

**OFFICE OF THE STATE ATTORNEY  
20<sup>TH</sup> JUDICIAL CIRCUIT  
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**Amira D. Fox, State Attorney**

**MEMO**

**TO:** Amira D. Fox, State Attorney

**FROM:** John W. Dommerich, Jr., Special Prosecutions Chief

**DATE:** May 15, 2024

**RE:** Fort Myers Police Department Officer Involved Shooting  
FMPD Agency # 23-0123911  
FDLE Case # FM-27-0040  
SAO Investigation # 2023-000080SI

**INTRODUCTION**

This is a legal review of an officer-involved shooting incident that occurred on December 1, 2023, at approximately 9:06 p.m. The shooting took place at 3222 Stella Street, Fort Myers, Florida. Fort Myers Police Department (FMPD) Detective James Moschella used deadly force against Christopher Jordan (Black/male, D.O.B. 8/6/65). Christopher Jordan died as the result of a single gunshot wound to the chest after Detective James Moschella fired one round from his patrol rifle through Christopher Jordan's bedroom window.

FMPD chose to have the Florida Department of Law Enforcement (FDLE) conduct an independent investigation of the shooting. The Use of Force Investigation was conducted by FDLE Special Agent Michael Ortiz. Special Agent Michael Ortiz provided the State Attorney's Office (SAO) with his Investigative Summary and supporting evidence, including the 911 call to FMPD, Computer-Aided Dispatch (CAD) notes, radio logs, body worn camera (BWC) footage, interviews, crime scene photographs, and reports. The last report from FDLE was received by the SAO on March 29, 2024.

Detective James Moschella elected not to provide a sworn statement to FDLE.

The memorandum of SAO Investigator Robert Lawrence comprehensively sets forth the investigative findings. This legal memorandum relies upon the recitation of facts contained in his memo.

## FACTUAL SUMMARY

On December 1, 2023, at approximately 8:18 p.m. FMPD received a 911 call from Cynthia Jordan. Cynthia Jordan reported that her brother, Christopher Jordan, threatened her with a firearm inside her residence. Cynthia Jordan additionally said that she was sick of Christopher Jordan and that Christopher Jordan would try to get rid of the firearm before police arrived at the residence. At 8:19 p.m., FMPD dispatched a call for service to 3222 Stella Street for a breach of peace with a firearm.

Numerous FMPD officers responded to the residence. Detective Gregory Reddington and Detective Ryan Amador were the first officers to arrive on scene at approximately 8:27 p.m. Cynthia Jordan and three unidentified male witnesses were in front of the residence. Cynthia Jordan was yelling, "He's inside. He threatened me inside." Cynthia Jordan reported to Detective Gregory Reddington and Detective Ryan Amador that Christopher Jordan was in a bedroom inside the residence with a firearm. Cynthia Jordan told an unknown person on her phone that Christopher Jordan was "mollied out."

The three unidentified male witnesses were asked if Christopher Jordan had a gun. Two of the three unidentified male witnesses responded that Christopher Jordan did have a gun. The third unidentified male witness appeared to be intoxicated and did not answer the question.

The statements made by Cynthia Jordan and the two unidentified responsive witnesses were recorded on Detective Gregory Reddington's BWC. The statements were also broadcast on Detective Gregory Reddington's radio, informing other officers that multiple witnesses reported Christopher Jordan was armed with a firearm. Cynthia Jordan and other individuals present at the house were removed from the area of the house for safety.

Detective Gregory Reddington heard Christopher Jordan yell out the window several times that Christopher Jordan wanted the police to kill him. Detective Gregory Reddington relayed via radio that Christopher Jordan was inside with a firearm and that the nature of the situation was an aggravated assault with a firearm. Officers approached the residence and gave verbal commands for Christopher Jordan to come out of the residence. Christopher Jordan ignored these commands.

