



INTEROFFICE MEMORANDUM

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TO: KATHERINE FERNANDEZ RUNDLE      DATE: MARCH 27, 2018  
State Attorney

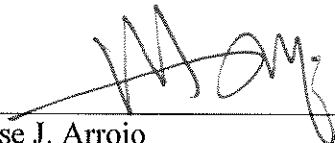

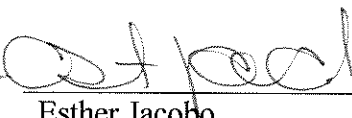
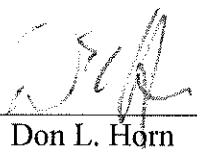
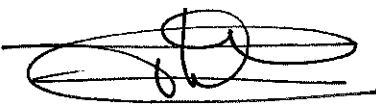
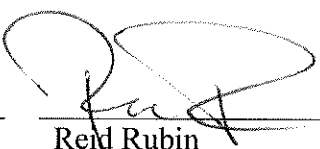

FROM: STAFFING/REVIEW TEAM      RE: POLICE SHOOTING  
CASE#: PD170610219053  
FDLE MI-27-0066  
DECEASED: BRENDECKE, Theodore

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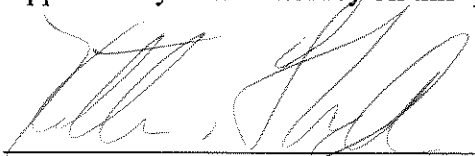
Based on the information obtained and reviewed during the course of the investigation, the conclusion of the staffing/review team is the following: The investigation has determined that because of alcohol intoxication or psychological issues, Mr. Brendecke could not be reasoned with. Considering Mr. Brendecke's threatening actions and refusal to put his gun away, the shooting officer was justified in using deadly force to prevent injury to himself and/or others in the immediate area.

We find that Officer Diego Castro's use of force in firing his weapon was legally justified.

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

 _____ Jose J. Arrojo	 _____ 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 29 day of March, 2018.

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





INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: MARCH 27, 2018

FROM: DAVID I. GILBERT  
SENIOR TRIAL COUNSEL

RE: POLICE SHOOTING CLOSEOUT MEMO  
Case # 62/17/06/10/003

OFFICER INVOLVED:	DIEGO CASTRO, MDPD 30-4933
DECEASED	THEODORE BRENDHECKE 6/17/1934
INJURIES:	GUNSHOT WOUNDS
DATE & TIME:	1:00 A.M. JUNE 10, 2017
LOCATION:	12700 SW 82 <sup>ND</sup> AVENUE, PINECREST, FLORIDA
WEAPON:	.223 REMMINGTON 5.56 COLT RIFLE, MI642 COMMANDO SER. NO A0192139
LEAD:	FDLE - JASON RAVENEL 76-1333 MDPD - RICHARD RAPHAEL 30-3531
CASE #:	FDLE - MI-27-0066 MDPD - PD170610219053
SAO CASE #:	62/17/06/10/003



## SUMMARY

At approximately 11:45 P.M. on June 10, 2017, the Pinecrest Police Department 911 emergency line received a phone call from a woman, later identified as Esperanza Brendecke, complaining that her husband was drunk, that he had been fighting with her, and that she wanted someone to take him away. She gave her address as 12700 SW 82<sup>nd</sup> Avenue. In a follow up phone call a few minutes later the same woman advised that her husband was in his room with a gun. She further advised that when she told her husband that she was going to call the police, her husband told her that it was alright with him because he would get his gun and there would be a shootout. In addition, she told the operator that her husband had two guns, one that doesn't work and one that does.

Pinecrest Police units responded to the scene. The officers were able to get Mrs. Brendecke and her adult son, Frederick Brendecke, safely out of the home. The officers tried to negotiate with Theodore Brendecke who had barricaded himself in a bedroom. The attempts to get him out of his room went on for about an hour. During that time Theodore Brendecke advised the officers that he had a gun, that things were going to end badly and that someone was going to die. When the Pinecrest Officers determined that their efforts to get Mr. Brendecke out of his room were only making him more agitated, they requested that a Strategic Response Team (SRT) be called in. The Miami-Dade Police Department SRT command post was set up at Suniland Park located at SW 128<sup>th</sup> Street and South Dixie Highway. Amongst the SRT officers that responded was MDPD Officer Diego Castro. He was positioned at the rear of the home with another officer. Theodore Brendecke came to the back door of the home and opened the door with a cocked semi-automatic handgun in his hands. Officer Diego Castro fired four shots striking Theodore Brendecke in the abdomen and leg.

