



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

TELEPHONE (305) 547-0100
www.miamiSAO.com

December 4, 2018

Daniel J. Oates, Chief of Police
City of Miami Beach Police Department
1100 Washington Avenue
Miami Beach, FL 33139

Dear Chief Oates:

Enclosed is our final report regarding the investigation into the police-involved shooting of Cariann Hithon on October 8th, 2017. The officer involved in this incident was Officer Michael Angulo (#02-1052).

The investigation has determined that Officer Angulo 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

cc: Listed Officer(s)
Miami Beach PD – Internal Affairs
Captain Javier Ortiz - FOP
Robert Senior (AUSA)
Troy Walker (FDLE)

Enclosure



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INTEROFFICE MEMORANDUM

TO: KATHERINE FERNANDEZ RUNDLE
State Attorney

DATE: DECEMBER 4, 2018

FROM: STAFFING/REVIEW TEAM

RE: POLICE SHOOTING CLOSEOUT MEMO
SAO CASE: 62/17/10/08/008
DECEASED: HITHON, Cariann

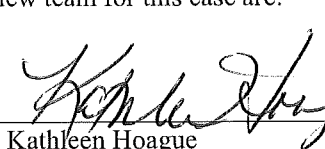
Based on the information obtained and reviewed during the course of the investigation, the conclusion of the staffing/review team is the following: The investigation has determined that Cariann Hithon was the driver of a BMW that fled from the scene of two hit and run accidents, ran a red light and was involved in a crash.

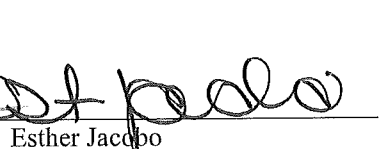
While stopped due to the crash, Ms. Hithon refused to follow police commands to turn off the vehicle and step out of the car. Instead, Ms. Hithon accelerated away, striking a police officer on the scene. At that point, Officer Michael Angulo fired three rounds, fatally striking Ms. Hithon.

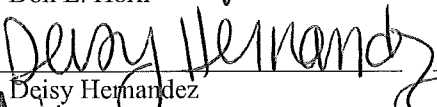
The shooting officer declined to provide a sworn statement or proffer. However, based on the sworn statements of the civilian witnesses and officers, and footage from the officers' body-worn cameras, it is reasonable to believe that Officer Angulo considered it necessary to use deadly force to prevent further injury to fellow officers and for the safety of all civilians in the immediate area. Therefore, we find that Officer Michael Angulo (02-1052) was legally justified in the use of deadly force by firing his weapon.

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



Don L. Horn

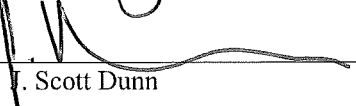

Kathleen Hoague


Esther Jacobo


Deisy Hernandez


Reid Rubin


Christine Zahralbar


J. Scott Dunn

Approved by State Attorney on this 4 day of December, 2018.


KATHERINE FERNANDEZ RUNDLE
State Attorney



OFFICE OF THE STATE ATTORNEY
ELEVENTH JUDICIAL CIRCUIT

KATHERINE FERNANDEZ RUNDLE
STATE ATTORNEY



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: OCTOBER 15, 2018

FROM: JOSHUA WEINTRAUB
LUIS PEREZ-MEDINA
ASSISTANT STATE ATTORNEYS

RE: POLICE SHOOTING CLOSEOUT MEMO
CASE: SAO #62/17/10/08/008

OFFICER(S) INVOLVED:	OFFICER MICHAEL ANGULO, 02-1052
DECEASED:	CARIANN HITHON DOB 10-5-1995
INJURIES:	GUNSHOT WOUND TO THE HEAD
DATE & TIME:	OCTOBER 8, 2017 AT 6:28 P.M.
LOCATION:	12 TH STREET BETWEEN COLLINS AVENUE & WASHINGTON AVENUE, MIAMI BEACH, FLORIDA
WEAPONS:	SMITH AND WESSON M&P 40 CALIBER SERIAL NO.: DWY7264
LEAD:	DETECTIVE MICHAEL DOMINGUEZ 30-3756, UNIT 3146
CASE #:	MDPD CASE #171008386840

SUMMARY OF FACTS

Early Sunday evening, October 8, 2017 at approximately 6:30 P.M., Miami Beach Police became aware of a series of hit and run traffic accidents on South Beach involving a black BMW 328i vehicle that had fled from these accident sites along Ocean Drive just north of 12th Street. Driving the black BMW was a young woman named Cariann Hithon from Bowie, Maryland; a 20-year old Temple University college student visiting South Beach to celebrate her 20th birthday. Visiting with Ms. Hithon in South Florida was a friend of hers from Maryland named Ryan Lucas. The two arrived on South Beach on October 4th and planned to stay a week through October 11th.

On the day of the shooting, Ms. Hithon and Mr. Lucas were drinking alcohol earlier at a beer festival off South Beach and eventually returned and went to the Carlyle Café, located at 1250 Ocean Drive at approximately 5-5:30 P.M. range where they ordered two 32 oz. drinks along with some wings and fries. Mr. Lucas paid the \$106.93 bill (including \$15.00 tip) with a Visa Debit Card under his name. Detectives learned during the course of this investigation when interviewing Mr. Lucas that he and Ms. Hithon had been at Carlyle Café consuming alcoholic drinks just prior to the shooting incident. Detectives later responded to the Carlyle Café and collected a copy of the receipt of purchase.

Upon leaving the Carlyle Cafe, they re-entered the black BMW 328I (Florida Tag "EXTRE") with Ms. Hithon driving and Mr. Lucas in the front passenger seat. Almost immediately as they pulled away from the Carlyle Café, Ms. Hithon caused several hit and run accidents along Ocean Drive.¹ Fleeing from these accidents, Ms. Hithon was observed by witnesses turning west on 12th Street while victims and witnesses of those hit & runs pursued her vehicle around the corner. Ms. Hithon then ran a red light at 12th Street and Collins Avenue and struck a black Mercedes 350E in the middle of the intersection and continued a short distance down 12th Street before coming to a stop in the middle of the street. At that point, Mr. Lucas jumped out of the front passenger seat and exited the vehicle while crowds of people, who had witnessed this spectacle, began crowding around the black BMW demanding the driver exit the

¹ Four separate traffic accidents were reported in Miami Beach as "hit and runs" involving Ms. Hithon's black BMW. Those accidents were reported under Miami Beach case numbers #2017-10739; #2017-107267; #2017-10738; and #2017-108072. #1 occurred in front of the Carlye Café as Ms. Hithon was pulling away from the curb re-entering back into traffic, she hit a parked vehicle along the curb; #2 occurred further south on Ocean at a pedestrian crosswalk where Ms. Hithon rear-ended a white pick-up truck and fled around the corner on 12th Street; #3 was the black Mercedes E350 in the intersection of Collins & 12th Street; and #4 was when Ms. Hithon's vehicle careened out of control to the left travelling westbound down 12th Street striking a parallel parked white Toyota 4-Runner at Washington & 12th Street.

vehicle. Several of these individuals used their cell phones to record various parts of this scene which have been viewed at length by the investigating detectives and the undersigned. At about this time, numerous Miami Beach Officers were also arriving on the scene at the foot of 12th Street near Washington Avenue and were being alerted by both victims and witnesses about these hit and run incidents and to what was occurring further up 12th Street with the large crowd gathering around the black BMW.