FMPD officers established a perimeter around the house and continued to attempt to convince Christopher Jordan to come outside. FMPD Officer Michael Novak met with Cynthia Jordan. Cynthia Jordan stated that Christopher Jordan threatened her with a firearm. Officer Michael Novak asked Cynthia Jordan, "Did he present a firearm and point it towards you?" Cynthia Jordan responded by saying, "Yes." Cynthia Jordan then described the firearm as "black" and "looked like a 45 magnum or something like that." Cynthia Jordan stated that Christopher Jordan pointed the firearm at her and said, "Bitch, I'll kill you." Cynthia Jordan repeated this statement multiple times to Officer Michael Novak and physically demonstrated how Christopher Jordan threatened her with the firearm. These statements reported by Cynthia Jordan were recorded on Officer Michael Novak's BWC beginning at approximately 8:34 p.m.

At approximately 8:31 p.m., Detective James Moschella and Detective Eric Salter arrived on scene. They each retrieved their patrol rifles and took cover behind Detective Ryan Amador's vehicle, which was parked in front of the north side of the residence. Officers continued to give commands for Christopher Jordan to come out of the house with his hands up. Christopher Jordan was seen in a bedroom on the northwest corner of the house. Officers could see Christopher Jordan moving inside the bedroom.

At 8:35 p.m., while positioned behind the front of Detective Ryan Amador's vehicle, Detective James Moschella requested that officers give commands over a vehicle public address (PA) speaker. At 8:38 p.m., Detective Ryan Amador used the PA speaker to begin giving Christopher Jordan verbal commands to come out of the house. Detective Ryan Amador told Christopher Jordan commands such as:

***“Christopher Jordan, this is the Fort Myers Police. Come out with your hands in the air”; “If you can hear me, look out the window”; “We don’t want to hurt you. We don’t want anyone to get hurt”; “We know you are going through a tough time. We can talk about it”; “We need you to come out with your hands up”; “We are not going anywhere until you come out of the house.”***

The commands were given throughout the duration of the incident.

Christopher Jordan did not come out of the house. Christopher Jordan repeatedly approached the bedroom window. At one point in time, Christopher Jordan waved to the officers from inside the bedroom. Interviews of officers on scene and radio transmissions revealed that Christopher Jordan was playing sounds of automatic rifle fire and making statements to shoot him. Some officers also believed the sounds were coming from a computer tablet located near the residence. The true nature of the sounds was not determined by the FDLE investigation.

Christopher Jordan was still inside the residence at 9:03 p.m. and refusing to comply with commands to exit the residence. Detective Ryan Amador's BWC audio captured an officer saying there was movement in the bedroom and that Christopher Jordan appeared to be changing his shirt. Several FMPD officers observed movement inside the bedroom.

Detective Edgar Nieves responded to the call on Stella Street. Upon arrival, he took a position behind Detective Moschella. Detective Nieves heard Detective Moschella say, “I have movement,” at which time he looked at the window and could see the curtain being pulled back.

When Sergeant Jari Sanders arrived on the scene, he saw movement in a window at the front of the house. Sergeant Jari Sanders saw Christopher Jordan moving around inside the bedroom. A male witness on scene informed Sergeant Jari Sanders that Christopher Jordan was inside the bedroom by himself with a firearm. Sergeant Jari Sanders gave Christopher Jordan verbal commands such as:

***“Christopher, this is the Fort Myers Police. Can you please come out to speak with us?”***

Detective Brandon Birch reported that he periodically saw a glimpse of Christopher Jordan through the window. At one time, Detective Brandon Birch saw Christopher Jordan remove the curtain, place it partially back in the window, and then pace back and forth.

Detective Carlos Ramos indicated that he spoke with witness Charles Eford, who reported Christopher Jordan held a gun to a female. Detective Carlos Ramos also saw a curtain being moved in the bedroom window. Eventually the curtain was raised and held in place.

Detective Harrison Williams saw Christopher Jordan peek out from the window seven or eight times.

