



RON DESANTIS
GOVERNOR

STATE OF FLORIDA

Office of the Governor

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THE FLORIDA SENATE

In re: Executive Order of Suspension, Number 19-14
Suspension of Mr. Scott Israel, Sheriff
Broward County, Florida

GOVERNOR DESANTIS' BILL OF PARTICULARS

COMES NOW, the Executive Office of Governor Ron DeSantis, by and through Deputy General Counsel, Nicholas Primrose, and files this Bill of Particulars pursuant to Florida Senate Rule 12.9(4) and Special Master Dudley's letter dated February 20, 2019, and states as follows:

INTRODUCTION

On January 11, 2019, Governor DeSantis issued Executive Order 19-14 suspending Mr. Scott Israel ("Mr. Israel") from his public office as the Sheriff of Broward County, Florida, for neglect of duty and incompetence. Mr. Israel has failed in his paramount responsibility to be the conservator of the peace in Broward County, resulting in a failure to protect the lives of residents and visitors of Broward County.

Article IV, Section 7(a) of the Florida Constitution provides the authority of the Governor to suspend a county official for "neglect of duty" and "incompetence." The Florida Supreme Court has defined "neglect of duty" as "the neglect or failure on the part of a public officer to do and perform some duty or duties laid on [them] as such by virtue of [their] office or which is

required of [them] by law.” *State ex rel. Hardie v. Coleman*, 155 So. 129, 132 (Fla. 1934). The Court further explained, “[i]t is not material whether the neglect be willful, through malice, ignorance, or oversight.” *Id.* The Florida Supreme Court has defined “incompetence” as “intellectual quality, the lack of which incapacitates one to perform the duties of his office” that “may arise from gross ignorance of official duties or gross carelessness in the discharge of [the duties].” *Id.* at 133. The Court further explained “incompetence” includes a lack of judgment and discretion. *Id.* Executive Order 19-14 suspended Mr. Israel from his public office for neglect of duty and incompetence. As outlined below, the factual allegations and specific statutory charges below rise to the level of neglect of duty and incompetence.

FACTUAL ALLEGATIONS

Mr. Israel was elected as the Sheriff of Broward County, Florida in 2012, and re-elected for another four-year term in 2016. Since his reelection, two specific, tragic events have highlighted years of failed leadership by Mr. Israel, resulting in the lost of life, a failure to protect the peace and failure to protect the lives of residents and visitors of Broward County, Florida.

A. Fort Lauderdale-Hollywood International Airport

On January 6, 2017, a gunman opened fire inside the baggage claim area of the Fort Lauderdale-Hollywood International Airport Terminal 2. The gunman killed five individuals and wounded six more before surrendering. While the initial incident lasted only minutes, the subsequent failures by Mr. Israel, and the deputies he is responsible for, led to dozens of additional injuries and unwarranted chaos over the next few hours. On October 6, 2017, Broward County Sheriff’s Office (“BSO”) released its internal investigation Critical Incident Report into

the Fort Lauderdale Airport shooting, the report and its draft version are fully incorporated by reference and cited below. BSO, through their Airport District Unit, provides critical law enforcement and community protection services, in conjunction with federal partners and airport authorities, at Fort Lauderdale-Hollywood International Airport. BSO retains the jurisdiction, decision making authority and control during emergencies, like the Fort Lauderdale-Hollywood Airport shooting.

The initial shooting event on January 6, 2017, lasted only 85 seconds with the shooter firing approximately 14 rounds. The lives of Mary Amzibel, Terry Andres, Michael Oehme, Shirley Timmons and Olga Welterkng were lost, an additional six victims were wounded. Two hours later, uncertainty and additional chaos ensued that could have and should have been avoided. As outlined in the Critical Incident Report, information was relayed over the primary law enforcement radio channel that shots were heard by a Border Patrol Agent at Terminal 2. During the chaos of passengers, airport staff and law enforcement reacting to this radio transmission, a BSO Deputy erroneously relayed information over the radio of “shot fired Terminal 4” and a few seconds later corrected to “shots fired Terminal 1.” Between 2:22 p.m. and 3:24 p.m., there were eight separate radio transmissions of shots fired, one radio transmission of “additional shooters” and one transmission of a gunshot victim. The Critical Incident Report highlighted that “miscommunications and frantic responses” from BSO personnel aided in the loss of control during the event.

