterrett, lying on the bed. Deputy Frazzini stayed with Sterrett until Deputy Cochran came and assisted Deputy Frazzini with escorting her from the residence.

Deputy Frazzini remained outside the residence until Deputy Raimundo returned from his truck with some gauze. Deputy Frazzini indicated that Deputy Raimundo rendered aid to Cruice.

Deputy Frazzini indicated Cruice was lying on his back, just inside the door, slightly off to the right. Cruice had been struck in the face with the round and was having trouble breathing. Deputy Raimundo placed some gauze on the wound and turned Cruice on his side to help Cruice breathe. Deputy Frazzini opened the front left window blinds to get more light into the residence, so they could better see Cruice. There were no lights on in the living room area where Cruice was shot. Deputy Frazzini said it was "starting to get light out," but was foggy when they arrived at the residence. The only light that could be observed at the residence was the front porch light prior to the shooting incident.

Deputy Frazzini remained near the front door area until Fire Rescue and EVAC Ambulance personnel arrived and took over patient care of Cruice. Deputy Frazzini went over to Deputy Raible to check on him, and observed that Deputy Raible was visibly upset and had his head in his hands.

Interview of Deputy Aaron Blais

(IR #7)

On Wednesday, March 4, 2015, SA Cope and SA Lee conducted a voluntary, sworn, recorded interview of Deputy Aaron Blais. Also present was Deputy Blais' attorney, Michael H. Lambert. A synopsis of the interview is as follows:

On Wednesday, March 4, 2015, Deputy Blais was the fourth DNET investigator in the "stack" in front of the garage. He was equipped with the "Halligan tool."

Deputy Blais observed Deputy Cochran knock on the front door. According to Deputy Blais, it took some time for Deputy Cochran to make contact with someone inside the residence. Eventually, Deputy Cochran was able to speak with someone through the front window. Subsequently, a white male with dark hair, later identified as Grady, answered the front door and stepped outside. The DNET investigators moved from the front of the garage toward the front door.

As the DNET investigators approached, Deputies Raible, Patterson, and Blais announced "sheriff's office, search warrant." Following the announcement, Deputy Blais heard the front door close and lock. Deputy Raible grabbed the door handle and attempted to open the door, but could not. Deputy Raible announced, while standing in front of the door, "Open the door, sheriff's office, search warrant." Following Deputy Raible's announcement, Sergeant Carlisle ordered "break it," meaning to breach the door.

Deputy Blais moved from Deputy Raible's right side to Deputy Raible's left side, behind Deputy Raible, and next to the wall that borders the front porch. Deputy Blais observed Deputy Patterson just behind Deputy Raible on Deputy Raible's right side, and Deputy Raimundo approaching the porch with the ram. Subsequently, Deputy Raible kicked the door "two or three times," causing the door to open.

As the door opened, Deputy Blais saw Cruice move around the opening door to avoid being struck by it. Deputy Blais stated that Cruice "arched his back to get away from the door," and then "immediately" came forward at the deputies "at an aggressive angle." Deputy Blais stated that Cruice looked angry. Deputy Raible commanded Cruice to, "put up your hands." Deputy Blais stated that Cruice did not raise his hands, but instead moved the hands forward. Deputy Blais could see Cruice's right arm, and the motion it made stating, "I swear to God I felt like he was, he was punching out to shoot," "like we would do to shoot at a target." Deputy Blais drew

out his firearm and started to take the "slack out" on his trigger (Note: taking "slack out," on a trigger means placing one's finger on the trigger and depressing it to the point just prior to discharging the firearm).

Subsequently, Deputy Raible fired one shot at Cruice. Deputy Blais saw the round strike Cruice in the "mouth area," which caused Cruice to go stiff and fall straight back. Deputy Blais said that the interaction between Deputy Raible and Cruice after the door opened was "quick." Deputy Blais indicated that he "felt a threat" and would have shot at Cruice, but Deputy Raible was obscuring Deputy Blais' ability to fire a round before he could maneuver for a shot. Deputy Blais confirmed he did not see an object in Cruice's right hand as it extended.

Deputy Raible went to step into the door and immediately "peeled out" of the doorway and walked off of the porch. Deputy Blais described Deputy Raible as being visibly upset and shaken. Deputy Blais heard Deputy Raible tell Sergeant Carlisle, "He [Cruice] had something in his hands."

Deputy Blais was the first person to go inside the residence, followed by Deputy Patterson. Deputy Blais went past Cruice on the right. Cruice's feet were close to the open door and his head was lying next to the computer desk, just inside the living room. In the living room, Deputies Blais and Patterson encountered Cohron, who had come from a back room. Deputy Blais stated that Cohron was visibly upset. Deputies Blais and Patterson gave Cohron commands to get on the ground. Cohron complied with and was secured in handcuffs by Deputy Blais.

The remaining DNET investigators cleared the residence and secured the other occupants. Deputies Blais and Patterson removed Cohron from the residence through the back door and brought him out to the front of the residence. Once in the front, Deputy Blais advised Sergeant Carlisle to call an ambulance to the scene.

Deputy Blais then returned inside the residence, where he found Deputies Patterson and Raimundo rendering aid to Cruice. Deputies Patterson and Raimundo had rolled Cruice onto his side since Cruice was struggling to breathe. Cruice was unable to communicate, and Deputies Blais, Patterson, and Raimundo provided what assistance they could while waiting for the ambulance to arrive.

Deputy Blais stated that in his law enforcement career he has only been involved in three incidents, including this one, in which he has taken the "slack out" of his trigger. One incident involved a woman quickly reaching between a seat of her vehicle and Deputy Blais saw a "flash of silver," but she complied with Deputy Blais' commands, and the second was a male suspect who was actively reaching for a firearm but then stopped.

According to Deputy Blais, the lighting conditions inside the residence were "dark," and the only light illuminating the inside of the residence was from the porch light, through the open door. The blinds on the front windows were not open during the shooting incident. Deputy Blais indicated that Cohron would have had a direct line of sight of the door from where he was secured by Deputy Blais.

Deputy Blais stated that he has seen Deputy Raible kick open "a couple of doors" before and that they usually come open on the first try. Deputy Blais said it took Deputy Raible two or three tries to get this door open. Deputy Blais indicated that based on the multiple tries to kick open

the door, someone may have been up against the door, and at the "last minute pulled back," allowing the door to be opened.

Deputy Blais indicated that the door closing and locking as the DNET investigators approached raised "red flags" for him. This usually indicates that the suspects inside the residence are destroying evidence, such as flushing contraband or barricading themselves inside.

Deputy Blais recalled speaking with Deputy Raible after the shooting incident. Deputy Raible asked Deputy Blais if Cruice was dead. Based upon what he had witnessed and Cruice's condition, Deputy Blais notified Deputy Raible that Cruice died. Deputy Blais indicated that Deputy Raible was distraught, upset, and in tears when he was notified of this.

Interview of Deputy Austin Raimundo

(IR #8)

On Wednesday, March 4, 2015, SA Cope and SA Lee conducted a voluntary, sworn, recorded interview of Deputy Austin Raimundo. Also present was Deputy Raimundo's attorney, Michael H. Lambert. A synopsis of the interview is as follows:

On Wednesday, March 4, 2015, Deputy Raimundo was the last DNET investigator in the "stack" in front of the garage and was equipped with a ram.

Deputy Raimundo observed Deputy Cochran knock on the front door multiple times. Deputy Raimundo indicated that a good amount of time passed before Deputy Cochran appeared to be speaking with someone inside the residence, through the window. Deputy Raimundo heard Deputy Cochran identify himself as being with the sheriff's office and asking the individual multiple times to come to the door. Eventually, the "stack" of DNET investigators started moving toward the front door. Deputy Raimundo assessed that someone must have opened the door for the "stack" to move forward.

As the DNET investigators approached the front door, Deputy Raimundo heard Deputy Cochran ask the individual who had come to the door, later identified as Grady, "Hey is this your car?" Deputy Raimundo turned his attention to the first DNET investigator in the "stack," Deputy Raible, as he arrived at the door. Deputy Raimundo observed Deputy Raible "clicking" on the door handle button a couple of times, in an effort to open the door.

Deputy Raimundo, anticipating having to utilize the ram to breach the door, moved into a position approximately five to six feet behind Deputy Raible at the front door. Subsequently, Sergeant Carlisle ordered for the door to be breached. Deputy Raimundo observed Deputy Raible step back and kick the door, which did not "budge," as if the door was locked or something was holding it closed. Deputy Raible kicked the door a second time, opening it a little more than half way into the residence.

Deputy Raimundo indicated that there was an individual, later identified as Cruice, standing there when the door opened. Deputy Raimundo could only see the upper left half of Cruice, because he was behind Deputy Raible. Deputy Raimundo said the door opened and almost struck Cruice. Deputy Raimundo was in the process of dropping the ram when he heard Deputy Raible state, "sheriff's office, search warrant," and to show his hands. Deputy Raimundo observed Cruice's left elbow extend outward, followed by a "flash" and the "crack" of a round being discharged. According to Deputy Raimundo, Cruice's head rocked back and his left hand went up in the air. Deputy Raimundo said the entire incident happened "within seconds."

Deputy Raimundo moved toward the door to enter the residence and he observed Deputy Raible step to the right of the front door as the other DNET investigators entered the residence. Deputies Blais and Patterson went to the right, and Deputy Raimundo heard them giving commands to someone as Deputy Raimundo went to the left side of the residence. Deputy Raimundo went into the first bedroom, where he encountered two individuals (later identified as Gerald Bishop and Kristina Rodriguez). Deputy Raimundo indicated that Bishop and Rodriguez complied with his commands and remained where they were.

Deputy Raimundo held his position until Deputy Patterson finished clearing the right side of the residence. Deputy Patterson came to Deputy Raimundo, where Deputy Raimundo notified him that there was another bedroom down the hall that needed to be cleared. Deputy Patterson cleared the remaining bedroom, allowing Deputy Raimundo to remove Bishop and Rodriguez from the residence.

Deputy Raimundo went back into the residence after he turned over control of Bishop and Rodriguez to Deputy Cochran in front of the residence. Deputy Raimundo observed Cruice and saw that it appeared Cruice had been struck in / near his mouth with the round, and there was a pool of blood around him. Deputy Raimundo ran outside to his vehicle to obtain gloves, gauze, and heavy duty bandages.

Deputy Raimundo returned to Cruice and requested Deputy Frazzini to open the front blinds to allow more light inside the residence. When the blinds were opened, Deputy Raimundo realized that the injury to Cruice was more severe than he originally thought and was beyond Deputy Raimundo's capability of providing aid. Deputy Raimundo heard Cruice "gurgling" as Cruice "gasped" for air, so Deputy Raimundo rolled Cruice onto his left side to attempt to clear the blood out of his throat. Deputy Raimundo said he talked to Cruice although Cruice could not communicate, and remained with him until EVAC Ambulance personnel arrived. Deputy Raimundo assisted the EVAC Ambulance personnel until Cruice was placed in the ambulance.

Interview of Sergeant Jason Stickels

(IR #10)

On Wednesday, March 4, 2015, SA Cope and SA Lee conducted a voluntary, sworn, recorded interview of Sergeant Jason Stickels. Also present was Sergeant Stickels' attorney, Michael H. Lambert. A synopsis of the interview is as follows:

On Wednesday, March 4, 2015, Sergeant Stickels assisted DNET with conducting a search warrant at 831 Maybrook Drive.

Sergeant Stickels exited his vehicle and walked to the front left corner (east) of the residence, where he noticed a bedroom light on in the front left bedroom. Sergeant Stickels watched this corner of the residence to prevent any occupants from exiting through the windows on that side of the house. Deputy Cochran went to the front door and the DNET investigators positioned themselves on the front right corner (west) of the residence.

Sergeant Stickels could not see Deputy Cochran but heard him knock on the door several times with no response. Eventually, Sergeant Stickels heard Deputy Cochran speaking, requesting, "Hey man, it's the sheriff's office...come to the door now." Sergeant Stickels heard Deputy Cochran state this a "couple of times." Subsequently, a male came outside and Sergeant Stickels heard Deputy Cochran engage in a conversation with the male occupant, later identified

as Grady. Sergeant Stickels recalled that after Grady came outside, Sergeant Stickels heard the door close.

Sergeant Stickels moved from the far right corner (east), to the edge of the front patio, where he could see the front door, observe Deputy Cochran with Grady, and still use the corner as cover. Deputy Cochran asked Grady, "How many people are inside the house?" Deputy Cochran then "spun" Grady around and attempted to secure Grady in handcuffs just to the right of the front door. The DNET investigators were moving toward the door at the same time. Sergeant Stickels observed one of the investigators attempt to open the door "a couple of times," but it was locked. Sergeant Stickels recalled "sheriff's office, search warrant," being stated as the investigator was trying to open the door. Sergeant Stickels was focused on Deputy Cochran and Grady at this time, in case he needed to assist Deputy Cochran.

Subsequently, Sergeant Carlisle ordered the door to be breached. Sergeant Stickels indicated that Deputy Raible, who was closest to the door, tried to kick it open, but it barely moved. Sergeant Stickels believed the door must have been locked from the inside when Grady exited the front door as it seemed "fortified in some manner." Deputy Raible kicked the door again, causing the door to open. Sergeant Stickels stated, "I saw something come up in front of the door. It looked like a hand, or somebody kind of...maybe running at them...." followed by a "flash." Sergeant Stickels stated that Deputy Raible discharged his firearm once. Sergeant Stickels indicated that the encounter "was quick" and "it was fast," within one to three seconds. Sergeant Stickels was startled by the motion and also recalled that Deputy Raible took a step back in response to the movement just prior to shooting. Sergeant Stickels also added that from his view, Deputy Raible was "locked out" (arms fully extended) when he discharged his firearm.

Sergeant Stickels indicated that all of the DNET investigators, who were now on the front patio and "bunched up" near the door, paused after the gunshot, and then entered the residence. The DNET investigators "cleared" the residence. Sergeant Stickels notified Central Dispatch, via radio, of the search warrant, their location, that shots were fired, and to have medical personnel respond to the scene. Sergeant Stickels saw Deputy Raible come from the front of the residence, and "could tell by the expression on his face," the incident "took a toll on him quickly." Sergeant Stickels "grabbed" Deputy Raible, who then sat down at the end of the driveway. Sergeant Stickels asked Sergeant Carlisle to remain with Deputy Raible while Sergeant Stickels secured the scene.

Sergeant Stickels went into the residence. Inside, he observed Cruice on the ground with a gunshot wound to the face. Sergeant Stickels observed Deputies Patterson and Raimundo tending to Cruice the best they could, with what they had. Deputies Patterson and Raimundo had rolled Cruice onto his side. Sergeant Stickels then made sure the crime scene was secured and made the required notifications of the incident to his chain of command.

Sergeant Stickels said the lighting condition outside of the residence was dark and that it was foggy. Sergeant Stickels recalled that the front porch light was on, providing a "little bit of illumination," but the inside of the residence was dark.

Interview of Sergeant Jimmie Carlisle

(IR #11)

On Wednesday, March 4, 2015, SA Cope and SA Lee conducted a voluntary, sworn, recorded interview of Sergeant Jimmie Carlisle. Also present was Sergeant Carlisle's attorney, Michael H. Lambert. A synopsis of the interview is as follows:

On Wednesday, March 4, 2015, Sergeant Carlisle was the supervising officer of DNET.

Sergeant Carlisle was on the right side (west) of the residence, around the corner from the garage, watching the side. Sergeant Carlisle heard Deputy Cochran knock on the front door, receiving no answer. Deputy Cochran knocked again and Sergeant Carlisle heard a dog barking from inside the residence. After approximately 30 seconds, Sergeant Carlisle indicated that Deputy Cochran was speaking with someone. Sergeant Carlisle heard Deputy Cochran identify himself as being with the sheriff's office, and ask the question, "Hey, can you come outside?" and "Is this your car?" Sergeant Carlisle observed the DNET investigators move toward the front door from the front of the garage. Sergeant Carlisle trailed behind the DNET investigators, but was able to see that Deputy Cochran grabbed the individual, later identified as Grady, and placed him against the front of the house, to the right of the front door. Sergeant Carlisle heard Deputy Cochran notify Grady that they had a search warrant.

