

Close-out Memorandum of the
Investigation Regarding
Vincent Vito Corleone-Vinese
January 16, 2022



State Attorney's Office
Eleventh Judicial Circuit
Miami-Dade County
November 1, 2023



INTEROFFICE MEMORANDUM

TO: KATHERINE FERNANDEZ RUNDLE DATE: October 31, 2023
State Attorney

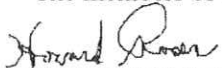
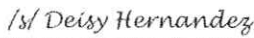

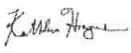

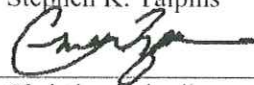
FROM: STAFFING/REVIEW TEAM RE: SAO/Case #: 62/22/01/16/001
Injured: Vincent Vito Corleone-Venisee

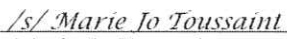
Based on the information obtained and reviewed during the course of the investigation, the conclusion of the staffing/review team is the following:

On January 16, 2022, at about 12:40 A.M. police received information about a stolen Dodge Charger, grey in color, traveling southbound on NW 27th Avenue and 95th Street. Miami Dade Officers saturated the area and observed the stolen vehicle being followed by a grey Dodge Challenger. The officers attempted to conduct a traffic stop and the Challenger sped away and crashed, making the vehicle inoperable, and two males exited the Challenger and ran eastbound across a park field. Vincent Vito Corleone-Venisee ran northbound on NW 22nd Avenue towards 56th Street with a firearm in hand. Sgt. Luke Marckioli exited his vehicle and chased Corleone-Venisee, and other officers followed. Sgt. Marckioli gave verbal commands to Corleone-Venisee to “stop” and “let me see your hands.” Sgt. Marckioli then yelled “gun, gun, gun” at which time Sgt. Marckioli discharged his firearm once striking Corleone-Venisee, who survived the injury with medical treatment.

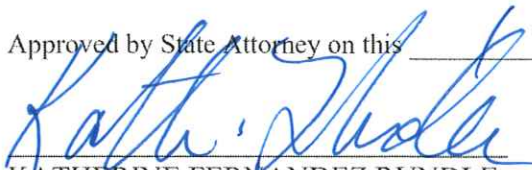
Sgt. Marckioli indicated he saw Corleone-Venisee pull out a black handgun, and he immediately screamed “gun” to warn the other officers. Sgt. Marckioli then yelled at the individual he was chasing, telling him to “Drop that gun. You better drop it! I’m going to catch you.” Sgt. Marckioli repeated this multiple times. As Sgt. Marckioli caught up to the individual, Corleone Venisee turned toward the Sergeant with the firearm in his hand. At that point, Sgt. Marckioli states he was in imminent fear for himself and the other officers behind him. A loaded 9mm Glock pistol, model 45X, Serial # BPTY566 was located near Corleone-Venisee, and his DNA was on the firearm. Pursuant to F.S. 776.012 and 776.05, and a thorough review of the evidence, we find the use of deadly force by Sgt Marckioli to be legally justified.

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

| | | |
|--|--|--|
|  Howard Rosen |  Deisy Hernandez |  Stephen K. Talpins |
|  Kathleen Hoague |  Nilo Cuervo |  Christine Zahralban |


Marie Jo Toussaint

Approved by State Attorney on this 31 day of Dec, 2023.


KATHERINE FERNANDEZ RUNDLE
State Attorney



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: October 31, 2023

FROM: Sandra Miller-Batiste
Assistant State Attorney

RE: POLICE SHOOTING MEMO
SAO Case # 62/22/01/16/001

| | |
|-------------------|--|
| OFFICER INVOLVED: | Sgt. Luke Marckioli ID # 2428 Miami Dade Police Department |
| INJURED: | Vincent Vito Corleone-Venisee (right front of neck) |
| DATE & TIME: | January 16, 2022 at approximately 12:40 A.M. |
| LOCATION: | 5600 Block of NW 22 Avenue |
| WEAPONS: | Glock Model 17, Gen 4 9mm Semi-Automatic Pistol SN REE795 (Sgt Marckioli) 9mm Glock 45X SN: BPTY566 (Corleone-Venisee) |
| LEAD/REPORTS: | Special Agent: Joseph Romero / February 13, 2023 (received reports) |
| CASE #: | MI-27-0178 (FDLE) |
| SAO CASE #: | 62/22/01/16/001 |

