

Close-out Memorandum of the  
Investigation Regarding  
Yordany Rodriguez Perez  
October 22, 2021



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



INTEROFFICE MEMORANDUM

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

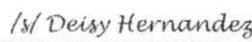
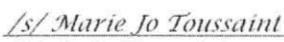
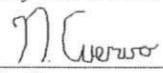
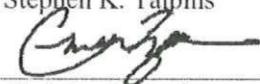
FROM: STAFFING/REVIEW TEAM      RE: SAO/Case #: 62/21/10/22/001  
Deceased: Yordany Rodriguez Perez

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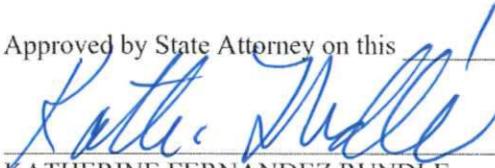
Based on the information obtained and reviewed during the course of the investigation, the conclusion of the staffing/review team is the following:

On October 22, 2021, at about 11:03 AM, a 911 call was made in reference to a disgruntled former employee involved in an altercation at City Electric Supply in Sweetwater. An investigation revealed Yordany Rodriguez Perez, a former employee, was involved in an altercation with the manager, and later became involved in an altercation with a customer. Rodriguez Perez, in his BMW, began to strike the customer's vehicle. The customer noticed Rodriguez Perez was armed with a firearm and drove in the direction of the Miami-Dade Police Department located at 9105 NW 25 Street to seek police assistance. Rodriguez Perez fired at the civilian as he fled toward safety. Rodriguez Perez then lost control of his BMW and ended up in an eastbound direction in the westbound lanes. Doral Police Department Officers Beautelus and Cervera arrived on scene and approached the BMW with guns drawn. Doral Ofc. Vilarchao also arrived on scene in a separate police vehicle. Rodriguez Perez exited his vehicle and immediately began shooting at the officers. The officers returned fire. Rodriguez Perez jumped on to the roof of a vehicle and continued shooting at the officers. Rodriguez Perez, still armed, jumped off the vehicle and ran towards the parking lot of a nearby business. Officer Vilarchao, using his police vehicle as cover, began shooting at Rodriguez Perez, as did Ofc. Cervera. Rodriguez Perez was then struck and fell to the ground. A black Glock 9 mm semi-automatic pistol was located underneath his body. In the exchange of gunfire, Officer Beautelus was shot in the leg and Officer Vilarchao sustained a laceration to the right cheek. Additionally, a civilian sitting as a passenger in a delivery truck in traffic was struck in the leg by a bullet. Pursuant to F.S. 776.012 and 776.05, and a thorough review of the evidence, we find the use of deadly force by Officers Beautelus, Cervera, and Vilarchao to be legally justified.

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

 Howard Rosen	 Deisy Hernandez	 Stephen K. Talpins
 Marie Jo Toussaint	 Nilo Cuervo	 Christine Zahralban

Approved by State Attorney on this \_\_\_\_\_ day of Nov, 2023.

  
KATHERINE FERNANDEZ RUNDLE  
State Attorney



**CASE SUMMARY**

On Friday, October 22, 2021, at approximately 11:03 A.M., a 911 call was made in reference to a disgruntled former employee involved in an altercation at City Electric Supply in Sweetwater. Investigation revealed that Yordany Rodriguez Perez (hereinafter, Rodriguez Perez), a former employee of City Electric Supply, was involved in an altercation with the manager of City Electric Supply, Diego Antonio Rivas (hereinafter, Rivas), wherein Rodriguez Perez committed a battery upon Rivas. Rodriguez Perez then became involved in a second altercation with a customer of City Electric Supply, J. Rodriguez (hereinafter, Rodriguez), who was in his grey Toyota Tundra trying to leave the business after seeing that Rodriguez Perez had become violent with Rivas. Rodriguez Perez began to hit Rodriguez's vehicle with his hands yelling for him to get out of the car. Rodriguez accelerated his vehicle to leave and hit Rodriguez Perez's vehicle, a 2011 black four door BMW. Rodriguez Perez began to follow Rodriguez. Rodriguez could see that Rodriguez Perez had a black firearm in his hands. Rodriguez drove onto 107<sup>th</sup> Avenue and could hear several shots being fired at him, hitting his vehicle. Rodriguez drove in the direction of the Miami-Dade Police Department (MDPD) headquarters located at 9105 NW 25 Street in order to seek police assistance.

