

**VOLUSIA COUNTY SHERIFF'S OFFICE
INTERNAL AFFAIRS**

REPORT OF INVESTIGATION

REPORT NUMBER: IA-14-021

PERIOD COVERED: September 20, 2014
DATE REPORTED: September 20, 2014
SUBJECT(S) NAME: Deputy Joel Hernandez ID # 1651
INVESTIGATING OFFICER: Lieutenant Jessica Paugh #6845

BASIS FOR INVESTIGATION:

On September 20, 2014, Investigator Joel Hernandez, while working in an official capacity, was involved in an incident at Fryer's Towing, 722 N. Segrave Street Daytona, which resulted in the use of deadly force. Investigator Hernandez encountered a white male, identified as Edward Miller, who had armed himself with a .38 Smith and Wesson Special. Investigator Hernandez discharged his department issued Glock 27, .40 caliber four times, striking Edward Miller in the right arm and right chest region.

The Florida Department of Law Enforcement, Special Agent Stephen Brenton, conducted the investigation into the use of Deadly Force by Investigator Joel Hernandez that resulted in the shooting of Edward Miller. The completed FDLE Investigative Summary is listed under FDLE Case #OR-27-0045. *(See Tab - F FDLE Investigative Summary)*

OFFENSE(S): None.

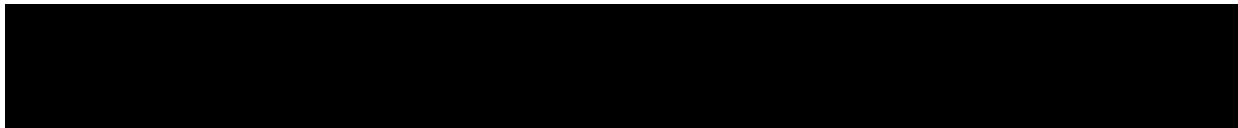
INVESTIGATIVE SUMMARY:

On September 22, 2014, Chief Deputy Mike Coffin assigned the above described incident to the Internal Affairs Unit for investigation. *(See Tab - B for Official Correspondence)*

On September 22, 2014, Deputy Joel Hernandez was served a Notification of Administrative Leave (with pay) as the result of the Use of Deadly Force on September 20, 2014. *(See Tab - B for Official Correspondence)*

On September 22, 2014, Lieutenant Paugh obtained a copy of the year 2014 annual Firearms qualifications, which read Deputy Hernandez qualified with his firearm (Glock 27 -1EUL880US) on January 21, 2014. (See Tab- D Firearms Qualification)

On October 1, 2014, a Fitness for duty examination was conducted on Deputy Hernandez by Dr. Greg Landrum, Ph.D. The finding of the examination is that the subject is "Fit to return to duty without restriction". (See Tab - H for Miscellaneous Documents)



On March 11, 2015, Special Agent Stephen Brenton delivered his completed FDLE Investigative Summary along with a complete copy of the related police use of force case file referenced by #OR-27-0198. The case file was comprehensive and the FDLE conclusion read:

After a comprehensive investigation of this use of force incident, and careful review of the testimony of physical evidence, and testimony of both law enforcement and civilian witnesses, it was determined that the witness' statements were consistent with the physical evidence and video recordings of the incident.

On May 22, 2015, a letter was drafted by State Attorney R. J. Larizza regarding FDLE Case Number: OR-27-0198; Investigation of Officer Involved Shooting of Edward Prescott Miller. Mr. Larizza wrote: "this office has reviewed all of the investigative reports, witness statements and officer statements provided by the Florida Department of Law Enforcement regarding the police use of force of Deputy Joel Hernandez of the Volusia County Sheriff's Office that occurred on September 20, 2014. Based on our review of the investigation and information provided, no further action by this office is warranted by this office." (See Tab - B for Official Correspondence)

Conclusion:

On **July 21, 2015**, this investigation was presented to the Sheriff and his administrative staff. After review, the Sheriff and his staff determined the use of deadly force was **justified** as to prevent imminent death or great bodily harm to the Deputies and found **no** violations of agency policy.

EXHIBIT(S):

- A. Report of Investigation
- B. Official Correspondence
- C. Incident Report
- D. Firearms Qualification
- E. Drug and Alcohol Screening results
- F. FDLE Investigative Summary #OR-27-0045
- G. Use of Force Review Board Documents
- H. Miscellaneous Documents
- I. Digital Media

Attached and made part of this case file is the Florida Department of Law enforcement case file #OR-27-0045.

WITNESSES:

Deputy Matthew Andracke
Volusia County Sheriff's Office

Edward Daniel Miller
1955 Avocado Drive
Port Orange

Attorney Ward Berg
500 Canal Street
New Smyrna
386-409-9004

Officer Tammy Perry
Daytona Beach Police Department

Officer Dale Kelly
Daytona Beach Police Department

Captain James Newcomb
Daytona Beach Police Department

Officer Kelley
Daytona Beach Police Department

Officer Donald Aldridge
Daytona Beach Police Department

Guy Jones
525 Madison Avenue
Daytona Beach

Darcie Podgorski-Benedix
722 Seagrave Street
Daytona Beach, FL
386-255-0481

Eugene Haun
729 North Seagrave Unit 130
Daytona Beach
386-846-8878

Erik Stewart
722 Seagrave Street
Daytona Beach, FL
386-255-0481

Matthew Conway
722 Seagrave Street
Daytona Beach, FL
386-255-0481

James Odom
722 Seagrave Street
Daytona Beach, FL
386-255-0481

Investigator Richard Graves
Volusia County Sheriff's Office

Deputy Eugene Mefford
Volusia County Sheriff's Office

Investigator S. Brenton
Florida Department of Law Enforcement
Orlando Office

I, the undersigned, do hereby swear, under the penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the suspect of the investigation of any rights contained in ss. 112.532 and 112.533, Florida Statutes.

INVESTIGATOR: Jessica Paugh DATE 8-18-2015
Lieutenant Jessica Paugh
Internal Affairs Investigator

APPROVED BY: Robert L. Jones, III DATE: 08-18-15
Chief Deputy Robert L. Jones, III
SHERIFF BEN F. JOHNSON
Volusia County Florida