## WITNESSES

**ESPERANZA BRENDECKE** – Esperanza Brendecke is the seventy-eight (78) year old wife of the deceased Theodore Brendecke. She gave a voluntary sworn statement to investigators on the date of the incident. Ms. Brendecke testified that she called the police because her husband was drunk and getting “edgy”. Her husband and her son, Frederick, got into an argument. Her husband started to knock photographs off the walls of the home. When she told him to stop, he told her she could leave the house. When Ms. Brendecke told her husband that she was going to call the police, he responded to her, “Go ahead and call. I am waiting for them”. Ms. Brendecke testified that she called the police She told investigators that she called the police because she was in fear for all three of their lives.

When the police arrived, they asked her and her son to leave the residence. Theodore locked himself in his room. She testified that she told the officers not to shoot her husband because he was not a violent person. Ms. Brendecke repeatedly asked the officers if he had opened the door and was told he had not. One of the officers informed her that he was going to call in some special officers to negotiate with him. She also advised the officers that there were several firearms in the residence but that they were only for show and that there was no ammunition. The firearms were in a cabinet in the room where her husband had sequestered himself. Some time after leaving the house she heard gunshots.

Ms. Brendecke denied that her husband was ever violent with her. However, in one of the 911 calls she told the police that he had kicked her and that she had a bad bruise on her leg.

**FREDERICK BRENDECKE** – Frederick Brendecke is the son of the deceased. He gave a voluntary sworn statement to the investigators on the date of the incident. Mr. Brendecke testified to investigators that early in the morning his father was banging on his bedroom door telling him to wake up and go to work. Mr. Brendecke does not have a job, but it was his father's "crazy mentality" to do this on a regular basis. When he advised his father that he did not have a job, his father told him to get out of the house, to which Mr. Brendecke responded, "With what money? With what money?"

Mr. Brendecke said that his father was upset with him because of a television that he was trying to sell. There were frequent arguments about it throughout the day. At one point his father started to argue with his mother. He heard a "smack" and heard his mother say something about her leg being kicked. Mr. Brendecke heard his mother threaten to call the police and his father responded by saying, "If the police come there will be a gun battle". Mr. Brendecke said that he knew there was a firearm in the house and that his father kept it in a cabinet in his bedroom. The last time he had seen the firearm, a revolver, was two months ago when his father was cleaning it. Mr. Brendecke said that he had never seen his father threaten anyone with the gun.

When the police arrived, Mr. Brendecke was in his room almost asleep because he thought the incident was over. Mr. Brendecke was ordered out of the house with his hands up, made to lie on the ground and was placed in handcuffs. He was put in a police vehicle. Mr. Brendecke heard officers yelling for his father to come out. He also heard from the radio in the car that his father was considered a barricaded suspect. Mr. Brendecke said that his father did not think the people in the house were police officers. At one point, an officer told him that he would have to be moved for his safety. The officer drove him to an area where there were other police cars and a SWAT team. He did not hear or see the shooting.

**OFFICER JULIAN ACOSTA** – Officer Julian Acosta is a member of the Pinecrest Police Department. He gave a voluntary sworn statement to investigators on the date of the incident. He arrived at the Brendecke home as a backup unit. When he arrived, other officers were already talking to Esperanza Brendecke. He was present when the officers knocked on the door and ordered everyone to leave the home. Officer Acosta entered the home and was present when several officers tried to talk Theodore Brendecke out of the room he was in. Mr. Brendecke refused to exit the room and, at one point, said that, "someone is going to die tonight". When SRT arrived, he exited the home and took a position that did not allow him to see the shooting.

**OFFICER CHRISTOPHER BROWN** – Officer Christopher Brown is an officer with the Pinecrest Police Department. He gave a voluntary sworn statement to investigators on the date of the incident. Officer Brown was the primary unit dispatched to the Brendecke residence on the night of the incident. He was informed by the dispatcher that this was a domestic incident and the subject had a firearm and would use it against the police if they came inside the house. Officer checked the computer and found that another officer had been to the residence on a previous occasion and reported that there were firearms locked in a cabinet in the back bedroom.