Officer Jenry Martin (hereinafter, Ofc. Martin) of Sweetwater Police Department (hereinafter, Sweetwater PD) was in route in emergency mode to City Electric Supply in response to a call for service for an aggravated assault committed by an offender known to carry a gun. While in route, Ofc. Martin he observed a grey Tundra and black BMW driving at a high rate of speed towards NW 25 Street. The black BMW appeared to be chasing the grey Tundra. Ofc. Martin proceeded to the dispatch call. Upon his arrival, he was flagged down by an unknown witness who stated that the subject of the battery had fled in a black BMW. Ofc. Martin drove back in the direction he had seen the two vehicles fleeing.

At approximately NW 25 Street and 92 Avenue, Rodriguez Perez lost control of his vehicle and ended in an eastbound direction in the westbound lanes. Doral Police Department (hereinafter, Doral PD) Officers Beautelus and Cervera arrived together in a marked Ford Explorer police vehicle and approached the BMW with guns drawn. Doral Ofc. Vilarchao arrived in a marked Ford Taurus police vehicle and initially did not get out of the vehicle. Rodriguez Perez exited his vehicle and immediately began shooting at all three officers. The officers returned fire. Ofc. Vilarchao was returning fire from inside of his police vehicle. Rodriguez Perez then jumped on the hood and roof of

a vehicle and continued shooting at the officers. Rodriguez Perez then jumped off the vehicle and ran towards the parking lot of a nearby business, Bedrosian Tile & Marble, located at 9200 NW 25 Street, Miami, FL 33172. Rodriguez Perez ran around the west side of the building and about 40 seconds later returned towards the parking lot holding the black firearm in his hands. At that time, Ofc. Vilarchao, using his police vehicle as cover, began shooting at Rodriguez Perez from NW 25 Street. Ofc. Cervera also began shooting at Rodriguez Perez from the swale by the canal on NW 25 Street. Rodriguez Perez was hit and fell to the ground. Several officers approached and began to render aid to Rodriguez Perez. A black Glock 9 mm semi-automatic pistol was located underneath his body.

The shooting officers were Officers Vilarchao, Beautelus and Cervera. Ofc. Beautelus was shot in the leg and Ofc. Vilarchao sustained a laceration to the right cheek. Both officers were later transported to the hospital for treatment. Additionally, during the crossfire, a civilian sitting as a passenger in a delivery truck at the stop sign on NW 92 Avenue and NW 25 Street was struck in the leg by a bullet. He was transported to the hospital and treated for his injuries.

### CIVILIAN STATEMENTS

#### DAVID ALBERT MARTIN-VIANA

Mr. David Albert Martin-Viana (hereinafter, Martin-Viana) stated that he works at Bedrosian Tile & Marble located at 9200 NW 25 Street, Doral, Florida. He stated that he was taking his lunch break, sitting in the driver's seat of his vehicle relaxing with his eyes closed when he heard tires screeching; about five seconds later he heard two gunshots. The witness stated that he looked up and observed two Doral officers and a white male with no shirt shooting at each other. One officer took shelter behind an SUV, and the other officer was hit. He stated he observed the officer that was hit crawling to get behind shelter. The witness stated that the white male went behind his black BMW and continued shooting at the officers. Martin-Viana explained that when the white male saw the officer crawling for shelter, the white male jumped on top of his car and began shooting at the crawling officer. Once the crawling officer found shelter, the suspect ran to the west side of the building. This witness exited his vehicle and went inside the business and locked the door for the safety of his employees. The witness stated that in total there was about three minutes of intense shooting. The witness also stated he was about 30-40 feet away from the officers and suspect. Furthermore, he stated that the white male

appeared to be shooting with an intent to kill; the reason he believed that is because the white male continued walking towards the officers while the officers were seeking cover.

