

Close-out Memorandum of the
Investigation Regarding
Jose Saavedra
December 4, 2022



State Attorney's Office
Eleventh Judicial Circuit
Miami-Dade County
October 25, 2023



INTEROFFICE MEMORANDUM

TO: KATHERINE FERNANDEZ RUNDLE
State Attorney

DATE: October 24, 2023

FROM: STAFFING/REVIEW TEAM

RE: SAO/Case #: **62/22/12/04/001**
Injured: Jose Armel Saavedra

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 4, 2022, at about 3:07 a.m., while working an event in the Wynwood area, City of Miami Police Officer Scott Russell observed a road rage incident between Kahlia Taylor and Jose Armel Saavedra. Saavedra threw a plastic soda bottle striking Taylor's driver side window which was partially open. Taylor exited her vehicle with a baseball bat, which she used to damage Saavedra's passenger side window. Saavedra then drove away, north on NW 2 Avenue, while Officer Russell detained Taylor. Simultaneously, Officer Russell made a radio transmission advising Saavedra fled the scene and provided the vehicle description and tag number. Police officers from the Bicycle Response Team, Stefan Rivero, Brian Garcia, Marquise Williams, Pedro Nava, and Sergeant John Marin observed Saavedra's vehicle stopped at the intersection of NW 2 Avenue and NW 27 Street. Officer Rivero rode in front of Saavedra's vehicle. Coming to a sliding stop, Officer Rivero spun approximately 180 degrees to face the front windshield of the Jeep, unholstered his handgun while dismounting his bicycle and discharged one round at Saavedra. The shot grazed Saavedra's right shoulder and he was subsequently ordered out of the vehicle and taken into custody. Officer Rivero did not provide a statement regarding the incident. In the absence of a statement by Officer Rivero indicating the exact circumstances surrounding the discharge of his weapon, a clear determination cannot be made that the use of force was justified. However, given all the information collected in this investigation, neither can a determination be made to sustain criminal charges.

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

Howard Rosen

/s/ Deisy Hernandez

Deisy Hernandez

Stephen K. Talpins

Kathleen Hoague

Nilo Cuervo

Christine Zahralban

/s/ Marie Jo Toussaint

Marie Jo Toussaint

Approved by State Attorney on this 25 day of October, 2023.

KATHERINE FERNANDEZ RUNDLE
State Attorney





INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: October 24, 2023

FROM: Tiffany Finger
Assistant State Attorney

RE: POLICE SHOOTING CLOSEOUT MEMO
SAO Case # 62/22/12/04/001

OFFICER INVOLVED:	Stefan Rivero ID # 44188 City of Miami
INJURED:	Jose Armel Saavedra (right shoulder grazed)
DATE & TIME:	December 4, 2022, at approximately 3:07 a.m.
LOCATION:	N.W. 22 nd Avenue and 25 th Street, Wynwood
WEAPON:	9mm Glock pistol, model 17 Gen5, serial # 9MIA3355 (Officer Rivero)
LEAD/REPORTS:	Special Agent Luis Alvarez, FDLE/Report received June 29, 2023
CASE #:	FDLE # MI-27-0207
SAO CASE #:	62/22/12/04/001

FACTUAL SUMMARY

On Sunday, December 4, 2022, at approximately 3:07 a.m., while working an Art Basel event in the Wynwood area of Miami on NW 22nd Ave and 25 Street, City of Miami Police Officer Scot Russell observed a road rage incident between Kahlia Taylor and Jose Armel Saavedra.

Saavedra was driving a grey Jeep Grand Cherokee SUV traveling south on NW 2 Avenue. The street was congested with vehicle and pedestrian traffic due to the event. While attempting to make a U-turn, Saavedra was partially blocked by Taylor's car, which was already driving north bound. After eventually completing the U-turn, which was made difficult by Taylor's positioning, Saavedra threw a plastic bottle of Coco-Cola striking Taylor's driver side window which was partially open. Taylor exited her vehicle with a baseball bat, which she used to damage Saavedra's passenger side window. Saavedra then drove away, north on NW 2 Avenue, while Officer Russell detained Taylor. Simultaneously, Officer Russel made a radio transmission on the City of Miami Police Department (hereinafter "MPD") Special Events frequency, where he advised that Saavedra had fled from a 32 (assault/battery) and called out the vehicle description and tag number.

