

OFFICE OF THE STATE ATTORNEY  
ELEVENTH JUDICIAL CIRCUIT

KATHERINE FERNANDEZ RUNDLE  
STATE ATTORNEY



INTEROFFICE MEMORANDUM

To: Katherine Fernandez Rundle  
State Attorney

Date: April 20, 2021

From: Staffing/Review Team

Re: Police Shooting SAO #62/20/03/14/006  
Injured: HALL, Johnathan Nathaniel

Based on the information obtained and reviewed during the course of the investigation, the conclusion of the staffing/review team is as follows: On March 14, 2020, at approximately 8:23 p.m., City of Miami Beach Police Officers responded to an Aggravated Assault call at 530 Ocean Drive, in which it was communicated the subject was severely intoxicated and armed with a firearm in the bar area of the establishment. Upon arrival at the bar, the officers discovered the subject had left the outdoor bar area and headed inside the building. Officers were directed inside of the Barbizon Beach Condominiums and once inside the lobby, they were further directed down the hallway near the security desk.

While clearing the hallway, they encountered Johnathan Nathaniel Hall, who fit the general description of the armed subject described earlier at the bar. He was armed with a firearm in his waistband. Upon encountering Hall, Officers Daniel Gonzalez, Alvaro Leon, and Victor Silot discharged their firearms, striking Hall multiple times. There is no body worn camera footage depicting Hall the moment the decision to fire was made. Officer Leon Azicri was the only witness able to describe the subject when the decision to fire was made. Azicri stated Hall was armed with a firearm in his center waistband with his hands near the grip of the pistol, that everything happened quickly, the gunshots from officers behind him came immediately after encountering him and ordering him to show his hands, and he did not see which officers behind him fired.

The shooting officers declined to provide sworn statements regarding the shooting, and body worn cameras were not activated. Hall, through counsel, has declined to provide a statement regarding the shooting. In the absence of information directly from these individuals about the incident we are unable to determine the actual circumstances of the shooting and unable to determine that Daniel Gonzalez (02-1098), Alvaro Leon (02-1154), and Victor Silot (02-529) were legally justified in their use of deadly force. For these same reasons, there is insufficient evidence to prove beyond a reasonable doubt that Officers Daniel Gonzalez (02-1098), Alvaro Leon (02-1154), and Victor Silot (02-529) committed a criminal act.

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

Don L. Horn

Deisy Hernandez

Stephen K. Talpins

Howard R. Rosen

Kathleen Hoague

J. Scott Dunn

Christine Zahra

Approved by State Attorney on this

day of

20 April, 2021

KATHERINE FERNANDEZ RUNDLE  
State Attorney



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: 4/14/2021

FROM: Christopher Flanagan  
Assistant State Attorney

Andrew Edwards  
Assistant State Attorney

RE: POLICE-INVOLVED SHOOTING  
CLOSEOUT MEMO

Injured: Hall, Jonathan Nathaniel

DOI: March 14, 2020

Case # 62/20/03/14/006

FDLE Case #MI-27-0127

OFFICER(S) INVOLVED:	Ofc. Daniel Gonzalez (02-1098) Miami Beach Police Department Ofc. Alvaro Leon (02-1154) Miami Beach Police Department Ofc. Victor Silot (02-529) Miami Beach Police Department
INJURED:	Jonathan Nathaniel Hall
INJURIES:	Multiple gunshot wounds throughout his body.
DATE & TIME:	March 14, 2020, approximately 8:23 p.m.
LOCATION:	530 Ocean Drive, Barbizon Beach Condominiums
WEAPONS:	Officer Silot's .40 S&W pistol (M&P 40) S/N DWP3496 Officer Gonzalez's .40 S&W pistol (M&P 40) S/N DWY7279 Officer Leon's .40 S&W pistol (M&P 40) S/N NDT7512 Jonathan Hall's 9mm S&W pistol (SD9VE) S/N FZM1974
LEAD:	Agent Joseph Romero, FDLE
CASE #:	FDLE Case MI-27-0127
SAO CASE #:	62/20/03/14/006

## **SYNOPSIS OF THE INCIDENT**

During spring break in Miami-Beach, on March 14, 2020, at approximately 8:23 p.m., Humberto Nucaro, bar manager at Jalapeno Mexican Kitchen (exterior of 530 Ocean Drive), approached Miami-Beach Police Officer Richard Lonergan on the corner of 5<sup>th</sup> Street and Ocean Drive. Nucaro told Officer Lonergan that a severely intoxicated black male was in the bar area with a firearm in his waistband. Miami-Beach Police Officers were dispatched on a priority call "3-32" (Aggravated Assault with a Firearm) to 530 Ocean Drive with a brief subject description. Miami Beach Police Officers cleared the bar area and then headed inside 530 Ocean Drive (Barbizon Beach Condominiums). As police officers entered the lobby, they cleared a narrow hallway leading to first floor units. Several civilians exited the hallway on police arrival and instruction. As officers continued to approach, an individual later identified as Johnathan Hall did not immediately exit the hallway. Hall matched the brief general description of the individual described in the priority dispatch and was visibly armed with a firearm sticking out of his center waistband. Hall's hands were in the area of his center waistband. Upon encountering Hall, Miami Beach Police Officers Silot, Leon, and possibly Gonzalez discharged their firearms in an initial volley of gunfire. Approximately twenty-five (25) to thirty (30) seconds after the first volley, police officers can be heard in the audio of body worn camera video stating "let me see your hands," and "he's still reaching for it," and shortly thereafter, either Gonzalez, Silot, or Leon discharged one round from their respective firearm. Johnathan Hall received multiple gunshot wounds to his body and sustained life-threatening injuries. A 9mm firearm was recovered from his person.

