

Sheriff



Eric Aden, *Okaloosa County Sheriff*

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**Office of Professional Standards
Administrative Investigation**

Date: January 5, 2024

To: Sheriff Eric Aden *E.A.*
Undersheriff Charles Nix *C.N.*
Chief Deputy Kenneth LaPee *K.L. #3*
Major Kevin Kirkpatrick *K.K.*
Major David Allen *DA #5*

From: Captain Robert Wagner

Subject: Final Investigative Report
IA 2023 - 031
Sergeant Beth Roberts
Deputy Jesse Hernandez

Background:

In accordance with Okaloosa County Sheriff's Office (OCSO) General Orders 04.01 - Response to Resistance and 04.02 - Firearms Policy, an administrative review by the Office of Professional Standards (OPS) was conducted of an Officer-Involved Shooting (OIS) involving OCSO sworn members Sergeant Beth Roberts and Deputy Jesse Hernandez, who discharged their firearms on November 12, 2023, at or around 0929 hours.

The administrative review of the incident included reports prepared and submitted by OCSO investigators, response to the scene, documented evidence, official statements, and interviews. The OCSO Criminal Investigations Division (CID) investigated the incident and was documented in OCSO23OFF014388 (Exhibit 1).



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Involved Parties:

1. Deputy Jesse Hernandez
 - Deputy Hernandez had been with the OCSO since January 2022.
 - Deputy Hernandez was current on Response to Resistance training, which was last completed on June 23, 2023.
 - Deputy Hernandez was current with his firearms qualification, which was last completed on June 8, 2023.
 - Deputy Hernandez resigned while under investigation on December 4, 2023.
2. Sergeant Beth Roberts
 - Sergeant Roberts has been with the OCSO since May 2008.
 - Sergeant Roberts was current on Response to Resistance training, which was last completed on May 1, 2023.
 - Sergeant Roberts is current with her firearms qualification, which was last completed on April 6, 2023.
3. Marquis Keyon Jackson
 - In a relationship with Ms. Celestiana Lopez.
 - Suspected of stealing Ms. Lopez's vehicle.
 - Suspected of sending threatening text messages to Ms. Lopez.
 - Sent a threatening text message picture which appeared to be a weapon suppressor pointed at Ms. Lopez's dash from inside her vehicle.
4. Celestiana Mercedes Lopez
 - In a relationship with Mr. Marquis Jackson.
 - Initially reported her vehicle stolen by Mr. Jackson.
 - Relayed threatening text messages and pictures from Mr. Jackson.
 - Was in the process of completing an affidavit of complaint when the OIS occurred.

Narrative:

On November 12, 2023, at approximately 0842 hours a call for service was received concerning a vehicle which had been driving on McLaren Circle, south of Green Acres in Fort Walton Beach, honking its horn and disrupting the peace since 0300 hours. The suspect was described as black male in his late twenties. At roughly 0855 a call for service was received from Ms. Celestiana Lopez stating her boyfriend, Mr. Marquis Jackson, was refusing to return her vehicle and had been calling and texting her threats. She was at a friend's home on McLaren Circle. The two separate calls were linked together.

The following information is based on four separate Body Worn Camera (BWC) videos; they are Deputy Javier Reyna's (Exhibit 2), Deputy Jesse Hernandez's (Exhibit 3), Deputy Deja Riley's (Exhibit 4), and Sergeant Beth Roberts' (Exhibit 5) BWC videos.

Deputies Javier Reyna, Deja Riley, Jesse Hernandez, and Sergeant Beth Roberts responded to McLaren Circle. They started arriving on scene around 0857 hours. Shortly after arriving, Sergeant Roberts became the primary member working with the victim, Ms. Lopez. Sergeant Roberts learned from the victim that the suspect, Mr. Jackson, had been allowed to borrow her car, but that he was refusing to return the vehicle after being told by the victim she wanted her car back.

The victim shared threatening text messages from the suspect to her with Sergeant Roberts. In addition, there was a text message picture from the suspect taken from inside the victim's vehicle showing what appeared to be a firearm suppressor pointing at the dash of the victim's vehicle. Sergeant Roberts confirmed with the victim she wanted to press charges for a stolen vehicle. The victim said, "I know anytime we get into it, whether I'm right or wrong, I, he puts his hands on me or he threatens to put his hands on me. It gets very violent."

Around 0909 hours, the suspect, Mr. Jackson walked up to the scene. Deputy Reyna and Deputy Hernandez made contact with the suspect, keeping him roughly fifty feet away from the victim. Within a minute of the suspect's arrival, Sergeant Roberts instructed Deputy Reyna and Deputy Hernandez to pat down the suspect. The suspect was verbally noncooperative, but he did not offer any physical resistance. Deputy Hernandez did a cursory pat down of Mr. Jackson. The suspect said he left the car at the victim's mother's house. The victim called her mother and confirmed her (victim) vehicle was not at her mother's home. Mr. Jackson had not been truthful about the location of the victim's vehicle.

At 0912 hours Sergeant Roberts told Deputy Reyna and Deputy Hernandez to detain Mr. Jackson. They handcuffed him and walked him to Deputy Hernandez's patrol vehicle. Outside the view of Sergeant Roberts, Deputy Reyna completed a more thorough search of Mr. Jackson while Deputy Hernandez was present. Mr. Jackson was physically compliant.

Sergeant Roberts continued to work with the victim, to include starting an affidavit of complaint for Mr. Jackson stealing her vehicle. She also discussed the threats and the picture of the suppressor with the victim more. Sergeant Roberts asked if the suspect had any after market items on his firearm, and the victim asked, "Like a silencer?" Sergeant Roberts answered in the affirmative and the suspect nodded her head yes. Referring to the picture on the victim's phone, Sergeant Roberts said, "That's what that is." Deputy Hernandez was present for the conversation about the picture of the suppressor. Sergeant Roberts asked the victim where she thought the suspect would have the gun they believed they saw in the picture. The victim was unsure where it might be. The victim then said the suspect had more than one weapon. Deputy Hernandez was present for the conversation about the picture of the suppressor and the firearms.

Deputy Riley and Deputy Reyna left the scene to look for the victim's vehicle. This left Sergeant Roberts and Deputy Hernandez as the only two members on scene. Sergeant Roberts

told Deputy Hernandez, “Get the picture, um, if she'll give it to you, 'cause it does, it looks like a silencer pushed up to the, um, the dash area.” Both Sergeant Roberts and Deputy Hernandez turned off their BWCs as they were speaking to each other away from the victim.

Sergeant Roberts’ second BWC video (Exhibit 6) began one minute and forty-one seconds after stopping her first BWC video. Sergeant Roberts told Deputy Hernandez to transport the suspect while she remained behind to finish getting the affidavit of complaint from the victim. Sergeant Roberts returned to the victim and Deputy Hernandez returned to his vehicle to get a Victims’ Rights form.

As Deputy Hernandez was retuning to Sergeant Roberts and the victim with the Victims’ Rights form, other deputies reported they found the victim’s vehicle at 1656 Hunt Club Street, Heather Glen Apartments. The victim asked how far away that was from them. Sergeant Roberts answered, “About two, three miles.” Google Maps (Exhibit 7) shows the distance as 2.6 miles with an estimated walk time of fifty-five minutes. Deputy Hernandez said, “I’m pull him out and do a full search of him.” Sergeant Roberts acknowledged him by saying, “Okay.” Deputy Hernandez returned to his patrol vehicle. Sergeant Roberts was still with the victim while she (victim) continued to work on the affidavit of complaint even after learning the vehicle had been found.

Deputy Hernandez’s second BWC video (Exhibit 8) began three minutes and twenty-five seconds after stopping her first BWC video. After telling Sergeant Roberts, “I’m pull him out and do a full search of him”, Deputy Hernandez started walking towards his vehicle while putting medical style gloves on.

As Deputy Hernandez was approaching the passenger-side rear door of his patrol vehicle, an acorn can be seen striking the top of his vehicle. The BWC video captures thirty frames per second meaning the frames are 0.033 seconds apart. Counting the frames allows for a relatively precise time record. According to the time stamps on their respective videos, Deputy Hernandez’s BWC videos appear to be roughly one half second (15 frames) ahead of Sergeant Roberts’ BWC videos. The following events are described from Deputy Hernandez’s second BWC video starting with a time marker in the format of minutes : seconds . thousandths of a second (as there is no audio when clicking frame by frame, audio times are less precise; therefore, audio time stamps will only be shown with time stamps to the tenth of a second):

- 0:00.033 – Acorn comes into frame.
- 0:00.000 – Acorn strikes the roof of Deputy Hernandez’s patrol vehicle.
- 0:00.132 – Deputy Hernandez’s right hand raises into frame.
- 0:00.198 – Deputy Hernandez continues to raise his right hand while he appears to begin to fall to the ground.
- 0:00.561 – Deputy Hernandez begins turning to his right (towards his vehicle) as he is falling.
- 0:01.1 – Deputy Hernandez yells, “Shots fired!”

- 0:01.287 – Both of his hands are low and in frame as he continues to fall face forward. He appears to be preparing to brace himself against the fall.
- 0:01.386 – His right knee comes into frame as he continues to fall to the ground.
- 0:01.452 – His right foot comes into frame as he appears to be attempting to prevent himself from falling.
- 0:01.650 – He is still falling, and it appears he is beginning to fall/roll to his right side. He is still on grass and his forward momentum has moved him past the rear of his vehicle.
- 0:01.848 – Deputy Hernandez’s right hand is out of frame and his left hand touches the ground.
- 0:01.980 – Both hands can be clearly seen palm down on the grass.
- 0:02.145 – Deputy Hernandez’s BWC, which was mounted on his exterior vest carrier’s right breast pocket area, comes close to touching the grass.
- 0:02.2 – Deputy Hernandez yells, “Shots fired!” for a second time.
- 0:02.211 – He is rolling on his right side.
- 0:02.277 – Deputy Hernandez’s patrol vehicle comes into frame as he is rolling on the ground to his right.
- 0:02.640 – His BWC appears to be pointing straight up into the sky, therefore he is directly on his back as he continues to roll.
- 0:03.300 – His BWC image is nearly black as though it is shoved into the grass as he continues to roll to his right.
- 0:03.597 – His patrol vehicle comes back into frame as he continues to roll.
- 0:03.8 – Deputy Hernandez yells, “Shots fired!” for a third time.
- 0:04.026 – His BWC appears to be pointing straight up again as he is likely on his back continuing his rolling.
- 0:04.455 – He appears to be rolling off the grass onto the curb behind his vehicle. He is facing away from his vehicle.
- 0:04.719 – He is starting to turn to his left while attempting to rise off the ground.
- 0:05.049 – He begins to rise off the ground.
- 0:05.148 – While still rising, Deputy Hernandez is turning to his left. Currently his back is to his vehicle.
- 0:05.9 – Sergeant Roberts can be heard asking, “What?”
- 0:05.907 – Deputy Hernandez is still turning to his left and his Sig P320 in his right hand comes into frame for the first time.
- 0:06.0 – Deputy Hernandez answered, “Shots fired!” for the fourth time.

