

The Vernell Bing, Jr. Death Investigation



State Attorney's Office Fourth Judicial Circuit of Florida Duval County

September 18, 2017

This report is an enclosure to a letter dated September 18, 2017, from the State Attorney to Jacksonville Sheriff Michael Williams regarding the death investigation of Vernell Bing, Jr.
This attachment includes the detailed findings and conclusions of the Office of the State Attorney.
Both the letter and this attachment are available to the public at www.sao4th.com.

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EXECUTIVE SUMMARY

This officer-involved shooting took place on Sunday, May 22, 2016, at approximately 5:54 p.m. The shooting brought an end to a dangerous, high-speed chase and pursuit of a stolen Chevrolet Camaro operated by Vernell Bing, Jr. ("Bing"). The Camaro had been reported stolen at gunpoint. Active JSO intelligence connected the stolen Camaro to a separate violent shootout about a month earlier. During the high-speed chase, Bing fled from law enforcement at speeds exceeding 100 miles per hour, while placing the pursuing officers, uninvolved motorists, and unaware pedestrians in grave danger. Real time police-radio traffic during the chase relayed that the driver of the Camaro was wanted for a shooting, that he was traveling at excessive speeds, that he was running stop lights, that he was traveling the wrong way down a busy street, and that he hit an officer and fled. All information relayed on the radio indicated that the driver of the stolen Camaro should be considered armed and dangerous. All of Bing's actions during the chase also showed that Bing had no regard for human life.

The chase ended when Bing ultimately crashed his stolen Camaro head-on into Officer Tyler L. Landreville's police car. Vehicle-computer records from the stolen Camaro and Landreville's police car show that, just before the shooting, Bing accelerated as he drove toward Landreville's police car. Landreville braked. The crash was so forceful that both cars' airbag systems deployed, Landreville's car spun around, his sunglasses were knocked from his head, and a Fitbit he was wearing was ripped from his wrist. Landreville's car was totaled. The stolen Camaro next crashed into a building and was also totaled. Bing crawled from the passenger side of the stolen Camaro, leaving one of his shoes behind. Bing continued to evade custody.

Landreville exited his police car with his service weapon holstered. He saw Bing moving behind the Camaro and ordered Bing to stop. Bing ignored Landreville's commands. As Bing continued to walk away, Landreville saw Bing turn towards him and reach for his waistband. Landreville shot at Bing five times. Landreville reported shooting at Bing because he feared Bing, a suspect in a shooting who had just rammed Landreville's vehicle, was reaching for a firearm. One bullet struck Bing in his left temporal lobe. According to the Medical Examiner's Office, the bullet path was from front to back, left to right, and minimally downward. Bing died the following day from this gunshot wound.

This Office has rendered the legal opinion that Landreville's actions were lawful and justified as defined in applicable Florida law. We reached this opinion after a thorough review of the evidence. This report outlines the basis for that opinion.

I. THE STATE ATTORNEY'S ROLE IN POLICE-INVOLVED SHOOTINGS

Melissa W. Nelson assumed the office of the State Attorney for the Fourth Judicial Circuit (the "Office") on January 3, 2017. Under the Florida Constitution, she is the chief state law enforcement official in the circuit, which covers Duval, Clay, and Nassau Counties. The State Attorney has no administrative authority or control over the personnel of the county sheriffs' offices or other policing departments within the jurisdiction. But, the State Attorney is a state official and, therefore, does not answer to the municipal or county governments within the judicial circuit, including the county sheriffs and other policing departments. The authority and control of our municipal and county policing agencies reside with each municipal or county government.

Indeed, the American Bar Association's Criminal Justice Standards specifically note, "The prosecutor generally serves the public and not any particular government agency, law enforcement officer or unit, witness or victim. When investigating or prosecuting a criminal matter, the prosecutor does not represent law enforcement personnel who have worked on the matter and such law enforcement personnel are not the prosecutor's clients." Am. Bar Ass'n Criminal Justice Standards for the Prosecution Function, Std. 3-1.1 (4th Ed. 2017).

This Office strives to maintain that independence.