Upon arrival at the home he spoke with Esperanza Brendecke. She informed him that her husband was drunk in the house and had been drinking all day. Mr. Brendecke told the officer that there had been nothing but problems in the house since her son had moved back in several months ago. She said that no one was hurt, but there were firearms in the room where her husband was located. Ms. Brendecke did not know if the guns worked or did not work. Officer Brown and other Pinecrest officers went to the front door of the home and ordered everyone out of the home. They knocked very loudly several times and repeated their request several times. Frederick Brendecke came out of the house looking like he had just woken up. The officers continued to knock on the door and request Mr. Brendecke to leave. They got no response.

The officers entered and located the bedroom where Theodore Brendecke was located. They tried to get him to come out of the bedroom but he refused. All three officers in the house made the request. Officer Brown could hear movement inside the room but there was no response at first. They were pleading with him to come out so they could check on his wellbeing. At one point, Mr. Brendecke told them to get out of the house because he did not know who they were. Thereafter, the police dispatcher made a call to the house and, through a conference call with officers, tried to convince Mr. Brendecke that they were the police and they just wanted to check on him and make sure he was alright. Officer Brown noticed that the more they tried to get him out, the more agitated he became. During this process Mr. Brendecke would shake the door handle like he was coming out and also said that the situation was not going to end well and that he would defend himself.

Officer Brown decided that the MDPD SRT team should be called out. He was convinced that Mr. Brendecke was not in his right mind. He remained in the home until SRT arrived. He was moved to a position where he heard shots but did not see the shooting.

**SERGEANT CHARLES DEWHURST** - Sergeant Charles Dewhurst is an officer in the Pinecrest Police Department. Sgt. Dewhurst gave a voluntary sworn statement to investigators on the date of the incident. Sgt. Dewhurst heard Officer Brown's call go out and made the decision to act as a backup unit. When he arrived at the Brendecke home he was present for the conversation between Officer Brown and Esperanza Brendecke. He heard her say that her husband was in the back bedroom and that he had both handguns and long guns in the room with him. She also told them that the son had mental problems which he was aware of because he had participated in a Baker Act proceeding involving the son in the past.

Sgt. Dewhurst went to the door with Officer Brown and Officer Perez when Officer Brown made efforts to get all of the occupants out of the house. Only the son came out of the house. The officers went to a hallway near the bedroom and attempted to get him to come out. Mr. Brendecke refused to leave the room saying that he had a gun and he would shoot anyone who came to the door. The officers talked to him for over an hour trying to get him to come out peacefully. Sgt. Dewhurst was patched into a call that Mr. Brendecke made to a dispatcher. Mr. Brendecke said he would not come out but that they could talk to him through a window. That way they could not put hands on him. Sgt. Dewhurst refused to go to a blacked-out window because of the potential danger. They continued to talk to Mr. Brendecke and continued to advise Mr. Brendecke that they did not want him or anyone else to get hurt. Mr. Brendecke said that this was going to be a Mexican standoff.

The decision was made to contact MDPD SRT and have them respond. Sgt. Dewhurst eventually was relieved by SRT and he left the house. Sgt. Dewhurst never saw Mr. Brendecke and did not see the shooting.

**OFFICER GUSTAVO FERNANDEZ** – Officer Gustavo Fernandez is an MDPD officer who is a member of the Strategic Response Team. He gave a voluntary sworn statement on the date of the incident. When he arrived at the command post, he was told to take up a position inside the house where other officers were already holding positions. He was advised that there was a subject barricaded in the house and that it was believed that the subject was in a back bedroom. Officer Fernandez entered the home and joined officers who were in a hallway leading to the back bedroom. The officers cleared the entire house to make sure there were no other subjects or civilians in the house. The officers were standing by waiting for instructions from their sergeant when the subject inside the bedroom started banging on the door of his room. Officer Fernandez communicated to him that they were Miami-Dade Police Officers and that they were there to check on his wellbeing. The subject demanded that the officers put their hands up and leave the house. When Officer Fernandez repeated his purpose for being there, the subject became very agitated and resumed his banging on the door while screaming. He was so agitated that Officer Fernandez could not make out what he was saying. Officer Fernandez decided to break off contact at that point to try to de-escalate the situation.

Officer Fernandez went back and forth between two positions within the house that gave him different vantage points of either the bedroom or a bathroom that connected to the bedroom. At one point he heard another officer who was in the backyard advise that they were not going to leave until they were sure he was alright and that he should come out. He heard the subject say something to the effect of “You better leave, if you don’t...watch what I’m going to do!” Officer Fernandez took that as a threat. Shortly thereafter, he heard shots coming from the back of the house. Just prior to the shots, he heard the subject screaming, but could not make out what he said. He did not see the shooting as he was in the hallway at the time. After the shooting, he went to the area where the subject lay and he saw a firearm on the ground with the hammer cocked back.