STATEMENT OF FACTS

On the afternoon of January 15 and leading into the early morning hours of January 16, 2022, MDPD officers from the Crime Suppression Team (CST), Gang Unit, and the Homicide Street Violence Task Force, were part of a special detail emphasizing proactive intelligence that targeted specific areas and/or individuals to decrease gun violence within Miami-Dade County, Florida. While in the North Side District, information was received of a stolen Dodge Charger, grey in color, traveling southbound on NW 27th Avenue and 95th Street around 12:40 A.M. Officers saturated the area and observed the grey stolen Charger being followed by a grey Dodge Challenger. The officers attempted to conduct a traffic stop and the Challenger sped away and crashed into a fence and tree, making the vehicle inoperable in an area known as Partner's Park, located at 5536 NW 21st Avenue, Miami, Florida.

Two males exited the grey Challenger and ran eastbound across the park field. Vincent Vito Corleone-Venisee, hereinafter referred to as Corleone-Venisee, ran northbound on NW 22nd Avenue towards 56th Street with a firearm in his hand. Officers pursued him on foot. Sergeant Luke Marckioli, hereinafter referred to as Sgt. Marckioli, exited his unmarked vehicle and began to chase Mr. Corleone-Venisee along with other special detail officers. Sgt. Marckioli gave verbal commands to Mr. Corleone-Venisee to "stop" and "let me see your hands." Sgt. Marckioli then yelled "gun, gun, gun" at which time Sgt. Marckioli discharged his firearm one time towards Mr. Corleone-Venisee, striking him on the right side of his neck.

Mr. Corleone-Venisee was transferred to Ryder Trauma Center with a life-threatening injury, where he survived his injury and received medical treatment. Registered Nurse (RN) Luis Videa advised that Mr. Corleone-Venisee sustained an entry wound to the right front of the neck. She also advised that Mr. Corleone-Venisee had no movement or sensation in his lower extremities. Agent Stein took Mr. Corleone-Venisee's medical records to the ME's office and spoke to one of the Doctors there who opined that the medical intervention made it impossible to determine whether the gunshot wound was front to back or back to front.

SHOOTING OFFICER STATEMENT

Sergeant Luke Marckioli

On January 28, 2022, Sgt. Luke Marckioli provided a voluntary sworn statement to investigating officers indicating the events that led up to the shooting. Sergeant Luke Marckioli is employed with the Miami Dade Police Department and is assigned to the Homicide Street Violence Task Force. On January 16, 2022, while working in this capacity in the Northside district Liberty City area, in the vicinity of NW

27th Avenue and 62nd Street, an officer came on the radio and advised that he discovered two vehicles believed to be stolen. One was a dark colored Dodge Charger, and it was being followed by a dark colored Dodge Challenger. Sergeant Marcklioli saw the cars at the intersection of NW 54th Street and NW 27th Avenue, where he observed several unmarked police cars activate their emergency equipment to stop the cars. The vehicles fled from the officers and went eastbound on NW 54th Street at a high rate of speed. Sergeant Marcklioli began to follow the Challenger and saw it lose control as it approached NW 22nd Avenue and tried to make a left-hand northbound turn while traveling eastbound on NW 54th Street. The Challenger crashed into a fence just north of the intersection in a park. He saw several males exit the Challenger and began to follow one of the individuals in a parallel position who ran northbound along the sidewalk outside the fence. Sergeant Marcklioli was driving a black unmarked Dodge Ram pickup truck with red and blue lights activated on the front visor. As the individual approached the end of the fence Sergeant Marcklioli drove on the street along-side the individual to get him to stop without Sergeant Marcklioli driving the truck up on the sidewalk. The individual continued running. Sergeant Marcklioli exited his truck and began to chase him on foot. There were other officers also chasing this same individual, however, he was the closest. Sergeant Marcklioli was in plain clothes with a badge displayed around his neck and was about 10 yards behind the individual. As the chase ensued, Sergeant Marcklioli saw the individual pull a black handgun out of his waistband or front pocket with his right hand. Immediately, Sergeant Marcklioli screamed "Gun" to warn the other officers that the individual was armed. After screaming "Gun", Sergeant Marcklioli yelled at the individual he was chasing, telling him to "Drop that gun. You better drop it! I'm going to catch you." Sergeant Marcklioli repeated this three to five times. As Sergeant Marcklioli caught up to the individual, the individual turned to the right towards Sergeant Marcklioli with the gun in his hand. Sergeant Marcklioli was able to see that it was a thin black Glock. At that point Sergeant Marcklioli stated that he was in imminent fear for himself and the other officers behind him. His statement ended without further comment.