OMAR RAFAEL CEPERO

Mr. Omar Rafael Cepero (hereinafter, Cepero) stated he and his father own a cabinet installation company, Cema Home. Cepero was driving a company box truck and was with two passengers. Cepero was at the corner of NW 25 Street and 92 Avenue at a stop sign waiting to make a right turn onto NW 25 Street when he noticed a crashed black BMW in the middle of the street. He stated there were three Doral PD officers in the area of the BMW standing outside their marked police vehicles. The witness stated the officers were pointing their weapons towards the BMW. The witness stated he then observed the driver of the BMW exit his vehicle and immediately begin shooting at the police officers who then began to return fire at the man. Cepero further explained that as the gunshots were being exchanged, one of his windows shattered and one of his passengers told him he had been shot. A bullet went through the driver door and hit the passenger in the right leg who sitting in the front passenger seat. Cepero reversed his truck and accelerated away from the intersection back towards his business in order to call an ambulance. The witness stated he continued to hear gunshots after leaving the scene but could no longer see the exchange.

MARIA ESPINOSA

Ms. Maria Espinosa is a civilian employee of MDPD. The witness stated that she was driving to lunch from MDPD headquarters when she stopped at a stop sign and heard sirens. She observed a black vehicle, with damage, stationary in the middle of the intersection. She also saw two Doral PD police vehicles arriving from the west. She then observed two officers running in a westbound direction from the second Doral police vehicle, and a police officer from the first police vehicle exiting his vehicle. She also observed the "subject" exit the driver's side of the black vehicle, shooting at police as he exited the vehicle. The "subject," who she described as a white male with no shirt, shorts, full of tattoos, then jumped on the hood and then roof of a Doral PD police vehicle as he continued to shoot at officers. As the "subject" was shooting at the officers, the witness observed the police officer from the first Doral police vehicle shooting back at him and attempting to shield himself with the driver's side of the police vehicle. She also observed the two officers who were initially running westbound shooting back at the "subject." She described those two officers as a black male officer and a Hispanic male officer. The

“subject” then ran towards the south side of NW 25 Street. At this point, the witness lost sight of the subject.

STEPHANIE BLANCO:

Ms. Stephanie Blanco (hereinafter, Blanco) stated that she drove into MDPD headquarters and parked in an MDPD guest spot. She stated that she was arranging something in her bag when she heard rapid gunshots and witnessed Doral PD officers engaging in a shootout with a white male with no shirt on. She stated she witnessed the white male jump on top of a car with his firearm while gunshots continued to go off. The white male then jumped off the car and ran towards a beige building across the street. Shots ceased for a few seconds but then she saw the white male returning from the corner of the building and gunshots began again. Blanco stated that several police officers then ran towards the white male. Further, Blanco recalled that she first heard the gunshots, and it was around 11:10 am.

**LAW ENFORCEMENT STATEMENTS**

OFFICER JENRRY MARTIN

Sweetwater PD Officer Jenrry Martin was in the process of responding to a dispatch call in reference to a battery when he observed a grey Toyota Tundra with damage to the right front area, traveling at a high rate of speed. He then observed a dark BMW with damage to the front and driver door window also traveling at a high rate of speed. Ofc. Martin observed that the driver of the BMW had no shirt, appeared to have tattoos, and “looked at [him] with a face as if he was upset.” Ofc. Martin advised over the radio that he observed two vehicles fleeing the area at a high rate of speed that had possibly been involved in an accident and that the victim of the accident could have possibly been chasing the other involved vehicle. Ofc. Martin quickly arrived to the battery incident location and was flagged down. He was given a brief explanation of what had occurred; he was told that the subject of the incident had fled the scene in a black BMW. Ofc. Martin got back on the radio and advised dispatch that the black BMW he had just seen was actually the subject and provided dispatch with the vehicles’ last known location, traveling northbound on 107 Avenue. Ofc. Martin began driving in that direction. As Ofc. Martin approached 97 Avenue he heard over the radio that a Doral officer had a visual on the black BMW. Shortly after, he heard dispatch state, “shots fired.” Ofc. Martin arrived at the scene of the