Sergeant Carlisle noticed that the front door was closed, and Deputy Raible was the first investigator in the "stack," to arrive at the front door. Deputy Raible attempted to open the door twice, but was unsuccessful. Deputy Raible notified Sergeant Carlisle that the front door was locked, and Sergeant Carlisle gave the order to breach the door.

Deputy Raible kicked the door in an attempt to open it. Sergeant Carlisle stated the door shuttered but it didn't move. Sergeant Carlisle heard other DNET investigators announce "search warrant." Deputy Raible kicked the door a second time, causing the door to fly open. Sergeant Carlisle stated that he yelled, "search warrant," when the door came open, and Deputy Raible gave the commands, "Let me see your hands, let me see your hands," followed by one gunshot. Sergeant Carlisle indicated that Deputy Raible was standing outside of the doorway when he discharged his firearm. The time from the door being opened to the gunshot was a "couple of seconds," according to Sergeant Carlisle.

Sergeant Carlisle asked Deputy Raible if someone was injured, and Deputy Raible said yes. Sergeant Stickels got on the radio and requested emergency medical personnel to respond to the incident scene location. Deputy Raible "pulls back" from the door, and appeared visibly upset. The other DNET investigators entered the residence to secure any other occupants.

Sergeant Carlisle walked to the doorway, looked inside, and saw the legs and pants of an individual, later identified as Cruice, lying on the ground. Sergeant Carlisle indicated that there was no light coming from inside the residence, and that the only light in the area was the outside porch light. Sergeant Carlisle did not enter the residence and went to check on Deputy Raible. Sergeant Carlisle observed Deputy Raible in the driveway, "fell [sic] down on his knees, and then he pulled his gun belt off." Deputy Raible was crying and also continued to state over and over again, "Oh my God." Sergeant Carlisle got Deputy Raible up, walked Deputy Raible to Deputy Raimundo's truck and sat Deputy Raible inside, trying to get Deputy Raible to calm down.

Sergeant Carlisle asked Deputy Raible what happened, and Deputy Raible said to Sergeant Carlisle, "The door came open Jimmie and the guy was lunging at me...I swear to God he came out like this...and I shot." Sergeant Carlisle demonstrated the motion of "came out like this" to SA Cope and SA Lee. Sergeant Carlisle extended both arms straight out, chest high, palms together, and the back of the hands closed together. Sergeant Carlisle stated the arms were out like, "how we train," "coming to the ready position," with a firearm. Deputy Raible also indicated to Sergeant Carlisle that Cruice's action toward him was "aggressive."

Sergeant Carlisle tried to separate the DNET investigators after the shooting, having each one sit in separate vehicles as more arrived on scene after the crime scene was secured. There was a time that Deputy Raimundo and VCSO Sergeant Justin Stewart sat with Deputy Raible in the truck, because Sergeant Carlisle did not want Deputy Raible to be alone.

Interview of Sergeant Brodie Hughes

(IR #25)

On Monday, April 6, 2015, SA Cope and SA Lee conducted a voluntary, sworn, recorded interview of Sergeant Brodie Hughes. Also present was Sergeant Hughes' attorney, Michael H. Lambert. Sergeant Hughes was interviewed to determine if Deputy Raible made any statement regarding the shooting incident to him. Deputy Raible had indicated in his interview that he was consoled shortly after the shooting incident by members of DNET and Sergeant Hughes. A synopsis of the interview is as follows:

Sergeant Hughes is a Patrol Sergeant for VCSO District IV and is the Chief Steward (Union President) for the Volusia County Deputies Association. A synopsis of the interview is as follows:

On Wednesday, March 4, 2015, Sergeant Hughes' shift was ending as the Patrol Sergeant in District IV, when he heard a radio transmission regarding a subject "being shot," and "rescue" was requested. Sergeant Hughes responded to the incident scene, located at 831 Maybrook. Sergeant Hughes responded first to assist at the shooting scene, and second as his role of Chief Steward for the Volusia County Deputies Association. Sergeant Hughes was aware that many of the deputies involved were members and may request / need services of the union.

While en route, Sergeant Hughes received a phone call from VCSO Sergeant Jimmie Carlisle, who stated to Sergeant Hughes, "I need you here now." Sergeant Hughes arrived at 831 Maybrook Drive in Deltona, Florida, within 15 minutes of hearing the initial radio transmission. Upon arrival at approximately 0644 hours, Sergeant Carlisle said to Sergeant Hughes, VCSO Deputy Todd Raible "was really messed up."

Sergeant Hughes walked over to Deputy Raible, who was sitting in a "pick-up truck" one house over from 831 Maybrook, to speak with him. Sergeant Hughes described Deputy Raible as being a "basket case," adding, "probably the worst I've seen." Sergeant Hughes heard several statements from Deputy Raible consisting of, "I can't lose my job," "I can't lose my kids," and "I can't lose my family." Sergeant Hughes stated to Deputy Raible, "You need to settle down, you need to stop talking. You don't need to be making any statements." Sergeant Hughes additionally advised Deputy Raible that he needed to decide who he wanted as an attorney.

After speaking briefly with Deputy Raible, Sergeant Hughes indicated that Deputy Raible was able to collect himself. Sergeant Hughes made sure other deputies were around Deputy Raible to "console" him, but stated to everyone, and made it "very clear," that they should "not talk

about the case.” Sergeant Hughes believed most of the individuals around Deputy Raible were from DNET.

Sergeant Hughes was notified by Deputy Raible that he wanted attorney Michael H. Lambert to represent him while still at the scene. Sergeant Hughes, along with Teamsters 385 Business Agent Bob Walker worked on getting in contact with Michael H. Lambert and making sure they could get legal representation for the DNET investigators who were witnesses to the shooting incident. Sergeant Hughes remained on-scene until approximately 1000 hours, and then went to the District IV Office, located at 1691 Providence Boulevard in Deltona, Florida, where he remained for the rest of the day.

On Wednesday, March 4, 2015, SA Cope and SA Lee conducted sworn interviews of the VCISO law enforcement witnesses to the shooting incident. SA Cope and SA Lee observed all of the law enforcement witnesses congregated in the conference room of the District IV Office. Sergeant Hughes confirmed that he was there with the witnesses and had instructed them to “not to talk about the facts of the case” while they were together in the conference room. Sergeant Hughes said that he did not receive any direct information from Deputy Raible regarding the actions he took or the actions of Cruice during the shooting incident.

Interview of Sergeant Justin Stewart

(IR #26)

On Friday, April 10, 2015, SA Cope and SA Lee conducted a voluntary, sworn, recorded interview of Sergeant Justin Stewart. Sergeant Stewart was reported to have sat with Deputy Raible, alone for an extended period of time after the shooting incident. Also present was Sergeant Stewart’s attorney, Michael H. Lambert. A synopsis of the interview is as follows:

On Wednesday, March 4, 2015, Sergeant Stewart received notification that a deputy had been involved in a shooting in Deltona. Sergeant Stewart was “off-duty” at the time, but Sergeant Stewart found out that Deputy Raible, a member of DNET, had been involved in the shooting, so he headed to incident location at 831 Maybrook Drive.

Sergeant Stewart arrived on scene and was notified by Sergeant Carlisle that Deputy Raible was sitting in a black pick-up truck, separate from “everybody.” Sergeant Stewart went to the vehicle and relieved Deputy Raimundo, who was sitting with Deputy Raible. Sergeant Stewart sat with Deputy Raible for approximately 45 minutes to an hour, until he was released from the scene.

Sergeant Stewart indicated that Deputy Raible was an “emotional mess,” but did not make statements or discuss the shooting incident with Sergeant Stewart. Sergeant Stewart also did not hear any details of the shooting incident from other DNET members while on-scene.

Interviews of Matthew Grady

(IR #15 and #16)

Initial Interview

On Wednesday, March 4, 2015, SA Cope conducted a sworn, voluntary, recorded interview of Matthew Grady. A synopsis of the interview is as follows:

On the morning of Wednesday, March 4, 2015, Grady was sleeping on the couch in the living room, next to the front window, when he woke up to noise. Grady looked out the front window

and observed "a guy at the front door, and he is...shining lights all over the place." The "guy" was later identified as Deputy Cochran. Subsequently, Deputy Cochran shined his flashlight into the front window and saw Grady. Deputy Cochran requested Grady to "come over here [to the door] now." Grady yelled back, "Just give me a second, give me a second!" Grady indicated that he was delayed in answering the door because he has arthritis, which causes him to move slowly. Additionally, Grady was "spacey" from just waking up and was trying to figure out what exactly was going on. Grady opened the front door, stepped out, and closed the door behind him to speak with Deputy Cochran. Grady indicated that it was not until he stepped outside that he recognized Deputy Cochran to be a law enforcement officer. Grady indicated that Deputy Cochran looked like "he's SWAT," dressed in a green uniform.

Deputy Cochran grabbed Grady's arms and said, "Search warrant...don't close the door." Grady observed "a bunch of cops coming around the corner," followed by Deputy Cochran pushing Grady toward the ground. Grady stated, "As I am getting pushed down to the ground, someone said 'ram something.'" Grady saw another deputy come up with a ram toward the door "and then the ram [sic] thrown, because the door got reopened I guess, and then gunfire." Grady indicated that he heard one gunshot, and that Cruice was shot. The entire sequence of events from Grady being pushed down to the ground to when the gunshot occurred was within five seconds. After the gunshot, several officers entered the residence.

SA Cope asked Grady if he saw Cruice before Grady opened the door. Grady said, "No, everyone was sleeping." Grady was unsure how the door was reopened, but said several times during the interview that he closed the door behind him. There were no lights on inside the residence except for Grady's phone "charger" that was plugged in and emits some light. Otherwise, according to Grady, it was dawn and the only light would have been the "natural light" from the windows.

Supplemental Interview

On Sunday, March 29, 2015, SA Cope conducted a second voluntary, sworn, recorded interview of Grady to ask additional questions regarding the shooting incident and address specific issues developed after his initial interview. A synopsis of the interview is as follows:

Grady recounted the events of Wednesday, March 4, 2015, which began with Grady woken up by a noise. Grady was unsure what the noise exactly was, but Deputy Cochran was standing by the front window, close to where Grady was sleeping. Deputy Cochran was also shining the flashlight through the window. Grady indicated that when he was up and moving toward the front door, Deputy Cochran said something along the lines of "hurry up" or "come here." Prior to the door opening, Grady did not hear any verbal identification indicating Deputy Cochran was with the sheriff's office.

Grady stated, "I get to the door, I open it, walk out, close it." At this point, Grady is outside and now realized Deputy Cochran is a law enforcement officer. Grady said Deputy Cochran "mentioned something about a search warrant," simultaneously with Grady being "apprehended" by Deputy Cochran. Deputy Cochran turned Grady to the left, toward the garage, near the house, and ultimately down on his knees, handcuffed.

Grady still did not know how the door was opened after he exited the residence and closed the door. He saw one of the deputies with the "ram," but only as it was being dropped by the deputy, following hearing "breach." Grady said that after he heard "breach," there was a loud

noise; Grady originally thought it was the "breach," but realized it was a gunshot when he saw smoke. Grady did not see any of the deputies kick the door.

Grady was able to lean back and look into the door following the gunshot, where he saw Cruice lying on the ground, near the door. Grady also witnessed Cochran with his hands on his head, getting down onto his knees.

When Grady was outside, Grady saw four to six police officers near the garage area, who approached the front door when Grady was being secured. Grady did not engage in dialogue with the officers that came from the garage area; he remembers just looking down at the sand just off the front patio as he was being secured. Grady did not recall being asked if there was anyone else inside the residence or being asked if one of the cars in the front of the residence was his.

Grady stated during the interview that he saw two cameras on Deputy Cochran. One was on Deputy Cochran's left shoulder and Grady made a motion that the other was on Deputy Cochran's left chest area.

Following the interview, SA Cope got a description of the cameras, which Grady said were black, with beveled edges. Grady stated that he distinctly saw the lenses and that the camera on Deputy Cochran's shoulder, was close in size to a GoPro camera.

SA Cope investigated Grady's claim [IR #35] that Deputy Cochran was using a recording device. On Friday, April 17, 2015, SA Cope contacted VCSO District IV Captain Erik Eagan regarding this issue. Captain Eagan indicated that no VCSO personnel are authorized to carry and utilize their own personal body cameras. Additionally, no VCSO District IV Street Crimes Unit personnel were issued body cameras.

On Monday, May 25, 2015, SA Cope conducted a voluntary, sworn, recorded supplemental interview of Deputy Cochran, who further reiterated he did not have in his possession a body camera, nor did he have any audio-recording device activated during the shooting incident.

SA Cope showed Deputy Cochran the photographs taken of him on Wednesday, March 4, 2015, and confirmed that this is how Deputy Cochran was dressed during the incident. The photographs show that Deputy Cochran was equipped with a microphone for his radio that was positioned on top of Deputy Cochran's left shoulder. There is a wire that comes down from the microphone that plugs into Deputy Cochran's radio, positioned on Deputy Cochran's left side of his vest. The photographs were signed and dated by Deputy Cochran.

Sworn Interviews of Steven Cochran

(IR #13 and #14)

Initial Interview

On Wednesday, March 4, 2015, SA Cope conducted a sworn, voluntary, recorded interview of Steven Cochran. A synopsis of the interview is as follows:

On Wednesday, March 4, 2015, at approximately 0645 to 0700 hours, Cochran was sleeping in his room in the back of the residence, when he was awoken by knocking on the front door. The knocking caused the dog to bark, but Cochran remained in bed until he heard, "Volusia County Sheriff's Office. We have a search and seizure warrant." Cochran got out of bed and walked

toward the dining room. Cohron drew back the curtains that separate Cohron's room from the dining room and took approximately two to three steps into the center of the dining room.

Cohron indicated the blinds were closed in the living room, and that the dining / living room was "dim." Cohron observed Grady and Cruice by the front door. Cruice and Grady were trying to hold the dog back, when the front door appeared to be "pushed open." Cohron observed the officers "came [sic] in, weapons already up," and "they fired on him [Cruice]." Cohron indicated he saw the flash from a gunshot, and Cruice fall into the shoe rack, next to the computer table, not far from the front door.

Subsequently, Cohron put his hands up in the air and dropped down on his knees. Several officers approached Cohron with their firearms pointed at Cohron. Cohron complied with the commands and was secured in handcuffs while lying on the floor. Cohron remained on the floor until he was escorted out of the residence.

Cohron said it was quick from the time the front door opened and Cruice was shot. Cohron stated, the "door opened, he stepped in, and shot." Cruice did not make any "fast movement" or reaching motion when the door opened. Cohron stated, "There was zero indicators that a weapon or force would be used against those officers entering the house," by Cruice. Cohron indicated that the shooting took place in the "fatal funnel," and possibly the officer felt he was being obstructed and fired his weapon instead of shoving Cruice out of the way, even though Cruice was unarmed. Cohron indicated that it was very chaotic after Cruice was shot.

Cohron said that Cruice was only wearing a pair of basketball shorts, was not armed with a weapon, and did not have anything in his hand that could have been mistaken for a weapon. Cohron said Cruice did not make any statements after the shooting incident, but Cruice was "gurgling blood in his lungs." Cohron observed "bright red blood" coming from Cruice and surmised that Cruice had a major injury to an artery from the gunshot. Cohron said that the same officer calming down the others leaned down and advised Cohron that they had called for help and it was on its way.

According to Cohron, the room he slept in was an addition to the residence and adjoins the dining / living room. The dining and living room are not separated by any walls, but a part of the same room that is accessed by the front door. Cohron indicated that he had a direct line of sight of the door and Cruice from his position in the living room during the shooting incident.