LAW ENFORCMENT WITNESS STATEMENTS

Detective Jason Collado, MDPD

Detective Jason Collado is employed with the Miami Dade Police Department and part of the Crime Suppression Team in the Northwest District. On January 16, 2022, while working in this capacity in the Northside district, Detective Collado heard a radio transmission regarding a stolen vehicle in the area being followed by other police units northbound on NW 22nd Avenue. Detective Collado was in

the vicinity and proceeded to drive to their location. As he arrived, he saw subjects exiting the vehicle and running away from where he was located, in a northbound direction. There were also other officers in the area running after the subjects. Detective Collado exited his vehicle and began to chase the subjects. As he was running in their direction, he saw one of the subjects running with a gun in his hand. The subject was not pointing the gun at anyone. Detective Collado yelled "gun gun gun". He saw the subject run behind a bus stop bench and lost sight of him briefly. As Detective Collado approached the bus bench, he saw a gun on ground the behind bus stop. He also saw the subject on the ground and approached him. At first, he didn't know that the subject was shot, however, as they took the subject's hoodie off, he saw the gunshot wound on the victim's neck area. At that point Detective Collado called fire rescue and advised the subject had been shot. Detective Collado did not hear gunfire and didn't see who fired a firearm. He did not fire his firearm.

Detective Julian Jovan Amor

Detective Julian Amor is employed with the Miami Dade Police Department and works a special detail from 4pm to 4am which is designed to operate proactively to remove guns from the streets in the Northwest District for Miami Dade County. On January 16, 2022, while working in this capacity a transmission went out over the radio of a stolen vehicle with a description of a dodge charger and another description of a dodge challenger that was following the dodge charger. Detective Amor spotted the dodge challenger and began to follow the vehicle. Detective Amor was riding with Detective Christian Cruz, and they were driving in a white Chrysler 300 rental car rented by the police department. Their car was the first police vehicle behind the dodge challenger and their lights were not activated. As the challenger accelerates, another police vehicle pulls in front of him with lights activated. At that point, Detective Amor activated his visor lights and rear row lights. They were traveling northbound, and the challenger made a left. By the time Detective Amor's vehicle made the left, he saw that the challenger had crashed. Detective Amor allowed Detective Cruz to get out of the car and chase the subject of the challenger who had exited and begun running from the scene. Detective Amor stayed in the police vehicle and followed. As the subject ran across NW 54th Street, Detective Amor parked and exited his vehicle to give chase. As Detective Amor exited the vehicle, he heard one gunshot and saw the subject running with one hand in a pocket and one hand free. Detective Amor did not see anything in the subject's hand. Detective Amor saw the subject on the corner and the other officers running across the street. He got back in car and rode over to them, at which point he heard "55, 55" which means gun. As

Detective Amor approached, he saw a black Glock firearm on the ground. He also saw Corleone-Venisee on the ground, and he was saying he couldn't breathe. Detective Amor did not fire his gun. The officers on the scene began to render first aide and turned Corleone-Venisee on his side so that he could breathe. Detective Amor did not speak with any officers on the scene and was not aware at that time who fired the gunshot.