It is important to note that BSO had the benefit of learning from the lessons of the 2013 Los Angeles Airport shooting to enhance their procedures for dealing with an airport shooting, including utilizing the National Incident Management System (“NIMS”). The Critical Incident Report recommended that BSO needed to ensure NIMS practices are utilized appropriately,

especially in establishing incident command. Incident command is critical to coordinating and communicating with each of the law enforcement entities, first responders and airport personnel to effectuate organized and effective response to a mass casualty event. The Critical Incident Report found that BSO's failure to ensure proper incident command procedures led to the confusion that ensued after the initial shooting incident.

As mentioned above, the Critical Incident Report found a lack of preparation for an event like the airport shooting as contributing factor, even though BSO could have and should have learned from the 2013 Los Angeles Airport shooting. "Questionable readiness levels were discovered during the [Fort Lauderdale-Hollywood Airport shooting]." The Critical Incident Report explained that a lack of preparation on behalf of BSO, and all of the partners, led to 100% confusion and chaos within three minutes of the shooting incident. A lack of training and preparation, organized and led by BSO, was a primary area of opportunity to improve. In fact, the initial draft of the Critical Incident Report found that tabletop exercises were not frequent enough, nor was there sufficient preparation for an actual event. There were no clear guidelines and expectations to protect passengers at Fort Lauderdale-Hollywood Airport during a mass casualty/active shooter situation.

BSO also failed to properly allocate law enforcement personnel at Fort Lauderdale-Hollywood Airport in the years preceding the shooting event. From 2007 to 2017, the BSO Airport District declined in personnel, going from 150 positions to 116. During this same period, Fort Lauderdale-Hollywood Airport expanded its operations and passenger capacity. Another area of concern exposed in the initial draft of the Critical Incident Report includes the complacency of BSO Deputies assigned to the Airport District Unit, due to the environment of

lessened exposure to harm. Allocation of staff and resources is purely a responsibility that falls onto the elected sheriff.

B. Marjory Stoneman Douglas High School

On February 14, 2018, a gunman opened fire inside Marjory Stoneman Douglas High School at approximately 2:21 p.m. The gunman killed seventeen students and faculty members and seventeen other individuals were wounded. The events that took place on February 14, 2018, and the loss of life at Marjory Stoneman Douglas High School was avoidable, but for the failure of Mr. Israel, and his deputies for which he bears sole responsibility. In direct response to the shooting, on March 9, 2018, Governor Rick Scott signed the Marjory Stoneman Douglas High School Public Safety Act, which, in addition to implementing school safety measures, also established the Marjory Stoneman Douglas High School Public Safety Commission (hereinafter referred to as the “Commission”). The Commission is tasked with analyzing the events surrounding the Marjory Stoneman Douglas High School shooting and providing recommendations to mitigate and prevent future school shooting events. On January 2, 2019, the Commission issued its Initial Report, fully incorporated by reference and cited below.

On or about July 25, 2017, Mr. Israel entered into an agreement with Broward County Schools for BSO to provide law enforcement officers to serve as School Resource Officers (“SRO”) throughout the school district for the upcoming academic year. As part of that agreement, Mr. Israel, by and through the SRO, was responsible for performing all law enforcement functions and assisting Broward County Schools with the protection and security of the school and its occupants.

BSO Deputy Sheriff Scot Peterson (“Deputy Peterson”) was the SRO assigned to Marjory Stoneman Douglas High School. On February 14, 2018, entry points to Marjory Stoneman Douglas High School were open and unmanned. The gunman entered Building 12 and began firing his weapon. Deputy Peterson arrived at Building 12 approximately two minutes after the first shots were fired. By the time Deputy Peterson arrived at Building 12, twenty-one victims had already been shot, ten victims being fatally wounded: Martin Duque Anguiano, Luke Hoyer, Gina Montalto, Alyssa Alhadeff, Alaina Petty, Alexander Schachter, Nicholas Dworet, Helena Ramsay, Christopher Hixon and Carmen Schentrup.

Even though Deputy Peterson knew there was an active shooter, he did not enter Building 12 upon arrival. Deputy Peterson did not engage the gunman upon arriving at Building 12. While the gunman continued to move through Building 12 firing his weapon and causing greater loss of life, Deputy Peterson retreated from his position outside Building 12 towards Building 7, a position he would remain at for approximately 48 minutes.