At 9:06 p.m., Detective James Moschella's BWC showed his patrol rifle with a mounted optic aimed toward the bedroom window where Christopher Jordan was located. Detective James Moschella stated, "I've got one hand, gun, gun." Detective James Moschella then fired one round from his rifle. The round struck Christopher Jordan in the chest. It should be noted that Detective James Moschella's BWC captured mostly audio, as the camera visual reflected off the patrol vehicle Detective James Moschella was positioned behind. Detective James Moschella's BWC showed only his face and rifle.

At 9:07 p.m., Detective Gregory Reddington picked up a ballistic shield and stood behind the shield while positioned next to Detective James Moschella. Sergeant Jari Sanders, Detective Edgar Nieves, Detective Eric Salter, and Detective Brandon Birch lined up behind Detective Gregory Reddington. The five officers then moved in a single file line behind the protective shield and moved directly to the bedroom window. Sergeant Jari Sanders then looked inside the bedroom window and saw that Christopher Jordan was down inside the room.

FMPD officers then immediately moved to the front door of the house. There, FMPD officers verified that no one else was inside the house and that Christopher Jordan's pitbull was inside the bedroom with Christopher Jordan. FMPD officers made entry into the house at 9:09 p.m. Christopher Jordan's bedroom door was locked. FMPD officers forced open the locked bedroom door at 9:10 p.m.

Sergeant Jari Sanders' BWC confirmed the light was on in the bedroom when officers made entry. FMPD officers performed life-saving measures on Christopher Jordan. Lee County Emergency Medical Services (EMS) was staged nearby and responded to the bedroom. Upon arrival EMS personnel continued rendering life-saving measures. Christopher Jordan was transported to Lee Memorial Hospital by EMS. Christopher Jordan was pronounced deceased at 9:49 p.m.

On December 2, 2023, at approximately 12:15 a.m., FDLE Special Agents and Crime Scene Unit members entered the residence to obtain photographs, conduct a search of the residence, and collect evidence. The search of the residence was conducted based on consent from Cynthia Jordan. No search warrant was sought or obtained by FDLE for the search of the residence. The bedroom Christopher Jordan occupied had two windows. One window was on the west side of the residence. The second window was at the north (front) side of the residence. A penetrating hole consistent with a gunshot was in the north side closed window. A red material used as a curtain was rolled halfway up the window. A yellow plastic bag was hanging from the left side

curtain rod. The bedroom contained a mattress atop a box spring and was against the wall under the window. The mattress was covered with sheets and pillows. On top of the sheets was a black washcloth or hand towel, a padlock with a key inserted, and a plastic shelf. The bedroom floor had numerous objects scattered about, including multiple cleaning spray bottles. There was also a refrigerator and microwave oven in the bedroom.

FDLE Special Agents advised they searched the bedroom and did not locate any firearm. The FDLE Crime Scene Report does not detail the search of the rest of the interior of the house.

FDLE Special Agents also conducted a search of the yard at approximately 12:00 p.m. (noon) on December 2, 2023. No firearm was located during the search of the residence's exterior. At a post-incident briefing by FDLE, it was learned that during the visit on December 2, Cynthia Jordan refused to provide consent to FDLE for a second search of the interior of the residence. No search warrant was sought or obtained for a second search of the interior of the residence.

Multiple vehicles were utilized for cover by responding FMPD officers. The FMPD Ford Interceptor SUV where Detective James Moschella fired the shot from was approximately 65-67 feet from Christopher Jordan's bedroom window. After firing the shot, the spent cartridge casing from Detective James Moschella's rifle was ejected and landed on the roadway adjacent to the front door of the vehicle. The spent cartridge casing was collected by the FDLE Crime Scene Unit. Detective Moschella's rifle was left on the hood of the vehicle, where it was collected by the FDLE Crime Scene Unit.

Detective James Moschella's rifle, a Daniel Defense 5.56 NATO caliber semiautomatic rifle, model DDM4 was collected and submitted to the FDLE Laboratory, along with the magazine. The rifle was test fired with the magazine by FDLE and confirmed to be functional. Crime scene photographs indicate the scope was set at 1X power, a setting without magnification.

