

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR OSCEOLA COUNTY, FLORIDA

SPRING TERM, 2023

IN RE: REPORT OF THE GRAND JURY

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA

The Grand Jurors of the State of Florida, impaneled and sworn to inquire and true presentment make, in and for the County of Osceola do present the results of our review of the tragic circumstances surrounding the shooting death of Jayden Baez and the shootings of Joseph Lowe and Michael Gomez. The Grand Jury, on October 26, 2023, November 1, 2023, December 11, 2023, and January 2, 2024, heard evidence on this matter both as to the immediate circumstances surrounding the shootings and certain policies, practices, and training of the Osceola County Sheriff's Office. We have considered the results of a thorough investigation by the Florida Department of Law Enforcement ("FDLE") and the State Attorney's Office for the Ninth Judicial Circuit. We issue this report to advise the public of our decision in this matter and to explain the reasons for that decision.

As you will read in this report, the evidence shows while the deputies' actions in this matter did not rise to the level of criminal charges, it is our firm conclusion that ineffective and insufficient communication and training by the Osceola County Sheriff's Office needlessly created circumstances that resulted in this tragic shooting.

While we are not law enforcement professionals, we feel strongly that citizens have a place in assisting law enforcement agencies in understanding the layperson's view. As such, we have serious concerns regarding the problematic, ill-planned, impulsive approach the Osceola County Sheriff's Office used when executing the vehicle block¹ that resulted in one man's death and injuries to two others. We strongly suggest the sheriff's office make immediate changes to

¹ The law enforcement officers involved in this incident referred to this tactic as a "vehicle block," so that is what we call it in this report. However, the Sheriff's Office Policy and Procedure, Number 461.0, refers to this tactic as a "tactical park."

their policies, practices, and training that might, in our collective opinion, avoid a repeat of these circumstances.

FACTUAL REVIEW

On April 27, 2022, just prior to 7:00 p.m., members of the Osceola County Sheriff's Office were engaged in a training exercise while driving unmarked cars and wearing plainclothes. According to statements provided to the Florida Department of Law Enforcement by members of the Osceola County Sheriff's Office, there were two locations involved in this training scenario: a nearby apartment complex and the parking lot of a Target retail store located at 4795 West Irlo Bronson Memorial Highway. Detective Brady Bennett, while setting up a training scenario at the Target parking lot, "observed a suspicious black Audi with dark tinted windows traveling through the parking lot with its tag covered and backed into a parking spot" (FDLE Report, Pg.15). Two males exited the car wearing COVID-19 masks and hoodies and entered Target. Detective Bennett, suspecting that a robbery was about to occur, contacted the other deputies involved in the training scenario to come assist him—cancelling the training scenario. Another detective alerted Target to the two suspicious males and requested Target's loss prevention officers ("LPO"s) follow the males with their Closed-Circuit Television ("CCTV") cameras.

After one of the two males left Target and re-entered the black Audi, the black Audi relocated to a handicapped parking space closer to the store and backed into the parking space. Soon thereafter, the second male returned and entered the black Audi. The attempted vehicle block and takedown of the black Audi, which resulted in these shootings, occurred shortly thereafter.

The radio communications of the Osceola County Sheriff's Office paint a more complete picture of the facts leading up to the shootings and are attached below:

File Name 221044434 10-17 Target Full
 (Duration 02:13:03)