## **RADIO COMMUNICATIONS AND DISPATCH**

At 08:23:19 p.m., Officer Richard Lonergan transmitted that he had a priority call and advised that a manager of the bar at 530 Ocean Drive had approached him regarding a very intoxicated male with a firearm in his waistband. The dispatcher asked if the subject was threatening anyone, and there was no response. Again, the dispatcher asked if the subject with the firearm was threatening anyone. Before Officer Lonergan could respond, Capt. Daniel Morgalo (02-675) of the Miami Beach Police Department instructed the dispatcher to make the call a "3-32" (Aggravated Assault) and send units. Shortly thereafter, Officer Lonergan transmitted that the witnesses did not say that the subject was threatening anyone, but they told him they saw him sitting at the bar, very intoxicated, with a firearm visible in his waistband. The dispatcher then transmitted a priority alert tone and called all units available to respond to 530 Ocean Drive to a "3-32" (Aggravated Assault) and advised the subject was armed with a firearm and intoxicated inside the location. Officer Lonergan provided the subject description as a black male in shorts at the inside bar. Dispatch then relayed the description to all units. At 8:24:50 p.m., Officer Maikin Pomares advised dispatch that units were arriving and entering the location. At 8:26:39 p.m., Officers Lizeth Ardilla, Alvaro Leon, and Lieutenant Raymond Diaz transmitted that shots were fired. Officer Lonergan then requested rescue and advised that officers appeared uninjured and that the subject was down. Officer Alvaro Leon then transmitted that there was a black male down with multiple gunshot wounds, no officers were injured, and that he needed rescue to respond in emergency mode. Lieutenant Diaz advised that there was an MDPD Tactical Medic Officer on scene providing medical aid to the subject.

## VIDEO SURVEILLANCE FOOTAGE

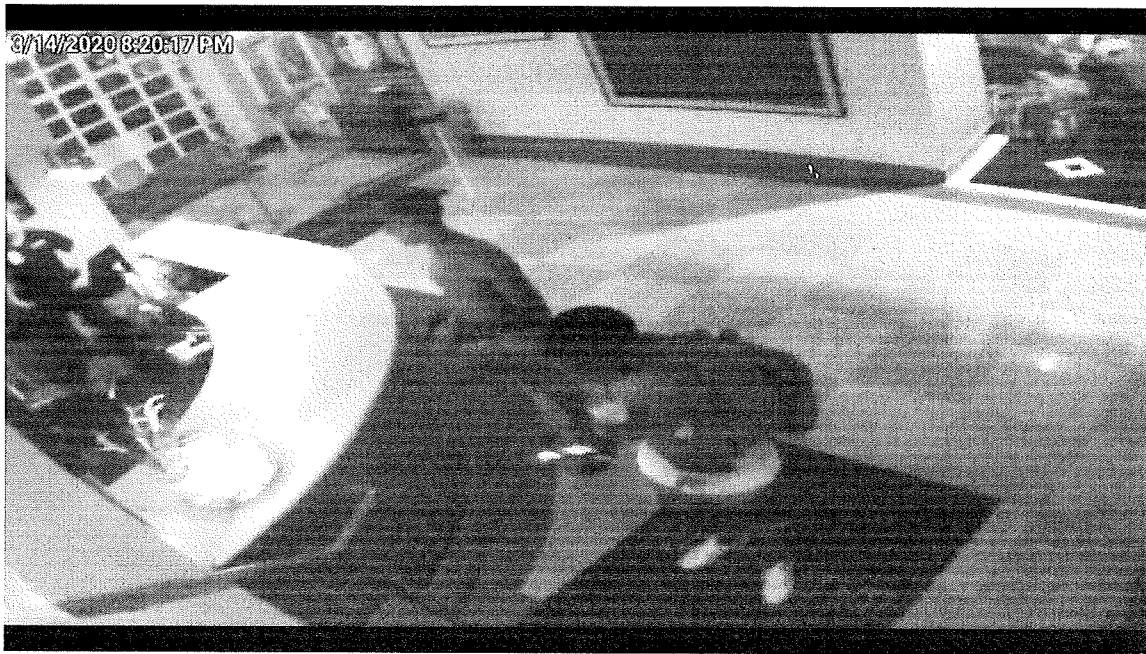
There is video surveillance of the outdoor bar area of 530 Ocean Drive (Jalapeno Mexican Kitchen) and there is video surveillance footage of the interior lobby of 530 Ocean Drive (Barbizon Beach Condominiums).