FDLE attempted to interview two civilian witnesses, Charles Eford and Major Smith. Both declined to give a sworn statement to FDLE. However, they did provide information to FDLE Assistant Special Agent in Charge Tracey Maurer.

Charles Eford and Major Smith were at 3218 Stella Street when the incident occurred and believed that the police "did their job." The police gave verbal commands for Christopher Jordan to come out of the house. The commands included:

***"Nobody is trying to hurt you. We come in peace," and "We want everyone to be safe. Show your hands. Come to the door. We can work it out."***

Charles Eford and Major Smith stated that the police made multiple attempts to urge Christopher Jordan to leave his house. Charles Eford and Major Smith did not see Christopher Jordan with a gun that night, but knew he had a gun in the past.

Ethel Upshaw, a neighbor of Cynthia and Christopher Jordan, told FDLE Special Agents that during the early evening hours on December 1, 2024, Cynthia Jordan came to her house and stated, ***"My brother is trying to shoot us."***

Cynthia Jordan provided an audio-recorded sworn statement to FDLE approximately 2 hours after the shooting. At the time of the interview, Cynthia Jordan was not aware that Christopher Jordan was deceased.

Cynthia Jordan acknowledged calling 911 to report that her younger brother, Christopher Jordan, had a gun and threatened to kill her earlier in the evening. Christopher Jordan had an “attitude” all evening and was under the influence of “Molly” (3,4-Methylenedioxymethamphetamine, also known as MDMA). Cynthia Jordan estimated that between 5:30 p.m. and 7:30 p.m., her cousin, known only as Christopher (a second person named Christopher) went inside the house on Stella Street to use the bathroom and was threatened by her brother, Christopher Jordan. The cousin came out of the house and said Christopher Jordan was going to kill him. Cynthia Jordan stated that she did not know her cousin Christopher’s last name or an address of where he lived.

Cynthia Jordan stated she then went inside the house and Christopher Jordan threatened: ***“I’ll kill you too, bitch.”***

Cynthia Jordan described a firearm being pointed at her and pointed to her head with her finger. Cynthia Jordan further described the firearm as having a black handle and being either a .38 or .45 caliber. Cynthia Jordan then simulated the racking of the slide of a semi-automatic handgun with her hands.

Cynthia Jordan pointed out Christopher Jordan’s room to the police when they arrived at her home that evening. Cynthia Jordan stated Christopher Jordan cursed at the police. Cynthia Jordan said Christopher Jordan told the police he would not come out of the house and to come and get him. Cynthia Jordan was moved to a safe location by police and didn’t see Christopher Jordan but could hear police commands for Christopher Jordan to come out of the house with his hands up. Cynthia Jordan confirmed to FDLE Special Agents that Christopher Jordan threatened her life. Cynthia Jordan wanted Christopher Jordan out of the house.

Dr. Rachel Lange of the District 21 Medical Examiner’s Office performed the autopsy of Christopher Jordan on December 2, 2023. The toxicology report revealed that Christopher Jordan’s blood contained the presence of amphetamines, barbiturates, benzodiazepines, buprenorphine metabolite, cannabinoids, cocaine metabolite, fentanyl, methadone, methamphetamine (MDMA), opiates, oxycodone, and phencyclidine.

SAO Investigator Robert Lawrence conducted an FMPD records check for previous contact between Detective James Moschella and Cynthia Jordan or Christopher Jordan. Records indicate no prior contacts for Detective James Moschella with Cynthia Jordan or Christopher Jordan.

FDLE Special Agent Michael Ortiz reviewed the history of calls for service at 3222 Stella Street. In 2022, FMPD responded to numerous calls for service at the residence. One call for service made by Cynthia Jordan on June 15, 2022, was of note. On that date, Cynthia Jordan alleged that Christopher Jordan threatened her with a firearm. Officers responding to the residence determined that Christopher Jordan did not display a firearm. Cynthia Jordan desired for

Christopher Jordan to be told to leave the house. Officers explained Cynthia Jordan would have to go through the legal eviction process to remove Christopher Jordan from the residence.