shooting and observed an officer assisting another officer who was laying on the ground. Ofc. Martin positioned his marked police SUV on NW 25 Street to provide cover for the two officers. Ofc. Martin could hear shots but could not see where they were coming from. Ofc. Martin took cover behind his vehicle, loaded his firearm and ran towards where he believed the shots were coming from. He then observed the subject laying face down on the ground. Ofc. Martin approached and gave verbal commands to “show me your hands.” The subject was turned over and was bleeding profusely, and unresponsive. The subject’s firearm was located by the subject’s hand.

#### OFFICER AGUILERA

Doral PD Officer Andrew Aguilera (hereinafter, Ofc. Aguilera) stated that at about 11:15 AM he heard a radio call coming in from Sweetwater PD regarding threats with a gun. Ofc. Aguilera stated the location given was just outside of the jurisdiction of Doral but he knew the area so he headed in that direction. Ofc. Aguilera stated he heard a BOLO issued of the subject vehicle and another vehicle involved, a dark BMW and a pickup truck. A Doral officer then got on the radio stating he observed the vehicles traveling eastbound on 25 Street. Ofc. Aguilera then heard “shots fired” on the radio and that the subject vehicle, the black BMW, had crashed in front of or nearby MDPD headquarters. Ofc. Aguilera began driving in that direction when he observed an officer [Beautelus] who was bleeding and injured crawling on the floor. Ofc. Aguilera stopped in front of the officer and immediately transported him to Jackson West.

#### SERGEANT BRAJDIC

Doral PD Patrol Sgt. Matthew Brajdic (hereinafter, Sgt. Brajdic) was driving south on NW 97 Avenue from NW 33 Street when he heard a radio transmission on his police radio concerning a 3-32 (emergency aggravated assault) that had occurred in the area of NW 108 Avenue and NW 18 Street in Sweetwater regarding a man possibly armed with a firearm. Sgt. Brajdic stated he heard a Sweetwater officer over the radio also state that he had observed a black BMW and a truck speed by him at a high rate of speed from the area of the call. Sgt. Brajdic then heard Doral Ofc. Vilarchao on the radio state that he sees a vehicle that matches the description traveling at a high rate of speed going eastbound on 25 Street in the 9400 block. Sgt. Brajdic stated he was almost at the scene, turning the corner with lights and sirens when he heard Ofc. Vilarchao state that they were taking fire. Ofc. Vilarchao further advised that the vehicle had lost control in front of [MDPD] “headquarters” or “Midwest.” Sgt. Brajdic stated he

then saw the black BMW in the middle of the street facing north and south when it should have been facing eastbound, indicating to him it must have crashed or lost control. Sgt. Brajdic stated he observed two officers running across 25 Street towards 92 Avenue. Sgt. Brajdic explained that as he pulled up closer, he could hear gunshots and observed Ofc. Beautelus taking off his vest and holding his arm running for cover. At that moment he heard over the radio, "officer down, officer down," so he figured Ofc. Beautelus had been shot. Sgt. Brajdic could not see where the shots were coming from but drove towards where he could hear shots. Sgt. Brajdic observed Ofc. Cervera behind a tree holding his firearm towards the business. Sgt. Brajdic also observed Ofc. Vilarchao shooting from behind his police vehicle towards the business. Sgt. Brajdic exited his vehicle and heard "he's down, he's down" so he approached the business and could see the subject. The subject was bleeding but could not see his hands. Once Sgt. Brajdic saw no signs of life, he handcuffed the subject and observed a firearm under him. Ofc. Cervera began to render aid. Sgt. Brajdic did not discharge his weapon at any point.

