

Close-out Memorandum of the
Investigation Regarding
Virgil Bernard French
December 1, 2023



State Attorney's Office
Eleventh Judicial Circuit
Miami-Dade County
February 25, 2025



INTEROFFICE MEMORANDUM

TO: KATHERINE FERNANDEZ RUNDLE
State Attorney

DATE: February 25, 2025


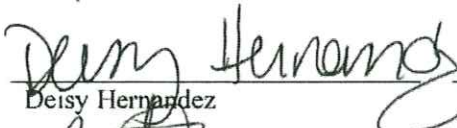

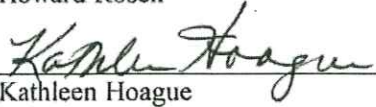


FROM: STAFFING/REVIEW TEAM

RE: SAO/Case #: 62/23/12/01/00
Injured: Virgil Bernard French


Based on the information obtained and reviewed during the course of the investigation, and an additional video that was provided after the initial review, the conclusion of the staffing/review team is the following:

On December 1, 2023, at about 5:50 P.M., Miami-Dade Police Department Detective Romel Russell attempted to conduct a traffic stop on a white Dodge Challenger, with activated emergency lights, around the area of NW 18 Avenue and 70 Street. The Dodge Challenger, driven by Virgil French slowed but did not stop and continued fleeing, so Detective Russell advised over the police radio about the direction of travel of the vehicle. French then struck a light pole while travelling west bound on NW 63rd Street and was forced to a stop by the impact. Detective Russell positioned his vehicle in front of French's Dodge Challenger, and backup Sergeant Ryan Aguilera arrived and positioned his vehicle behind French. Detective Russell exited his car and approached French, who accelerated the Dodge Challenger and pinned Detective Russell between the vehicles. Detective Russell discharged his firearm into the Challenger striking and injuring French. Detective Russell and French were both transported to the hospital for treatment. Pursuant to Florida Statutes Sections 776.012 and 776.05, and a review of the facts and evidence in this investigation, we find the use of deadly force by Miami Dade Detective Romel Russell 30-7080 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	 Jose Arrojo
<u>/s/ Marie Jo Toussaint</u> Marie Jo Toussaint		

Approved by State Attorney on this 25 day of February, 2025.


KATHERINE FERNANDEZ RUNDLE
State Attorney



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: February 25, 2025

FROM: Lara Penn
Assistant State Attorney

RE: AMENDED POLICE SHOOTING
CLOSEOUT MEMO
SAO Case # 62/23/12/01/001

Kevin Betancourt
Assistant State Attorney

OFFICER INVOLVED:	Detective Romel Russell, 30-7080 Miami-Dade Police Department
INJURED:	Virgil Bernard French
DATE & TIME:	December 1, 2023, at approximately 5:50 P.M.
LOCATION:	NW 21 Avenue and 63 Street Miami Florida
WEAPON:	Glock 17 Gen 4, 9mm semi-automatic pistol SN #BBPX822 (Det Russell)
LEAD/REPORTS:	FDLE Special Agent Ricardo Martinez / Report Received 8/22/2024
CASE #:	FDLE: MI-27-0237
SAO CASE #:	# 62/23/12/01/001

CASE SUMMARY

On December 1, 2023, at approximately 5:50 p.m., Miami-Dade Police Department Robbery Intervention Detail (RID) Detective Romel Russell attempted to conduct a traffic stop on a white Dodge Challenger, with activated emergency lights, around the area of NW 18 Avenue and 70 Street. The Dodge Challenger, driven by Virgil Bernard French, slowed but did not stop. Detective Russell deactivated his emergency equipment and advised over the police radio French's direction of travel.

The Dodge Challenger, travelled west bound on NW 63rd Street, struck a light pole and came to rest on the roadway. Detective Russell positioned his red Jeep Compass perpendicular in front of the Challenger in the roadway. RID Sergeant Ryan Aguilera arrived and positioned his vehicle behind the Challenger. Detective Russell exited his Jeep Compass and approached the Challenger on foot.

The Challenger moved towards Detective Russell and pinned him between his Jeep and the Challenger. Detective Russell discharged his firearm into the Challenger, striking French several times. Inside the Challenger in the front passenger seat was Charlie Frank Harris. Mr. Harris was uninjured in the incident. Inside the Challenger a firearm was recovered in the driver's side floorboard near the brake pedal. Detective Russell and French were both transported to Jackson Memorial Hospital (JMH) Ryder Trauma Center by Miami-Dade Fire Rescue.

WITNESS STATEMENTS

FDLE Special Agent Ricardo Martinez and his team investigated the incident and interviewed multiple officers with knowledge related to the case. Their statements may be summarized as follows.