The surveillance video from the bar area depicts the subject, Johnathan Hall, approach the bar prior to the incident at approximately 8:14 p.m. and say, "Bartender, I need a water!" In the footage, the subject is shirtless and is wearing what appears to be shorts or swim trunks. Also, he is carrying a small backpack and an object consistent with the grip of a handgun can be seen protruding from his front center waistband of his shorts or swim trunks. While at the bar, an apparent friend of the subject approaches him and attempts to pull him away from the bar. During this time, the subject appears intoxicated and uneasy on the barstool. The subject's friend leads him away by gripping the rear straps of his backpack for support. Approximately six (6) minutes after the subject leaves the bar, police officers are on video surveillance arriving at the bar area. About one (1) minute and ten (10) seconds later, a volley of gunshots can be heard off camera.



Still photograph from surveillance video depicting subject at the bar

The surveillance video from the interior of 530 Ocean Drive depicts the lobby of the Barbizon Beach Condominiums. At a timestamp of 8:19:30 p.m., subject Hall is observed entering the lobby area with his friend. On the video, Hall is holding his glass of water from the bar in one hand and his cell phone in the other hand. He is still wearing his backpack, and same swim trunks or shorts with no shirt. The object appearing to be the grip of a pistol firearm is still visible in his waistband.



Still photograph from surveillance video depicting subject in Barbizon Lobby at 08:20:17 p.m.

At timestamp 08:25:03 p.m. on the surveillance video, police officers entered the lobby area of Barbizon. The officers are directed to the hallway area next to the front desk by management. At timestamp 08:25:55 p.m., officers began directing civilians out of the hallway.



Still photograph from surveillance video depicting police officers in Barbizon Lobby clearing hallway of civilians at 08:25:57 p.m.

A total of seven (7) civilians (four (4) females and three (3) males) are cleared out of the hallway just prior to police encountering the subject who was at the end of the hallway around the corner.



Still photograph from surveillance video depicting police officers in Barbizon Lobby firing down the hallway when they encounter armed subject

The video surveillance does not depict subject Hall at the time of the shooting or what prompted the officers to fire, but several officers are observed on video surveillance discharging their firearms.

### **CRIME SCENE AND LAB ANALYSIS**

The scene was in the lobby area of the Barbizon Beach Condominiums located at 530 Ocean Drive. The lobby of the building is in the center of the first floor. The entrance is located on the east side of the building. On the south side of the first floor of the building there is a bar and restaurant named “Jalapeno Mexican Kitchen.” The restaurant bar runs from south to north and is located south of the entrance lobby. A glass door connects the bar to the entrance of the Barbizon lobby. The lobby has a front desk normally occupied by a security guard. There is a waist high partition separating the desk from the lobby. Beyond the front desk, along the northside wall, there are three (3) or four (4) small steps which lead to a hallway. The hallway leads to the building’s residences and to an elevator.

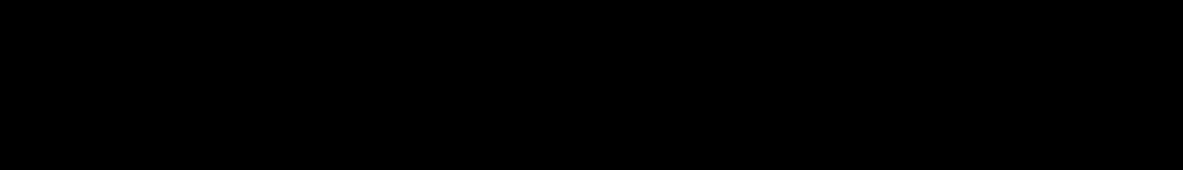
A total of nineteen (19) .40 S&W caliber “Speer” spent projectile casings were recovered from the crime scene. All casings were attributed to firearms belonging to Miami-Beach Police Officers. Eleven (11) casings were attributed to being fired in Officer Leon’s .40 S&W pistol (M&P 40) S/N NDT7512. Seven (7) casings were attributed to being fired in Officer Silot’s .40 S&W pistol (M&P 40) S/N DWP3496. One (1) casing was attributed to being fired in Officer Gonzalez’s .40 S&W pistol (M&P 40) S/N DWY7279. The toolmark evidence is consistent with the FDLE’s round count from each of the police officer’s firearms.

The firearm recovered from the subject was traced, and the ATF Trace Summary revealed that the 9mm S&W pistol (SD9VE) S/N FZM1974 was purchased by the subject's friend, Mamadou Diallo on September 27, 2018.

Three projectiles and two projectile fragments were also recovered from the scene. An additional projectile was later found on the subject's gurney at the hospital. Toolmark analysis deemed that based on class characteristics and some individual characteristics, two (2) of the projectiles could have been fired by Leon's pistol, two (2) projectiles could have been fired by Silot's pistol, and one (1) projectile could have been fired by Gonzalez's pistol.

A black/chrome 9mm S&W SD9VE S/N FZM1974 was recovered on scene from within subject Hall's shorts. It had possible blood on it and was loaded with thirteen live 9mm rounds in the magazine.