- 0:06.204 – While still turning to his left, Deputy Hernandez’s patrol vehicle comes back into frame.
- 0:06.303 – Sergeant Roberts is in frame just to the left of Deputy Hernandez’s patrol vehicle.
- 0:06.468 – Deputy Hernandez’s firearm reenters the frame as he is raising it towards his vehicle.
- 0:07.062 – Deputy Hernandez appears to be in a kneeling position. He has his firearm in a two-hand high-point position pointing at the rear of his vehicle.
- 0:07.194 – He opens his two-hand grip and turns the firearm to his left. Both hands are above the BWC view for approximately 0.726 seconds. As his hands come back into view, he appears to have reestablished his two-hand high-point grip.
- 0:07.6 – Sergeant Roberts asks, “Where? Right there?”
- 0:08.7 – Deputy Hernandez answers, “In the car.” Deputy Hernandez and Sergeant Roberts are in crossfire positions. Deputy Hernandez is just to the right of her point of aim, and she is just to the left of his point of aim.
- 0:08.745 – Deputy Hernandez fires his first shot towards his patrol vehicle. It appears as though the first shot was bullet hole 4A as marked on a picture (Exhibit 9) of the rear of Deputy Hernandez’s patrol vehicle taken of the incident.
- 0:09.735 – The rear glass on the patrol vehicle starts to break.
- 0:12.474 – Deputy Hernandez tries to stand up, but falls backwards.
- 0:13.4 – As he is falling onto his back, he lets out a grunt.
- 0:13.497 – His BWC is facing straight up. He has landed on his back.
- 0:13.563 – A temple, which had broken off Deputy Hernandez’s sunglasses flies into frame. He had had a pair of sunglasses propped up on his head. He is rolling onto his left side.
- 0:13.695 – Deputy Hernandez is lying on his left side. His firearm comes back into frame as he bringing it back on target (his patrol vehicle).
- 0:14.0 – Sergeant Roberts yells, “Jesse, are you ok?”
- 0:14.652 – He is still lying on his left side, but he is back into a two-hand high-point grip, and he resumes firing at his vehicle.
- 0:15.0 – Deputy Hernandez answers Sergeant Roberts by yelling, “I’m hit! I’m hit!”
- 0:16.896 – Deputy Hernandez fires his last round, Sergeant Roberts had already fired her last round. He fired six rounds while lying on his left side. The slide on his P320 locked to the rear indicating his firearm is out of ammunition.
- 0:17.622 – He breaks his two-hand grip and starts the process of reloading.
- 0:18.282 – His magazine begins dropping from the magazine well in his firearm.

- 0:18.975 – Deputy Hernandez’s right hand, which is still holding his empty firearm, is placed on the ground as he begins to rise to his hands and knees.
- 0:20.0 – Sergeant Roberts yells, “Jesse!”
- 0:20.7 – Deputy Hernandez responds, “What?”
- 0:21.384 – A loaded magazine in his left hand comes into frame. He does not reload, but rather begins crawling on his hands and knees towards his left where there are parked vehicles which will provide cover from his vehicle.
- 0:21.5 – Deputy Hernandez lets out a guttural groan.
- 0:23.0 – Sergeant Roberts asks, “Where is he?”
- 0:23.9 – He answered, “[grunt] In the car!” as he continued to crawl towards cover.
- 0:24.9 – Deputy Hernandez added, “[groan] He shot...”
- 0:25.047 – While still crawling on his hands and knees to cover, his still unloaded firearm starts to come out of his right hand.
- 0:26.4 – Deputy Hernandez continuing to speak, “...through the car.”
- 0:44.253 – Deputy Hernandez is behind a parked vehicle using it for cover. His unloaded firearm and a loaded magazine are on the ground in front of him.
- 0:51.183 – He is lying prone behind cover with a loaded firearm. He did not use the loaded magazine which was on the ground next to his firearm. He retrieved another loaded magazine.

The following events are described from Sergeant Roberts’ second BWC video, utilizing the same time scale as used for Deputy Hernandez’s BWC video.

- 0:00.000 – A noise is heard, given the timing, it was likely the acorn which struck the roof of Deputy Hernandez’s patrol vehicle.
- 0:01.1 – Deputy Hernandez yells, “Shots fired!”
- 0:01.980 – Sergeant Roberts starts to turn towards Deputy Hernandez and his vehicle. The victim, who was still working on an affidavit of complaint, begins to look up towards the shouting.
- 0:02.2 – Deputy Hernandez yells, “Shots fired!” for a second time.
- 0:02.805 – Sergeant Roberts starts moving towards the road Deputy Hernandez’s vehicle is parked on. Currently Sergeant Roberts is standing between parked cars up next to the apartments.
- 0:03.498 – Her left hand, which is holding victims’ rights forms, comes into frame as though she is starting to run.
- 0:03.8 – Deputy Hernandez yells, “Shots fired!” for a third time.
- 0:03.927 – Continuing to run, her right hand comes into frame.

- 0:04.224 – Sergeant Roberts is nearing the rear of a parked Sport Utility Vehicle (SUV) which was blocking the BWC view of Deputy Hernandez and his vehicle. Her BWC is mounted level with and directly between both of her uniform breast pockets. Deputy Hernandez’s patrol vehicle comes into frame behind the SUV.
- 0:04.356 – Deputy Hernandez comes into frame behind his vehicle. He is on the ground. Sergeant Roberts continues to move towards Deputy Hernandez.
- 0:05.247 – Deputy Hernandez is getting to his knees and is drawing his firearm with his right hand.
- 0:05.445 – Sergeant Roberts slows moving forward.
- 0:05.9 – Sergeant Roberts can be heard asking, “What, what?”
- 0:06.0 – Deputy Hernandez answered, “Shots fired!” for the fourth time.
- 0:06.204 – Deputy Hernandez is on both his knees facing his patrol vehicle.
- 0:07.128 – Sergeant Roberts’ firearm in her right hand comes into frame.
- 0:07.590 – Sergeant Roberts is in a modified, two-hand high-point position aiming at Deputy Hernandez’s patrol vehicle. It is modified because she is still holding the victims’ rights forms in her left hand.
- 0:07.6 – Sergeant Roberts asks, “Where? Right there?”
- 0:08.217 – She starts moving backwards slowly.
- 0:08.283 – A loaded magazine from Sergeant Roberts comes into frame on the ground. Sergeant Roberts, who like Deputy Hernandez, has no cover where she is. Deputy Hernandez and Sergeant Roberts are in crossfire positions. Deputy Hernandez is just to the right of her point of aim, and she is just to the left of his point of aim.
- 0:08.7 – Deputy Hernandez answers, “In the car.”
- 0:08.976 – Sergeant Roberts fires her Sig P320. This appears to be her first shot given the smoke that appears in the frame, but given the camera angle and the background clouds, it is difficult to say for sure. If this was her first shot, she shot 0.231 seconds after Deputy Hernandez’s first shot.
- 0:12.045 – Deputy Hernandez lifts his left knee off the ground in preparation for standing up.
- 0:12.3 – This was Sergeant Roberts last shot fired.
- 0:12.408 – His arms start to spread out as he is attempting to stand up.
- 0:13.035 – Deputy Hernandez’s buttocks strike the ground as he is falling backwards after trying to stand up.
- 0:13.4 – As he is falling onto his back, he lets out a grunt.
- 0:13.431 – Deputy Hernandez is on his back and may have hit his head on the ground.

- 0:13.695 – He is rolling onto his left side.
- 0:13.893 – Sergeant Roberts starts moving back towards the parked vehicles.
- 0:14.0 – Sergeant Roberts yells, “Jesse! Jesse, are you ok?”
- 0:15.0 – Deputy Hernandez answers Sergeant Roberts by yelling, “I’m hit! I’m hit!”
- 0:16.896 – As Deputy Hernandez fires his last round, Sergeant Roberts gets to cover behind parked cars.
- 0:20.0 – Sergeant Roberts yells, “Jesse!”
- 0:21.120 – Sergeant Roberts is behind a Jeep Renegade and Deputy Hernandez comes into frame. He is still on the ground with no cover.
- 0:21.5 – Deputy Hernandez lets out a guttural groan.
- 0:22.605 – He starts to crawl towards the cover of parked vehicles.
- 0:23.0 – Sergeant Roberts asks, “Where is he? Where is he?”
- 0:23.9 – He answered, “[grunt] In the car!” as he continued to crawl towards cover.
- 0:24.9 – Deputy Hernandez added, “[groan] He shot...”
- 0:26.136 – From the view of Sergeant Roberts’ BWC, Deputy Hernandez is out of frame behind a parked Tesla two driveways to her right.
- 0:26.4 – Deputy Hernandez continuing to speak, “...through the car.”
- 0:28.6 – Still behind the Jeep, Sergeant Roberts keys her radio and says, “43 [her radio identification number] Give me traffic. Shots fired. Shots fired. I’ve got a deputy down.”

CID Agency Member Interviews:

On 11/15/2023, Investigator Kelly Henderson and Investigator Michael Hogan conducted a sworn interview with Deputy Jesse Hernandez in a CID conference room. Mr. John Whitaker was present as Deputy Hernandez’s representative. The interview was recorded on Investigator Henderson’s BWC (Exhibit 10). The pertinent information is as follows:

- Deputy Hernandez said he was dispatched to a suspicious vehicle call, and shortly thereafter, a vehicle theft call had come in. The addresses for the two calls were two apartments apart.
- He, Deputy Javier Reyna, Deputy Deja Riley, and Sergeant Beth Roberts were on scene.
- The victim, Ms. Celestiana Lopez, of the stolen vehicle told deputies her boyfriend, Mr. Marquis Jackson, had stolen her vehicle and she wanted to press charges.

- Deputy Hernandez heard the victim say Mr. Jackson had been threatening her all morning. The victim showed Sergeant Roberts text messages from Mr. Jackson. This included a picture sent to the victim by Mr. Jackson of weapon, or the suppressor of the weapon. The picture of the suppressor was taken from inside the victim's vehicle. Deputy Hernandez said he only saw the picture from a distance.
- Deputy Hernandez heard the victim say Mr. Jackson had a weapon with a silencer on it.
- While filling out her statement [affidavit of complaint], the victim identified Mr. Jackson as he was walking up to the scene.
- He and Deputy Reyna stopped the suspect, Mr. Jackson. Deputy Hernandez said, "I patted him down, um, just for weapons. Um, and then we placed him in handcuffs. We read him his rights."
- Mr. Jackson said the car was at the victim's mom's house and the keys to the car were in his pocket. The victim called her mom, and her mom said the car was not at her house.
- Deputy Hernandez and Deputy Reyna moved the suspect to his (Hernandez) patrol vehicle. Deputy Reyna patted Mr. Jackson down a second time, also to search for weapons. Mr. Jackson was placed in the back of Deputy Hernandez's patrol vehicle, a caged Dodge Durango.
- Deputy Hernandez said, "I'm walking back to my vehicle. Um, I'm getting a victims' rights brochure first, uh, open the door, getting my victims' rights brochure. I think, if I had forgot, if I had asked dispatcher already for an offense number at that point, I think I was waiting to write it down, and I hear him moving around a little and back. I don't really think much of it. And he says, uh, he says, am I going to jail? I said, yes sir, you are, and he said, 'what for?' I said, for grand theft, sir. I'll be right back. Um, so I go back, hand the victims' rights brochure off to Sergeant Roberts."
- Deputy Hernandez walked back to Sergeant Roberts. They discussed there was probable cause for an arrest and that he was going to go back to Mr. Jackson and complete a search incident to arrest, a "full search on him."
- He said, "We had just had the conversation about where, where I, I talked to Sergeant Roberts, where is this gun? Is this gun on him? Is it in his car? Is it in her car? Victim told me he usually either has it on him or it's in his car."