Several of these officers began moving up the street towards the crowd. As they got closer, several of the officers could see a female sitting behind the wheel with the windows up apparently trying to coax her friend Mr. Lucas, who had hopped out after the collision at Collins Avenue, to get back into the vehicle. One of the officers, Jose Perez (02-1088), made his way to the driver's side of the vehicle and was ordering the driver to put the vehicle in park and get out. While that was occurring, other officers were coming closer to the vehicle walking up the street from Washington Avenue, including Officer David Cajuso. Despite Officer Jose Perez (standing at the driver's side window of the BMW) screaming orders at the driver to turn the car off and get out, the driver hit the accelerator and struck Officer Cajuso, who had to literally jump upward into the air to avoid his legs being crushed by the vehicle. The collision caused Officer Cajuso to fly upward into the air causing him to strike the front hood and windshield area of the BMW causing him to fall back to the ground striking his head on the street as the BMW moved through him and continued westward down 12th Street. At that moment in time, Officer Michael Angulo (02-1052), who was positioned on the driver's side of the vehicle, standing a few feet from the car to the south side, un-holstered his firearm and fired it three times at the driver of the BMW as the vehicle passed by him travelling east to west. One of those three shots struck Ms. Hithon in the head causing her to lose control of the vehicle, which careened to the left and struck a white Toyota SUV parked on the south side of 12th Street at the Washington Avenue level.

Officer Perez, who had tried to engage the driver at her car window, ran after the BMW to where it struck the Toyota SUV, managed to unbuckle the driver and pull her out of the vehicle and onto the sidewalk where he immediately commenced chest compressions on the driver who was in and out of consciousness. At the same time, a nurse on vacation from Boston trained in emergency procedures walked up on to this scene and immediately jumped into action as well, assisting Officer Perez with chest compressions.² Fire Rescue vehicles responded and rushed both Ms. Hithon and Officer Cajuso to the

² Clarissa Gorrie-President, a twenty-five year old nurse from Brocton, Massachusetts jumped into this chaotic scene to assist in rendering emergency aid to Ms. Hithon along with Miami Beach Officers. The undersigned reached out to Ms. Gorrie-

Trauma Center at Jackson Memorial Hospital. Ms. Hithon was pronounced deceased upon her arrival at Ryder Trauma.

Per a Memorandum of Understanding between City of Miami Beach and Miami-Dade Police Department ("MDPD"), MDPD responded to South Beach to conduct this police shooting investigation. In so doing, MDPD Crime Scene Detectives, Homicide Detectives and other MDPD support personnel processed the entirety of this crime scene, conducted sworn statement interviews of all primary witnesses, including civilians and Miami Beach Officers, and did all necessary follow-up to ensure a complete investigation. The undersigned along with Assistant State Attorney, Luis Perez-Medina, also responded out to this scene and sat in on most of the significant interviews conducted that evening.

CIVILIAN WITNESS STATEMENTS

Ryan Lucas was interviewed by Detective Michael B. Parmenter (30-5708) in the early morning hours of October 9, 2017, and stated the following: Mr. Lucas stated that he and Ms. Hithon met up at Ft. Lauderdale Airport on October 4th 2017. They had planned on staying in South Florida till October 11, 2017. Ms. Hithon rented the black BMW 328i at the airport and arranged for the rental of an Air BNB on 16th and Collins. According to Mr. Lucas, he started the afternoon of the shooting "pre-drinking" at the apartment consuming some Crown Royal Whiskey. Earlier in the day, he and Ms. Hithon had also smoked marijuana at the apartment and then drove to a "beer festival" somewhere off South Beach. He stated Ms. Hithon drank one beer at the beer festival, but was not able to specify how many he consumed. From there, they went to a restaurant back on South Beach, but did not recall the name of the restaurant. There, Mr. Lucas stated he believed Ms. Hithon consumed either one margarita or one mojito and he claimed to have had one Long Island Ice Tea. The receipt later collected by detectives from the Carlyle Café notes two (2) 32 oz. frozen alcoholic drinks were brought to the table along with chicken wings. Mr. Lucas stated he was "highly intoxicated" when they left the restaurant, but could not tell if Ms. Hithon was as well. Mr. Lucas stated they left the restaurant together between 6:30-7:00 PM with her driving the black BMW and Mr. Lucas in the front passenger seat. Contrary to video and witness accounts on South Beach, Mr. Lucas stated that as they departed the restaurant together, Ms. Hithon had one small accident where she

President to personally thank her on behalf of this community for her willingness to get involved and render assistance in a difficult emergency moment.

bumped the rear of a motorcycle. Mr. Lucas stated that “as soon as Ms. Hithon bumped the motorcycle he jumped out of the BMW to check on the vehicle’s damage and who was hit,” and then stated that “within minutes he was being handcuffed and slammed onto the front side of the BMW and placed inside a police cruiser.” Mr. Lucas stated he had no recollection of the motorcyclist’s condition they had bumped into. Mr. Lucas further stated he had no recollection of Ms. Hithon driving off in the BMW once he was cuffed and placed into the police vehicle and heard no gunshots at the time either. All Mr. Lucas recalled at that point was a large crowd forming around them. It should be noted that no officer or witness on the scene, or anyone spoken to during follow-up investigation by MDPD, could corroborate Mr. Lucas’ rendition of the events as he described above with him being physically slammed on top of the BMW and handcuffed. There was also no video of such an event taking place as described by Mr. Lucas collected from officers or civilian witnesses on the scene.

Diego Guillen was interviewed on Sunday, October 8, 2017, by Detective Richard Rafael (30-3531) and stated the following: Mr. Guillen works for a brokerage firm called Sieber and has his own real estate company called DGS Real Estate. Mr. Guillen stated he had been on the beach a few hours when he and his friends were walking on the sidewalk on Ocean Drive near 12th Street and saw the black BMW travelling at a high rate of speed on a congested Ocean Drive. Mr. Guillen watched as the BMW came to a stop and then accelerated into the police officer striking him and then hitting the car parked on Washington and 12th Street. Inside the BMW was a female driver and male front seat passenger. The BMW made an erratic move to avoid one vehicle and then slammed into the back of a large white vehicle as it was trying to turn off Ocean Drive onto 12th Avenue. Mr. Guillen stated that the BMW then backed up from the large white vehicle it just struck and took off at a high rate of speed around the corner, westbound down 12th Street. Mr. Guillen saw this happen and gave chase on foot around the corner towards the fleeing BMW. Mr. Guillen described running up to the BMW stopped in the middle of the street, and along with others, pounding on the hood and windows demanding for the driver to get out of the car. According to Mr. Guillen, while he was banging on the BMW yelling for the female driver to get out, he looked into the car and described her as “laughing.” As Mr. Guillen approached the stopped BMW, the male passenger he earlier saw in the passenger seat, was now standing next to the car on the passenger side. Mr. Guillen stated that prior to running over to the BMW in the street, he had alerted nearby Miami Beach Officers as to what was happening, telling them “they should be careful as the BMW driver was acting crazy out of control and that she might try and run them over with her car.” Mr. Guillen stated the Miami Beach Officers he saw and spoke to were clearly in uniform with badges and guns and acting as