There are four (4) areas of blood located on scene (floor and walls) that were swabbed for biological evidence. Two (2) areas (grip/trigger and slide) of the 9mm firearm were swabbed for biological evidence. DNA analysis on the swabs from the blood areas



#### **BODY WORN CAMERA (BWC) FOOTAGE AND STATEMENTS FROM SHOOTING POLICE OFFICERS**

Shooting officers Silot, Leon, and Gonzalez declined to provide statements based on the advice of their attorneys. Their body worn cameras were collected.

Shooting Officer Leon's camera was activated after the initial shooting had already occurred and captured forty-four (44) seconds of video. The audio is muted until thirty (30) seconds into the video. The video begins with Officer Leon standing next to the front desk near the stairs that lead into the hallway. Subject Hall can be seen laying on the floor in the hallway and officers can be seen with weapons drawn. Shortly after, the video seemed to capture police officers backing up and reacting to what would have been the single gunshot that occurred after initial volley of shots. Ofc. Leon returns to the hallway and points his weapon at the subject. When the audio activates at thirty (30) seconds, officers are shouting commands for hands up and an officer says "we've got too many people here, everyone back up." At the end of the video, Leon was instructed by another officer on scene to "turn it off" and the recording ends.



Shooting Officer Silot's camera was activated after the initial shooting had already occurred and captured one (1) minute and fifty-five (55) seconds of video. The audio is muted until thirty (30) seconds into the video. Silot's video begins with subject Hall laying on the floor at the end of the hallway, bloody and moving. When audio is activated, subject Hall moves up slightly and Silot commands "Down! Down!" Subject Hall continues to move his arms in a slow flailing manner as officers continue to shout "Down" and "Don't move." Officer Pomares approaches the subject and Silot backs up the approach. Pomares searches subject Hall for a weapon and recovers a firearm from inside his shorts or swim trunks. Officers can be heard saying "start triage" and "cameras off," at which point the recording ends.

Officer Gonzalez's body worn camera did not capture any of the event.

### **BODY WORN CAMERA (BWC) FOOTAGE AND STATEMENTS FROM WITNESS POLICE OFFICERS**

Officer Leon Azicri was wearing a body worn camera during the incident, however it was not activated. Officer Azicri provided a recorded statement.

According to Azicri, he responded to a call involving an intoxicated black male with a firearm in his waistband. He stated further, that upon arriving at 530 Ocean Drive, they first cleared the bar area and then entered the inside lobby area. As they were attempting to confirm the subject description, multiple males and females began to exit the hallway near the security desk. Officer Azicri stated they visually checked them as they exited the hallway and they appeared to not have firearms on their person. Officer Azicri recalls that someone said there was one more male down the hall. Officer Azicri was the first police officer to enter the hallway and was in front of the other officers. As he entered, Azicri observed a male down the hallway, around a corner. Azicri described the male as concealing himself behind the corner, just out of his view. Officer Azicri stated that he (Azicri) took a cover position in the left side of the hallway in "a cutout for a door frame." With his firearm drawn, he ordered the male out, and believes he told him to show himself. After that, the subject stepped into view, had no shirt, was wearing a bathing suit bottom, and was armed with a black firearm in his waistband. He ordered the subject to show his hands, at which point his hands were near his midsection, and within a fraction of a second, Azicri heard a firearm discharge behind or next to him. Azicri described the hallway as narrow, about the width of two men standing next to each other. A crime scene "FARO Scan" revealed the hallway to be a little over four-and-a-half (4.5) feet wide. Azicri reiterated that he was in the number one position in the hallway and was the closest officer to the subject at the time of the shooting. Azicri estimated that it was approximately ten (10) feet from his cover position in the cutout to the subject's corner. Azicri stated there were multiple firearm discharges and described that he felt the pressure from the discharge to the extent that he thought he had been shot. Azicri backed out after the initial volley of



gunshots to be checked by a fellow officer, and it was confirmed he had not been hit. After the shooting, Azicri recognized the subject had been shot and attempted to obtain or locate towels to render first aid to the subject. Officer Azicri located a Miami-Dade Police tactical medic officer and guided him to the injured subject for purposes of providing first aid. Azicri did not see who fired their weapons. He stated that just prior to the gunshots he could see the subject was facing forward, peeked out, and stood there. Azicri described the shooting event as happening quick, and stated that he gave the order for hands and the next thing he recalled was gunshots. During the interview, Officer Azicri indicated with his own hands that the subject had both of his hands in the front of his center waist in close proximity to the firearm in the subject's front center waistband. Azicri did not witness the recovery of the firearm.

Officer Yamil Acevedo's body worn camera is three (3) minutes in duration and audio does not begin until thirty (30) seconds into the video. The video begins with Acevedo in the lobby near the hallway. Due to the angle, other police officer's bodies, and Acevedo's own hand, the hallway and subject is not in view of the recording. Officers can be seen with their firearms drawn pointed down the hallway and police officers Silot and Leon can be seen reacting to something and discharging their firearms in the direction of the hallway. Once audio is activated, it appears the initial volley of gunshots has already occurred and officers are heard commanding "Don't move!" At fifty-eight (58) seconds into the recording you can hear an unknown officer say, "he's still reaching for it!" and a single gunshot is audibly heard. The subject cannot be seen on the video at that moment.

