

Officer Involved Critical Incident
Investigation of
Osceola County Sheriff's Department
School Resource Officer Ethan Fournier
January 26, 2021



State Attorney's Office
Ninth Judicial Circuit of Florida
Orange and Osceola Counties
August 1, 2021

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I. STATE ATTORNEY'S ROLE IN OFFICER-INVOLVED CRITICAL INCIDENT

The State Attorney's Office has the responsibility of reviewing all investigations of Officer Involved Critical Incidents (OICI) that occur within the Ninth Judicial Circuit of Orange and Osceola Counties. The Florida Department of Law Enforcement (FDLE) acts as an independent law enforcement agency who investigates the OICI. The State Attorney's Office receives the investigation packet from FDLE and conducts its own independent review of FDLE's investigation. The SAO will pursue any supplemental investigation that it believes is necessary. The purpose of this independent review is to determine whether there exists any violation of criminal law. In making that determination, the SAO acknowledges and agrees that OICIs resulting in the loss of life or great bodily injury must be handled with a high level of attention, diligence, and transparency.

II. OFFICE POLICY ON OFFICER- INVOLVED CRITICAL INCIDENTS

The Office of the State Attorney understands the importance of an independent, thorough, and transparent investigation of all Officer Involved Critical Incidents. As such, please find the Office of the State Attorney for the Ninth Judicial Circuit's policy on all Officer Involved Critical Incidents as EXHIBIT "A."

III. APPLICABLE FLORIDA LAW

Generally speaking, criminal liability is established when the evidence is sufficient to prove all the elements of a crime beyond a reasonable doubt. In addition to proving the elements of a crime, the prosecution must disprove any statutorily recognized justification or defense beyond a reasonable doubt.

The use of physical force by law enforcement officers is governed by Florida Statute § 776.05 and provides an affirmative defense to criminal liability as follows:

A law enforcement officer...need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. The officer is justified in the use of any force:

- (1) Which he or she reasonably believes to be necessary to defend himself or herself or another from bodily harm while making the arrest;
- (2) When necessarily committed in retaking felons who have escaped; or
- (3) When necessarily committed in arresting felons fleeing from justice.

However, this subsection shall not constitute a defense in any civil action for damages brought for the wrongful use of deadly force unless the use of deadly force was necessary to prevent the arrest from being defeated by such flight and, when feasible, some warning had been given, and:

- a) The officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or
- b) The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person.

The United States Supreme Court provides the following instruction in assessing the reasonableness of an officer's belief when using physical force:

The "reasonableness" of a particular use of force must be made from the perspective of the law enforcement officer on the scene, rather than with the 20/20 vision of hindsight... 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*, 490 U.S. 386 (1989).

In addition to the affirmative defense provided by F.S. 776.05, law enforcement officers, like any other person, can invoke the protections of Florida Statute 776.012 and 776.032, commonly referred to as Florida's *Stand Your Ground* law. See *State v. Perez*, 259 So.3d 728 (Fla. 2018).

In charging any individual with a crime, it is important to remember that the defendant does not have to present evidence or prove anything. Instead, at a pre-trial *Stand Your Ground* hearing, the State of Florida is required to prove by clear and convincing evidence that the person is not entitled to self-defense immunity. If the prosecution is successful at the hearing, the State still must prove, beyond a reasonable doubt to a unanimous jury, that the force was not justified.

IV. THE FACTS OF THIS OFFICER INVOLVED CRITICAL INCIDENT

The facts of this OICI involve Osceola County Sheriff's School Resource Officer **Ethan Fournier** ("SRO Fournier"), and **T.B.**, a student at Liberty High School in Osceola County. Due to the fact that the student is a minor this report will not include her full name.

On January 26, 2021, T.B. returned from lunch to Mr. Pennington's class. As class was beginning, Mr. Pennington heard T.B. speaking in an agitated state, on a cell phone, about getting into a fight. Mr. Pennington asked T.B. to get off the phone and T.B. refused. Mr. Pennington called out over the school radio that he was sending T.B. to the Student Services Office. Dean Hartman and Dean Keeton responded to the class and T.B. was escorted to the office. While in the common area of student services T.B. continued to be disruptive by using profanity and saying, "I'm mad" "I'm gonna fight, I'm gonna fight." Dean Rice heard the commotion and took T.B. into her office. Dean Rice gave T.B. a piece of paper and asked her to write a statement expressing her frustrations. T.B.'s mother was called, and T.B. was to remain in the office until her mother arrived to sign her out.