### 911 AND DISPATCH COMMUNICATIONS

The three agencies involved, Sweetwater PD, Doral PD and MDPD, were all receiving information through dispatch on their respective channels. The shooting officers did not give statements; therefore, it is unknown what specific information the officers had before attempting the felony stop. The following is a summary of relevant recordings created by the MDPD Communications Bureau and should not be considered a verbatim transcript.

### 911 CALLS

11:03:56	A male caller identified himself only as "A," later identified as A M called 911 to report that a disgruntled employee was at City Electric Supply and he heard a scuffle in the background while he was on the phone with the manager. The caller provided the address of 10840 NW 22 Street and a call back number of . "A" provided a description of the employee as being a white male and is "known to be armed."
11:04:42	Male caller reported a fight at NW 108 Avenue and 22 Street from 786-301-1138 and said that a person was now at their business, Gomez Fencing, and was bleeding and requested that Fire Rescue respond to 10805 NW 22 Street. The caller said it was a fight between two males.

11:04:55	A customer at City Electric Supply called to report a person crashing into a “dudes” car and started chasing him. The caller said it was involving two white males. One was in a black BMW and the other in a grey Toyota Tundra. The caller then hung up.
11:05:21	A male caller said that he had been attacked at 10840 NW 22 Street by an employee and was now hiding behind Gomez fencing. The caller said he was bleeding from his face. The caller identified his attacker as Yordany Perez and he was driving a black BMW. The caller described his attacker as being a white male with several tattoos and possibly had a gun. The caller identified himself as Diego Rivas.
11:10:39	A female caller reported a shooting at 9250 NW 25 Street. The female stated that the shooting happened in front of their building and the male was at the back of the building. The caller was unable to provide a description of the male.
11:12:51	A male caller reported that a male delivery driver had been shot in the leg at 2400 NW 92 Avenue. The caller identified himself as Arian Cruz. Cruz stated that the police was now at the scene and hung up.

**DISPATCH CALLS**

11:06:00	SW 113 [Ofc. Martin] EN-Route to City Electric
11:06:00	SW 117 EN-Route to City Electric
11:06:00	SW 113 [Ofc. Martin]-changed to primary unit
11:07:00	Grey Pickup BLK BMW- SW 113 [Ofc. Martin] provided a description of the vehicles involved to responding units
11:08:00	SW 113 [Ofc. Martin] advised that the subject was in the black BMW and heading northbound on NW 107 Avenue and had front end damage and the pickup truck had damage to it as well
11:09:00	DR 135 advised that the vehicles were eastbound on NW 25 Street at a high rate of speed and that shots had been fired at NW 96 Avenue and 25 Street. Both vehicles were approaching NW 93 Avenue.
11:11:00	DR 125 advises “shots fired, Officer down”
11:11:00	MDPD dispatcher requested any units in the area to respond on a “315” (Emergency mode) to the front of Station Three (Midwest)

11:11:00	DR 152 advised another Doral officer was shot in the left arm and left leg and were being taken to Jackson West Medical Center.
11:11:00:52	D2300 at 2400 NW 92 Avenue reference a "330" (shots fired) at the back of the Goya building reference a person shot. This incident was related to the Officer Involved Shooting reference a civilian shot.

### SURVEILLANCE VIDEOS

Several surveillance videos were obtained relating to this investigation. Many of the videos depict what appears to be the grey Toyota Tundra being chased by the black BMW, one of the videos depicts the BMW losing control, and many videos depict police vehicles driving and arriving to the scene. None of the surveillance videos obtained depict the initial shootout between Rodriguez Perez and the officers.