Officer Acevedo provided a statement that he responded with other members of his bike squad (Rios, Ardila, Vidal, Gaitan, and shooting officers Leon and Gonzalez) to an emergency "toned" call for an intoxicated black male with a firearm wearing shorts. Acevedo stated that when they arrived in the lobby, someone had told them the subject went down the hallway. He said he recalled the officers gave commands to come out of the hallway with their hands up and some people came out and complied. Acevedo stated that they encountered the subject and began giving him loud verbal commands to come out. Acevedo stated he did not have a clear view of the subject and could not see the firearm because of other officers in front of him. He said that after commands were being given, shots were fired, and the subject fell to the floor. He said after that, commands were still being given and he could see the subject moving. Acevedo saw officers begin to approach the subject, and then another single shot was fired. Acevedo did not see who fired the shot. Acevedo said that when they were finally able to make contact with the subject, an officer recovered a firearm from the left bottom leg of his shorts.

Sgt. Enrique Rios' body worn camera footage is two (2) minutes and forty-four (44) seconds in duration. Audio activates at the thirty (30) second mark. The video depicts Rios and other officers approaching the subject in the hallway after the initial volley of shots. Thirty-three (33) seconds into the video, officers can be heard yelling "he's reaching

for it... he's still reaching for it!" A single audible gunshot immediately follows. Sgt. Rios then instructs several police officers to back-up and relax. Several officers order the subject to put his hands on his head. The subject at one point moves his arms outward and he is instructed not to move. At this point the video shows the approach to the subject, and Officer Pomares can be heard recovering the firearm outside of the video frame. There is a call for medical aid and the video ends.

Sgt. Rios provided a statement and said that he responded with his team to the restaurant area of the location looking for the armed subject. He stated that they had cleared the restaurant, and as they were moving to the hotel area, he heard multiple rounds of handgun fire. When Rios and his team arrived at the lobby area, he observed three officers already present with their firearms drawn. He recognized one to be Alvaro Leon. Rios stated that after arriving at the lobby he recalled a second round of gunfire, and believed it to be a single shot. Rios initially stated that he did not recall who actually fired the round, but when given an opportunity to review his body worn camera video, he stated Officer Daniel Gonzalez was responsible for discharging one (1) round at the subject. Rios stated that they gave the subject commands to put his hands on his head so they could get him help. Rios stated once he complied, they were able to approach and another officer recovered a firearm from the subject.

Officer Maikin Pomares' body worn camera video is two (2) minutes and fifty (50) seconds in duration. Audio activates thirty (30) seconds into the video. At the start of the video, the subject is already down in the hallway. At thirty-one (31) seconds into the video an officer yells, "he's still reaching for it!" and a single gunshot is immediately heard. At that point an officer asks, "where's the gun?" Another officer replies, "in his waistband." As several police officers give the command "Stop moving!", Officer Pomares suggests getting him to place his hands on his head. Following this suggestion, several officers order the subject to place his hands on his head so they can render aid. Pomares then approaches the subject and begins a search for the firearm. Initially Pomares calls out "no gun" but continues to search, and then immediately calls out "I got it I got it." Because of the angle, although the recovery of the firearm can be heard, it cannot be observed in Pomares video, but as previously stated, Officer Silot's BWC video provides a view of the recovery.

Officer Pomares stated that he responded to a call regarding a shirtless drunk subject in a bar at 530 Ocean Drive. On arrival, Pomares asked dispatch for a more detailed description of the subject. He initially approached the outdoor bar area and heard that no one had seen an armed subject, but he learned there was an additional bar further inside. As Pomares cleared the additional inside bar area, he encountered a bartender who confirmed that there was a shirtless subject at the bar armed with a gun who had just departed to his room prior to police officers arriving on scene. Officer Pomares then continued to the lobby area and positioned near the small staircase that leads to the hallway.

Several civilians exited the hallway, and although many of the males matched the brief description given, none appeared to be armed with a firearm. As the civilians exited the lobby, Pomares heard an unknown number of gunshots fired. He stated that the only officer he saw discharge during the initial volley of shots was Officer Gonzalez. At that time, he could not see the subject Gonzalez was shooting or what that subject was doing. After the initial volley of shots, Pomares switched his position from the right side of the hallway entrance near the security desk to the left side of the stairs leading to the hallway. Pomares stated that he thought the officer across from (and to the right of) Officer Gonzalez fired another single round in response to the subject's movement well after the initial volley of shots. Pomares stated he did not know the identity of that officer, and he clarified that he could not or did not actually see the subject move. He was ultimately able to move in on the subject and recovered a firearm from the crotch area of the subject's swim trunks. Pomares stated that he recovered it from between his legs and slid it away from the subject.

Officer David Calderin activated his body worn camera footage and spoke with Edwin Paz outside of the scene on Ocean Drive. Paz told Calderin that he saw the subject with a gun in his waistband. Paz stated that he told his manager who then contacted police. Paz stated that he did not witness the shooting.