A short time later, T.B. exited Dean Rice's office and attempted to leave the Student Services Office. Ms. Cruz, the office clerk, stopped T.B. and advised her that she needed to remain in the office. T.B. responded, "I don't care what anybody says. No one is going to stop me. What time does the bell ring? What time does the bell ring?" Ms. Cruz continued to try and calm down T.B., but T.B. continued to say, "Nobody's going to stop me. I'm not staying here. I'm leaving when the bell rings. Nobody's going to stop me." T.B. removed her earrings and shoes and continued to ask about the time. After being briefed about what was going on, Dean Hartman stood at the Student Services Office doors in an effort to block T.B. from leaving the office.

When the bell rang, T. B. stood up quickly and walked out of the Student Services Office. Dean Hartman ran out after T.B. and got in front of her with his arms out to his sides to prevent her from going any further. T.B. walked past him, into the courtyard, and toward a hallway filled with students changing class. Dean Hartman called out over the school radio that T.B. had walked out of the Student Services Office and requested assistance. Dean Hartman saw SRO Fournier and Hector Rivera, a campus monitor, approaching and asked for their help in getting T. B. to return to Student Services. SRO Fournier approached T.B., took her by the elbows, and started to walk her back toward the Student Services Office. When SRO Fournier released T.B.'s elbows she made a sharp U-turn back in her original direction toward the hallway.

Dean Keeton responded to the area, got in front of T.B., and asked her, "What's going? Calm down." T.B. responded, "Don't [REDACTED] touch me," "I'm going to [REDACTED] beat her [REDACTED]" and, "where the [REDACTED] is she at?" Dean Keeton continued to redirect T.B.; telling her, "Nobody is in trouble, just come with me and don't do anything stupid." When T.B. saw J.M., another student, T.B. took off running toward J.M. When the two students got within about ten feet of each other they both got into a fighting stance. Dean Keeton got in front of T.B. and Dean Hartman got in front of J.M., directing them to stop. J.M. lowered her hands and began to comply with Dean Hartman, but T.B. continued to advance toward J.M. SRO Fournier grabbed T.B.'s arms from behind her in an attempt to place her under arrest. T.B. pulled her arm away, and SRO Fournier executed a takedown of T.B. As a result of SRO Fournier's take down, the left side of T.B.'s head hit the concrete floor rendering her unconscious. SRO Fournier immediately placed T.B. in handcuffs while she was still unconscious. SRO Fournier and Mr. Rivera then called the school nurse and directed other students to class. Upon regaining consciousness, T.B. was assisted to her feet and taken to the SRO Office to await Emergency Medical Services and her family's arrival.

V. EVIDENCE REVIEWED

The evidence in this case included the following and has been reviewed in the course of our independent investigation into this OICI:

- Investigatory reports;
- Video clip footage;
- Witness statements of:
 - SRO Gerando Pabon
 - SRO Rhandall Leger Diaz
 - Brandon Pennington
 - Andrew Hartman
 - Dustin Keeton
 - Y.A.
 - Lissette Merced
 - Britney Cruz
 - Hector Rivera
 - J.M.
 - M.S.
 - Kinisha Rice
 - Laurel Ramsey
 - Marc Hernandez

VI. KEY WITNESSES

A. Subject of Use of Force Background and History

T.B. was a sixteen-year-old female student at Liberty High School in Osceola County, Florida.

B. School Resource Officer Ethan Fournier's Background and History

SRO Fournier has been employed with the Osceola County Sheriff's Office since August 12, 2013. On June 29, 2018, he completed the forty-hour SRO Basic training class; at the time of this incident that certification was active. A review of his disciplinary history shows one prior use of force incident while working as an SRO. In 2019, the Internal Affairs Unit conducted a use of force review of an incident at a local high school. SRO Fournier had deployed a chemical spray during a disturbance as a fight was about to occur between multiple subjects. It was determined to be within agency policy.

C. Statement of Key Witnesses

All Witness recorded statements were conducted by FDLE, who was investigating the actions of SRO Fournier, and the Osceola County Sheriff's Office, who was investigating T.B. As such, the witnesses were interviewed by both agencies simultaneously.

1) T.B.