Detective Jonathan Tookes was assigned to work the north end of Miami-Dade County when Detective Russell started to follow the Challenger. Detective Tookes stated that Detective Russell relayed over the radio the Challenger's direction of travel over the RID channel and in addition put out a BOLO on the Challenger. Detective Tookes observed the Challenger traveling at a high rate of speed and turn south to west from NW 21 Avenue to NW 63 Street. Detective Tookes observed the vehicle come to a stop, and possibly hitting a light pole. Detective Tookes exited his vehicle and ran up to the Challenger as Sgt. Aguilera stopped his vehicle behind the Challenger.

Detective Tookes recalled hearing four gunshots and took cover. He advanced towards Detective Russell's vehicle (Jeep) and observed Detective Russell on the ground in front of the Challenger. Detective Tookes observed Detective Russell holding his leg while on the ground. Detective Tookes

observed French lying on the ground by the driver's side of the Challenger and took him into custody. French had blood on his shirt and was handcuffed on the ground.

Detective Franklin Williams was working in the north end of Miami-Dade County and driving a marked unit. Detective Williams observed Detective Russell following the Challenger and attempt to stop the Challenger by activating his emergency equipment. The Challenger refused to stop. Detective Williams observed the Challenger driving erratically and going through stop signs. Detective Russell issued a BOLO for the Challenger.

Detective Williams watched the Challenger turn westbound on NW 63 Street from NW 21 Avenue. Detective Williams saw the Challenger followed by Detective Russell's vehicle and Sgt. Aguilera's vehicle. When he turned onto NW 63 Street, he observed the Challenger on the side of the street, and it appeared disabled. Detective Williams observed the Challenger move towards Detective Russell's vehicle. Detective Williams stated that Detective Russell was out of his vehicle and attempting to get the occupants out of the Challenger. He observed the Challenger move towards Detective Russell and then heard gunshots.

Detective Williams saw Detective Tookes on the passenger side of the Challenger attempting to remove the passenger. He then observed Detective Tookes take the driver out of the Challenger and put him in custody. Detective Williams took part in taking the passenger into custody. He never observed any weapons on the scene and did not search the Challenger.

Sergeant Ryan Aguilera was working in the north end of Miami-Dade County when he heard an unknown RID unit advise over the radio of a traffic stop. Sergeant Aguilera responded to the general area of the traffic stop in an attempt to place a visual on the vehicle, a white Challenger. Sergeant Aguilera stopped in the area of 21st Avenue at a stop sign while waiting on an update. After a few minutes, Sergeant Aguilera observed the white Challenger "blow" past him at a high rate of speed. The vehicle made a right turn onto NW 63 Street, headed westbound. The vehicle then struck a wooden telephone pole. Sergeant Aguilera was unsure if the vehicle was disabled by the impact.

Another unmarked police vehicle, a red Jeep driven by Detective Russell, pulled in front of the white Dodge Challenger. After the Challenger moved toward Detective Russell the Sergeant heard approximately 4 – 5 gunshots. Sergeant Aguilera exited his vehicle and went to the rear to assess the situation. Sergeant Aguilera did not see who fired the gunshots. Sergeant Aguilera provided commands to the passenger of the Dodge Challenger. The passenger placed his hands out of the vehicle and stated

he was unable to walk. With assistance from fellow officers the passenger was secured in the back of one of the police cars on scene. Sergeant Aguilera assisted Detective Jonathan Tookes with the driver of the vehicle who was on the ground. Detective Tookes was able to obtain control of French who was then secured with handcuffs. Sergeant Aguilera observed Detective Russell lying on the ground with unknown injuries. Sergeant Aguilera assisted with applying medical aid to the officer.

Charlie Frank Harris is French's half-brother. Harris was at a store in the in the area of NW 7 Avenue and 63 Street prior to the incident. He said French drove by and he got into the front passenger seat of the car. Harris wanted French to drive to his father's house at 1816 NW 67 Terrace, and French was driving to his mother's house. Harris said that French is a paraplegic and had his vehicle equipped with a device that allowed him to drive his car despite the inability to use his legs. Harris said he also had a disability and needed a cane to assist him when he walked. Harris said French turned at NW 71 Street to go westbound and when they reached NW 17 Avenue, French said the police were behind them. Harris said French accelerated to elude the police. He said he did not know why the police were trying to stop their vehicle nor why French refused to stop.

Harris said he did not see the police officers because the rear-view mirror on his side of the car was missing. Harris said French eventually crashed the vehicle into a pole and the car came to stop. He said French attempted to start the car engine again, but it did not start. He said he saw French retrieve a firearm from under the front driver's seat but did not know what he did with it. He said an officer got in front of the car and that he believes the officer standing in front of their car fired his gun striking French. He does not know why the officer fired and could not say if the officer was struck by their vehicle. He said officers arrived on his side of the car, and he put his arms out the window and told them he was not armed.

Detective Russell did not make a statement per his PBA lawyer Simone Lopez.