In 2023, a total of fifteen (15) FMPD Police Event Information reports, also known as CAD notes, were generated during calls for service at 3222 Stella Street. Several are pertinent to this investigation. On February 27, 2023, Cynthia Jordan called 911 and said Christopher Jordan threatened her. Officers responded to the call for service after the 911 caller hung up. Again, Cynthia Jordan wanted Christopher Jordan removed from the residence. Officers explained the eviction process to Cynthia.

On April 8, 2023, Cynthia Jordan reported that Christopher Jordan threatened her verbally and with his pit bull. Officers made contact and determined that there was only a verbal argument, with no physical altercation taking place.

On April 30, 2023, Cynthia Jordan complained that she was bitten by Christopher Jordan's dog. Cynthia Jordan also claimed that Christopher Jordan threatened her with a knife. When an officer spoke with Cynthia Jordan, she advised she only called FMPD because she wanted the dog removed. Cynthia Jordan did not tell the responding officer that she was threatened with a knife.

On June 20, 2023, homeowners from 3222 Stella Street called because they wished to have a sibling removed and trespassed from property. An officer provided advice to the homeowners on the appropriate legal course of action.

The week prior to the shooting, on November 22, 2023, Cynthia Jordan reported that Christopher Jordan threatened to shoot her. As a result, multiple officers responded. Cynthia Jordan again wanted Christopher Jordan out of her house. Officers explained to Cynthia Jordan she would have to have Christopher Jordan legally evicted. Officers noted that Cynthia Jordan provided inconsistent statements about what Christopher Jordan said to her. Officers advised that two other individuals in the residence stated that Christopher Jordan never pointed a firearm or threatened to use a firearm. Officers determined that Christopher Jordan did not threaten to use a firearm on this occasion.

Detective James Moschella elected not to provide a sworn statement to FDLE. Neither the SAO, FMPD, nor FDLE, may not compel Detective James Moschella to provide a statement. Detective James Moschella, like all other individuals, has a Constitutional right to remain silent.

On March 11, 2024, SAO Investigator Robert Lawrence sent a letter to Timothy Culhane, counsel for Detective James Moschella, offering an opportunity for Detective James Moschella to provide a voluntary sworn statement regarding the shooting. That same day, Timothy Culhane responded via email that Detective James Moschella would not provide a verbal statement but would respond in writing to specific questions. On March 19, 2024, SAO Investigator Robert Lawrence sent a question for Detective James Moschella to Timothy Culhane via email.

The question sent was: ***“On your body worn camera you stated, ‘gun, gun’ and fired one shot from your patrol rifle. What action did Christopher Jordan take to prompt you to believe Jordan posed a threat?”***

On the same date, Timothy Culhane provided a response on behalf of Detective James Moschella. The response stated: ***“Christopher Jordon [sic] threatened to shoot, made movements consistent with loading a handgun and pointed a black handgun in the direction of officers who were not behind cover. This caused me to be in fear for my life, the lives of other officers and bystanders.”***

SAO Investigators Robert Lawrence and Mark Shoaff met with Cynthia Jordan on May 7, 2024, at approximately 9:24 a.m. at 3222 Stella Street, Fort Myers, Florida for the purpose of finding more information about Cynthia Jordan’s cousin Christopher, whose last name and address she could not provide FDLE on December 1, 2023. When SAO Investigator Rob Lawrence introduced himself to Cynthia Jordan, he explained that he wanted to talk to her to possibly get more information regarding the shooting in December. Cynthia Jordan immediately responded: ***“I don’t remember.”***

SAO Investigator Robert Lawrence explained that Cynthia Jordan told FDLE Special Agents about another Christopher, her cousin, that was in the house. She replied: ***“I ain’t got no cousin named Christopher. That’s my brother’s name, Christopher.”***

Investigator Lawrence clarified that she told FDLE on December 1, 2023 that she had a cousin named Christopher. Cynthia Jordan responded: ***“I ain’t tell nobody that.”***

Cynthia Jordan denied stating that another Christopher was present at the house on December 1, 2023. This interview was audio recorded.