On February 8, 2021, SA Snowden of FDLE attempted to obtain a sworn statement from T.B. by contacting her attorney, Natalie Jackson, Esq. On February 12, 2021, Ms. Jackson contacted SA Snowden and advised that T.B. had no recollection of the incident and would not be able to provide a statement.

2) School Resource Officer Ethan Fournier

On February 3, 2021, SA Snowden of FDLE attempted to obtain a sworn statement from SRO Fournier by contacting his lawyer, David Bigney, Esq. On February 8, 2021, Mr. Bigney contacted SA Snowden and indicated that SRO Fournier would not be providing an interview in response to his use of force.

3) School Resource Officer Gerado Pabon

On February 2, 2021, SA Snowden of FDLE, Det. Human of OCSO and Det. Cortes of OCSO conducted a voluntary, sworn, and recorded statement from SRO Gerado Pabon. On the date of this OICI, SRO Pabon was working as an assigned SRO at Liberty High School. After finishing his lunch duties, SRO Pabon heard of a possible fight in the courtyard on his two-way radio. He walked out to the courtyard and saw SRO Fournier facing T. B. and talking with her. SRO Fournier had his hand on T.B.'s shoulder as he talked with her; SRO Pabon could not hear what was being said. T.B. started to walk toward the front office, but then suddenly changed direction toward a hallway full of students changing classes. Dean Keaton attempted to talk to T.B. in an effort to stop her, but she kept walking. Dean Hartman also tried to talk with T.B. in an effort to stop her, but she kept walking. Due to the crowd of students not moving in the hallway SRO Pabon and SRO Fournier approached the crowd instructing everyone to leave the area and to go to class. SRO Pabon states that SRO Fournier ran toward the fence where he stopped T. B. and yelled "Now you're under arrest. Put your hands behind your back". SRO Pabon was looking back and forth trying to move students from the hallway when the take down occurred. SRO Pabon ran over to help and heard students say that T.B. hit her head. SRO Fournier confirmed that T.B. did hit her head and asked SRO Pabon to call the nurse. SRO Pabon does not clearly state that he saw the exact moment of the use of force, but he had reviewed videos showing the use of force prior to providing his statement. SRO Pabon states that T. B. was in close proximity to the other student she wanted to fight with, and absent SRO Fournier's intervention a fight would have occurred.

4) School Resource Officer Rhandall Leger-Diaz

On February 2, 2021, SA Snowden of FDLE, Det. Human of OCSO and Det. Cortes, of OCSO conducted a voluntary, sworn, and recorded statement with SRO Rhandall Leger-Diaz. On the date of this OICI, SRO Diaz was working at Liberty High school as a floater officer. SRO Diaz is not assigned to Liberty High school and stated he does not know many of the students. SRO Diaz stated that he did not witness the use of force nor any of the conduct that led up to the use of force.

5) Brandon Pennington

On February 2, 2021, SA Snowden of FDLE and Det. Human of OCSO conducted a voluntary, sworn, and recorded statement from Brandon Pennington. Mr. Pennington is a teacher and coach at Liberty High School. On the date of this OICI, T.B. was a student in Mr. Pennington's class immediately after lunch. Mr. Pennington describes T.B. as "very agitated, kind of worked up." As Mr. Pennington was trying to settle down the students, he heard T.B. say, "I'm going to fight her, I'm going to fight her." Mr. Pennington stated that it was not uncommon for T.B. to return from lunch in a state of agitation every couple of weeks, so he did not know how serious to take her comments. He finally got the class to the point that he could start teaching when he saw T.B. on a cell phone making a call. He told T.B. to get off the phone twice, but T.B. refused. Mr. Pennington instructed T.B. to go to Student Services because of her failure to get off the phone call in class. Mr. Pennington did not witness the use of force by SRO Fortier upon T.B.