Elapsed Time	Description
00:00	[Lieutenant Howard Griffin]: Everybody end scenano make sure you have your gear and head towards the target Brady [Bennett] is gonna key up on the radio and let us know what he's got. This is not a scenario, scenario s over.
00:27	[Detective Ricardo Galeana] There's an Audi backed up at Target right next to a Range Rover. It's gonna be a black Audi with the tag covered We have Brady on foot right now going to follow behind, there's a male with a black hoodie that got out.
01:40	[Detective Galeana]. We just backed in next to a Range Rover out here We saw the tag [on the Audi] was covered and we saw one male get out with a covid mask, and I think there's gonna be somebody in the car The running lights are still on SO I'm not sure if they're gonna hit for like electronics, or they're trying to hit the car next to me. Brady's in there right now on foot trying to acquire that black male with the black hoodie and the mask on.
02:21	[Unidentified Officer] Anybody have a contact with Target LP [Loss Prevention]?
02:29	[Unidentified Unit]: Cole Miller's calling right now.
04:45	[Unidentified Unit]: Brady's got eyes on him [the subject] inside
05:07	[Detective Galeana] I have eyes on the car I can't see if anybody's inside because it's blacked out but I'll let you know if it starts moving.
06:50	[Unidentified Unit] Brady said there are two targets inside [the store] Two of them The second subject black pants black sweater, black mask. Hispanic male
08:29	[Unidentified Unit]: Can I help set up a front block or anything and just block inside with my vehicle or is there already set up for a block in case they come running out?
08:39	[Detective Galeana]: I m not set up for a block right now I don't know if they have a vehicle behind them. I don't have a great view. If somebody can roll down like go up to where the front doors of the west side entrance are and then roll like you're rolling away from the parking lot you're gonna see the vehicle with its lights on to the left of you
09:01	[Unidentified Unit] We got it, we're about two back right behind it so we'll have the rear block, but you'll have to pull up for the front block.
09:21	[Detective Galeana]. Right in front of the Target sign If you're looking at the Target sign the lane is to the left. We're backing in right directly behind it so we will have a rear block We just need somebody to take the front block Obviously, confirm with prime and all that.
09:42	[Sergeant Koffinas]: Let me get in the handicap space right in front of it that way I can back in with my hitch
09:52	[Detective Galeana] Right here to your right, it's right behind us. Tag completely covered
10:00	[Unidentified Unit]: Perfect. Koffinas is gonna be in a good spot for a block then. Just need to confirm if they do the crime, and if not, we'll just have to let them go and wait on LP and go inside and confirm it
11:12	[Unidentified Unit]: Ramy, when I back up where do you want me to exit, toward your car?
11:18	[Sergeant Yacoub] We're not taking it unless they. don't have a crime right now I mean we can try to stop it regular [unintelligible] but we're not gonna block it right now.
12:00	[Lieutenant Griffin]: Honestly if they come out and nonchalantly get in the car I say we just stay on surveillance and let them go hit somewhere else. They're definitely here for, with that tag like that, to commit a crime. They might have got spooked here

12:20	[Sergeant Christopher Devlin]. They're in the middle of the store now walking toward the west exit. Still unknown if they've taken anything Doesn't appear they have anything in their hands
12:33	[Detective Miller]: (fade-in) ..opposite exit with a pizza in hand It does not appear they have paid for the pizza.
13:10	[Detective Miller] They think they grabbed some cards and they've grabbed a shopping bag so it looks like they're doing something Pokemon cards
13:45	[Sergeant Yacoub]: Koffinas, the way it's positioned right now, if we do a block, stay in your car. foot on the brake when we make contact, and then we're gonna drift over to this red car at its driver side, and we'll call them out until we get more units
14:00	[Sergeant Koffinas] With that hitch on the back it's probably gonna tear their entire grill up so
14:10	[Detective Galeana] See if the Pokeman cards end up being a felony. We'll see.
14:31	[Lieutenant Griffin]: Scott, you have the green light to do the block Whether we can confirm it or not. The way they re set up with the covered tag they're set up to try to flee.
14:42	[Sergeant Koffinas]: Ten-four.
15:44	[Sergeant Devlin]. One's walking out now
15:50	[Sergeant Koffinas]: Let me know when you want to go Ramy.
16:12	[Detective Galeana] He's getting in the passenger seat.
16:21	[Sergeant Devlin]: We have eyes on the other one in the store and he's still putting stuff in his pocket.
16:40	[Sergeant Yacoub]: Alright this guy got into the passenger seat I'm assuming the one inside is gonna be the driver Ricky, did you see one get out of the driver's seat?
16:50	[Detective Galeana]: We didn't see one get out of the driver's seat Ramy, and the car looks like it stayed on so there might be somebody already in the driver's seat
17:10	[Sergeant Yacoub]: Koffinas, we're gonna take it now. Brake lights are on but there's two females right there. just be careful [Sergeant Koffinas]: Just give me a few seconds until they move out of the way.
17:22	[Lieutenant Griffin]: A crime hasn't been committed inside. [Sergeant Yacoub]: Don't let him take this car [Lieutenant Griffin]: We need to 23 [10-23 (stand by)] for them to commit the crime. He may go mobile and pick him up at the front, then we'll just have to do surveillance until we can do a safe block somewhere else. Sarge, go ahead and go mobile, this car's moving here Probably gonna pick him up at the front so head this way. please. [Sergeant Yacoub]: Moving towards the front right now
18:45	[Sergeant Koffinas]: He's doing a loop back around to that exit so he may be coming back to that west exit.
19:22	[Detective Miller]: He just backed in Third parking spot in front of the doors by the east side. Passenger door open, black male, black hoodie with a white stripe and a covid mask. He just got out, he's walking around and he's back in the car. He glanced at the tag, looks like to make sure it was still covered
19:56	[Lieutenant Griffin]: He's exiting grocery side now We got a 65 [Signal 65 (Shoplifter)].
20:27	[Sergeant Yacoub]: Olka take the driver's side, driver side. Move in from the driver's side We're taking the front.
20:47	[Communications Center] SO (Sheriff's Office) we got shots fired.