**OFF JOSE HERNANDEZ** - Officer Jose Hernandez is an MDPD officer who is also a member of the Strategic Response Team. When he responded to the command post he was told to go to the back of the Brendecke home with Office Diego Castro and hold their positions there. Both officers responded to the backyard where they took up separate positions. The backyard was not illuminated but there was “medium” light coming from the screened in porch.

After some time, Officer Hernandez saw a shadow cross in front of a door to the patio. The door had a wooden frame with frosted jalousie windows set into it. The windows opened and Theodore Brendecke appeared. Mr. Brendecke wanted to know who the officers were and they advised him that they were Miami-Dade Police Officers. Mr. Brendecke wanted to know what they were doing there and he was told that they were there to check on his wellbeing. Mr. Brendecke became very agitated and demanded that they leave his property. The officer told him that they would not leave until he came out and they could check on his wellbeing and make sure he was alright. Mr. Brendecke told them that it would be a “Mexican standoff”. He closed the window and his shadow could be seen going to another part of the house. Shortly thereafter, the shadow came back to the door and the door opened. Because of his position, the open door blocked his view of Mr. Brendecke. Officer Hernandez could hear Officer

Castro say something to Mr. Brendecke, but he could not remember what was said. Almost immediately, Officer Castro fired several shots. Officer Castro advised that the subject was down. Upon approach to Mr. Brendecke, Officer Hernandez saw a semi-automatic handgun on the ground with the hammer cocked back.

**DET. STEVEN KAUFMAN** – Detective Steven Kaufman is a negotiator for the MDPD Strategic Response Team. He gave a voluntary sworn statement to investigators on the date of the incident. Det. Kaufman testified that he was responsible for notifying all the other members of SRT and to negotiate with Theodore Brendecke. At the command center, he interviewed Mrs. Brendecke before getting involved in negotiation attempts. She told him that Mr. Brendecke was eighty-three (83) years old, that he was an alcoholic and had been drinking heavily for about six weeks. She said he did not have any mental issues. Ms. Brendecke told Det. Kaufman that her husband had several firearms including handguns and long guns.

Det. Kaufman's first contact with Mr. Brendecke was when he was given a phone by his sergeant because Mr. Brendecke had called the 911 dispatcher, and the call had been transferred to the sergeant's phone. When Det. Kaufman got on the phone, Theodore Brendecke demanded that the sergeant and all the other police officers leave his home. When Det. Kaufman tried to get into a dialogue with Mr. Brendecke, Mr. Brendecke became fixated on his demand that the police get out of his house. The call was terminated when, apparently, Mr. Brendecke hung up the phone. Two additional attempts were made to contact Mr. Brendecke. Both conversations were short and consisted of additional demands that the police leave the house before he would talk to anyone. Det. Kaufman was at the command post when the shooting occurred, so he did not see it or hear it.

**OFFICER VICTOR MILLAN** – Officer Victor Millan is an MDPD officer who is also a member of the Strategic Response team. He gave a voluntary sworn statement to investigators on the date of the incident. Officer Millan was stationed at the command post. At one point, he made telephone contact with Theodore Brendecke. Mr. Brendecke told Officer Millan that the police had no right to be in his home and that they had to leave. He stressed that if the police did not have a warrant they had to leave and if they did not that he would defend himself. Mr. Brendecke ended the phone call by hanging up and Officer Millan could not make contact with him again. The calls were recorded and are discussed in greater detail below.

**OFFICER JULIAN PEREZ** - Officer Julian Perez is an officer with the Pinecrest Police Department. He gave a voluntary sworn statement to investigators on the date of the incident. Officer Perez was a backup unit to the original domestic call taken by Officer Brown. When he arrived, Officer Brown was talking to Esperanza Brendecke. He heard her tell Officer Brown that her husband was drunk and that he had several firearms in the room with him. Officer Perez was with Officer Brown and Sgt. Dewhurst when they tried to talk Theodore Brendecke out of the room. He heard Mr. Brendecke refused to come out and say that things were going to end badly and that someone was going to die that night. Sgt. Dewhurst said that it did not have to end badly and that he only had to come out with his hands up. Mr. Brendecke continued to refuse to come out of the room.