6) Andrew Hartman

On February 2, 2021, SA Snowden of FDLE, Det. Human of OCSO and Det. Cortes, of OCSO conducted a voluntary, sworn, and recorded statement with Andrew Hartman. On the day of this OICI, Mr. Hartman was working as a Dean at Liberty High School. Dean Hartman first became aware of a situation with T.B. when he heard a call over the school radio from Mr. Pennington. Dean Hartman believed there was a fight in the class and responded to Mr. Pennington's classroom with Dean Dustin Keeton. Dean Hartman found T.B. in the hallway outside of the classroom, still on the phone with her mother. After confirming that there was no fight, Dean Hartman escorted T.B. to the Student Services Office. T.B. was asked to write a statement about what happened in class while Dean Hartman called T.B.'s mother to come pick her up. T.B.'s mother advised Dean Hartman that she would come get her daughter, but it would take her about an hour. T.B. continued to work on her statement while Dean Hartman responded to the cafeteria to monitor students in the lunchroom. When Dean Hartman returned from the lunchroom, T.B. was in the common area of the Student Services Office, visibly upset and refusing to return to the office until her mother arrived. Dean Hartman stated that T.B. was tuning them all out, was not listening, and was not following directions. Dean Hartman observed T.B. remove her earrings and her sandals (Dean Hartman stated this was a common task done before a student engages in a fight). Dean Hartman stood at the door of Student Services, in an effort to keep T.B. in the office. However, when the bell rang, T.B. quickly jumped up and exited the Student Services Office. Dean Hartman immediately followed T.B. out; he got in front of her with his arms spread out to his sides in an effort to prevent her from going any further. T.B. again ignored his instructions and pushed past him as she walked into the courtyard toward the hallway. Using the school radio, Dean Hartman advised that T.B. had walked out of Student Services and he was requesting assistance. Dean Hartman saw SRO Fournier and Hector Rivera, a campus monitor, and told them he needed help getting T.B. to return to Student Services. Dean Hartman observed SRO Fournier approach T.B. and ask her to return to the office. T.B. refused and began to walk quickly toward the hallway where students were switching classes. SRO. Fournier tried to get in her way to block her path. Students started to take notice of T.B. and began to move toward her area. Dean Hartman noticed one student in particular "come up a little bit more than normal." He

identified her as a student that had prior altercations with T.B. and may be the person T.B. was looking for. Dean Hartman stopped the student and instructed her to come with him to student services. The student complied. Dean Hartman did not witness the use of force upon T.B.

7) Dustin Keeton

On February 2, 2021, SA Snowden of FDLE and Det. Human of OCSO conducted a voluntary, sworn, and recorded statement with Dustin Keeton. On the day of this OICI, Mr. Keeton was working as a Dean at Liberty High School. Dean Keeton initially responded with Dean Hartman to Mr. Pennington's classroom after hearing of a possible fight in class. Confirming that there was no fight, Dean Hartman took T.B. to student services and Dean Keeton returned to the lunchroom to monitor students. Dean Keeton heard Dean Hartman's transmission over school radio requesting help with a student that walked out of student services. He saw T.B. walking quickly from the office area with Dean Hartman behind her trying to keep up. Dean Keeton observed Dep. Fournier walk up to T.B., have a brief conversation, take her by the elbows, and turn her back toward student services. When Dep. Fournier released T.B.'s elbows, she began to walk back toward student services before making a U-turn back in her original direction. Dean Keeton stated that he had previously established a relationship with T.B. and could usually de-escalate things with her. Dean Keeton approached T.B. and asked her "What's going? Calm down." T.B. responded, "Don't [REDACTED] touch me," "I'm going to [REDACTED] beat her [REDACTED] and "where the [REDACTED] is she at?" Dean Keeton kept trying to redirect T.B., telling her "Nobody is in trouble, just come with me and don't do anything stupid." Dean Keeton noticed that when T.B. saw another student, J.M., she took off running. T.B. raised her fists and the other student did the same. Dean Keeton states that he got in front of the other student and told her to stop and go to the guidance office. The other student immediately complied and put her hands up saying, "I ain't done nothing." Dean Keeton stated that he heard T.B. hit the ground, but that he did not witness the use of force.

8) Y.A.

On February 24, 2021, SA Snowden of FDLE and Det. Human of OCSO conducted a voluntary, sworn, and recorded statement with Y.A., a student at Liberty High School. On the day of this OICI, Y.A. and T.B. shared the same class after lunch. Y.A. stated that T.B. returned to class agitated because another student wanted to fight her. Y.A. loaned her cell phone to T.B. to call her mother. As a result of being on the phone in class, Mr. Pennington sent T.B. to student services. Y.A. was also sent to student services because she loaned T.B. the phone. After arriving at Student Services, Y.A. described T.B. as calmed down. Administrators instructed Y.A. to return to class. After class Y.A. was walking up the stairs when she observed T.B. and a large crowd of students. Y.A. stated that she saw Deputy Fournier trying to stop T.B. as she continued her efforts to go after another student. Y.A. said "the cop was trying to stop T.B., and she was going over him. She [T.B.] was pushing the cop and trying to get over him and stuff. So, I saw him [Deputy Fournier] slam her down..." Y.A. stated that the school administrators directed the crowd of students to class, and she did not see anything further.