The following other body camera videos were reviewed and contained video footage either prior to or after the incident, outside and around the perimeter of the crime scene, and did not capture the shooting: Ofc. Roger Gaitan, Ofc. Christopher Marin, Ofc. Lizeth Ardila, Ofc. Terrance Butler, Ofc. Corey Jackson, Lt. Ray Diaz, Ofc. Jorge Yero, Ofc. Hiscly Torres, Ofc. Anthony Yarusso, Ofc. Errol Vidal, Ofc. Alfredo Garcia, Ofc. Emmanuel Ofei, Ofc. Samaralee Avecillas, Ofc. Louis Lergier, Ofc. Christopher Mitchell, Ofc. Manual Jas, Ofc. Rosa Carvajal, Ofc. Melissa Rosa, Ofc. Latasha Chatfield, Ofc. Robert Cabanas, Ofc. Veronica Prieto, Ofc. Orisme Smith, and Ofc. Daniel Morgalo.

Reserve Officer Richard Lonergan has been a police officer with Miami-Beach for thirty-eight (38) years and has been a reserve officer for the last ten (10) of those years. He was not wearing Body Worn Camera equipment. Officer Lonergan stated that the manager of the Barbizon Condominiums approached him and informed him that a "drunken" black male was armed with a firearm in his waistband and sitting at the bar. Another individual with the manager told Lonergan the firearm looked like a "TEC-9." Lonergan stated that as he approached "Jalapeno's Mexican Kitchen" another individual who he thought might be the bar manager told him he saw the individual armed with a firearm in his waistband. While in the lobby area as they were clearing out civilians, Lonergan received additional information that the subject was thin, with no shirt, in his early 20's, wearing red, white, and blue shorts. Lonergan went on to state that he saw an individual fitting that description in the hallway, as additional officers moved in front of him and ordered the subject to put his hands up, at which point in time he heard shots fired. Lonergan stated that he was not certain which officers fired and could not see the subject at the time.

Several other police officers were interviewed by FDLE, but there is no indication that any of them saw what the subject was doing during the shooting incident nor saw who discharged their weapons.

### **SWORN STATEMENTS OF CIVILIAN WITNESSES**

#### **ARIEL CLAUDELL GOURDAIN**

Mr. Gourdain stated that he lives in Tamarac, Florida and that he recently graduated from Albany State University in Georgia. He advised that he met subject Johnathan Hall at school there and they are close friends. He advised that one of his friends rented the penthouse at Barbizon (530 Ocean Drive) through AirBnB for spring break and they had stayed there a couple of nights. Gourdain would not provide the name of the friend that rented the room. Gourdain stated that he had been drinking alcohol with Hall prior to the shooting. He claimed that before the shooting, he and Hall were in the room with some females and at some point, the females wanted to leave. He went on to claim that as they walked them out of the hotel, he was pushed by a Miami Beach Police Officer and then saw muzzle flash from an officer's firearm for at least two (2) or three (3) shots. He claimed he was then pushed outside of the hotel and detained. Gourdain denied seeing Hall with a firearm. He claimed the shooting took place in a hallway. However, FDLE review of the surveillance footage placed Gourdain in a position that would not have allowed him to see into the hallway or subject Hall at the time of the shooting. He refused to provide the names of the females with them.

#### **MAMADOU A. DIALLO**

Mr. Diallo advised that they arrived from Georgia to Miami Beach on Wednesday, March 11, 2020 to celebrate Spring Break. He stated that he drove down from Georgia with another friend but would not provide their name. Diallo claimed Hall drove his own vehicle down from Georgia to Miami Beach for Spring Break along with other friends. Diallo said that on arrival, they checked into the Barbizon in Miami Beach, Florida. He said that there were other individuals staying with them, but they came and went at different times throughout the day. Diallo stated that they were drinking alcohol on and off after they arrived in Miami. He stated he was only drinking alcohol and not using drugs, but could not speak for anyone else on that issue. Diallo could not say whether anyone else was drinking alcohol and could not say whether Hall was under the influence of alcohol because he claimed he was not drinking with him.

Diallo stated that he started drinking on the incident date before he left his hotel room. He said that he walked with his other friend "Sky" down the strip and they were headed to the pizza parlor to get something to eat. He stated that at some point while they

were away from the hotel, they got separated from Hall, who was headed back to the hotel with his friend "AJ." He stated that he believed they separated between 8:00 and 9:00 p.m. Prior to separating, he recalled that Hall was carrying Diallo's bookbag, which contained Diallo's Smith and Wesson 9mm firearm and some bottles of liquor. An ATF Trace Summary revealed that the 9mm S&W pistol (SD9VE) S/N FZM1974 recovered from subject Hall was purchased by Mamadou Diallo on September 27, 2018. Diallo provided investigators with his Georgia issued concealed carry permit. Diallo explained that he warned Hall about the gun inside his backpack and told him to stay nearby because the firearm was in his name. He went on to state that he never saw Hall with the firearm in his waistband and further told him to keep it inside the backpack. He advised that he was eating at the pizza parlor, when some females approached him and said that Hall was shot by police. He recalled that he could not get back to the hotel. He stated that he considers Hall to be like his "little brother" and most of the friends know each other from Albany State University in Georgia. He said the individual that rented the penthouse (PH-1) for them goes by the nickname "Benj," but he was unable to provide his real name or contact information.