Following Officer Russel's transmissions, members of the MPD Bicycle Response Team (hereinafter "BRT") began riding north on NW 2 Avenue in search of the grey Jeep Grand Cherokee that Saavedra was driving. BRT Officers Stefan Rivero, Brian Garcia, Marquise Williams, Pedro Nava, and Sergeant John Marin observed Saavedra's vehicle stopped at the intersection of NW 2 Avenue and NW 27 Street. Officer Rivero – ahead of the rest of the BRT – rode in front of Saavedra's vehicle. Coming to a sliding stop, Officer Rivero spun approximately 180 degrees to face the front windshield of the Jeep, unholstered his handgun while dismounting his bicycle and discharged one (1) round at Saavedra. The shot grazed Saavedra's right shoulder and he was subsequently ordered out of the vehicle and taken into custody. Saavedra was treated and transported to Jackson Memorial Hospital by Lieutenant Karen Salinas from Miami Fire Rescue Unit 1.

INVESTIGATIVE SUMMARY

The Florida Department of Law Enforcement (hereinafter "FDLE") was called to the scene of this shooting to investigate the use of deadly force by Officer Rivero. The scene and the officer involved in this incident were photographed. In addition, items of evidence including the one (1) spent 9mm casing and Officer Rivero's 9mm Glock pistol were collected.

A round count was conducted on Officer Rivero's weapon. Recordings of police radio transmissions were gathered and analyzed in this case. Body worn camera videos, surveillance videos, and dashcam videos were also gathered and analyzed. Assistant State Attorney Andrew S. Hague responded to the scene of the shooting that morning and observed the dash camera footage from Saavedra's Jeep and attended the interviews of the responding officers.

FDLE Special Agent (hereinafter "SA") Luis Alvarez provided a comprehensive report regarding his agency's investigation of this matter. The undersigned reviewed the report and finds it thorough and incorporates it by reference to this memorandum.

STATEMENTS

Officer Rivero declined to provide a statement to investigators relating to the facts of this incident.

DETECTIVE BRYAN GARCIA

On December 4, 2022, SA Jorge L. Gonzalez obtained a sworn recorded statement from MPD Detective Bryan Garcia. Detective Garcia stated that he was on his bicycle, traveling northbound on NW 2 Avenue when he heard a police radio transmission advising that the occupant of a silver Jeep was involved in an assault or battery. Detective Garcia simultaneously witnessed Officer Russel and Officer Sarmiento speaking with a subject at what was later identified as Crime Scene 1.

Soon after, Detective Garcia and several other members of the BRT unit observed the described vehicle and followed it. While in pursuit of the vehicle, Detective Garcia heard one (1) gunshot. Detective Garcia and members of the BRT unit surrounded the vehicle and conducted a felony stop. Detective Garcia noticed an officer standing near the driver's side windshield and began to shout "cross-fire" to protect from friendly fire as he instructed the driver, later identified as Saavedra, to exit the vehicle. Although the suspect exited the vehicle, he was not compliant with Detective Garcia's commands. Prior to exiting the vehicle, the driver was described as "fidgety." Saavedra dropped an unknown object and Detective Garcia instructed him to not grab it. Saavedra again did not comply and picked up the object, later determined to be a cellphone, and put it in his pocket. Once the driver was secure and the scene was safe, Detective Garcia placed the driver's cellphone and wallet on the driver's seat. Although Detective Garcia could not tell if Saavedra was under the influence, he emphasized that Saavedra was not compliant with commands and did not believe there was a language barrier. Detective Garcia indicated that Saavedra had a possible graze wound to his shoulder. He stated that he arrived at the vehicle after hearing the gunshot and did not see who fired it. In fact, Detective Garcia originally thought the gunshot was fired from within the vehicle going out towards the officer, who he later learned was Officer Rivero.

