



STATE ATTORNEY

ELEVENTH JUDICIAL CIRCUIT OF FLORIDA
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KATHERINE FERNANDEZ RUNDLE
STATE ATTORNEY

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April 10, 2019

Pedro W. Taylor, Chief of Police
Florida City Police Department
404 W Palm Drive
Florida City, FL 33034

Dear Chief Taylor:

Enclosed is our final report regarding the investigation into the police-involved shooting of Juvon Leroy Simon on May 30, 2018. The officer involved in this incident was Detective Frantz Hardy (#16-0536).

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,

A handwritten signature in black ink, appearing to read "Katherine Rundle", written over a horizontal line.

KATHERINE FERNANDEZ RUNDLE
State Attorney

KFR:iah

cc: Listed Officer(s)
Florida City Police – Professional Compliance Unit
Det. Daniel Aiken, MDPD
Sgt. Steadman Stahl, PBA
Andrew Axelrad, PBA
Robert Senior (AUSA)
Troy Walker (FDLE)

Enclosure



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INTEROFFICE MEMORANDUM

TO: KATHERINE FERNANDEZ RUNDLE DATE: APRIL 9, 2019
State Attorney

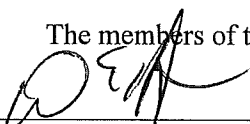
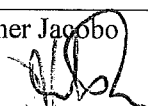
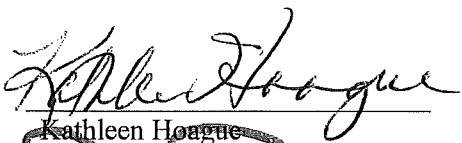
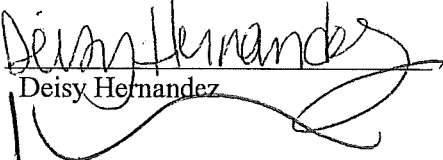
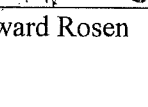
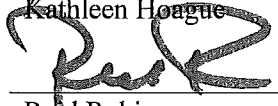
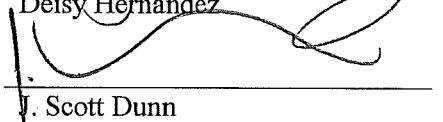
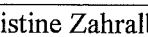
FROM: STAFFING/REVIEW TEAM RE: POLICE SHOOTING CLOSEOUT MEMO
SAO CASE: 62/18/05/30/012
DECEASED: SIMON, Juvon Leroy

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 Detective Frantz Hardy and two other detectives were making citizen contacts, on an unrelated police matter, when Detective Hardy noticed Juvon Leroy Simon walking in the area. Mr. Simon appeared to be concealing a large item in his pant waistband and refused to follow police commands to stop and show his hands.

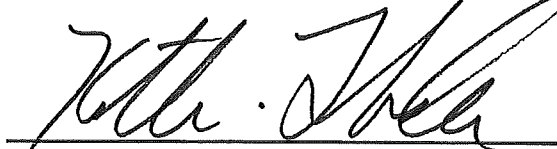
Mr. Simon walked away from the Detectives and attempted to enter the back door of an apartment. Mr. Simon continued to disregard police commands and at one point, retrieved what appeared to be a firearm from his waistband. Subsequently, Detective Hardy discharged his firearm, fatally wounding Mr. Simon.

Based on the subject's actions and statements from Detectives Leza and Terry, it is reasonable to believe that Detective Hardy feared for his life and considered it necessary to use deadly force to prevent injury to himself and possibly others. Therefore, we find that per Florida Statutes 776.012(2) and 775.05(1), Detective Frantz Hardy (#16-0536) acted lawfully and 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	 _____ Esther Jacobo	 _____ Kathleen Hoague
 _____ Deisy Hernandez	 _____ Howard Rosen	 _____ Reid Rubin
 _____ J. Scott Dunn	 _____ Christine Zahralban	

Approved by State Attorney on this 11 day of April, 2019.



