Close-out Memorandum of the Investigation Regarding

Creshawn Nassir Prince

May 24, 2021

State Attorney's Office
Eleventh Judicial Circuit
Miami-Dade County

December 21, 2021

OFFICE OF THE STATE ATTORNEY
ELEVENTH JUDICIAL CIRCUIT

KATHERINE FERNANDEZ RUNDLE
STATE ATTORNEY

INTEROFFICE MEMORANDUM

TO: KATHERINE FERNANDEZ RUNDLE
State Attorney

DATE: December 14, 2021

FROM: STAFFING/REVIEW TEAM

RE: SAO/Case #: 62/21/05/24/002
Injured: Crenshawn Nassir Prince

Based on the information obtained and reviewed during the course of the investigation, the conclusion of the staffing/review team is the following:

On May 24, 2021 at 2:02 p.m., detectives from the Miami Gardens Police Department were working an operation in the area of 15685 NW 22nd Avenue surveilling three vehicles. Detectives observed a white Lexus with illegally tinted windows stop next to a black vehicle in what detectives believed to be a narcotics transaction. Detective Payoute activated his police lights and attempted to conduct a traffic stop on the Lexus, occupied by, Tyrone Cobbins, the driver, and two passengers Dorian Francois in the rear and Creshawn Prince in the front. The Lexus failed to stop and fled at a high rate of speed. Detectives Payoute and Gause gave chase. Francois and Prince leaned out of their windows and discharged handguns at the police. Other police cars, marked and unmarked, engaged in the chase. The Lexus crashed, the occupants fled on foot, and the officers continued the pursuit. Detective Gause, wearing a tactical vest clearly marked "Police," discharged his firearm and struck Prince. The officers set up a perimeter and within moments the three fleeing individuals were apprehended and taken into custody. Prince suffered a non-life-threatening gunshot graze to his right hip area. Upon investigation, two firearms and multiple rounds of ammunition were located in the Lexus and forensic examination determined the spent casings collected from the roadway of the chase matched the weapons. Also, video was collected which captured the back rear passenger discharging a firearm at police. In a post-Miranda interview, Prince admitted to shooting at police but indicated he only knew they were police afterwards. A review of the facts and evidence in this incident reveals that, as Detective Gause's use of force was done while in the process of making a lawful arrest, we find that he was legally justified in discharging his firearm pursuant to F.S. 776.05.

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 20 day of December, 2021.

KATHERINE FERNANDEZ RUNDLE
State Attorney

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OFFICE OF THE STATE ATTORNEY
ELEVENTH JUDICIAL CIRCUIT

KATHERINE FERNANDEZ RUNDLE
STATE ATTORNEY

INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: December 14, 2021

FROM: PATRICIA MULHOLLAND
SANTIAGO AROCA
ASSISTANT STATE ATTORNEYS

RE: POLICE SHOOTING CLOSEOUT MEMO
Case: SAO # 62/21/05/24/002
FDLE MI-27-0161

OFFICER INVOLVED:	Det. Jeffrey Gause 100-416 MGPD
INJURED:	Prince, Creshawn Nassir
INJURIES:	Grazed gunshot wound to the hip right area.
DATE & TIME:	May 24, 2021 at about 14:02 hours.
LOCATION:	NW 27 Court and NW 157 Street, in the vicinity of Bunche Park Drive
WEAPONS:	Glock, model 34, Gen 4, 9mm semi-automatic SN BCNB796 (Gause) .40 caliber, Glock 23, Gen 4, SN BCST554 (Lexus) Smith and Wesson, M&P, 9mm, Shield SN H2B7358 (Lexus)
LEAD:	FDLE SA Luis Alvarez (report received October 10, 2021)
CASE #:	FDLE MI-27-0161
SAO CASE #:	SAO # 62/21/05/24/002

I. INTRODUCTION

In October, 2021, I received a copy of the FDLE Investigation case file into the May 24, 2021 shooting of Mr. Creshawn Prince. This memo is based on the lead investigator, Special Agent Luis Alvarez's case file and includes the impressions and facts we collected when Patricia Mulholland and I responded to the on-duty call. It also includes responding officers' reports, Crime Scene reports, a review of available videos, the ballistics report; and the review of witnesses' interviews conducted by FDLE during the investigation, among others.

