



BRAD KING, STATE ATTORNEY
Fifth Judicial Circuit of Florida
Serving Marion, Lake, Citrus, Sumter, Hernando Counties

December 3, 2018

Sheriff Al Nienhuis
18900 Cortez Boulevard
Brooksville, FL 34601

RE: Death of Jessica Cribbs

Dear Sheriff Nienhuis,

My Office has completed our review of the investigation into the shooting death of Jessica Cribbs. A memorandum of that review is enclosed. After consideration, I agree with the conclusion and recommendation contained in the memorandum. Accordingly, this office will take no further action in the matter. Please feel free to contact me if I can be of further assistance in the matter.

Sincerely,



Brad King
State Attorney

Cc: Special Agent Don Schrenker,
Florida Department of Law Enforcement

Sheriff Mike Prendergast

MEMORANDUM

To: Richard Ridgway, Assistant State Attorney
From: Janine A. Nixon, Assistant State Attorney
Re: Death of Jessica Cribbs
Date: December 3, 2018

On August 30, 2018 Jessica Cribbs was shot to death by Hernando County Deputy Emil Varrichio. At the time of the shooting, Deputy Varrichio was assisting Citrus County Special Weapons and Tactics (SWAT) Team with the execution of a search warrant. The Florida Department of Law Enforcement ("FDLE") was asked to investigate the incident. FDLE has completed the investigation and submitted a final report to this office to determine if any law enforcement officers violated Florida criminal statutes during the shootings. The investigation was thorough and the report complete. The statements and physical evidence are consistent in most significant respects.

Law enforcement obtained a search warrant to search a single family home in Citrus County for drugs and drug related items. At the briefing, law enforcement officers shared that the home was believed to contain multiple guns and dogs and that one of the occupants was the suspect in a drive by shooting.

The lead investigator who investigated the drug activity and authored the affidavit in support of the search warrant researched the location and learned how many persons lived at the address and their identities. During that research, he learned that one of the subjects was the subject in a drive by shooting and was known to carry a firearm on his person. The investigator also learned that other persons in the home possessed firearms. The investigator had good reason to rely upon the information and it proved to be true. The investigator shared the information he had at the briefing prior to the execution of the search warrant which was attended by the team that executed the search warrant.

Jessica Cribbs was a disabled veteran, co-owner and matriarch at the home. Ten persons lived at this large one-story stucco single family, four bedroom/two office home. Three persons were sleeping in the master bedroom: Jessica Cribbs, her husband Anthony Cribbs and an unrelated minor M.C. Seven other adults and a baby were living in the home at the time of the execution of the search warrant.

The SWAT unit divided into teams to enter different parts of the home. Deputy Varrichio's team was assigned to the master bedroom sliding glass door which was inside a screened in porch in the rear of the home. As the team passed by the master bedroom windows outside the screened porch, some of the dogs inside the home began barking (the dogs obviously sensed the law enforcement team's presence). All law enforcement officer witnesses testified that the team announced itself as Sheriff's Office and announced that their purpose was a search warrant several times. All of the law enforcement officers were dressed in tactical gear to include helmets, bullet proof vests and shields,

utility belts and bags, protective eyewear, long guns and slings. Each of the vests, including Deputy Varrichio's, had "Sheriff" printed on the front of the olive green or grey vest in reflective yellow writing.

The master bedroom sliding glass door was breached (broken out) and Deputy Varrichio entered the master bedroom. He saw an empty hospital bed closest to the sliding glass door. Deputy Varrichio also saw a king sized bed further into the room. He saw a woman, sitting on the king sized bed, pointing a handgun at him. Deputy Varrichio told the woman to drop the gun several times. Deputy Varrichio said that he then turned on the light on his long gun and the person aimed the gun directly at his light. This concerned Deputy Varrichio even more. The person with the gun did not drop the gun. Deputy Varrichio felt that his life was in danger and he shot the woman with the gun. His fire hit Jessie Cribbs several times in her midsection. Her gun fell to the ground near her feet next to the bed. Anthony Cribbs had hidden on the far side of the king sized bed and was encountered by law enforcement as they entered his bedroom. Another juvenile female was located hiding under the king sized bed only after the officers cleared the room. The dogs in the room began fighting and mauling each other. Law enforcement officers used non-lethal force to control the dogs.