- Deputy Hernandez described walking back to his patrol vehicle, “I start walking back to my car. Um, so he's on the passenger side, um, in the back seat. Um, I'm walking up to my car. I'm about to reach for the, like the door handle. Um, and about si- simultaneously. I, I, I hear, um, to me at the time, what I believe would be a suppressed weapon off to the side. Definitely heard this noise. At the same time, I felt an impact on my right side, like upper torso area.”
- He added, “Um, so I feel the impact. My legs just give out. Um, I don't know where I'm hit. I think I'm hit. Um, I'm stuck. I rolled to the back of the car and now I'm stuck in the street, and I, um, I knew where the fire, uh, the shots came from, or I believed they came from, was right there. Um, as I'm reaching for that door handle and, uh, I'm laying behind the car, uh, I am yelling, shots fired, shots fired. I returned, uh, fire until I could get cover, um, uh, behind another vehicle that was parked in a driveway there. Um, and then I just remained behind that vehicle pretty much, uh, the entire time until another deputy got there, because at this point, I still believed that I had been shot.”
- Investigator Henderson asked Deputy Hernandez to describe what he felt when he said he had felt an impact. He answered, “It just, it felt like an impact to my upper torso area here [he motioned to his upper right shoulder area]. On the right side. Um, and it was like sound - impact, like almost that quick, I guess. Um, that was kind of the point where I felt the impact in the torso, but the fact that my legs weren't working the way I wanted them to be working, I, I think I yelled at one point, to, um, Sergeant Roberts, like, I think might've got hit in the leg, um, or something along those lines. Um, because I was struggling to get to cover. ... I think at one point I reached up and touched my head, because I, you know, I wasn't sure at that point. I think I still had the sound in my head. I wasn't sure if I had just been hit in the head. Um, I was getting kind of a funny, um, just kind of like a tingliness all, all along the side of the body. Um, and I think some of that might've just been adrenaline, putting together the fact that I just heard what I heard, and I just felt an impact. What, and I've never been shot before, so I, I don't know what that's like or, um, you know.”
- Investigator Henderson asked him where he thought the shots had come from, and he replied, “I thought they were coming from the back of that vehicle.” She asked him if he thought the shots were coming from the exterior near the back of the vehicle or from inside the vehicle, and he answered, “I thought they were coming from the inside of that vehicle.”
- Investigator Henderson asked Deputy Hernandez if he saw any glass shattering at that point. He said, “I don't, no.”

- Investigator Henderson asked why he decided to stop firing. Deputy Hernandez responded, “Because I made it to cover. Um, the, the original reason I was firing was because I was sitting in the open there. I had only moved a couple feet from where I felt I had just been shot from the back of this patrol car. Um, and I didn't know how I was gonna get up and move to that covered area where that, that vehicle was the closest cover I could see. Um, so yeah, once I got behind that vehicle, I didn't observe any rounds coming back at me. Um, I felt safe behind that vehicle. I felt I didn't need to engage anymore.”
- Investigator Henderson asked Deputy Hernandez if at any point while Mr. Jackson was in the patrol vehicle could he (Hernandez) see Mr. Jackson. Deputy Hernandez answered, “No. No, because of the tinted glass, all that was going on, um, no.”
- Deputy Hernandez said he remained behind cover until other deputies assisted him into the back of the Emergency Medical Services (EMS) command vehicle, which drove him directly to the hospital. Once at the hospital, he learned he had not been shot.
- Deputy Hernandez said, “I've been advised by, um, my attorney here, I, you know, I know they didn't recover a weapon, or anything like that on the scene, but, um, I'm confident with what I just told you is what, what happened.”
- When asked if he had prior law enforcement experience, Deputy Hernandez said no.
- When asked about prior military experience, Deputy Hernandez said he attended West Point, and was an infantry officer and an officer in special forces for the army for a total of ten years. Deputy Hernandez said he had two combat rotations to Afghanistan, but noted as an officer, he was not in direct combat.
- Investigator Henderson asked if he had heard firearms being shot with suppressors. Deputy Hernandez answered, “Yes, yes.” She then asked if the sound he had heard at the incident sounded like suppressed gun fire, and he answered, “Yes, yes.”
- Investigator Henderson confirmed Deputy Hernandez knew the victim had said Mr. Jackson had a firearm with a silencer/suppressor attached to it, and he answered, “Yes.” She then asked if he saw the picture Mr. Jackson had sent the victim of firearm/suppressor. He answered, “I saw it from a distance, so, no, when, when Sergeant Roberts told me it's, it's a suppressor on there, I just took her word for it.”
- Investigator Hogan asked Deputy Hernandez, “Was there any other physical, auditory, visual indicators besides the sound and whatever you felt in your, you, your upper torso?”

Deputy Hernandez responded, “No. Like about even as far as like, no flashes of light, no, no. Everything just seemed very, um, those are like the only sensory perceptions I, you know, remember actually taking place.”

- Investigator Hogan asked how he got to the ground. Deputy Hernandez said, “I think, um, again, not sure if it was adrenaline or what it was, but, uh, the, the numbness in my legs and then, um, realizing okay, I'm going to be going to the ground, but I also realizing the windows are right here. You know, I need to be on the ground anyways so that I'm not exposed. Um, so yeah, that was, that's kind of my legs kind of just gave out on me.”
- Investigator Hogan asked Deputy Hernandez to explain the two rolls he performed when he went to the ground. Deputy Hernandez explained, “Uh, the rolling. Um, kind of reaction to what's going on and me realizing like my legs are not working the way I need them to work right now, but I can, I can roll to that vehicle over there. So, that's kind of where I was trying to get to.”
- Investigator Hogan questioned Deputy Hernandez about the communication he had with Sergeant Roberts after he believed he had been shot. Deputy Hernandez responded, “I remember yelling, shots fired, shots fired, shots fired. ... And then I think she said, I think she said from where? I don't know if I even responded to that. Um, or I might have said the car. Um, and then her just asking me when, once I finally got to cover, are you okay? Are you okay? I told her I felt weird. Um, but I think I'm okay.”
- Investigator Hogan asked Deputy Hernandez to describe where Sergeant Roberts was while he began to shoot at the vehicle. He said, “So, I was behind the vehicle, and I remember seeing her off at an angle. Um, I remember engaging the vehicle, but then at that same point, I think when I was done engaging the vehicle, I was really trying to get off to that side over there, because I was worried about this possibly having, um, me being in her line of fighter now. Um, but once we were both off to that side, I, um, I wasn't really concerned about that anymore.”
- Investigator Hogan asked Deputy Hernandez if he knew if Sergeant Roberts had fired her weapon, and he said he did know she had shot. Investigator Henderson then asked if he knew who had shot first, and Deputy Hernandez responded, “I think I fired first, yeah.”
- Investigator Henderson asked if he was ever able to see Mr. Jackson in the vehicle, and he answered no.
- Investigator Hogan showed Deputy Hernandez still photos taken from his BWC video of the OIS. He showed the frames where the acorn first comes into frame and the

subsequent frames where the acorn can be seen bouncing off the roof of his patrol vehicle.

- Deputy Hernandez asked, “Acorn?” Investigator Hogan answered, “Acorn.”
- Investigator Henderson asked Deputy Hernandez if he thought it was possible that the noise he heard, which he had interpreted as a gunshot from a suppressed firearm, was actually the noise of the acorn striking the roof of his patrol vehicle next to him. Deputy Hernandez answered, “I'm not gonna say no, because I mean that's, but what I, [10 second pause in speaking] what I heard [3 second pause in speaking] sounded almost like [12 second pause in speaking] what I heard sounded what I think would be louder than an acorn hitting the roof of the car, but there's obviously an acorn hitting the roof of the car.”
- Investigator Hogan asked Deputy Hernandez if in general he was familiar with the sound of acorns striking vehicles. Deputy Hernandez said he was. Investigator Hogan then asked if that sound could have been the sound he heard that led him to believe Mr. Jackson had shot him. Deputy Hernandez said, “It could be. [7 second pause in speaking] I don't think so, but it could be.”
- Deputy Hernandez’s representative, Mr. John Whitaker, said he and Deputy Hernandez had heard a sound on his BWC video. He asked Deputy Hernandez if he wanted to watch the video to see if the acorn striking the roof matched in time the sound they had heard and if they matched, would it change his opinion of what he thought the sound was. Deputy Hernandez answered, “Yeah, I mean I, I'm, I'm a believer in what I see, so yes, this is, [others speaking] without knowing that, but I can tell you right, I can tell you right now, I can tell you right now from [others speaking] where that hand is. This is, this is probably about that time that we're hearing it.”
- Deputy Hernandez was offered the opportunity to watch his BWC video to see the sound match the acorn hitting the roof, and he declined.

On 11/15/2023, Investigator Kelly Henderson and Investigator Michael Hogan conducted a sworn interview with Sergeant Beth Roberts in a CID conference room. Mr. John Whitaker was present as Sergeant Roberts’ representative. The interview was recorded on Investigator Henderson’s BWC (Exhibit 11). The pertinent information is as follows:

- Sergeant Roberts said she was working Sunday morning on 11/12/2023, as an overtime shift. It was not her assigned shift.

- Sergeant Roberts said several calls had been received from the general location about a suspicious person who had been causing issues through the night. She responded to support the deputies responding to the call. She added, if the suspect had been on scene, they would need several deputies to work the case.
- Sergeant Roberts said a second call had been received about a stolen vehicle in the same area. They located the victim who was reporting the stolen vehicle.
- Sergeant Roberts learned the suspect of the stolen vehicle, Mr. Marquis Jackson, was the boyfriend of the victim, Ms. Celestiana Lopez. She also learned the victim had given Mr. Jackson permission to use her vehicle, but when she asked for it to be returned, he refused.
- During her conversation with the victim, Sergeant Roberts learned the suspect had been sending threatening text messages to the victim, to include a picture of a firearm or a firearm suppressor. Sergeant Roberts, after seeing the picture, asked the victim if Mr. Jackson was known to carry firearms, and the victim answered yes.
- Investigator Henderson asked Sergeant Roberts what the picture looked like. Sergeant Roberts answered, “So, it was her dash of her vehicle, and it looked like a suppressor that was held up to the dash. And she said that there were also text messages between the two where he was threatening her. So, uh, with her knowledge of him having a firearm, I asked her specifically, does he have any aftermarket, um, you know, things that have been added to the firearm. She looked at me, she says, like a silencer? And I said, yes. And she says yes. So, that was what it appeared to be pointed at the dash of her vehicle.”
- Sergeant Roberts said the victim had started on completing an affidavit of complaint for her stolen vehicle when the suspect, Mr. Jackson, walked up on scene. She said they did not know how the suspect had arrived on scene.
- Investigator Henderson asked if Mr. Jackson was immediately detained, and she answered, “No, we were, again, it was kind of like, that's him. That's him. He walked up. Um, I can tell by his demeanor it, this wasn't gonna be a friendly conversation. Um, he started to antagonize her after he realized that we were there, I think, for the stolen vehicle. Uh, at which point with the information about him having firearms, I told them to pat him down. They pat him down. Uh, there was some conversation again with her, is this what you want to do? She says, yes, I'm signing the affidavit. At which point I said, detain him.”