II. SUMMARY OF THE FACTS

The evidence shows that on May 24, 2021 at approximately 14:02 hours, detectives from the MGPD were working a HIDTA detail (Operation Safer Days 2) in the area of 15685 NW 22 Avenue, near an Amoco Gas Station, an area known for high crime, especially sales of narcotics and guns. A team of six (6) detectives were surveilling the Amoco Gas Station in three (3) cars. The Detectives were: in team 1, MacDonald Payoute (driver) and Jeffrey Gause (passenger) who were in an unmarked black Mazda. Team 2, Detectives Andrew Gregorie (driver) and Dominque Haines (passenger), in an unmarked Maroon Ford Edge. Team 3, Detectives Kenville Spence (driver) and Joel Ciceron (passenger), in a marked MGPD police vehicle. While surveilling the area, the detectives observed a white Lexus, with what appeared to be illegally tinted windows, stopped next to a black vehicle at the Amoco Gas Station in what some of the officer's thought was a narcotics transaction.

The detectives decided to follow and stop the Lexus. Thus, as the Lexus exited the gas station, Detective Payoute activated the police lights and attempted to conduct a traffic stop on the Lexus, which was occupied by three (3) black males; the driver, Mr. Tyrone Cobbins, and two passengers: rear driver side occupant, Mr. Dorian Francois, and the front seat passenger, Mr.

Creshawn Prince. The Lexus did not stop and fled at high speed. Detectives Payoute and Gause gave chase. Suddenly, two males, Mr. Francois and Mr. Prince leaned out of their respective windows and began discharging handguns at Detectives Payoute and Gause, as the Lexus continued to flee, according to the physical evidence recovered, the testimony of witnesses, and as shown by some of the videos recovered in the area. Mr. Prince was leaning out of the Lexus front passenger window and he fired multiple times. Det. Gause was also on the front passenger seat of the police car that was shot at, so Det. Gause had to see Mr. Prince and Mr. Prince had to see that a car with police lights and siren activated was chasing the Lexus. But the Lexus did not stop.

The Lexus continued fleeing from Detectives Payoute and Gause, who were wearing a tactical vest with the word "Police" clearly visible. Other police cars, marked and unmarked, engaged in the chase. The Lexus made a left on NW 27 Avenue and crashed into a passing vehicle, a white Hyundai sedan occupied by two civilians unrelated to the police or the subjects. The Lexus was stopped by the crash. Then, its three occupants, Mr. Prince, Mr. Francois, and Mr. Cobbins bailed out of the car. Detectives Payoute and Gause yelled at the three occupants of the Lexus to stop, according to the statement of Det. Payoute. The three subjects ignored the command and continued fleeing on foot. At that time, Detective Gause left his vehicle wearing his tactical vest in which the word "Police" was clearly visible. Then, Detective Gause discharged his firearm in the direction of Mr. Prince. The officers set a perimeter and within a few minutes the three subjects were apprehended and taken into custody. They were transported to MGPD for processing. Upon arrival at MGPD, detectives observed that Mr. Prince suffered a non-life-threatening graze gunshot wound to his right hip area. Mr. Prince was treated by Miami-Dade Fire Rescue (MDFR) at MGPD for minor injuries and released to MGPD custody.

A. CRIME SCENE ANALYSIS

A total of eight (8) casings were recovered in the area where the detectives informed that the subjects fired at the law enforcement officers:

- Alcohol, Tobacco, Firearms & Explosives (ATF) Special Agent Canine Handler (SACH) Zane Dodds with canine "Seek Babs" along with United States Marshal (USM) Deputy Marc Palomino/Explosives Detection Canine (EDC) "Almond" conducted an area search for casings and located six (6) casings on W. Bunche Park Drive in the grass area parallel to W. Bunche Drive.