EVIDENCE ANALYSIS

BODY WORN CAMERA FOOTAGE

Detective Romel Russell, Detective Franklin Williams, Detective Jonathan Tookes, and Sergeant Ryan Aguilera were all wearing functioning BWC during the incident. Detective Russell's BWC shows the clearest view of the shooting. It captured footage showing Detective Russell in active pursuit of the

Challenger. Detective Russell comes to a stop and exits his vehicle. The white Challenger can be seen moving toward Detective Russell, subsequently pinning him against his Jeep. Detective Russell can then be seen discharging his firearm into the front driver side windshield of the Challenger.

FIREARMS ANALYSIS

Special Agent Claudia Mulvey, CSI Dana Maher, and MDPD Detective Guillermo Besonias processed the crime scene. The crime scene was located on the residential roadway on NW 63rd Street and 21st Avenue. The shooting itself involved two vehicles, a white Challenger driven by Virgil Bernard French and a red Jeep driven by Det. Romel Russell. The following ballistic evidence was recovered near where French was shot:

1. Six spent 9mm casings

Inside of White Challenger

1. One Springfield Armory pistol
2. 15 cartridges from chamber and magazine of pistol

Det. Romel Russell

1. One Glock 17 Gen 4 9mm pistol
2. A 17 round magazine with 10 cartridges
3. Two spare 17 round magazines containing 17 rounds each

Forensic Examination

Criminalist John Mancini examined the fired casings and both firearms submitted in this case. The fired 9mm casings (6) were identified as having been fired in the Glock 17 serial #BBPX822 (Detective Russell's firearm).

FINGERPRINT LATENTS

No fingerprints were developed from the Springfield Armory pistol or cartridges recovered from this pistol located in the Challenger.

LEGAL ANALYSIS AND CONCLUSION

The role of the State Attorney in this investigation and in conducting this review is limited to determining whether a criminal violation of Florida law has occurred, whether any person may be held criminally responsible, and whether such criminal responsibility can be proven beyond a reasonable doubt in a court of law. The State Attorney does not establish agency policy, procedures, and training requirements. Nor does the State Attorney have any responsibility for determining disciplinary action or pursuing civil litigation in these matters. In other words, given the applicable law, the State Attorney's role is to determine whether the actions of Detective Russell constitute a criminal act 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-27-0237. 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 provides 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 provides 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, evidence, and applicable law the State Attorney's Office determines that the actions of Detective Russell were legally justified. Detective Russell was pinned between his car and the Challenger and fired his weapon. 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. Accordingly, Detective Russell's actions were legally justified under both Fla. Stat. 776.012 and 776.05.

ADDENDUM TO MEMO OF DECEMBER 19, 2024

The final memo on this matter was completed and sent to all relevant parties on December 19, 2024.

On January 8th, 2025, Assistant State Attorney Lara Penn received a message to contact Sgt. A. Rojas from the Miami-Dade Police Department (now Miami-Dade Sheriff's Office) Internal Affairs. ASA Penn spoke to Sgt. Rojas on the same day, and she wanted to ensure that we had reviewed the video surveillance from 63rd Street. ASA Penn informed her that she was unaware of this footage and asked if it had been provided to FDLE. Sgt. Rojas stated it was uploaded to Evidence.com by Zuleika Fernandez. ASA Penn looked for this footage and could not find it on Evidence.com. Sgt. Rojas was then asked to provide it via e-mail, and she then did so. ASA Penn then contacted Special Agent Martinez from FDLE, and learned that he was not aware of this footage. ASA Penn then sent Special Agent Martinez this footage via e-mail. On January 16, 2025, Special Agent Martinez provided ASA Penn his supplemental report addressing this video.

The video surveillance is from 2131 NW 63 Street. This video surveillance shows the front of a residence on 63rd Street. The following is captured: The white Challenger, driven by French, travels erratically

on NW 63rd Street striking a power/light pole. The white Challenger comes to a stop then rolls slightly rearward. The Jeep, driven by Detective Russell, pulls up and stops in a perpendicular position in front of the Challenger. Sgt. Aguilera, driving a red Charger, gets behind the Challenger and pushes the white Challenger forward. Sgt. Aguilera exits the Charger and proceeds towards the Challenger. Detective Russell and the shooting are not captured in this video.

The newly provided video footage does not change the analysis or conclusion in this case. Whether the Challenger was driven forward by the fleeing felon, or was pushed forward by Sgt. Aguilera in the red Charger is of no import. From Detective Russell's perspective, the Challenger moved forward, pinning him between the Challenger and his own vehicle. After a review of the facts, evidence, and applicable law the State Attorney's Office still determines that the actions of Detective Russell were legally justified. Detective Russell was pinned between his car and the Challenger and fired his weapon. Sec. 776.05, Fla. Stat. provides that 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. Accordingly, Detective Russell's actions were legally justified under both Fla. Stat. 776.012 and 776.05.

Prepared by:

/s/ Lara H. Penn

Lara H. Penn
Assistant State Attorney

/s/ Kevin Betancourt

Kevin Betancourt
Assistant State Attorney