

Close-out Memorandum of the
Investigation Regarding
Yamill Acevedo
April 6, 2020



State Attorney's Office
Eleventh Judicial Circuit
Miami-Dade County
June 15, 2021



INTEROFFICE MEMORANDUM

To: Katherine Fernandez Rundle
State Attorney

Date: June 15, 2021

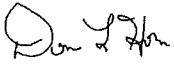
From: Staffing/Review Team

Re: SAO Case # 62/20/04/06/001
Deceased/Injured: Yamill Acevedo


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

In this case, officers from the North Miami Beach Police Department were dispatched to the TD Bank located at 1190 NE 163rd Street because a man named Yamill Acevedo was trying to fraudulently cash checks in the drive-thru lane. Upon the officers' arrival, Acevedo took off in the Chevy Blazer he had been driving. The officers activated their emergency lights and sirens to try to get Acevedo to stop, but he did not stop. Instead, he backed up and rammed his vehicle into at least one police car and struck another civilian vehicle which was nearby. Acevedo ignored police commands to stop or get out of the vehicle. Thereafter, four officers, two who had marked police cars and 2 who were in unmarked vehicles, fired at Acevedo. Acevedo was struck several times by the gunshots and died as a result of his injuries. Although the officers declined to provide statements about why they fired at Acevedo, other evidence collected in this case (physical, forensic and eyewitness accounts) establish that Acevedo was a fleeing felon who posed an imminent danger of death or serious harm to the officers and civilians in the area. For that reason, it is the finding of this Office that Officers Kevin Sharrod 07-290, Kaio Farini 07-295, Aaron Winchester 07-297, and Rafael Florencio 07-277 were legally justified in using deadly force in this matter.


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



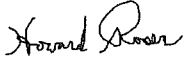
Don L. Horn




Deisy Hernandez



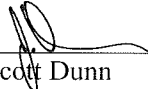
Stephen K. Talpins



Howard R. Rosen



Kathleen Hoague

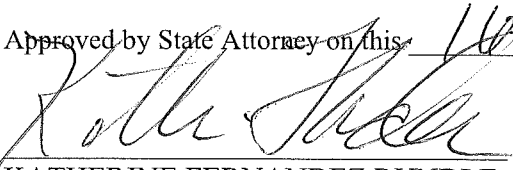


J. Scott Dunn



Christine Zahralban

Approved by State Attorney on this 16 day of June, 2021.



KATHERINE FERNANDEZ RUNDLE
State Attorney

OFFICE OF THE STATE ATTORNEY
ELEVENTH JUDICIAL CIRCUIT

KATHERINE FERNANDEZ RUNDLE
STATE ATTORNEY



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: June 15, 2021

FROM: Laura Adams
Assistant State Attorney

RE: POLICE SHOOTING CLOSEOUT MEMO
Case # 62/20/04/06/001

Stephen K. Talpins
Assistant State Attorney

OFFICER(S) INVOLVED:	Officer Kevin Sherrod NMBPD ID 290 Officer Kaio Farini NMBPD ID 295 Detective Aaron Winchester NMBPD ID 297 Detective Rafael Florencio NMBPD ID 277
DECEASED	Yamill Acevedo
INJURIES:	Multiple Gunshot Wounds
DATE & TIME:	April 6, 2020 at 4:00 p.m.
LOCATION:	Intersection of NE 163 rd Street and 12 th Avenue North Miami Beach, FL
WEAPON:	Glock 21, .45 caliber (officers involved had the same type of weapon)
LEAD:	Det. Jose Toral, MDPD ID 30-7997



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CASE #:	MDPD PCN PD200406120649 Corresponding case numbers: MDPD PCN PD200406120654 (deceased person) MDPD PCN PD200406120681 (assist other agency) NMBPD PCN 2020-040608 (fraud) NMBPD PCN 89998117 (traffic crash)
SAO CASE #:	62/20/04/06/001