- Investigator Henderson asked if Mr. Jackson was then put in the back of a patrol car, and Sergeant Roberts responded, “I don't know where it went from there. I did not see, you know, who's, I did not know at that time what car he was in. I don't know who walked with him. I don't know who handcuffed him. My, I stood with the, the two females.”
- Sergeant Roberts said deputies who had left the scene had found the victim’s car in Heather Glenn Apartments. She relayed she told Deputy Hernandez, “Go ahead and transport him. I'll get your affidavit. I'll provide whatever brochures need to be provided.”
- Sergeant Roberts said Deputy Hernandez had walked out of her eyesight. She added, “I'm talking with the females. Uh, we're, I'm talking to the, the, the complaint, the reporting party. Um, I ask her, I think some details about her vehicle. She's filling out the affidavit, at which point in time something gets my attention. I don't know what it is. Uh, it was some type of noise, and shortly, that thereafter I hear Jesse screaming shots fired.”
- Investigator Henderson asked Sergeant Roberts to describe the sound she heard. Sergeant Roberts said, “All I can tell you is there was something that was loud enough that got my attention, that made me think we're about to have to fight with a, with a prisoner or the subject. Um, he's either escaped or somehow Jesse is in a, in a tussle with him. Um, I, I can't tell you exactly what it was, but it was something that was loud enough to get my attention and again, kind of pull me, make me look, and then immediately heard, uh, Deputy Hernandez screaming shots fired.”
- Investigator Henderson asked Sergeant Roberts what she did next. She answered, “Uh, ran to, ran out between the cars that we were, we were talking or ran from the place that we were talking to the females. Ran out to the, the main roadway, at which point in time I could see that Jesse was down. Um, he was, I asked him, I think, what or where, or, or, but it was more of, I want to say it was more of a response, because I heard him say shots fired, and it was kind of, again, just, I don't know. It's kind of like a, a reaction what way or one, you know, who, um, which point in time I saw that Deputy Hernandez was down. Um, he was, had his gun pointed to the back of his patrol car, at which point in time, um, when I was drawing my, my pistol, my magazine that was in my, uh, mag mag pouch. somehow flew out. At which point I thought I had a malfunction. I thought that I dropped the magazine somehow hit the mag release on my firearm, and that, that was the magazine that fell out. Turns out it wasn't, it was the one from my mag pouch. That was why there was one on the ground. Um, at which point in time I, I think I fired, I don't know how many I fired. I know I fired more than one. Um, I can't tell you exactly how

many, but I fired at the vehicle because I saw Deputy Hernandez down on the ground and he tells me that shots are fired and he's hit, and it scared the hell out of me, because I thought that I was watching him be killed.”

- Investigator Henderson asked if she could identify where the threat was coming from. Sergeant Roberts answered, “No, but based on what I asked him, I, when I say no, I mean, I can't tell you what side of the vehicle he was in. I, it was the patrol car. That's where the threat is coming from, and I'm thinking we have, we've, we've missed the gun in the pat down, and somehow, he is, he shot Jesse from the car, and Jesse's down.”
- Investigator Henderson asked Sergeant Roberts if she saw any windows in the vehicle being broken from inside the vehicle. Sergeant Roberts replied, “I, I don't think I'd be able to tell you either way. I, I know that shots were being fired. I, I couldn't tell you exactly where they were coming from. Right. Um, and I, I, I fired because of my concern.”
- Investigator Henderson asked what she did next. She answered, “I stopped firing, uh, the females. I could hear her screaming behind me and I was afraid she was gonna run up to us or run up in, in the middle of everything. Still didn't know exactly what was going on with the threat from the patrol vehicle. Um, still didn't know what was going on with Jesse. Um, I think I was able at that point to, uh, get cover behind a Jeep or something. I, I can't remember which vehicle it was. But anyways, I was able to get cover, uh, and see that Jesse was crawling out of the roadway, telling me again that he had been hit and I'm thinking that I, I'll be honest with you, I, I don't really know exactly what I was thinking at that point. I just know that, um, excuse my language, shit had hit the fan, and I've got somebody that I'm responsible for that is hurt and I can't get to him to help him, and it scared the hell out of me.”
- Investigator Hogan asked Sergeant Roberts where she saw Deputy Hernandez, she responded, “Jesse is down on the ground at, I would say, towards the back of the vehicle. Um, kind of positioned, how would you say, um, not laying down, but he was kind of propped up a little bit with his gun pointed at the patrol vehicle, and I think I asked him what or where, and that's when, again, it was directed at the vehicle, and I could see again where he was pointed. So, my attention went to the vehicle and that was our threat.”
- Investigator Hogan asked which agency member shot first, she answered, “I, I don't know. I don't know if I shot first, or if he shot first. Is that, is that what you're asking?” Investigator Hogan answered, “Yes, ma'am.” She replied, “I don't know.”

- Investigator Henderson asked, “Can you think of anything that we didn't ask you that we should know?”
 - Mr. Whitaker asked Sergeant Roberts, “When you heard ‘shots fired’ and you saw he was down on the ground, based on the information you had about this being a person that may, uh, known to carry weapons, uh, and him directing to the car at that time, did you believe that, um, Deputy Hernandez had been presented and was a, a victim of lethal force or the attempted use of lethal force?”
 - Sergeant Roberts answered, “Yes, because, and the reason why I say that is there was no reason for him to be down on the ground at the back of his vehicle, um, with what he was saying. I don't remember exactly when he says that I'm hit, but it was during all, all of this, when it all started occurring. Um, I believe that he was hit then, and I definitely, when I saw him trying to crawl, I'm thinking in my head, it's bad. It's really, really bad.”
 - Mr. Whitaker continued, “And in your training and experience, if shots were fired, was he in a position, did he had any cover when you saw him?”
 - She said, “Absolutely not.”
 - Mr. Whitaker asked, “And so, in, in your mind, and based on your experience, if it was just shots fired, he would be getting to a place of cover? Is that Correct?”
 - She said, “Yes, sir”
 - Mr. Whitaker asked, “But, when you saw him, he was not moving to a place of cover at that moment?”
 - Sergeant Roberts explained, “No. He was, he was in a very compromised position. He was still within, you know, immediate visual of that vehicle. If somebody was inside of it, he had no, absolutely no cover, and there was no reason for him to be down squatted or propped up, or whatever it was that I was able to see. Um, if it was just shots fired, he would've been looking for cover. He wouldn't have gone behind the vehicle. He would've immediately gone and sought cover somewhere else. So, seeing him down on the ground, yelling, shots fired, I'm hit, um, I thought, I thought I just saw a deputy get murdered.”

On 12/4/2023, Deputy Jesse Hernandez resigned (Exhibit 12) from the Okaloosa County Sheriff's Office. Deputy Hernandez had been scheduled to be interviewed by OPS on 12/8/2023. He was offered to still provide an interview in this matter, and declined to participate (Exhibit 13).

On 12/8/2023, I conducted a sworn interview with Sergeant Beth Roberts in my office located in OCSO Headquarters. Mr. John Whitaker was present as Sergeant Roberts' representative. The interview was recorded on my BWC (Exhibit 14). The pertinent information is as follows:

- Sergeant Roberts had been with the agency in a sworn capacity for fifteen and a half years. She had no other sworn law enforcement nor military experience. She has a bachelor's degree in criminology from Florida State University, and she completed the police academy in 2008 from Northwest Florida State College. She has been a Criminal Justice Standards and Training Commission certified general instructor for ten years. She is not certified to teach high liability topics.
- During her employment with the OCSO, Sergeant Roberts worked patrol as a deputy for nearly a year and then went to what is currently called Street Crimes, a specialty unit utilized for targeted enforcement, for four years. Sergeant Roberts was then promoted to investigator. During her time as an investigator, she was assigned to the drug task force, property crimes, and major crimes units. In 2018, she was promoted to sergeant and assigned to the airport. In 2021, she was reassigned to a patrol shift in the central district.
- Sergeant Roberts was assigned to Bravo Shift Central. Bravo Shift had shift change from days to nights on 10/30/2023. She had been working nights for two weeks prior to working overtime on Charlie Shift on 11/12/2023. Charlie Shift was working on day shift. Sergeant Roberts last worked Bravo Shift on Thursday, 11/9/2023, at 1800 hours until Friday, 11/10/2023, at 0600 hours. She reported for Charlie Shift on Sunday, 11/12/2023, at 0600 hours.
- I asked Sergeant Roberts about her sleep as related to taking an overtime shift on days when she was normally working nights. Sergeant Roberts said it was normal for her to maintain a day shift type wake/sleep schedule on her regular days off. Sergeant Roberts said she believed she received seven hours of sleep the night before.
- She said she did not have any unusual stressors nor medical conditions that would have affected her sleep, rest, and/or fitness for duty.
- Sergeant Roberts was working overtime on Charlie Shift because one of the supervisors on Charlie Shift had been involved in an OIS six days prior and was still on administrative leave.

- I asked Sergeant Roberts about what she knew about the previous OIS. She answered, “I knew that we were very fortunate that both deputies were alive. Uh, because it was a scenario where Deputy Saenz, uh, was struggling with the individual. Um, he was able to either overpower or dismiss her, and he was able to grasp a firearm and fire one shot in the direction of Corporal Hart, at which point Corp-Corporal Hart responded.” Sergeant Roberts added, “I'm now responsible for this shift today. This is Sergeant Brown’s shift. I'm now responsible for this shift. They've been through a lot this past year, a lot. Um, and I'm responsible for them. I want this to be a calm, cool day and just let's get through it and everybody just do what you got to do. And, um, but it was a response I felt responsible for making sure all of them were okay. If that makes sense; because, you know, not, I'm, I'm filling in as a supervisor, but I'm also filling in as a supervisor on somebody else's shift, and I have the responsibility to, to bring that, to turn it back over okay.”
- I asked Sergeant Roberts to elaborate on what she meant when she said Charlie Shift had been through a lot over the past year. She explained, “So their shift was the one, uh, that responded when Corporal Hamilton was killed. They also responded to, uh, Deputy Coraine, um, death investigation. So, and then, um, you know, with the week prior of this incident, they had the OIS with Corporal Hart. So, they've, they've been through a lot.”
- I asked about the call for service which resulted in the OIS. I asked Sergeant Roberts how she learned about the call. She said she heard the suspicious person/vehicle call dispatched over the radio. It had been put on hold after Deputy Hernandez, who had initially been dispatched to the call, broke off from the call to provide backup for another deputy on a traffic stop. Deputy Javier Reyna, Deputy Deja Riley, and Sergeant Roberts all responded to the call as it was holding.
- I asked Sergeant Roberts why she herself went to the call. She said she was in the area and wanted to show Charlie Shift that she was out working and willing to help as needed.
- I asked her to describe what she knew about the call before she arrived on scene. She said a male caller had reported a dark vehicle had been driving through the complex for a number of hours causing a disturbance by honking the horn peeling out, etc. The caller also said the vehicle was on scene and occupied.
- While on scene investigating the suspicious person/vehicle call, the second call was dispatched. This was the stolen vehicle call which was reported by Ms. Celestiana Lopez. Sergeant Roberts said the two calls initially caused some confusion. It took some investigating to realize how the two calls were related.