police officers. Mr. Guillen further stated that while he did not hear officers yelling at her to get out of the car, at some point while he was still hitting the car yelling at the driver to get out, she put the car in gear and accelerated quickly slamming into a police officer head-on causing him to go airborne and land on the street. Within one to two seconds, Mr. Guillen recalled hearing gunshots being fired from behind him by an officer who stood on the driver's side of the car. Mr. Guillen stated that after he heard these gunshots, the black BMW drove down the street and veered into a large vehicle parked on the southeast corner of Washington Avenue and 12th Street. Mr. Guillen stated he recalled seeing Miami Beach Officers running down towards the black BMW, pulling the driver out and rendering emergency aid to her, pumping her chest while Fire Rescue Units arrived.

Michael William Gage was interviewed by Det. Richard Rafael (30-3117) on October 9, 2017, and stated the following: Mr. Gage was working the evening of this shooting as an Uber/Lyft Driver who had just picked up three (3) passengers at Nikki Beach and were travelling north on Washington Avenue, turning right onto 12th Street just as this incident was taking place. As Mr. Gage turned onto 12th Street, he was positioned right next to the large white SUV vehicle at the end of the block that within moments Ms. Hithon would crash into. Mr. Gage could see the black BMW further up the block in the middle of the street with a lot of people around the car. Mr. Gage stated he saw many police officers running down the street towards the black BMW with someone standing at the driver's side of the car trying to communicate with the driver. Mr. Gage also described seeing the BMW speed off and striking someone in the middle of the street and then heard 3-4 gunshots as the BMW sped down 12th Street towards his vehicle and his passengers. While the BMW drove directly at his vehicle, it turned away at the last second striking the large white vehicle parked right on 12th Street and Washington Avenue. As soon as the BMW crashed into the white SUV next to him, his passengers ran from his vehicle concerned they might also become involved in the shooting. At one point, Mr. Gage exited his Uber vehicle and walked down the street and saw the police officer lying on the street who was hit by the BMW. Mr. Gage further stated that while he was not aware of prior crashes by the black BMW, he did relate to Detective Rafael that there were a lot of individuals and pedestrians who were out there on 12th Street at that time and could have been easily injured or killed if struck by the BMW as it travelled down the street at a high rate of speed in an erratic manner.

John Butchko was interviewed by Detective Armando Gonzalez III (30-8117) on October 11, 2017, and stated the following: Mr. Butchko stated he was currently working as an investigator for Carnival

Cruise Lines. Previously, Butchko had been with the Miami-Dade Police Department for 31 years, 27 years as a Homicide Detective. Butchko was driving his black Mercedes 350E northbound on Collins with his friend, Sean Ellsworth, in the front passenger seat. At the last second, front seat passenger Ellsworth saw the flash of the black BMW driving at high speed (approximately 50-60 MPH) coming from Ocean Drive towards Butchko's vehicle in the intersection. Butchko swerved the steering wheel to the left and was struck by the black BMW in the front with such force that it ripped the entire front bumper off his Mercedes. Butchko explained the BMW was travelling at a high rate of speed and took literally no evasive action prior to impacting his car. Once they were struck by the BMW, it took off again heading further west on 12th Street and then abruptly stopped about 50 feet away with people gathering around it. It was at this point that Butchko lost sight of the BMW because a white truck that had been chasing the BMW from a hit and run incident moments before on Ocean Drive, parked right behind the BMW blocking Butchko's vision up 12th Street. Butchko further stated there were many people on the street and the surrounding sidewalks during this incident especially where the black BMW had momentarily come to a stop with people surrounding the car yelling at the driver to get out. Butchko said he heard 3-4 gunshots coming from up the street, and once he was able to see around the white pick-up truck, he could see a police officer laying on his back in the middle of 12th Street with the black BMW having crashed at the end of the block.

Sean Ellsworth was interviewed by Detective Armando Gonzalez III (30-8117) on October 17, 2017, and stated the following: Mr. Ellsworth is a practicing attorney on Miami Beach with his offices located at 420 Lincoln Road. Mr. Ellsworth was travelling in a black Mercedes 350E vehicle as a front seat passenger along with retired MDPD Homicide Detective John Butchko, who was driving. Ellsworth described being suddenly struck out of nowhere by a black BMW in the intersection of 12th Street and Collins Avenue as the BMW fled from Ocean Drive westbound through the red light at Collins Avenue and into the front end of Butchko's vehicle. Mr. Ellsworth recalled seeing the BMW travelling towards their vehicle at a high rate of speed and Ellsworth yelling at Butchko "Look Out" whereupon Butchko tried to take evasive action, but was unable to avoid being struck by the black BMW. That impact tore the Mercedes bumper off as the BMW continued down the street a little further stopping in the middle of 12th Street, with a crowd gathering around it. Mr. Ellsworth stated he got out of the car, immediately dialed 911 and ran down the street to check on the officer laying in the middle of the street. Mr. Ellsworth walked down 12th Street towards where the BMW was and saw a large crowd of people around the car demanding for the driver to stop and get out. Mr. Ellsworth said the woman behind the wheel suddenly took off at a

high rate of speed “flooring it and accelerating as fast as she could at the officers coming up 12th Street from Washington Avenue.” As soon as Mr. Ellsworth tried to render aid to the officer on the ground, he immediately heard 4-5 gunshots being discharged, but did not see where they came from. Finally, Mr. Ellsworth stated that a few seconds after the gunshots, he heard the BMW crash down the street into another vehicle.

Elijah Dean was interviewed by Detective C. Perez (30-7444) on October 9, 2017 and stated the following: Mr. Dean stated he was working as a bartender that night at the Cleveland Hotel and was walking up to the hotel to start his shift when this all happened while he was standing out on the sidewalk at Collins Avenue and 12th Street. Mr. Dean saw a black BMW driven by a black female with a black male passenger come westbound down 12th Street and crash into the front end of a black Mercedes in the middle of the intersection at 12th Street and Collins Avenue. At that point, the male front seat passenger jumped out of the BMW and appeared to be injured by the impact with the black Mercedes. The female driver of the BMW stopped her car in the middle of the street after she struck the Mercedes and a crowd of approximately 30-35 people gathered around her. An individual from one of the hit and runs around the corner on Ocean Drive came running around the corner trying to alert people and nearby police officers that the black BMW was fleeing the scene of an accident that had just occurred. Mr. Dean stated that when an officer walked up on the driver’s window and started knocking on the glass to get the driver out of the car, the driver “hit the gas and took off slamming into another police officer.” The officer who shot at the driver of the BMW was standing close behind the other officer, maybe three feet away on the driver’s side of the BMW. Mr. Dean stated he heard two gunshots and recalled the officer who shot at the car “shot from his right hip level – like a quick reaction.” After the gunshots, the BMW sped down the street and veered off to the left slamming into a large white vehicle parked at the end of the block on 12th and Washington Avenue. Mr. Dean also stated he saw officers pull the girl from the driver’s seat of the BMW after the crash and start performing emergency CPR on her.