KATHERINE FERNANDEZ RUNDLE
State Attorney





INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: APRIL 9, 2019

FROM: GAIL LEVINE
Assistant State Attorney
Senior Trial Council

RE: POLICE SHOOTING CLOSEOUT MEMO
Case # PD180530198683

OFFICER(S) INVOLVED:	Detective Frantz Hardy (#16-0536), Florida City Police
DECEASED:	Juvon Leroy Simon
INJURIES:	Multiple Gunshot wounds
DATE & TIME:	May 30, 2018 Approximately 1:11 P.M.
LOCATION:	1406 NW 2 nd Avenue, Apartment #4, Florida City, FL 33034
WEAPON:	Glock 23 .40 Caliber semiautomatic [Detective F. Hardy]
LEAD:	Detective Z. Khan 30-4969, MDPD
CASE #:	PD 180530198683 ME 2018-01601
SAO CASE #:	62/18/05/30/012



SYNOPSIS

Detectives from the Florida City Police Department (herein after referred to as FCPD) were in the area conducting investigations when they encountered JUVON SIMON of 155 NW 14 Street, Florida City, Florida, (herein after referred to as Mr. Simon). Mr. Simon appeared to be concealing a large item in his pant waistband. DETECTIVE FRANTZ HARDY, ID #0536, of the FCPD and DETECTIVE AURIZ LEZA #0509 of the FCPD attempted to make contact with Mr. Simon, who failed to comply with orders and continued to walk away from detectives. Mr. Simon approached 1406 NW 2 Avenue, Apartment #4, Florida City, Florida, (herein after apartment #4) and produced a firearm from his waistband. DETECTIVE HARDY then discharged his firearm striking Mr. Simon as the door to the apartment opened and Mr. Simon entered. Miami-Dade Fire Rescue (MDFR) arrived on scene, assessed Mr. Simon's condition and he was pronounced dead on the scene.

CRIME SCENE

The outside crime scene is located in Florida City in an area where there are several rows of two-story apartment buildings. Each apartment building is parallel to the other. NW 2nd Avenue is located on the east side of the row of apartment buildings. The back door to Apartment #4 is facing a backyard consisting of dirt and grass. Located in the back yard are three (3) Speer 40 S & W casings. The back door to Apartment #4 opens outward.

The inside scene is located at 1406 NW 2nd Avenue. Apt. 4, Florida City, as well as the back yard of that property. The building itself contains four (4) two-story apartment homes that face south. Apartment #4 contains two bedrooms and two bathrooms. It is noted that the apartment is in disarray according to Crime Scene Detective A. Jordan. The back door of the residence is noted as ajar by Detective Jordan. The back door has what appears to be two through-and-through gunshot holes in close proximity to each other, emanating from the outside portion of the door through to the inside portion of the door. No projectiles are recovered from the door itself. These two holes appear to be entrances from projectiles.

Inside Apartment #4, immediately inside the back door, is a kitchen. There are various kitchen items noted. There is a bathroom off the kitchen area where a dog was found alive in a box.

Mr. Simon was located inside Apartment #4, lying on his back with his legs propped onto a child's carseat. A firearm was located to the west of Mr. Simon. This firearm is a 9mm pistol with its serial number obliterated. The firearm has one Tulammo 9mm Luger cartridge inside the chamber.

There is a table along the north wall near the back door. Located on the table among other items is a car battery. A Wolf 7.62X39 cartridge is on the floor. There are various car tires and rims also noted. On the table which is described as round, there is \$1121 in US Currency,

a Haitian flag wrapped around a large capacity magazine containing 25 cartridges (23 FC 9mm Luger; 2 Tulammo 7.62X39). There are various other items including food, cups and clothing.

A black Century Arms AK rifle model RAS47, 7.62X39 bearing serial number RAS47090294, is located leaning against the refrigerator. The rifle has a 30-round capacity PMAG 30 7.62X39 magazine containing 14 cartridges (2 Wolf 7.62X39 & 12 Tulammo 7.62X39).

The rest of the interior of the house is unremarkable.