- Early on in the call, Sergeant Roberts assumed a lead role in handling the call. I asked her about that, and she said she wanted to get the call moving forward. There were three other deputies on scene as Deputy Hernandez had cleared from the traffic stop he had been assisting with.
- While working the case, Sergeant Roberts heard the victim reading text messages from the suspect. Those text messages were threatening in nature.
- Sergeant Roberts said that given the nature of threats, and given he had been coming in and out of the complex, she wanted to know if he had a firearm. She asked if the suspect had a firearm, and the victim said yes. Later, the victim added the suspect had more than one firearm.
- I asked about the picture which the suspect had sent the victim. Sergeant Roberts said the picture was a closeup picture of dark grey/charcoal cylinder pressed against the center part of the dash. Less than two inches of the cylinder were visible. No part of a firearm could be seen in the picture. Sergeant Roberts said the cylinder appeared to be a firearm suppressor.
- Sergeant Roberts said the victim had told her the suspect is known to carry a firearm. Not wanting to put words into the victim's mouth, she asked the victim if he had any attachments or modifications made to his firearm. She said the victim said "silencer." She then confirmed with the victim that that is what it appeared to be. Sergeant Roberts added, "What it reminded me of is a lot of our SRT [Special Response Team] weapons. Um, and I've had the liberty of, of firing them. So, it, it looked, it looked like that capacity of attachment, um, on the end of a firearm." Sergeant Roberts said she believed the threatening text messages and the picture had recently been sent. She said the victim did not have to scroll back through her messages to get to the messages and picture being discussed.
- The victim told Sergeant Roberts that she was not sure if the suspect had any firearms with him at the time. I asked Sergeant Roberts what she was thinking when she heard this, and she answered, "I'm thinking that I'm not going to necessarily take her word for it. That if he's, if he's upset and he's been behaving this way then, and he's also sent her a picture of it, he's in her car, he's got it."
- I asked Sergeant Roberts what she was thinking as the victim was describing the threatening text messages, and she said, "We need to investigate this. This is, this is not, this is a bad situation. Um, because again, he's, he's saying he's threatening her. He's now followed her to a friend's apartment. Uh, he's taken, her car will not return it. He sent a picture

that we believe to be a silencer, um, or suppressor to her at her dash and is saying things like, fuck you. I hope you die.”

- I asked Sergeant Roberts to explain what type of case she was working at that point. She replied, “We're, we're working the vehicle theft. Uh, now we possibly have the written threats, uh, for violence. And, then there might be some issues with domestic violence previously, because she had made mention that he has put his hands on her. So, there were kind of three different prongs that we were.”
- Sergeant Roberts said she had worked domestic violence cases in the past. I asked her what her thoughts were on domestic violence cases. She said, “A lot of times there's abuse prior to it ever being reported. Um, I've worked a homicide related to domestic violence. They can be horrible cases.”
- Sergeant Roberts said domestic violence cases are dangerous. She added, “The emotion and the mood, uh, can quickly change. There is a relationship that we don't fully understand prior to getting on scene. Um, and it, it's a lot of things that are talked about in the academy is if you make an arrest, are you taken away somebody's livelihood? And what I mean by that is, are you arresting the breadwinner of the family? Um, is this gonna make it worse to the victim when they get out? Or is it gonna become more physical? Um, you know, what, how, how intertwined are these people in their lives, really? So yes, it can be, it can be very dangerous because a lot of times we can look like we are the bad guy if we're removing a party from the scene.”
- I then asked if she had ever worked domestic violence cases that ended with violence on scene, and she answered yes.
- I asked Sergeant Roberts if she remember the victim saying, “I know anytime we get into it, whether I'm right or wrong, he puts his hands on me or he threatens to put his hands on me. It gets very violent.” She answered, “I remember something, something of the sort is that he puts his hand on me and he's violent. And that was, um, with everything totaled together, and I don't mean to get ahead of myself, but everything totaled together, um, when I, we finally realized he was walking up on scene.” It was at that point when the victim said, “There he is.”
- I asked Sergeant Roberts what she was thinking as she was told by the victim that the suspect was on scene. Sergeant Roberts answered, “I hope we don't get into a physical altercation with him. I hope, one, I need to know that he's not armed. Two, we need to keep these parties separated and three, kind of in the back of a, where, where the hell is our car? Kind of, you know, how did he get here, kind of thing? Um, so there, there were, there were a lot of thoughts going through my mind at that point, but the main thing

was keep him away from her, and everybody needs to be safe. We need to make sure that he's not armed.”

- I asked why she ordered Deputy Hernandez and Deputy Reyna to pat down the suspect. She said, “Based on, again, the information that she had provided us, that he carries guns. Um, he, she didn't know whether or not he was armed at the time. There was a picture that was sent that morning, and also the propensity for violence between the two, and also, I don't want to use officer [safety], but officer safety.”
 - I asked Sergeant Roberts to explain the officer safety concerns. She said, “That if we are engaging in conversation with her, my attention can't be on him, and if he feels that we are not listening to him, or he's aggravated with her to the point that he is ready to, to commit and act like that and is armed, I have a duty to protect her and also her friend, and everybody else in that complex, if, if it does go to that level. Um, and nor, at that point, again, we're trying to figure out are we proceeding with our criminal investigation? And I, that time that you're trying to investigate, I want, I want to know whether or not somebody's armed. Because again, a, a flip of the script of emotions on calls like these can happen.”
 - I asked if she felt law enforcement had a right to pat down the suspect at that time. She said yes, and I asked her to explain why. She explained, “Well, um, we had a crime that we were investigating the stolen vehicle. We also had domestic violence concerns and her statement that he had a firearm. So, he's walking back up to the scene. He does not live there. And his emotion and his body language was not that of it was going to be an amicable conversation.”
 - I asked if she saw Deputy Hernandez’s pat down of the suspect, and she said she saw part of it.
 - Sergeant Roberts added, “Let me clarify something. When he arrived on scene and was not in the vehicle and the way, and when he walked up, we were already leaning towards he's gonna go for, for theft, theft of the vehicle. ... He was absolutely detained. Um, and it was kind of like, you get, we're trying to find her vehicle and maybe he'll come off of where it is, and then it was kind of, he started telling us, it was somewhere where we verified it wasn't, and it was, we're not going to get anywhere with this.”
- I then asked Sergeant Roberts if she knew how the suspect arrived on scene, and she said, “No. ... He was walking on foot, um, from the area of the, uh, shell gas station. So. I have no idea how he got there.”

- I asked if not knowing how he arrived on scene caused her any concerns and she replied, “I’ve got a, yes.” I asked what she was thinking, and she stated, “Somebody dropped him off. I’m thinking, I don’t know that, I don’t know that for, for, for sure.” When asked to explain her concern, Sergeant Roberts said, “Is there somebody else around us that’s watching us? And what, what are their intentions and what is their loyalty to him? If we take him into custody, how, how are they gonna respond?”
- When asked if she was surprised by the suspect walking up into the scene, she answered, “Yes and no. Um, we’ve had, we’ve had a lot where people will walk up on scene that’s a suspect of something. Um, I don’t think that he thought she was gonna fill out an affidavit. I believe that he thought he could intimidate her enough to not go through with an affidavit.”
- I asked Sergeant Roberts if she recognized the suspect from prior encounters and she said no. I asked if she was aware if any other deputies recognizing him, and she said no.
- I asked Sergeant Roberts to give me her impressions of the suspect. She said, “I felt that he was trying to intimidate, antagonize the victim. Um, his, his demeanor and his body language was aggravation with us being there. The body language was very, very tense. Uh, would not make eye contact, would look past us, walked past, I believe Ja- Javier and Deputy Hernandez. And again, it was at one point we had made a comment like, hey, stop talking to her, and it was, I’m gonna do whatever, do whatever I want, kind of thing. Like, you can’t tell me exactly what to do. So it was, it was not a, a friendly greeting, um, of him walking up.”
- I asked her if the suspect was cooperative. She said, “He was cooperative in, in the initial response in the fact that he did not physically fight us. But when we were asking him questions, he, it was playing, as I said, playing games. Oh. I dropped the car off at, at her mom’s house in Mary Esther. No, he didn’t. And, and we knew that because we made contact with the mom on the phone, um, and the mom says, I’m, I’m in the driveway. There’s no car here. So, and then it was instead of a normal person would explain their side, I feel, uh, you know that no, listen, this is what’s going on and you know, this is where the car is and I’m sorry to get you guys involved, but it was basically do what you have to do kind of thing.”
- Sergeant Roberts directed Deputy Hernandez and Deputy Reyna to detain the suspect. I asked her what she expected them to do. She answered, “That they would place him in handcuffs and search him. ... So, I’m expecting that we are going to put them in handcuffs, uh, pat them down or search them. Um, at that point we had an affidavit, she was filling out her affidavit, so we were going towards an arrest.”

- I asked Sergeant Roberts why she chose to order the suspect be detained when she did. She replied, “Because he was antagonizing the victim at that point. Um, she had already started her affidavit. She says, I want to go through with this. There's no reason for the situation to escalate. Let's, let's get it, let's, let's maintain control of it. Um, and there's again, no reason to allow him to stand out there, berate her, berate us, if this is where we're going, let's control the situation, let's get, let's, let's continue. There's why, why fiddle around with it.”
- I asked her if she saw the handcuffing and the subsequent search of the suspect by Deputy Reyna. She said no.
- I asked if at that point she knew where the suspect was located, and she said no, but that she deduced he was in the back of a patrol vehicle. Later she explained she knew Deputy Reyna and Deputy Riley had left the scene, so he would have been in Deputy Hernandez’s patrol vehicle.
- Sergeant Roberts had asked the victim if she thought the suspect would leave his firearm in her vehicle. The victim had said she did not think he would. I asked Sergeant Roberts where she thought the firearm was at that time. She answered, “I thought it was possibly on him. I thought if she's, if, there were three places that it could have been, it could have been on his person, which is my, my first, my first thought to, okay, if we've patted him down, we don't, we haven't felt anything, is it in her car or three, is it in his car? That's here on, on scene.”
 - I pointed out that she had previously ordered the suspect be patted down, and she said she had seen the first part of the pat down. I then asked why she did not order a second pat down if she thought the suspect may still have been armed. She answered, “That's what I thought they were doing when they took him over to the vehicle, is because, you know, we are supposed to do a thorough search of somebody prior to putting them in our patrol cars. ... Have people been patted down and put in the back in patrol cars? Yes, they have been. Um, have there been instances in our agency where we've missed firearms? Yes, there has been. Um, and of course with any of the roll call or additional shift training we do, some of those videos have been shown where it ends up bad because somebody missed a weapon.”
 - Sergeant Roberts added, “If I'm not doing the search, there's always a, a question in the back of my head, did we find everything? And that's just because it's, if I'm doing it, I know that I've done it. And again, I was not there, right there during the pat down or during the pat down that occurred additionally over at the vehicle,

um, nor did I conduct it myself. So, there's always a question, did, did somebody else do it right?"

- I asked Sergeant Roberts if she had additional concerns when the victim said the suspect had more than one firearm. She replied, "I like to think of the rule, if there's one, there's two, if there's two, there's three, if there's three, there's four kind of thing. Um, I wouldn't say it necessarily caused me any concern because it's, I'm still worried about the one. So, if, if you're telling, if we don't know where the one is, I need to find the one first."
- Sergeant Roberts said at that time she believed the suspect was in the back of Deputy Hernandez's patrol vehicle.
- I asked Sergeant Roberts if Deputy Hernandez had anyone else, such as a trainee, a cadet, a civilian rider, a second suspect, etc. in his patrol vehicle that morning, and she answered he did not. I then asked if she had any reason to believe a second person was in Deputy Hernandez's vehicle, and she said no.
- I said Deputy Hernandez had told her he was going to pull the suspect out of the car to do a full search. I asked Sergeant Roberts if she remembered Deputy Hernandez saying that, and she said no. She remembered him saying something, but she was focusing on the victim, and she does not remember hearing that specifically.
- I said there was a noise, likely an acorn striking the top of Deputy Hernandez's patrol vehicle. I asked if she remembered hearing the noise.
 - Sergeant Roberts answered, "I've heard the noise on my body-worn camera. I don't believe that's what it is. I don't know what it is. Um, there was something that I heard while I was sitting there talking to her, because I was in the middle of, I think a, a thought, or a sentence about her tag or, or writing the description of the vehicle that caught my attention. And I, I remember kind of like looking and I'm thinking he's either kicked the cage, he's kicked a window, or I'm about to see like a struggle."
 - I reminded her she told CID in her interview with them that she said after hearing the noise she thought they were about to fight with the suspect.
 - She added, "That I was gonna see them in a struggle, and that we were gonna have to, I was gonna have to go over there and we were gonna have to, you know, physically detain him or something. Like, maybe he's kicked out the window and he's trying to escape or he's getting, you know, um, getting animated in the back of the patrol car. There was, there was something that caught my attention. I

can't tell you what, what it sounded like or, or, but it was something that, it was kind of like, we're about to, we're about to have to go deal with this kind of a thing. ... I remember something caught my attention. I was kind of, it's kind of like, you know, looking and then that's when you can hear Jesse. There was some, like I said, there was something that I heard, I don't know, I can't describe it to you. I don't know what it was.”