Supplemental Interview

On Tuesday, April 21, 2015, SA Cope conducted a second voluntary, sworn, recorded interview of Cohron to ask additional questions regarding the shooting incident and address specific issues developed after his initial interview. A synopsis of the interview is as follows:

On the morning of Wednesday, March 4, 2015, Cohron was sleeping in the back bedroom, adjacent to the dining room at 831 Maybrook Drive in Deltona, Florida. Cohron was awoken by knocking at the front door (4-6 knocks), described as being "firm" and "stern." Cohron, aware that Matthew Grady was sleeping on one of the couches in the living room, did not get up to answer the door. Cohron recalled that at some point after the knocking, he heard Grady answer the door and that Grady spoke with someone, followed by closing the door. Cohron could not make out what was being said between Grady and the individual at the front door.

Cohron indicated that by the sound of the door closing, he believed it was shut completely, in that the latch engaged, holding the door closed; however, Cohron could not be completely sure, as he was out of view of the door at this time. Cohron said it was "habitual" for Grady to answer the door by opening it, stepping outside, and closing the door. Cohron said that the door previously had issues with latching closed, but that the landlord had fixed the issue approximately a month prior to the incident. Cohron said that the occupants of the residence were still in the habit of pulling the door tight. This was to make sure the door latched closed, based upon the previous issues. On the date of the shooting incident, the door could be closed, with momentum, and the latch would engage keeping the door shut.

Cohron got out of bed and walked out into the dining room area, where he had an unobstructed view of the front door, and observed Cruice near the front door. SA Cope asked Cohron to describe Cruice's actions, and Cohron described Cruice as "listening and leaning in toward the peephole." Cohron also said, "It seems to me like he is...trying to figure out what's going on, on the other side of the door," specifically, who Grady was speaking to. Cohron stated that Cruice "wasn't bracing himself on the door," but leaned forward from "mid-torso" toward the peephole.

Subsequently, an announcement was made of "Volusia County Sheriff's Office, we have a warrant." Cruice reacted to this by standing straight up, followed by the door being "breached." Cohron said the door was "kicked open." The door opened up enough for the deputies at the door to see Cruice, followed by a firearm being discharged at Cruice. Cohron said there was not any "extreme motion" made by Cruice as the door opened, and "no aggressive forward motion" toward the deputies prior to the gunshot. Cohron reiterated that when the door opened, he did not see Cruice make any "reactionary motion" toward the door.

After the gunshot, the deputies entered the residence and immediately headed toward Cohron, who had fallen to his knees. Cohron recalled that some of the deputies had their "tactical lights" on their firearms activated, as it blinded him, and Cohron believed the "tactical lights" were on as the door came open. After Cohron was secured in handcuffs, he was removed from the residence through the back door, walked around to the front of the house and placed on his knees on the front patio, near the front door, facing the garage. According to Cohron, Grady was already secured on the front patio, and in shock. Cohron and Grady remained on the front patio until they were moved to the end of the driveway and ultimately into separate VCSO vehicles.

Cohron indicated that he knows the door was kicked open because of the sound it made and he observed the footprints to the left of the "locking mechanism" on the door. According to Cohron, prior to the shooting incident, the peephole had something on it that limited the view, but he could still tell who was outside by looking through the peephole.

Cohron did not witness or observe any law enforcement personnel utilizing, or in possession of a body camera or recording device. Cohron said that he specifically looked for cameras / recording devices after Cruice was shot so that he could have that as part of his initial statement, but did not observe any. Cohron indicated that Grady made statements after the fact about one of the deputies having two cameras on their person, but Cohron did not see this.

Cohron's best estimation on the time that elapsed between Grady going outside and the door being "breached," was two minutes, at most, but his sense of time could be distorted due to the "high-stress" situation that occurred. During Cohron's first interview with SA Cope, Cohron stated that both Cruice and Grady were inside by the front door prior to it being "breached." Cohron indicated that when he stepped out of his room he knows for sure that he saw Cruice,

but was not 100% sure, due to the "dim" lighting, if he saw anyone else near Cruice prior to the shooting.

During the interview, Cohron indicated that Cruice generally stood up with his shoulders "slouch[ed]" forward. This was Cruice's posture and it may have made Cruice look like he was leaning forward, according to Cohron. Additionally, Cohron said that, to his knowledge, Cruice was not experienced with guns, and he did not believe Cruice had ever fired a gun.

Interviews of Samantha Sterrett

(IR #17 and #18)

Initial Interview

On Wednesday, March 4, 2015, SA Danielle Gill and SA Daniel Wallace conducted a sworn, voluntary, recorded interview of Samantha Sterrett. A synopsis of the interview is as follows:

Sterrett and Cruice woke up because of a "bang" on the front door. After the bang, Sterrett heard, "Volusia County." Sterrett stated to Cruice that someone was beating on the front door. Cruice and Sterrett walked out of the bedroom together, and Matthew Grady was "screaming about something." Cruice went to the front door with nothing in his hands wearing black and red basketball shorts with boxers and no shirt, while Sterrett was outside the bedroom.

Cruice was looking out of the front door peep hole when the door was "kicked" or "pushed" open. Sterrett stated that she observed, "Somebody with a gun come through the front door, and I hear a loud pop." Sterrett stated that she could not see who was holding the gun, and described the gun as a "big black" handgun. Sterrett was unable to describe the uniform of the deputies that came through the front door. Sterrett stated that after the gunshot occurred, "He [Cruice] had to of fallen to the ground because alls [sic] I heard was keep him on the ground, and I went to my room." Sterrett shut the bedroom door and waited for the deputies. The deputies entered the bedroom and her dog went after them. Sterrett was handcuffed and told "not to look around." Sterrett was escorted out of the house through the front door when she observed Cruice lying on the ground.

Sterrett was asked if she saw when Cruice was shot. She stated, "I saw the gun, and then I heard the pop." Sterrett stated that Grady and Cohron were sleeping in the living room, and were the only ones that could have been at the front door with Cruice.

Supplemental Interview

On Friday, April 3, 2015, SA Cope conducted a second voluntary, sworn, recorded interview of Sterrett to ask additional questions regarding the shooting incident and address specific issues developed after her initial interview. A synopsis of the interview is as follows:

During the early morning of Wednesday, March 4, 2015, Sterrett and Cruice were sleeping in their bedroom, which is located on the back left side (east) of the residence, down the hallway, which is left of the front door. Sterrett and Cruice were awoke by "beating on the front door," described by Sterrett as "three loud bangs." The noise caused Sterrett's dog to bark. Sterrett and Cruice, unaware as to a reason someone would be at the front door, exited the room, and proceeded down the hallway toward the front door.

Sterrett was behind Cruice as they walked toward the front door and Sterrett indicated that she did not hear anything as they approached. Sterrett stopped near where the carpet in the hallway ends and where the white tile for the foyer begins. Sterrett said that she had a full view of the front door and was approximately "five steps to the door knob." Sterrett stated, He [Cruice] went to the door to look out the peephole, and that's when the door came open...took a step to the left and took a step back, and that's when the gun went off." Sterrett indicated that Cruice never made it to the peephole and said, "The door almost smacked him in the face," which caused Cruice to move out of the way of the front door, by stepping to the left and back from Sterrett's view.

When the door came open, Sterrett said she heard an individual state "Volusia County," observed the barrel of a gun extend past the opened door, followed by a single gunshot. This happened within seconds. According to Sterrett, Cruice did not state anything when the door opened, because, "He didn't have time to say anything." According to Sterrett, there were no commands of "Put your hands up," or "Show me your hands," directed at Cruice. Sterrett believed that Cruice's arms were by his side, not at his chest and did not extend outward when the door was opened.

After the gun was discharged, Sterrett picked up her dog, ran back to her bedroom, and shut the door. Sterrett was secured by the deputies in handcuffs and removed from the residence through the front door. Sterrett was then detained in the back of a vehicle.

Sterrett said that when they moved into the residence, the front door handle did not work properly, as the door would not stay shut. Sterrett stated that the landlord attempted to fix some of the issues with the door. Sterrett indicated that the peephole has always had some scratches on it, but that she could identify individuals at the door when she looked out of it prior to the shooting incident. SA Cope asked Sterrett if Cruice shut and locked the front door prior to it being opened, and Sterrett said "no."

Sterrett did not observe any of the deputies with a body camera / GoPro on their person during or after the shooting incident.

Interview of Kristina Rodriguez

(IR #19)

On Wednesday, March 4, 2015, SA Gill conducted a sworn, voluntary, recorded interview of Kristina Rodriguez. A synopsis of the interview is as follows:

Rodriguez and Gerald Bishop were in their bedroom asleep, when a loud noise woke them up at approximately 0630 hours. Rodriguez described the loud noise as "Someone was kicking in the door." Rodriguez later stated that she, "Assumed it was a gunshot from how loud it was, it didn't sound like someone banging on the door...it was just a loud bang." Rodriguez only heard one "bang," and did not recall hearing a knock on the door. After the loud noise, someone stated, "Sheriff's Department" and that they had a "search warrant."

Rodriguez peeked out of her bedroom and observed cops. Rodriguez and Bishop stayed in the bedroom until a deputy came in. Rodriguez stated the deputies were not wearing a "typical uniform." However; she was able to identify them as "cops." A deputy took Bishop out of the bedroom, and she observed Cruice lying by the front door bleeding.

Interview of Gerald Bishop**(IR #19)**

On Wednesday, March 4, 2015, SA Gill conducted a sworn, voluntary, recorded interview of Gerald Bishop. A synopsis of the interview is as follows:

Bishop was asleep with Rodriguez in their bedroom with the door open. Bishop was awoken at approximately 0600 or 0630 hours by at least one gunshot. Bishop stated that the deputies did not announce themselves, and they just came into the house. A deputy rushed into the hallway and pointed a gun in Bishop's bedroom. The deputy told Bishop and Rodriguez to keep their "hands up" and to "not move." The deputy wore a t-shirt, black pants with a belt, and a vest. Bishop and Rodriguez were removed from the bedroom. Bishop stated that the lights in the house were off and it was "dark." Bishop observed deputies in the living room, however; he did not hear the deputies make any statements. Cruice was lying on the ground, bleeding, and not moving or saying anything. Bishop was escorted out of the house through the front door.

Bishop stated that Cruice did not own any firearms, and indicated that he did not believe Cruice has ever fired a gun before.

Interview of Antonio Macareno**(IR #27)**

On Thursday, May 21, 2015, SA Cope conducted a sworn, recorded interview of Antonio Macareno. A synopsis of the interview is as follows:

Prior to the shooting incident on Wednesday, March 4, 2015, Macareno made repairs to the front door located at 831 Maybrook Drive in Deltona, Florida, for the tenant. Macareno indicated that the thumb latch did not always function properly in that it would be depressed, and the door would not open.

The repairs were made a couple weeks prior to the incident, according to Macareno. Macareno said that he removed the latch from the door, cleaned it, and placed some oil on it. The door functioned properly after he completed the work.

Macareno said that the tenant changed the deadbolt to the door on their own. Macareno was not sure what the problem was, but he knew that it was changed.

Interviews of City of Deltona Fire / Rescue and EVAC Ambulance Personnel**(IR #23 and #24)**

On Friday, March 27, 2015, SA Cope conducted sworn, recorded interviews of City of Deltona Fire and Rescue (DFR) personnel Paramedic Edward Walker, Firefighter Kody Oakes, and Lieutenant William Fitzpatrick. On Monday, March 30, and Tuesday, March 31, 2015, SA Cope conducted sworn recorded interviews of EVAC Ambulance personnel Lieutenant Elizabeth Payne, Emergency Medical Technician (EMT) Michael Gallimore, and Intermittent EMT Kevin Anglin.

All medical personnel who responded to 831 Maybrook Drive indicated that Cruice did not and was not able to communicate with them. No weapons or objects were indicated as being seen near Cruice prior to be removed from the residence. None of the medical personnel on-scene,

except for EMT Gallimore, discussed the events leading to the shooting incident with any of the law enforcement personnel that were at the residence.

EMT Gallimore drove the ambulance to the incident scene location. Upon arriving and parking the ambulance, EMT Gallimore observed a female in handcuffs with another deputy across the street from the residence. Additionally, EMT Gallimore witnessed a "deputy on his knees, crying...being consoled by another deputy," three to four car lengths in front of the ambulance. The crying deputy had his face in his hands.

EMT Gallimore said that he closed the doors to the ambulance and was getting ready to leave for the hospital when he asked a deputy near the ambulance "What happened?" The unknown deputy replied, "He [Cruice] came towards them" from the back hallway to the left of the front door according to EMT Gallimore.

Crime Scene Activities and FDLE Lab Report	(IR #28, #29, #30 and #32)
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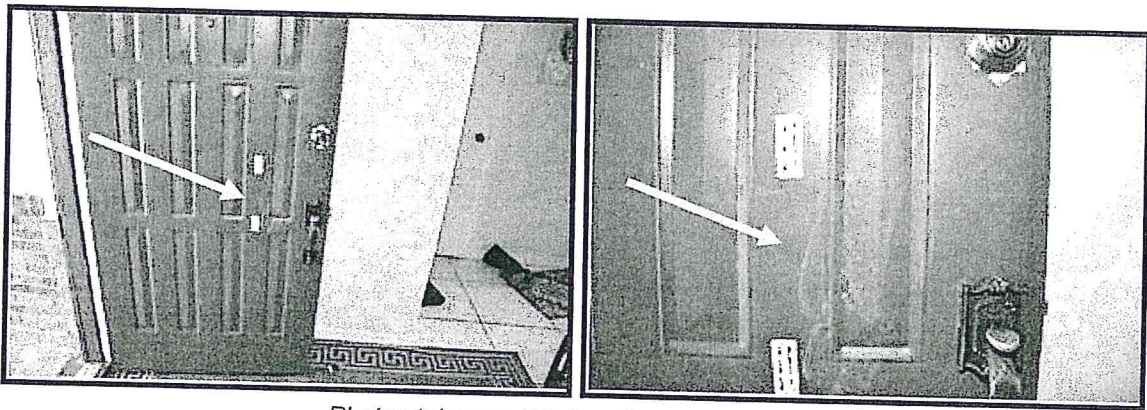
On Wednesday, March 4, 2015, and Friday, March 6, 2015, FDLE SA Stephen Brenton obtained search warrants for 831 Maybrook Drive in Deltona, Florida. The purpose of the search warrants was to obtain evidentiary items as it related to the shooting incident. VCSO Crime Scene Investigators (CSI) David Dewees and Richard Graves collected several evidentiary items related to the shooting incident from the crime scene. SA Cope submitted items to the Firearms Section of FDLE's OROC Crime Laboratory for analysis. A synopsis of the evidentiary items collected and FDLE Crime Laboratory results are as follows:

- Deputy Raible utilized a Glock model #35, .40 caliber semiautomatic pistol (Serial #GAD640 / FDLE Item #1). The pistol was found to have one live round in the chamber and 14 live rounds in the magazine, for a total of 15 live rounds recovered from Deputy Raible's pistol. Deputy Raible indicated that he had 16 live rounds loaded into the firearm prior to the shooting incident, indicating one round was fired by Deputy Raible. The ammunition in the firearm was manufactured by Speer.
- One Speer cartridge casing (Marker #1 / FDLE Item #4) was found on the front porch. Analysis of the cartridge casing by the FDLE Crime Laboratory Firearms Section found that it had been fired from Deputy Raible's pistol.
- One fired bullet, one possible fired bullet jacket fragment, one bullet jacket fragment, and two lead fragments were recovered during the autopsy of Cruice (FDLE Item #11). The items were analyzed by FDLE Crime Laboratory Firearms Section. It was found, "The fired bullet could neither be identified nor eliminated as having been fired..." from Deputy Raible's pistol, "...due to damage and a lack of corresponding individual characteristics."
- A battering ram (Marker #2 / FDLE Item #10) was located on the ground in close proximity to the front porch, and a Halligan tool (Marker #3 / FDLE Item #9) was located along the east wall of the front porch. Deputies Raimundo and Blais were in possession of these items during the incident, and were found in close proximity to where they indicated they were during the shooting incident.
- The door (FDLE Item #19) had a "decorative handleset with a thumb piece release," and a "single key deadbolt lock." Investigator Dewees noted the following regarding the doors operation, "... the thumb piece was able to be depressed, but the door did not open. It was

found that the door was hanging up from possible friction between the door frame and door. Force had to be applied to the door to open. Inspection of the door and door frame showed paint abrasion at the top of the door and on the adjacent door frame. The interior knob appeared to function normally.