At one point, Sgt. Dewhurst left the area to make a phone call. Mr. Brendecke called out to the sergeant and Officer Perez answered for him. He told Mr. Brendecke that this was just a family argument and it could all be worked out if he would just come out with his hands up and talk to them. Mr. Brendecke continued to refuse to come out. Officer Perez maintained his position in the house until MDPD SRT arrived. Thereafter he was assigned to a position on the perimeter where he heard but did not see the shooting.

### **CRIME SCENE**

12700 S.W 82<sup>nd</sup> Avenue, Pinecrest, Florida, is a single-family home on the west side of the street. It is a one story three-bedroom home. At the rear of the home is a screened patio. The master bedroom is located in the northwest corner of the home. There is an attached master bathroom that has an additional door that leads out to the patio. The door has a wooden frame with frosted jalousie windows from top to bottom. Directly outside this door investigators found a 9mm Fabrique National semi-automatic pistol bearing serial number 33078. The magazine contained 9 live rounds with one additional round in the chamber. The hammer of the pistol was in the rearward, cocked, position. Almost directly west of the door, the patio screening had four apparent bullet holes. Twenty feet west of the patio was a mango tree. Immediately south of the mango tree were four .223 rifle casings.

### **AUTOPSY**

An autopsy was performed by Dr. Kenneth Hutchins, Assoc. Medical Examiner. Theodore Brendecke suffered four gunshot wounds:

- Abdomen (2)
- Left Thigh
- Left Leg

The path of all wounds was from front to back. Projectiles were removed from each of the wounds and turned over to investigators. The toxicology report on Mr. Brendecke revealed a blood alcohol concentration of 0.159.

### **FIREARM & BALLISTICS**

Christopher Barr, Criminalist for the Miami-Dade Police Department, determined that three of the rifle casings were fired in the .223 Remington /5.56 Colt rifle taken from Officer Diego Castro. The fourth casing was damaged and Mr. Barr could only say that the casing could have been fired in the same rifle. He also determined that the 9mm Fabrique National was operational. All projectiles submitted were in damaged condition. Three were fragments of no comparison value. The fourth could have been fired in Officer Castro's rifle.



### 911 and RECORDED PHONE CALLS

Police investigators obtained recordings of a number of phone calls to the 911 emergency dispatcher. There are no time stamps on the recordings, so it is difficult to determine the exact order in which they were received. The same dispatcher answers each and every call. He does an excellent job of trying to de-escalate the situation and remains calm throughout all the phone calls.

The apparent first call is a woman giving the address of 12700 S.W. 82<sup>nd</sup> Avenue and the name of Esperanza, calling to complain that she had two crazy people with her. She said her husband kicked her and did things to her. She complained that her husband was drunk and that he had been drinking all day. Esperanza wanted the police to take him away because he had been fighting with her and her son.

The woman identified her husband as Theodore. She told the dispatcher that her husband had a gun and that he said he would have a shootout with the police. She repeatedly said that her husband was completely nuts because he had been drinking all day. The dispatcher stayed on the line until the police arrived. At the end of the call you can hear an officer in the background calling for people to come out of the house.

A man called the 911 emergency dispatcher to advise that there were people in his house. He said he had a gun in his hand and that it was cocked and loaded. He warned that he was going to protect himself and that he wanted the people out of his house. He stated that he was not coming out and if anyone breaks through his door he is going to shoot them.

A phone call was made to 911 in which the caller says his emergency is at 12700 S.W. 82<sup>nd</sup> Avenue. He complained that there were people banging on his door claiming to be police. The dispatcher addressed the caller as Mr. Brendecke and he advised Mr. Brendecke that the people were in fact police. The dispatcher further advised him that the police only want to talk to him and that he should put his guns down and go outside. The caller said that he refuses to go outside and that if the police do not have a warrant they should get out of his house. He will only speak to the police if they leave his house. The dispatcher explained that Esperanza called and talked to him (the dispatcher) twenty minutes earlier and said there was a disturbance involving her son and her husband. Mr. Brendecke expressed no knowledge of any such thing. He repeated that he would not come out of the house and allow police officers to put hands on him. He continually demanded that they get a warrant. Mr. Brendecke said he had a 2<sup>nd</sup> amendment right to defend his house.