In fulfilling her mandate, the State Attorney employs investigators who are sworn law enforcement officers. The investigative capacity of the State Attorney's Office, though, is limited. The primary function of the office is the prosecution of criminal offenses within the circuit, and investigative resources within the Office primarily support that function. The Office has no current ability to process crime scenes, conduct forensic analysis on evidence, and rarely, if ever, conducts primary investigations in homicide cases. For officer-involved shooting cases, most law enforcement agencies within the circuit use the Florida Department of Law Enforcement ("FDLE") to investigate cases that result in death or serious bodily injury from the use of force by their officers. The largest law enforcement agency within the circuit, the Jacksonville Sheriff's Office ("JSO"), does not. Instead, JSO assigns these cases to the JSO Cold Case Squad, a highly-trained, independent, and experienced group of death investigators who also handle JSO's unresolved homicide cases as well as all in-custody deaths. While part of JSO, the scope of officer involved shooting investigations conducted by the Cold Case Squad ("OIS Investigators") is broader than what FDLE investigates. Unlike FDLE, JSO investigates all officer-involved shootings ("OIS"), regardless of whether death or great bodily injury results.

By history and custom, law enforcement agencies and departments in this circuit have called upon the State Attorney's Office to independently review investigations of officer-

involved shootings. That review is independent of the actual investigation and is designed to treat officer-involved shootings with the serious, objective, and independent review necessary when any human life is taken, particularly when law enforcement officers are involved.

Historically, a single prosecutor in this Office would review the OIS investigation and present his or her findings to the elected State Attorney, who would then issue a letter or memorandum of disposition to the sheriff or chief of the involved agency. As discussed below, those procedures have now changed under State Attorney Nelson's administration.

II. THE NATIONAL CONTEXT OF POLICE-INVOLVED SHOOTINGS

Current research shows that over the past three years, law enforcement officers use force resulting in death about 1,000 times per year.¹ Police shootings have become increasingly visible on a nationwide scale. Improvements and advancements in technology like smart phones, inexpensive surveillance equipment, mounted-car cameras, and officer-worn body cameras provide real-time depictions of law-enforcement officers using force when apprehending and interacting with suspects. With the echoing effects of social media, images of these events have become all too prevalent, affecting the full spectrum of our nation's communities, from big, urban cities to small, rural towns. Uses of deadly force in places like Ferguson, MO, North Charleston, SC, Cincinnati, OH, and elsewhere have quickly become national media events, have fostered heightened civil unrest, and have garnered significant civil protest and debate.

Against this backdrop, while police work has become increasingly public, police work also has become increasingly more dangerous. The number of law enforcement officers injured or killed in the line of duty continues to increase. According to the FBI's National Press Office, forty-one law enforcement officers died from injuries incurred in the line of duty during felonious incidents in 2015. In 2016, 66 officers were slain in the line of duty by criminal suspects, a 61% increase over 2015.² As of June 30, 2017, 23 officers had been fatally shot this

¹ John Sullivan, *Number of Fatal Shootings by Police is Nearly Identical to Last Year*, Wash. Post, July 1, 2017, http://www.washingtonpost.com/investigations/number-of-fatal-shootings-by-police-is-nearly-identical-to-last-year/2017/07/01/98726cc6-5b5f-11e7-9fc6-c7ef4bc58d13_story.html?utm_term=.c5050ed48e85

² FBI Releases 2016 Preliminary Statistics for Law Enforcement Officers Killed in the Line of Duty, FBI National Press Office, Wash. D.C., May 15, 2017, <https://www.fbi.gov/news/pressrel/press-releases/fbi-releases-2016-preliminary-statistics-for-law-enforcement-officers-killed-in-the-line-of-duty>

year, and several others were killed by other means, including two officers who were beaten to death and one who was stabbed to death.³

Florida is one of the five most deadly states in the country for law enforcement officers. Jacksonville officers have not been immune from this violence. As of July 31, 2017, the Jacksonville Sheriff's Office reported that, in the history of its agency, 60 officers had died in the line of duty, with 32 of them killed by gunfire. In recent years, a Clay County Sheriff's Deputy was killed while executing a search warrant and a Nassau County deputy lost his life trying to apprehend an alien who entered the country illegally. Within recent months, a JSO K-9 officer was shot in the face by a fleeing suspect, and two JSO officers were shot by a suicidal individual.

Policing work is dangerous. Our courts have long recognized this reality and are extremely reluctant to substitute hindsight for on-the-spot, split-second decisions made by officers in the line of duty. "[The Constitution] does not require a police officer to wait until a suspect shoots to confirm that a serious threat of harm exists... And no court can expect any human being to remain passive in the face of an active threat on his or her life" *Elliott v. Leavitt*, 99 F.3d 640, 643 (4th Cir. 1996). Put differently, "[t]he Constitution simply does not require police to gamble with their lives in the face of a serious threat of harm." *Id.* at 641. The United States Supreme Court has similarly counseled that "[t]he 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Graham v. Connor*, 490 U.S. 386, 396 (1989). Officers need not be absolutely sure, however, of the nature of the threat or the suspect's intent to cause them harm—the Constitution does not require that certitude precede the act of self-protection." *Elliott v. Leavitt*, 99 F.3d at 644.

