



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: December 8, 2020

FROM: ANDREW EDWARDS
ASSISTANT STATE ATTORNEY

RE: POLICE SHOOTING INVESTIGATION
CLOSEOUT MEMORANDUM
SAO # 62/20/03/11/005

OFFICER INVOLVED:	Sgt. Alejandro Marin (004-1648) Hialeah Police Department
INJURED:	Aimara Santana
INJURIES:	Two gunshot wounds to the front torso area
DATE & TIME:	March 11, 2020 approximately 10:15 AM
LOCATION:	151 West 41 st Street, Hialeah, FL 33012 (rear patio / backyard)
WEAPONS:	Glock 9MM Model 17 Serial # BBBM719 (Sgt. Alejandro Marin) Knife (Aimara Santana)
LEAD:	Detective Magela Montalvo (004-1786) Hialeah Police Department, Major Crimes Unit
CASE #:	HPD# 202007533
SAO CASE #:	62/20/03/11/005



SUMMARY

On the morning of March 11, 2020, Officer Manuel Quinteros (004-1989) and Sgt. Alejandro Marin (004-1648) responded to the family home of Mr. Juan De Santana. Mr. Juan De Santana (age 78) and his wife are the parents of Ms. Aimara Santana (age 46), the person who was injured as a result of the shooting. Mr. De Santana and his wife called 911 out of concern that their daughter, Ms. Santana, might hurt someone or hurt herself. It was explained to Officer Quinteros and Sgt. Marin that Ms. Santana was having some sort of mental health crisis. Ms. Santana's family members explained that for several days Ms. Santana had been talking to herself, was making statements that did not make sense, and was acting as if she was seeing hallucinations. Mr. Juan De Santana was so concerned that the previous day he and the family attempted to have Ms. Santana committed to a psychiatric facility but the hospital would not admit her. The family explained to the officers that Ms. Santana was staying at her parent's home because they believed that she needed to be monitored. Notwithstanding the family's attempt to monitor Ms. Santana, she "escaped" out of the house despite their efforts to keep her inside. After getting out of the house, Ms. Santana was seen pacing back and forth and speaking incoherently in the backyard of their house. She then climbed over the fence and entered the alleyway behind the house. It was at this point that the family felt it necessary to contact the police.

After being advised of the family's concerns for both the safety of Ms. Santana and the safety of the community, Officer Quinteros and Sgt. Marin began to search for Ms. Santana. The officers found Ms. Santana in the alley behind the family's home. Ms. Santana was in the alley with her two adult daughters. Her daughters, Ms. Alexandra Lemus (age 25) and Ms. Briana Lemus (age 18) appeared to be attempting to calm Ms. Santana, but Ms. Santana was not cooperating, and appeared to be responding with incoherent statements. After the officers arrived in the alley, Ms. Santana climbed over another fence and entered the shared backyard of an efficiency and a residential house located at: 151 West 41st Street, Hialeah, Florida 33012.

From the alley, Ms. Santana's daughters called out for Ms. Santana to leave the backyard and return over the fence. These requests woke the tenant of the efficiency, Mr. Jose Amador, from his sleep. Mr. Amador woke to find Ms. Santana in his backyard. At some point, Ms. Santana armed herself with a large knife, belonging to Mr. Amador, that she found in his backyard. Officer Quinteros and Sgt. Marin went to the front of the home, and spoke with Mr. Amador. Mr. Amador gave them permission to enter the property and warned the officers that Ms. Santana was armed with a knife. The officers made their way to the backyard and made verbal contact with Ms. Santana. Ms. Santana did not respond to the officers' commands to drop the knife that she was holding. Instead, she pointed the knife at herself as if she was going to hurt herself in some way. Sgt. Marin responded to this by calling on the police radio for the crisis negotiators.

Despite multiple commands made by both officers, Ms. Santana did not relinquish the knife. It is not clear why, but at some point, Ms. Santana went behind a tool shed in the backyard. When she emerged from the rear of the tool shed, she was still holding the knife and appeared to focus on Sgt. Marin. Sgt. Marin had armed himself with a firearm and Officer Quinteros had armed himself with a taser. The officers directed Ms. Santana to drop the knife again but she did not comply. According to statements by both Officer Quinteros and Mr. Amador, Ms. Santana raised

the knife over her head and approached Sgt. Marin. Mr. Amador described her approach as lunging at Sgt. Marin. Officer Quinteros described Ms. Santana's approach as charging and lunging at Sgt. Marin. When describing Sgt. Marin's response to Ms. Santana's approach, Officer Quinteros stated that Sgt. Marin initially responded by taking several steps backwards, as if to put additional space between himself and Ms. Santana. Officer Quinteros went on to describe Ms. Santana's actions as coming extremely close to Sgt. Marin, forcing Sgt. Marin to discharge his firearm. Similarly, Mr. Amador explains in his statement that Ms. Santana left the officer no choice but to shoot her due to the way that she charged at the officer with the knife. Both witnesses state that Sgt. Marin discharged his firearm twice. Ms. Santana was struck in her front torso and fell to the ground. Ms. Santana was taken into custody and was transported to Ryder Trauma where she was treated and survived.

Hialeah crime scene officers reported to the shooting location. One silver spent shell casing was photographed and recovered. One projectile impact site was noted towards the base of a metal vertical fence post located along the east fence. South of the tool shed lying on the grass, was a large straight-bladed knife. Mr. Amador reportedly identified the knife, and explained that he kept it in the backyard to work on his projects.

