

Close-out Memorandum of the
Investigation Regarding
Arturo Morales
December 10, 2021



State Attorney's Office
Eleventh Judicial Circuit
Miami-Dade County
November 15, 2022



INTEROFFICE MEMORANDUM

TO: KATHERINE FERNANDEZ RUNDLE
State Attorney

DATE: November 15, 2022

FROM: STAFFING/REVIEW TEAM

RE: SAO/Case #: 62/21/12/10/002
Injured: Arturo Morales

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

On December 10, 2021, Homestead Police Dept. detectives David Mata and Lexus Guerrero were at the counter of the Walgreens located at 861 NE 8th Street when they saw Arturo Morales leave the store carrying stolen merchandise. Detective Mata, who was clearly wearing police insignias, chased after Morales yelling for him to stop, and Morales got in the driver's seat of a vehicle and fled the scene. The detectives pursued the vehicle into a Ford dealership, where Morales' path was blocked. As captured on surveillance video, both detectives are seen exiting their truck, pointing their firearms, and giving loud verbal commands for Morales to stop his vehicle. However, Morales continued to back up and then drove forward toward Detective Mata who then fired two shots. Morales then revs the engine, and moves the vehicle forward a short distance three more times before Detective Mata fires two more shots. Thereafter, Morales places his hands in plain sight out of the driver's window and is removed from the vehicle with a wound to his left thigh. Pursuant to Florida Statutes 776.012 and 776.05, it is reasonable to believe that Detective Mata feared for his life and the life of Detective Guerrero and considered it necessary to use deadly force to prevent death or great bodily harm. Therefore, we find Detective Mata's actions legally justified.

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

Don L. Horn
Don L. Horn

Deisy Hernandez
Deisy Hernandez

Stephen K. Talpins
Stephen K. Talpins

Christine Zahraiban
Christine Zahraiban

Kathleen Hoague
Kathleen Hoague

J. Scott Dunn
J. Scott Dunn

Approved by State Attorney on this 19 day of November, 2022.

Katherine Fernandez Rundle
KATHERINE FERNANDEZ RUNDLE
State Attorney



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: November 8, 2022

FROM: William Reich
Assistant State Attorney

RE: POLICE SHOOTING CLOSEOUT MEMO
SAO Case # 62/21/12/10/002

Santiago Aroca
Assistant State Attorney

OFFICER INVOLVED:	Detective David Mata, Homestead PD (010-650)
INJURED:	Arturo Morales (nonthreatening gunshot wound to the left thigh)
DATE & TIME:	December 10, 2021 (15:43)
LOCATION:	Lozenzo Ford at 1145 North Homestead Blvd., Homestead, FL
WEAPONS:	Glock Model 22, Gen 3, Serial Number: GET975 (David Mata)
LEAD/REPORTS:	SA Luis Alvarez / October 13, 2022
CASE #:	FDLE MI-27-0173
SAO CASE #:	62/21/12/10/002

SUMMARY OF FACTS

On December 10, 2021, Homestead Police Dept. detectives David Mata and Lexus Guerrero were at the front counter of the Walgreens located at 861 NE 8th Street, Homestead, FL making a purchase when they saw Arturo Morales leave the store quickly carrying what appeared to be store merchandise. After Morales passed through the store's anti-theft device and the front door, an alarm sounded. Morales was followed by a Walgreens employee who informed the officers that Morales stole those items. Based on the information, the detectives believed that Morales had committed a theft or possibly a robbery. The detectives followed Morales into the parking lot yelling loud commands for him to stop. Detective Mata chased after Morales on foot wearing a white T-shirt with a USA logo on it and his gold-colored Homestead Police Department badge on a silver chain in the center of his chest. Morales was aware of the detectives, especially Detective Mata who was running toward him. Morales got in the driver's seat of a Green Saturn SUV bearing FL tag #JCGF58 that was backed into the parking spot and quickly drove out of the parking lot. Detective Guerrero drove his pickup truck over to Detective Mata, and they pursued the vehicle out of the parking lot.

After stopping behind cars waiting in traffic in front of the Lorenzo Ford dealership located at 1145 North Homestead Blvd., Morales turned left into the parking lot of the dealership's part and service area. However, Morales was prevented from driving through the dealership's parking area because two trucks on display were parked in the way. Morales turned to the right and then reversed in an attempt to turn around, but Detective Guerrero also drove his truck to the right and blocked the way they had come in. Both detectives immediately exited their truck, pointed their firearms, and began giving loud verbal commands for Morales to stop his vehicle. Morales continued to back up. Detective Guerrero stood pointing his firearm near the front left corner of the SUV watching a male in the front passenger seat and a female in the rear passenger side seat. Detective Mata stood pointing his firearm in front of the SUV. Although the officers gave repeated commands to stop the vehicle, after Morales finished backing up, he put the SUV in drive and started to drive forward. Detective Mata fired a two-shot volley while near the front of the SUV and moved back and to his right as shown by the surveillance camera video at 15:43:02. Morales brought the SUV to a stop. Mata immediately radioed with his left hand that shots had been fired before returning to pointing his firearm with both hands. The detectives continued to give loud verbal commands. During the next twenty seconds, Morales repeatedly revved the engine while keeping his foot

on the brake. Officer Guerrero said in his statement that he was afraid for his life and for the life of Detective Mata because he believed that Morales might be about to run over one or both of them. Detective Guerrero also said that Morales revved the engine harder and louder. At 15:43:22, Morales begins to move the SUV forward again a short distance three more times before Detective Mata fires a second two-shot volley at 15:43:29. These two bullets appear to have entered the driver side door, breaking the driver side window, which was mostly down during the entirety of the incident in the dealership parking lot. One of these two bullets is the likely cause of the gunshot wound to Morales's left thigh. After the second volley, Morales stopped revving the engine, stopped moving the SUV forward, and placed his hands in plain sight out of the driver's window. Backup officers arrived less than a minute later. Morales and the passengers were removed from the SUV.

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 Mata constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt.

We have reviewed the Florida Department of Law Enforcement reports regarding this incident. We have reviewed the crime scene photographs, the store surveillance video from Walgreens, the surveillance video from Lorenzo Ford, and listened to all the recorded statements taken during the investigation into this use of deadly force. Although shooting officer Mata declined to provide a sworn statement, Detective Guerrero did. We find the FDLE's reports to be complete, thorough, and consistent with the witness statements, video, and our observations at the scene. We adopt and attach those reports hereto and also offer our conclusion based on the results of our investigation and review.

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 another or

to prevent the commission of a forcible felony. Further, Section 776.05, Florida Statutes, permits a law enforcement officer to use any force that he reasonably believes is necessary to defend himself or another from bodily harm while making an arrest.

Based on a review of all the evidence – and primarily the video footage of the entire incident at the Lorenzo Ford dealership – it was reasonable for Detective Mata to believe that Morales was committing or about to commit the crime of aggravated assault and attempted aggravated battery on a enforcement officer when he fired his two volleys. Morales initiated the threat of deadly force by refusing to obey lawful commands to stop moving his vehicle, revving the vehicle’s engine, and driving toward the officers repeatedly. Morales continued to use the SUV in a dangerous and threatening way even after the first two shots were fired by Detective Mata. Pursuant to Florida Statutes 776.012 and 776.05, it is reasonable to believe that Detective Mata feared for his life and the life of Detective Guerrero and considered it necessary to use deadly force to prevent death or great bodily harm. Therefore, we find that the actions of Detective Mata were legally justified.

Prepared by:

/s/ William Reich

Assistant State Attorney

/s/ Santiago Aroca

Assistant State Attorney