As indicated by the Commission’s Initial Report, from the time Deputy Peterson arrived at Building 12, and subsequently retreated to Building 7, eleven more victims were shot, with seven victims being fatally wounded: Aaron Feis, Scott Beigel, Jaime Guttenberg, Cara Loughran, Joaquin Oliver, Meadow Pollack and Peter Wang.

The gunman’s final shot was at approximately 2:27 p.m. At that point, eight BSO Deputies were at Marjory Stoneman Douglas High School. Per the Commission’s Initial Report, each of the eight deputies heard gunshots, but “none of these BSO deputies immediately responded to the gunshots by entering the campus and seeking out the shooter.” These eight deputies were: Sergeant B. Miller, Deputy Peterson, Deputy E. Eason, Deputy M. Kratz, Deputy J. Stambaugh, Deputy R. Seward, Deputy A. Perry and Detective B. Goolsby. Deputy Peterson

directed the BSO deputies to “stay at least 500 feet away from Building 12.” It was eventually discovered at 3:02 p.m., that the gunman had fled Building 12 at approximately 2:30 or 2:40 p.m., unbeknownst to any of the BSO deputies on the scene.

The Commission’s Initial Report identified serious failures of security that were known or should have been known by Mr. Israel, including: unlocked and opened gates were regularly unstaffed leaving an open perimeter, a breach of effective security protocols and a lack of uniform and mandated physical site security requirements that resulted in a security system failure and the inadequacy of only having one SRO on campus hindered the ability to timely and effectively respond to an active assailant situation.

Florida Statute § 30.07 places responsibility for the actions and negligence of appointed deputies solely onto the elected sheriff. As outlined in the Commission’s Initial Report, there were failures on behalf of Deputy Peterson that Mr. Israel bears responsibility for: (1) Deputy Peterson was derelict in his duty by failing to act consistently with his training and fled to a position of personal safety, even though Deputy Peterson was in a position to engage the shooter and mitigate further harm to others; (2) Deputy Peterson failed to investigate the source of gunshots, failing to mitigate further harm to others; (3) Deputy Peterson failed in protecting the lives of others by directing other BSO deputies and law enforcement to stay 500 feet away from Building 12, failing to mitigate further harm to others; and (4) Deputy Peterson failed to call out a Code Red over the school radio, failing to mitigate further harm to others.

Mr. Israel is also solely responsible for the failure of the seven other BSO deputies who failed to engage the shooter and mitigate further harm to others: Sergeant B. Miller, Deputy E. Eason, Deputy M. Kratz, Deputy J. Stambaugh, Deputy R. Seward, Deputy A. Perry and Detective B. Goolsby. These failures were a result of improper and infrequent training, the

absence of a BSO policy requiring ballistic vests to be worn while on-duty contributing to a delay in deputies responding to Building 12 and an absence of established incident command policies that led to a failure to communicate and effectively organize law enforcement response.

Additionally, Mr. Israel is solely responsible for implementing the active assailant response policies and training of his deputies. The BSO Active Shooter Policy at the time of the Marjory Stoneman Douglas High School shooting stated, “if real-time intelligence exists, the sole deputy or a team of deputies *may* enter the area and/or structure to preserve life.” (emphasis added). This policy was implemented under Mr. Israel’s leadership. In fact, during an interview with the Commission, Mr. Israel “defended use of the word ‘may’ stating that he wanted his deputies to exercise discretion and he did not want them engaging in ‘suicide missions.’” The passive, discretionary engagement allowed for in the BSO Active Shooter Policy is contrary to Mr. Israel’s responsibility and duty to protect the peace within Broward County. It is also contrary to universally accepted practices in the law enforcement community.

The BSO training for active shooters did not stress the importance of preservation of life. Nor was the training frequent enough. The Commission’s Initial Report found that some deputies interviewed “could not remember the last time they attended active shooter training” or “recall what type of active assailant training they received.” This failure is a result of Mr. Israel not prioritizing a robust training operation, not having enough training deputies to meet the needs of the large personnel force, not requiring annual active shooter training, especially after the Fort Lauderdale-Hollywood Airport and not allocating appropriate funds to training facilities.