The only surveillance video of note comes from Global Reach Health, a neighboring building to Bedrosian Tile & Marble, which depicts a view of the parking lot of Bedrosian Tile & Marble. A summary of the contents of this video is as follows:

At 10:15:45 Rodriguez Perez runs into view, running towards the west side corner of the building. He is seen shirtless, with tattoos covering his arms and torso, wearing dark shorts and a dark colored firearm in his left hand. He runs towards the corner but turns around, holds up his firearm raising it in the direction of Ofc. Vilarchao but then turns around and continues running. Rodriguez Perez runs in the alleyway between the two buildings. A shot seems to have been fired in his direction because a tree branch falls from a tree in the camera view. Rodriguez Perez continues running down the alley out of view. Approximately 40 seconds goes by until Rodriguez Perez is back in view and shots can be seen fired towards Rodriguez Perez who is holding a dark object in his right hand. Rodriguez Perez immediately falls down to the ground.

### BODY-WORN CAMERA

There are two body-worn camera (hereinafter, BWC) videos of most relevance to this incident: shooting officers, Ofc. Vilarchao and Ofc. Cervera.

A summary of the footage is as follows:

#### OFFICER VILARCHAO

Ofc. Vilarchao's BWC begins at 11:09:20 with no sound; he appears to be driving at a high rate of speed on NW 25 Street. Ofc. Vilarchao places his vehicle in park, opens his driver door and attempts

to exit. At this point the sound can be heard on the BWC and at least one shot can be heard coming from outside of Ofc. Vilarchao's vehicle. Ofc. Vilarchao then returns fire over ten (10) times shooting from inside the vehicle through the front windshield. Several rounds from outside entered his vehicle through the front windshield. Glass can be seen shattering on and around Ofc. Vilarchao. Ofc. Vilarchao is observed reloading a magazine into his weapon. Ofc. Vilarchao then exits his police vehicle. Blood is observed dripping from his hands. Ofc. Vilarchao takes cover on the driver's side of his patrol vehicle and begins shooting from the rear driver's side towards the threat in the direction of the parking lot of Bedrosian Tile & Marble. Ofc. Vilarchao fired approximately 14 times at this point. Ofc. Vilarchao then performed another magazine exchange. Approximately 40 seconds pass and then Ofc. Vilarchao begins firing in the same direction. Ofc. Vilarchao fires approximately 14 times and then yells, "he's down, he's down." Rodriguez Perez can be seen on the ground in the corner of the parking lot of Bedrosian Tile & Marble. Ofc. Vilarchao is then transported and treated for his injuries. Ofc. Vilarchao's BWC was turned off in the ambulance.

#### OFFICER CERVERA

Ofc. Cervera's BWC begins at 11:10:03 with no sound. Ofc. Cervera can be seen running on foot on the grass swale in a westbound direction on the northside of NW 25 Street. Ofc. Beautelus can also be seen running in a westbound direction on the swale between the trees. At 11:10:14, the sound can be heard and Ofc. Cervera is observed performing a magazine exchange. Ofc. Cervera begins running back towards where he was initially running away from and takes cover behind a tree. Ofc. Vilarchao can be seen in the background standing behind his police vehicle. At 11:10:58, Ofc. Cervera yells and points, "he's there, he's there." Ofc. Cervera discharges his firearm approximately four times towards Rodriguez Perez. Rodriguez Perez can now be seen on the ground in the corner of the parking lot of Bedrosian Tile & Marble. Ofc. Cervera yells "he's down" and maintains his position for a few seconds before approaching Rodriguez Perez. Ofc. Cervera yells, "let me see your hands" as he and several officers approach.

#### CRIME SCENE

The main shooting scene was on NW 25 Street and NW 92 Avenue (in front of MDPD headquarters complex). The scene extended as far west as NW 97 Avenue and as far east as the 9100 block. The roadway consisted of five (5) lanes, two eastbound and two westbound lanes with a center lane to turn south and/or north, from certain avenues along NW 25 Street. On the north side of NW 25

Street between NW 92 and 97 Avenue was a canal (east/west) with a grassy swale and no sidewalk. On the southside of the roadway was a pedestrian sidewalk and multiple businesses that faced the roadway and had parking lots in front and on the side of the businesses.