SUMMARY OF FACTS

On April 6, 2020 at about 3:45 p.m., Yamill Acevedo drove to the TD Bank located at 1190 NE 163rd Street in North Miami Beach, Florida in a gray Chevrolet Blazer. He went to one of the drive-thru lanes and tried to cash two (2) checks. The bank teller became suspicious that the checks were fraudulent and alerted the bank manager. The bank manager advised the teller to call 911 for police assistance. The police were provided with a description of Acevedo and his vehicle. Officers from the North Miami Beach Police Department (NMBPD) responded to this call, and upon their arrival, the Blazer accelerated out of the bank parking lot and turned east (right) onto NE 163rd Street. The officers behind Acevedo were in marked police cars and tried to conduct a traffic stop of the Blazer, but Acevedo did not stop. He then backed into one of the marked police cars behind him, and crashed into another police vehicle as well as a civilian vehicle that was stopped for a red light at the intersection of NE 12th Avenue. Officers in both marked and unmarked police cars exited their vehicles and ordered Acevedo out of the Blazer, but he did not comply with their commands. Four (4) officers discharged their service weapons into the Blazer, striking and killing Acevedo. Miami-Dade Fire Rescue (MDFR) workers were called to the scene, and pronounced Acevedo deceased at 4:13 p.m. The Blazer was transported to the Medical Examiner's Office with Acevedo's body within it, so that an autopsy could be conducted on Acevedo. The cause of Acevedo's death was determined to be gunshot wounds.

DESCRIPTION OF CRIME SCENE

Intersection

The intersection of NE 163rd Street and NE 12th Avenue is a major intersection with traffic lights for traffic control. NE 163rd Street has 3 lanes that travel eastbound through the intersection and has a left-turn only lane. There is a concrete median that separates the eastbound lanes from the three (3) westbound lanes. NE 12th Avenue has two (2) lanes for northbound and southbound traffic and left-turn only lanes on either side of the intersection. Although there were street cameras at this location, they were inoperable at the time of the shooting. Additionally, most of the businesses in the area had been closed due to the pandemic, so there was no surveillance footage that could be obtained from them. There was video surveillance footage provided by TD Bank of Acevedo attempting to cash the fraudulent checks and him accelerating out of the bank's parking lot; however, this video did not show the actual police shooting incident.

Chevrolet Blazer

The Chevrolet Blazer that Acevedo was driving had been rented from the Hertz car rental company and was rented by Rodger Dale Aikens II (B/M 34, dob 11/24/1985) from January 15, 2020 through February 15, 2020. However, the vehicle had never been returned to Hertz. Prior to being transported to the Medical Examiner's Office with Acevedo's body in it, several projectiles were collected from the vehicle so that they would not be lost while the vehicle was in transit. It should be noted that at the scene, the Blazer was initially found to be in reverse gear, but it was moved into "park" by investigators for the safety of others. Crash damage to the Blazer was noted to include the left corner of the rear bumper, the front bumper, the hood, the front-left quarter panel and the right front quarter panel. The driver's side airbags were deployed. In addition, the rear-left window and the rear-right window were shattered, and projectile holes and strike marks were seen in the rear-right window and the front driver window, the driver's door and the rear left door and windshield.

After Acevedo's body was removed from the vehicle at the Medical Examiner's office, four (4) cellular phones and three (3) bank checks were found within it. A supervisor with the Traffic Homicide Unit conducted a download of the event data recorder ("EDR") of the Blazer. The EDR recorded 3 "events" which were consistent with the Blazer striking several vehicles prior to coming to final rest. Additionally, the EDR showed that for most of the 5 seconds prior to coming to final rest, the driver had

the accelerator pedal pushed 99%, indicating that he was trying to accelerate the vehicle as much as possible.

