



## STATE ATTORNEY

ELEVENTH JUDICIAL CIRCUIT OF FLORIDA  
E. R. GRAHAM BUILDING  
1350 N.W. 12TH AVENUE  
MIAMI, FLORIDA 33136-2111

KATHERINE FERNANDEZ RUNDLE  
STATE ATTORNEY

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June 11, 2020

Alfredo Ramirez III, Director  
Miami-Dade Police Department  
9105 NW 25<sup>th</sup> Street  
Doral, FL 33172

Dear Director Ramirez:

Enclosed is our final report regarding the investigation into the police-involved shooting of Salvador Pena-Guzman on August 25<sup>th</sup>, 2019. The officer involved in this incident was Officer Antony Lopez (30-7729).

The investigation has determined that this officer was legally justified in the use of deadly force by firing his weapon. Therefore, no criminal charges will be filed.

If you have any questions, please do not hesitate to contact me.

Sincerely,

KATHERINE FERNANDEZ RUNDLE  
State Attorney

KFR:iah

Enclosures

c: Listed Officer(s)  
MDPD Homicide Bureau  
Lt. Matthew McGarey, MDPD Professional Compliance  
Sgt. Steadman Stahl, PBA  
Andrew Axelrad, PBA  
Robert Senior (AUSA)  
Troy Walker (FDLE)



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INTEROFFICE MEMORANDUM

TO: KATHERINE FERNANDEZ RUNDLE  
State Attorney

DATE: JUNE 9, 2020

FROM: STAFFING/REVIEW TEAM

RE: POLICE SHOOTING CLOSEOUT MEMO  
CASE # SAO #62/19/08/25/003  
INJURED: PENA-GUZMAN, Salvador

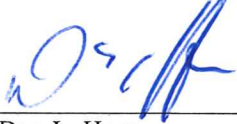

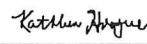




Based on the information obtained and reviewed during the course of the investigation, the conclusion of the staffing/review team is the following: Officer Antony Lopez responded to an emergency call from a juvenile who reported a domestic violence battery with injuries upon his mother by his stepfather. Dispatch advised Officer Lopez that the offender (Pena-Guzman) was at the scene and there was a firearm in the residence.

Upon arrival at the scene, Officer Lopez activated his body-worn camera (BWC), entered through the unlocked door of the trailer home, and announced his presence. In addition to his announcements, sirens and the communications coming over the officer's police radio, should have alerted Pena-Guzman of Officer Lopez' presence. However, Pena-Guzman did not comply with the officer's commands to come out of the room. Pena-Guzman only gave ambiguous responses, and by his own account, was in a drunken state.

Officer Lopez advised that as soon as he reached the threshold of the bedroom he was confronted with Pena-Guzman armed with a firearm. Subsequently, Officer Lopez discharged his firearm and wounded Pena-Guzman. This statement is consistent with the BWC footage and with the recovery of a Smith & Wesson firearm and magazines on the scene.

Considering Pena-Guzman's actions, it is reasonable to believe the officer involved considered it necessary to use deadly force to prevent injury to himself and others, or to prevent the commission of a forcible felony. Also, the force was necessary to defend himself or another while making an arrest. Therefore, based on the evidence compiled in the FDLE investigation, including the body worn camera footage and pursuant to Florida Statute 776.012 and 776.05, we find that Officer Antony Lopez (30 -7729) was legally justified in the use of deadly force by discharging his firearm.

The members of the staffing/review team for this case are:

 _____ Don L. Horn	 _____ Deisy Hernandez	 _____ Kathleen Hoague
 _____ Stephen K. Talpins	 _____ Howard Rosen	 _____ J. Scott Dunn
 _____ Christine Zahralban		

Approved by State Attorney on this 15 day of June, 2020.