Detective Sergio Cordova

Detective Cordova is employed with the Miami Dade Police Department and was working a special detail on the day that the shooting occurred, which started at 4pm. He was riding with Officer Yamiel Ortega who was driving a black Camry rental car. Their detail was designed to maintain a high visibility role to prevent violence during a funeral. As they approached the corner of NW 54th Street and NW 22nd Avenue they heard over the radio that a dark challenger was going at a high rate of speed and following a stolen vehicle. Detective Cordova saw a challenger driving fast through his rear-view mirror and it turned off. Shortly after the car turned off the street, he heard a big bang, but did not see the crash until they approached the area where the car turned off. As they ride up, Detective Cordova saw people getting out of the challenger and running. He saw the passenger get out and run, and he ordered him to stop. The subject had one hand in his pocket and Detective Cordova identified himself as MDPD police and said let me see your hands repeatedly, but the subject kept running. Detective Cordova caught up with him when he bumped into a truck, but the subject got away. Detective Cordova kept running but tripped as the subject kept going. He heard another officer say "gun, gun, gun", then he heard one shot. Detective Cordova got up and ran towards the subject. He saw a gun on the ground as he ran towards the subject. Detective Cordova placed cuffs on the subject who was on the ground at the time. Detective Cordova's partner never came to the shooting scene.

Detective Kristian Cruz

Detective Kristian Cruz is employed with the Miami Dade Police Department and is assigned to the Hammocks district. On January 16, 2022, Detective Cruz was riding with Detective Amor as a passenger in a white Chrysler 300 and they were working a saturation detail starting at 4pm which is designed to operate proactively to remove guns from the streets in the Northside District for Miami Dade County. While working in this capacity in the Lincoln fields area, Detective Cruz became aware of a stolen vehicle with a description of a dodge charger and another description of a dodge challenger that

was following the dodge charger through a radio advisory transmission. They were in the location of NW 54th Street and NW 27th Avenue when he heard the advisory that the vehicle was at NW 27th Avenue and NW 55th Terrace. They got behind the challenger as it went southbound and then west on NW 54th Street and then back east. The challenger made a left on NW 22nd Avenue and when Detective Cruz saw the challenger again it had crashed into a fence. At that point Detective Cruz saw a passenger exit the vehicle and run northbound on NW 22nd Avenue. The subject had one hand in the pocket of his hoodie and multiple commands were made by officers directing the subject to show his hands. Detective Cruz is not sure if any of the other officers chasing the subject identified themselves as officers, he didn't because he was just trying to catch up with the subject. He saw the subject fall and get back up running diagonally across the intersection. As the subject was running, he saw the subject pull out a firearm. Detective Cruz had activated his body worn camera (BWC) and believes it should show on his BWC footage. Detective Cruz started yelling "55", which means firearm. He saw the subject run behind the bus stop bench and lost visual of the subject. Then Detective Cruz heard a gunshot, but he did not see who fired the shot. Detective Cruz did not fire his weapon. There were multiple officers running behind the subject and he kept running towards the suspect. When he got there the subject was already down and cuffed. Detective Cruz asked if anyone needed fire rescue. Shortly thereafter Detective Cruz learned that the subject had been shot and began searching for the gunshot wound, locating a gunshot wound on his neck. Fire rescue was called, and the officers tried to keep the suspect talking to keep him alert while waiting for fire rescue. No statements were taken from the suspect.

Detective Yamiel Ortega

Detective Ortega has been employed with the Miami Dade Police Department for six and a half years and currently works with the crime suppression team out of the Intercoastal district for the Miami Dade Police Department. On the afternoon of January 16, 2022, he was riding with Detective Cordova and was driving a black Camry rental car. Their detail was designed to maintain a high visibility role to prevent violence during a funeral. As they approached the corner of NW 54th Street and NW 22nd Avenue they heard over the radio that a dark challenger was going at a high rate of speed and following a stolen Charger. Detective Ortega made a turn onto NW 54th Street and saw the challenger. The Challenger made a U-turn coming back towards him and blew right past him in the lanes going westbound. Detective Ortega started following the Challenger but was unable to get close to the Challenger. He isn't sure if he had visor lights on in the Camry. The Challenger blew a red light