Civilian Vehicles

Other vehicles that were at the scene of the shooting included a Toyota 4-Runner which was in the east-facing left turn lane of N.E. 163rd Street; this vehicle was being driven by Lastenia Fleites. There was damage to the front right quarter panel and bumper of this 4-Runner, and the front right wheel was bent inward from impact with the Blazer. A bullet hole was located in the rear right "sail" window (the small triangular-shaped window) with a corresponding projectile hole in the ceiling of the vehicle; however, no projectile could be located inside. Behind the Toyota 4-Runner was a Chevrolet Equinox that was being driven by Esperance Simeon. The Equinox had no damage to it.

Police Vehicles

There were four (4) police vehicles involved in this incident. The marked police SUV of Officer Kaio Farini was stopped on N.E. 163rd Street facing northeast, with the left corner of its front bumper making contact with the left rear corner of the Chevrolet Blazer, consistent with the Blazer backing up and striking the SUV. Also, the marked police SUV of Officer Kevin Sherrod was stopped on N.E. 163rd Street facing east in the outside lane. There was damage to the right side of the push bars of that vehicle. Finally, there were two (2) unmarked NMBPD vehicles at the scene. The first was a red GMC Sierra that was operated by Detective Rafael Florencio. The GMC Sierra was parked over the crosswalk, just east of the Blazer, facing west. It had four projectile holes in the front windshield on the passenger's side, consistent with a firearm having been discharged from within the vehicle. Four (4) casings were located inside the vehicle. The second unmarked police car at the scene was a white GMC Acadia that was operated by Officer Aaron Winchester. This vehicle was stopped facing south, just to the south of the GMC Sierra. There was no damage to this vehicle.

Firearms Evidence

A total of twenty-six (26) casings were recovered from the scene: four (4) of them were located inside the GMC Sierra of Officer Florencio; most of the remaining casings were found just west and south of the Chevrolet Blazer. All of these casings had the same headstamp. Ten (10) projectiles were recovered from inside the Chevrolet Blazer, and four (4) were located at the scene of the shooting. Based upon the

round-count of the involved officers' weapons, it appears that the officers fired a total of twenty-nine (29) times, meaning that three (3) casings were not discovered during the search of this intersection. Given the nature of the crime scene, it could be expected that some casings would have rolled away from the scene in the aftermath of the shooting.

The firearms examiner who received this evidence determined that five (5) casings were fired from Detective Florencio's weapon; four (4) casings were fired from Officer Farini's weapon; twelve (12) casings were fired from Detective Winchester's weapon; and six (6) casings were fired from Officer Sherrod's weapon. Projectiles recovered from the scene could not be conclusively identified as coming from any particular officer's weapons, due to the damage and lack of detail visible on the projectiles. For example, two (2) projectiles could have been fired in Officer Farini's weapon; four (4) projectiles could have been fired from Detective Winchester's weapon; and two (2) projectiles could have been fired from Officer Sherrod's weapon.

Note that the two (2) projectiles recovered from the body of Acevedo were examined and compared to the submitted weapons. The firearms examiner determined that one projectile recovered from Acevedo's head could have been fired from Officer Sherrod's weapon, but the other projectile (found in his shoulder) could have been fired by any of the submitted weapons in this case. Thus, it is not possible to determine based upon the firearms evidence which weapon caused Acevedo's death.

Officer Round-Count, Clothing, And Vehicles

Officer Kevin Sherrod had a Glock 21, .45 caliber firearm. He had a thirteen (13) round capacity magazine in his firearm. There were seven (7) cartridges found in the magazine, and one (1) inside the chamber. Assuming the weapon had contained a fully loaded magazine with an extra round in the chamber, this would be consistent with him firing six (6) times. Officer Sherrod was in a NMBPD uniform. Officer Sherrod was operating a marked police Ford Explorer which was found facing eastbound on N.E. 163rd Street in the outside lane.

Officer Kaio Farini had a Glock 21 .45 caliber firearm. He had a thirteen (13) round capacity magazine in his firearm. There were nine (9) cartridges found in the magazine, and one (1) inside the chamber. Assuming the weapon had contained a fully loaded magazine with an extra round in the chamber, this would be consistent with him firing four (4) times. Officer Farini was in a black tactical uniform with the word "Police" on his t-shirt. At the time of the shooting, he was operating a marked

police Ford Explorer SUV. This vehicle was behind the Chevrolet Blazer, with its front bumper making contact with the left rear bumper of the Blazer.