  
\_\_\_\_\_  
KATHERINE FERNANDEZ RUNDLE  
State Attorney



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: JUNE 9, 2020

FROM: CHRISTOPHER FLANAGAN  
SUZANNE VON PAULUS  
ASSISTANT STATE ATTORNEYS

RE: POLICE SHOOTING CLOSEOUT MEMO  
SAO # 62/19/08/25/003  
MDPD # PD190825304531  
FDLE Case Number MI-27-0115

OFFICER(S) INVOLVED:	(MDPD) OFFICER ANTONY LOPEZ (30-7729)
INJURED:	SALVADOR PENA-GUZMAN
INJURIES:	MULTIPLE GUNSHOT WOUNDS TO THE LEGS AND SCROTUM
DATE & TIME:	SUNDAY, AUGUST 25, 2019, APPROXIMATELY 12:49 A.M.
LOCATION:	HONEY HILL MOBILE HOME PARK 4955 NW 199TH STREET, LOT #67 MIAMI GARDENS, FL 33055
WEAPONS:	SMITH & WESSON, M&P 9C, 9mm Pistol, Serial No. HDJ9144 – (SALVADOR PENA-GUZMAN)  GLOCK 17, 9mm Pistol, Serial No. REE 518 – (OFC. LOPEZ)
LEAD:	FDLE Special Agent ALBERTO BORGES
CASE #:	MDPD # PD190825304531 FDLE Case Number MI-27-0115
SAO CASE #:	SAO # 62/19/08/25/003



## **SUMMARY**

### ***The 911 Call***

On Sunday, August 25, 2019, at approximately 12:40 a.m., a 15-year-old minor (with initials C.L.) called 9-1-1 on behalf of his mother and reported that his stepfather had just battered his mother at their residence in the Honey Hill Mobile Home Park, 4955 NW 199TH STREET, LOT #67. During the call, he reported that his mother was bleeding, injured, and required an ambulance. He advised that they had fled the residence where the incident took place at lot 67 and were now waiting at lot 238. Additionally, when asked whether any weapons were involved in the incident, he replied in the negative, but then immediately volunteered information that his mother owned a firearm that was inside the residence. When the emergency dispatcher attempted to end the call, C.L. again reiterated, "there's a firearm in the house, so tell the police officer to uhm... be uhm... aware."

### ***Area Video Surveillance***

Video surveillance from the area revealed that at approximately 12:41 a.m., three individuals walking away from the general area of lot 67. The three individuals appear to be C.L. (talking on a cell phone), his mother Felicia Atkinson, and his grandmother Maria Cruz.

### ***The Dispatch Transmissions***

At 12:42 a.m., the CAD (Computer Aided Dispatch) transmission was that there was an assault with injuries, the subject stepfather was still on scene, and it was unknown if there were weapons. At 12:43 a.m., Officer Antony Lopez was dispatched emergency mode to an Assault or Battery and Officer Jonathan Culver was dispatched as his back-up. During this time, the computer dispatch advised that a firearm was kept inside the house. At 12:45 a.m., the computer dispatch advised that victim had walked away from the residence to lot 238 and that the stepfather subject was still inside the house at lot 67.

### ***The Body Worn Camera Footage***

Officer Antony Lopez was the first to arrive on scene at approximately 12:48 a.m. Upon approaching the residence, he activated his body worn camera video equipment and the footage reveals that at 12:48:30 a.m. he reaches the unlocked front door to the trailer residence at lot 67. As he shined his light into the dark residence, he called out, "Hello? Miami-Dade Police." There was no reply and there was silence in the residence. At 12:48:45 a.m., Officer Lopez again called out, "Hello? Anybody home?" Officer Lopez then searched down the interior hallway with his firearm drawn and again called out, "Hello!? Yo!" At 12:49:08 a.m., a male voice from a room down the hall responded, "Yo!" Officer Lopez then immediately instructed the individual, "Come on man, come here." At 12:49:13 a.m. the voice responded, "Who is it?" Officer Lopez replied, "Come see. Come here bro." At this point, Officer Lopez's police radio can be audibly heard on the body worn camera video providing information that anyone would recognize as a police dispatch while he was still at the end of the hallway. At 12:49:21 a.m., the male voice down the hall can be heard saying, "What you mean \*\*\*\*\*?" At 12:49:29 a.m., Officer Lopez forcefully called out "Yo!" and the voice immediately replied "Yo!" Officer Lopez began approaching the threshold of the bedroom door with his firearm drawn. Just before Officer Lopez reached the

threshold of the bedroom door, sirens can be heard on the body worn camera footage just outside of the residence as backup began to arrive. As Officer Lopez crossed the bedroom threshold with his weapon drawn at 12:49:39, a shirtless male, later identified as SALVADOR PENA-GUZMAN [Pena-Guzman], can be observed with an apparent firearm visible in his hand. Pena-Guzman was seated on the bed, perpendicular to the officer, with an apparent firearm in his hand, slightly extended perpendicular to the officer. Officer Lopez, immediately discharged his firearm, expending seven (7) rounds of the sixteen (16) cartridges loaded in his firearm. Upon shooting Pena-Guzman, Officer Lopez charged into the room and guided him to his back. Officer Lopez then immediately called out over his police radio for fire rescue and reported he fired his weapon. At 12:50:39, Officer Lopez reiterated over his radio that he shot a subject and then attempted to reassure Pena-Guzman that fire rescue was coming. At 12:51:27 a.m. Backup Officer Culver announced his arrival at the trailer. At 12:53:16, Pena-Guzman called out confused and Officer Lopez continued to reassure him that fire rescue was coming. At 12:54:45 a.m. fire rescue arrived, treated Pena-Guzman, and transported him to the hospital.