- I clarified the noise Sergeant Roberts heard was from the direction of Deputy Hernandez’s vehicle, and she said, “It was definitely from my right side. Yes. Um, and I, that's immediately where my thought goes is it's there because this is, we're still dealing with this, this investigation kind of thing. Um, so like I said, I, I, whatever the noise was, excuse me, I, uh, thought like he's getting animated in the back of the car, or he’s kicked out a window or basically there's a struggle going on and I'm gonna have to go over there and assist.”
- I said that roughly a second after the noise, Deputy Hernandez started yelling shots fired. I asked Sergeant Roberts what she was thinking when she heard Deputy Hernandez.
 - She answered, “Shit has hit the fan.”
 - I asked, “Anything else?”
 - She continued, “How, how do I, how do I get to him? Meaning Jesse. We've missed the gun.”
 - I asked Sergeant Roberts if she thought Deputy Hernandez was meaning the shots were fired by the suspect.
 - Sergeant Roberts answered, “Yes, yes, yes. I knew that he was walking over there, um, again to transport is what I'm thinking. Granted, I know what, what he said now [referencing Deputy Hernandez’s statement about pulling the suspect out of the car to search him again], but it did not register with me, or I didn't process that. So, I know he's over there by that vehicle, you know, gonna transport or do whatever. Um, and then that's when that happens.”
 - Sergeant Roberts started moving after the first time Deputy Hernandez yelled shots fired. I asked her what she was intending to do.
 - She said, “Try and, and see if I could see anything. I mean, I, I wanted to try and process what was going on. Um, I knew that if it, there's shots fired, there's a lot of variables that I'm responsible for. Um, one is, is Deputy Hernandez. Uh, two

is the public. Um, three is, you know, myself. And then four would be the subject. Um, it was how, how do I, how do I help control this situation? How do we get control again? That if, if shots are fired, we have lost control of the situation, shit has hit the fan. Um, how did this happen?"

- As she was turning and moving towards Deputy Hernandez, I asked her what she was seeing.
 - Sergeant Roberts described, "So when I, I leave the area where I'm standing, I have to kind of run out into the common area roadway where the vehicles are parked. As I'm running, I'm looking this way [Sergeant Roberts turned her head to her right] to see what's going on, because again, it is coming from my right side behind me as I'm standing there. So, I'm turning, and again, it's still on my right. I'm looking and I am seeing Deputy Hernandez at the back of the vehicle, and he is down on the ground and kind of like trying to get posted up. Um, and I could see-, I was close enough to see his facial expression. That was fear, anxiety, you know, it was, it was horrible."
 - I asked if she saw how Deputy Hernandez ended up on the ground.
 - She answered, "It was him kind of falling to the ground. And then he was able, I think, to kind of post up. And that's why when I simultaneously, as I'm coming around, I'm seeing him, I'm seeing him kind of like trip, fall, stumble, or something behind the vehicle. And at some point, he's able to kind of post up. I don't know why I asked him what, where, why. It was kind of just an automated response, again. Kind of like, you never ever want to hear shots fired. You never ever want to hear somebody say that or I'm shot or, or something like that. And it was kind of like, I needed him to affirm again. That's what I, I knew what I heard, but it was kind of like, I'm gonna respond to shots fired the way that I think I need to, but I need you to affirm that again for me."
 - Sergeant Roberts added, "He was kind of stumbling, crawling on the ground. I don't know how to explain it, but he was not standing straight up. He was not in a tactical position. He was, he was off of his momentum. He was off of his balance. He was, he was behind that car, and it did not look like he had control of himself."
- Deputy Hernandez brought himself up on his left knee with his right foot planted in front of himself into a kneeling shooting stance. I asked Sergeant Roberts if she remembered seeing that.

- She said, “I was able to see that, but it was still, I was watching somebody that was off balance. Uh, it seemed like the motor functions were not operating properly from what I saw, what he's told me again, shots are fired. He is completely in the open, and at no point would anybody think that that was a good place to take a knee to tactically fired either.”
- I asked Sergeant Roberts if she thought Deputy Hernandez was in control of himself when he got to the kneeling position.
- She replied, “I wouldn't say in control of himself. I think it was, I'm trying to do the best thing I can right now with what just happened to me. Like, I, I can't, I've got to respond. Like shots are fired at me, I have to respond. And it's kind of like, you don't always get the best shooting platform. You don't always get the best cover, but you've got to make do with what you have at the time.
- I asked Sergeant Roberts if she believed at that moment Deputy Hernandez had been shot.
 - She answered yes, and I asked why.
 - Sergeant Roberts explained, “Because the auditory tone in his voice was terror. And the way that I saw him kind of stumble to the ground and kind of get up. And then also then, I guess this is a couple seconds later watching him, the best way to describe it is like watching a baby giraffe trying to walk for the first time and trying to get out of that road.”
 - I asked Sergeant Roberts if she had heard a gun shot prior to hers and Deputy Hernandez's.
 - She said, “I heard something that caught my attention. I didn't know what it was. It, you know, I was focused on the conversation. Um, so I could have, it could have happened, and I didn't know it. And I was going off of what he said and also what I was seeing and what I saw in his, his reaction, I saw somebody that was hurt.”
- I asked Sergeant Roberts why she thought Deputy Hernandez decided to engage the suspect from his kneeling position.
 - She answered, “I don't think he could get up. I thought he has been shot. He can't get up, and he is now returning fire from the position that he's at. And I've got, as

I'm, as I'm deciding to shoot myself, I'm thinking in the back of the head, how the hell am I gonna drag him out of the road?"

- I asked Sergeant Roberts if she saw or heard anything coming from Deputy Hernandez's patrol vehicle.
 - She replied, "No. Not, so, when all of this happens, there is so much background noise. Um, if, if there would've been something going on in the vehicle, I don't know if I necessarily would've heard it, but was I hearing, you know, or seeing the windows blasted out? No, I, I could not see the right side of the vehicle. Um, and based on the circumstances, I'm thinking somehow, he has shot Jesse shot, shot Jesse from the back seat, and it struck him some way, somehow."
 - I asked if she could see the suspect, and she said no. I then asked what she could see, and she said, "I saw the front of the car and then I could, you know, it kind of stops at the petition or the partition. I could see through the windshield to like a seat and, you know, whatever things that he might have tools in the front. Um, miscellaneous stuff, you know, can't tell you what it was, but you know, um, but I cannot see past that."
- After Deputy Hernandez had yelled shots fired three times, Sergeant Roberts asked, "What, what?" while she was running towards Deputy Hernandez and his patrol vehicle. I asked her why she asked what, what.
 - She said, "That it's what, it's exactly what I heard kind of thing. Like a, an affirmation. It's kind of like that double that double affirmation sometimes when, when somebody says something to you and it's, it's what you pray you never hear. Uh, like if you ever hear 10-24 on the radio, I never want to hear that, but if I hear it, it's gonna be kind of like, what, what, what the hell is that? You know, kind of thing. Um, because you want to be sure that the response you're about to go into is, is, is right."
 - Sergeant Roberts remembered Deputy Hernandez answered her question by saying shots fired for a fourth time.
 - She added, "I don't know if the individual has gotten out of the car and he's on the other side. You know, like he's somehow escaped, and they got into a tussle at that point. I don't know if the door is open, you know. Um, at that point, again, I had my, my eyes kind of trained on the windshield. I didn't see the door wide open, you know, it wasn't, um, but I don't know if somehow he's gotten out and, and they, again, like I said, they've, they've had a tussle. Is he, is he shooting

from the back of the car? I mean, all of these things are kind of going through my head, but the main thing is, is he's in, he's in the back of the car, he's got a gun, and we missed it, and he somehow shot Deputy Hernandez.”

- After Deputy Hernandez had yelled shots fired for the fourth time, Sergeant Roberts asked, “Where? Right there?” I asked her where “Right there?” was in her mind.
 - She said, “The patrol car.”
 - Sergeant Roberts elaborated, “I didn't want it to be like a fleeing, fleeing suspect situation, and I'm focused on the car and this guy is now running to the Shell gas station, you know what I mean? I don't want to, I don't want to post up on the vehicle. The vehicle's got all my attention, and then I've got a suspect that has now shot a deputy, um, that is running off.”
 - I asked if she heard Deputy Hernandez’s response.
 - Sergeant Roberts said, “The car.”
 - I confirmed she heard Deputy Hernandez say in the car, or the car.
 - She responded, “Yes. I heard, because again, I asked him and I'm trying to process what's going on. Um, and again, my, my reaction is to the patrol car, that's how I'm, I'm responding, and I wanted, it's like that again, maybe that triple affirmation that this is how we're responding.”
- I asked Sergeant Roberts who shot first, her or Deputy Hernandez.
 - She answered, “During the time? I don't know. I didn't know.”
 - I asked if she fired her weapon because Deputy Hernandez fired his.
 - Sergeant Roberts said, “No, I was shooting because Jesse had told me shots were fired. I believe that he was shot, and I saw where he was, and I've got to get him out of there. How do I get him out of there? Um, I'm thinking the suspect knows where Jesse is. He's gonna shoot him again.”
- I asked Sergeant Roberts why she fired her weapon.
 - She answered, “Because I needed to protect Jesse.”

- I then asked her to describe the threat at that moment.
- She explained, “The threat was somebody had shot him. We had an armed subject in the back of the vehicle. Jesse was shot. I'm watching him, you know, fumble on the roadway. How do I, how do I give him more time? How do I, how do I draw the attention to me? How do I, how do I save him?”
- I asked Sergeant Roberts if she thought her life was in danger.
- She answered, “I don't know if I immediately thought that, but you know, as I'm, this is probably a fault of my own, and it's, I'm more concerned for my people than myself. Um, and I put my people probably higher, higher than me. Um, and it's definitely something that I've done since I've become a supervisor. Did I, did I think that the situation was dangerous, and I needed to respond the way that I did? Yes. Yes, I do.”
- I then asked if she thought Deputy Hernandez’s life was in danger.
 - Sergeant Roberts said, “I thought I was watching him get murdered.”
 - I asked her what made her think Deputy Hernandez’s life was in danger.
 - She explained, “So what he told me, shots fired. Uh, the tone in his voice, the look on his face. Um, his physical reactions. Uh, and again, I'm thinking, we've missed the gun. We've missed the gun, and this is it. And how do I get to Jesse to save him?”
 - I asked if Deputy Hernandez had cover, and she answered no. I asked if Deputy Hernandez had concealment, and she said no.
 - I asked if it appeared as though Deputy Hernandez could move to cover.
 - Sergeant Roberts, answered, “At that part, no. He was on the ground, which was not, is not a, doesn't give you a tactical advantage of where he was. Um, and he's out in the open. It's, it's daylight. We, you know, you can see everything that's going on. Um, he wasn't moving, you know, to cover at that point. It, it, like I said, and I'm seeing him kind of fumble and, and stumble, and it was just, it was horrible. Um, it was like he couldn't, and I couldn't let him, I couldn't let him be shot again. I had to do something. And, uh, and if it's draw the shooter to me or take fire, that might give him a couple more seconds, or, I don't know.”