OFFICER MIGUEL SARMIENTO

On December 4, 2022, SA Jorge L. Gonzalez obtained a sworn recorded statement from MPD Officer Miguel Sarmiento. Officer Sarmiento stated that he, alongside Officer Scott Russel, was working "off-duty" at the intersection of NW 2 Avenue and NW 25 Street in the Wynwood area of Miami. Officer Sarmiento heard a "commotion" behind him and turned around to see Officer Russel stopping several females by a white-colored Honda. He then observed Officer Russel point his Taser at one of the females, later identified as Kahlia Taylor, who was holding a pink baseball bat. Officer Russel commanded that the woman lay down the bat; she complied, and Officer Russel holstered his Taser. According to Officer Sarmiento, Taylor then walked out from behind a silver-colored Jeep with a front passenger side window that was broken. He stated that Taylor claimed the driver of said Jeep had "assaulted [her] first." Taylor insisted that she used her bat in self-defense.

Officer Sarmiento further stated that when Officer Russel attempted to detain the driver of the Jeep by knocking on the Jeep's window, verbally commanding the driver to stop, and attempting to open the Jeep's door, the Jeep drove away. Officer Sarmiento advised of the incident over the radio and described the fleeing vehicle.

SERGEANT JOHN MARIN

On December 4, 2022, SA Jorge L. Gonzalez obtained a sworn recorded statement from MPD Sergeant John Marin. On the night of the incident Sergeant Marin stated that he was serving in the capacity of supervisor for the BRT unit. Sergeant Marin was riding his police bicycle on NW 2 Avenue when he saw officers, later identified as Officer Russel and Officer Sarmiento, speaking with civilians. As Sergeant Marin made eye contact with those officers, they began to yell out to "go get the Jeep." The officers advised Sergeant Marin that the Jeep had committed a "32," or a "simple assault or battery." Soon after, Sergeant Marin and other officers in the BRT group "took off" to pursue the vehicle traveling northbound on NW 2 Avenue.

In pursuit of the vehicle, Officer Rivero passed Sergeant Marin because he was riding faster. Sergeant Marin explained the Jeep had taken off and was "looking for a place to flee." Officer Rivero then passed the Jeep, which "swerved." Sergeant Marin said he thought the vehicle was going to strike Officer Rivero. He said Officer Rivero got off his bicycle and raised his firearm at the vehicle. Sergeant Marin said he observed the vehicle continue to move towards Officer Rivero; however, this is not consistent with the other statements and video footage. Sergeant Marin said that in that moment, he turned around to see where the rest of his team was located and heard one (1) shot fired. Sergeant Marin thought it was Officer Rivero who had been shot. Next, Sergeant Marin observed Officer Rivero walk from the passenger side of the Jeep to the driver's side and where he appeared to be giving commands to the driver, later identified as Saavedra. Sergeant Marin stated that several officers surrounded the vehicle, causing a "cross-fire" situation. He then gave Officer Rivero a verbal instruction to step away from the vehicle because of the "cross-fire" situation. Officer Rivero did not hear those instructions, so Sergeant Marin walked towards him and grabbed him by his ballistic vest to pull him to a safe area.

