

Close-out Memorandum of the
Investigation Regarding
Kelechi Butler
April 29, 2023



State Attorney's Office
Eleventh Judicial Circuit
Miami-Dade County
August 20, 2024



INTEROFFICE MEMORANDUM

TO: KATHERINE FERNANDEZ RUNDLE DATE: August 13, 2024
State Attorney

FROM: STAFFING/REVIEW TEAM RE: SAO Case #: 62-23-04-29-001
Injured: Kelechi Butler

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

On April 29, 2023, shortly after 3:00 A.M., City of Miami Police dispatch received three 911 calls complaining about loud music and a possible domestic violence disturbance. City of Miami Police Officers Cruz and Borrego responded to the reported address and knocked on the door of the unit to investigate the complaints. Kelechi Butler opened the front door stating, "who the fuck is that," while armed with a AK-47 style firearm, a Mini-Draco, in his right hand. Officer Cruz drew his weapon and fired one shot yelling "drop that gun," and Butler was struck. Officer Borrego advised on the radio "shots fired," "male opened up with an AK," "get us units." Butler was transported to the hospital, and fortunately was successfully treated for the injury. The incident is captured on surveillance and body worn camera footage. Pursuant to Florida Statute 776.012, a review of the facts and collected evidence in this case, we find the shooting by City of Miami Officer Cruz to be legally justified.

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

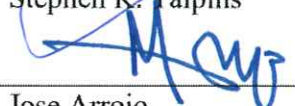

Howard Rosen

/s/ Deisy Hernandez
Deisy Hernandez


Stephen K. Talpins


Kathleen Hoague


Nilo Cuervo


Jose Arrojo


Marie Jo Toussaint

Approved by State Attorney on this 13 day of August, 2024.


KATHERINE FERNANDEZ RUNDLE
State Attorney



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: August 8, 2024

FROM: RUBEN SCOLAVINO
ASSISTANT STATE ATTORNEY

RE: POLICE SHOOTING CLOSEOUT MEMO
SAO Case # 62-23-04-29-001

MARI JIMENEZ
ASSISTANT STATE ATTORNEY

OFFICER INVOLVED:	OFFICER ANTHONY CRUZ ID#01-46256 CITY OF MIAMI POLICE DEPT.
INJURED:	KELECHI BUTLER
DATE & TIME:	APRIL 29, 2023 @ APPROXIMATELY 4:09 A.M.
LOCATION:	1750 NORTH BAY SHORT DRIVE, MIAMI, FL 33132
WEAPONS:	GLOCK 17, SN 9MIA4408 (OFFICER CRUZ) AK-47 STYLE MINI DRACO 7.6X39 CALIBER PISTOL, SN ROA 21 PF-6957 (KELECHI OBIOMA BUTLER)
LEAD/REPORTS:	FDLE SA KRISTEN NUNEZ / REPORTS RECEIVED May 29, 2024
FDLE CASE #:	MI-27-0222
SAO CASE #:	62-23-04-29-001

