



INTEROFFICE MEMORANDUM

TO: KATHERINE FERNANDEZ RUNDLE  
State Attorney

DATE: APRIL 28, 2020

FROM: STAFFING/REVIEW TEAM

RE: POLICE SHOOTING CLOSEOUT MEMO  
CASE # 62/19/06/25/007  
DECEASED: GONZALEZ, Daniel Angel

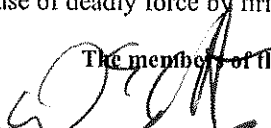
Based on the information obtained and reviewed during the investigation, the conclusion of the staffing/review team is the following: City of Miami Police Officers were dispatched regarding a woman having been stabbed by her husband, and a child being inside the apartment. Several officers responded to the scene with body-worn cameras. Upon arrival, loud verbal police commands to open the door were given, but the subject did not comply. A female voice screaming for help could be heard from inside the apartment. Police attempts to break down the door were not successful. Unexpectedly, the apartment door opened, and a female covered in blood came out and was escorted to safety. This female explained that her husband (Daniel Angel Gonzalez) stabbed her in the neck with a knife and was threatening to kill himself.

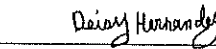
Gonzalez refused to come out and show his hands, despite police commands to do so, which were given in Spanish and in English. Four officers entered the apartment with weapons drawn, including Officer Acuna who led with a body shield. As the officers neared Gonzalez' location in the house, Gonzalez' voice was recorded on the BWC as saying something to the effect of "I'll kill you guys" in Spanish. Officer Acuna's voice was also recorded saying that the subject had a gun and telling the subject to let it go, as the officers retreated down the stairs and out of the apartment.

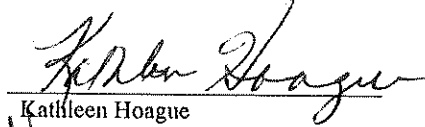
Testimony indicates that Gonzalez came down the stairs with what appeared to be a revolver and refused to follow police commands, given in English and Spanish, to put the gun down. Subsequently, shots were fired in a what appears to be a sequence of four times, where commands were given and shots were fired. Gonzalez was holding what proved to be a GamoB-77 revolver pellet gun but upon visual inspection appeared to be a firearm. Fire Rescue responded and transported Gonzalez to the hospital where he was pronounced deceased.

Considering the subject's actions, it is reasonable to believe that the officer involved considered it necessary to use deadly force to prevent injury to himself and others or to effectuate an arrest. Thus, based on the evidence compiled and pursuant to Florida Statute 776.012 and 776.05, we find that Officer Carlos Acuna (01-00025) 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


  
Deisy Hernandez

  
Kathleen Hoague

  
Stephen W. Talpins

  
Howard Rosen

  
Scott Dunn

  
Christine Zahralban

Approved by State Attorney on this 13 day of May, 2020.

  
KATHERINE FERNANDEZ RUNDLE  
State Attorney



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: APRIL 28, 2020

FROM: MICHAEL VON ZAMFT AND  
ALICIA PRIOVOLOS  
Assistant State Attorneys

RE: POLICE SHOOTING CLOSE-OUT MEMO  
CASE # MI-27-0112

OFFICER INVOLVED:	OFFICER CARLOS ACUNA (01-00025)
DECEASED:	DANIEL ANGEL GONZALEZ
INJURIES:	PENETRATING GUNSHOT WOUNDS ON RIGHT BACK AND ON RIGHT FLANK PERFORATING GUNSHOT WOUND ON RIGHT ARM AND LEFT FOOT SUPERFICIAL INCISED WOUNDS ON NECK, LEFT UPPER CHEST, LEFT WRIST
DATE & TIME:	JUNE 25, 2019 9:15 AM
LOCATION:	385 SW 37 <sup>th</sup> AVENUE, APARTMENT #5, MIAMI, FL 33135
WEAPON:	ONE GLOCK 22, .40 CALIBER FIREARM, SERIAL NUMBER MIA1306 (OFFICER CARLOS ACUNA) GAMO B-77 REVOLVER PELLET GUN (DECEASED) KNIFE (DECEASED)
LEAD INVESTIGATOR:	S.A MICHAEL STEIN FLORIDA DEPARTMENT OF LAW ENFORCEMENT
FDLE CASE #:	MI-27-0112
SAO CASE #:	62/19/06/25/007