Detective Aaron Winchester had a Glock 21 .45 caliber firearm. He had a thirteen (13) round capacity magazine in his firearm. There was one (1) cartridge found in the magazine, and one (1) inside the chamber. Assuming the weapon had contained a fully loaded magazine with an extra round in the chamber, this would be consistent with him firing twelve (12) times. Detective Winchester was wearing a black tactical uniform with the word "Police" on his vest. Detective Winchester was assigned a white GMC Acadia unmarked police vehicle which was south of the red GMC Sierra operated by Detective Florencio.

Finally, Detective Rafael Florencio had a Glock 21 .45 caliber firearm. He had a thirteen (13) round capacity magazine in his firearm. There were six (6) cartridges found in the magazine, and one (1) in the chamber. Assuming the weapon had contained a fully loaded magazine with an extra round in the chamber, this would be consistent with him firing seven (7) times. Detective Florencio was in a black tactical uniform with the word "Police" on his t-shirt. At the time of the incident, he was operating a red unmarked GMC Sierra pickup truck.

SUMMARY OF MEDICAL EXAMINER'S FINDINGS

According to Deputy Chief Medical Examiner Dr. Kenneth Hutchins, the cause of death of Yamill Acevedo was multiple gunshot wounds. Dr. Hutchins documented six (6) gunshot wounds, which he labeled as A through F (note that this does not indicate the order in which the shots were inflicted, but is done for labelling purposes; the letters of the gunshot wounds correspond to photos of the wounds which are labeled with numbers). Gunshot wound A (corresponding to #9 in the autopsy photos) was a penetrating shot which entered the back of Acevedo's head on the left side. The projectile went through the skin, fat and muscle of the left side of the head and perforated the left skull and went through both hemispheres of the brain and was found lodged 2 inches below the top of the head and 5 inches to the right of the posterior midline. The trajectory of this wound was from left to right and slightly back to front and slightly upward. The projectile was recovered and turned over to the police. As mentioned in the "firearms" section of this memorandum, the projectile could have been fired from Officer Sherrod's weapon, but this could not be conclusively determined.

Gunshot wound B was a perforating shot to the head that entered on the left side of Acevedo's head just above his ear, went through his skull and brain, and exited just above his right eye (the entrance

wound is labeled as #8 and the exit wound is labeled as #1). The direction of this wound was from left to right and back to front. Gunshot wound C (labeled as #10 in the autopsy photographs) was a graze wound to the back of the right side of the head, with a wound direction of left to right and upward. Gunshot wound D was a perforating wound which entered Acevedo's left shoulder about 9.5 inches from the left of the posterior midline and exited the base of the left side of his neck (the entrance wound is labeled #6 and the exit wound is labeled #3). The wound direction was left to right and slightly back to front.

Lastly, gunshot wounds E and F were adjacent to each other on the left shoulder of Acevedo (entrance wounds are both labeled together as #5). One of these wounds was penetrating, with a projectile being located beneath the entrance wound. That projectile was recovered and given to the police, but the firearms examiner could not make any comparisons to weapons in this case due to it being so deformed. The direction of this projectile was left to right. The other gunshot wound was perforating and exited the upper left shoulder. That wound was labeled #4 in the photographs. That projectile traveled from left to right and slightly back to front.

In addition to these gunshot wounds labeled A through F, the Medical Examiner's Office noted 2 superficial gunshot wounds near Acevedo's neck. One was on the left side of the front of the neck (#2 in the photographs) and the other was on the back of the left side of the neck (#7 in the photographs). Dr. Hutchins also noted that there was "pseudo-stippling" associated with a number of the gunshot wounds. These are minor punctate injuries that can look like stippling, but are actually caused by the fragmentation of the projectiles that struck Acevedo.