On March 12, 2020, Major Crimes Detective Magela Montalvo (004-1786) and Major Crimes Detective Joseph Elosegui (004-0958) responded to Ryder Trauma Center where Ms. Santana was being treated. After receiving confirmation from hospital staff that it was safe to speak to Ms. Santana, and that she was not under the influence of any mind-altering medications, the detectives interviewed Ms. Santana. The statement was recorded. One minute and twenty-seven seconds into the recorded audio statement the following exchange occurs between Detective Montalvo and Ms. Santana. Detective Montalvo asked: "¿Por que tu le fuiste para arriba al policia?" (Why did you go after the police officer?). Ms. Santana replied: "Para que el me matara." (So that he would kill me.).

ANALYSIS AND 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, or procedures, or training requirements. The State Attorney does not have any responsibility for determining disciplinary action or have any responsibility for 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 Sgt. Alejandro Marin (004-1648) constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt.

The under signed Assistant State Attorneys have reviewed the incident report authored by Major Crimes Detective Magela Montalvo (004-1786) and the recorded statement of Ms. Aimara Santana. We note that the aforementioned report contains summaries of the statements of: Mr. Juan De Santana (Aimara's father), Ms. Alexandra Lemus (Aimara's daughter), Ms. Briana Lemus (Aimara's Daughter), Officer Manuel Quinteros (witness to the shooting), and Mr. Jose Amador

(civilian witness to the shooting). We adopt and attach the aforementioned incident report and offer a conclusion based on the results of the investigations and the findings contained therein.

Section 776.012, of Florida Statutes permits the use of deadly force when a person reasonably believes such force is necessary to prevent great bodily harm to one's self. At the time that Sgt. Alejandro Marin discharged his firearm, the uncontested witness testimony consistently portrays Ms. Aimara Santana's behavior as life threatening to Sgt. Marin (to wit: it appeared that without acting, Sgt. Marin could be stabbed with a large knife). In addition, Ms. Santana herself admitted that she attempted to compel and provoke Sgt. Marin into killing her. Thus, all of the witnesses' statements (including the statements of Ms. Aimara Santana) present a situation wherein Sgt. Marin could reasonably believe that the use of deadly force was necessary to protect himself from great bodily harm.

Section 776.05 of Florida Statutes also permits a law enforcement officer to use any force that they reasonably believe is necessary to defend themselves or another from bodily harm while making an arrest. Sgt. Alejandro Marin made contact with Ms. Aimara Santana after witnessing her commit a potential misdemeanor trespass and felony armed trespass. The officer witnessed the subject enter the yard of 151 West 41st Street, Hialeah, Florida 33012 by climbing over a fence. The tenant of that residence confirmed that Ms. Santana did not have permission to be at that residence. The officer also witnessed Ms. Santana arm herself whilst at that location without permission. At this point, the officers had witnessed Ms. Santana commit the crimes of trespass and/or armed trespass in violation of Florida Statutes 810.09(2)(A) and 810.09(2)(C). At the time that Ms. Santana approached Sgt. Marin with the knife and Sgt. Marin discharged his firearm, the officers were in a position to make a lawful arrest. It is lawful to use any force that the officer reasonably believes is necessary to defend himself or another from bodily harm whilst making an arrest.

Based on these statutory provisions we find the shooting by Sgt. Marin to be legally justified.

Prepared and Reviewed by:

/s/ Andrew Edwards Jr.

Andrew Edwards Jr
Assistant State Attorney

/s/ Christopher Flanagan

Christopher Flanagan
Assistant State Attorney



INTEROFFICE MEMORANDUM

To: Katherine Fernandez Rundle
State Attorney

Date: December 8, 2020

From: Staffing/Review Team

Re: SAO Case # 62/20/03/11/005
Injured: Aimara Santana

Based on the information obtained and reviewed during the course of the investigation, the conclusion of the staffing/review team is as follows: On the morning of March 11, 2020, the Hialeah Police Department received a 911 call from the family of Aimara Santana, the individual who was injured as a result of the shooting. The family explained to the responding officers that Ms. Santana was in some sort of mental health crisis, that she was somewhere in the community on foot, and they feared for her safety and the safety of others in the community.

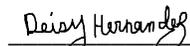
After a brief search, the responding officers located Ms. Santana, and the officers witnessed her climb over a fence and enter the backyard of Mr. Jose Amador. Mr. Amador gave permission to Sgt. A. Marin (004-1648) and Officer M. Quinteros (004-1989) to enter his property to remove Ms. Santana, who had armed herself with a knife she found in the backyard. Despite multiple attempts by the officers to calm Ms. Santana, and despite verbal attempts to verbally persuade her to drop the knife, she nonetheless approached Sgt. Marin with the knife raised. Sgt. Marin, who had armed himself with his sidearm, stepped back and repeated a command to drop the knife. Ms. Santana continued to advance upon Sgt. Marin who then discharged his firearm, striking Ms. Santana non-fatally in the torso.

Officer Quinteros and Mr. Amador both witnessed Ms. Santana raise the knife over her head and lunge or charge at Sgt. Marin. These descriptions are consistent with Ms. Santana's own admission to police that she went after the officer, so he would kill her. Therefore, pursuant to F.S 776.012 and F.S. 776.05, it is the conclusion of the staffing/review team that Sgt Marin was justified in the use of deadly force.

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



Don L. Horn



Deisy Hernandez



Stephen K. Talpins



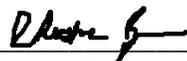
Howard R. Rosen



Kathleen Hoague



J. Scott Dunn



Christine Zahralban

Approved by State Attorney on this _____ day of _____, _____.

KATHERINE FERNANDEZ RUNDLE
State Attorney