9) Hector Rivera

On February 2, 2021, SA Snowden of FDLE and Det. Cortes of OCSO conducted a voluntary, sworn, and recorded statement with Hector Rivera. On the day of this OICI, Mr. Rivera was working at Liberty High School as a class monitor. Mr. Rivera stated he was escorting some students back to their class from the lunch period when he saw T.B. seemingly looking for someone. Mr. Rivera described T.B. as aggressively pacing back and forth in search of someone. Deputy Fournier was with Mr. Rivera and approached T.B. in an attempt to calm her down. Mr. Rivera observed Deputy Fournier place his hand on T.B.'s arm as if he was attempting to escort her away from the area. T.B. pulled away from Deputy Fournier and appeared to locate the individual she wanted to confront. As T.B. approached the other student [J.M.], both took a fighting stance as they stood four to six feet apart. There were kids all around. Deputy Fournier grabbed T.B. from behind and took her to the ground, causing her head to hit the concrete and "you heard a loud noise." Mr. Rivera immediately checked on T.B. and stated that she was "knocked out." Mr. Rivera stated that he called the school nurse and then directed other students to class.

10) J.M.

On February 4, 2021, SA Snowden of FDLE and Det. Human of OCSO conducted a voluntary, sworn, and recorded statement with J.M., a student at Liberty High School. J.M.'s mother and her attorney, Nina Patterson, appeared telephonically for the interview. J.M. stated that about a week before this incident she and her friend M.S. got into a confrontation with T.B. in the lunchroom. As a result of that prior incident, T.B. was given a *No-Contact Contract*, which prevented T.B. from having any negative verbal or physical contact between her and J.A or M.S. On the day of this OICI, J.A and M.S. were changing classes when they saw T.B. She was mad and crying. When T.B. got within ten feet she got into a fighting stance and said, "what up?" J.M. dropped her book bag and took a fighting stance, but Dean Keeton got between the students. J.M. put her hands up and said she was stopping, but T.B. kept moving toward J.M. in an aggressive manner. Deputy Fournier told T.B. to come back, but when T.B. continued to advance, Deputy Fournier took T.B. to the ground. J.M. stated that she was certain that T.B. would have physically engaged her if Deputy Fournier did not react.

11) M.S.

On February 4, 2021, SA Snowden of FDLE and Det. Human of OCSO conducted a voluntary, sworn, and recorded statement with M.S., who is a student at Liberty High School. Before the interview began, M.S. called her mother who instructed M.S. to call J.M.'s mother who was with attorney Nina Patterson. M.S. did as she was instructed and called attorney Patterson, who appeared telephonically for the interview. M.S. expressed that she and J.M. were best friends. M.S. stated that on January 12, 2021 a prior incident occurred between herself, J.M. and T.B. in the cafeteria. As a result of that incident, T.B. was given a *No-Contact Contract*, which prevented T.B. from having any negative verbal or physical contact between her and J.A or M.S. On the day

of this incident, M.S. and J.M. were walking down the stairs to change classes when someone said, “T.B. is coming, she’s coming for y’all.” As M.S. got to the bottom of the stairs, she saw T.B. running full force in her direction. M.S. stated that a school official was holding T.B.’s hands and as they let go, T.B. came at J.M. and her. M.S. explained that before T.B. got to J.A and herself, SRO Fournier grabbed T.B. and took her down. M.S. believed that T.B. was coming at her and J.M., intending to fight because T.B. was crying, shaking, her shoes were off, and she didn’t have a backpack on.

12) Kinisha Rice

On February 25, 2021, SA Snowden of FDLE and Det. Human of OCSO conducted a voluntary, sworn, and recorded statement with Kinisha Rice. On the day of this OICI, Ms. Rice worked at Liberty High School as a Dean. Dean Rice heard T.B. being disruptive in the common area of the Student Services Office, Dean Rice asked T.B. to come into her office where she gave T.B. some paper and asked her to write a statement expressing her frustrations. Dean Rice left T.B. in the office to write, while she went to assist with the lunchroom. After lunch, Dean Rice saw T.B. walking across the courtyard when SRO Fournier intercepted her and turned her around by the elbows. Dean Rice saw T.B. take a few steps before turning around quickly and resuming her path of travel toward the students in the hallway. Dean Rice and Assistant Principal Ramsey watched T.B. from a distance but did not see the use of force due to so many students being in the way.