20:56	[Emergency tone] [Unidentified Unit]: Send FD (Fire Department). [Communications Center] FD is 51 (on the way) to you all.
27:50	[Unidentified Unit]: 43 [10-43 (information)] for FD, 19 year old male, gunshot, lacerations to both fingers. I currently have both hands lifted up. I have another male approximately 19 Two shots to the back and possibly one to the leg. He's conscious and breathing

File Name: 221044434 Radio Traffic SPOP1 silence skipped
(Duration 00:30:12)

This file contains the same radio traffic as the first file without the silence between the transmissions.

CAD Report

After a thorough review by SA Silberstein, it was determined that the CAD report was consistent with the radio traffic and contained no significant differences. The CAD report was recorded in actual time. The following is a synopsis of the information entered in CAD by the Communications Center:

18:56:59: [Sergeant Yacoub] It looks like they are both in there so maybe will hit inside.

18:58:04: [Detective Miller]: Opposite exit w/ pizza in hand. Does not appear they paid for the pizza. Looks like they grabbed some cards and a shopping bag, Pokemon cards

18:59:20: [Sergeant Yacoub]: IN10 [Sergeant Koffinas] if we do the block, stay in your car and keep it in drive.

19:00:10: [Lieutenant Griffin]: IN10 you have the T4 to block them in.

19:01:16: [Sergeant Koffinas]: PA20, let me know when you want me to go Ramy

19:02:04: [Sergeant Yacoub]: This guy got into passenger seat, assuming one inside is the driver.

19:05:15: [Detective Miller]: They parked third parking spot bu doors, passenger door BM blk hoodie w/ stripe N95 mask, got out and then got back in, glanced at tag to make sure it was still covered.

The remainder of the CAD notes reflect units arriving and law enforcement activity after the use of force occurred.

911 Calls

SA Silberstein conducted a thorough review of the 911 calls provided by OCSO. The elapsed time reflects the time of the calls in the recorded file. The following is a synopsis of the 911 calls:

Elapsed Time	Description
00:00 to 00:47	[File Name]: 2210044434 i Jean-Louis: The male caller reported he was at Target and heard approximately ten gunshots and agents were running around with guns drawn. The Communications Operator said there were deputies on-site. The caller indicated he saw the deputies put somebody on the ground. The call was terminated.

While more detailed instructions were being relayed about how to execute the vehicle block before the black Audi moved to the handicapped parking space, there was only a limited discussion about how to execute the vehicle block once the black Audi had moved. This was the only discussion on the radio:

20:27	[Sergeant Yacoub]. Olka take the driver's side, driver side. Move in from the driver's side We're taking the front
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The image below shows the final resting places of the vehicles after the attempted vehicle block on the black Audi:



The black Audi was able to push forward as neither Detective Olka's van nor Detective Fisher's truck were directly in front of it.