The vehicle driven by Rodriguez Perez was a 2011 black four door BMW. That vehicle came to rest at NW 25 Street and NW 92 Avenue facing north towards NW 92 Avenue. According to information received from witnesses, at that location Rodriguez Perez lost control of his vehicle and ended in an eastbound direction in the westbound lanes. The passenger side and front rear quarter panels were damaged, and the rear passenger side axle was severely damaged making the vehicle inoperable. Damage was also observed on the driver's side bumper/hood and on the front driver side quarter panel.

A few feet west of the BMW was Ofc. Vilarchao's marked police vehicle, a Ford Taurus, which was parked in the eastbound lane closest to the center lane. A few feet west in the center turn lane and behind Ofc. Vilarchao's vehicle (also facing eastbound) was Ofc. Cervera and Ofc. Beautelus' marked police vehicle, a Ford Explorer. Ofc. Cervera was the driver and Ofc. Beautelus was the front passenger in the Ford Explorer.

The following items were located in close proximity to the black BMW and the two aforementioned police vehicles:

- Multiple 9mm spent casings, projectiles, and bullet fragments
- One 9mm magazine with live rounds (driver's side of Ofc. Vilarchao's vehicle)
- One Harris handheld police radio and shoulder mic, one vehicle key fob, and a Glock 17, 9mm semi-automatic pistol, serial # BBPX-933 with inserted magazine (belonging to Ofc. Beautelus)

On the northside of NW 25 Street, next to the canal between NW 92 and 94 Avenues were multiple 9mm spent casings.

According to witnesses, Rodriguez Perez ran from the street through the parking lot and around the side of a business located at 9200 NW 25 Street (Bedrosian Tile & Marble). He then came back around the building into the parking lot where Rodriguez Perez was shot at by Officers Cervera and Vilarchao. Crime scene found evidence of bullet strikes on the exterior walls of that business as well as bullet strikes on a fence located between Bedrosian Tile & Marble and Global Reach Health, located at 9250 NW 25 Street.

In addition, a white four door BMW 329i that was parked in a parking space facing north at the aforementioned business sustained bullet strike marks and a shattered rear window. All this damage is consistent with the shots fired at Rodriguez Perez as he fled to and came back out into the parking lot of that business. Specifically, the shots fired by Ofc. Cervera from across the street on NW 25 Street on the swale next to the canal, and Ofc. Vilarchao, positioned behind his police vehicle in the street, both firing towards Rodriguez Perez in the parking lot. Just prior to this second set of shots being fired, Ofc. Beutelus was transported by another Doral PD officer to the hospital.

### **CRIME SCENE-BODY PORTION**

Rodriguez Perez's body was located in the NW parking lot of the Bedrosian Tile & Marble business and approximately 120 feet southwest of Ofc. Vilarchao's police vehicle. Rodriguez Perez was lying in a supine position. He was wearing black shorts, no shirt, and grey and black sneakers. There was evidence of medical intervention such as a black tourniquet around his upper right arm, and EKG and AED pads attached. Several gunshot wounds were observed on his body as well as blood around the wounds and on the ground. Under his body were a pair of handcuffs securing his right and left wrists. On the ground next to his torso was a Glock 19, 9mm semi-automatic pistol, serial #ZUM703.