Investigator Dewees found that "vertical cracks adjacent" to the handleset and knob were consistent with the door being closed at the time it was breached, but was not locked by the deadbolt. The deadbolt lock was found to be intact, indicating it was not engaged when the door was breached. The door could only be locked to prevent entry into the residence by the deadbolt.

The front door appeared to have two shoe prints that overlapped, and did not show evidence of being struck by a ram.



Photos taken on Wednesday, March 4, 2015

CSI Dewees and Graves took photographs and videos of the front door to include the operation of the door, handleset, and deadbolt prior to its removal from the residence.

- CSI Dewees found the porch light to be on during his initial assessment of the residence.

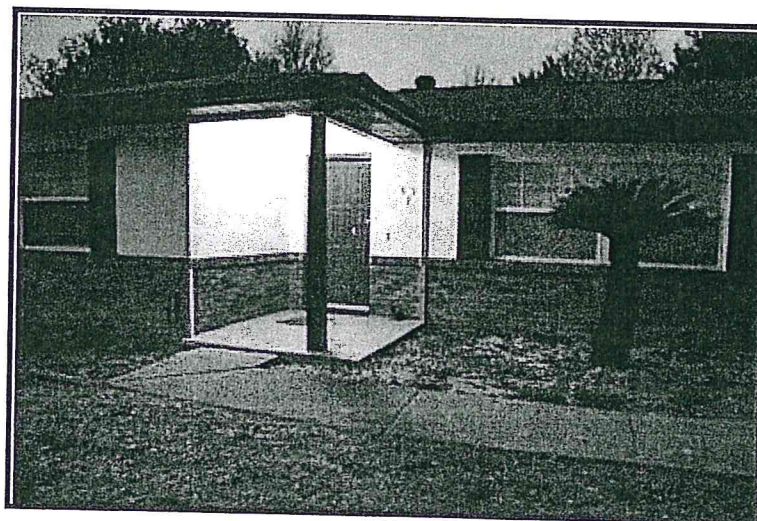


Photo taken on Friday, March 6, 2015

- Cruice was only wearing a pair of shorts during the shooting incident. No weapons were found in the vicinity of the front door, front porch, or area where Cruice was following the shooting incident.

On Thursday, March 5, 2015, FDLE SA Lloyd Randolph received the "Inventory and Receipt" of the items seized from 831 Maybrook Drive as a result of the DNET search warrant that was completed after evidence was collected and secured regarding the shooting incident on Wednesday, March 4, 2015, by FDLE. Cannabis, a drug ledger, drug paraphernalia, and U.S. currency were seized.

District Seven Medical Examiner's Report

(IR #34)

On Tuesday, April 21, 2015, SA Cope received the District Seven Office of the Medical Examiner report for Cruice. The following is a summary of the "Medical Examiner Report" of Cruice (Case #15-07-112), prepared by District Seven Associate Medical Examiner Marcela Chiste, M.D., dated Monday, April 13, 2015:

Date of Death: March 4, 2015
 County: Volusia
 Date and Time of Examination: March 5, 2015 / 0900 Hours
 Cause of Death: Gunshot Wound of Head and Neck
 Manner of Death: Homicide
 How incident occurred: Shot by other person

Autopsy Findings

- I. Penetrating Gunshot Wound of Head and Neck
 - A. Entrance: Oral region of Face
 - B. Path of the projectile: Left superior lip, left maxilla, oral cavity, left mandible, posterior pharyngeal wall, left transverse process of vertebra C2, left vertebral artery, left posterior muscles of neck
 - C. Direction of the projectile: Front-to-back and downwards
 - D. Exit: None, projectile recovered from neck muscles
 - E. Associated injuries: Fractures of maxilla, mandible and vertebra C2 transverse process, cervical epidural hemorrhage
 - F. Postmortem radiograph: Projectile and fragments identified

According to the report, "There is no soot deposited within the wound or on the wound margins. The adjacent skin has no stippling or muzzle stamp."

Toxicology

The following are the results of the toxicology test performed on a blood and urine samples collected from Cruice:

<u>Compound</u>	<u>Result</u>	<u>Units</u>	<u>Matrix Source</u>
Delta-9 THC	18	ng/mL	001 - Peripheral Blood
Delta-9 Carboxy THC	26	ng/mL	001 - Peripheral Blood
Cannabinoids	Presump Pos	ng/mL	003 - Urine

Notarizations

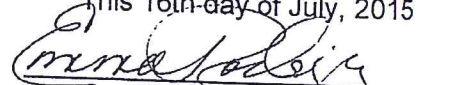

The Florida Department of Law Enforcement has completed a comprehensive investigation into the use of deadly force by Volusia County Sheriff's Deputy Todd Raible. This presentation of facts, based on law enforcement witnesses, civilian witnesses, and physical evidence, is presented to the Office of the State Attorney for their review and determination of whether the use of force was justified.

I swear the foregoing is true and correct



Special Agent Troy K. Cope
Florida Department of Law Enforcement
Orlando Regional Operations Center
500 West Robinson Street
Orlando, Florida 32801

SWORN to and SUBSCRIBED
This 16th-day of July, 2015


(Notary Public of FL) 

STATE OF FLORIDA
SEVENTH JUDICIAL CIRCUIT

To: The Honorable RJ Larizza
State Attorney
Office of the State Attorney
7th Judicial Circuit of Florida

From: Roy R Bedard
RRB Systems, International
3057 Tipperary Dr.
Tallahassee, FL 32309

In Re: Police Use of Force
Derek Andre Cruice; FDLE Case Number R-27-0216

EXPERT ANALYSIS OF OFFICIAL USE OF FORCE:

I am a certified law enforcement officer in the State of Florida since 1987. I have taught a variety of professional courses over the last twenty-eight years including classes in police and corrections procedures, police management and civil liability throughout the US and abroad. I have taught civilian self-defense courses at the Florida State University for the Center for Participant Education and Florida Institute of Martial Arts. I have taught advanced defensive tactics to personnel in academies and corrections and law enforcement agencies throughout Florida and many other parts of the nation.

I have provided training and policy development to the Federal Law Enforcement Training Center and Federal Bureau of Prisons. I have developed police tactics training courses and hold patents, trademarks and copyrights on a variety of police equipment and law enforcement training. I have produced films and television shows which are used in colleges and law enforcement academies across the state and nation. These films address the areas of use of force; police procedure, non-lethal uses of force; and issues involving civil and criminal liability.

I received a Bachelors degree from the Florida State University in Criminology and Criminal Justice in

1999. I have a Masters degree from the Florida State University in Educational Psychology (Sport and Performance). I am currently a Ph.D. student at the Florida State University completing coursework in Sport and Performance Psychology while developing my dissertation that focuses on human performance in stressful environments. For the past twenty-eight years, I have served as a full time police officer, police trainer and reserve officer. I began at the Florida State University as a patrol officer and participated in most of my police career as a field-training officer. I have been active with the Tallahassee Police Department since 1990.

I am an adjunct trainer at the Florida Public Safety Institute in Havana, Florida since 1987. I provide training services for basic, advanced and specialized law enforcement and corrections officials.

I am certified as a police officer and police instructor by Florida's Criminal Justice Standards and Training Commission (CJSTC). I serve as a task force member to the Use of Force and Defensive Tactics Development Committee for police and corrections officers of the State of Florida at the Florida Department of Law Enforcement in Tallahassee, Florida.

I have previously appeared as an expert witness in a variety of civil and criminal cases, having been qualified in both state and federal courts as an expert in use of force, police procedures self-defense and combat stress. My experience and publications are described more fully in the curriculum vitae, prepared by me and attached to this report.

III. ANALYSIS PROTOCOL

To prepare for this review I have analyzed the documents and data currently available to me from materials sent to me by the State Attorneys Office for the 7th Judicial Circuit of Florida. I have listed the items that I have reviewed in the following section. The materials I have reviewed are of the type typically relied upon by consultants and experts when conducting analyses and forming opinions regarding issues of use of force, defensive tactics and questions of human performance. These documents have provided me enough relevant data to develop my initial opinions to a reasonable degree of professional certainty.

In addition to the documents germane to this case I rely upon my training, experience and advanced education in the field of use of force, defensive tactics and human performance, consultations with peers, review of professional articles, peer reviewed literature and independent research that I have conducted over years of training and teaching in these specific areas.

Terminology: Opinions that I present in this report may use terminology that overlaps with other accepted legal terms or standards. Use of specific legal terminology is not intended to draw legal conclusions or to subvert the function of the court or to inappropriately influence triers-of-the-fact. The use of certain terms is common in my field of expertise and I use them often as I lecture and train law enforcement or civilian audiences. They form the basis of my understanding of the subject matter and are commonly used by other consultants, experts and law enforcement officials in the field.

Truth, Veracity and Bias: My analysis is not intended to assign credibility to any of the evidence or witness statements or to presume that any one version of events is more truthful than any other. The information I draw from various documents and sources may be deemed unreliable if contrary evidence demonstrates it to be untrue or untrustworthy. Where practical, I rely on undisputed facts and I attempt to indicate disputed facts when appropriate. If facts or evidence directly contradict statements offered as evidence, I attempt to point out contradictions and provide them context. Any assumption of truth is undertaken solely for the purpose of analysis and rendering an opinion. It is understood that the test of veracity and truth of the available evidence

lies with trier-of-fact.

Nature and Status of Opinions: Any reference by me to documents reviewed is not intended to be all-inclusive of my foundation or basis of opinion. I reserve the right to supplement this report if necessary if new information becomes available.

My opinions may not be fully developed. Each opinion is susceptible to further development as I continue to research, investigate or review new information presented to me.

III. **MATERIALS PROVIDED FOR REVIEW:**

- FDLE Case Investigation pp. 1-350 (digital file: OR-27-0216 E-Book Troy Cope.pdf)
- Radio Traffic Files
- Interview of VCSO Deputy Cody Cochran
- Interview of VCSO Deputy Cody Cochran
- Sworn Interview of Deputy Todd Raible
- Interview of Deputy Jeremy Patterson
- Interview of Deputy Aaron Blais
- Interview of Austin Raimundo
- Interview of Deputy John Frazzini
- Interview of Sgt. Jason Stickle
- Interview of VCSO Deputy Cody Cochran
- Interview of Deputy Todd Raible
- Interview of Jeremy Patterson
- Interview of Deputy Aaron Blais
- Interview of Deputy Austin Rainmundo
- Interview of Deputy John Frazzini
- Interview of Sgt. Jason Stickle
- Interview of Jimmie Carlisle
- Sworn Interview of Steven Cohron
- Second Sworn Interview of Steven Cohron
- Sworn Interview of Matthew Grady

- Second Interview of Matthew Grady
- Interview of Samantha Sterrett
- Second Interview of Samantha Sterrett
- Interview of Kristina Rodriguez
- Interview of Gerald Bishop
- Interview of DFR Engineer Paramedic Edward Walker
- Interview of DFR Engineer Paramedic Kody Oakes
- Interview of DFR Lieutenant William Fitzpatrick
- Interview of Lieutenant Paramedic Elizabeth Payne
- Interview of EMT Michael Gallimore
- Interview of Kevin Anglin
- Interview of VCSO Sergeant Brodie Hughes
- Interview of VCSO Sergeant Justin Stewart
- Interview of Antonio Macareno
- Images: Raible1.jpg – Raible5.jpg continuous
- Image: Front Door Sent to SA Lee doing Officer Interviews.jpg
- Images: DSCN2071.jpg – DSCN2903.jpg continuous
- Images: RI 24) D-Net Personnel Photographs 03042015.pdf
- Images: Crime Scene: DSC_0001.jpg – DSC_0447.jpg continuous
- Images: Autopsy Photos: DSC_001.jpg – DSC_0075.jpg
- Images: Crime Scene Photos:DSC-0344.jpg – DSC_0379.jpg
- Images: MEs Autopsy photos: DSC_001-DSC_0065.jpg
- Images: MEs Autopsy Photos: Camera2: DSC_0001.jpg – DSC_0028.jpg
- Images: MEs Autopsy Photos: xrays: xray1.jpg – xray3jpg
- Operations Plan
- Discipline/Use of Force History for Deputy Todd Raible
- Training file for Deputy Todd Raible
- VCSO policy 43.5, Search Warrant Execution

- VCSO policy, 43.1, Narcotic Vice and Organized Crime Investigations.
- VCSO Confidential Plan for Conducting Raids, Undercover Operations and Surveillance Operations
- Personnel file of Todd Raible

Furthermore, I have reviewed the following treatises and texts, which are recognized as authoritative.

1. Kappeler, V. E., and Kaune, M. (1993). "Legal Standards and Civil Liability of Excessive Force." In Roger C. Dunham, and Geoffrey P. Alpert's (Eds.) *Critical Issues in Policing: Contemporary Readings*. Prospect Heights, Illinois: Waveland Press, Inc., pp. 526-536
2. Remsberg, Charles (1986) *The Tactical Edge*, Northbrook Illinois, Calibre Press
3. Adams, Ronald J., McTernan, Thomas M., Remsberg, Charles (1980) *Street Survival Tactics for Armed Encounters*, Northbrooke Illinois. Calibre Press
4. Janis, I. & Mann, L. *Decision Making: A Psychological Analysis of Conflict, Choice and Commitment*. 1977, The Free Press, N.Y.
5. FDLE CJSTC Florida Basic Recruit Training Program, Ch. 4. Vol. 2 Ver. 2014.07
6. Aveni, T. *The MMRMA Deadly Force Project: A Critical Analysis of Police Shootings Under Ambiguous Circumstances*. The police Policy Study Council, 2008
7. Zelinsky, G. A theory of eye movements during target acquisition. *Psychological Review*, Vol. 115(4), Oct 2008
8. Artwohl, A. (2002, Oct) *Perceptual and Memory Distortions During Officer involved Shootings*, *FBI Law Enforcement Bulletin*, IACP Net document No. 564080
9. Grossman, D. (1995) *On Killing: The Psychological Cost of Learning to Kill in War*

and Society 1st Edition, PPCT Research Publications

10. Graham v. Connor, 490 U. S. 386 (1989)
11. Tennessee v. Garner, 471 U.S. 1 (1985)
12. Florida Statutes 776, 933, 893 and 901
13. United States v. Banks, 124 S.Ct. 521 (2003)
14. Wilson v. Arkansas, 514 U.S. 927 (1995)
15. Richards v. Wisconsin, 520 U.S. 385 (1997)
16. United States v. Ramirez, 523 U.S. 65 (1998)
17. Florida Statute 933.09

IV. **FACTS OF THE CASE**

1. On Tuesday, March 3, 2015 Deputy Frazzini of the Volusia County Sheriff's Office obtained a narcotics search warrant for a home located at 831 Maybrook Drive in Deltona, Florida
2. The probable cause affidavit for the issuance of the warrant indicated that Deputy Frazzini had received information regarding narcotics activity in February, 2015 for the home located at 831 Maybrook Drive.
3. Deputy Frazzini also learned information that Derek Cruice and his girlfriend Samantha Marie Sterrett lived in this residence.
4. On the morning of March 4, 2015 between the hours of 5:45am and 6:00am Deputy Frazzini and several other members of the Volusia County Sheriff's Office met behind a Publix at 915 Doyle Road in Deltona, Florida for a search warrant briefing.
5. The briefing described to the narcotics raid team the details of the warrant's execution.
6. At the briefing Deputy Frazzini presented additional information to members of the search warrant team regarding the method and scope of the operation.
7. Deputy Frazzini told search warrant team members that possible occupants of the residence included Derek Cruice, Samantha Sterrett, Pamela Powell and Gerald Bishop.
8. Deputy Frazzini described the residence and showed members of the team a photograph of the location.
9. Deputy Frazzini told search warrant team members that the house at 831 Maybrook Dr. had the numbers "813" affixed to the façade rather than "831".
10. Deputy Frazzini also provided team members other information germane to the raid to

include the actual search warrant, the Volusia County Property Appraiser's Office Property Record Card, written directions to 831 Maybrook Dr. from 1281 Providence Blvd., investigative progress notes from case number 15-3792, Two VCSO property receipts, the VCSO operations plan, 6 photographs (color) of the front of 831 Maybrook Dr., criminal history printouts for the suspected occupants and Florida Driver's information for the suspected occupants.