Mr. Simon was wearing a white T-shirt and trousers with a noted projectile hole on the left chest area and four (4) holes in his trousers on the left side.

DETECTIVE HARDY'S duty Glock 23 firearm was collected with eleven (11) cartridges in the magazine.

POLICE STATEMENTS

Detective Auriz Leza ID 0509 has been a police officer for ten (10) years at FCPD. On the afternoon of May 30, 2018, he along with Detective Terry and Detective Hardy, were making citizen contacts on an unrelated police matter. The police car driven by Officer Leza was parked on NW 2nd Avenue. After making a citizen contact, the three detectives walked back to their unmarked police car. Once they got back into their unmarked police car, Detective Hardy pointed out Mr. Simon walking in the area while holding onto something in his crotch area that appeared to be very heavy. Both, Detectives Hardy and Terry, knew Mr. Simon from a previous encounter, but Detective Leza did not know him. Detective Hardy told Detective Leza, who was driving, to put the car in reverse in order to get a better view of Mr. Simon. By then, Mr. Simon had walked into the alleyway behind the apartment building, located at 1406 NW 2 Avenue, Florida City, Florida.

Detective Leza stopped the vehicle directly east of the alleyway and got out of the vehicle along with Detective Hardy. Based on their training and experience, Detective Hardy and Detective Leza drew their weapons for their safety. The officers walked west through the alleyway between the apartment buildings and identified themselves as police officers. Both he and Detective Hardy instructed Mr. Simon to stop and to show his hands. Mr. Simon looked at them and appeared to make eye contact, but he ignored their instructions and continued to walk toward Apartment #4.

Detective Hardy continued to yell "Police. Stop. Let me see your hands." Mr. Simon did not comply and continued to go toward the back door of Apartment #4. According to Detective Leza, the apartment door (herein referred to as the back door) appeared to be locked and Mr. Simon began to bang on the back door extremely hard. As he banged on the back door, it appeared to Detective Leza that Mr. Simon reached again for his crotch area.

Believing Mr. Simon had a gun, again, the Detectives shouted the same command. "Stop. Let me see your hands." Again, Mr. Simon failed to comply. Detective Leza saw Mr. Simon retrieve a dark item from his waistband, which appeared to be a firearm. Detective Leza stated that Detective Hardy then shouted, "He's got a gun!" Detective Hardy was in front of Detective Leza, and Detective Hardy discharged his firearm approximately two times according to Detective Leza.

Detective Leza stated that it appeared simultaneously, as Detective Hardy began to discharge his firearm, the back door swung open and Mr. Simon disappeared inside the residence. The back door began to close when it was grabbed by Detective Hardy to keep it open. Detective Hardy and Detective Leza then positioned themselves on either side of the back door.

After that, Detective Leza and Hardy entered the apartment. They saw Simon lying on the floor. Mr. Simon appeared to be shot. Detective Leza stated that he heard someone else inside. That person was later identified as Breon Lester. Detective Leza directed Lester back inside the apartment. Both Detectives Leza and Hardy went upstairs where they secured more people. Upon returning downstairs, both Detectives noticed a large gun, described by Detective Leza as what appeared to be an AK-47 near the refrigerator. They both also saw there was also a 9mm pistol near Mr. Simon.

Detective Leza and Detective Hardy attempted to give Mr. Simon first aid. They propped his feet on top of a child's car seat they located nearby. They also began to search Mr. Simon for their safety. They found an extended magazine wrapped in a Haitian Flag inside his waistband. Both flag and magazine were placed on the dining table.

Detective Leza stated that when he saw Mr. Simon knocking at the back door frantically, he believed that Mr. Simon was pulling a gun out of his pants. He believed that his life and the life of Detective Hardy were in danger.

Detective Leza gave a sworn statement to Police after the shooting.

Detective Marcus Terry ID 522, has been a Police Officer with FCPD for nine (9) years. Prior to that he worked for the State Department of Corrections for eight (8) years. Detective Terry's current position is a Property Crimes Detective in the General Investigations Unit. Prior to investigating property crimes, Detective Terry was assigned as a Person's Crime Investigator. Detective Terry has been a detective for approximately two years.