OFFICER ELIO VILLEGAS

On December 4, 2022, SA Mark Haddad obtained a sworn recorded statement from MPD Officer Elio Villegas. Officer Villegas stated that he was assigned to the BRT for the Miami Art Basel week event. He was patrolling northbound on NW 2 Avenue at 23 Street on his bicycle when he passed MPD officers advising of a silver Jeep Cherokee vehicle fleeing the scene of an assault or battery. At that moment he looked up and observed the Jeep and the BRT unit pursuing the vehicle on bicycles headed north on NW 2 Avenue. Officer Villegas joined the pursuit until the Jeep came to a stop at NW 27 Street and 2 Avenue. He then observed Officer Rivero stop his bicycle in front of the vehicle, dismount, and remove his firearm from the holster. Officer Villegas was dismounting from his bicycle when he heard one (1) gunshot but did not see who fired the shot. Officer Villegas, along with other officers, began calling for the driver, later identified as Saavedra, to step out of the vehicle. Saavedra stepped out and was placed in handcuffs. He stated that he did not observe Saavedra to be armed with any type of weapon when the firearm discharge occurred. Saavedra stated to the officers "you shot me." Officer Villegas stayed at the scene to secure the perimeter.

OFFICER SCOT RUSSELL

On December 4, 2022, SA Luis Alvarez obtained a sworn recorded statement from MPD Officer Scot Russell. On Saturday night, December 3, 2022, Officer Russell stated that he was working an off-duty job at the Art Basel event. He was assigned to a fixed traffic post on NW 2 Avenue and NW 25 Street. On Sunday, December 4, 2022, at approximately 3:07 a.m., Officer Russell heard some yelling and vehicle horns blaring. He saw a black female get out of a small white vehicle that was stopped in traffic, facing south on NW 2 Avenue. The female, later identified as Kahlia Taylor, was holding a pink

baseball bat, and walked to the front passenger side window of a grey Jeep SUV and struck the window with her bat. Officer Russell approached Taylor, unholstered his Taser, and gave a verbal command for Taylor to drop the bat. Taylor complied and Officer Russell took her bat.

Next, Officer Russell approached the Jeep, knocked on the driver's side window, and attempted to get the driver's attention. As Officer Russell grabbed the door handle of the Jeep, it fled heading northbound on NW 2 Avenue. Officer Russell issued a 'be on the lookout' (hereinafter "BOLO") for the Jeep and advised that the subject fleeing had been involved in an assault or battery. Officer Russell could not provide a description of the driver because the window tints on the Jeep were too dark. After the Jeep left the scene, Officer Russell observed BRT units in pursuit of the vehicle. A short time later, Officer Russell heard a BRT officer advising that shots had been fired over the radio transmission. Officer Russell did not hear any gunshots. He remained at his post and continued to investigate into the battery and road rage incident. Officer Russell determined that Taylor was the victim of the assault and battery. He released Taylor from custody but kept her on the scene as a witness to the incident that led to the subsequent shooting.

CIVILIAN WITNESS KAHLIA TAYLOR

On December 4, 2022, SA Luis Alvarez and MPD Homicide Detective Jayson Washington obtained a sworn audio recorded statement from Kahlia Taylor. Also present during the statement was Assistant State Attorney (hereinafter "ASA") Andrew Hague. On Sunday morning, December 4, 2022, at approximately 3:00 a.m., Taylor stated that she was driving her white Honda Civic south on NW 2 Avenue, at approximately NW 25 Street when a silver Jeep SUV in front of her began to make a U-turn to go north on NW 2 Avenue. The Jeep was having trouble completing the U-turn, due to Taylor's close positioning, which was due to the heavy vehicle congestion. When the Jeep finally completed the turn, the driver, later identified as Saavedra, rolled his window down and threw an unknown object towards Taylor, striking her vehicle. Taylor lowered her window and felt another unknown object strike her vehicle and her face. Taylor described the object as soft. Taylor exited her vehicle with a baseball bat and struck the Jeep's front passenger window with the bat. Moments later a police officer approached her, took the bat, and put her in the back of a police vehicle, handcuffed. The Jeep fled northbound on NW 2 Avenue followed by police officers on bikes. Taylor then told the officer what had occurred, and her handcuffs were removed. Taylor was unaware of what happened to the Jeep after it left.