The very limited video evidence of the incident, along with the event data recorder (“EDR”) data from the black Audi, and testimony of the witnesses, show the attempted vehicle block of the Audi was unsuccessful. The black Audi was able to still move forward after the deputies moved their vehicles in to prevent its escape. Thus, Sergeant Yacoub was immediately in harm’s way of the black Audi as it moved forward when he exited the front passenger seat of the unmarked Dodge pickup truck driven by Detective Fisher. This resulted in both Sergeant Yacoub and Sergeant Scott Koffinas discharging their firearms into the Audi, killing the driver, Jayden Baez, and injuring two passengers, Joseph Lowe and Michael Gomez.

FINDINGS

Our conclusion bluntly is that this should not have happened. Our findings uncovered grave concerns about whether the appropriate amount of force was used to apprehend misdemeanor shoplifters and how insufficient training around vehicle blocks and a lack of communication needlessly created circumstances where a deputy was faced with death or great bodily harm. Furthermore, it is deeply troubling that there is no policy outlining when and where deputies can execute a vehicle block that considers the surroundings and circumstances to minimize the threat of potential harm to officers and the public.

A. POLICY REGARDING THE SURROUNDING CIRCUMSTANCES BEFORE EXECUTING A VEHICLE BLOCK

It is imperative that the Osceola County Sheriff’s Office develop and implement a policy outlining the time, place, and circumstances when a vehicle block can be executed to apprehend suspects. It can be reasonably assumed that a busy retail outlet parking lot at 7:00 p.m. increases the potential for danger and harm for any bystanders and innocent civilians. Other times and places provide their own unique set of circumstances to consider. This vehicle block was impulsively executed with little to no regard for any innocent civilians in the parking lot. When contemplating whether to use a vehicle block, the severity of the offense and the dangerousness of the offender should be weighed against the potential danger presented to members of the public in the time and place where the vehicle block would be executed.

It is our firm belief that the circumstances of this case did not warrant a vehicle block based on what was known about the offense and the offenders.

Since this incident, Osceola County Sheriff's Office Policy 461.0—the policy covering vehicle blocks²—was amended to require deputies to take the following risk factors into consideration prior to making the decision to perform a vehicle block:

- a. Location.
- b. Target vehicle type (SUV, Truck, etc.).
- c. Day / Night / Weather (lighting, darkness, window tint, etc.).
- d. Civilian traffic (pedestrian / vehicle).
- e. Ability to control civilian traffic.
- f. Natural barriers (helpful or hinderance).
- g. Status of communications (radio traffic, clear channel, location, etc.).

B. USING VEHICLE BLOCKS FOR MISDEMEANOR OFFENSES

While we do not wish to live in a community that turns a blind eye to retail theft, we have serious questions about whether a vehicle block should be used to apprehend misdemeanor shoplifters.

According to the radio communications, there was a discussion about utilizing a vehicle block for several minutes before Sergeant Yacoub pointed out at 11:18 that they “don’t have a crime right now. I mean we can try to stop it regular [unintelligible] but we’re not gonna block it now.” Sergeant Koffinas noted at 14:00 that using a law enforcement agency-issued vehicle with a trailer hitch to execute the block-in was “probably gonna tear their entire grill up so.” At 14:10, Detective Galeana suggested seeing “if the Pokemon [sic] cards end up being a felony. We’ll see.” Without confirmation as to whether there was a felony grand theft being committed, Lieutenant Griffin nonetheless authorizes the vehicle block at 14:31 saying, “Scott, you have the green light to do the block. Whether we can confirm it or not. The way they’re set up with the covered tag they’re set up to try to flee.” Then at 17:22, after previously authorizing the vehicle block, this is the radio traffic:

[Lieutenant Griffin]: A crime hasn't been committed inside

[Sargeant Yacoub]: Don't let him take this car.

² The new policy refers to a vehicle block as a Tactical Vehicle Takedown (“TVT”).

[Lieutenant Griffin]: We need to 23 [10-23 (stand by)] for them to commit the crime. He may go mobile and pick him up at the front, then we'll just have to do surveillance until we can do a safe block somewhere else. Sarge, go ahead and go mobile, this car's moving here. Probably gonna pick him up at the front so head this way, please.

[Sargeant Yacoub]: Moving towards the front right now.