### **SUMMARY OF THE FACTS**

On June 25, 2019, at approximately 9:15 a.m., 911 received two calls for help. One caller indicated a female neighbor had been stabbed, possibly by her husband, and provided an incident address of 385 SW 37 Avenue in Miami, FL. Another caller reported her neighbor was locked inside an apartment and could be heard screaming; "he has a knife." This caller expressed further concern indicating there was a child inside and provided an incident address of 385 SW 37 Avenue, #5, Miami, FL. City of Miami Police Officers were dispatched in emergency mode and were provided with the above details. City of Miami Police Department Sergeant Galo Sotomayor was the first officer on scene. City of Miami PD Officers Carlos Acuna, Daniella Diaz, John Rusinque, and K-9 Officer Manny Bello arrived shortly thereafter. All officers were wearing uniforms with badges. Officers Acuna, Diaz, and Rusinque were each equipped with a body worn camera which was activated throughout this incident.

Upon arriving at the incident location, neighbors pleaded with officers to help and informed them there was a child that may be inside the apartment. Officers Acuna, Diaz, Bello, and Sotomayor approached the apartment, while Rusinque stayed downstairs holding the perimeter, at the stairs of the apartment complex. The door to apartment #5 (which is located on the second floor of the building) was closed and locked, and screams could be heard coming from inside the apartment. The screams sounded like they were coming from an adult female pleading for help. A male could also be heard. Officers knocked and gave loud commands: "Police open up!" No one opened and screams from inside the apartment continued. The officers next attempted to break down the door but were unsuccessful. The door was then unexpectedly opened from the inside and an adult female covered in blood fled the apartment. Sgt. Sotomayor intercepted her and escorted her to the first floor where Officer John Rusinque waited. The female who was very distraught, informed Rusinque her husband (Daniel Angel Gonzalez) stabbed her in the neck with a knife. The victim also explained Gonzalez threatened he was going to kill himself. Officers inquired if Gonzalez had a gun. The victim indicated Gonzalez did not have a gun. She also explained that during the altercation Gonzalez sprayed WD40 in her mouth. The victim informed Rusinque the minor child was not home. All of this information was obtained piecemeal from the distraught victim. Consequently, all this information was not immediately communicated to the other officers who stayed on the second floor of the building, outside of apartment #5.

Meanwhile, Officers Acuna, Bello, and Diaz continued to give loud verbal warnings to Gonzalez from outside of the door to come out, in both English and Spanish, while they waited for Sgt. Sotomayor to return with a body shield. After obtaining a body shield, Sotomayor returned to the apartment door and reunited with officers Acuna, Bello, and Diaz. All four officers entered the apartment through the opened door. Officers gave loud commands, in both English and Spanish, identifying themselves as police and asking Gonzalez to come out and show his hands. After the group cleared the downstairs portion of the apartment, the officers began to move to the upstairs portion of the apartment. Ofc. Acuna maintained the front position with his firearm drawn and holding a police shield, while the other officers remained behind him with their weapons drawn. As they were moving up the stairs, Gonzalez could be heard on body worn camera saying something in Spanish to the effect of "los mato" (ie: I'll kill you guys). One officer informed the others "he's saying something about killing someone." Officer Acuna can then be heard loudly saying, "he's got a gun, he's got a gun!" Acuna immediately ordered Gonzalez, "suelta!" (ie: let it go). All officers quickly retreated down the stairs and exited the apartment.

Body worn camera footage shows Sgt. Sotomayor and Ofcr Acuna at the foot of the door, looking inside the apartment. Testimony by Sgt. Sotomayor indicates Gonzalez went down the stairs to the first floor of his apartment, armed with what appeared to be a firearm. Multiple commands were given by the officers as they stood at the door, in both English and Spanish, "to put the gun down." After Gonzalez failed to comply with the commands, Officer Acuna discharged his firearm. After the first set of shots, more commands were given by Acuna to Gonzalez "to put the gun down." Gonzalez did not comply, and a second set of shots followed. This sequence of events (commands given, and shots fired) occurred in what appears to be a total of four times. During testimony, Sgt. Sotomayor recounted he observed the subject still with the gun in his hand, pointing it at officers, even after Acuna discharged his firearm. Sotomayor described being in fear throughout these events.