attempting to go north bound but hit the median and lost control, hitting a tree. Detective Ortega saw the occupants get out of the Challenger and run. He exited his vehicle and followed running behind them. It was dark outside, but there were some lights allowing him to see the subjects. Detective Ortega saw one subject jump over a fence and continue to run. The subject was wearing a black hoodie and jeans. At that point Detective Ortega realized that he was not going to catch up to the subjects, so he went back to the car that the subjects bailed out of. He saw a rifle inside the front passenger side of the vehicle. Then he heard a gunshot but did not know what happened and didn't hear any commands from where he was standing. Detective Ortega stayed with the vehicle. Detective Ortega was armed with a Glock 17, and he never discharged his firearm. Detective Ortega never saw the victim of the shooting.

FIRE RESCUE WITNESS STATEMENTS

Firefighter/Paramedic Eder Mejia

Firefighter Eder Mejia was working fire rescue on January 16, 2022, with Lt. Jeremiah Dorry and Firefighter/Paramedic Francisco Bolado from Rescue-02 (R02). Sometime after midnight on the date of the incident, R02 responded to NW 22nd Avenue and 56th Street regarding a shooting. Firefighter Mejia observed two unknown Miami-Dade police officers rendering aid to Corleone-Venisee. Firefighter Mejia and his crew continued patient care and believe that the patient had a possible gunshot wound to the back of his neck and to the right side of his neck. They also learned from the patient that he could not move his legs. Firefighter Mejia prepared him for transport and R02 transported him to Jackson Memorial Hospital Ryder Trauma Center. No other statements were made by Corleone-Venisee regarding the incident or by any of the officers on the scene to Firefighter Mejia.

Firefighter/Paramedic Lieutenant Jeremiah Dorry

Firefighter Lt. Dorry was working fire rescue on January 16, 2022, with Firefighter Eder Mejia and Firefighter/Paramedic Francisco Bolado from Rescue-02 (R02). On the morning of the incident, R02 responded to NW 22nd Avenue and 56th Street regarding a shooting. Upon arrival Lieutenant Dorry observed Corleone-Venisee on the ground with an occlusive dressing being applied by a Metro Dade police officer on the right side of his neck. Lieutenant Dorry did not observe any other injuries on the patient however he did observe that blood had coagulated on the back of his neck. Lieutenant Dorry's crew prepared the patient for transport and R02 transported him to Jackson Memorial Hospital Ryder

Trauma Center. No other statements were made by Corleone-Venisee regarding the incident or by any of the officers on the scene to Lieutenant Dorry.

Firefighter/Paramedic Francisco Bolado

Firefighter/Paramedic Francisco Bolado was working fire rescue on January 16, 2022, with Firefighter Eder Mejia and Lieutenant Dorry from Rescue-02 (R02). On the morning of the incident, R02 responded to NW 22nd Avenue and 56th Street regarding an officer involved shooting. Upon arrival he observed Corleone-Venisee on the ground with an occlusive dressing being applied by Miami Dade police officers on the patient's neck, however Firefighter/Paramedic Bolado could not recall which side. Firefighter/Paramedic Bolado did not observe any other injuries on the patient and did not hear him or any of the Miami Dade police officers make any statements regarding the shooting incident.

CIVILIAN WITNESS STATEMENT

Mr. Rashid Jamal Thomas

Mr. Thomas was the legal owner of the gun found near the area where the suspect was shot. The gun was reported stolen by Mr. Thomas on December 16th, 2020. According to Mr. Thomas, the gun was a Mini Glock 43X. Mr. Thomas purchased the gun from his brother and has the paperwork for the gun. He last had possession of his gun when he went to a car wash located in Miramar in the River Run Shopping Plaza. While at a car wash in Miramar, the gun was taken from inside his car while it was being washed. Mr. Thomas knew his gun was under his seat when he took the car to the carwash, however when he left, he checked under the seat, but the gun was not there. He immediately went right back to the carwash and asked the guy there about the gun and the guy said he hadn't seen a gun. Mr. Thomas left the carwash and went directly to Miramar police station and reported the gun stolen. He provided the name of the person with whom he spoke and who washed his car when he went back to the carwash. Mr. Thomas was provided a card with the police case number on it.