After the first male returned to the black Audi and the vehicle relocated to the handicapped parking space closer to the Target exit, Lieutenant Griffin stated the second male, now exiting the store, was a “Signal 65”—a shoplifter. Within thirty seconds, Sergeant Yacoub gives instructions to Olka to take the driver’s side and that “we”—meaning Detective Fisher and Sergeant Yacoub—would be taking the front. Twenty seconds after that instruction, it is reported that shots have been fired.

The issue of whether this was a felony was therefore discussed. The destruction of property was contemplated. In fact, whether *any* crime was being committed was discussed well *after* the plan to execute a vehicle block began. But there was no discussion about whether the use of force was appropriate for the apprehension of misdemeanor shoplifters.

We are pleased that the Osceola County Sheriff’s Office has changed their policy in this area to reflect these concerns.

The new policy states, “[t]he members’ decision to conduct a Tactical Vehicle Takedown (TVT) will be based on the totality of circumstances *for suspects in felony crimes*, without creating undue risk to themselves and the public.” (Emphasis added).

C. BODY WORN CAMERAS

One of the biggest challenges we had in reviewing this case was the lack of body worn camera footage. The pertinent radio communication begins with Lieutenant Griffin instructing everyone to “make sure you have your gear”. Why isn’t a body worn camera included in the gear that would be used to potentially detain or arrest members of the public? Use of force, in the form of a vehicle block and ordering people out of a car, was clearly contemplated. Body worn camera footage would have left no questions as to what was said, when lights or sirens were activated, when commands were issued, where the wearer was at what point in time, and the perspectives of all body worn camera wearers. In 2022, much less 2024, there appears to be no

reason for a law enforcement officer who is anticipating the detention or arrest of a member of the public to not be wearing and using a body worn camera.

D. COMMUNICATION AND EXECUTION OF THE VEHICLE BLOCK

We understand law enforcement must often navigate dynamic situations with precious little time to make life or death decisions. However, the radio communication log reflects a gross lack of training and communication by the deputies involved in this matter. On the day of the incident, Detective Olka was a trainee participating in the class and it is unclear what experience, if any, he had with executing a vehicle block. Detective Olka's testimony to the Florida Department of Law Enforcement was that he was to perform the front block but was advised by Detective Fisher, who was driving the vehicle in which Sergeant Yacoub was riding, to swing wide and pinch the vehicle in from the side.

Detective Fisher also believed he was to perform the front block, but Detective Olka's van prevented him from doing so because of Detective Olka's aborted front block attempt. Detective Fisher's only option was to pull his truck toward the black Audi's passenger headlight, leaving space for the Audi to accelerate between his truck and Detective Olka's van.

The radio communication log shows the deputies' ineffective training and inability to communicate the plan or change of plans quickly and clearly. While more detailed instructions on how to execute the vehicle block were given prior to the Audi moving closer to the store entrance, nothing was said in the twenty-nine seconds from when Lieutenant Griffin confirmed there was a crime committed inside the Target store until Sergeant Yacoub stated, "Olka take the driver's side, driver side. Move in from the driver's side. We're taking the front."

Perhaps a properly trained law enforcement officer should know taking the driver's side means to block that means of escape while leaving enough room for another vehicle to do a front block. Perhaps a properly trained law enforcement officer knows the first vehicle to move in should execute a front block. Perhaps neither is true. However, it is painfully clear that those involved in the vehicle block's execution were not on the same page.

The radio log also shows a lack of discussion as to what was going to happen if the vehicle block was successfully executed. Law enforcement knew there were at least three occupants in the black Audi, perhaps more since the dark tint prevented deputies from seeing inside the car. There were also numerous law enforcement officers on hand to secure all the

occupants. However, there was no communication about who would be the primary officer responsible for securing each known occupant of the car or who would take each side of the Audi to capture anyone who ran away from the car.