On Wednesday, May 30, 2018, at approximately 1:11 p.m., Detective Terry was riding in an unmarked police car with Detective Leza and Hardy. Detective Leza was driving his vehicle, Detective Terry was riding in the front passenger seat, and Detective Hardy was riding in the rear passenger seat. The three detectives were driving to various places throughout Florida City, looking for subjects on cases that they were investigating. During their route, as they began to look for different subjects, they found themselves in the area of NW 14 Street and NW 2 Avenue. According to Detective Terry, as they were heading south on NW 2 Avenue,

approaching NW 14 Street, they observed a female sitting on the porch of a nearby apartment building preparing what he believed to be a marijuana cigarette. Detective Hardy had a brief contact with her, but did not find any drugs or contraband. Detective Leza and Terry were also out of the car acting as back-up. At this time, as they all started to return to the car, Detective Hardy stated, "There goes your boy." Detective Terry asked "Who" and Detective Hardy responded "Juvon." Detective Hardy had recently arrested him for being involved in a shooting incident. Further inquiry was made on March 26, 2019 of Detective Terry concerning what he knew about Mr. Simon prior to the day of this shooting. Detective Terry stated under oath that a month or so previously, he had arrested Mr. Simon for attempting to shoot at a victim. The victim had not cooperated with the filing of the charges and the case was not filed. After the case was dismissed, that same victim called Det. Terry again and stated that Mr. Simon had come to his home and had fired shots into his home. Detective Terry stated that knowing those additional facts gave him grave concern that Mr. Simon was carrying a concealed firearm in his pants on this day. He also knew that Mr. Simon did not have a concealed firearms license.

Detective Terry stated that he had previously shared the information about the previous case with others in the police department including Detective Hardy and Detective Leza.

After seeing Mr. Simon walking holding something large in his crotch Detective Leza stopped the car and Detective Hardy got out of the car and called out to Mr. Simon "Don't go into that apartment." It was then that Detective Leza got out of the car and began to follow Detective Hardy. Detective Terry remained in the car.

Detective Terry observed that Mr. Simon continued to walk, while clearly ignoring Detective Hardy's commands. When Mr. Simon approached the back door of Apartment #4, he attempted to open it; however, it appeared as if the back door was locked, and he was initially unable to make entry into the apartment.

Detective Terry exited the car from the front passenger side and lost sight of what was transpiring; however, Detective Terry heard Detective Hardy yell, "Don't do it. Drop it." Immediately after, Detective Terry advised he heard approximately four gunshots.

Detective Terry then took a tactical position behind the car and began maneuvering in a tactical manner. Detective Terry then began to approach the apartment from the back door where Detective Hardy and Leza had entered. He heard one of them say, "go to the front door!" Detective Terry went around the building to the entrance of the apartment on the other side and went to the front door. At that time, he encountered a black male trying to leave Apartment #4. Detective Terry prevented him from leaving the apartment. He then monitored the front door to make sure that no one left the apartment. He called for emergency backup police. When the backup police arrived, Detective Terry went inside the apartment. He noticed what appeared to be a large black handgun which he described as a "Tech 9" approximately 3-5 feet from Mr. Simon toward the refrigerator. Detective Terry began to assist in rendering first aid. He also searched Mr. Simon and found an extended magazine

wrapped in a Haitian flag inside Mr. Simon's waistband as well as a wad of money in the front pocket of his pants. He placed both items on the dining table in the apartment.

Detective Terry gave a sworn statement to Police after the shooting.

DETECTIVE FRANTZ HARDY chose not to give a sworn statement.

CIVILIAN WITNESSES

BREON LESTER, DOB 8/22/99, was identified and found on June 1, 2018, by police. Lester had been previously secured by police at Apartment #4 immediately after the shooting. Although police believed his presence was secured, Lester left the scene prior to being interviewed by homicide detectives. When he was located on June 1, 2018, he was interviewed and gave a sworn statement to homicide Detective P. Camacho of the Miami Dade Police Department (MDPD).