BODY WORN CAMERA

Body Worn Camera (BWC) was worn by Detective Julian Amor, Detective Kristian Cruz, and Detective Jason Collado on the date of the incident, January 16th, 2022, and reviewed and retrieved by an FDLE Agent on the same date. The BWC's were on Greenwich Mean Time (GMT) which is

approximately a five-hour difference from Eastern Standard Time (EST). The times on the BWC were not synced with any computer aided dispatch notes or radio transmission times.

Detective Amor's BWC video begins with Detective Amor running down the street. There is radio communication in the background asking, "Who has the Charger?" Then the video displays the scene as Detective Amor approaches a bus bench where Sgt. Marckioli and other plain clothes officers were on the scene. A male voice can be heard stating "He had a gun in his hand", the audio then becomes unintelligible. The video shows officers communicating and rendering aid to a black male, whom was bleeding from his neck, laying on the ground. The victim, Corleone-Venisee can be heard on video stating "I got shot." The video did not capture the shooting. Miami Dade Fire Rescue can be seen arriving on the scene and later transporting the victim of the shooting away from the scene. Lastly, Sgt. Gregory Franco is seen approaching Officer Cruz asking, "Do we know what happened.?" At that point the microphones on the BWC were muted and there was an inaudible discussion between the officers.

Detective Kristian Cruz' BWC video begins with Detective Cruz sitting in a moving vehicle with no sound at approximately 5:43 pm, video time. Detective Cruz exits the vehicle and begins to run at which time unidentified voices can be heard on the BWC stating "Let me see your hands, he's got a gun 55". 55 is police code for firearm. Other plain clothed officers entered the video and were seen running in front and alongside Detective Cruz. At that point a gunshot was heard, and an unidentified voice was heard in the background stating "He got a gun, he's got a gun, he's got a gun." Mr. Corleone-Venisee is seen on his back bleeding from the neck, and he stated, "I got shot." Detective Cruz is the person seen in the video wearing blue gloves and was rendering aid to Mr. Corleone-Venisee. Sergeant Gregory Franco is seen approaching Detective Amor and is heard stating "Do we know what happened.?" At that point the microphones from the body worn cameras were muted and there was inaudible discussion between the officers. The BWC video did not capture the shooting.

Detective Collado's BWC video begins with Detective Collado driving then shortly thereafter coming to a stop and exiting the vehicle. Detective Collado starts running and a male voice is heard yelling, "gun, gun, gun, put your fucking hands down, he's got a gun." Detective Collado is heard stating on BWC over police radio, "One subject in custody with a 55", which is police code for firearm. BWC shows Detective Collado standing on the street near a bus stop, and a male voice is heard stating "somebody start fire." The BWC video did not capture the shooting.

CRIME SCENE

There were two crimes scenes documented as a part of the FDLE investigation. One was located on NW 22nd Avenue and NW 54th Street, location # 1, and the second scene was located on NW 22nd Avenue and NW 56th Street, location # 2. Location #1 was the crash site of the 2021 Dodge Challenger which slammed into the fence and then crashed into a tree. Location # 2 was the scene of the shooting where crime scene technicians found a black 9mm Glock pistol, model 45X, Serial # BPTY566, containing (1) 9mm Glock magazine (10-round capacity). The Glock 45X firearm had a live 9mm cartridge with head stamp FC Luger 9mm in the chamber and an inserted ten round capacity magazine containing ten live 9mm cartridges. Slightly north of where the firearm was located was where Corleone-Venisee was located, and officers rendered first aid until Fire Rescue arrived. There was a spent 9mm casing with head stamp WCC+P+, which is consistent as being the same type of ammunition carried by Sergeant Marcklioli, near where Corleone-Venisee was shot.