It should be noted that this witness stated that the male who jumped out of the black BMW after it had impacted black Mercedes, had “jumped back into the BMW” and was in that vehicle as the shots were fired into the car. This was contrary to all the other reports by various witnesses and police officers on this scene who all consistently reported that this black male had jumped out of the BMW after striking the Mercedes and never re-entered it.

Santosh Shetty was interviewed by Detective Mike Parmenter (30-5708) on October 9, 2017 and stated the following: Mr. Shetty is the owner of Bombay Grill located on 2nd Avenue & 12th Street near where this incident occurred. Mr. Shetty stated that he saw what he believed to be two civilians taking Miami Beach Officers around the corner over to the scene of this hit and run. Mr. Shetty saw a large crowd gathered around a black BMW down the street and then saw the driver take off and eventually hit a white SUV parked down the street. The other information provided by Mr. Shetty was somewhat vague, but he estimated the speed of the black BMW as being very fast at what he said looked like “60 MPH” as it smashed into the parked SUV.

Felipe Xique was interviewed by Detective C. Perez (30-3139) on October 9, 2017 and stated the following: Mr. Xique is the General Manager at Osteria del Teatro inside the Marlin Hotel at the corner of Collins Avenue and 12th Street. Mr. Xique stated he heard the black BMW crash into the black Mercedes right outside his restaurant. When this occurred, Mr. Xique ran outside to see if people were ok. Mr. Xique stated the female inside the BMW refused to come out of the car, and was seemingly signaling to the male passenger who jumped out at time of impact, to get back in the car. Mr. Xique described the male looking like he was high or “like there was something in him...he was not acting right.” Mr. Xique said he was standing momentarily in front of her car while the police officers came up the block towards the BMW. Mr. Xique stated he then stood to the side of the BMW and then the girl behind the wheel “stepped on the gas and ran over the officer who had been standing near him in front of the BMW.” Mr. Xique stated he heard three gun shots right away as the BMW passed by us like – boom-boom-boom coming from a second officer standing behind the one that was hit by the BMW. Mr. Xique was standing close to both of these officers prior to the driver hitting the gas and striking the police officer. Mr. Xique said “the BMW sped off, hitting the officer and then drove down 12th Street veering to the left and into the parked white car at the end of the block.” Mr. Xique stated that at police request, he checked the cameras positioned outside his restaurant, but they were not operating at the time the incident occurred.

Carlos Herrera - interviewed by Detective C. Perez (30-3139) on October 9, 2017 and stated the following: Mr. Herrera works in Real Estate and lives in North Miami-Dade. Mr. Herrera was standing at the corner of 12th and Ocean Drive and saw a black BMW rear-end a large white truck that then chased the BMW after the accident (along with a brown truck) around the corner towards Collins Avenue. Mr. Herrera also stated he saw the driver of the BMW strike the black Mercedes in the intersection of 12th and Collins. After that impact, Mr. Herrera saw the driver of the BMW go a little further down the street and

stop in the middle where crowds of people started surrounding the car. Mr. Herrera described seeing the male front seat passenger get out of the BMW, but thought he may have gotten back into the car at some point. There was some uncertainty by Mr. Herrera as to how many times the front seat passenger got in or out of that vehicle. Herrera saw Miami Beach Officers walking up on the BMW telling people to get back and yelling at the female behind the wheel to get out of the car. Mr. Herrera was standing right there within feet of the car and saw the driver hit the gas and accelerate right into the police officer. He was also standing near the shooting officer positioned behind him somewhere in the eastbound lane of 12th Street. After the gunshots, Mr. Herrera saw the black BMW head down 12th Street and crash into a white Toyota 4-Runner and officers running down the street to take the driver out of the vehicle to perform CPR on her. Mr. Herrera believed he heard 4-5 gunshots.

Carlos Sacerio – interviewed by Detective C. Perez (30-3139) on October 8, 2017 and stated the following: Mr. Sacerio stated that at approximately 6:15P.M. that Sunday he was at a street side restaurant on Ocean Drive at 12th Street called the “Sugar Factory.” While there, Mr. Sacerio observed a black female driving a black BMW crash into the rear of a white pick-up truck in front of the restaurant near the intersection of 12th Street and Ocean Drive. Mr. Sacerio then saw the driver of the black BMW reverse from the white pick-up truck and flee around the corner, westbound on 12th Street towards Collins Avenue. Mr. Sacerio also observed a black male sitting in the BMW next to the black female before it went around the corner out of sight.

Victor Suarez – (driver of the white pick-up) was interviewed the following day (October 9, 2017) by Detective Thelwell (30-5359) at his work location at the Snapper Creek Service Plaza. Mr. Suarez stated he was on South Beach with his wife and eleven-year-old son driving down Ocean Drive and were stopped at a pedestrian crosswalk close to 12th Street and Ocean, letting people walk cross when suddenly they were struck from behind by a black BMW. After the BMW hit them, the car reversed and pulled around them fleeing around the corner of 12th Street and Ocean Drive. Mr. Suarez pursued the BMW around the corner and discovered it had slammed into a black Mercedes Benz in the middle of the intersection at Collins Avenue and 12th Street. Mr. Suarez pulled in behind the BMW that had come to a resting point just west of the Collins intersection and walked up to the driver’s side window to ask the young lady “what her problem was.” At that point, the male front seat passenger jumped out of the vehicle ‘cradling his arm’ as if hurt from the intersection crash at Collins Avenue. Mr. Suarez stated at that point a large crowd of people had formed around the BMW while police officers were walking up 12th Street from Washington

Avenue. Mr. Suarez reported to one of the officers on the scene what had just taken place with the black BMW back on Ocean Drive, and then started to walk back towards his truck. As he turned to walk away, he heard several gunshots, but did not actually see the shooting take place or the officer get struck by the BMW moments before.

MIAMI BEACH POLICE PERSONNEL INTERVIEWED

Officer David Cajuso (#02-1135) was interviewed on October 17, 2017 by Detective Armando Gonzalez (30-8117) and stated the following: On the day of the incident, Officer Cajuso was assigned to the Redevelopment Area Squad or ("RDA Unit"). Officers in RDA wear a modified uniform consisting of black pants with a blue polo shirt with Miami Beach Police insignia on the left and right shoulders. Over the blue shirt they also wear a black vest with a Miami Beach badge and Miami Beach Police insignia on the front and back. Officer Cajuso was wearing his police body camera at the time which recorded him being struck by the BMW, going up in the air and falling on the street.