### **CRIME SCENE-INVOLVED VEHICLES**

Ofc. Vilarchao's police vehicle was a marked 2015 Ford Taurus. Consistent with the fact that he did not initially get out of the vehicle, there were multiple bullet strike marks on the front windshield/hood, front driver's side door/window. The rear of the vehicle also had bullet strike marks on the trunk and the rear window was shattered. Blood was observed on the rear driver's side quarter panels. Ofc. Vilarchao sustained a laceration to his right cheek during the course of the shooting incident. There is evidence that Ofc. Vilarchao shot at Rodriguez Perez while he was still inside the vehicle, as well as him taking fire through the front windshield. Inside the vehicle were several 9mm spent casings and an empty 9mm magazine located on the front driver's floorboard. There were fragments of glass on the dashboard and the front seats consistent with projectiles entering through the front windshield from outside. Blood was also observed on the front driver's seat. Later investigation revealed that there were 15 total strike marks on the front windshield. Six of those were noted as having been fired into the front windshield from outside the vehicle. Nine of those strike marks were noted as having been fired from inside the vehicle through the front windshield.

Officers Cervera and Beautelus' vehicle was a 2021 Ford Explorer. The only damage was a bullet graze located on the lower front driver's side quarter panel area.

Rodriguez Perez's vehicle had bullet strike marks located on the front driver's door and on the driver's side rear door. A bullet strike was observed on the front driver's side hood. Both the driver and passenger side windows were open and the vehicle gear shift was in drive and the keys were in the ignition. In addition, there was damage previously described that occurred as a result of the crash that rendered the vehicle inoperable. Inside the vehicle was one Glock 15 round capacity magazine located underneath the front passenger seat containing eleven live round 9mm cartridges. There was also one black empty (Relentless Tactical) holster collected from the rear passenger side floorboard. There were two 9mm spent casings on the front driver's floorboard and the front passenger side floorboard.

### **FIREARMS ANALYSIS**

An analysis of the listed firearms, spent casings, projectiles and projectile fragments recovered as part of this use of deadly force investigation by the Miami-Dade Police Department's Crime Laboratory revealed:

- 1) Eight (8) submitted spent casings were identified as having been fired from the submitted 9mm Glock pistol, serial # ZUM703, belonging to Rodriguez Perez. Four (4) submitted spent projectiles could have been fired from the Rodriguez Perez's firearm, however, damage and insufficient detail precluded a more conclusive determination.
- 2) Fourteen (14) submitted spent casings were identified as having been fired from the submitted 9mm Glock pistol, serial # BNGV838, issued to Ofc. Cervera.
- 3) Seventeen (17) submitted spent casings were identified as having been fired from the submitted 9mm Glock pistol, serial # BBPX933, issued to Ofc. Beautelus.
- 4) Forty-six (46) submitted spent casings were identified as having been fired from the submitted 9mm Glock pistol, serial # BNGV849, issued to Ofc. Vilarchao.
- 5) Eight (8) spent projectiles could have been fired from any one of the three officers' firearms, however, damage and insufficient detail precluded a more conclusive determination.

6) Four (4) submitted spent projectiles were lead and copper fragments of no comparison value.

### **MEDICAL EXAMINER**

Rodriguez Perez was autopsied by Chief Medical Examiner Kenneth Hutchins on October 24, 2021. The cause of death was multiple gunshot wounds.

### **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 Officers Vilarchao, Beautelus and Cervera constitute criminal acts that can be proven beyond and to the exclusion of every reasonable doubt.

The undersigned attorneys 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-27-0170. 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) [w]hich 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) [w]hen 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.

In addition, Florida law mandates that 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 determines that the actions of Officers Vilarchao, Beautelus and Cervera do not constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt. The facts reveal that the deceased fled a crime scene in Sweetwater and engaged in a chase with a civilian who was also shot at by the deceased. When approached by the police at gunpoint, the deceased immediately began shooting at the uniform officers who were in clearly marked vehicles. The officers returned fire. The deceased jumped onto a police vehicle in order to continue shooting at the officers. Sec. 776.05, Fla. Stat. provides an 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 Officers Vilarchao, Beautelus and Cervera were attempting to conduct a felony stop when the deceased began firing at the officers creating fear of safety for the officers themselves and civilians in and around this public road. Consequently, pursuant to F.S. 776.05 and 776.012, the use of deadly force by Officers Vilarchao, Beautelus and Cervera is justified under Florida law and their actions did not constitute a criminal act.

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