11. At the conclusion of the briefing the search warrant team drove directly to 831 Maybrook Dr. in two VCSO trucks.
12. Two marked patrol vehicles, driven by uniformed officers Deputy Cochran and Sergeant Stickles took the lead to the residence.
13. At approximately 6:30am, Deputy Cochran and Sgt. Stickles parked their marked patrol vehicles directly in front of 831 Maybrook Dr.
14. At the same time, the search warrant team parked their vehicles to the west side of the residence.
15. The search warrant team approached the house on foot and staged in stack formation at the front right corner of the residence along the garage.
16. Deputy Cochran and Sgt. Stickles were wearing full uniform dress to include issued VCSO uniform, duty belt with accompanying equipment, a black external vest with the word "Sheriff" on the front and back, a recognizable law enforcement badge and arm patches designating them as employees of the Volusia County Sheriff's Office.
17. Other members of the narcotics raid team wore tactical external vests with the word "Sheriff" emblazoned on the front and back, an identifiable law enforcement badge,

tactical green BDU pants, black shirts, most with the word "Sheriff" running lengthwise down the sleeve and a tactical thigh mount holster with firearm.

18. Deputy Cochran and Sgt. Stickles approached the front door after making certain that no one was sitting in the resident's or occupant's vehicles in front of the house.
19. Deputy Cochran stated in an interview (03/04/15) that he knocked on the front door seven to eight times and waited for a response.
20. Deputy Cochran stated that he saw the lower right corner of the blinds to the front window pull back about a foot and a half, "indicative of someone looking out".
21. Deputy Cochran stated that he announced, "Sheriff's Office" to which an unknown male voice asked, "Who is it?"
22. Deputy Cochran stated again that it was the Sheriff's Office and asked if the male could come to the door.
23. The unknown voice stated, "Give me a minute."
24. Deputy Cochran stated that he waited for a while before knocking again.
25. Deputy Cochran stated that he again saw the blinds being pulled back from the window.
26. Deputy Cochran stated that he shined his flashlight into the dark window and could only then observe a white male with dark hair inside the home. He again requested this subject come to the door.
27. Approximately 5-10 seconds later, the door was opened by who was later identified as Matthew Grady.
28. Mr. Grady came outside.

29. The door remained open 3 to 4 inches¹ or it may have been shut by Mr. Grady.
30. Deputy Cochran took Mr. Grady approximately one step away from the door opening. He explained to him why he was there and gathered some intelligence about who was inside.
31. At that moment, the search warrant team moved from their staging position towards the front door.
32. If the door had been closed by Mr. Grady, it may have then been opened again by someone else inside.
33. Inv. Todd Raible approached the partially open front door to the house. He spoke to Mr. Grady and announced, "Sheriff's Office, we have a search warrant, is there anyone else inside?"
34. Member of the search warrant team stepped closer to the partially open door.
35. The door immediately closed.
36. Inv. Raible stepped back and said, Sheriff's Office. Search Warrant, open the door!"
37. Inv. Raible reached out and checked the door handle.
38. It appeared to him to be locked.
39. Inv. Raible kicked the door to open it. It did not budge
40. After the second kick the door came open, swinging along an arc into the interior of the home.
41. A porch light cast a light into the front room of the house.
42. The inside of the home was reasonably dark. It was twilight and before the sunrise.
43. Standing just on the inside of the now open doorway was Derek Cruice.

¹ See Audio Interview of Todd Raible; 24:10

44. Three deputies stood at the door's threshold looking in, including Deputy Todd Raible, Deputy Jeremy Patterson and Deputy Aaron Blais.
45. Each Deputy was able to see Derek Cruice.
46. Mr. Cruice was wearing only shorts.
47. Inv. Raible intentionally fired one shot at Derek Cruice.
48. Mr. Cruice was struck in the left side of his face by a .40 caliber bullet from Deputy Raible's firearm.
49. The bullet path was front to rear with a downward trajectory towards the back of his neck and shoulders.²
50. Inv. Raible stepped back and holstered his weapon as other search team members entered the residence.
51. Deputy Cochran secured Mr. Grady on the outside of the residence and placed him on the ground.
52. Others in the residence were taken outside and secured.
53. Deputies on the scene provided first aid to Mr. Cruice.
54. Mr. Cruice did not possess a weapon at the time he was shot.

² See prepared by District Seven Associate Medical Examiner Marcela Chiste, M.D., dated Monday, April 13, 2015. See also autopsy photos DSC_0011.jpg, DSC_0073.jpg

V. ANALYSIS

A. THE CALL FOR SERVICE

On March 3rd, 2015 a search warrant was issued by Circuit Court Judge Matthew Foxman giving law enforcement officers legal permission to enter the home located at 831 Maybrook Drive in Deltona, FL to search for evidence of possession of cannabis and drug paraphernalia. The search warrant anticipated that the home was under the control of Marie Powell, Derek Andre Cruice, Samantha Marie Sterrett and perhaps others.

On March 4th, 2015 members of the Deltona Narcotics Investigative Team (DNET) assembled for the purpose of serving this warrant. Several investigators arrived at the home at approximately 6:25am. They were accompanied by two uniformed deputies in marked patrol vehicles.

The deputies worked off of an operations plan that identified suspects as Derek Cruice, Samantha Sterrett and George Bishop.

The DNET search team consisted of Deputy Austin Romando, Deputy Cody Cochran, Deputy John Frazzini, Sgt. Jason Stickles, Sgt. Jimmie Carlisle, Deputy Jeremy Patterson and Deputy Aaron Blais from the Volusia County Sheriff's Office.

It does not appear from the available documentation that a warrant service risk assessment was properly recorded as required by policy. Otherwise, the other policy requirements appear to have been properly fulfilled.

Inv. Todd Raible whose actions are the focus of this use of force review was a Deputy II and SWAT team member for the Volusia County Sheriff's Office (entry). He also serves in the

capacity of a narcotics investigator for DNET. On March 4th at 6:25am he was operating in his official capacity as a law enforcement officer and was acting as the lead entry team member serving the narcotics search warrant.

Inv. Raible estimates that he has served hundreds of entries into homes in his career. Previous to arriving on the scene Inv. Raible stated that he did not anticipate a high probability of violence.

B. THE APPROACH AND ENTRY

The DNET Narcotics team assigned two uniformed deputies to make the initial approach to the home. These high visibility deputies parked their marked patrol cars on the street directly in front of the residence purposefully to be seen by anyone who looked out of the windows or the front door. The uniformed deputies approached the front door while the narcotics raid team took a position to the right side of the front door, stacked against the wall and door of the garage.

The purpose of leading a raid team with uniformed deputies is to capitalize on the reasonable expectation that occupants inside the home will immediately recognize the uniform and patrol vehicles presented to them as "official". It provides due diligence in tactical operations by giving occupants every reasonable opportunity to comply with reasonably announced law enforcement officers. Once officers identify themselves to those inside, a lack of compliance by occupants normally signals resistance to the officers. Non-compliance usually invites an escalation in tactics and at times might also initiate a use of force.

Entering homes forcibly is perhaps one of the most dangerous activities that law enforcement officers conduct. Law enforcement officers cannot reasonably know what or who is

standing on the opposite side of a closed door. Occupants of homes are anticipated to be supremely aware of hiding locations, available weaponry, locations of evidence and are in a superior position to ambush officers, destroy evidence or engage in other nefarious activities. Officer's who make entries into homes are regularly reminded of these facts during training and briefings. Nonetheless, in spite of the dangers, the law does permit and even encourages officers to forcibly enter structures for the purpose of serving search warrants if voluntary compliance is not achieved. As a general rule, officers are expected to announce their presence and allow a reasonable amount of time for the occupants to allow them inside to conduct their business as described in the search warrant. The waiting period is done for the officer's safety as well as the safety of the person(s) inside.

Well trained law enforcement officers are aware that persons who engage in or conduct illicit business are often reasonably mindful of other hazards that threaten their lifestyles including raiding parties from other rival groups who have an interest in shutting down competition or scoring bounty from the trade; namely drugs, guns and money. "Drug rip-offs" remain a common occurrence throughout the USA and it can be reasonably assumed that successful criminal participants remain vigilant against them. For this reason, it has often been said that, "drugs and guns go together".

There are many examples of poorly executed tactical entries where residents use of force against members of raiding parties have been excused as acts of self defense due to the raiding party's tactics. Poorly executed search warrants may create exigencies that would otherwise not exist. For example, it is reasonable that a person who did not know who was attempting to enter their home might grab a weapon for self protection against a perceived home invasion robbery.

In such confused cases the outcomes often prove tragic for the officer, the occupants, or both.

To prevent confusion, law enforcement officers train to serve high risk warrants. They are taught to knock and announce their presence and purpose in loud fashion. They often use a fully decorated officer to present a recognizable first impression when the door is opened. It is expected that occupants who recognize that law enforcement officers are at their door will comply with lawful orders and allow the officers to execute the requirements of the search warrant. This is the ideal scenario of any well executed tactical plan.

I reviewed the available information in this case. The narcotics raid team used Deputy Cochran and Sgt. Stickles to approach the door first. After knocking on the front door seven to eight times they got the attention of Matthew Grady who was sleeping in the front room as well as others who were in the house. Mr. Grady woke up, looked out the window and recognized them as law enforcement officers. He came to the door. He was quickly taken outside the home and briefly interviewed. Some time then passed before the narcotics team then made their way to the front door. There is a dispute between witnesses whether Mr. Grady pulled the door shut behind him when he stepped out or if it was left partially open.

The narcotics deputies then approached the door. Inv. Raible was the first officer in the stack. He stated that he announced their presence and purpose to Mr. Grady and enquired about others inside the home. The narcotics officers remembered that nearly immediately the door was pushed closed and locked. It is not known if someone opened the door after Mr. Grady closed it or if it had remained open. In either case, witnesses all agree that the door was closed at the time Inv. Raible approached it.

From a strict legal perspective search warrants in the State of Florida require officers to

knock and announce. Absent exigent circumstances, the common law “knock and announce” warrant attempts to eliminate surprise and confusion by providing the person inside an opportunity to comply with officers’ orders. The knock-and-announce method prescribes safety for all parties who might be present, including those that may be the subject of the warrant. It is intentionally designed to prevent a chaotic environment filled with confusion, doubt and misunderstanding.

Forced entries on the other hand are by their very nature much less controlled and as such much more dangerous. Forced entries invite error due to the chaotic assessment of unfolding events and the rapidly compressed time frames in which officers must react to the information before them. Like all areas of law enforcement unknown risks are responsible for more tragic consequences to law enforcement officers and suspects than known risks.

Regardless, during a search warrant, *“the officer may break open any outer door, inner door or window of a house, or any part of a house or anything therein, to execute the warrant, if after due notice of the officer’s authority and purpose he or she is refused admittance to said house or access to anything therein.”*³

The reasonableness of a forced entry is in part evaluated on whether the officers first knock and announce their presence⁴. The evidence in this case shows that the officers did make their presence known and they remained outside for several seconds to several minutes after doing so.

Officers may dispense of the knock and announce requirement if once arriving on the

³ See Florida Statute 933.09

⁴ United States v. Banks, 124 S.Ct. 521 (2003)

scene they develop “*reasonable grounds to expect futility.*”⁵ The evidence in this case shows that someone closed the door after it had been opened and braced it at least temporarily against the officers forcible kick. Before kicking the door, Inv. Raible cited that he thought occupants might be attempting to destroy evidence. This belief created an exigency as recognized by law.⁶

The test for determining the time frame that an officer must wait before forcibly entering a home after being denied entry is based upon a reasonable belief of how long it would take occupants inside the home to begin destroying evidence. In *United States v. Banks*, 124 S.Ct. 521 (2003), the Court determined that 15-20 seconds was sufficient, though no fixed minimum time frame has been judicially stated. The evidence shows that in this case several seconds to several minutes had passed after the occupants learned of the officer’s presence outside. Each of the witnesses in the house admitted hearing the first knock made by Deputy Cochran and some verbal exchange between Deputy Cochran and Mr. Grady. In fact, every occupant was summoned to the front living room by the commotion.

Mr. Cruice was the first to the door after Mr. Grady stepped outside. He lingered on the inside of the house looking out as Mr. Grady spoke to the Deputies. He was observed in this position “looking and listening” by both Mr. Cochran and Ms. Sterrett. It is likely that he knew law enforcement was outside but he failed to open the door to allow the investigators in. He may have even gone so far as to close the door on the investigators, a sure signal to them that there would be resistance to the warrant service.

⁵ *Richards v. Wisconsin*, 520 U.S. 385 (1997)

⁶ *United States v. Ramirez*, 523 U.S. 65 (1998), In Florida there are four recognized exceptions to the knock and announce rule; (1) where the person within already knows of the officer’s purpose and authority; (2) where officers are justified in the belief that the persons within are in imminent peril of bodily harm; (3) where an officer’s peril would have been increased had the officer demanded entrance and stated purpose; (4) where officers believe that persons within are engaged in activities which indicate that an escape or destruction of evidence is being attempted or would be attempted.

The law is careful to remind us that it is unlawful for a person to use deadly force when: *“the person against whom the defensive force is used or threatened is a law enforcement officer, as defined in s. 943.10(14), who enters or attempts to enter a dwelling, residence, or vehicle in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law or the person using or threatening to use force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer.”* (F.S.S. 776.013(d)).

In other words, the investigators had a reasonable expectation that after announcing their presence, whoever was on the other side of the closed door would be required by law to submit to their authority. The reasonable expectation that someone was trying to keep them out however escalated the anxiety level of several of the deputies as they reported in their interviews. Under the circumstances it is expected that any objectively reasonable officer, given this same set of facts and circumstances, would naturally consider any movement or posture from occupants inside as threatening to some degree. If the movements were interpreted to be a threat to life or limb, objectively reasonable officers could likely be expected to respond with use of deadly force.

C. THE EVENT AS REPORTED BY TODD RAIBLE

After Deputy Cochran took Mr. Grady from the front of the house, Inv. Raible stepped up to Mr. Grady and announced, “Sheriff’s Office we have a search warrant, is there anyone else inside?”

As soon as Inv. Raible asked this question, the front door pushed closed. Inv. Raible

stated that the he was alarmed and considered the closed door an elevated risk. To account for this perception, he cited; 1) the number of people that were expected to be inside the home, 2) the timeframe in which this entry had already taken and 3) the “games at the door” as reasons for his elevated anxiety. He stated that, “he felt as though this was going in a different direction” and “not going the way it should”. He said, “it felt dangerous.”

Inv. Raible tried to open the door. He grabbed the handle, pushed down on the thumb latch and pushed against the door. He stated that the door would not move. He repeated, Sheriff’s Office, search warrant, open the door.” At which point he heard his supervisor, Sgt. Jimmie Carlisle say, “break it.”