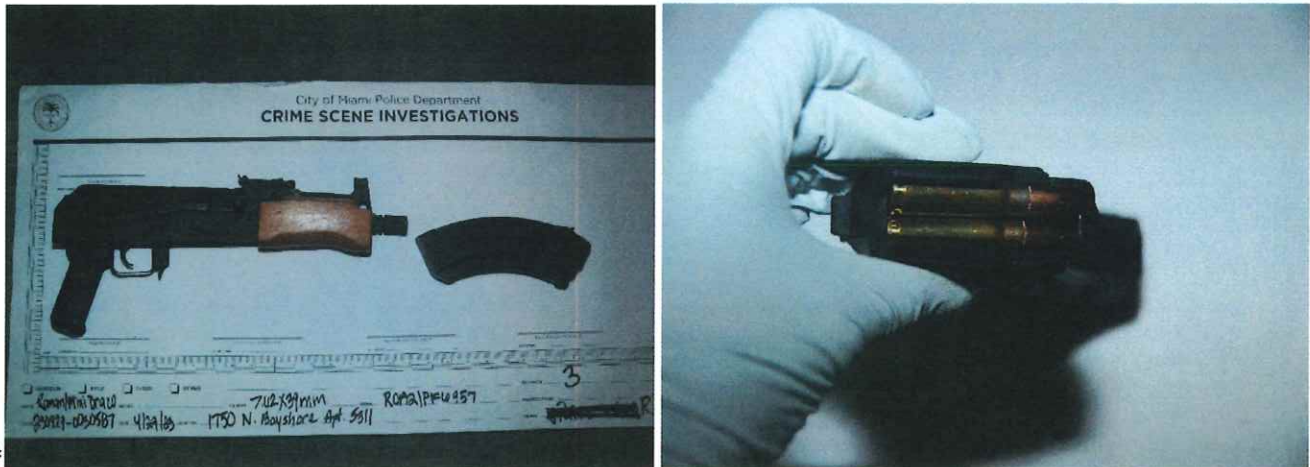
FACTUAL SUMMARY

On Saturday, April 29, 2023, at approximately 3:10 a.m., City of Miami Police dispatch received a call about loud music coming from a unit at 1750 Bayshore Drive. At 3:18 a.m., City of Miami Police dispatch received a second call regarding the same unit and address indicating a possible domestic dispute. A minute later, at 3:19 a.m., City of Miami Police dispatch received a third call regarding the same unit advising the caller could hear loud music and a possible domestic dispute involving an argument between a man and a woman. City of Miami Police officers Anthony Cruz and Elvis Borrego responded to 1750 Bayshore Drive at approximately 4:00 a.m. and spoke with security officer Latrice Romer. Officers Cruz and Borrego both took the elevator to the unit for which three 911 calls were received.

Both officers approached the door and attempted to listened for the reported noises. Officer Borrego knocked on the front door to the unit with his hand but received no response. Officer Cruz then used his baton to further knock on the door while stating "Miami Police". Kelechi Butler opened the front door, while stating "who the fuck is that". As Butler opened the door, he held a Mini-Draco firearm in his right arm, which was pointed towards the hallway. Officer Cruz drew his Glock 17, 9mm pistol and fired one (1) shot while stating "drop that gun". Officer Borrego contacted Butler, who confirmed that he was struck once. Officer Borrego advised on the radio "shots fired", "male opened up with an AK", "get us units".

Office Cruz placed Butler in handcuffs and escorted him to the elevator and outside the building to have him evaluated by Fire and Rescue. Fire and Rescue units transported Butler to Ryder Trauma Center, where he was successfully treated for the injury to his back. Butler was released after treatment and taken to City of Miami Police Department Homicide office. Butler was interviewed on video and stated that he answered the door with his gun without looking through the peephole and did not realize that it was the police. He further stated he was afraid it was an ex-girlfriend from New York that was knocking on the door.

The incident is captured on surveillance footage and body worn camera recordings. An AK-47 style Mini Draco .762 caliber, belonging to Butler was recovered on the floor inside the apartment.*



Based on the round count and inspection of Officer Cruz's 9mm Glock pistol, and magazines, it was determined that Officer Cruz fired one (1) round during this shooting 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 Officer Cruz constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt.

In this case we have reviewed the Use of Force Investigation report by FDLE Case Agent Kristen Nunez, along with its related items (i.e., photographs, recorded statements, laboratory reports, etc.) We find the FDLE summary and report to be complete and thorough. We adopt and incorporate the FDLE report by reference to this memorandum and offer our conclusion based upon the results of our independent review of the evidence.

Florida Statute 776.012 permits the use of deadly force when a person believes such force is necessary to prevent the imminent death or great bodily harm to himself or another or to prevent the 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. Sec. 776.012(2) (2023).

Officer’s Cruz and Borrego responded to a call of a disturbance and possible domestic dispute. They knocked on the door and identified themselves as police officers. Butler opened the door with a Mini Draco in his right hand pointed towards the hallway where both officers stood. It was at this point that Officer Cruz discharged one (1) round which struck Butler. Butler admitted in his statement that he opened the door with the Mini Draco in his hand. Officers were responding to several 911 calls investigating a possible domestic violence disturbance, when Butler opened the door and pointed a firearm into the hallway where the officers were standing. Further, Section 776.012, Florida Statutes, permits a law enforcement officer to use any force that he believes is necessary to defend himself or another from bodily harm. Based on the law, facts, and evidence in this case, we find the shooting by Officer Cruz to be legally justified.

Prepared by:

/s/ Ruben Scalovino

Ruben Scalovino
Assistant State Attorney

/s/ Mari Jimenez

Mari Jimenez
Assistant State Attorney