13) Laurel Ramsey

On February 25, 2021, SA Snowden of FDLE and Det. Human of OCSO conducted a voluntary, sworn, and recorded statement with Laurel Ramsey. On the day of this OICI, Ms. Ramsey was working as the Assistant Principal of Liberty High School. Asst. Principal. Ramsey saw T.B. sitting in the common area of the student services office and was aware that T.B. had been sent to the office for causing a disruption in Mr. Pennington’s class. Asst. Principal Ramsey described T.B. as visibly upset. After dealing with some other students, Asst. Principal Ramsey went to assist with the lunchroom. After lunch, Asst. Principal Ramsey walked toward the auditorium and saw a commotion. As Asst. Principal Ramsey got closer, she saw T.B. on the ground; in a matter of seconds SRO Fournier helped T.B. up from the ground. Asst. Principal Ramsey did not see the use of force.

VII. VIDEO FOOTAGE

1) Liberty High School Campus video clips

a. Clip 1

This video footage is from inside of the Student Services Office and captures the moment that T.B. pushes past Dean Hartman and exits the Student Services Office.

b. Clip 2

This video footage is from an outside camera and captures a portion of the hallway and a portion of the courtyard. In the video you can see students changing classes. At the 00:46 mark of the video, you see T.B. enter the frame, SRO Fournier grab her by her elbows, and turn her around before walking back out of frame. At the 1:00 mark, T.B. and Dean Hartman are seen walking back into frame, crossing the courtyard. SRO Fournier is walking behind them and then stops to wait for SRO Pabon. The two SRO's walk together in the same direction as T.B., but they are clearly not chasing T.B. At the 5:46 mark of the video, SRO Fournier is seen escorting T.B., who is handcuffed with her hands behind her back. The use of force is captured in this video but, because of the distance of the camera and the students in the hallway, it is very difficult to see the details of the use of force.

c. Clip 3

This is video footage from an outside camera showing the courtyard. This video captures T.B. and Dean Hartman walking, immediately after T.B. left the student services office. At the 00:24 mark, T.B. is seen being escorted back to student services by SRO Fournier before pulling away, turning back around, and walking out of frame. This footage does not capture the use of force.

d. Clip 4

This video footage is a 00:42 second segment of clip 2 that shows the moment SRO Fournier grabbed T.B. by her elbows in an attempt to escort her back to student services. This footage does not capture the use of force.

e. Clip 5

This is the same camera angle from video clip 3, but it captures SRO Fournier escorting T.B. through the courtyard after the use of force. T.B. is handcuffed with her hands behind her back. This footage does not capture the use of force.

f. Clip 6

This video footage is a 1:17 segment of clip 2 that shows SRO Fournier escorting T.B. after the use of force. T.B. is handcuffed with her hands behind her back. This footage does not capture the use of force.

g. Clip 7

This is video footage from a camera outside of the Student Services Office. It captures SRO Fournier escorting T.B., handcuffed with her hands behind her back, into the Student Services Office after the use of force. This footage does not capture the use of force.

h. Clip 8

This is video footage from inside of the Student Services Office. It captures SRO Fournier escorting T.B., handcuffed with her hands behind her back, inside of the Student Services Office after the use of force. This footage does not capture the use of force.

i. Clip 9

This is video footage from an outside camera on the opposite side of the courtyard. It captures the same footage as clip 4 but from a different angle. This footage does not capture the use of force.

j. Clip 10

This is the same video footage as clip 9. This footage does not capture the use of force.

k. Clip 11

This video footage is from the same camera outside of the Student Services Office as seen in clip 7. This video captures T.B. as she first exits student services as seen in clip 1. T.B is seen trying to get away from Dean Hartman.

l. Clip 12

This is video footage from inside the Student Services Office. The clip begins when T.B. and Dean Hartman enter the Student Services Office from Mr. Pennington's class. At the 37:52 mark of the video, you see T.B. push past Dean Hartman and exit the Student Services Office. This footage does not capture the use of force.