Officer Nelson Gonzalez (#02-996) – interviewed by Detective Michael Parmenter (30-5708) on 10/8/17 at the Miami Beach Police Department and stated the following: Officer Gonzalez was riding a two-person unit with Officer Villamar when the calls go out pertaining to the black BMW. When they responded to the area of 12th Street and Washington Avenue, they walked up on a fellow officer conducting an investigation patting someone down on the sidewalk when people standing around them started pointing up 12th street to a large gathering of people around a black vehicle in the middle of 12th Street. Officer Gonzalez, his partner Officer Villamar, Officer Otto Lopez and Officer Jose Perez all began walking up 12th Street towards the black vehicle and commotion in the street. Officer Gonzalez stated he observed a lot of people standing around a black BMW in the middle of the street. As they got closer to the commotion, Officer Lopez began yelling for people to stand back and get away from the BMW. Officer Gonzalez stated he and Officer Perez approached the car on the driver's side and he could see through the windshield a female face sitting behind the wheel. Officer Gonzalez stated as he approached the driver's window to tell her to turn the car off and step out, "she just floored it stepping on the gas accelerating forward in a westbound direction at a high rate of speed." Officer Gonzalez further stated "he saw the vehicle strike Officer Cajuso causing him to fly upward over the hood of the vehicle up into the air and down onto the street with a thud." Officer Angulo who was positioned on the driver's side of the BMW, stepped back and fired at the vehicle as it passed by him. Officer Gonzalez stated he ran behind

the black BMW along with Officer Perez as it headed westbound on 12th Street towards Washington Avenue, and saw it careen to the left and strike a parked vehicle at the end of the block. Officer Gonzalez approached the vehicle on the passenger side with Officer Perez on the driver's side. Officer Perez unbuckled and pulled the female driver out of the vehicle and placed her onto the sidewalk nearby and commenced emergency resuscitation efforts. Officer Gonzalez stated as several officers were dealing with the driver on the pavement, he ran back to Officer Cajuso lying in the street and saw that someone had placed a cervical spine collar on him as fire rescue units were enroute for both the female driver and Officer Cajuso.

Officer Jose Perez (02-1088) was interviewed by Detective Armando Gonzalez (30-8117) and stated the following: Officer Perez was also assigned to the Redevelopment Area or ("RDA Squad") at the time of this incident. Officer Perez and his partner, Officer Lopez, were patrolling in a police vehicle in the area of Washington and Drexel at the time of this incident. As the emergency signal went out, they sped to the corner of Washington and 12th Street where they saw a fellow Miami Beach Officer interviewing a detainee on the east side of Washington Avenue. Officer Perez stated as he and Officer Lopez approached that officer interviewing the detainee, they were flagged down by several pedestrians as to what was occurring up the street towards Collins Avenue on 12th Street. One of those pedestrians identified themselves as having just been involved in a hit and run with the subject black BMW up the street. At that point, Officer Perez stated he and his partner walked eastward towards the BMW in the middle of 12th Street with a crowd of people around it. Officer Perez approached the BMW at the driver's side window yelling at the driver several times to "put the car in park" and "step out of the car!" Although the vehicle's windows were up, Officer Perez stated the female driver made direct eye contact with him as he approached and stood at the driver's side door. Officer Perez grabbed the driver's side door handle to try and open the car while continuing to tell the driver to get out. However, even while the driver acknowledged Officer Perez visually, she refused to unlock the door or get out of the car. Suddenly, as Officer Perez has his hand on the driver's side door handle, the female driver hit the accelerator and the vehicle took off at a high rate of speed right towards Officer Cajuso, who was also walking up towards the car. Officer Perez stated he observed Officer Cajuso get struck by the BMW and lifted upward into the air. As the female driver in the BMW hit the accelerator, Officer Perez was yelling at people to "get out of the way!" Officer Perez stated he heard about three (3) gunshots at that time, but did not see who was doing the shooting. Officer Perez stated he ran after the black BMW down the street and observed the vehicle veer left and strike a parked white SUV on the eastbound lane of 12th Street at Washington

Avenue. As Officer Perez ran to the driver's side of the vehicle, he opened the door and observed the female slumped or leaning to the right. Officer Perez leaned her back into the driver's seat as she remained seat-belted and checked for a pulse. At that time, Officer Perez noticed some white smoke coming from the hood of the car so he unbuckled the driver and pulled her out and onto the sidewalk where he started emergency medical chest compressions. Fire Rescue arrived soon thereafter and took over. Officer Perez stated he also assisted with getting the female driver up onto a stretcher and into the Fire Rescue truck, and stayed there with the black BMW to help secure the scene.

Officer Traci Sierra (#02-690) was interviewed by MDPD Det. Thelwell (30-5359) on October 9, 2017 and stated as follows: Officer Sierra has been a Miami Beach Officer for 18 years. On the day of this shooting incident, Officer Sierra stated she was working an off-duty Columbus Day Weekend event on bike patrol and was a few blocks away at the time the call went out regarding the black BMW. Officer Sierra stated that when she and her partner arrived at the intersection of 12th Street and Washington Avenue, she observed a fellow officer dealing with someone he detained at that street corner. While standing there, she was flagged down by several individuals who alerted her to an altercation up the block and pointed out a black vehicle surrounded by a lot of people further up 12th Street towards Collins Avenue. Officer Sierra stated as she and other officers began walking towards the black vehicle, she could see right front corner damage to the BMW and a lot of people on each side of the car. Officer Sierra also stated she could hear the vehicle's engine revving loudly as they walked up the block in that direction. Officer Sierra stated that as she approached the front of the car in the middle of the street, she walked up on the car telling civilians to back up and get out of the street. Suddenly, the driver hit the accelerator and proceeded at a high rate of speed in a westward direction. She recalled seeing Officer David Cajuso in the street walking up towards the car and stated, "when the car took off, I remember yelling David and then saw him slightly jump upward off the ground up in the air and come down on the BMW's hood with his head striking the windshield, and then fall onto the pavement as the driver passed by going down 12th Street." Within seconds, Officer Sierra recalled hearing multiple gunshots (at least three), but did not see who was shooting. However, as Officer Sierra looked up, the only officer that had his firearm out was Officer Angulo. At that point, Officer Sierra saw the black BMW that struck Officer Cajuso speed down 12th Street and careen into a parked white vehicle at the intersection of Washington and 12th Street. Once that impact occurred, Officer Sierra turned her full attention to Officer Cajuso on the ground who was gasping for breath as it appeared he was injured and had the wind knocked out of him. Officer Cajuso was bleeding and had several lacerations and could not talk at the time. Officer Sierra stated that while

Cajuso was on the ground, he kept pointing to his body camera on his chest indicating his camera was on at the time. Officer Cajuso's Sergeant was also standing there at the time and removed his body camera and made sure it was downloaded so they could see what occurred from Officer Cajuso's perspective. Officer Sierra stated she was not issued a body camera at the time of this incident.