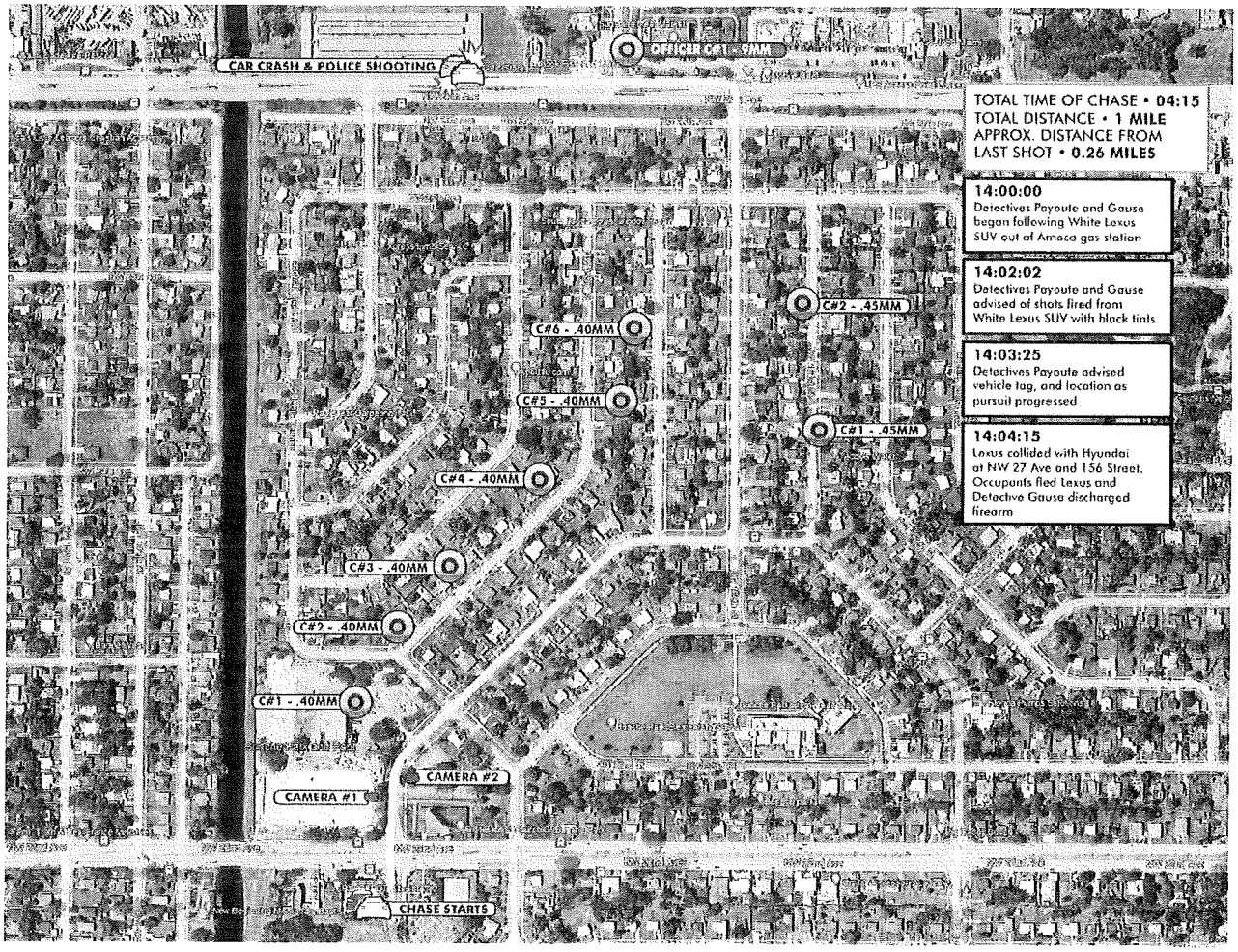
-USM Palomino/EDC Almond, located two (2) casings farther north on W. Bunche Park Drive.