CIVILIAN WITNESS JOSE SAAVEDRA

On December 4, 2022, FDLE SAS Yunier Galvez obtained a recorded, voluntary statement from Jose Armel Saavedra at JMH. Saavedra stated that he was out at approximately 3:00 a.m. in the Wynwood area when he got into an altercation with a man in a white Tesla who shattered his passenger side window. Saavedra does not remember the incident with the Tesla too well because he "almost died" soon after, but admits he threw a bottle of Coca-Cola at the Tesla at one point. From there Saavedra drove down the street until coming to a stop at a crosswalk. Moments later, Saavedra claims he was straightening his car when an officer on a bike pulled in front of him and shot him. The officer was out in front of his vehicle in the roadway and gave him the command to "freeze" or "stop right there" before firing.

CRIME SCENE INVESTIGATION

This incident involved two (2) crime scenes. The initial "road rage" incident occurred in the southbound lane in front of 2450 NW 2 Avenue (hereinafter "Crime Scene 1"). The ensuing shooting incident happened at NW 27 Street and 2 Avenue (hereinafter "Crime Scene 2").

Crime Scene 1 involved Taylor's Honda Civic. It was a four (4) door white sedan with the tag number QHXX98. Crime Scene Investigator (hereinafter "CSI") Williams photographed Taylor's vehicle, processed the exterior portion of the vehicle and secured and sealed the vehicle doors, trunk, and hood with crime scene tape. Taylor's vehicle was then towed to the MPD to be processed pending a vehicle search warrant. CSI Williams collected the following as evidence: (1) a clear plastic cup with yellow gum; (2) a broken Coca Cola brand glass bottle; (3) a flattened Coca Cola brand (20 oz.) plastic bottle; and (4) a clear plastic cup (24 oz.) with brown color residue.

Crime Scene 2 involved the shooting and Saavedra's silver Jeep Grand Cherokee SUV with a tag number of 8106AZ. The tag number found at the scene, however, read PVUW34. CSI Williams collected one (1) spent 9mm casing with head stamp WMA+P+02. The vehicle was located on the street corner of NW 27 Street and 2 Avenue faced northeast. On the exterior front passenger side windshield, closest to the center of the windshield, there was a bullet hole leading to the front driver's side seat. CSI Williams photographed and processed the exterior portion areas of the vehicle. CSI Williams then secured/sealed the vehicle doors, hood, and hatchback with crime scene tape pending a vehicle search warrant or a consent to search form.

VIDEO EVIDENCE

The video evidence in this case consists of body worn camera (hereinafter "BWC"), traffic and restaurant surveillance, and dashcam footage.

BWC:

- 1) Officer Rivero was not wearing a body worn camera on the day of the incident.
- 2) Officer Anibal Bode: The video begins at approximately 3:05 a.m. as Bode is patrolling the Wynwood area with the BRT. At approximately 3:07 a.m. the BRT passes Russel and Sarmiento, who had just detained Taylor. Although sound had yet to be activated, officer communications corroborate that Russel and Sarmiento told the BRT of the fleeing Jeep that was involved in a possible assault or battery. Bode and the rest of the BRT take off northbound in pursuit of the fleeing Jeep. Less than a minute later Bode arrives at the scene, seconds prior to the gunshot being fired, and unholsters his handgun. His sound then activates, and his video shows multiple officers conducting a felony stop on Saavedra. Saavedra is placed into custody and Bode assists with crowd control for the remainder of the footage. Bode's BWC did not capture the shooting.
- 3) Detective Bryan Garcia: The video begins at approximately 3:05 a.m. as Garcia is patrolling Wynwood with the BRT. At approximately 3:07 a.m. the BRT passes Russel and Sarmiento, who had just detained Taylor. Although sound had yet to be activated, officer communications corroborate that Russel and Sarmiento told the BRT of the fleeing Jeep that was involved in a possible assault or battery. Garcia and the rest of the BRT take off northbound in pursuit of the fleeing Jeep. Less than a minute later Garcia arrives at the scene, seconds prior to the gunshot being fired, and unholsters his handgun. Garcia is positioned directly behind the Jeep. Once Garcia's sound activates, he can be heard yelling "crossfire!" The officer standing at the driver's side window, Rivero, does not respond to Garcia's crossfire warnings. Garcia's BWC captures as Sergeant Marin, pulls Rivero out of the potential crossfire. Garcia then begins giving Saavedra commands. He commands Saavedra to "open the handle" and "step out of the car" with "both hands up." Saavedra steps out of the vehicle, drops a cellphone, picks it up despite Garcia's command not to,