The toxicology report compiled in this case indicates that Acevedo had some alcohol in his system at the time of his death, with his blood alcohol level being reported at .046% and ocular fluid alcohol level at .047%.

FIRERAMS AND MEDICAL EXAMINER FORENSIC EVIDENCE

Based upon the gunshot wounds located on Acevedo's body, which have left-to-right trajectories, it seems likely that the shots fired at him came from the driver's side of his vehicle. There were 10 casings that were located on the ground near the driver's side of the Blazer and driver's side of Officer Farini's police vehicle (which was just behind the Blazer at an angle). When they were examined at the crime lab, the findings were as follows:

Casing number(s)	Casing letter	Officer's weapon
1	M	Sharrod
2	N	Sharrod
3	O	Sharrod
4	P	Sharrod
5	Q	Farini
6	R	Sharrod
7	S	Winchester
8	T	Winchester
9	U	Winchester
18	2P	Sharrod

There were also 3 casings located at the base of the windshield of Officer Farini's police car. The following are the crime laboratory findings:

Casing number(s)	Casing letter	Officer's weapon
10	V	Farini
11	W	Winchester
12	X	Farini

Based upon this information, it does not seem possible to determine which officer or officers fired the shots that ultimately led to the death of Yamill Acevedo. Officers Farini, Winchester and Sharrod all fired their weapons and casings matched to their weapons were found in the vicinity to the left of the Blazer. Of the 2 penetrating gunshot wounds he suffered, only one had a projectile that could be examined, and the only determination was that it *could* have been fired from Officer Sharrod's weapon. The other gunshot wounds were either superficial/non-lethal, or were perforating injuries with no projectile to match to any of the officers' weapons.

There were also 5 casings located toward the right side of Officer Farini's police vehicle and to the right side of (or behind) the Blazer. When they were examined at the crime lab, the findings were as follows:

Casing number(s)	Casing letter	Officer's weapon
13	Y	Winchester
14	Z	Farini
15	2M	Winchester
16	2N	Winchester
17	2O	Winchester

There were also 4 casings located on the roof of Detective Winchester's vehicle:

Casing number(s)	Casing letter	Officer's weapon
23	2Q	Winchester
24	2R	Winchester
25	2S	Winchester
26	2T	Winchester

Lastly, there were four (4) casings located inside Detective Florencio's unmarked police pickup truck:

Casing number(s)	Casing letter	Officer's weapon
27	2U	Florencio
28	2V	Florencio
29	2W	Florencio
30	2X	Florencio

SUMMARY OF 911 AND COMMUNICATIONS RECORDINGS

On April 6, 2020 at 15:53:43, bank teller Carlos Florian called 911 to report that a person was trying to cash two (2) checks by impersonating a bank client. He provided a description of Acevedo and the vehicle he was driving (gray Chevrolet Blazer, along with the tag number). At 15:55:25, a BOLO (be on the lookout) was dispatched advising that a gray Chevrolet Blazer was seeking to commit bank fraud

at the TD Bank. The tag number of the vehicle was given as well as a description of where it was positioned at the drive-through.

While on the call, Florian advised that the man in the Blazer was getting impatient. About 6 minutes 40 seconds into the call (which would be at around 15:59 hours), he told the 911 operator that Acevedo (though he did not describe him by name) had driven off with the police following behind him. About 6 minutes 56 seconds into the call Florian exclaimed that he (Acevedo) “hit the police officer!” Then he advised that the officers were shooting, and he believed that Acevedo was shooting back (although it was subsequently determined that Acevedo did not fire any weapons).

The communications between North Miami Beach police officers on their main channel include the BOLO for the gray Chevrolet vehicle and then the next transmission from the agency includes a reference to a “3-17” which is a car crash that had just happened. The next communications include a request to start fire rescue “on a 3,” meaning in emergency mode with lights and sirens. There was also a request for a “unit with a shield.” The remaining communications primarily have to do with setting up a perimeter around the shooting scene and requesting Miami-Dade Police Department officers to assist with the perimeter/investigation. The “TAC” channel communications take place after the shooting had occurred.