2) Online videos

a. @Rofflekris Twitter Video

This twelve second video clip starts at the moment SRO Fournier attempts to arrest T.B. and then turns away to other students. The video then turns back and captures SRO Fournier's use of force against T.B.

b. _2021-02-02_094101

This fourteen second video clip begins at the exact moment SRO takes T.B. down to the ground, hitting her head against the concrete floor. This video does not show the seconds leading up to the use of force.

c. _2021-02-02_094311

This twenty-eight second video clip starts at the moment SRO Fournier grabs T.B. by her arms to place her under arrest. At the 00:04 mark of the video you see SRO Fournier take T.B. down to the ground. The angle of this clip is opposite of the video clip in _2021-02-02_094101.

VIII. LEGAL FINDINGS

It is important to note that there is no current state or county legislation that differentiates Law Enforcement Officer's use of force against children versus adults. There is also no legislation

differentiating a School Resource Officer's use of force against students on school campus versus off campus arrests. A review of the 2018 curriculum guide to the SRO Basic Training class does not contain any instruction on the use of force by SROs on school campus.

Florida Statute Section 776.05 states: "A law enforcement officer ... need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. The officer is justified in the use of any force: 1. Which he or she reasonably believes to be necessary to defend himself or herself or another from bodily harm while making the arrest..." Similarly, Florida Statute Section 776.012 states: "A person is justified in using or threatening to use deadly force if he or she reasonably believes 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.¹"

At the time of this OICI, SRO Fournier was working in his official capacity as a law enforcement officer. SRO Fournier's first contact with T.B. was in response to Dean Hartman's request for assistance in getting T.B. back to the Student Services Office. SRO Fournier approached T.B., took her by her elbows, and attempted to escort her back to the Student Services Office. When SRO Fournier released T.B.'s elbows she immediately turned around and walked quickly toward a hallway full of students. SRO Fournier began walking after T.B. but he does not appear to be chasing her. T.B. picked up her pace when she saw another student, J.M. When the two students got within ten feet of each other they both got into a fighting stance. Dean Keeton, in front of T.B., and Dean Hartman, in front of J.M., directed them to stop. J.M. lowered her hands and began to comply with Dean Hartman, but T.B. continued to advance toward J.M. Video evidence shows that SRO Fournier grabbed T.B.'s arms from behind her in an attempt to place her under arrest. T.B. appeared to pull her arm, and SRO Fournier executed a takedown of T.B. As a result of SRO Fournier's take down, the left side of T.B.'s head smacked the concrete floor rendering her unconscious.

Pursuant to Florida Statute § 776.05, SRO Fournier was under no legal obligation to retreat or desist from his efforts to arrest T.B. because of her resistance. The evidence reviewed in this matter supports that a physical altercation between T.B. and J.M. was imminent, absent some intervention. SRO Fournier's decision to intervene and detain T.B. was lawful. Video evidence shows a moment where T.B.'s arm gets free from SRO Fournier. Because of T.B.'s determination to get to J.M. it was reasonable for SRO Fournier to believe that if T.B. got free she would pose a threat of bodily harm to J.M. Florida Statute § 776.05(1) specifically protects any use of force by a law enforcement officer that is believed to be necessary to defend another from bodily harm when making an arrest. As such, SRO Fournier's use of force against T.B. is not a violation of Florida law. The horrific result of that take down was that T.B.'s head hit the concrete, rendering

¹ Forcible felonies are "treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual" 776.08, Fla. Stat. (2021).

her momentarily unconscious. There is no evidence to support that SRO Fournier intended for T.B.'s head to hit the ground. Therefore, the unintentional result of SRO Fournier's use of force against T.B. can not be considered in determining if SRO Fournier's actions violated Florida Law.

In response to this incident, the SRO Citizens Advisory Task Force was created to examine the use of Student Resource Officers in public schools. The task force submitted its findings and recommendations to the Osceola County School Board in a forty-four-page report. A number of these recommendations have been adopted by the Osceola County School Board, including mandatory body worn cameras for all SROs. There was no specific findings or recommendation concerning SRO's use of force in the task force report.

IX. CONCLUSION

Our Role in an O.I.C.I. is to evaluate, independently review, and pursue criminal charges when the use of force is in violation of the law. After a thorough review of the evidence in this matter and our review of applicable Florida Law, Officer Fournier's use of force did not violate any laws of the State of Florida. We will take no further action in this matter.