Inv. Raible stepped back and kicked the door. The first kick that struck the door was met with heavy resistance, as if something was bracing it. The second kick forced the door to, “fly open”. Inv. Raible’s leg landed just over the threshold of doorway. He said his first impression of the room was that it was dark. He said per training he paused for a second to observe. He was trying to see what was in the room, to get acclimated before actually committing himself to fully going inside. He later explained, “You know you don’t want to go barreling into a front door.”⁷

His vision seized immediately upon a person’s outline, a figure of a person that moved around the door to avoid the arc of its swing in order to “get square with him”. This person then quickly came towards him, “aggressive and determined”. He said he observed the figure’s left hand coming toward his chest. It was closed. He stated that he observed motion from the right side, as if the right side and the left side were coming together and “meeting” or “marrying up”. He stated that he could not recall seeing the right hand but it seemed to him like “an object

⁷ See taped interview of Inv. Todd Raible

coming through the air.” He concluded in that split second that this pattern of movement was consistent with how someone “tries to draw on you” or “point at you with a gun”. Inv. Raible recognized these patterns of movement and said he was left with the impression of “someone punching out with a gun, trying to shoot”. When asked if he heard anything, Deputy Raible stated, “I don’t hear anything.”

He stated that at that moment, without conscious thought, he reacted by firing his weapon. He stated that he was sure that he fired but wasn’t sure where the shot went. His first thought was that the next shot has to be good. Inv. Raible said that he immediately saw the figure stand straight up from a hunched or crouched position. The subject was more illuminated now, or at least it appeared that way to Inv. Raible based upon his dilating eyes adjusting to the contrasted darkness⁸. He perceived that the person in front of him was very large (6’5 – 6’8). Inv. Raible said he could see the subject’s body. He was shirtless with tattoos but his head was still dark. He watched the figure fall backwards. He watched his hand pull together towards his body and he said that this time he could see that there was nothing in them.

Sgt. Carlisle asked Inv. Raible, “Do we need rescue?” to which Inv. Raible replied, “yes, we need rescue.” He recalled that the other team members began pushing by him to continue the entry into the house. Inv. Raible holstered his weapon. He said he began scanning the area for a gun. He felt sure that this figure pointed a gun at him when he fired his weapon. He recalled that said to himself, “but his hands were empty” and he indicated that in this moment the stark realization of the gravity of his decision bore down upon him.

⁸ See taped interview of Inv. Raible

D. THE ENVIRONMENTAL CONDITIONS

The door of the house had a thumb compression latching device that requires a person to grasp the protruding handle while pressing the thumb latch downward. This motion is designed to withdraw the latching device from the frame so that the door could be pushed open. Above this handle and latching device is a bolt lock, that requires a key on the outside of the door and has a thumb turn activator on the inside of the door to push the security bolt into the door frame.

Photographs taken by the crime scene unit show these mechanisms clearly. There does not appear to be the kind or type of damage one would expect to see if the bolt lock had been fully engaged. If the bolt lock had been fully engaged when it was kicked open one would expect to see at the least, observable damage to the wood of the doorframe and the filler plate where the bolt would have had to rip through for the door to open. Rather, a view of the frame and the filler plate show only signs of routine wear and tear and what appears to be old damage, painted over, likely caused by someone prying at it with a tool in some significantly earlier event. The type of damage observed on the frame (absent the pry marks) is common to doors that are opened conventionally time and again. It is clear from the pictures that this door was not bolt locked at the time it was kicked open.

This reasonably leads one to believe that the initial resistance felt by Inv. Raible when he tried to open the door conventionally was likely caused by someone on the inside of the house forcibly holding it closed. This theory would not only be consistent with the forensic evidence as described but also with the statement later made by Inv. Raible who stated, "it felt a little more than a dead bolt, it didn't feel the same as doors that might be a little stouter. They at least flex or give. This thing didn't move." Again, Inv. Raible's description of how the "door flew open"

upon the second kick also suggests that whatever resistance was in place during the first kick had been removed as the second kick struck the door. Based upon the observations of Ms. Sterett and Mr. Cohron who were observing the event from inside the home it is most likely that Mr. Cruice was either intentionally holding the door closed or was perhaps leaning against it, “looking out” when the first kick by Inv. Raible was delivered.

A few photographs of the home are included in the evidence. They appear to have been taken around the same approximate time as the shooting occurred. There is a porch light that is also captured in the photos that appears to project sufficient lumens to bathe the porch portion of the house in incandescent light.

Inv. Raible was also carrying his own source of light, a flashlight that was attached to his firearm. This light has an on/off switch affixed to the frame of the weapon that could be activated by compressing it with the thumb of the left hand. Inv. Raible recalled in his interview that he fired his weapon while holding it only in his right hand. He stated that his light was not activated. His left hand was along his side, perhaps as a reaction to prepare to intercept the swinging door or to confront the figure that immediately appeared in front of him. In the instant that Deputy Raible fired the shot, he said the subject inside was not illuminated by his flashlight.

To determine the lighting conditions as they were on March 4, 2015 I sourced the NOAA website to view lighting conditions on that day. I discovered that civil twilight occurred at 6:25am and sunrise occurred at 6:47am. The tape recordings from emergency responders shows that the shooting occurred at precisely 6:32am, seven minutes after twilight but fifteen minutes before sunrise.

I went to the scene on September 18th, 2015 after also determining from NOAA that on

that day civil twilight would occur at 6:48am and sunrise at 7:11am. At 6:55am, seven minutes after twilight and sixteen minutes before sunrise the lighting conditions should have matched nearly identically.

Miguel Romero the occupant of 831 Maybrook Dr. allowed Inv. Bob O'Connor of the State Attorney's Office (7th Circuit) and I to replicate the entry at nearly the precise moment. At 6:55am I pushed the door open and peered into the darkened home as Inv. O'Connor stood just beyond the arc of the door. There was very little light from the rising sun but the porch light was indeed powerful. I was told by the Mr. Romero that this was the same light bulb that was in place on March 4, 2015. As the photos depicted, it bathed the front door of the home with bright light.

As a final note, prior to opening the door, I stood in the dark front yard and allowed my eyes to dilate to the natural twilight as the officers must have done when they stood outside the garage. I then stepped onto the porch for about one minute and allowed my eyes to begin adjusting to the porch light before opening the door.

When the door was opened shadowy light from the porch infiltrated the home making it possible for me to see in reasonably good detail the figure and movements of Inv. O'Connor. I stood almost exactly between the two vertical supports of the doorway in the same position I estimated that Inv. Raible must have been when he kicked the door open. I noted that with the door fully opened that Inv. O'Connor was illuminated well enough that I could make out detail. As he moved his arms together however, shadows were cast upon his body and arms. It was observed that the movement of one arm casted shadows upon the other arm depending on the angles and direction of movement for both arms. It is impossible to know the precise shadow sequence that was observed by the officer's.

Inv. Raible said that he could see Mr. Cruice's left hand in a closed position but could not see the right hand. He said that the left hand was moving towards him like it was punching out. He said he could see Mr. Cruice's right arm and shoulder moving and surmised that the right hand was moving directionally to join the left hand.

Inv. Blais could also see the left hand punching out but he too could not see the right hand. Inv. Blais was aligned to the left of the door when it was opened. The observations of these two officers suggest that the door was not fully opened at the time these memories were captured and that Mr. Cruice's right side was partially blocked by the door or the door's shadow. The vantage point of the officers comports with what I also observed as I moved slightly center to left with the door not fully opened and Inv. O'Connor placed just beyond the arc area of the door.

Inv. Patterson recalled the details slightly differently. He did not see Mr. Cruice punch out with his left hand but rather lift both of them upward while they were already joined. He stated that he could see the back of the right hand and only the fingers of the left hand. Inv. Patterson is the only one who saw Mr. Cruice's hands together in a clutched position. Still, Inv. Patterson did describe Mr. Cruice's finished posture as leaning forward with both arms extended outward consistent with the other two investigators. All three investigators believed that Mr. Cruice was holding something and was adopting a shooting style posture.

I could estimate from my viewing of the scene seven minutes after twilight that if the door was fully or partially opened and Mr. Cruice would have been entirely standing in the open that there would have been sufficient light to see what was in Mr. Cruice's hands if the officers gave Mr. Cruice's arms time to stop moving and they would have taken the time to fixate their gaze on the threat. The danger in waiting to inspect the hands as they finished traveling to a fixed

position would have been in chancing the much higher probability of being shot had Mr. Cruice indeed possessed a firearm.

I am reasonably certain from the testimony of the officers that rather than waiting to identify a firearm in the challenged lighting conditions, that the furtive movements offered by Mr. Cruice forced the conclusion of the presence of a gun. Rather than relying on weapon identity in the midst of motion and the unstable shadowy light I have concluded that the calculus of Mr. Cruice's movement pattern convinced Inv. Raible that he was in immediate danger which caused him to react heuristically consistent with his training.

E. THE ACCEPTED RULES FOR USING LAWFUL DEADLY FORCE: ABILITY, OPPORTUNITY, JEOPARDY

The use of deadly force is best analyzed by breaking down the threat that resulted in the officer's decision to use force into three distinct sub-components—*ability, opportunity, intent*.⁹

An officer who uses deadly force in defense of self or others must *reasonably believe* that a subject had the *ability* to cause death or serious bodily harm to the officer or another. Determining ability requires that the officer recount specific features of the threat that could, if allowed to fully transpire, result in that officer's or another person's death or serious bodily harm.

As an example, a person who holds an object that can pierce, penetrate, slash, cut, cause significant bodily trauma or in other ways leave broken bones, permanent disfigurement, scarring, or extended hospital stays would be said to have the ability to cause death or serious

⁹ FDLE CJSTC Florida Basic Recruit Training Program, Ch. 4. Vol. 2 Ver. 2014.07, pp.204

harm. This would of course include the possession of conventional weapons like knives, guns, or explosives, but could also include any item that could be wielded to cause the type of injuries described from cement bricks to liquor bottles to ballpoint pens. Further, determining a subject's ability to cause death or great bodily harm may extend to allow for something more ambiguous like an attacker's much larger size in relationship to a defending officer. Very large subjects inherently pose an elevated danger to smaller officers if the two should engage in a violent fight.

Next, an officer must *reasonably believe* that if the subject does possess the ability to cause death or serious bodily harm, then the subject must also have the *opportunity* to cause such harm due to the immediacy and proximity to the endangered other. For instance, a subject who possesses the *ability* to cause death with a sharpened knife, may lack the *opportunity* if the knives cutting abilities are mitigated by distance.

Where a person wielding a firearm may provide the officer a deadly opportunity to cause death or serious bodily harm from hundreds of yards away, a person wielding a knife would have no such opportunity at such a great distance. It is a rule of *opportunity*, that officers may not intentionally create their own exigencies, that is to say intentionally place themselves in harm's way needlessly and purposelessly then appeal to the idea that their life was in imminent danger. Law enforcement officers have no lawful requirement to retreat in the face of danger and their failure to do so should not be confused with the idea of creating an exigency.

Third, an officer must *reasonably believe* that he or another is in imminent jeopardy of death or serious bodily harm, *intentionally* by some other person's actions. How *intent* is established is left to the officer's reasonable analysis of the events and an articulated explanation of the totality of circumstances that gave rise to his/her reasonable belief that the actions of

another, if allowed to continue, would be likely to cause death or great bodily harm to another. It may be a visual observation, an auditory comment or some other perception that the actor perceives as very real. If for instance, an officer was to see someone shoot another person, then turn the gun towards him; his visual observations would suffice to show intent. If an officer were to hear a threat of harm or death from another, under certain tense circumstances the mere uttering of the threat may be sufficient to take action under the jeopardy clause.

These three criteria make up the standard of care by which all acts of deadly force can be reasonably measured. In analyzing the incident between Inv. Todd Raible and Derek Cruice it helps to frame the threat accordingly. Derek Cruice stood just inside the door way and may likely have pushed against the inside of the door to keep the deputies from entering. When the door was violently kicked open, Mr. Cruice placed himself in such close proximity to the entry team leader that he provided little time for Inv. Raible to understand the visual cues available to him. This close proximity demonstrates that Mr. Cruice had the *opportunity*, had he wanted to, to harm Inv. Raible or others who stood just beyond the threshold of the door. This *opportunity* would include a sudden attack with any weapon or even his bare hands. This was the first recognition that Inv. Raible described.

Inv. Raible could not be sure however if Mr. Cruice had the *ability* to cause him deadly harm. Inv. Raible recounted that it was dark and he did not have a good sight picture of what, if anything, Mr. Cruice had in his hands. But Inv. Raible is a trained law enforcement officer with significant experience in managing critical incidents. It is certain that he has observed and participated in the motion of grasping and positioning a firearm towards a target many times in his career. Indeed, he is formally trained in this series of motor actions. These personal

experiences and observations offer a reliable record of understanding the meaning of this visual pattern of movements. When Inv. Raible observed Mr. Cruice's hand coming together towards him, it is reasonable that he would have interpreted this as a deadly threat even though in that split second he could not see precisely what the threat was. The proximity of the threat and the aggressive forward actions of Mr. Cruice as described by Inv. Raible were interpreted by Inv. Raible that he and the safety of others were in imminent jeopardy.

Considering the totality of the circumstances it is reasonable that Inv. Raible concluded that the figure he observed just inside the doorway of the home intended to cause him harm or death as he aggressively made his approach towards him while bringing his hands together towards the center of his body. The circumstances demonstrate that in this close quarter environment Inv. Raible had nowhere to run or seek cover from the figures apparent advance upon him. Though we cannot be sure exactly what Mr. Cruice's intentions were at the time he was shot, his actions and placement at the time the door opened were regrettably consistent with bonafide real life threats to life and limb that support deadly force reactions.

F. POWER TO ARREST

It is noted that the search team that arrived at 831 Maybrook Drive were their on official government business serving a valid search warrant. There should be no dispute that these law enforcement officers were acting under color of law. The officers were acting with discretionary authority as they approached and made entry into the residence. There is no evidence that any of the officers were at any time operating outside of the scope of their lawful authority.

G. INVESTIGATING USE OF FORCE

All police involved shootings must be objectively reasonable. There is an implication in the construct of reasonableness that observed behaviors may be mistaken or misunderstood, only to be examined in hindsight for veracity. What an officer sees at a particular critical moment cannot always precisely be understood by that officer. The less time an officer has to analyze a perceived threat, and the more critical the potential outcome, the greater the possibility for error.¹⁰ For instance, there have been many incidents of officers firing upon people who point firearms at them, only to find out later that the firearm wasn't loaded¹¹ or that the firearm was a fake¹². There are also incidents of officers firing upon persons who hold objects other than deadly weapons in their hands like cellphones¹³, spoons¹⁴ and towels.¹⁵

In other incidents, officers have fired upon persons whose overt or furtive movements suggested the presence of a firearm. In Maryland for instance, a subject advanced on an officer, placed his arm behind his back and "whipped it around" suggesting that he was armed. In truth, he only pointed his finger at the officer held in the position of a firearm. He was shot by the officer who was forced to determine the presence of a weapon in a fraction of a second and later died.

Unfortunately for the nineteen year old subject, his motions were directly consistent with deadly force threats. Fortunately for the officer this act was caught on video¹⁶ and the officer's

10 Janis, I. & Mann, L. *Decision Making: A Psychological Analysis of Conflict, Choice and Commitment*. 1977, The Free Press, N.Y.

11 <http://www.13newsnow.com/story/news/local/mycity/newport-news/2015/07/04/deadly-officer-involved-shooting-in-newport-news/29692873/>

12 <http://www.policeone.com/officer-shootings/articles/8637066-Video-Texas-cops-fatally-shoot-man-who-pulled-replica/>

13 http://www.richmond.com/news/latest-news/henrico-police-officer-receives-silver-valor-award/article_ab64018-4308-11e3-b1c2-001a4bcf6878.html

14 <http://time.com/4009242/police-spoon-shooting/>

15 <http://www.latimes.com/local/lanow/la-me-ln-man-with-towel-on-arm-shot-in-head-by-lapd-20150620-story.html>

16 <https://www.youtube.com/watch?v=jRKXa59PdEk>

shooting was found justified.¹⁷ A similar incident occurred in Salem, N.H.¹⁸ when a man made a “gun gesture” with his hand towards a police officer. The officer fired one round at him, but missed striking him before he took him into custody. The man was later charged with criminal threatening and reckless conduct.