SUMMARY OF WITNESS STATEMENTS

Carlos Florian

Florian was the head teller at the TD Bank located at 1190 N.E. 163rd Street in North Miami Beach, Florida. Florian advised that on April 6, 2020, he was working, and that at about 3:45 p.m., an individual in a dark gray Chevrolet Blazer pulled into the middle drive-thru lane. He indicated that the driver attempted to cash two (2) checks. He sent the checks and a Florida driver’s license through the pneumatic tube. However, the driver did not look anything like the person depicted on the driver’s license photograph. Florian noticed that the driver was looking away and trying to lower his body in the vehicle. The person whose driver’s license was shown had an account with TD Bank and the account had been flagged for prior fraudulent activity. The account holder was contacted and advised that his wallet had been stolen and not to give his driver’s license back to whomever had presented it. At that point, Florian called 911.

While waiting for the police to arrive, Florian advised that the person in the Blazer asked what was taking so long, and Florian just asked him to be patient. Moments later, Florian saw a marked NMBPD sport utility vehicle (“SUV”) enter the parking lot from the 12th Avenue entrance, at which point the driver of the Blazer sped out of the drive-thru and exited the parking lot. He said he saw the police SUV with its emergency lights activated follow the Blazer. Florian said he saw the Blazer back into the police SUV and a few moments later, he heard gunshots. However, he was unable to see the shooting due to his view being obstructed. He described the person who sought to cash the checks as a dark-skinned Hispanic male with at least one (1) tattoo on his arm and said that person was wearing a black shirt. This physical and clothing description matches that of Acevedo at the time he was killed.

Eduardo Garver

Garver was the TD Bank branch manager at the time of the shooting. He indicated that Florian had advised him of the attempted fraudulent activity at about 3:45 p.m., and he advised Florian to contact the police. He saw the Blazer flee from the police when they arrived and saw the Blazer back up into one of the police cars. He saw the Blazer then try to make a U-turn and then crash into a Toyota 4-Runner before backing up again in the direction of a marked police vehicle. He then saw police officers approach the Blazer on foot, and then witnessed the officers retreat suddenly. He heard numerous gunshots and the Blazer stopped moving. He indicated that he thought that the driver of the Blazer tried to run over one of the police officers on foot after the Blazer had hit the Toyota.

Esperance Simeon

Simeon advised that he was driving a Chevy Equinox eastbound on N.E. 163rd Street when the shooting occurred. He said he was in the left turn lane behind a Toyota 4-Runner at the intersection of N.E. 12th Avenue. He said he saw a marked police vehicle leave the TD Bank parking lot and go onto N.E. 163rd Street with its emergency equipment activated. He said he heard the police siren and saw the lights flashing. He said that he saw a dark Chevy (the Blazer) travelling at a high rate of speed and strike a police car. He saw officers exit their police cars and give loud verbal commands for the driver of the Chevy to stop. He said that the driver of the Chevy went forward, trying to get away. He saw the Chevy drive toward a red pickup truck (the GMC Sierra operated by Officer Florencio) and then officers started

shooting at the Chevy. He said an officer ran to him to tell him (Simeon) to get out of his car and get down on the ground; he obeyed that command.

Lastenia Fleites

Ms. Fleites was driving a Toyota 4-Runner at the time of this incident. She said she was facing east on N.E. 163rd Street waiting to turn north onto 12th Avenue. She said she was talking to her husband on her cell phone, when she heard police sirens behind her. She said that in the lane to her right, she saw a dark-colored vehicle (the Blazer) pull up behind the car that was next to hers. She saw a police car behind the dark-colored vehicle and saw the officer get out of the police car with his firearm drawn telling the driver of the dark-colored vehicle to “stop.” (Although not fluent in English, Ms. Fleites said she knows the word “stop.”) She said the driver of the dark-colored SUV refused to stop and backed into the police car. She was unable to see the driver of the dark-colored vehicle due to the windows being up and tinted. She said the dark-colored SUV tried to make a U-turn after it hit the police car and crashed into her vehicle. She felt the impact to the right front fender of her car. When she heard the gunshots, she put her seat all the way back to avoid getting hit and in fear for her life. After the gunshots had stopped, an officer came up to her and told her to come out of the car. She said she only heard the gunshots, but did not see them, and that everything happened very fast.