On May 10, 2024, SAO Investigator Robert Lawrence spoke with James Muwakkil, President of the Lee County branch of the National Association for the Advancement of Colored People (NAACP). James Muwakkil had previously made statements to the news media that evidence was not collected, and witnesses were not interviewed. James Muwakkil could not provide additional information pertinent to the investigation, or that was not already known to FDLE and SAO Investigator Robert Lawrence.

James Muwakkil stated that Cynthia Jordan lied to FMPD and FDLE about Christopher Jordan having a firearm.

### **SCOPE OF REVIEW**

This legal review is limited to the issue of whether Detective James Moschella committed a violation of the criminal laws of Florida by using deadly force against Christopher Jordan. No policy, procedural, or civil issues outside of the jurisdiction of the SAO are addressed, and no comment on such matters is intended.



## LEGAL DETERMINATION

### Considered Alleged Violations of the Criminal Laws of Florida

This legal review considered whether Detective James Moschella committed criminal violations of Second-Degree Murder, *F.S. 782.04(2)*, or Manslaughter by Act or Culpable Negligence, *F.S. 782.07(1)*.

To prove the crime of Second-Degree Murder, the prosecution must prove the following three elements beyond a reasonable doubt:

1. Christopher Jordan is dead.
2. The death was caused by the criminal act of Detective James Moschella.
3. There was an unlawful killing of Christopher Jordan by an act imminently dangerous to another and demonstrating a depraved mind without regard for human life.

An act is “imminently dangerous to another and demonstrating a depraved mind” if it is an act or series of acts that:

1. A person of ordinary judgment would know is reasonably certain to kill or do serious bodily injury to another, *and*
2. Is done from ill will, hatred, spite, or an evil intent, and
3. Is of such a nature that the act itself indicates an indifference to human life.

*Florida Standard Jury Instruction in Criminal Cases 7.4, issued by the Supreme Court of Florida.*

When applying the facts of the case to the applicable law, the State is unable to prove Detective James Moschella committed Second-Degree Murder beyond a reasonable doubt. There is no evidence that Detective James Moschella acted with ill will, hatred, spite, or an evil intent. Thus, the State cannot prove that Detective James Moschella committed an act imminently dangerous to another and demonstrating a depraved mind without regard for human life.

To prove the crime of Manslaughter by Culpable Negligence, the State must prove the following two elements beyond a reasonable doubt:

1. Christopher Jordan is dead.
2. The death of Christopher Jordan was caused by the culpable negligence of Detective James Moschella.

*Florida Standard Jury Instruction in Criminal Cases 7.7, issued by the Supreme Court of Florida instructs, “Every person has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. The defendant*

cannot be guilty of Manslaughter by committing a merely negligent act or if the killing was either justifiable or excusable homicide...”

Culpable negligence is defined as “more than a failure to use ordinary care toward others. For negligence to be culpable, ***it must be gross and flagrant.*** (Emphasis added). Culpable negligence is a course of conduct showing reckless disregard of human life, or of the safety of persons exposed to its dangerous effects, or such an entire want of care as to raise a presumption of a conscious indifference to consequences, or which shows wantonness or recklessness, or a grossly careless disregard for the safety and welfare of the public, or such an indifference to the rights of others as is equivalent to an intentional violation of such rights.” *Florida Standard Jury Instruction in Criminal Cases 7.7, issued by the Supreme Court of Florida.*

“The negligent act or omission must have been committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known, or reasonably should have known was likely to cause death or great bodily injury.” *Florida Standard Jury Instruction in Criminal Cases 7.7, issued by the Supreme Court of Florida.*

The evidence is insufficient to prove Manslaughter by Culpable Negligence. It cannot be proven beyond a reasonable doubt that Detective James Moschella’s actions were culpably negligent, that is, gross and flagrant. Detective James Moschella did not engage in a course of conduct that showed reckless disregard of human life. The evidence shows that Detective James Moschella fired one round from his rifle because he believed Christopher Jordan was armed with a firearm and presented a threat to officers on scene. The evidence does not show that Detective James Moschella’s course of conduct evinced an entire want of care as to raise a presumption of a conscious indifference to consequences. There is no evidence that Detective James Moschella’s course of conduct was wanton or reckless. There is no evidence that Detective James Moschella showed grossly careless disregard for the safety and welfare of the public.