Lester recounted that on May 30, 2018 he was in Apartment #4, being with his friends. He identified his friends as Beatrice and John. (Beatrice and John have been identified as Beatrice Patterson and Keith Grier.) Lester stated he knew Mr. Simon as "Von". He has known Mr. Simon for about a year's time and knows that he is often in Apartment #4.

Lester stated that after being in the apartment for the morning hours, he left to get a snack. While out in the neighborhood, Lester saw Detective Hardy. He knows Detective Hardy because Detective Hardy has previously arrested him. Lester said that Detective Hardy was with one white detective and one taller, larger black detective. He knew they were all police because he knew Detective Hardy and the others wore their guns on their waist. He stated that he saw them talking to a female and going through her purse.

Upon his return, he entered the apartment. He stated the back door was open. He stated he did not lock it. He encountered another friend leaving the apartment named James Villanueva. Villanueva, he said, left through the front door. Lester stated that he told Villanueva that the cops were in the area. Lester said at that time he sat down on the couch. He then heard some yelling and heard "Stop" He may have also heard "Don't do it."

He stated at that point Mr. Simon, "snatched the doorknob" and "burst" into the house through the back door. He heard two shots. He then jumped up from the couch. At that point, he saw Villanueva come back into the house through the front door. Both he and Villanueva went upstairs where he saw Beatrice and Keith. The police commanded that they come back downstairs. Lester said they complied.

Lester stated that he walked out of the apartment through the back door and saw Mr. Simon. He further stated that he did not see the rifle found in Apartment #4 or the 9mm handgun. Further he said that the apartment is just a place where they hang out. That he did not know of any illegal activity that is conducted in Apartment #4.

Lester stated that after he was escorted out of the apartment by Detective Hardy, he was told to go home. After some discussion, during his sworn statement, Lester admitted seeing Mr. Simon's photograph on FACEBOOK holding a Tec-9. Additionally, on his own phone's screen saver is a photograph of himself, Mr. Simon and another male, all holding handguns.

James Clemont, was interviewed at the scene. He refused to stay for a sworn statement with police. During his interview on the scene, Detective A. Gilliland reported that Clemont was unwilling to be interviewed and remained uncooperative.

Clemont stated that he knew Mr. Simon and was speaking to him in the grassy area near Apartment #4. He stated he saw the three detectives walking toward the area. Clemont stated he walked away and heard gunshots. He did not see the shooting. He stated that he presumed it was the "white" officer who did the shooting.

Beatrice Patterson and **Keith Grier**, were both interviewed at the scene. Both stated they were upstairs in Apartment #4, lying in the bed when they heard gunshots. Neither saw the shooting. Both appeared to be the individuals who normally occupied the apartment.

James Villanueva, was identified and days later located in custody on an unrelated matter at the Homestead Police Department. He refused to cooperate with this investigation.

Video surveillance footage obtained from the apartment complexes' leasing company has been reviewed. It does not show the shooting.

LATENT FINGERPRINT REPORT

Jennifer Hackett of the MDPD Crime lab analyzed all 13 items of Evidence to determine if there were any latent fingerprints of value. None of the items had any latent of value.

TRACE EVIDENCE- (GSR)

Gunshot Residue Evidence (GSR) was analyzed by Criminalist Michael Shannon of the MDPD Crime Lab. GSR evidence collected from Mr. Simon was positive for Primer Particles. GSR Evidence collected from Detective Hardy were insufficient to formulate an opinion.

FIREARMS ANALYSIS

John Mancini Firearms Examiner from the MDPD Crime Lab analyzed the ballistic evidence. He found the .40 Caliber Glock (Detective Hardy's gun) to be in good working order.

A 9mm A.A. Arms Inc. pistol, model AP-9, serial number 023429, with one (1) live 9mm cartridge was found to be in good working condition.

A 7.62x39mm Century Arms rifle, model RAS47, serial number RAS47090294, with one (1) magazine and fourteen (14) live 7.62x39mm cartridges was found to be in good working condition.

