

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

REPORT OF INVESTIGATION

REPORT NUMBER: IA-16-016

PERIOD COVERED: December 6, 2016
DATE REPORTED: December 6, 2016
SUBJECT(S) NAME: Sergeant Joel Hernandez #1651
Sergeant Kyle Bainbridge #7391
Sergeant Justin Stewart #6872
Deputy Miguel Roman #8071
Deputy Joshua Sheen #8231
Deputy Austin Weber #7959

INVESTIGATING OFFICERS: Detective Glen Bennett #1452

BASIS FOR INVESTIGATION:

On December 5, 2016 at approximately 11:26PM, Sheriff's Office deputies responded to the area of South Volusia Avenue and Graves Avenue in Orange City, FL for the report of a male standing in the roadway pointing a handgun at passing motorists. Upon arrival, the male, later identified as Westley Daum, was driving a Ford truck which deputies attempted to stop. Mr. Daum ignored the deputies and continued traveling at a low rate of speed. Deputies deployed Stop Sticks which flattened the tires on Mr. Daum's vehicle; however, he continued driving until he reached his residence at 601 Lantern Lane in Orange City, FL.

Mr. Daum exited his truck holding a cell phone in one hand and a handgun in the other. Deputies and witnesses described Mr. Daum's distressed behavior as he walked back and forth holding a handgun yelling into a cell phone. Communication between law enforcement and Mr. Daum was eventually established via cell phone but proved none productive.

Deputies ordered Mr. Daum to drop his handgun numerous times, and being that he was out of the effective range of the Taser, deputies deployed “less lethal” munitions with no positive results. After ignoring orders from law enforcement to drop the handgun, Mr. Daum raised the handgun towards law enforcement which resulted in him being fatally shot.

OFFENSES: None

INVESTIGATIVE SUMMARY:

On December 5, 2017, Sergeant Bainbridge, Sergeant Hernandez, Sergeant Stewart, Investigator Roman, Deputy Sheen, and Deputy Webber complied with department policy and submitted to a mandatory substance examination from internal affairs. *(See Tab – E for Drug and Alcohol Screening Documents)*

On December 6, 2016, Deputy Chief Eric J. Dietrich assigned the above incident to the Internal Affairs Unit. Sergeant Kyle Bainbridge, Sergeant Justin Stewart, Sergeant Joel Hernandez, Investigator Miguel Roman, Deputy Joshua Sheen and Deputy Austin Weber were served with a Notice of Internal Investigation along with a copy of the Officer Bill of Rights. This report details the internal affairs investigation conducted by Detective Glen Bennett. *(See Tab – B for Official Correspondence)*

On December, 12, 2016, the Sheriff’s Office received a fitness for duty report on Sergeant Hernandez, Sergeant Bainbridge, Sergeant Stewart, Detective Roman, Deputy Sheen and Deputy Weber from Dr. Greg Landrum, PhD, authorizing their return to full duty.

The Florida Department of Law Enforcement (FDLE), Special Agent Bill Lee, conducted the investigation into the Use of Deadly Force by Sergeant Hernandez, Sergeant Bainbridge, Sergeant Stewart, Deputy Roman, Deputy Sheen and Deputy Weber that resulted in the shooting death of Wesley Daum. The completed FDLE Investigative Summary is listed under FDLE Case #OR-27-0277. *(See Tab – F for FDLE Investigation Summary Case #OR-27-0277)*

On May 15, 2017, a letter was drafted by State Attorney R.J. Larizza regarding FDLE Case Number: OR-27-0256; Investigation of Officer Involved Shooting of Wesley Edward Daum. Mr. Larizza wrote:

“This letter is to advise that this office has reviewed all of the investigative reports, officer statements and witness statements provided by your office regarding the “police use of force” involving Sgt. Joel Hernandez, Sgt. Kyle Bainbridge, Sgt. Justin Stewart, Deputy Miguel roman, Deputy Joshua Sheen and Deputy Austin Weber that occurred on December 6, 2016.

Based on a review of the investigation and the information provided, no further action is warranted by this office.” (See Tab – B for Official Correspondence)

In April of 2017, FDLE delivered the Investigative Summary along with a completed copy of the related police use of force case file referenced by FDLE #OR-27-0277. *(See Tab – F for FDLE Investigation Summary Case #OR-27-0277)*

On August 9, 2017, Detective Bennett received an email from Risk Management stating the medical specimen reports submitted on the day of the shooting by Sergeant Hernandez, Sergeant Bainbridge, Sergeant Stewart, Deputy Roman, Deputy Sheen and Deputy Weber were all negative. *(See Tab – E for Drug and Alcohol Screening Documents)*

On August 11, 2017, Detective Bennett received training and firearms qualifications on Sergeant Hernandez, Sergeant Stewart, Detective Roman, Deputy Sheen, Deputy Weber and Sergeant Bainbridge from Sheriff’s Office Training Division. *(See Tab – D for Firearms Qualifications)*

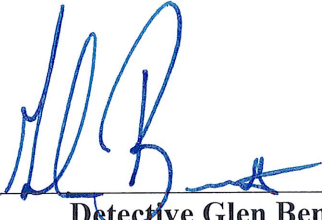
CONCLUSION:

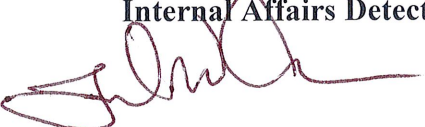
On September 22, 2017, this investigation was presented to the Sheriff and his staff. After review, the Sheriff determined the use of deadly force was **JUSTIFIED** as to prevent imminent death or great bodily harm to the deputies and public. It was further determined, the Sheriff found **NO** violations of agency policy. *(See Tab – XX for Use of Force Review Board)*

EXHIBITS:

- A. Report of Investigation
- B. Official Correspondence
- C. Police Report
- D. Firearms Qualification
- E. Drug and Alcohol Screening Documents
- F. FDLE Investigative Summary Case # OR-27-0277
- G. Use of Force Review Board
- H. Miscellaneous Documents
- I. Digital Media

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:  DATE: 9/29/17
Detective Glen Bennett
Internal Affairs Detective

APPROVED BY:  DATE: 10/19/17
Chief Deputy John Creamer
SHERIFF MICHAEL J. CHITWOOD
VOLUSIA COUNTY FLORIDA