Officer Otto Lopez (#02-1091) was interviewed on October 8, 2017 by MDPD Det. Thelwell (30-5359) and stated as follows: Officer Lopez stated that when he arrived on the scene, he joined Officer Tavaris Smalls (#02-1037) in dealing with a gentleman they had detained down the street from where this commotion was occurring in the street. While standing there assisting Officer Smalls, Officer Lopez was approached by a Latin male who stated someone had hit his car and was trying to leave the scene as he pointed up the block towards the crowd in the middle of 12th Street. Officer Lopez stated he and other officers headed up the street towards the crowd in the middle of the street. As Officer Lopez approached the BMW, he could see that Officer Perez was at the driver's side door trying to make contact with the female driver while he (Officer Lopez) was telling civilians to get back and away from the BMW. Officer Lopez further stated he could see Officer Cajuso walking towards them. Within seconds Officer Lopez saw the black BMW accelerate at a high rate of speed away from the crowd surrounding it travelling westward striking Officer Cajuso as he walked up on the car. Officer Lopez saw Officer Cajuso go upward towards the hood of the vehicle and then fall to the street on south side (driver's side) of the vehicle. Officer Lopez then heard 2-3 gunshots, but did not see who discharged their firearm. Officer Perez chased the black BMW down the street on foot after those shots were fired. Officer Lopez stated he saw Officer Perez make contact with the female driver of the BMW and remove her from that vehicle to render emergency aid. At some point, Officer Lopez went back up 12th Street to where Officer Cajuso was on the ground being tended to by Officer Sierra. Officer Lopez stated he was not issued a body camera at the time of this incident.

SHOOTING OFFICER MICHAEL ANGULO (02-1052)

Officer Michael Angulo had been with the Miami Beach Police Department for five (5) years at the time of this shooting incident, and was a member of the K-9 Unit for the previous two years. Just prior to this shooting, he was on-duty at the time this call went out and he responded to the scene. At the suggestion of Fraternal Order of Police (F.O.P.) counsel, Officer Angulo declined to provide a proffer or statement to MDPD regarding the facts of this shooting. MDPD Detective Michael Parmenter (30-3149)

was present when Officer Angulo was processed by MDPD Crime Scene Detective Wayne Watkins (30-1359) inside the Miami Beach Police Department. During this processing, Officer Angulo identified his service weapon used in this shooting as a Smith & Wesson MP 40 Caliber (Serial No.: DWY7264). The firearm was found to have one round in the chamber and 12 in the magazine along with two additional magazines fully loaded with 15 rounds each secured to his utility belt. Officer Angulo volunteered that his routine at the beginning of each shift is to have a 15-round clip in his firearm along with one extra cartridge in the chamber for a total of 16 rounds in all. This information was consistent with what was reported by witnesses as hearing three gunshots at the time, and the three (3) 40 caliber Speer casings being found on 12th Street by MDPD crime scene detectives processing the scene. As seen in Officer Angulo's body camera, he walked up 12th Street (East to West) trailing other MBPD Officers towards the large crowd gathered around the black BMW. Suddenly, when the BMW pulled away from the crowd and accelerated towards Officer Cajuso, Officer Angulo can be seen stepping back towards the driver's side as the vehicle passed in front of him discharging three rounds into the car, one round striking the driver in the head.

CRIME SCENE INVESTIGATION

Miami-Dade Police Department Crime Scene Detectives Wayne Watkins, Frederick Van Loan and Ashlee Clay were requested by Lead Homicide Detective Michael Dominguez to respond out to Miami Beach to 12th Street and Washington Avenue to process a police shooting scene. The scene started at Collins Avenue (runs north to south) and 12th Street (runs east to west). In the middle of Collins and 12th Street facing north was a four-door black Mercedes Benz E350, owned and operated by former MDPD Homicide Detective John Butchko. That black Mercedes had sustained extensive front end damage. Travelling west from that intersection along 12th Street, three (3) Speer 40 caliber casings were located lying on the roadway just east of Collins Court and marked as #1, #2 & #3. Casing #1 was lying on the south side of 12th Street, a few feet away from the southbound sidewalk; #2 was also located on the south side of 12th Street near #1, but was physically resting on the sidewalk. However, #3 was located on the north side of 12th Street consistent with accidentally being kicked across the street at the time of the incident. Officer Angulo's 40 caliber Smith & Wesson was discharged three times from the driver's side of the vehicle, a few steps back as the black BMW passed by. All three of the casings should have been located relatively close to each other towards the south side of 12th Street as a result of the same ejection pattern of the 40 Caliber Smith & Wesson. Finding a third casing discharged from Officer Angulo's firearm on the other side of 12th Street is consistent with someone having accidentally kicked the casing

from its original resting place to a position across the street in a northerly direction. MDPD Crime Scene Lead Detective Wayne Watkins and MDPD Lead Detective Mike Dominguez agree with this assessment.

Ms. Hithon's black BMW struck a white Toyota 4-Runner SUV that was parallel parked on 12th Street, facing east towards Collins Avenue. The BMW had extensive front end damage from striking the SUV, as well as, residual damage to the left side of the vehicle from the impact with Butchko's vehicle in the middle of Collins and 12th Street moments before. Looking at the windshield, crime scene detectives documented an impact crack in the top center edge of the front windshield. There was also two projectile holes on the left side of the vehicle; one in the lower section of the driver's A-Pillar (*vertical supports of a car window area*) and one through and through projectile hole located in the lower portion of the driver's side door frame that lodged in the driver's rocker-arm panel (*Rocker Panels are located along the sides of the vehicle between front and rear wheel well just below the doors*) Looking into the BMW at its crash location, crime scene detectives observed the front seat airbags deployed and drops of blood on the driver's seat cushion.

Lying next to the BMW on the sidewalk was the driver's side door glass window with dark tinting holding it together. Along the trailing edge of the window, detectives located an apparent through and through projectile hole. There were also two cell phones and two wallets in the backseat floor area behind the driver's seat that belonged to Ms. Hithon and Mr. Lucas. Standard identification and other miscellaneous items associated with each were found in the two wallets. The BMW was later towed on a flatbed to an MDPD storage facility in the north end of the county for further analysis and documentation.

As the crime scene on South Beach was being photographed, documented and collected, crime scene detectives responded to the Miami Beach Police Station to process the shooting officer, Michael Angulo. Officer Angulo's MP 40 Caliber Smith & Wesson service weapon (Serial No.: DWY7264) was photographed and collected along with the thigh mounted holster the weapon was secured in prior to use. The slide of the firearm was in a forward position. In the chamber was one Speer 40 caliber cartridge and the 15-round capacity magazine contained 12 cartridges. The two extra fifteen round capacity magazines on the Officer Angulo's duty belt were fully loaded. Gunshot Residue testing was also collected from Officer Angulo's hands at 22:50 hours on the day of the shooting, as well as, from Ms. Hithon at the Ryder Trauma Center per standard operating procedure.

Once it was learned that Ms. Hithon had passed away at the Ryder Trauma Center, Crime Scene Detectives responded to the medical center to process and photograph Ms. Hithon in Trauma Room T-119. See Medical Examiner section of this report for further medical information on Ms. Hithon. Photographs were also taken of Officer Cajuso at the Trauma Center, documenting the abrasions and bruises on his back, neck and left side as a result of being struck by the vehicle earlier in the evening.