Detective James Moschella responded to 3222 Stella Street for a call for service regarding a breach of peace involving a firearm in furtherance of his duty as a FMPD police officer. Detective James Moschella responded to a potentially dangerous or violent situation at a moment’s notice. Detective James Moschella had a duty to face the danger to enforce the laws and protect other individuals. Detective James Moschella was required to make a split-second decision. There is no evidence that Detective James Moschella’s course of conduct showed such an indifference to the rights of others that is equivalent to an intentional violation of such rights.

To prove the crime of Manslaughter by Act, the State must prove the following two elements beyond a reasonable doubt:

1. Christopher Jordan is dead.
2. Detective James Moschella intentionally committed an act or acts that caused the death of Christopher Jordan.

“In order to convict of Manslaughter by Act, it is not necessary for the State to prove that the defendant had an intent to cause death, only an intent to commit an act that was not merely

negligent, justified, or excusable and which caused death.” *Florida Standard Jury Instruction in Criminal Cases 7.7, issued by the Supreme Court of Florida.*

The evidence in the case does show that Christopher Jordan is dead, and that Detective James Moschella committed an act that caused the death of Christopher Jordan.

However, the State must be able to prove that Detective James Moschella intended to commit an act that was not merely negligent or justified and which caused death.

Pursuant to *Florida Statute §776.012(2)*, “a person is justified in using or threatening to use deadly force if he or she **reasonably believes** (emphasis added) that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony.” A law enforcement officer’s use of deadly force means “force that is likely to cause death or great bodily harm and includes... ‘the firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm’...” *Florida Statute §776.06(1)(a)*.

The totality of the evidence supports the conclusion that Detective James Moschella was justified in the use of deadly force. Detective James Moschella fired his weapon because he reasonably believed that it was necessary to prevent imminent death or great bodily harm to himself, fellow law enforcement officers at the scene, and citizens in the immediate area. That belief was reasonable based upon the evidence and information known to him at the time.

Detective James Moschella responded to 3222 Stella Street for a call for service regarding a breach of peace involving a firearm in furtherance of his duty as a FMPD Police Officer.

Before the shooting, Cynthia Jordan:

- provided numerous statements that Christopher Jordan threatened her with a firearm and was inside the residence with the firearm;
- was detailed in her description of the firearm and how the alleged aggravated assault with a firearm took place.

Detective James Moschella was aware that:

- multiple witnesses reported Christopher Jordan was inside the home with a firearm after threatening to kill Cynthia Jordan;
- Christopher Jordan was armed with a firearm inside the residence;
- Christopher Jordan ignored all commands to exit the house;
- Christopher Jordan was moving around inside the bedroom;
- Christopher Jordan was not cooperative with law enforcement requests to come out of the house despite multiple pleas broadcast via loudspeaker;

- Christopher Jordan had made statements to officers to “shoot me.”

Detective James Moschella fired one round when he believed he saw Christopher Jordan with a gun. The actions of Christopher Jordan and the information made known to Detective James Moschella and other FMPD officers combined to create a setting where any reasonable person would have felt they were about to be seriously hurt or killed and felt the need to protect themselves and others. The totality of the evidence supports the conclusion that Detective James Moschella’s belief that the use of deadly force to prevent imminent death or great bodily harm was reasonable.

### **Defenses Which May Be Asserted**

*Florida Statute §776.032(1)* provides “a person who uses force as permitted in s. 776.012...is justified in such conduct and is immune from criminal prosecution and civil action for the use or threatened use of such force...the term ‘criminal prosecution’ includes arresting, detaining in custody, and charging or prosecuting the defendant.”