#### FREDERICK DUNBAR

Mr. Dunbar stated that he rode down from Georgia to Miami Beach as a passenger in Hall's vehicle on March 11, 2020 for Spring Break. He said there was another individual inside the car named "Goat" but could not provide his real name or contact information. He said there were 4-5 individuals staying with him in the penthouse at Barbizon. He stated that he had no alcohol or drugs during his stay. Dunbar recalled Hall returning to the hotel after walking the strip to rest. Dunbar remembered briefly talking to Hall and that Hall told him that he was going to the store. Dunbar stated that a couple of minutes after Hall left the room, he heard someone in the room saying there was a large police presence outside of the hotel. He stated that he looked out of the balcony and saw the large police presence and heard the gunshots. He said that he thought the gunshots had come from up the street, but someone later told him Hall had been shot. He said that the people staying in the room were all from Albany State University, but that he considered Hall to be his only friend. He said that when he heard Hall had been shot he exited the room and was in shock from seeing Hall laying by the elevator with lots of blood. Dunbar was unable to advise whether he saw police officer's guns drawn when he saw Hall, but advised that he immediately ran back to the room. He did not recall whether Hall was wearing a backpack and did not recall seeing any weapons on Hall.

#### EDWIN PAZ

Mr. Paz is a bartender at the "Jalapeno Mexican Kitchen" at 530 Ocean Drive adjacent to the Barbizon Condominiums. Paz stated that during his shift a male walked to the bar and at least twice requested water. Paz described Hall as being an African-American male

approximately 5'8" to 5'9" and described him as "intoxicated" or "drugged out." According to Paz, he came back a third time and requested more water. He described Hall as wearing beach shorts with no shirt, and was slumped over on his phone. He stated that at some point he noticed that he had a black gun in his waistband that looked like a Glock 9mm. He said that once he saw the firearm, he got nervous and advised his managers. Paz said that the manager came back with a police officer, but Hall had already left the bar area. As backup arrived, Paz stated that he heard his manager and police officer speak with the security guard at Barbizon, who informed them that Hall was staying in room #109. Paz stayed by the bar as officers approached the hallway leading to the rooms and then heard gunshots and took off running for cover.

#### HUMBERTO NUCARO

Mr. Nucaro is the manager of the "Jalapeno Mexican Kitchen" and advised that he walked to the corner to notify a police officer that his bartender had advised of a drunk male at the bar with a gun. When Nucaro arrived back at the bar with the police officer the male was gone. Nucaro advised that there was a large police presence at the door between Barbizon and the bar when he saw a number of males come out with their hands up and then heard eight (8) to nine (9) gunshots before he ran away.

#### ERIC CUETO

Mr. Cueto is a security guard at the front desk of the Barbizon Condominium. Cueto said that Hall was staying at the Barbizon with four other males and during that time he appeared to be "messed up, like on drugs" and was always "talking nonsense." Cueto described Hall as a black male, approximately 5'8", 165 to 170 pounds, medium build, with hair like "Bart Simpson" from the animated T.V. show, and with tattoos on his chest. He said prior to the incident he recalled him wearing khaki shorts and no shirt. He said that he saw him walk back and forth to the bar, each time with a cup of water. He advised that the manager and bartender from Jalapeno's Mexican Kitchen advised that he had a gun, but he did not recall seeing a firearm on him. He said that at the time officers approached the hallway he was near the lobby door when officers began "taking fire," but could not see what or who officers were shooting because a wall was in the way.

#### ELIZABETH KELLY AND FERGUS O'REGAN

Kelly and O'Regan were on a fourteen (14) day vacation to South Florida from Ireland and were staying at the Barbizon during the police involved shooting. They heard the gunshots from inside their hotel room and saw bullet holes appear in the kitchen cabinets of their hotel room. They hid behind the bed and were not injured. Other than hearing the shots and loud verbal commands, they did not witness the shooting. They briefly opened the door and saw a lot of blood. After the event, they were terrified and contacted the Irish

embassy to take the first available flight back to Ireland and moved to a hotel closer to Miami International Airport.

### **SUBJECT STATEMENT**

On May 29, 2020, FDLE agents Confesor Gonzalez and Joseph Romero made phone contact with the subject's father, Mr. Mac Hall. He advised that his son was slowly recovering at Jackson Memorial Hospital but was still unable to speak or make any decisions due to his injuries. He stated that he has obtained legal counsel and therefore would not be making any statements to investigators.

On September 15, 2020, Attorney Roderick D. Vereen emailed FDLE as retained counsel for Johnathan Hall and advised that his client would not be making any statements to FDLE regarding the incident.

On March 11, 2021, Attorney Roderick D. Vereen reached out to the undersigned prosecutors via e-mail regarding the status of the Miami-Dade State Attorney's Office Police Involved Shooting Investigation. On March 16, 2021, the undersigned prosecutor advised the status of the investigation was still pending and inquired whether Mr. Johnathan Hall had changed his mind about providing a statement. Mr. Vereen advised that his client would not be answering any questions.