He further analyzed three (3) .40 caliber casings and stated that he could determine that the casings were from Detective Hardy's gun. Mr. Mancini opined that three of the four projectiles, obtained from the Medical Examiner's office during the autopsy of Mr. Simon, "could have" been fired from Detective Hardy's gun. The fragment was likely a part of one of the other three projectiles and was too damaged for any comparison value.

MEDICAL EXAMINER

On Thursday, May 31, 2018, Associate Miami-Dade County Medical Examiner Dr. Kenneth Hutchins performed an autopsy on Mr. Simon, under M.E. case number 201801601. At the conclusion of the autopsy, Dr. Hutchins determined the cause of Mr. Simon's death to be gunshot wounds and ruled the manner of death a homicide.

Mr. Simon suffered three (3) gunshot wounds all to the left side of his body. Gunshot wound, labeled as Gunshot wound of the left chest, is located 15 inches below the top of the head and 6 inches to the left of the anterior midline. There is no soot or gunpowder residue associated with this gunshot. The projectile entered the left side of the chest and into the thoracic cavity, fracturing the fourth rib then entering the lung, the pericardial sac and pulmonary artery and through the heart into the right lung and fifth rib. The projectile was removed from the soft tissue area. The projectile trajectory is front to back and left to right.

The second gunshot is labeled Gunshot wound of Lower Left Abdomen. The entrance of the projectile was into the lower lateral abdomen 27½ inches below the head and 8 inches from the anterior midline. There is no evidence of soot or gunpowder. This projectile perforates and fractures the upper left iliac bone and rests in the sacrum where the projectile was removed. The trajectory is left to right.

The third gunshot wound is labeled, Gunshot wound of the Left Hip. The projectile entered the left hip 31 inches below the top of the head and 7½ inches from the anterior midline. There is no evidence of soot or gunpowder. The projectile perforated the left hip and fractures the iliac bone, perforating the rectum. The projectile was recovered from the soft tissues of the pelvis. The trajectory is left to right.

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 has 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 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 Officer Frantz Hardy constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt.

Detective Hardy had a reasonable suspicion that Mr. Simon was armed with a gun based on his experience and the circumstances. He was familiar with Mr. Simon prior to the shooting and had arrested him previously on cases involving shootings. Detective Hardy's own words, shouted to Detective Leza and Detective Terry, were that he believed Mr. Simon had a gun. Based on this, he was legally allowed to ask Mr. Simon to stop in order to conduct a pat down search, a *Terry stop*. *Terry v Ohio*, 393 U.S. 1 (1968).

According to Detective Leza, Mr. Simon saw the Detectives and failed to obey the command to STOP. Detective Leza and Detective Terry saw Mr. Simon retrieve a dark item from his waistband, which appeared to be a firearm. Detective Hardy yelled "He's got a gun."

"A person is justified in using or threatening to use deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony." Florida Statutes 776.012(2).

Since only two gunshots appear to have gone through the back door, the crime scene evidence and trajectory of the gunshots appear that the door opened after Detective Hardy began to fire. This is also supported by the fact that Detective Hardy fired three (3) shots in succession and only two projectiles entered the door.

Pursuant to Florida Statutes 790.01(2), a person (unauthorized) who carries a concealed firearm commits a third-degree felony. Mr. Simon was carrying a firearm concealed prior to reaching for the firearm. He was therefore subject to a lawful arrest.

Detective Hardy, in attempting to determine whether Mr. Simon was carrying a concealed firearm, was justified in attempting to stop Mr. Simon. Since Mr. Simon did not comply with Detective Hardy's lawful commands to stop and Detective Leza's statements that Mr. Simon reached for what appeared to be a firearm, Detective Hardy was justified pursuant to Florida Statute § 776.05 (1) which states:

A law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. The officer is justified in the use of any force:

- (1) Which he or she reasonably believes to be necessary to defend himself or herself or another from bodily harm while making an arrest;

Therefore, based on the facts and circumstances, case law and statutes, the shooting of Mr. Simon is legally justified

Prepared by:


Assistant State Attorney