### *The Scene*

On the scene, there were seven (7) spent 9mm casings recovered. Three (3) were on the tiled floor of the hallway just outside of the bedroom, and four (4) were on the bedroom floor just past the bedroom threshold. Firearm toolmark analysis revealed all spent casings were fired from Ofc. Lopez's Glock 17. Four (4) projectiles were recovered from the scene. Firearm toolmark analysis revealed that three (3) projectiles were fired in Ofc. Lopez's Glock 17, and the final projectile was determined to be too damaged to be of value for microscopic comparison. A SMITH & WESSON, M&P 9C, 9mm firearm was found in the bedroom on the floor near where Pena-Guzman was shot, under a dresser. The firearm was loaded with a magazine that contained seven (7) live 9mm cartridges. The firearm was not chambered. Another magazine was on the bedroom floor, near the pistol, and contained six (6) live 9mm cartridges. A DNA standard from Pena-Guzman was collected and was submitted to the Miami-Dade Crime Lab with evidentiary swabs from the Smith & Wesson firearm. Per the FDLE investigation, the DNA analysis was inconclusive.

### *Recovery and Trace of Pena-Guzman's Firearm*

After Ofc. Culver arrived on scene and fire rescue started treating Pena-Guzman, body worn camera footage captured Ofc. Lopez gesturing in the direction of the floor around Pena-Guzman and stating that there is a firearm here. Ofc. Culver observed the magazine and is captured on camera pointing and stating, "the magazine is right behind you." After rescue removed Pena-Guzman from the scene, Sgt. Demitria Smiley is captured on body worn camera video opening the top drawer of the small nightstand and stating, "That's where it should have been... that's what she said." Ofc. Culver's body worn camera footage captured him searching the bedroom for the firearm for several minutes. During the search, Culver's body worn camera captured Sgt. Smiley telling Ofc. Sayamronda Cook, that the clip was over there and begins a discussion about the case. Ofc. Culver's first video file ends at this point and the recording resumes in a second video file timestamped 56 seconds later. Ofc. Culver is still searching the bedroom near the dressers when the second video begins. After 35 seconds of searching, Ofc. Culver stated "Ok I found it." Sgt. Smiley is captured on the recording replying, "You found it? Ok good. Good. Leave it right there... [unintelligible]."

An ATF Firearms Trace Summary was ordered for the SMITH & WESSON, M&P 9C, 9mm firearm, Serial No. HDJ9144. Felicia Atkinson purchased the gun at a firearms store on May 18, 2017.

***Witness Statements Regarding the Domestic Violence Incident***

Felicia Atkinson stated that she and her husband, Pena-Guzman, were drinking cognac early in the evening, but ran out. They drove to a liquor store and purchased more cognac and some beer. They then traveled to her friend's home at lot 238. They began to drink with her friend, Yayly Guirola, and another female, Yamisleidis Rodriguez. According to Atkinson and other witnesses, Pena-Guzman was severely intoxicated. Atkinson stated that at some point Pena-Guzman began to flirt with Rodriguez. When Atkinson attempted to stop Pena-Guzman, he struck her several times on the head and in the face. They were told to leave and went home to lot 67. Atkinson stated that Pena-Guzman continued to beat her on their way home. When they arrived home, Atkinson attempted to hide her injuries from her mother and son by going into the bathroom, but Pena-Guzman followed her into the bathroom and continued to beat her, knocking her to the floor and stepping on her head. Atkinson told her son to call 911 and left the mobile home, along with her mother and son. They waited at lot 238 until police arrived. Atkinson acknowledged that she owns a black handgun that she keeps in an end table next to her bed. She says she has two magazines for the firearm that she believes are fully loaded and one of the magazines is kept in the gun. She stated that Pena-Guzman is aware the gun is there and has been to the range with her to fire the gun. On scene, there was evidence of suspect blood photographed in the bathroom. The other civilian statements corroborate Atkinson's account to the extent of their personal knowledge.