- I then asked if anyone else's life was in danger.
 - Sergeant Roberts said, "Yes. Um, I believed at that point, if, if, if this person gets out and they're, again, it's kind of the, the thought of if this person's willing to do this to us, what, what, why wouldn't they do it to somebody else? If he gets out or this has happened, what is he gonna do to his, the girlfriend or, or the friend that's providing, is talking to us."
- I asked Sergeant Roberts what she was shooting at.
 - She said, "I was shooting at the patrol vehicle."
 - I asked why.
 - She explained, "Because there was a threat in the back of the patrol vehicle. Uh, I had a deputy that was in the back, or on the ground, and that was still a threat to Jesse's life. And I needed to provide him some type of cover or, like I said, bring the attention on me because I'm, I'm up, I can, I'm moving, I'm standing, you know, I'm at a better advantage than he was. I, I'm basically watching somebody shut down and I'm thinking that he's shot, and I'm, I'm watching him die, and I've got to do something. I've got to do something."
- I asked Sergeant Roberts if she had had concerns about shooting into the vehicle when she could not see the suspect.
 - She answered, "Yes, and well, I'm sorry, okay. Let me explain that, is. I know I was not physically there when they put him in the back of the patrol car. I know that there is nobody else in the vehicle. There is no rider, there's no cadet, there's no other deputy. So, the parties that are involved are going to be the subject and Deputy Hernandez, and then of course, me, when I'm, when I'm brought in. He is telling me shots fired. Um, so I'm firing at where I believe that subject is, and that's in the back of a vehicle where we had secured him."
 - I asked Sergeant Roberts where at in the vehicle she was shooting.
 - She said, "The backseat, the backseat."
- I asked Sergeant Roberts, "What's your goal? What are you trying to accomplish when you're pulling the trigger?"

- She answered, “That if there is a threat that is, I need to stop it. I need to control the scene. We've lost control. Deputy Hernandez is shot, he's hurt. I need to get him, I need to get him to safety. I need to get him out of there. I need, I need to, I need to get control again. This is a very volatile scene. It's dangerous.”
- I asked how shooting would have helped her gain control.
- Sergeant Roberts explained, “Because if I, if I stop the threat, then there is no threat.” I clarified, “Incapacitate the suspect?” She answered yes.
- I asked how shooting at the suspect would help Deputy Hernandez who was in the open without cover.
- She said, “Because I can't render aid to him if there's still a threat. Um, because again, not only am I worried about him, but I'm worried about all the outside factors to the other people, the victim. And, uh, I can't let this person, I can't let this person get free, not free, but I can't let this person get out of detainment. And if they're armed, I, I can't, I can't let that, I can't let them, that happen. He's already shot a deputy.”
- I asked Sergeant Roberts about how sure she was at the time the suspect was in the back of the patrol vehicle.
- Sergeant Roberts said, “I am, I am 98% sure. Um, I will say that, you know, there's a room for a chance, but I'm, I'm confident with that because of his, his confirmation, uh Deputy Hernandez. When he said, you know, the car, his confirmation. Everything I know for him to be, you know, previously detained in it. Um, and also, again, I'm watching the physical direction of Deputy Hernandez to the car. And I'm not looking at, I'm not seeing him like, look over here, like as if the guy's running by. Um, so it was, again, all pointed towards the patrol car. But it's, I don't, it was, honestly, it's kind of a stupid question I asked like, what, where I, I knew, I knew where. Um, and I, and he again confirmed it, but it was just kind of, I don't know, just, I guess it was just a reaction.”
- I asked Sergeant Roberts if she had considered the backdrop of where she was shooting. She said she had and that behind where she was firing was an open street and closed businesses.

- I asked Sergeant Roberts, given her training and experience in law enforcement, if she thought a tactical advantage could be gained by shooting into a confined space, the backseat of the patrol vehicle, where she believed an armed subject was.
 - She answered yes. I asked her to explain. She added, “It's, again, that might give us the advantage, or time to reach cover. Uh, the suspect might surrender. Um, or again, you might, you might stop the threat.”
 - I asked Sergeant Roberts to describe when it would be appropriate.
 - She answered, “It's appropriate when you are trying to, um, provide cover, overwatch for someone. Uh, especially in this situation where I felt that Deputy Hernandez had been, uh, incapacitated. Uh, and he, his life was still in danger. Um, it was, I had, I had that as a perceived threat that was still very viable of producing harm or, or killing somebody, or hurting somebody. Um, and I had to stop it.”
 - I asked Sergeant Roberts if she thought in this instance, it was appropriate to shoot into a confined space, the backseat.
 - She answered, “Yes, I do.”
- I asked Sergeant Roberts why she decided to stop shooting when she did.
 - She responded, “I heard the female [victim] coming up behind me. Um, it was, let me draw attention. Let me draw fire possibly from the suspect. Maybe, maybe we've possibly stopped the threat. Let me get to cover and let me reevaluate, and then also let me try and control the scene with, with, and make sure she [victim] doesn't run out while this is while we're engaging.”
 - After Sergeant Roberts stopped shooting, she moved to cover. Deputy Hernandez was still firing. I asked Sergeant Roberts why she chose not to reengage the suspect.
 - Sergeant Roberts explained, “I wanted to assess. I, I was trying to assess the scene. I, you know, we, I had engaged, and again, I've got the female yelling, I think, no, no, no, and I'm trying to yell at her to get back. ... It was, uh, very hectic, very involved, very chaotic. Um, I was worried she was going to either

interfere with me, run into while we're engaging. Um, I also knew that if I get shot, I'm not behind cover. What the hell am I, what good am I?"

- I asked Sergeant Roberts if the threat was still present.
- She answered, "It was still unknown. It was still unknown. We were moving. And again, um, Jesse was, had engaged. He was trying to get out of the roadway. I think at that point I was trying to seek, cover and assess how is he, how was he? Uh, we then tried to make contact with him. Uh, and also I'm trying to call everybody on the radio and say, hey, this is what we got. I need more people. So, the threat was still a threat until we were able to remove him from the car."
- I clarified my question by asking if the threat was still high enough to engage the suspect.
- Sergeant Roberts said, "We were able to get a, a tactical position, meaning that we were able to get cover, and I was able to get more resources there. So, I felt at that point, that's when we can treat it more as a barricaded suspect, armed suspect, and approach it that way. I've got more people that can ensure neighbors are not walking out. We can shut down the road, so nobody's driving."
- Roughly fourteen seconds after Sergeant Roberts started firing at the patrol vehicle, she asked Deputy Hernandez, "Where is he, where is he?" referring to the suspect. I asked Sergeant Roberts where she thought the suspect was at that time.
 - She answered, "In the back of the car."
 - I followed up by asking her why she asked where the suspect was if she thought she already knew where he was.
 - Sergeant Roberts explained, "Because I want to make sure, thinking is he somehow, and, and I did not see him. Is he somehow in the front seat? Is he, is he somehow, is, did he kick the door open? You know, I mean, it's just, it's just that affirmation."
- I asked Sergeant Roberts and her representative, Mr. John Whitaker, if there was a question I should have asked that I did not ask and/or if there was anything they would like to add.

- Sergeant Roberts stated, “I’m very thankful based on the circumstances now that nobody was hurt. Um, this is not something I’m taking lightly. I don’t think it’s funny. I don’t think there’s anything funny about it. Um, I just, it went from zero to a hundred within a drop of a hat, and I know we talk about it all the time, but when it does, it does.”
- Sergeant Roberts added, “I’m very thankful that it didn’t turn out that way [anyone being injured], but I truly thought, I watched Jesse get shot and I’m thinking, I’m responsible for him. How do I save him? And what do I need to do to stop this?”
- Mr. Whitaker asked Sergeant Roberts if she knew anything about Deputy Hernandez that would have caused her to question Deputy Hernandez.
- She answered, “I knew that Jesse was prior military. He, uh, trained on our shift. Um, I don’t remember what phase it was, but he was with Eric Sheldon on our shift and, um, very squared away person. Uh, somebody that if they tell you something, you don’t question it.”
- Sergeant Roberts added, “I wanted Jesse on my shift, but, you know, there was openings other places because, uh, when I observed him in high stressful situations, he, he reacted appropriately. Uh, he wasn’t able to, he wasn’t afraid to respond.”
- I clarified Deputy Hernandez had worked on Sergeant Robert’s shift while he was in field training.
- Sergeant Roberts said, “We were on night shift at that time, and, and we were actually involved in a pretty serious, uh, call, and he acted appropriately and, um, did not lose control of his emotions. Um, again, he, I, I have a lot of respect for him, actually. Um, so when he tells you something, it’s not something like, are you sure, you know, it’s, he tells you something that’s, that’s what’s happening or that’s what happened? Um, and I, I truly believe everything that he said to me and told me was going on, and he believed that too. There were, I don’t think there was anything malicious about what he did. Um, obviously I’m not, I don’t know what the correct word is, but this is not a fun situation or, or. There’s a lot of gravity here, but I’m not mad at him and I’m not upset because I truly believe he, he thought that’s what was happening.”

CID Interviews:

1. Deputy Jesse Hernandez
50 2nd Street
Shalimar, FL 32579
(850) 362-8508
2. Sergeant Beth Roberts
50 2nd Street
Shalimar, FL 32579
(850) 259-0437

OPS Interview:

1. Sergeant Beth Roberts
50 2nd Street
Shalimar, FL 32579
(850) 259-0437

Exhibits:

1. Offense Report OCSO23OFF014388
2. Deputy Javier Reyna's BWC video
3. Deputy Jesse Hernandez's first BWC video
4. Deputy Deja Riley's BWC video
5. Sergeant Beth Roberts' first BWC video
6. Sergeant Beth Roberts' second BWC video
7. Google Maps image showing the distance between the victim's recovered vehicle and the scene of the OIS
8. Deputy Jesse Hernandez's second BWC video
9. Crime Scene photo of the rear of Deputy Hernandez's patrol vehicle after the OIS
10. Investigator Kelly Henderson's BWC video of her interview of Deputy Jesse Hernandez
11. Investigator Kelly Henderson's BWC video of her interview of Sergeant Beth Roberts
12. Deputy Jesse Hernandez's resignation
13. Deputy Jesse Hernandez's email confirming he would not provide an OPS interview
14. Captain Robert Wagner's BWC video of her interview of Sergeant Beth Roberts

Discussion:

Florida State Statute 776.05, Law Enforcement officers; use of force in making an arrest, specifies an officer is justified in using any force he/she reasonably believes is necessary to defend himself/herself or another from bodily harm. The statute is also codified in OCSO General Order 04.01 - Response to Resistance. Additionally, General Order 04.01 - Response to Resistance states OCSO Deputies are authorized to use only that amount of force that is objectively reasonable to perform their duties.