and points to his wounded shoulder. At approximately 3:09 a.m. Garcia detains Saavedra and checks the car. The remainder of the video shows Garcia assisting with crowd control and sitting in a marked police vehicle. Garcia's BWC did not capture the shooting.

- 4) Officer Randolph Saint Fleur: The video begins at approximately 6:23 a.m. as Saint Fleur is at Jackson Memorial Hospital to guard Saavedra. Saint Fleur escorts Saavedra to various locations within the emergency room for treatment and sits outside each location but does not converse with Saavedra. Saint Fleur did not respond to the scene of the shooting.
- 5) Officer Miguel Sarmiento: The video begins at approximately 3:05 a.m. Sarmiento's BWC captured activity related to Crime Scene 1 and the road rage incident between Saavedra and Taylor. The video captures Taylor being detained and questioned. Sarmiento did not respond to Crime Scene 2, where the shooting occurred.
- 6) Officer Ello Villegas: This video begins at approximately 3:06 a.m. as Villegas is patrolling Wynwood with the BRT. At approximately 3:07 a.m. the BRT passes Russel and Sarmiento, who had just detained Taylor. Although sound had yet to be activated, officer communications corroborate that Russel and Sarmiento told the BRT of the fleeing Jeep that was involved in a possible assault or battery. Villegas and the rest of the BRT take off northbound in pursuit of the fleeing Jeep. Less than a minute later, Villegas suddenly stops his bicycle and dismounts on the front right passenger side of the Jeep. His BWC captures Rivero's bicycle laid out directly in front of the Jeep and Rivero with his handgun drawn pointing at the windshield. From the position of the passenger side of the Jeep, Villegas' BWC captured Saavedra being taken into custody. The remainder of the video captured post-shooting activities, during which Villegas remained just outside the scene, with the audio turning on and off intermittently. Villegas' BWC did not capture the shooting, only the activity that occurred seconds after.

Surveillance Video:

- 1) Alter Native, 2711 NW 2 Avenue:
 - a. It was the second business north of NW 27 Street, on the east side of NW 2 Avenue, about 75 feet from NW 27 Street. The camera captured the area in front, and south of the business, to just south of NW 27 Street: two palm trees obscure some of the camera's view.
 - b. At 03:07:30 hours, the silhouette of an SUV and clear headlights, Saavedra's vehicle, began to turn east on NW 27 Street, and came to a stop. When the vehicle came to a stop, almost having completed the eastbound turn on NW 27 Street, a loud noise was heard, and a flash of light was seen in front of the vehicle. A silhouette of a person was then captured walking past the driver's headlight, toward the driver's side of the vehicle. Pedestrians in front of Alter Native stopped and appeared to look towards the vehicle. Voices were heard shouting in the background but were indiscernible.
 - c. The remainder of the video captured activity around the vehicle, including flashlights illuminating the driver's side, voices shouting, the driver of the vehicle opened the door, walked to an area behind the vehicle that was obscured by palm fronds, and silhouettes of persons walking around.