These stories are not for direct comparative purposes to this case but rather to objectively characterize what has been called mistake of fact (MOF) in police involved shootings.

Thomas Aveni from the Police Policy Studies Council designed an original research piece to understand multivariate situational and behavioral predictors of police shootings involving felony-in-progress suspects, under circumstances meticulously designed to appear ambiguous. The study used 307 officers/deputies from six agencies who engaged 117 “unarmed” suspects.

The findings showed that officers are more likely to shoot when a subject's action is “shoot” than when a subject’s action is “surrender without,” an object in their hand and more likely to shoot when a subject’s action is “surrender without” an object in hand than when it is “surrender with an object in-hand.” This apparent anomaly was explained by the high correlation found in scenarios which had been assigned high “acting quotients” (AQ) for the amplitude of critical acting variables. Acting quotients are compelling movements that were assigned values based upon their perceived danger. For instance, if an actor turned more quickly toward the camera in one scenario than another, a participating officer might react to that turn with more belief that it represented the initiation of a threat than if that turn had been less rapid. Likewise, if the actor turns with his/her hands at waist level – where a secreted weapon is believed to have

¹⁷ <http://www.wbalv.com/news/video-to-be-released-in-reisterstown-police-shooting/35487232>

¹⁸ <https://www.bostonglobe.com/metro/2015/08/18/salem-police-fire-shot-man-who-made-gun-gesture-during-confrontation-injuries-reported/iziKzxpXXYolm3bRCqMwBP/story.html>

been accessed, the officer might be more inclined to shoot than if the actor turned with his/her hands held high, in more of a “surrender” posture.¹⁹

The study showed that higher the acting quotient, the higher the correlation was for officer’s shooting “unarmed” suspects.

Many variables have been studied in the context of police involved shootings. Race for instance has been explored extensively. Other factors such as age, manner of dress, context of crime and subject behavior are of interest to researchers as well.

In 1980, a study published in the American Academy of Political and Social Science identified a subject’s behavioral actions as predictive of the officer’s decision to use deadly force. Seven categories of classification were examined to include, 1) Using a weapon, whether a gun, knife, automobile used for purposes of assault, or any other potentially lethal or injurious object. 2) Threatening the use of but not actually using a weapon, whether by pointing or aiming it or by indicating verbally that a weapon would be used. 3) Displaying a weapon while not threatening its use, either verbally or otherwise. 4) Assaulting an officer or civilian where no weapon is used, threatened, or displayed. 5) Appearing to reach for a weapon when no weapon is actually used, threatened, or displayed, and there is no assault. 6) Disobeying an officer's order, usually an order to freeze or halt, when no weapon is used, threatened, or displayed, and there is no assault. 7) Other actions precipitating shootings and includes accidental discharges at suspects. The author concluded:

“In almost all instances, the suspect's act precipitating a shooting incident is the final act that caused the officer to fire, that is, that act but for which the shooting would not have taken

¹⁹ Aveni, T. The MMRMA Deadly Force Project A Critical Analysis of Police Shootings Under Ambiguous Circumstances. The police Policy Study Council, 2008

place.²⁰

It is important to reiterate that an officer's decision to shoot was most highly correlated with the subject's behaviors just prior to being shot. A person who takes actions perceived as threatening to law enforcement officers is more likely to be engaged with deadly force than any other variable.

Law enforcement officers have been trained for decades to use force only when they reasonably believe the force to be necessary.²¹ This mandate does not require that their use of force be correct, but only that the decision to use force be grounded upon objective standards of response to resistance as accepted within the profession. To this end, the State of Florida has created a force Matrix to objectify force in a graphical interface. See Figure 1. Note that the categories of resistance are aligned proportionally to the perceived categories of force.

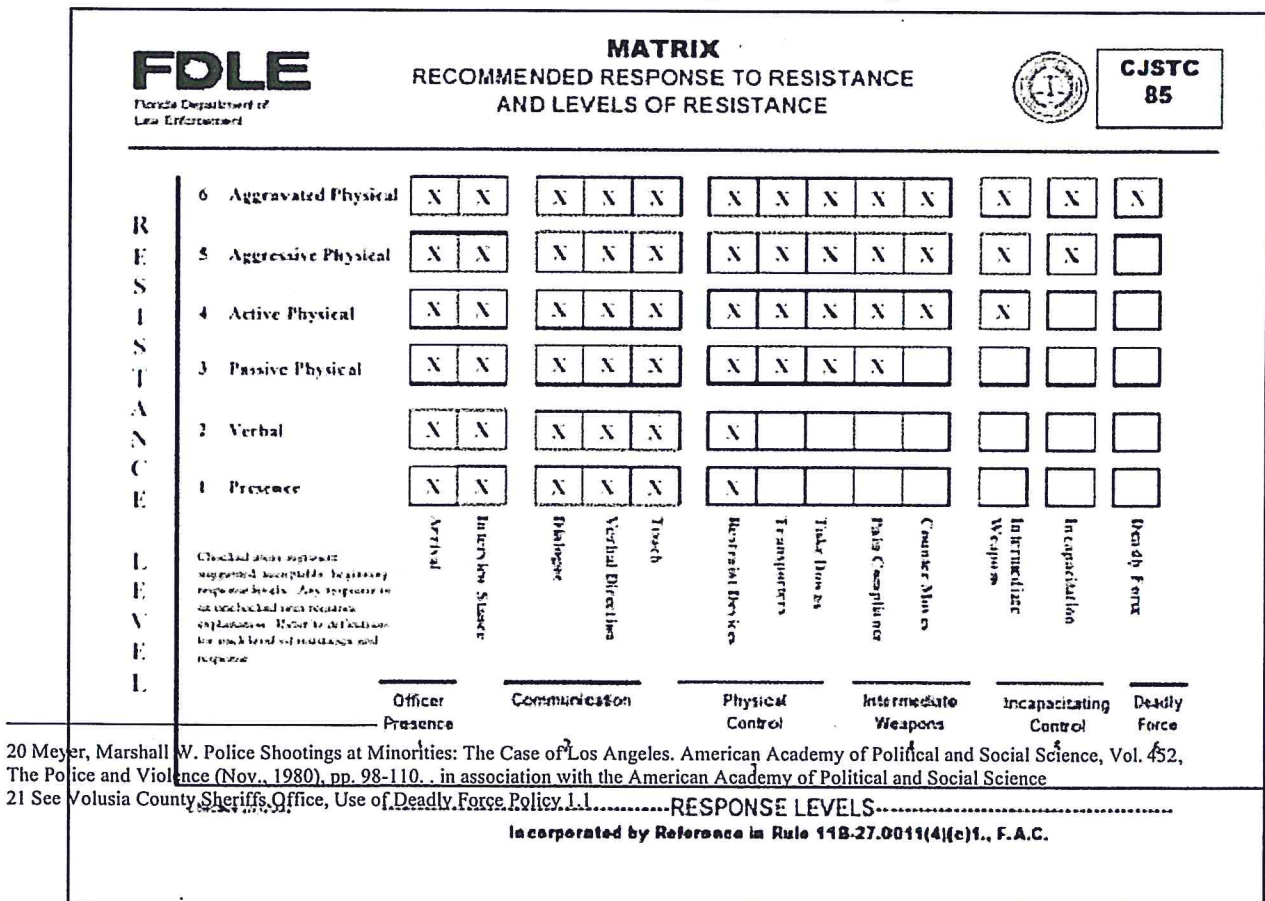


Figure 1

By using this or similar force matrices, force can be measured and categorized using social constructs of resistance and response to determine appropriateness. Each category of resistance offered by an offender is matched with a corresponding category of response. This scale uses a theory of escalating and de-escalating behaviors that are designated by the checkmarks observed in the model.

With respect to this case, Inv. Raible and the other deputies described that they perceived Derek Cruice using Aggravated Physical Resistance, a category renamed by FDLE subject matter experts (SME) to *Deadly Force Resistance* in 200722.

The Florida Department of Law Enforcement Criminal Justice Standards and Training Commission offers the following definition of Deadly Force Resistance:

“Deadly force resistance is a subject’s hostile, attacking movements with or without a weapon that create a reasonable perception by the officer that the subject intends to cause and has the capability of causing death or great bodily harm to the officer or others. (DT501.2.B.4.)²³

Comparing this denotation to the facts of the case under review, Inv. Raible explicitly stated that he observed Derek Cruice making hostile attacking movements. In hindsight, Inv. Raible discovered that Mr. Cruice was making these movements without a weapon. He believed however, that through his pattern of movements that he possessed a weapon and was trying to engage him with it. The other investigators who stood at the doorway described the same movements and actions. The other investigators also indicated that they were preparing to shoot Mr. Cruice.

²² It should be noted that the FDLE CJSTC no longer requires basic recruit students to train to the depicted force continuum as it has been determined to be confusing to many agency policies that have constructed their own continuums. However, this continuum remains endorsed by the CJSTC.

²³ See FDLE FL BRT Curriculum (2010) Vol. 2, pp. 206

There were other witnesses to the events. Steven Cohron had emerged from the back den area at approximately the same time Inv. Raible fired the single shot. Mr. Cohron stated that he “saw the entire thing” but parts of his recount during the initial statement do not comport with known facts. For instance, Mr. Cohron stated that when he stepped into the living room he saw Derek and Matthew standing beside each other because “Matthew was trying to open the door and get the dog back.” All other accounts, including Matthew Grady’s show that Matthew was actually outside with Deputy Cochran at the time of the shooting, and the dog was inside the back bedroom with Samantha Sterrett. Mr. Cohron also stated that there was “no fast movements” and “no reaching at the officers” by Mr. Cruice. Mr. Cohron’s description of his location when he made these observations show that he stood to the rear of the living room and looked forward into the only available light radiating from the porch light bulb. There is some dispute as to whether the officers had their tactical lights on. Mr. Cruice stated that the lighting in the room was “very dim.” It is probable that he would be able to make out the silhouette of Mr. Cruice against the light(s), but from his vantage point it is unlikely that he could have observed threatening movements towards the front of Mr. Cruice’s body as perceived by the law enforcement officers who stood at the front door. In a second interview, Mr. Cohron’s statement changed to describe Matthew Grady outside and Mr. Cruice standing in front of the door with perhaps Samantha Sterrett. Ms. Sterrett’s testimony however shows that she was in the bedroom during the entire encounter with her dog. Mr. Cohron said that he was able to observe Mr. Cruice standing close to the door, an observation that does comport with the forensic evidence, “trying to figure out what’s going on the other side of the door, like who was Grady talking to... He’s listening and leaning in towards the people...listening and looking.”

When asked by the investigator about his first interview, Mr. Cohron waffled and declared that he was not 100% certain about if anyone else was in the room. Mr. Cohron was also unsure in the second interview if the dog was in the room though these were observations seemed to be significant themes in his first interview that he mentioned more than once. It is noted that Mr. Cohron's observations are quite different between the two interviews; so much in fact that it is difficult to understand precisely what Mr. Cohron actually saw. If Mr. Cohron's testimony is determined by triers-of-the fact to be accurate, reliable and truthful, it would change the entire dynamic of this investigation by declaring the other witnesses inaccurate, untruthful or unreliable in their recounting of events.

Samantha Sterrett also witnessed the event, but she saw it from the other side of the doorway to her bedroom. She stated that she saw the gun and heard a pop then ran into her room. She could not recall any other details about the shooting.

The mere act of pointing a weapon at an officer is sufficient grounds to engage the offender with deadly force. Still, the fact remains that Mr. Cruice did not actually possess a weapon. The question for triers-of-the-fact is to determine is whether it was objectively reasonable for Inv. Raible to believe that Mr. Cruice held a weapon as a result of the ancillary behaviors that Mr. Cruice is alleged to have taken.

Use of force investigation's must take into account that law enforcement officers regularly work in a tenuous environment where the facts and circumstances rapidly unfold. Officers regularly make split second decisions with limited knowledge of events. Because they work in an open skill environment²⁴, law enforcement officers are taught at the police academy

24 Schmidt, R.A. & Lee, T.D. (2011) Motor Control and Learning: A Behavioral Emphasis, Fifth Ed. Human Kinetics, pp. 23

that cognitive conclusions are supported upon available information at any given moment, a concept known as the “totality of the circumstances.”²⁵ Facts sometimes prove different in hindsight than the officer reasonably believed them to be at the time the force was used. This is why reviewers of the fact are asked to place themselves in the officer’s shoes at the moment force was used and apply jurisprudence to measuring the facts by not assuming any information discovered in hindsight, for doing so would create the phenomenon referred to in psychology as *hindsight bias*,²⁶ the tendency to view events as more predictable than they really are.²⁷

Cognitive conclusions based upon available information at the moment are what drive an officer’s decision-making. This in turn drives human performance. Officers must recount the facts and circumstances to an objective audience to justify their use of force.

Since the Supreme Court ruling of *Tennessee v. Garner* (1985) and the subsequent ruling of *Graham v Connor* (1989), use of force in a police setting has changed from an Eighth Amendment analysis (cruel and unusual punishment) to a Fourth Amendment analysis (objective reasonableness). Absent egregious circumstances, in cases of mistake of fact shootings officers are rarely challenged by the question of whether they intended to harm someone. Rather they are held to a standard of conduct associated with their reasonable beliefs based upon their observations at the moment force was used.

The Supreme Court was clear about this change of analysis: *The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.*

25 See FDLE FL BRT Curriculum (2010) Vol. 2, pp. 205

26 Harley, E.M. (2007) Hindsight bias in Legal Decision Making, *Social Cognition*, Vol. 25, No. 1 pp. 48-63

27 Roese, N.J. & Vohs, K.D (2012) Hindsight Bias, *Perspectives on Psychological Science*, Vol. 7 No. 5

Note that the Supreme Court is not referring to arrests, stops, detentions or other discretionary functions of law enforcement. The Court in this context is referring specifically to the reasonableness of a particular use of force by officers. Where it can be argued that the officers may have used different tactics to address the crimes listed in the warrant, this is of no consequence to a criminal analysis of the officer's decision to use force. Policy considerations and tactical methodologies that may be responsible for creating the environment are only important to validate a use of force transaction in order to establish an officer's lawful authority to use force. The task for a use of force review is to determine if the officer's actions were consistent with existing policy and training. The merit of questioning the existing policies and tactics for best practice lies perhaps with the civil court.

For triers of the fact to understand the appropriate motivations for why an officer used force, they must disregard the clarity of hindsight and focus directly on the evidence that was available to the officer at the time the force was used.

- “What motivated the defendant to use force?”
- “What did the officer reasonably believe at the time he/she used the force?”
- “Was the use of force proportional to the threat reasonably perceived by the defendant?”
- “Was the officer forced to act in light of rapidly unfolding circumstances that were tense and uncertain?”

Only by properly establishing the answers to these questions can triers-of-the-fact absolve themselves of the hindsight bias that that threatens to influence self-defense investigations.

H. INTENT VS. VOLITION

Combat crimes (assaultive behaviors) generally require *intent*. The act of killing is separated under law by categories of *volition*. Volition is a construct of cognitive processing. It is the process by which a person decides upon and commits to some particular course of action. In some legal arenas, volition is often confused with intent, but they are distinct in that intent regards an act as purposeful or not (Did you mean for it to happen?). Volition is the state of mind that drives those actions (Why did you feel it was necessary?). This is a critical distinction in self-defense law because crimes most often require intent. A law enforcement officer is instructed that they are not to shoot for the purpose of killing (intent), rather they shoot to stop a threat (volition). Volition is multidimensional, complex and relative to the conflict. It addresses several actions that might be taken (fight, flight, posture or submission)²⁸ in any given instant. Intent is a single minded construct and accounts only for the final objective (to kill).