All photographs of the scene, the injured officer and the deceased driver have been made part of the permanent record of this investigation along with the various officers' body camera recordings and cell phone recordings provided by civilian witnesses. All police body-cam videos and civilian video in this investigation have been viewed by the detectives and the undersigned as part of this police shooting investigation and are consistent with detailed descriptions set forth in the reports and sworn statements herein. The two primary body cameras that captured this scene as it occurred were the cameras on Officer Angulo (X81051116) and Officer Cajuso (X810449369).

The MBPD Officers below wore body cameras at the time of this incident:

Sergeant Joseph Gonzalez 02-1049

Sergeant Michelle Sayegh (02-783)

Officer Gustavo Villamil (02-1003)

Officer Vincent Timiraos (02-1045)

Officer James Mercier (02-726)

Officer Victor Palacios (02-1139)

Officer Gustavo Blacio (02-1052)

Officer David Cajuso (02-1135)

The MBPD Officers below did not wear body cameras at the time of this incident:

Officer Traci Sierra (02-690)

Officer Robert Montesinos (02-792)

Officer Robert Sabatier (02-007)

PROCESSING THE BLACK BMW

The black BMW driven by Ms. Hithon at the time of this shooting incident was towed to a North Miami-Dade County storage facility for further processing by MDPD Crime Scene Detectives. A consent to search was executed on this rental vehicle and was then processed as part of this police shooting investigation. Severe collision damage was documented along the front end of the vehicle and along the left driver's side. As noted on the original scene, a projectile hole was located on the left front pillar of the window support post on the driver's side. No projectile was recovered from that location. A second projectile hole was located on the lower driver's side door panel. The projectile penetrated through the driver's door coming to a rest in the driver's floorboard doorjamb. That projectile was recovered and placed into evidence. Both the steering wheel and right side upper airbags were deployed. The driver's seat was found in a forward position with a pair of sunglasses lying on the driver's side floorboard. In the left rear floorboard area behind the driver's seat is a woman's brown purse, two cell phones, a prescription bottle, two packets of pills, clothing and a beige wallet containing an undetermined amount of US Dollars. On the front floorboard were two empty metal drinking containers along with two blue and white plastic bags.

MEDICAL EXAMINER

On October 10, 2017 at 9:30 AM, Dr. Mark Shuman performed the autopsy of Cariann Hithon under Medical Examiner Case No.: 2017-02979. An entrance-type 1.5 centimeter by 1.5 centimeter penetrating gunshot wound was found 2¼ inches below the top of Ms. Hithon's head and 2¾ inches to the left of midline in the left posterior scalp. No soot or stippling was associated with the wound. Interior hemorrhaging was noted around the interior entrance site of the projectile. The projectile travelled through the left parietal lobe and the left and right basal ganglia. A medium caliber jacketed projectile was recovered from within the inferior aspect of the right frontal lobe. The direction of the path of the wound is back to front, left to right and downward. There were linear fractures observed within the brain at the right sphenoid, temporal and frontal lobe, as well as, in the right orbital roof. Ms. Hithon's cause of death was a penetrating gunshot wound to the head. Ms. Hithon's manner of death was homicide. Upon autopsy, it was discovered that Ms. Hithon's blood alcohol content level was 0.179 or twice the legal limit in the State of Florida of 0.08. Despite small amounts of prescription drugs being found in the BMW, Ms. Hithon tested negative for drug screens that were done as part of her autopsy.

ANALYSIS OF FACT AND LAW

In order to properly evaluate the actions of any police officer in determining if actions taken during a police shooting incident were reasonable and ultimately legally justified under the law, all known facts and circumstances must be reviewed to see if a conclusion can be reached based on those facts, circumstances and the reasonable inferences that can be drawn. In this investigation, Officer Michael Angulo MBPD (02-1052) declined to give a sworn statement to investigators after the shooting incident. Such a statement would have certainly assisted in providing first-hand information about his own actions and state of mind. However, the facts provided by civilian and police officer witnesses in the form of sworn statements, and the surrounding circumstances were examined closely in an attempt to reach a conclusion about the tragic killing of Cariann Hithon and whether Officer Angulo was legally justified in shooting Ms. Hithon after she had accelerated into and struck Officer Cajuso.

Based upon the interviews of all civilian and police witnesses in this investigation the following can be determined: Early Sunday evening October 8, 2017, Ms. Hithon and her friend, Ryan Lucas, had just left the Carlyle Café, located at 1250 Ocean Drive, in her rental black BMW 328i, and immediately became involved in minor traffic accidents striking a parked car as she pulled out from her parallel parking spot on Ocean Drive near the Sugar Factory. Ms. Hithon then rear-ended a white pick-up truck at the intersection just north of 12th Street and Ocean Drive. Based on sworn witness statements, we know Ms. Hithon backed up from the white pick-up she just rear-ended and then fled around the corner onto 12th Street, heading towards Collins Avenue. As she passed full speed through the red light at that intersection, she struck a black Mercedes 350E driven by former Homicide Detective John Butchko. Ms. Hithon's BMW came to a rest a small distance east of that intersection where a civilian crowd gathered around and converged on the BMW, pounding on the vehicle, yelling at the driver to get out. At this exact same time, Miami Beach Officers who had heard the emergency calls going out regarding the hit and runs were also converging on foot, bike and police vehicle to where the crowd had gathered around the black BMW on 12th Street. The front seat passenger, Mr. Lucas, jumped out of the BMW at that location and was holding his arm as if injured from the accident in the Collins Avenue intersection. Miami Beach Officers who were positioned at Washington Avenue at 12th Street began making their way on foot up the block towards this BMW stopped in the middle of the street with a crowd gathering around it. Other Miami Beach Officers also made their way to the car yelling for the civilians gathered around it to step back and away

from the car. Officer Perez literally stood at the driver's side door yelling through the closed window at Ms. Hithon to turn the car off and get out of the car.

Unfortunately, Ms. Hithon ignored officers' commands to turn the car off and get out and accelerated the BMW quickly forward going westbound down 12th Street, striking Officer David Cajuso as he approached the vehicle causing him to go airborne up onto the vehicle's hood and windshield and land on the street. Officer Angulo, who was also positioned on the driver's (south side) of the vehicle, stepped back, pulled his service weapon from his thigh holster and fired three (3) rounds at the driver of the BMW struck Officer Cajuso and passed by in front of him. Two shots missed and entered a window support and a driver's side door jamb, but the third bullet entered Ms. Hithon's head immediately rendering her semi or fully unconscious as she headed west on 12th Street, veering out of control slamming into a parked white SUV at the end of the block. Officers chased the BMW on foot down the block and pulled her from the vehicle so emergency aid could be attempted. Despite such attempts to resuscitate, Ms. Hithon was rushed to Ryder Trauma Center and pronounced dead soon after her arrival.