- 2) Dash Camera from Jose Saavedra's Jeep:
- a. The video, from Saavedra's dash camera, encompassing the road rage incident and the shooting was three (3) minutes long.
 - b. The video began with the Jeep in the middle of a U-turn on NW 2 Avenue, from southbound to northbound, facing east towards the eastern sidewalk of NW 2 Avenue. Pedestrians were seen and the camera's audio captured loud music playing in the Jeep. Kahlia Taylor was briefly seen, standing by the passenger side front quarter panel. The Jeep continued to move, rocked suddenly, and finished the U-turn to travel north on NW 2 Avenue, where it stopped for pedestrians while making a right turn at NW 27 Street.
 - c. While the Jeep was stopped at NW 27 Street, Officer Rivero suddenly appeared, in front of the Jeep's passenger headlight, coming to a sliding stop, spinning approximately 180 degrees, and facing the front windshield of the Jeep. The dash camera then captured Officer Rivero as he unholstered his handgun, while dismounting his bicycle, and discharged one (1) shot, as he raised his gun toward the front windshield to just below eye level. The dash camera captured the muzzle flash from Officer Rivero's handgun, and the sound of the gunshot, despite the loud music.
 - d. Officer Rivero completed his dismount, repositioned his aim into the Jeep, and activated his handgun light, shining it directly into the view of the camera. The view from the dash camera was then partially obscured, by the light, but captured Officer Rivero moving past the front of the Jeep, to the driver side, and Officer Nava dismounting his bicycle, in the forefront, on NW 27 Street.
 - e. After Officer Rivero was on the driver side, and out of the camera's view, the audio captured Saavedra saying, "Yo, why'd you shoot at me man," while several voices were heard, in the background, shouting "watch the crossfire." Saavedra continued, "Did you shoot at me? You clipped me." The remainder of the video captured the roadway, in front of the Jeep, while the audio captured numerous voices giving various commands to Saavedra.

FIREARM ANALYSIS

The following items were submitted to the Miami-Dade Police Department (hereinafter "MDPD") Crime Laboratory Firearm and Toolmark Unit in this case: (1) a 9mm Glock pistol (Officer Rivero's pistol); (2) a fired 9mm casing (recovered from the roadway, near Saavedra's Jeep); and (3) two (2) projectile fragments (recovered from the right rear floorboard inside Saavedra's Jeep). Based on analysis by Criminalist John Mancini, the firearm submitted was found to be in satisfactory operating condition. The one (1) casing was identified as having been fired in Officer Rivero's 9mm Glock pistol. Criminalist Mancini determined that one spent projectile could have been fired in Officer Rivero's 9mm Glock based on class and some individual characteristics; however, damage and insufficient detail precluded a more conclusive determination. The other was a small copper fragment of no microscopic comparison value. Based on the round count and inspection of Officer Rivero's pistol and magazines, it was determined that Officer Rivero fired one (1) round during this incident.

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 MPD Officer Stefan Rivero constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt. In this case I have reviewed the Use of Force Investigation report by FDLE Case Agent Luis Alvarez, along with its related items (i.e., photographs, recorded statements, camera footage, etc.).

Florida Statute 776.012 permits the use of deadly force when a person (whether law enforcement or not) 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. In this case, the officers responded on both bicycles and marked patrol vehicles in full uniform to a radio transmission advising of a vehicle fleeing from a potential assault or battery. Upon catching up with the fleeing vehicle, Officer Rivero stopped in front of the vehicle, dismounted from his bicycle, unholstered his firearm, and shot one (1) time towards the driver's side windshield. Multiple officers noted the high speed the Jeep was moving, regardless of the vehicle and pedestrian congestion in the surrounding area.

Although there is camera footage from both Saavedra's dashcam, as well as body camera footage from other responding officers, there is no footage from Officer Rivero's perspective nor any witnesses who saw the shooting from his perspective. In addition, there is no testimony from the shooting officer, Officer Rivero, as to his intent or why he discharged his weapon at Saavedra, and we cannot speculate on that fact. Therefore, there is insufficient evidence to make a clear determination that the shooting was legally justified, and likewise, because of this lack of evidence, there is insufficient information to file any criminal charges.

Prepared by:

/s/ Tiffany Finger

Assistant State Attorney