



INTEROFFICE MEMORANDUM

TO: KATHERINE FERNANDEZ RUNDLE DATE: AUGUST 28, 2018
State Attorney

FROM: STAFFING/REVIEW TEAM RE: POLICE SHOOTING
CLOSEOUT MEMO

CASE #: FDLE MI-27-0064

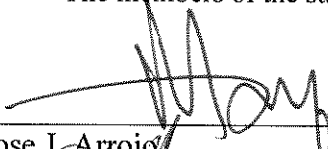
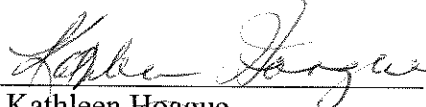
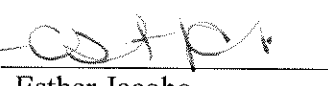



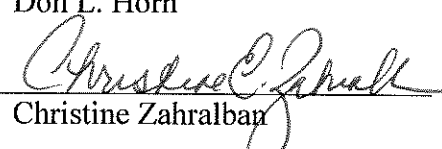
INJURED: ALVAREZ, Manuel

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 Mr. Manuel Alvarez had stabbed his ex-wife and fled the scene. While the police were working this scene, Mr. Alvarez drove back to the scene and struck the rear of Officer Aguilera's police vehicle. Officer Aguilera confronted the subject, who refused to follow commands to drop the knife he was carrying. When Mr. Alvarez continued toward Officer Aguilera, Officer Aguilera fired his service weapon twice, injuring the subject.


Considering Mr. Alvarez' menacing actions, it is reasonable to believe that Officer Aguilera considered it necessary to use deadly force to prevent injury to himself and others.

We find that Officer Michael Aguilera (01-42986) was legally justified in the use of force by firing his weapon.

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

 _____ Jose J. Arrojito	 _____ Kathleen Hoague	 _____ Esther Jacobo
 _____ Don L. Horn	 _____ Frank Ledee	 _____ Reid Rubin
 _____ Christine Zahralban	Responding Member of Shooting Team	Responding Member of Shooting Team

Approved by State Attorney on this 13 day of Sept, 2018.



KATHERINE FERNANDEZ RUNDLE
State Attorney





INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: AUGUST 28, 2018

FROM: DAVID I. GILBERT
SENIOR TRIAL COUNSEL

RE: POLICE SHOOTING CLOSEOUT MEMO
Case # SAO #62/17/05/23/009

OFFICER(S) INVOLVED:	MICHAEL AGUILERA MPD 01-42986
INJURED:	MANUEL ALVAREZ (DOB 10/18/82 34 YOA)
INJURIES:	GUNSHOT WOUND TO RIGHT SHOULDER
DATE & TIME:	MAY 22, 2017 AT 10:40 P.M.
LOCATION:	105 SW 16 TH AVENUE, MIAMI, FL 33135
WEAPON:	SMITH & WESSON .40 CALIBER GLOCK SER #MIA2350
LEAD:	CONFESOR GONZALEZ FDLE 76-10050
CASE #:	FDLE-MI-27-0064 MPD- 170523-167125
SAO CASE #:	SAO #62/17/05/23/009



SUMMARY

On May 22, 2017, Manuel Alvarez attacked his ex-wife, Zuramis Rubio-Gonzalez, on the street in front of 115 SW 36th Avenue, Miami. Several people witnessed at least a portion of the attack in which Ms. Rubio-Gonzalez received stab wounds to her abdomen and buttocks, and defensive wounds to her hands. Manuel Alvarez fled the scene after threatening one of the witnesses with the knife when the witness tried to intervene. Fire Rescue responded to the scene along with officers of the Miami Police Department and Crime Scene Units.

A few hours later, at about 1:30 A.M. on May 23rd, police were still on the scene performing crime scene functions. Manuel Alvarez returned to the scene, causing his car to strike the right rear bumper of City of Miami Police Officer Michael Aguilera's police vehicle in the process. There was a confrontation between him and Officer Aguilera. Several Officers heard Officer Aguilera twice order Manuel Alvarez to drop his knife before they heard two gunshots. Officer Alexander Mena was sitting in his patrol car when Officer Aguilera ordered Mr. Alvarez to drop his weapon. He turned and saw Manuel Alvarez with a knife in his hand in close proximity to Officer Aguilera. When Alvarez took two steps toward Officer Aguilera, Officer Aguilera fired his service weapon twice. Manuel Alvarez suffered a gunshot wound to the shoulder. During attempts to render aid, the officers noted that Mr. Alvarez also had slash marks to his wrists that appeared to be the type that are self-inflicted. When Mr. Alvarez's car was searched, there was blood on the steering wheel, console and driver's seat that would not have been as a result of the shooting that took place outside the car.

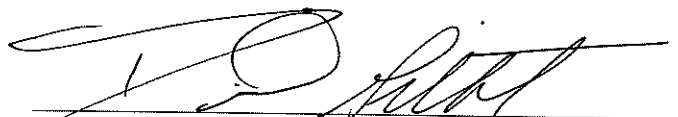
CONCLUSION

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 Michael Aguilera constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt.

I reviewed the Florida Department of Law Enforcement Investigative Summary into the Police Use of Force in this incident. I also reviewed the sworn statements, crime scene reports, firearms lab report, and other evidence compiled by FDLE under FDLE Case Number MI-27-0064. I also considered the proffer of testimony made through the attorney of Officer Michael Aguilera. I found the FDLE summary to be complete, thorough and consistent with the audio recordings of the witness statements taken on the day of the incident as well as consistent with the photographs at the scene. I adopt and attach that Investigative Summary hereto and offer my conclusion based on the results of my review.

It is very clear that Manuel Alvarez was in a very violent state of mind during the late night hours of May 22, 2017, and the early morning hours of May 23rd. He committed an Aggravated Battery on Zuramis Rubio-Gonzalez, and Aggravated Assaults on several other civilians. At the time of the shooting, he was committing an Aggravated Assault on Officer Michael Aguilera. Section 776.012, Florida Statutes, permits the use of deadly force when a person believes such force is necessary to prevent imminent death or great bodily harm to himself or another or to prevent the commission of a forcible felony. Further, Section 776.05, Florida Statutes, permits a law enforcement officer to use any force that he believes is necessary to defend himself or another from bodily harm while making an arrest. Based on these statutory provisions I find the shooting by City of Miami Police Officer Michael Aguilera to be legally justified.

Prepared by:



Assistant State Attorney