Mr. Brendecke called the dispatcher to tell the dispatcher that there were people in his house pretending to be police. The dispatcher advised Mr. Brendecke that he was calling the police and that he, a police dispatcher, was telling him that these people were in fact police officers. He told Mr. Brendecke to put his gun down and talk to the police officers. Mr. Brendecke demanded that they get a search warrant and was informed that Mrs. Brendecke let the police in. He became more agitated and repeatedly demanded they get out of the house saying he would shoot them if they came through his door. Mr. Brendecke said he would not come out because the police were going to beat him up like they did his son. Mr. Brendecke hung up the phone when the dispatcher and he got into a discussion of whether or not Mr. Brendecke had threatened to shoot police officers.

Mr. Brendecke called the 911 dispatcher to advise him that there were police in his house and that he wanted them out. The dispatcher told him that there had been a disturbance call and that they had been invited in. Mr. Brendecke told the dispatcher that he had not invited the police into his home. The dispatcher explained that Mrs. Brendecke had called the police because of a violent argument between her husband and her son. Mr. Brendecke said that he wanted the police out of his house and that he had a second amendment right to defend his house. He repeated that he wanted the police out of his house and that there was going to be a problem.

Another phone call by Mr. Brendecke had Mr. Brendecke saying that the police were still in his house. The dispatcher explained again that they could not leave the house until they spoke to him face to face. Mr. Brendecke continued to demand that the police leave his house. Mr. Brendecke became angrier and more agitated as the call continued, insisting that he (the dispatcher) had to get the police out "now!"

Mr. Brendecke placed another call to the 911 dispatcher saying that the police were still in his house. The dispatcher connected him to a negotiator who introduced himself as Victor (Millan). The negotiator told him that they meant him no harm and wanted to know why he would not come out and talk to the police. Mr. Brendecke ignored the question and continued to demand that the police get out of the house. All attempts to have a reasonable discussion with Mr. Brendecke were met with demands that the police be taken out of his house before he would talk. Mr. Brendecke became more and more agitated as the conversation continued. Eventually, Mr. Brendecke hung up on the negotiator.

Mr. Brendecke called 911 again and the call was transferred to the negotiator, Victor. Mr. Brendecke demanded to know why the police were inside his house. The negotiator tried to explain that Mr. Brendecke's wife had called the police, but Mr. Brendecke continually interrupted. He further explained that the wife and son were outside the house, which prompted Mr. Brendecke to explain that there was no need for the police to be inside his house, that they should be outside talking to his wife and son. Mr. Brendecke continued to argue that there was no need for the police, that he was armed, and that he had a right to defend his house. He became more agitated and hung up on the negotiator.

We have reviewed the Florida Department of Law Enforcement Investigative Summary regarding the Police Use of Force in this incident. We have also reviewed the sworn statements, crime scene reports, autopsy report, lab reports, 911 tapes and other evidence compiled by FDLE under FDLE Case Number MI-27-0066. We find the summary to be complete, thorough and consistent with the witness statements we participated in on the day of the incident as well as consistent with our observations at the scene. We adopt and attach that Investigative Summary hereto and offer our conclusion based on the results of our investigation and review

### CONCLUSION

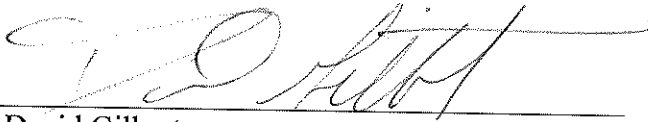
The role of the State Attorney in this investigation and in conducting this review is limited to determining whether a criminal violation of Florida law has occurred, whether any person may be held criminally responsible, and whether such criminal responsibility can be proven beyond a reasonable doubt 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 DIEGO CASTRO, MDPD 30-4933 constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt.

It is clear from the recorded phone calls that Theodore Brendecke was agitated and armed with a firearm. His wife called and informed police that he was armed with a firearm and that she feared for her life. He refused multiple efforts by police personnel to put the gun away and discuss the incident that brought the police to his house. Mr. Brendecke made repeated threats to police officers by claiming that "things would end badly" or that he would shoot anyone who came into his room. It was also apparent that because of alcohol intoxication and psychological issues that Mr. Brendecke could not be reasoned with. When Theodore Brendecke opened the back patio door carrying a handgun he presented a credible threat of death or great bodily harm to any officer on his property. Officer Diego Castro had a right use deadly force in response to that threat pursuant to Fla. Stat. 776.012(2) and 776.05(1).

Therefore, it is my opinion that the shooting of Theodore Brendecke by Officer Diego Castro was legally justified.

Prepared by:



David Gilbert  
Assistant State Attorney



Esther Jacobo  
Assistant State Attorney