### **CONCLUSION AND 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, 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 Officers Daniel Gonzalez, Alvaro Leon, and Victor Silot constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt.

Section 776.012, Florida Statutes provides that a person is justified in using deadly force if the person reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another or to prevent the imminent commission of a forcible felony. In addition, section 776.05(1), Florida Statutes provides that a law enforcement officer is justified in the use of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making an arrest.



The investigation conducted by the Florida Department of Law Enforcement revealed that the police shooting of Johnathan Hall was preceded by a priority call over police dispatch to respond to an Aggravated Assault involving an intoxicated individual armed with a firearm at a public bar at 530 Ocean Drive, in Miami Beach. As Miami Beach Police officers arrived on scene, they cleared the bar area and got a more detailed description for the armed subject from civilian management on scene. They were directed to the three (3) or four (4) step staircase near the security desk which precedes a narrow hallway leading to rooms. As they prepared in the lobby, they began clearing the hallway of civilians and assessed whether any appeared armed. As the group of people was cleared out of the hallway, it became clear to officers that there was an individual still at the end of the hallway around the corner that had not yet come out. Non-shooting Police Officer Azicri was closest to the subject and would have been in the best possible position to observe the subject from ten (10) feet away, prior to stepping into what he described as a "cut-out for a doorway" for cover. He stated that as he did so, he saw the subject armed with a firearm in the front-center of his waistband and gave loud verbal commands to show his hands, which were in the immediate area of the firearm near his center-waistband. Although he knew fellow officers were immediately behind him or beside him, Azicri did not see which officers fired nor was he able to see what their individual vantage point was at the time they fired. He was asked directly whether he could recall what, if anything, the subject did prior to the gunshots, and he recalled that as the order to show hands was given, the subject's hands were in close proximity to the firearm, and the next moment there were gunshots. He recalled it all happening very fast.

Approximately twenty-five (25) to thirty (30) seconds after the first volley of shots, police officers can be heard in the audio of body worn camera video stating "let me see your hands," and "he's still reaching for it," and shortly thereafter, a single additional round is discharged. Subject hall can be seen still moving when this additional shot was taken. Although Gonzalez only fired one round from his weapon, there is a conflict in the evidence regarding whether that single round was fired in the initial volley or whether it was the final single shot after the first volley. Sgt. Rios identified Officer Daniel Gonzalez as taking the single delayed shot from his review of the body worn camera footage. Yet, Officer Pomares states he saw Officer Gonzalez discharge his weapon in the initial volley and was standing next to Gonzalez when another officer to Gonzalez's right (who according to his statement he is unable to identify) fired the single round. Nevertheless, it is clear from the body worn video recordings that officers yelled, "he's still reaching for it!" prior to that shot being taken.

Shooting Officers Silot, Leon, and Gonzalez declined to provide statements of the shooting incident. There was no body worn camera footage or surveillance video presented that depicted subject Hall when the above police officers made the decision to open fire upon him. Most of the body worn camera footage was activated after the shooting had taken place or did not have an angle down the hallway in question when the decision to

fire was made. Most of the officers that provided statements could not identify which officers fired their guns and state that they saw subject Hall at the moment the decision to fire was made. Without the statements of Officers Silot, Leon, and Gonzalez, and without body worn camera footage of the subject at the moment of the shooting, we cannot determine the actual circumstances of the shooting and whether it was legally justified.

Through his attorney, the subject Johnathan Hall has declined to provide a formal statement regarding the event. However, we do know that witness employees of the bar initially reported that Hall was severely intoxicated while armed with a firearm to police, which became part of the police dispatch. When later interviewed, the witnesses from the bar continued to describe Hall as intoxicated but added that he appeared "drugged out." Later review of video surveillance from the bar confirmed that Hall appeared visibly intoxicated. It is possible that Hall's intoxication contributed to his failure to immediately show himself in the hallway and his failure to immediately comply with the commands to show his hands.

Because Hall has declined to provide an account as to what happened and because the shooting police officers have declined to provide an account of what happened, we are left with Officer Azicri's limited account as being the best recorded account of what happened the moment the decision to fire was made.

Further, because of the absence of these statements, the failure to activate body worn cameras prior to the start of the event, and Officer Azicri's limited account of the event, the undersigned Assistant State Attorneys are unable to determine that Officers Gonzalez, Leon, and Silot were legally justified when they fired their weapons at Johnathan Hall. Although we are unable to say the shooting was justified, the role of the State Attorney is to determine whether the State of Florida can prove beyond a reasonable doubt that Officers Gonzalez, Leon, and Silot committed a criminal act. For the same reasons that we are unable to determine whether Gonzalez, Leon, and Silot were legally justified in firing their weapons, there is insufficient evidence to prove beyond a reasonable doubt that Officers Gonzalez, Leon, and Silot committed a criminal act.

Therefore, this investigation is closed.

Prepared by:

*/s/ Christopher Flanagan*

---

Christopher Flanagan  
Assistant State Attorney

*/s/ Andrew Edwards Jr.*

---

/s/Andrew Edwards  
Assistant State Attorney