From Mr. Lucas' sworn statement regarding his activities with Ms. Hithon on the day of this police involved shooting, we learn that a good amount of alcohol was consumed by both Ms. Hithon and Mr. Lucas that Sunday. Mr. Lucas discussed his "pre-drinking efforts" at the apartment earlier in the day, as well as, the consumption of marijuana and a trip off South Beach to a nearby beer festival after which they returned to the Carlyle Café on Ocean Drive, where a receipt of their order was obtained by investigators. Whatever alcohol was in Ms. Hithon's system after the beer festival, but prior to this series of events that spun out of control, add to that a 36-ounce frozen drink at the Carlyle Café that she ordered and consumed within one hour of the shooting. Obviously, no one knows if she finished that 36 oz. drink before departing Café Carlyle, but we do know she registered a 0.179% BAC at time of autopsy which is consistent with consumption of that drink and other drinks during the course of the day prior to the shooting incident. Mr. Lucas's told MDPD detectives that he felt "highly intoxicated" coming out of Carlyle Café. While Mr. Lucas made no comment as to Ms. Hithon's intoxication that day during his sworn statement, the blood alcohol level in Ms. Hithon at time of autopsy was .179 or twice the legal limit in Florida. It is against this backdrop of typical alcohol consumption and partying on South Beach by these two young people that form the backdrop to a series of tragic events that led up to the shooting of Ms. Hithon by Officer Angulo.

There is no question that Ms. Hithon was extremely impaired at the time she made the decision to accelerate away from the crowd in the middle of 12th Street, striking Officer Cajuso, prompting Officer Angulo to fire at her inside the BMW. While impaired, Ms. Hithon drove the BMW carelessly and recklessly resulting in a series of hit and run accidents on Ocean Drive, along with the full speed impact accident with Mr. Butchko's Mercedes in the intersection of Collins Avenue and 12th Street, as she tried to flee the area. Her decision to pull away and accelerate from the crowd gathered around her vehicle striking Officer Cajuso, all played important and significant roles in the unfortunate shooting of Ms. Hithon. Under these circumstances, with this many people on the streets of South Beach at the time of these hit and runs, and particularly at the moment in time when the large group of people surrounded her vehicle momentarily stopped in the street, it is appropriate and reasonable for police officers to be fearful of civilian injury or death as a result of being struck and run over by Ms. Hithon's BMW.

Safety concerns for individuals on the sidewalks along 12th Street, as well as, individuals physically in the street gathered around the black BMW before it took off striking Officer Cajuso, were paramount to the Miami Beach Police Department during this dangerous scenario; a scenario that could have involved multiple pedestrian injuries and/or even additional deaths as a result of Ms. Hithon driving her BMW at high speed in an impaired and reckless manner. Thankfully, no other civilians were injured or killed from being struck by the Hithon BMW. However, it is under those considerations, at that precise moment in time, that one must view Officer Angulo's decision to un-holster his service weapon and fire at Ms. Hithon after she accelerated away from the crowd and struck Officer Cajuso.

Officer Angulo acted in a split second to try and defend and protect the citizens of Miami Beach on 12th Street, by neutralizing the threat Ms. Hithon and her speeding BMW posed to people on the streets that day. From all accounts, there were easily 40-50 people gathered around the BMW after the hit and runs had occurred. Many of the people in the crowd gathered around the momentarily stopped BMW had just witnessed the highspeed impact at 12th Street and Collins Drive with the Butchko Mercedes. They knew with their own eyes what a danger the driver of the BMW presented to everyone in the area. It must also be remembered that Officer Perez literally stood at her driver's side window screaming at Ms. Hithon to turn off the vehicle and get out, but to no avail, as she hit the accelerator and sped forward into Officer Cajuso.

For those who would opine that Miami Beach Police Officer, Michael Angulo, could have, or should have shot the tires of the BMW to try and stop and/or limit this dangerous situation, experts in the field of police procedure would agree that makes as much sense as trying to shoot someone in the arm or leg as opposed to shooting center mass as that person advances on them. The same principle applies here - when a police officer has made the decision pull a service weapon from his or her holster and discharge rounds into a driver of vehicle posing an extreme danger to others in the immediate area, that officer acts to eliminate that danger in as quick a manner as possible. In this case, under these unique circumstances, Officer Angulo acted within the confines of Florida Statute section 776.012 when he chose in a split second to protect and serve the citizens of Miami Beach.

CONCLUSION

The role of the State Attorney in this investigation and in conducting this review is limited to determining whether a criminal violation of Florida law had occurred, whether any person may be held criminally responsible, and whether such criminal responsibility can be proven beyond a reasonable doubt in a court of law. The State Attorney does not establish law enforcement agency policy, procedures, and training requirements. Nor does the State Attorney have any responsibility for determining disciplinary action or pursuing civil litigation in these matters. In other words, given the applicable law, the State Attorney's role is to determine whether the actions of City of Miami Beach Police Officer Michael Angulo (#02-1052) constituted a criminal act that can be proven beyond and to the exclusion of a reasonable doubt.


The actions of Ms. Hithon in fleeing from two hit and run accidents on Ocean Drive and running the red light at Collins Avenue crashing into the Butchko Mercedes demonstrated a complete lack of regard for the safety of others around her. When that BMW sat in the middle of 12th Street, just after that collision with dozens of people banging on the car and its windows demanding the driver exit the vehicle and get out, Ms. Hithon had the ability at that moment to quell the situation and comply, but she chose not to. When police officers like Officer Perez stood at the driver's side window of the BMW and made the same demand to turn the vehicle off and exit the car, Ms. Hithon again had the ability at that moment to quell the situation and comply, but she chose not to. Unfortunately, Ms. Hithon chose to sit there in the middle of the street revving her engine, refusing to obey officer commands to turn the car off and get out, and then accelerating away striking Officer Cajuso. When Ms. Hithon chose to try and flee from her predicament on 12th Street, she again created a reasonable and well-founded fear by police that someone

would either get hit and/or run over by her driving that BMW in a reckless, careless and impaired manner. At that moment in time, when Ms. Hithon chose to hit that accelerator and speed off from the crowd into Officer Cajuso, she armed herself with a dangerous weapon (the BMW) and posed a significant danger to both officers and civilians in the immediate area. In turn, that danger justified Officer Angulo's actions in un-holstering and firing his service weapon to try and reduce or eliminate the present danger Ms. Hithon presented to those around her on 12th Street.

Florida Statute section 776.012 gives any person the right to use deadly force in order to protect him or herself or others from a reasonable threat of imminent death or great bodily harm or to prevent the imminent commission of a forcible felony, such as an aggravated battery or attempted murder with a vehicle. Law enforcement officers have been given the additional right to use deadly force in section 776.05 in making arrests, preventing the escape of the arrestee from custody, arresting a felon who is fleeing justice and/or when the officer reasonably believes the fleeing felon poses a threat of death or serious physical harm to the officer or others.

Based upon the circumstances outlined in above, it is the opinion of the undersigned that the shooting of Cariann Hithon by Officer Michael Angulo of the Miami Beach Police Department while extremely tragic, was justified under the facts and circumstances and by law under Florida Statute Sections 776.012 and 776.05.

PREPARED BY:



ASSISTANT STATE ATTORNEY
JOSHUA WEINTRAUB

ASSISTANT STATE ATTORNEY
LUIS PEREZ-MEDINA