The investigators found two (2) firearms and multiple rounds of ammunition in the Lexus from which the subjects shot at the officers. In the Lexus' left rear seat there was a .40 caliber, Glock 23, Gen 4, with a serial number of BCST554. There was one .40 caliber, WIN 40 S&W live cartridge in the chamber. In the firearm's magazine well, there was a twenty-two (22) round capacity, Glock .40 caliber magazine. The magazine contained thirteen (13) .40 caliber live cartridges. On the Lexus' floorboard below the front right passenger's seat, there was a Smith and Wesson, M&P, 9mm, Shield firearm (serial number H2B7358). The firearm had an empty chamber and did not contain a magazine in the magazine well. On the right front passenger's seat there was a 9mm casing. On the Lexus passenger's side of the dashboard, above the area that the Smith and Wesson firearm was found, there was a clear plastic magazine containing six (6) live cartridges. The capacity of the magazine were nine (9) cartridges.

The spent casings and the firearms were sent to the MDPD Forensics Services Bureau Laboratory where Criminalist John Mancini concluded that the casings recovered along W. Bunche Park Drive were fired from the .40 S&W Glock pistol and the Smith & Wesson pistol,

model M&P 9 Shield M2.0, serial number HZB7358; found in the Lexus. The investigators established that Detective Gause fired once. One spent casing was recovered at the location were Det. Gause fired, and Criminalist Mancini determined that this spent casing was fired by the Glock, model 34, 9 mm semi-automatic, serial number BCNB796, assigned to Det. Gause.

Below is a diagram revealing the path taken to flee and elude police and indicates where evidence was located. Specifically, the yellow line represents the route the fleeing subject followed, exactly 1 mile. Casings represent where they were found by C. S. investigators. The total chase lasted about 4 minutes. The time elapsed between the last Mr. Prince shot and the location where Det. Gause discharged the firearm was about 50 seconds.



B. CCTV VIDEOS

As to video, a total of ten (10) cameras captured parts of the chase. The most relevant videos were captured by camera #7 (referred in the map below as #1), placed at the West Bunche Park Recreation Center, and camera #5 (referred in the map below as #2), at the First Baptist Church of Bunche Park. These cameras are across the street from each other. The video taken by camera #7 shows a male, identified in the investigation as Mr. Francois, with the upper part of his body outside of the rear window with what appears to be a firearm in his hand. The video also shows the police car chasing the subjects in close proximity. Camera #5 also shows a male, identified as Mr. Prince, with his arm out of the from passenger window with what looks like a firearm pointed towards the police car. Casings were recovered adjacent to the sites where the cameras are located. According to MDPD analyst John Mancini, these casings matched the guns found in the Lexus.

C. STATEMENT OF DET. PAYOUTE

Interviewed by FDLE Special Agent Luis Alvarez, Detective Payoute stated that he had been employed with the MGPD for approximately four years and, at the time of this incident, he was assigned to the Street Crimes Unit in an undercover capacity. He stated that detectives in the Street Crimes Unit did not wear BWCs by Department policy. On Monday, May 24, 2021, at approximately 1200 hours, he and other members of his team attended a briefing where they were informed that they would be participating in Operation Safe Street II, a proactive detail primarily focused on apprehending violent offenders involved in gang-related drug activity, homicides, and gun violence. After the briefing, Detective Payoute and his partner, Detective Jeffrey Gause, began patrolling in Detective Payoute's assigned vehicle, a black Mazda SUV equipped with a siren and covert police lights; Detective Payoute drove, and Detective Gause was in the front passenger seat.