The priorities in an active shooter situation is the life of victims and innocent bystanders. In a single deputy response, the BSO training reminds the deputy that “every time you hear a gunshot...you have to believe that is another victim being killed.” However, the training also

reminds the deputy that additional support may be nearby and not to get up a good position of cover to contain the suspect. The BSO training directs deputies to “[r]emember, the cavalry is on their way, so it’s better to hold, then to expose yourself to unknown threats.” The contradiction on preservation of life versus waiting for back-up was on full display in how Deputy Peterson failed to engage the gunman, allowing additional fatalities to occur.

Finally, Mr. Israel is responsible for the failure and negligence of his deputies in their preliminary inaction towards the Marjory Stoneman Douglas High School gunman. As outlined in the Commission’s Initial Report, prior to February 14, 2018, BSO had 21 separate interactions with the gunman. A BSO internal investigation found two of these incidents required additional follow-up investigation that was never conducted. BSO policy 3.6.1 (B) requires deputies to complete an incident report, unless unusual circumstances are present that do not require an incident report.

On February 5, 2016, BSO Deputy E. Eason handled a call regarding an Instagram post from the gunman with a picture of a gun and a caption similar to “I am going to get this gun when I turn 18 and shoot up the school.” Deputy Eason did not complete a report or investigate this threat. It should be noted that Deputy Eason was previously suspended twice for his failure to properly follow up and complete an incident report. As a result of the internal investigation, Deputy Eason was found in violation of BSO policy on reporting incidents and suspended for three days. The second incident occurred on November 30, 2017, BSO Deputy G. Treijs handled a call reporting that the gunman had weapons and wanted to kill people, including “might be a Columbine in the making.” Deputy Treijs did not complete a report, and instead told the caller to call another police department. Deputy Treijs was found in violation of BSO policy on reporting incidents, but was only issued a written reprimand. The violation of BSO policy is a direct result

of a lack of proper and frequent training, a lack of vigilance in protecting the community and a lack of leadership by Mr. Israel.

SPECIFIC CHARGES

1. Mr. Israel neglected his duty and/or was incompetent in failing his paramount statutory responsibility to be the “conservator of the peace” in Broward County, in violation of Florida Statute § 30.15, as outlined above.

2. Mr. Israel is solely responsible for the negligence of the deputies he appointed, pursuant to Florida Statute § 30.07, as outlined in the factual allegations:

- a. Mr. Israel is responsible for the negligence of BSO Deputy Peterson;
- b. Mr. Israel is responsible for the negligence of BSO Deputy Eason;
- c. Mr. Israel is responsible for the negligence of BSO Deputy Treijs;
- d. Mr. Israel is responsible for the negligence of BSO Sergeant Miller;
- e. Mr. Israel is responsible for the negligence of BSO Deputy Kratz;
- f. Mr. Israel is responsible for the negligence of BSO Deputy Stambaugh;
- g. Mr. Israel is responsible for the negligence of BSO Deputy Seward;
- h. Mr. Israel is responsible for the negligence of BSO Deputy Perry;
- i. Mr. Israel is responsible for the negligence of BSO Detective Goolsby.

3. Mr. Israel neglected his duty and/or was incompetent in failing to protect the lives of the five victims killed on January 6, 2017, at the Fort Lauderdale-Hollywood International Airport, as outlined above and more fully stated:

- a. Mr. Israel is responsible for failing to protect the life of Mary Amzibel;
- b. Mr. Israel is responsible for failing to protect the life of Terry Andres;
- c. Mr. Israel is responsible for failing to protect the life of Michael Oehme;

d. Mr. Israel is responsible for failing to protect the life of Shirley Timmons;

e. Mr. Israel is responsible for failing to protect the life of Olga Welterkng.

4. Mr. Israel neglected his duty and/or was incompetent in failing to protect the health and safety of the victims injured on January 6, 2017, at the Fort Lauderdale-Hollywood International Airport, as outline above and more fully stated:

a. The ensuing chaos and confusion after the initial shooting incident led to unnecessary injuries that could have and should have been avoided with appropriate training and leadership.

5. Mr. Israel neglected his duty and/or was incompetent in providing appropriate staffing levels at Fort Lauderdale-Hollywood Airport to meet the growing needs of the airport's increased size and passenger capacity, as outlined above.

6. Mr. Israel neglected his duty and/or was incompetent in failing to provide frequent and effective training for a mass casualty/active shooter situation at Fort Lauderdale-Hollywood Airport, as outlined above.