Alan Michael Lopez

Lopez was driving west on N.E. 163rd Street and stopped for the red light at 12th Avenue. He was the first vehicle in the inside lane of the road, next to the left-turn lane. He stated that as he saw the cars next to him making the left turn, he looked ahead toward the eastbound lanes and saw a small Chevrolet SUV (the Blazer) driving aggressively into a black Toyota SUV (the 4-Runner) that was waiting to make a left turn to go north on N.E. 12th Avenue. He said he also saw at least one marked police SUV behind the Chevrolet SUV. Then, he saw a Black police officer in a police uniform with his firearm drawn, approaching the driver’s door of the Chevrolet SUV. At that same time, he saw an officer in plain clothes (he did not recall the officer’s race or gender) standing behind a red Ford pickup truck with his firearm drawn and pointed at the Chevrolet SUV. His view of the intersection was obstructed by vehicles crossing the intersection, but he heard about twenty (20) shots being fired. He ducked behind the dashboard of his vehicle during the shooting and did not see it.

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(s) 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 Kevin Sherrod, Kaio Farini, Aaron Winchester and Rafael Florencio constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt.

In order to make that determination, the State must consider why the above-listed officers used deadly force in this matter, and if that reason constitutes a legal defense to any criminal charges. Florida Statute 776.012 permits the use of deadly force when a person believes such force is necessary to prevent imminent death or great bodily harm to himself or another or to prevent the commission of a forcible felony. Further, Florida Statute 776.05 permits a law enforcement officer to use any force that he believes is necessary to defend himself or another from bodily harm while making an arrest.

The only people who can explain exactly why they fired at Yamill Acevedo and the Blazer he was driving are, of course, the officers themselves. However, they have declined to provide a sworn statement in this matter. Their police union attorney provided a written proffer as to their explanation for the shooting, but this is not evidence. The State must therefore evaluate other evidence in this case to determine whether criminal charges should be filed against any of the officers involved in this shooting.

In this case, the officers had knowledge that Acevedo was the target of a fraud investigation based upon the 911 call made by the bank teller, the substance of which was communicated via police radio. When the first officers arrived at the TD Bank where he was trying to cash checks that were not valid, Acevedo took off in the Blazer, as witnessed by the bank employees. He continued to try to flee until he was witnessed by bank employees striking one of the police cars. The damage to the officer's vehicle, as well as to the one that Acevedo was driving, corroborates this. The EDR data from Acevedo's Chevrolet Blazer also corroborates that he struck the police car but kept trying to flee with the accelerator nearly at full throttle. Witness accounts indicate that after the Blazer struck at least one (1) other civilian vehicle, the police tried to get him to stop and exit his vehicle, but he did not. Four (4) of the officers who were at this scene then began firing at him.

Under this set of circumstances, there sufficient evidence to make a finding that Officers Sherrod, Farini, Winchester and Florencio were legally justified in using deadly force against Yamill Acevedo. The physical, forensic and eye-witness evidence in this case demonstrates that Acevedo deliberately rammed into vehicles occupied by police and civilian persons while he was in the course of fleeing a felony (bank fraud) and fleeing the police who had lawfully tried to stop him. He clearly posed an imminent danger to both the law enforcement officers and the other people who were in this busy urban intersection. Thus, there is no basis to file any criminal charges against any of these officers.

Prepared by:

/s/ Laura Adams

Laura Adams, Assistant State Attorney

/s/Stephen K. Talpins

Stephen K. Talpins, Assistant State Attorney