It was later learned that the two other persons in the master bedroom received minor injuries possibly from projectiles. Both were treated at the hospital for those minor injuries.

After the shooting, law enforcement officers called medics. Those medics attempted to resuscitate Ms. Cribbs but were unsuccessful.

Bullet casings were eventually located at the scene on the date of the shooting and a few days later. Physical evidence of the projectile hitting the walls and furniture in the room was located, all consistent with the testimony provided of the shooting. One law enforcement officer shot at Ms. Cribbs. Although Ms. Cribbs pointed a handgun at law enforcement officers, there is no evidence that she shot the handgun.

The civilian witnesses to the shooting claimed that the officers entered the home without announcing themselves and came in shooting. Anthony Cribbs said he was asleep in bed with his wife in the king sized bed when he hears glass breaking. He said he heard shots almost immediately after the glass breaking. He reached for his glasses, felt a sting on his hip and then rolled off the far side of the bed. He heard people yelling "Get down." As he lay there he could hear his wife gasping for breath. He claims not to have heard anyone indicate that they were law enforcement executing a search warrant until after the shooting. He said without his glasses he cannot see any of the events.

M.C. gave a recorded statement. She said that as Jessica perceived that someone was just outside or entering her home, she pulled M.C. from the hospital bed to the king sized bed. Then as the persons broke the window, Jessica pushed M.C. off the far side of the bed onto the floor. M.C. agreed that she was hidden under the bed when the officers entered the room. Throughout M.C.'s statement she claimed to know about things she eventually agreed she could not have seen. By the end of her statement, M.C. agreed that she could not testify firsthand about most of the essential facts. She denied that the officers announced themselves prior to entering the bedroom. She waived on her statement that the officers began shooting as soon as they entered the bedroom.

None of the occupants of the home claimed that they heard law enforcement announce themselves or their purpose prior to the breach of the glass doors. Several of the occupants said they knew it was law enforcement, however, by their dress, equipment and manner.

All of the officers indicated that they announced "Sheriff's Office" and "Search Warrant" many times before and during the breach. Additionally, the dogs began barking and moving around as soon as the officers passed by the master bedroom windows. Once the team got into position at the master bedroom sliding glass window, they announced and waited for the collective breach order. Once in the room Deputy Varrichio said he shouted, "show me your hands" and "put down the gun" several times prior to shooting. As pointed out during their statements, law enforcement officers have every reason to announce repeatedly and loudly to protect themselves. SWAT team members have a strong incentive to be identified as police rather than civilian criminals. Lastly, the radio traffic supports the testimony of the officers that they knocked on the doors and announced their presence and purpose within a reasonable time prior to the breach of any of the home's doors.¹

Florida Statute 776.05 (1) and (3) states that a law enforcement officer is justified in using *any* force which he or she reasonably believes to be necessary to defend himself or herself or another from bodily harm while making an arrest, or when necessarily committed in arresting felons fleeing from justice.

Section 776.012 Fla. Stat. (2017) provides that anyone is justified in the use of deadly force when "necessary to prevent imminent death or great bodily harm to himself, herself or another." The determination whether the force was necessary must be made from the perspective of the person using the deadly force, in this case Deputy Varrichio.² The officer did not have a duty to retreat before using defensive deadly force.³ Lastly, Jessica Cribbs did not have the right to assault or threaten the officers who were in the performance of their official duties and identified.

Deputy Varrichio testified that he saw Jessica Cribbs level a firearm at him. Deputy Varrichio was shouting "put the gun down" and "show me your hands" and Jessica Cribbs did not put the firearm down. The circumstances establish that the belief was reasonable.

Deputy Varrichio acted reasonably under the circumstances and therefore his actions were justified/actions were no criminal. I recommend that the Office of the State Attorney take no action in this matter. I have not reviewed this incident for compliance with department policy nor good police practices; such review is left to the discretion of the Sheriff.

¹ The radio recording is not real time. In other words, the time elapsed between the entries is not the actual time elapsed between events.

² Florida Standard Jury Instructions in Criminal Cases 3.6(f).

³ Florida Statute 776.012 (2017).