EVIDENCE

Sergeant Marcklioli' s service weapon, a Glock Model 17, Gen 4 9mm Semi-Automatic Pistol Serial # REE795, containing one (1) live 9 mm cartridge in the chamber, a seventeen (17) round capacity magazine and modified with a five (5) round extender, allowing it to hold a total 22 rounds plus one (1) in the chamber, was collected on the scene and submitted to the Miami Dade Police Department Firearms Laboratory for firearms analysis. The firearm was found to be in satisfactory operating condition and tests were fired. Comparison microscope examinations were conducted and revealed that the fired 9mm casing, recovered from the area of NW 22nd Avenue and NW 56th Street, was identified as having been fired in Sergeant Marcklioli's Glock pistol.

The 9mm Glock pistol, model 45X, Serial # BPTY566, containing (1) 9mm Glock magazine, that was located in the area of NW 22nd Avenue and NW 56th Street, was found to be in satisfactory operating condition and tests were fired. This firearm was also swabbed for DNA comparison. The partial Corleone-Venisee male DNA profile from the firearm matches the DNA profile obtained from an oral standard swab taken from Corleone-Venisee.

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

The undersigned Assistant State Attorney, and Assistant State Attorney Andrew Hague who responded to the scene, have reviewed the entire Florida Department of Law Enforcement (FDLE) file regarding the Police Use of Force in this incident. We have also reviewed the sworn statements, crime scene reports, lab reports, and other evidence compiled by FDLE under FDLE case Number MI-27-0178. We find the FDLE summary and report to be complete and thorough. We adopt and attach the FDLE report into this memorandum and offer our conclusion based upon the results of our independent review of the evidence.

Sec. 776.05, Fla. Stat. provides: "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:

- (1) Which he or she reasonably believes to be necessary to defend him or herself or another from bodily harm while making the arrest.
- (2) When necessarily committed in retaking felons who have escaped or
- (3) When necessarily committed in arresting felons fleeing from justice and
 - (a) The officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or
 - (b) The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person.

Additionally, Florida law mandates that the use of deadly force is legally justified if "[a] person... reasonably believes that using or threatening to use [deadly] 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." The Statute mandates that "[a] person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be...". Fla. Stat. § 776.012(2)(2023).

After a review of the facts, the evidence, and the applicable law, the State Attorney's Office has determined that the actions of Sgt. Marckioli do not constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt. The facts reveal that Corleone-Venisee was suspected of committing a crime and was being chased by the police. According to Sergeant Marckioli, during the chase Corleone-Venisee removed a firearm from either his front pocket or waistband. Sergeant Marckioli yelled "Gun" to warn other officers chasing Corleone-Venisee that he possessed a gun. Sergeant Marckioli also shouted at him repeatedly commanding him to drop the gun. Corleone-Venisee failed to drop the gun and continued to run away from the officers chasing him. As Sergeant Marckioli was about to catch Corleone-Venisee, Corleone-Venisee turned to the right towards Sergeant Marckioli with the gun in his hand. Sergeant Marckioli was able to see that it was a thin black Glock. At that point Sergeant Marckioli states that he was in imminent fear for himself and the other officers behind him. Sec. 776.05, Fla. Stat. provides that a law enforcement officer need not retreat or desist from efforts to make a lawful arrest because of resistance to the arrest. It further specifies that the officer is justified in the use of any force which he or she reasonably believes to be necessary to defend him or herself or another from bodily harm while making the arrest; or when necessarily committed in arresting felons fleeing from justice and the officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or the officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person. The facts and evidence in this investigation reveal that Sergeant Marckioli was pursuing Corleone-Venisee to make a lawful arrest. Additionally, the facts and evidence reveal that while in pursuit, Corleone-Venisee produced a firearm which he failed to discard when ordered to do so. According to Sergeant Marckioli, his failure to drop the gun when ordered to do so, created fear on the part of Sergeant Marckioli for his safety and the safety of the other officers in pursuit. Consequently, pursuant to F.S. 776.05 and 776.012, Sergeant Marckioli's use of deadly force in shooting Corleone-Venisee, is justified. Therefore, the actions of Sergeant Marckioli do not constitute a criminal act.

Prepared by:

/s/ Sandra Miller Batiste

Assistant State Attorney
Sandra Miller-Batiste