Objective reasonableness is the standard the United States Supreme Court established in *Graham v. Conner*, 490 U.S. 386 (1989) as the metric used when determining if a law enforcement officer's use of force was reasonable. Objective reasonableness is defined as evaluating each situation in light of the known circumstances, including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to themselves and the community when determining the necessity for force and the appropriate level of force. A deputy's use of force will be evaluated by asking were the deputy's actions objectively reasonable in light of the facts and circumstances confronting him or her, without regard to his or her underlying intent or motivation.

The reasonableness of a particular use of force will be judged from the perspective of a reasonable law enforcement officer at the scene and allow for the fact that deputies are often forced to make split-second decisions about the amount of force necessary in a particular situation. Deputies will consider alternatives to the use of force which are consistent with deputies' safety and the safety of the community. Deputies maintain the right to self-defense and have a duty to protect the lives of others. A deputy's decision to use force should be based on the level(s) of resistance by the subject versus the control options available to the deputy. Both resistance and control may be verbal or physical actions.

Conclusion:

When determining whether the force used by Deputy Hernandez and Sergeant Roberts was objectively reasonable, it was paramount to examine those specific factors known to each individual independently. While there were some factors known to both Deputy Hernandez and Sergeant Roberts, there were many only known by one or the other.

OCSO General Order 04.01 – Response to Resistance provides direction and guidance to OCSO members in reference to use of force. Below are a few relevant excerpts from the policy as published at the time of the incident:

C. Definitions

7. Objective Reasonableness - Is the standard by which a deputy's response to resistance will be evaluated by asking whether the deputy's actions are objectively reasonable in light of the facts and circumstances confronting him or her, without regard to the deputy's underlying intent or motivation. The reasonableness of a particular use of force must be judged from the perspective of a reasonable law enforcement officer at the scene, and allow for the fact that police officers are often forced to make split-second decisions about that amount of force necessary in a particular situation.

E. Discussion

1. Although Florida Statutes give a wide range in the use of force to law enforcement, Okaloosa County Sheriff's Deputies are authorized to use only that amount of force that is objectively reasonable to perform their duties. Objective

Reasonableness is the standard by which a deputy's use of force will be evaluated by asking whether the deputy's actions are objectively reasonable in light of the facts and circumstances confronting him or her, without regard to his or her underlying intent or motivation, see *Graham v. Conner*, 490 U.S. 386 (1989).

2. The reasonableness of particular use of force will be judged from the perspective of a reasonable law enforcement officer at the scene, and allow for the fact that deputies are often forced to make split-second decisions about that amount of force necessary in a particular situation.

F. Procedures

3. Deputy Response Options

b. Use of deadly force may be a deputy's first and only appropriate response to a perceived threat. Deadly force does not necessarily mean that someone died from the force used. It can cause great bodily harm or no harm at all. For example, returning fire is deadly force even if the officer misses the target.

I. The deputy must base his or her decision to use deadly force as a defensive tactic on a clear, reasonable belief that he or she, a fellow officer, or another person, faces imminent danger of death or great bodily harm.

7. Deadly Force

a. Discharging a firearm at another human being is an application of deadly force and must, therefore, be objectively reasonable. Each deputy discharging a firearm must establish independent reasoning for using deadly force. [Independent reasoning is not explicitly defined in policy.]

IV. Deadly force shall only be used when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in imminent danger of serious physical injury.

OCSO General Order 04.01 – Response to Resistance directly references *Graham v. Conner*, 490 U.S. 386 (1989). Below are quotes directly from *Graham v. Conner*:

This case requires us to decide what constitutional standard governs a free citizen's claim that law enforcement officials used excessive force in the course of making an arrest, investigatory stop, or other "seizure" of his person. We hold that such claims are properly analyzed under the Fourth Amendment's "objective reasonableness" standard, rather than under a substantive due process standard. (*Graham v. Conner*, 1989, p. 388)

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. (*Graham v. Conner*, 1989, p. 396)

The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments — in circumstances that are tense, uncertain, and rapidly evolving — about the amount of force that is necessary in a particular situation. (*Graham v. Conner*, 1989, p. 396 & 397)

Deputy Hernandez heard the victim talking about Mr. Jackson threatening her, and he knew there might have been domestic violence issues between the victim and Mr. Jackson. Deputy Hernandez also knew Mr. Jackson had sent the victim a threatening picture involving what appeared to be a suppressor on a firearm. Deputy Hernandez had decided to search Mr. Jackson for a third time given he was being placed under arrest for stealing the victim's vehicle.

Deputy Hernandez heard a sound from his patrol vehicle which he perceived as a gunfire from a suppressed weapon. Using hindsight, the sound heard was likely an acorn striking the roof of his patrol vehicle. The acorn can be seen on his BWC video striking the roof right before he starts responding. Nothing else is heard or seen on the BWC video to explain what Deputy Hernandez thought he heard.

Deputy Hernandez said he felt an impact to his upper right torso, additionally he said his legs stopped working correctly and he fell to the ground. BWC videos show that he fell to the ground, and they appeared to show his legs were not responding as he had intended. However, there was no evidence found to support anything impacted Deputy Hernandez. Nothing was seen on any BWC showing something striking Deputy Hernandez. No defects were found to his uniform or his ballistic vest to support an impact.

Deputy Hernandez did not have any other indicators Mr. Jackson had fired a weapon at him. There was no broken glass, no damage to his patrol vehicle, etc. Deputy Hernandez made his decision to use lethal force based on the sound, his perceived feeling he had been struck by something in his upper right torso, and his legs not working like normal.

Deputy Hernandez's response was not objectively reasonable. The only verifiable outside stimulus was the sound Deputy Hernandez interpreted as a suppressed weapon being fired, and that alone would not justify shooting into the vehicle.

Sergeant Roberts took a primary role with working with the victim. She was made aware of the threats made by Mr. Jackson, and she saw the threatening picture of what she believed to be a firearm suppressor. Based on statements made by the victim, the picture appeared to have been recent and taken from inside the victim's vehicle which was not on scene. When Mr. Jackson arrived on scene by foot, Sergeant Roberts described him as being verbally uncooperative and intimidating towards the victim.

Sergeant Roberts instructed deputies to first pat Mr. Jackson down over concerns he had the weapon she believed she saw in the picture, and then detain him as the victim was completing an affidavit of complaint for her stolen vehicle.

Sergeant Roberts heard a noise which grabbed her attention, followed quickly by Deputy Hernandez yelling three times, “Shots fired!” She saw Deputy Hernandez falling to the ground, and she saw him having difficulties getting up. Sergeant Roberts said she believed Deputy Hernandez had been shot because of the tone in his voice, his stumbling attempts to move and stand up, and his apparent lack of control over his body.

In an attempt to confirm what she had already heard and what she was seeing, Sergeant Roberts yelled, “What, What?” towards Deputy Hernandez. For a fourth time, he yelled, Shots fired!” confirming what she had already heard and what she believed she was seeing. Sergeant Roberts yelled, “Where, right there?” She said she heard Deputy Hernandez’s response, which was “In the car.”

Sergeant Roberts worked with Deputy Hernandez for a short period of time while he was in training. During that time, Sergeant Roberts found Deputy Hernandez to be a reliable deputy she could trust. She had no reason to doubt what Deputy Hernandez had been telling her.

Recognizing Deputy Hernandez had no cover nor concealment, believing he had been shot based on what he was saying and her direct observations of Deputy Hernandez’s inability to move to cover, believing Deputy Hernandez was in immediate danger of being shot again, and fearing for the safety of the victim and herself, Sergeant Roberts through her independent reasoning based on the totality of all the circumstances, made the decision to use lethal force. Through her interview, Sergeant Roberts explained the information she used to independently make the decision to use lethal force; below is a summary of that information:

- The suspect stole the victim’s vehicle.
- The suspect has a history of threatening the victim.
- The victim was ending a three-year long relationship with the suspect.
- The suspect had recently sent threatening text messages to the victim.
- The suspect had recently sent the victim a picture of a suppressed firearm pointed at the dash of the victim’s vehicle.
- The victim said the suspect had a history of becoming very violent over disagreements between herself (victim) and the suspect.
- The victim said the suspect owned firearms.
- The victim said the suspect was known to carry a firearm or have one in his vehicle.
- The suspect’s vehicle was on scene.
- The victim said the suspect had a silencer on one of his firearms.
- The suspect walked up on scene without the victim’s vehicle.
- She did not know if the suspect had parked the victim’s vehicle nearby or if someone had dropped the suspect off near the scene.
- The suspect was verbally non-cooperative on scene.
- The suspect was attempting to intimidate the victim.
- She ordered the suspect to be patted down and then detained, but she herself did not conduct the pat down.
- The suspect was placed in the rear of Deputy Hernandez’s patrol vehicle waiting transport.

- The suspect was the only person in Deputy Hernandez's patrol vehicle.
- Deputy Hernandez was at his patrol vehicle when she heard a noise come from the vehicle.
- She interrupted the noise as an indication the suspect was possibly resisting Deputy Hernandez.
- She heard Deputy Hernandez shout three times "Shots fired!"
- She saw Deputy Hernandez fall to the ground near the rear of his patrol vehicle.
- She saw Deputy Hernandez try to stand up, but was not able to get to a standing position.
- Understanding what Deputy Hernandez had said, but wanting further confirmation, she asked, "What, what?"
- Deputy Hernandez yelled "Shots fired!" a fourth time.
- Believing the suspect was still in Deputy Hernandez's patrol vehicle, but wanting to ensure the suspect had not gotten out and moved to another location, she asked, "Where? Right there?"
- Deputy Hernandez answered, "In the car."
- She described the auditory tone of Deputy Hernandez's voice as terror.
- The look on Deputy Hernandez's face [consistent with being in fear].
- Deputy Hernandez had no cover.
- Deputy Hernandez could not stand and move to cover.
- Her past work experience with Deputy Hernandez led her to believe he was a reliable deputy she could trust.
- She believed Deputy Hernandez had just been shot.
- She thought Deputy Hernandez was about to be shot again.
- She said, "I thought I was watching him get murdered."

In an effort to save Deputy Hernandez's life, she directed her fire at the backseat of his patrol vehicle where she believed the suspect was located and from where the suspect had just shot Deputy Hernandez. After roughly three and a half seconds, Sergeant Roberts stops firing, moves to cover, sees Deputy Hernandez crawling towards cover, and reevaluates the situation. She recognized both she and Deputy Hernandez were in better tactical positions and transitioned into treating the situation as a barricaded subject.

Sergeant Roberts' response was objectively reasonable. Without the benefit of hindsight, and making split-second decisions based on the information she was gathering through her senses, Sergeant Roberts acted in a manner consistent with the protection of life in the face of imminent and immediate danger of death.

Findings:

Deputy Jesse Hernandez

1. The facts and evidence show Deputy Jesse Hernandez's use of deadly force against Mr. Jackson was not objectively reasonable. **OCSO General Order 11.03, Section E, Paragraph 35, Excessive Use of Control to Resistance is SUSTAINED.**

Sergeant Beth Roberts

1. The facts and evidence show Sergeant Beth Roberts' use of deadly force against Mr. Jackson was objectively reasonable. **OCSO General Order 11.03, Section E, Paragraph 35, Excessive Use of Control to Resistance is EXONERATED.**

I, the undersigned, do hereby swear, under 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 subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes and declare that I have read the foregoing Internal Investigation Report and that the facts stated in it are true and correct to the best of my knowledge and belief.



Captain Robert A. Wagner
Office of Professional Standards
Okaloosa County Sheriff's Office