There also appears to be potential crossfire issues that properly trained law enforcement officers would reasonably account for when planning and executing a vehicle block to prevent fellow officers from unnecessarily being in harm's way. Detective Christopher Koffinas' van was in front of the Audi when Sergeant Scott Koffinas fired into the rear of the Audi. Detective Olka's vehicle was behind the black Audi when Sergeant Yacoub fired into it. To the average person, it appears ill advised for Sergeant Yacoub to exit the passenger side of Detective Fisher's truck since neither Detective Olka nor Detective Fisher successfully executed the front block, allowing the Audi to accelerate forward.

This was a poorly planned and poorly executed vehicle block. It increased the threat of potential harm from unintentional crossfire and deputies needlessly placed themselves in harm's way creating circumstances where one deputy was faced with death or great bodily harm. We strongly suggest the Osceola County Sheriff's Office examine the facts of this case very carefully and implement sufficient policies that minimize those threats, thereby reducing potential harm or loss of life in the future.

E. DEPUTIES PLACING THEMSELVES IN HARM'S WAY AND FIRING INTO MOVING VEHICLES

The central factor in this tragedy was Sergeant Yacoub exiting the passenger side of Detective Fisher's truck after the unsuccessful vehicle block, allowing the target vehicle to have a potential path of escape through Sergeant Yacoub's new location outside of Detective Fisher's truck. The updated policy largely addresses this situation, but we suggest one additional point of clarification. The updated policy states, "[m]embers who are directly involved in executing this technique (TVT) shall not exit their vehicle to go hands-on with the occupant(s) until compliance is attained from the target vehicle by being placed in park, the engine off, and keys removed from the ignition and discarded outside of the vehicle." Osceola County Sheriff's Office Policy 461.0(K)(2). In our opinion, it should be made clear that this applies to *passengers* in the involved law enforcement vehicles as well as the drivers.

Osceola County Sheriff's Office Policy 470.0 was also amended to read in part:

A member shall not intentionally position himself/herself in the path of a moving vehicle, or approach in the vehicle's *potential path of escape*, either front [or] rear, creating circumstances where the use of deadly force is the likely outcome. A member in the path of an approaching vehicle will attempt to move to a position of safety rather than discharging a firearm at the vehicle or any occupants of the vehicle.

Osceola County Sheriff's Office Policy 470.0(1)(B)(9)(b) (emphasis added). We are hopeful that these policy changes make another tragedy on the scale of this one far more less likely to occur in the future.

F. COMMUNITY RESOURCES FOR HOMELESS YOUTH

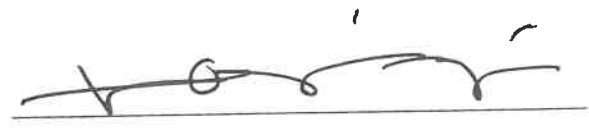
We understand the constraints on resources for local governments, but the grand jury is disheartened to hear about the lack of resources for homeless youth in our community. We learned that Joseph Lowe had become homeless while still attending school in Osceola County. Mr. Lowe may not have been in the vehicle with Mr. Baez and others, fueled by desperation, if proper resources were made available to him. We hope that the county government, school district, and local municipalities will increase efforts to make sure that if a child becomes homeless there is somewhere for them to go. We need to start by creating safe places for our youth to turn to and the freedom to ask for help when they need it. The burden is heavy enough being a youth in this social media-driven world, but to add the need for housing while the youth is trying to attend school is something that no youth should bear. We hope by working together with government agencies, and private organizations we can find a solution to the ever-growing number of homeless youths in our community.

G. CONCLUSION

In conclusion, we appreciate that law enforcement is a dangerous profession and involves law enforcement officers having to make life and death decisions in an instant. Every law enforcement agency, like any other agency or organization, has a leader. This person represents the entire agency or organization and is ultimately responsible for the decisions each member of the agency or organization makes on a daily basis. We invited Sheriff Marcos Lopez to come testify before us so that he could have an opportunity to address our concerns with his agency's actions. He declined to appear before us and instead provided other members of his

agency to appear and testify. Because we feel the gravity of this situation warrants the Sheriff's appearance before us, we, in turn, decline his invitation to have other members of his agency testify instead of him.

Respectfully submitted this 28th day of February, 2024.



Foreperson of the Grand Jury

As authorized and required by law, I have advised the Grand Jury returning this Presentment.



Andrew Bain, State Attorney
In and for Osceola County