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Office of the State Attorney
20th Judicial Circuit

Serving Charlotte, Collier, Glades, Hendry and Lee

For Immediate Release

May 1, 2008

The State Attorney's Office has completed the review of the investigation into the shooting of Chris Ward and Paul Price on February 26, 2008 by Cape Coral Police Office Doug Coons.

The findings are attached.

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REPRESENTING:

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COLLIER

GLADES

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Stephen B. Russell
State Attorney

May 1, 2008

Chief Rob Petrovich
Cape Coral Police Department
P.O. Box 150027.
Cape Coral, Florida 33915

Re: Officer Involved Shooting
Officer Doug Coons

Dear Chief Petrovich:

My office has completed the review of the investigation into the shooting of Chris Ward and Paul Price on February 26, 2008 by Officer Doug Coons.

Based upon the evidence submitted, and the applicable law, I am convinced that the actions of Officer Coons were a legally justifiable use of force. Therefore, my office will not be filing any criminal charges in this matter.

A memorandum by Assistant State Attorney Dean R. Plattner, which summarizes the legal review of this incident, is enclosed.

Thank you for your cooperation with the investigation and review of this case.

Sincerely,

A handwritten signature in blue ink that reads "Stephen B. Russell".

Stephen B. Russell
State Attorney

SBR/dlt
Enclosure

**OFFICE OF THE STATE ATTORNEY
20TH JUDICIAL CIRCUIT
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Stephen B. Russell, State Attorney

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MEMO

TO: Stephen B. Russell, State Attorney
FROM: Dean R. Plattner, Assistant State Attorney
DATE: April 23, 2008
RE: Cape Coral PD shooting incident (Taco Bell)
CCPD # 08-003845

This memo is to summarize the legal review of a shooting incident that occurred in the early morning of February 26, 2008, at a Taco Bell on Hancock Bridge Parkway West, in Cape Coral, Florida. Two people received non-fatal injuries as a result of shots fired by a Cape Coral Police Officer. This incident was investigated by the Cape Coral Police Department, and the results of that investigation have been reviewed by Chief Investigator Kevin Smith and me.

According to the report, officers were present in and around the Taco Bell in response to information that a local Taco Bell might be the target of a robbery that night. At the time of the incident, the interior of the restaurant was closed to the public, although the drive-through lane was still open. Only officers and Taco Bell employees were inside.

Shortly before 1:00 a.m., someone knocked on the back door, and the manager, Paul Price, opened the door. Price was immediately confronted by a man wearing a hooded sweatshirt, who the grabbed Price and jammed a handgun into his rib area. One of the officers in the Taco Bell, Doug Coons, observed this happening, and was in immediate fear for the safety of Price, other persons, and himself.

Officer Coons fired his rifle twice at the robber. The robber then fled the restaurant, and got into a getaway car with three accomplices. The vehicle was stopped a short time later. One of the people in the car, Chris Ward, had a gunshot wound to his shoulder. He later admitted to attempting the robbery. Ward and the accomplices were arrested and charged.

At the Taco Bell, the manager, Price, also received a gunshot wound. In his statement to investigators, he indicated that he was shot by the robber. Based on the totality of the investigation, however, that appears to be incorrect. The evidence indicates that the only shots fired were two shots by Officer Coons. Ward also claims that the handgun he used in the robbery was unloaded, which may be true, since it was indeed unloaded when it was recovered. Of course, no one in the Taco Bell, including Officer Coons could have known that.

Our review of this matter has been strictly limited to the legal issue of whether or not the use of deadly force by Officer Coons was legally justified. The jury instructions on the use of deadly force indicate in part:

A person is justified in using force likely to cause death or great bodily harm if the person using the deadly force reasonably believes that such force is necessary to prevent

1. imminent death or great bodily harm to himself or another, or
2. the imminent commission of a forcible felony (such as robbery) against himself or another.

The law also provides that:

The danger facing the person using the deadly force need not have been actual; however, to justify the use of force likely to cause death or great bodily harm, the appearance of danger must have been so real that a reasonably cautious and prudent person under the same circumstances would have believed that the danger could be avoided only through the use of that force. Based upon appearances, the person using the deadly force must have actually believed that the danger was real.

In this case, it is clear that Officer Coons was witnessing an armed robbery (or attempted armed robbery) in progress. Ward was armed with a real gun. While it may have been unloaded, the appearance of danger was real enough to warrant a reasonable fear for the safety of Price, Officer Coons, and others. Officer Coons' use of deadly force in shooting at Ward was legally justified.

Based upon the evidence, there is no basis upon which to pursue any criminal charge against Officer Coons in this incident, and I therefore recommend no further action be taken by this office. This memo is not intended as a comment on any other civil, administrative or policy issues which may be handled in any other forum.

Cc: Randall B. McGruther, Chief Assistant State Attorney
Kevin Smith, Chief Investigator