“In a criminal prosecution, once a prima facie claim of self-defense immunity from criminal prosecution has been raised by the defendant at a pretrial immunity hearing, the burden of proof by clear and convincing evidence is on the party seeking to overcome the immunity from criminal prosecution provided in subsection (1).” *Florida Statute §776.032(4)*.

Based on the evidence presented in this investigation, Detective James Moschella is immune from criminal prosecution. He may not be arrested, charged, or prosecuted for this shooting.

However, even if Detective James Moschella was arrested, charged, and prosecuted for Murder or Manslaughter, Detective James Moschella would be able to make a prima facie claim of self-defense immunity from criminal prosecution at a pretrial immunity hearing. Once this claim is raised by Detective James Moschella, the prosecution would have the burden of proof, by clear and convincing evidence, that the use of deadly force was not justified. Based on the evidence in this case, the State would not be able to meet this high burden of proof. A prosecution of Detective James Moschella would fail and be dismissed during a pretrial hearing before a trial would take place.

Additionally, if a criminal prosecution was brought against Detective James Moschella for this shooting offense, and if a Court denied Detective James Moschella’s pretrial claim of self-defense immunity, Detective James Moschella would still be able to assert the defense of Justifiable Use of Deadly Force at trial. In this trial, the jury would be instructed by the trial judge that: “It is a defense to the crime of (Murder or Manslaughter) if the actions of Detective James Moschella constituted the justifiable use of deadly force.” *Standard Florida Jury Instruction 3.6(f) Justifiable Use or Threatened Use of Deadly Force*.

The jury would be further instructed, “Detective James Moschella does not have the burden of proving that he was justified in using deadly force. Instead, for you to find the defendant guilty,

the State must prove beyond a reasonable doubt the defendant was not justified in using deadly force.”

Here, even if Detective James Moschella was not immune from criminal prosecution under F.S. 776.012, and a Judge denied Detective James Moschella’s pretrial claim of self-defense or defense of others immunity, the State would still be unable to prove beyond a reasonable doubt that Detective James Moschella was not justified in using deadly force.

### **Witness Credibility**

Any successful prosecution, no matter what type of case, depends upon the State presenting credible witnesses to carry its burden of proof beyond and to the exclusion of every reasonable doubt.

The most important witness in this case is Cynthia Jordan, the sister of the deceased. For reasons unknown to the SAO, Ms. Jordan has totally recanted the allegations that her brother possessed a firearm – allegations made by her on a 911 call and made to officers on the scene. Those allegations instructed law enforcement on how to proceed on that evening. Those allegations are also recorded and there can be no argument that she was misquoted or taken out of context.

A public campaign has been waged by James Muwakkil of the Lee County NAACP that Mr. Jordan was murdered by FMPD. The SAO interviewed Mr. Muwakkil about why he believes this to be true. On May 10, one of the reasons he gave was that Cynthia Jordan was not truthful to FMPD and FDLE about Mr. Jordan possessing a gun. Mr. Muwakkil thus confirmed our concerns – that Ms. Jordan could never be a credible witness given material disparities in her public statements.

Additionally, the inconsistency regarding her cousin Christopher and whether he exists or not is also highly concerning and speaks directly to her credibility.

Prosecutors throughout the United States are under an ethical and legal duty to never put a witness on the stand whom they know to be “untruthful,” or, in James Muwakkil’s words, a “liar.” Ms. Jordan has no credibility. She set this entire incident in motion by making serious allegations against her brother during the late evening of December 1, 2023.

## **CONCLUSION**

Detective James Moschella used deadly force to stop the threat he reasonably believed Christopher Jordan presented. Detective James Moschella was justified in using deadly force against Christopher Jordan.

For the reasons set forth above, there is no basis for further action by this office. This matter should be closed.

cc: Richard J. Montecalvo, Chief Assistant State Attorney  
J Purdy, Chief Investigator  
Robert Lawrence, Investigator