While on patrol, Detective Gause observed a white Lexus four (4) door sedan, with extremely dark and illegally tinted windows, stopped at the fuel pumps within the Amoco Gas Station, located at 15685 NW 22 Avenue, Opa Locka, Florida. There were three young black males going in and out the white Lexus, and Detectives Payoute and Gause decided that they would investigate further and established surveillance within the gas station parking area. The three males entered the white Lexus and drove out and back into the gas station, in a loop. The white Lexus then exited the gas station and proceeded across NW 22 Avenue and onto westbound W. Bunche Park Drive. Detectives Payoute and Gause followed the white Lexus out and back into the Amoco and across NW 22 Avenue to westbound W. Bunche Park Drive. Shortly after crossing NW 22 Avenue onto W. Bunche Park Drive, occupants of the white Lexus began shooting at them and Detective Payoute said that he could see one of the occupants' hanging out the front passenger window, holding a handgun, and another occupant pointing a handgun out of the rear driver's side window. Detective Payoute recalled that both described occupants shot at them multiple times.

Detective Gause advised "shots fired" over the police radio as Detective Payoute pursued the white Lexus, with lights and siren activated. The white Lexus refused to stop and drove erratically around the Bunche Park area in an attempt to flee from the detectives. The white Lexus traveled eventually westbound crossed NW 27 Avenue, at approximately NW 156 Street, and crashed into a civilian vehicle that was traveling southbound on NW 27 Avenue. The civilian vehicle veered into a fence and the white Lexus came to a stop a short distance south, on NW 27 Avenue.

Detective Payoute stated that he and Detective Gause stopped their car and left it yelling "stop Police" to the occupants of the Lexus who bailed out of the vehicle and fled on foot. He stated that as he was running, he heard a gunshot coming from Detective Gause's position at the

passenger side of the SUV but did not see who fired. He further stated that he continued to pursue the Lexus driver, Cobbins, and apprehended him nearby, with the assistance of other officers. He added that he later learned that Detective Gause had discharged his handgun and that the front passenger of the white Lexus, Prince, had a possible graze wound to his hip.

D. STATEMENT OF MR. PRINCE

Mr. Prince, the subject who was shot by Detective Gause, admitted in a post-Miranda statement to have shot at the car that "was chasing us" but indicated that he only knew that the occupants of that vehicle were police officers "after shooting at them". Mr. Prince did not elaborate more as to the circumstances surrounding his arrest.

III. APPLICABLE LAW 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, 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 Detective Gause constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt.

Florida law mandates that any force may be used by law enforcement in the arrest of a fleeing felon, Fla. Stat. § 776.05:

> **Law enforcement officers; use of force in making an arrest.**—A law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, need not retreat or desist

> from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. The officer is justified in the use of any force:
>
> (3) When necessarily committed in arresting felons fleeing from justice.

§ 776.05(3).

The recommendation of the undersigned is that the actions of Detective Gause in shooting Mr. Prince are legally justified pursuant to 776.05. Applying the law to the facts of the case, Detective Gause needed not retreat or desist from efforts to make the lawful arrest of the three occupants of the Lexus after they fled from police officers, attempted to shoot them, and violently crashed into another vehicle. The evidence shows Mr. Prince and Mr. Francoise were armed with guns and had each fired multiple time at Detective Gause and Detective Payoute. The video shows that Mr. Prince fired his gun from the Lexus' front passenger window, while Mr. Gause was on the front passenger seat of the police car. Also, Mr. Prince and the occupants of the Lexus were a clear danger to the public, they just crashed into a passing car and its occupants suffered injuries.

Under Fla. Stat. § 776.05, the actions of Detective Gause are legally justified. Detective Gause had probable cause to arrest Mr. Prince for attempted murder of a Law Enforcement Officer, Fleeing and Eluding, and the attempted felony murder of the occupants of the passing car when the Lexus violently crashed into them. Thus, Detective Gause was involved in arresting felons fleeing from justice. In sum, based on the described facts, the known evidence, and the applicable law, no criminal charges should be filed against Detective Gause as his conduct was legally justified.

Prepared by:

/s/ Patricia Mulholland	/s/ Santiago Aroca
Assistant State Attorney	Assistant State Attorney