7. Ms. Israel neglected his duty and/or was incompetent in failing to provide sufficient policies and guidelines for establishing incident command to provide effective response and communication during mass casualty/active shooter situations, as outlined above.

8. Mr. Israel neglected his duty and/or was incompetent in failing to protect the lives of the seventeen victims killed on February 14, 2018, at Marjory Stoneman Douglas High School, as outlined above and more fully stated:

a. Mr. Israel is responsible for failing to protect the life of Alyssa Alhadeff;

b. Mr. Israel is responsible for failing to protect the life of Scott Beigel;

- c. Mr. Israel is responsible for failing to protect the life of Martin Duque Anguiano;
- d. Mr. Israel is responsible for failing to protect the life of Nicholas Dworet;
- e. Mr. Israel is responsible for failing to protect the life of Aaron Feis;
- f. Mr. Israel is responsible for failing to protect the life of Jamie Guttenberg;
- g. Mr. Israel is responsible for failing to protect the life of Christopher Hixon;
- h. Mr. Israel is responsible for failing to protect the life of Luke Hoyer;
- i. Mr. Israel is responsible for failing to protect the life of Cara Loughran;
- j. Mr. Israel is responsible for failing to protect the life of Gina Rose Montalto;
- k. Mr. Israel is responsible for failing to protect the life of Joaquin Oliver;
- l. Mr. Israel is responsible for failing to protect the life of Alaina Petty;
- m. Mr. Israel is responsible for failing to protect the life of Meadow Pollack;
- n. Mr. Israel is responsible for failing to protect the life of Helena Ramsay;
- o. Mr. Israel is responsible for failing to protect the life of Alexander Schachter;
- p. Mr. Israel is responsible for failing to protect the life of Carmen Schentrup;
- q. Mr. Israel is responsible for failing to protect the life of Peter Wang.

9. Mr. Israel neglected his duty and/or was incompetent in requiring his deputies, including, but not limited to the actions of Deputy Peterson, to engage an active shooter, which resulted in additional fatalities, as outline above and more fully stated:

a. From the time Deputy Peterson arrived at Building 12, his failure to enter the building and/or engage the gunman resulted in seven additional fatalities and almost a dozen more wounded students and faculty.

b. Seven additional BSO deputies arrived at Marjory Stoneman Douglas High School, heard gunfire and did not enter Building 12 and/or engage the gunman resulting in additional fatalities and wounded students and faculty.

10. Mr. Israel neglected his duty and/or was incompetent in developing, implementing, adopting and training BSO deputies that they may engage with an active shooter, failing his paramount statutory responsibility to be the “conservator of the peace” in Broward County, in violation of Florida Statute § 30.15.

11. Mr. Israel neglected his duty and/or was incompetent in the discretion given to his deputies for failing to engage with an active shooter, as outlined above.

a. Even if the discretionary “may” in the BSO Active Shooter Policy was standard policy, the failure to protect life as a result of that policy is the responsibility of Mr. Israel.

12. Mr. Israel neglected his duty and/or was incompetent in developing frequent training requirements for BSO deputies, failing his paramount statutory responsibility to be the “conservator of the peace” in Broward County, in violation of Florida Statute § 30.15, as outlined above.

a. Multiple BSO deputies who responded to the Fort Lauderdale-Hollywood Airport lacked an understanding of their objectives and roles;

b. Multiple BSO deputies during the Commission's investigation into the Marjory Stoneman Douglas High School shooting could not remember the last time they had been trained on active assailant/shooter policy;

c. The lack of frequent and effective trainings by Mr. Israel was exposed during two separate mass casualty events within a one-year span of time that resulted in the deaths of twenty-two individuals.

13. Mr. Israel neglected his duty and/or was incompetent in staffing BSO's Airport District with employees who were complacent and not diligent in their duty to protect the peace, as outlined above.

14. Mr. Israel neglected his duty and/or was incompetent in staffing BSO's School Resource Officer program with employees who were complacent and not diligent in their duty to protect the peace, as outlined above.

RESPECTFULLY SUBMITTED,



Nicholas A. Primrose
Deputy General Counsel
Executive Office of Governor Ron DeSantis

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of February, 2019, a true copy of the foregoing has been e-mailed to counsel for Mr. Scott Israel: Benedict Kuehne, Esq. (Ben.Leuhne@kuehnelaw.com).