The body worn camera footage reveals that after the final shots were fired, an officer said, "the gun is down, the gun is down," and officers then re-entered the apartment. Ofc. Bello recounted he kicked the gun away from Gonzalez's hand and Sgt. Sotomayor began to render aid to Gonzalez. Sgt. Sotomayor ordered Diaz and Acuna to proceed to the upstairs of the apartment to clear the house, and make sure the child was not upstairs. The apartment was cleared, and no child was found. Fire Rescue personnel were called, and they ultimately transported Gonzalez to Jackson Memorial Ryder Trauma where he was pronounced deceased. City of Miami Police Crime Scene processed and documented the

scene. The object Gonzalez had in his hand proved to be a GamoB-77 Revolver Pellet Gun. The GamoB-77 Revolver Pellet Gun is almost identical to a firearm revolver. A picture of the revolver pellet gun recovered from the scene is attached.

On the date of incident, at about 9:22 a.m., the City of Miami Police Department requested Florida Department of Law Enforcement (FDLE) assume the investigation of the officer involved shooting. Assistant State Attorneys Michael Von Zamft and Alicia Priovolos were notified at approximately 9:35 a.m. and responded to the scene of the incident. Once all law enforcement was present, everyone was provided with a briefing as to what was believed to have occurred. Each agency present was then permitted to sit in and participate in the investigation.

FDLE memorialized the investigation in a detailed 312-page report, authored by Case Agent Michael Stein. The 312-page report includes attachments with police reports, supplemental reports, photographs, video of body worn cameras, 911 calls, the autopsy protocol, audio and video recorded statements from civilian and officer witnesses, and all other information necessary for us to conduct a thorough and independent investigation. A meeting with the medical examiner was also held. In that meeting Dr. Lew opined the entry and exit wounds sustained by Gonzalez are consistent with the subject being in an upright position facing the officers.

#### ANALYSIS

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, or 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 Miami Police Department Officer Carlos Acuna constituted a criminal act that can be proven beyond and to the exclusion of every reasonable doubt. To that end, prosecutors from the State Attorney's office went to the scene of the shooting, attended and/or reviewed the statements of witnesses, attended the briefing by the medical examiner, and reviewed FDLE files, and the executive summary prepared by FDLE, which is hereby incorporated into this memorandum.

Section 776.012, Florida Statutes, permits the use of deadly force when a person reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or to prevent the commission of a forcible felony. Section 776.05(1), 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. During the shooting incident, Ofc. Acuna fired his weapon and, therefore, used deadly force.

The physical evidence and testimonial evidence demonstrate a person in Ofc. Acuna's shoes would reasonably believe deadly force was necessary to prevent imminent harm to himself and/or another officer, making Acuna's actions justifiable under the law. The body worn camera videos, and the testimonial evidence, make it clear the officers were aware Gonzalez was a danger to himself and others. They were first made aware of this by the actions Gonzalez took against his wife (ie: by stabbing her in the neck), and then by Gonzalez uttering threatening words to the officers, "los mato," (ie: I'll kill you guys) while they were inside the apartment asking him to come out. This was amplified by Gonzalez then arming himself with a pellet gun that resembled a firearm and going downstairs with it in his hand to face the officers he knew were waiting for him and which he had just threatened to kill. Finally, the physical stance Gonzalez took once he reached the bottom of the stairs and his continued unwillingness to drop the pellet gun, further cemented this perception.

It is important to note, that while the body camera did not capture the last seconds of the above described incident (because the police shield blocked the view), the officer's excited utterances captured by the body worn camera, the officers' testimony given immediately afterwards, and the civilian's testimony, support a finding Gonzalez wanted to end his life that day and did so by making himself appear to be a threat to the officers.

Accordingly, based on the above we find the actions of Ofc. Acuna in firing his weapon were legally justified.

**Prepared by:**



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**Michael Von Zamft**  
Assistant State Attorney



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**Alicia Priovolos**  
Assistant State Attorney