Law enforcement officers are formally trained to *not* consider a person's death the intended consequence of their shooting. In fact, statistics show that far more people shot at by law enforcement officers survive the encounter than are killed.²⁹ If it were an officer's intent to kill, the statistics would likely reflect this radical systemic vacillation from volition to intent by an enormous increase in citizens killed by police.

It can be said that where all intent involves volition, not all volition involves intent.

²⁸ Grossman, D. (1995) *On Killing: The Psychological Cost of Learning to Kill in War and Society* 1st Edition, PPCT Research Publications
²⁹ See FBI Uniform Crime Reports

Murder - Intent	Self-Defense - Volition
<p>“Yes, I meant to kill him and that was my purpose.” or “No I did not mean to kill him and that was not my purpose.”</p>	<p>“I used force to protect myself. I realized then that the force I was about to use might result in harm or death, but I used force for self-protection, not to harm or kill him.”</p>

The State of Florida recognizes this distinction in law and distinguishes acts of self-defense from assault, manslaughter and murder by the volition of the actor. Law enforcement officers may justifiably use force if they *reasonably believe* it is for the purpose of preventing another’s unlawful behavior. This includes the use of deadly force to prevent certain defined criminal behaviors and to protect self and others from the imminent threat of death and great bodily harm. Even in criminal matters where intent is proven, volition still plays a major role throughout the criminal justice process – from arrest to sentencing. The terms manslaughter, negligent homicide, and various degrees of murder are all measured by different degrees of volition.

I. DESCRIPTION OF COMBAT STRESS

Dr. Alexis Artwohl has conducted research on thousands of police officers that have experienced gunfights in defense of self or others. She has empirically validated reports from the field that officers often experience perceptual distortions and fluctuations in memory during intense bouts of anxiety caused by fear. Cognitive processes are most often compromised by stressful situations as a process of the human survival instinct.

Where a law enforcement officer appraises a situation as manageable, he or she will approach the situation with relative calm, considering the task at hand a challenge to be overcome by relying on training and the tools of the profession. Sometime the support of others (backup) contribute to the officer's coping mechanisms and self efficacy. However when anxiety thresholds begin to exceed a person's coping mechanisms, the challenge becomes a threat³⁰ and survival instincts naturally engage. Though perception and appraisal skills vary in population, when anxiety reaches a certain threshold for any given individual, he or she will be subject to involuntary psychological and physiological changes. Where training and equipping officers has proven useful to stave off anxiety induced cognitive and physical changes (physiological arousal) for longer periods of time, one must not forget that law enforcement officers are indeed human and like all human's have emotional limitations with fear being of primary importance.

Perhaps one of the first manifestations of survival stress is that deliberative contemplation is often replaced by heuristic response patterns, sometimes called snap decisions or rule of thumb guidelines. Dr. Artwohl's research showed that approximately 74 percent of police officers who were examined after extreme bouts of stress reported that they had no conscious awareness of their actions while they were performing them. They described the event as if their actions were on autopilot, unguided by reason and subject to conditioned responses (heuristics).

Some examples of combat stress empirically identified by Dr. Artwohl include:

- **Perceptual and Memory distortions**
- **Binocular use of eyes**
- **Extraordinary strength**

30 Lazarus, R. & Folkman, S. (1984) Stress, Appraisal and Coping. Springer publishing, N.Y.

- **Inability to make measurable, rational, proportional decisions**
- **Sensory gating:** to include **Auditory Exclusion**, the inability to hear non-essential noises in the environment and **Tunnel Vision**, the experience of seeing the threat clearly while everything else is blacked out. Often includes numbness, the loss of acute feeling in the hands and skin.
- **Vaso-Dilation:** A dilation of capillaries in the skin to prevent bleeding when cut, punctured or lacerated.
- **Loss of fine and complex motor skills**
- **Time distortion**
- **Spatial distortion**
- **An evacuation of the bladder and bowels**
- **A transition from Sympathetic to Parasympathetic nervous system**
 During periods of high arousal, the brain switches cognitive processing from rational to experiential. The decision characteristics of this are:³¹
 - based on past experiences instead of a conscious appraisal of events;
 - intuitive and holistic instead of analytic and logical;
 - oriented toward immediate action instead of reflection and delayed action;
 - highly efficient and rapid cognitive processing instead of slow, deliberative thinking;
 - "seized by emotions" instead of "in control of our thoughts"; or

31 Artwohl, A. (2002, Oct) Perceptual and Memory Distortions During Officer involved Shootings, *FBI Law Enforcement Bulletin*, IACP Net document No. 564080

- "experiencing is believing" instead of requiring justification via logic and evidence.

I drew some examples from the witness statements of the DNET team that are consistent with perceptual distortions and emotional loss of control as described above. These statements show evidence of high anxiety and arousal most typically associated with the affect of fear.

Inv. Raible:

"At that point there is not conscious thought, or anything it's automatic, my gun has gone off and I shot."

"And I start going to the driveway and I'm, I don't know if I verbalized this to anybody or anything but I'm thinking in my head I'm thinking it was was there, the gun was there. I didn't see it drop. But it had to be, it was something, he was pointing something at me. But his hands were empty. And this wave hits me..."

"I feel the guys around me and I try to control myself but it doesn't work. And uh, it takes a minute for um,--actually I don't know how long, But basically Brody Hughes comes and he talks to me and kind of calms me down a little bit, but--and the rest of the day is just crap--to tell you the truth..."

Inv. Blais:

"Like I'm seeing it in slow motion because that's how it is when your adrenalin is spiked and craps going on."

Q (FDLE Investigator): "From the time opens to the shot, how much time elapses?"

A (Inv. Blais): "It seemed like minutes but it--it was quick I'm assuming, but everything at that time was slow motion cause once I'm seeing that, I mean..."

The testimonies provided by Inv. Todd Raible, Inv. Jeremy Patterson and Inv. Aaron Blais show evidence of experiential, high arousal, fight/flight experiences, thoughts and behaviors driven by fear during the confused moment that the door was kicked open. Though evidence of fear alone may not necessarily prove an affect on the Inv. Raible's judgment, the demonstrable existence of fear is necessary to demonstrate that the officer reasonably believed that his life or the lives of others were in imminent jeopardy of death or great bodily harm for the use of deadly force to be valid. The independent testimony of the other two officers reinforces Inv. Raible's appraisal of the situation, helping to lend objectivity to the investigation and further ensuring Inv. Raible's veracity of the events.

Perceptual distortions during observations indicate the presence of increased arousal consistent with fight/flight phenomena. The three investigators who peered into the open door all showed evidence of high anxiety based upon their appraisal of the situation. Their statements leave evidentiary artifacts that their perceptions were consistent with temporal fear induced arousal. The reliability of their statements remains within the province of the jury to decide if these officers, based upon their appraisals reasonably believed they were in physical danger of death or great bodily harm.

VI. CONCLUSION

The shooting of Derek Cruice by Inv. Todd Raible is a tragic reminder of the imperfect application of police work. Though police are trained and retrained in specific skills and techniques to sharpen performance and minimize incidents of harm, there remains a level of uncertainty that sometimes plays out in the most tragic of consequences.

It is my opinion, based upon the evidence and witness statements that Inv. Raible approached the scene consistent with law and policy. The DNET team did their due diligence prior to arriving and had a reasonable expectation of what they would encounter at the scene. The officers who gave statements appear to be well trained and experienced with service of search warrants and managing critical encounters.

The DNET search team entered onto the curtilage of the property and subsequently the home with a lawful search warrant. They had lawful authority under Florida statute 933 to enter the premises regardless of cooperation from the inhabitants.

The uniformed officers and several members of DNET knocked and announced the presence and purpose of the intrusion. They waited for several seconds to several minutes before deciding to force entry. One person was successfully removed from the home without incident.

When the DNET stacked moved from their staging position near the garage to the threshold of the front door of the home, they reported that the front door was pushed closed and locked with either a bolt lock or some other solid reinforcement behind it.

The observation of the door being pushed closed reasonably signaled to the officers that they were likely meeting resistance and could reasonably expect to continue meeting resistance as the event unfolded. It is noted that the door was inspected, including the latch and locking mechanisms. The evidence shows that the door was kicked twice consistent with the testimony. Prints from Inv. Raible's boot have been visibly left on the door's surface, plain to the naked eye. This evidence suggests that the door was closed and was either locked or was forcibly being held closed by a person or an object on the opposite side. This circumstance could only have been created by someone inside the home.

The need to kick the door appeared to have elevated the team's anxiety level as they

prepared to escalate their entry tactics. The officers at that moment did psychologically prepare for a forced entry and it is likely that they more greatly anticipated a violent encounter than if they had been voluntarily granted entry. It is my opinion that the open defiance against the team of officers that stood at the outside of the door announcing their intent to enter would reasonably raise the officer's anxiety level and create a tenser and more uncertain level of caution. The science of human performance under stress serves to explain how deliberative controlled planned schemas can quickly devolve to heuristic action/reaction responses when threats are perceived.

The testimony from the three deputies who witnessed the door opening and observed the actions of Derek Cruice were all consistent. They all described Mr. Cruice standing in a leaning, hunched over stance. Inv. Patterson described Mr. Cruice as deliberately engaging Dep. Raible using a focused eye gaze, another feature consistent with the pattern of movement associated with engaging a target.³²

All of them saw hand movement towards the center of his body. All of them recognized this pattern of movement based upon their training and experience as consistent with someone who was assuming a pugilistic gun fighting position. Other witnesses that were inside the house included Samantha Sterrett and Steven Cohron. They stood behind Derek Cruice at the time of the shooting. A third witness, Matthew Grady, was outside the home speaking with Deputy Cochran. None of these witnesses appeared to have been at a vantage point to make an accurate determination of Mr. Cruice's hand movements towards the officers. Mr. Cahron did note that Mr. Cruice was hunched forward towards the officers with his shoulders rolled forward, suggesting however that this was his natural posture. With the exception of Mr. Cruice's friends being noticeably upset and stating their personal views about the need to use deadly force against Mr. Cruice, I was not able to determine any reliable inconsistencies between the witness testimonies given by Ms. Sterrett, Mr. Grady and Mr. Cohron and the testimonies given by the deputies.

The close proximity of Mr. Cruice to the front door when it opened is a matter of forensic certainty. I have been to the scene and estimated the distance to be just outside of an arm's reach. This close proximity allowed Inv. Raible very little time in which to appraise the actions of Mr.

³² Zelinsky, G. A theory of eye movements during target acquisition. *Psychological Review*, Vol. 115(4), Oct 2008, 787-835.

Cruice and respond. Reducing decision making time frames and increasing the criticality of the decision statistically increases the error rate of decisions.

It is my opinion as a state certified firearms and defensive tactics instructor and a nationally recognized subject matter expert in defensive techniques that the actions of Mr. Cruice as described by the witnesses' recount movements are indeed consistent with a person preparing to deliver deadly force with the use of a firearm. A post mortem autopsy showed the trajectory of the bullet fired by Deputy Raible made an entry wound on the left side of Mr. Cruice's face. The path of the projectile entered and traversed the left superior lip, left maxilla, oral cavity, left mandible, posterior pharyngeal wall, left transverse process of vertebra C2, left vertebral artery, and left posterior muscles of neck³³ before exiting near the shoulder blades. This forensic evidence is consistent with the officer's and other reports that that Mr. Cruice was leaning forward towards the officers, crouching and facing Deputy Raible when he was shot.

Though it is true that this identical pattern of movement may be anticipated for other types of movements, the context of the critical forced entry made the attack the most concerning over all other alternatives. The appraised belief by Inv. Raible that an attack was imminent and ongoing remain the salient issue of why the investigator responded with force. Though none of the deputies could recall seeing a specific weapon in Mr. Cruice's hands, the split second judgment to shoot was based upon sound principles of threat assessment and conditioned response. Given all of the same factors, the levels of anxiety experienced by the deputies and the compressed time frame opportunity to deliberate between alternative courses of action, it is my opinion that any trained law enforcement officer might likely respond in precisely the same way.

The Court has spoken to this period of uncertainty in the landmark cases of *Tennessee v Garner* and *Graham v Connor*. The Court has recognized that within a split second an officer may be tasked with making sound judgment based upon his/her experience and training. The criteria for justification is not that the officer is right, but rather that the officer's action are objectively reasonable based upon the facts and circumstances that dictate the behavior.

I find that the available evidence supports the testimony of Deputy Todd Raible and that he reasonably believed at the moment that he fired his weapon that his life or the life of another

³³ See medical examiners report prepared by District Seven Associate Medical Examiner Marcela Chiste, M.D., dated Monday, April 13, 2015

was in imminent danger of death or great bodily harm. The actions he took were consistent with training, policy and law as generally understood by trained individuals in the law enforcement profession. It is not within the expert's purview to assign credibility to any of the witness testimony. The question of credibility remains within the province of the jury. It should be noted however that beyond the testimony of the witnesses, that I have exhausted every means available to me to corroborate witness statements with available forensic evidence to lend support and reliability to the opinions I have offered herewith.

These are my findings as determined by the information presented to me. As additional information is made available or as new facts may be uncovered my professional opinions may change to reflect the newfound information; however, the opinions expressed herewith are current and are based upon the information reviewed and my experience as of this date.



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SUMMARY OF HISTORY AND QUALIFICATIONS

Roy Bedard is a law enforcement officer, educator, author, consultant, licensed private investigator and administrator of RRB Systems, International, Inc. Bedard has achieved national and international notoriety in law enforcement, corrections, security and military circles as the creator and developer of unique police and corrections defensive products and comprehensive defense training programs. Bedard travels extensively to share his expertise with various occupational and educational communities. His training programs continue to meet the changing demands of the industry and his innovative and progressive training style is notable and sought in many countries throughout the world.

Bedard began his defensive skills training in 1979 in Okinawan Uechi-Ryu Karate and Kodokan Judo. Over the years he has become experienced in the disciplines of Aikido, freestyle wrestling and various forms of combat jujutsu. In 1984, Bedard earned a spot on the United States Karate Team (USAKF) and competed internationally for over a decade. He was a top seeded competitor in the US Men's heavyweight division from 1984-1999 and held second seed in the nation for three years in a row. He has traveled and competed around the world and has earned many sports honors for his state and country. Today he serves as Chairman for Karate with the Tallahassee Sports Council and Board Director of the International Uechi-Ryu Karate Federation (IUKF). He is a seventh degree black belt in karate (rokudan) and holds the respected title of *Shihan* (master teacher).

Bedard holds a Bachelors degree in Criminology, a Masters degree in Sport, Exercise and Performance Psychology and is currently pursuing his PhD Sport, Exercise and Performance Psychology at the Florida State University.

In 1986, Bedard began his law enforcement career and served as a full time police officer in the City of Tallahassee until 1996. He continues to serve as a reserve law enforcement officer and in-service trainer at the Tallahassee Police Department. His training programs, which include a pragmatic blend of vocational application and academic theory, continue to be implemented for departmental use in the field. He continues to teach basic, advanced and specialized courses in police departments, corrections institutes and academies throughout the world.

He has worked as a private consultant and expert witness providing research and case preparation for police, corrections and private security. He consults to members of the community in self-defense techniques and applicable laws. Well versed in civil liability, Bedard makes use of this experience for the continued development of quality, defensible training programs.

Bedard has influenced training practices in many departments in the United States, Europe, Canada, Latin America the Caribbean and Asia. He continues to research new technology and new training methods to further develop the criminal justice field. His open minded training method has earned him respect among his peers both within and outside of the law enforcement community.

Bedard is regularly sourced by television, radio and print news industries for expert advice, insight and consultation on media events involving police and corrections. His comments have appeared on ABC news, CBS news, NBC news, USA TODAY, AL JAZEERA AMERICA, dozens of websites, and a variety of magazines and periodicals. Bedard serves as a technical consultant to the television industry and has co-produced several network police television shows.