***Statement of Pena-Guzman***

Pena said he was at his home with his wife, Atkinson, watching videos, listening to music, and drinking whiskey. They ran out of whiskey and went out to buy more. While they were returning home, they stopped by the home of a friend of Atkinson to get some ice. Pena said he was drunk. He said while at Atkinson's friend's home they served him an unknown alcoholic beverage and said he had no memory of events that occurred after he drank the beverage. The next event he recalled was waking up in the hospital with injuries. Pena said he did not even know he had been shot. He stated that initially he thought he had been involved in a car accident.

Pena stated that there was a firearm in the home that was purchased by Atkinson and kept in one of the drawers in the end table next to the bed. He said that they had two magazines, but stated neither magazine was inserted into the firearm. He said they leave the firearm unloaded and confirmed he previously fired the gun at the range.

***Statement(s) of Shooting Officer Antony Lopez***

On Wednesday, September 11, 2019 at 1:18 p.m., Ofc. Lopez, accompanied by legal counsel, provided a voluntarily, sworn, and transcribed statement at the Miami-Dade Police Homicide Office. He stated that he was the only officer on scene when he arrived at lot 67. Further, when he arrived at the residence, the front door to the mobile home was closed but unlocked. He stated that he opened the door and entered the home and announced "Miami-Dade Police." When he approached the bedroom, he stated that he saw a male sitting down holding what he described as a black firearm. He said he was in fear for his life. He did not elaborate further.

Following his statement, Ofc. Lopez traveled to the Miami-Dade State Attorney's Office and sat for a pre-file conference with the felony screening unit regarding the aggravated assault case. Ofc. Lopez recounted the facts leading up to the discharge of his firearm with his legal counsel present. Although Ofc. Lopez did not go into specifics regarding the discharge, he made two critical statements. First, he recalled seeing the dispatch that the subject was possibly armed, and second, that Pena-Guzman was sitting upright in bed with a firearm in

hand when he encountered him. He explained that he was in immediate fear for his own safety because Pena-Guzman could turn, point the firearm in his direction, and begin firing at any instant.

### ANALYSIS AND CONCLUSION

I reviewed the Florida Department of Law Enforcement Investigative Summary into the Police Use of Force in this incident. I also reviewed the sworn statements, crime scene results, ballistics results, surveillance video from the Honey Hill Mobile Home Park, Body Worn Camera Footage, and other evidence compiled by FDLE under FDLE Case Number MI-27-0115. The summary is complete, thorough, and consistent with the witness statements that I reviewed. I adopt and attach that Investigative Summary hereto and also offer conclusion based on the results of the investigation and review.

Officer Lopez approached Pena-Guzman inside his residence while investigating his stepson's 911 call regarding a domestic violence battery with injuries upon his wife. The computer aided dispatch advised that Pena-Guzman was still on scene and that there was a firearm in the residence. On his body worn camera video, Officer Lopez can be heard announcing that he was Miami-Dade Police while entering the residence. Further, the sounds of Officer Lopez's police radio and approaching sirens while Lopez was actively communicating with Pena-Guzman should have further alerted Pena-Guzman to the fact that Lopez was a police officer. Pena-Guzman did not comply with Officer Lopez's commands to come out and complicated matters when he only cryptically responded, in an apparent drunken-state by his own account.

Officer Lopez stated that he was confronted with an individual armed with a firearm as soon as he reached the threshold of the bedroom. This statement is consistent with the body worn camera footage. The statement is further corroborated due to the recovery of the Smith and Wesson firearm and magazines on the scene, as well as the statements from Pena-Guzman and Atkinson that their firearm was accessible in the bedroom. Officer Lopez's statement that he was in immediate fear for his own life can be weighed against the totality of the circumstances: Lopez responded in emergency mode to a crime of domestic violence involving injuries and he found Pena-Guzman in the residence armed with a firearm, even though Ofc. Lopez announced he was a police officer.

Section 776.012, Florida Statutes, permits the use of deadly force when a person reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or another or to prevent the commission of a forcible felony. Further, Section 776.05, Florida Statutes, permits a law enforcement officer to use any force that he reasonably believes is necessary to defend himself or another from bodily harm while making an arrest. Based on these statutory provisions the shooting appears to be justified.

Prepared by:

Christopher Flanagan

/s/Christopher Flanagan  
Assistant State Attorney

Suzanne Von Paulus

/s/Suzanne Von Paulus  
Assistant State Attorney