Thus, when we review officer-involved deaths, this Office must consider all of the evidence and decide whether the split-second judgment and decision of a particular police officer, usually operating under a tense, uncertain, and rapidly evolving situation, was justified or crossed the line into criminal behavior. The role this office plays has nothing to do with law-making or policy-making. We do not craft the law or oversee police tactics and operations. Instead, this Office is charged with reviewing the facts of each particular case to determine compliance or noncompliance with the laws enacted by the people's representatives in Tallahassee and the provisions of our state and federal Constitutions. We also must weigh facts in light of what the subject officer knew at the time he or she shot -- not in light of what months of investigation has revealed.

³ 2017 Midyear Officer Fatalities Report , National Law Enforcement Officers Memorial Fund, <http://www.nleomf.org/assets/pdfs/reports/fatality-reports/2017/2017-Mid-Year-Officer-Fatalities-Report-FINAL.pdf>

III. THE PROCESS NOW EMPLOYED BY THE STATE ATTORNEY'S OFFICE

Local prosecutors' offices around the country have employed a number of localized responses to investigate and review officer-involved death cases. Following much study and review of how other offices around the country respond to these matters, as well as review of current best practices,⁴ the State Attorney has established a team of experienced prosecutors and investigators to respond to, review, and evaluate every officer-involved death in this circuit (the "OIS Review Team" or "Team"). The OIS Review Team captures the best talent and insights of many of the most experienced prosecutors and investigators in the Office. The roster and biographies of Team members are contained in Exhibit A to this report. In addition to the significant homicide experience each team member possesses, a number of Team members have unique experiences investigating officer-involved shootings and participating in the investigation and prosecution of federal civil rights offenses. Additionally, the Division Chief of the Office's Human Rights Division is an integral part of the Team.

In terms of day-to-day functioning, the prosecutors and investigators on the Team take part in a rotating schedule and are available to respond to any officer-involved death in the circuit. Minimally, when an officer-involved death takes place, a prosecutor on the team is contacted by the investigating law enforcement agency (either FDLE or JSO). That prosecutor becomes the primary prosecutor in charge of ensuring the integrity of the investigation and is charged with making initial contact with investigators on the scene, reviewing the scene, ensuring all appropriate evidence is collected and processed, and conducting whatever interviews and taking whatever witness statements are necessary. That prosecutor can request additional investigative assistance from one or more investigators on the team, if needed.

Although the State Attorney's investigative resources do not permit the State Attorney to conduct full-blown scene investigations, Florida law provides the State Attorney with extremely broad investigative subpoena powers. Section 27.04, Florida Statutes, grants the State Attorney all of the mandatory process of the Courts of this circuit to command persons throughout the state to appear and provide testimony in these matters. Florida courts "have repeatedly held that the state attorney acts as a one-person grand jury in carrying out investigations into noncapital criminal conduct, and the state attorney must be granted reasonable latitude in that role." *See, e.g., State v. Investigation*, 802 So.2d 1141, 1144 (Fla. 2d DCA 2001); *see also Doe v. State*, 634 So.2d 613, 615 (Fla.1994); *Imparato v. Spicola*, 238 So.2d 503,

⁴ *See* Ass'n of Prosecuting Attorneys, *21st Century Principles of Prosecution: Peace Officer Use of Force Project*, APAINC.ORG, (Mar. 9, 2017) <http://APAINC.org/peace-officer-use-of-force/>.

506 (Fla. 2d DCA 1970); *State v. Nat'l Research Sys., Inc.*, 459 So.2d 1134, 1135 (Fla. 3d DCA 1984); Op. Att'y Gen. Fla. 94-86 (1994).

Thus, while the function of the State Attorney is not to conduct the primary investigation into officer-involved shootings, the State Attorney is an independent Constitutional officer who functions separate and apart from law enforcement agencies conducting these investigations. Unlike the law enforcement agencies, the State Attorney has subpoena powers and can subpoena testimony and records that the investigating agencies cannot.

Once the investigating agency completes its investigation, the assigned prosecutor and investigator receive final reports from the investigating agency and then present the case to the entire OIS Review Team for review. The team-review serves as one additional check and balance to ensure that the investigation is thorough, and the conclusions reached are sound in light of the facts and the applicable law. The entire OIS Review Team then makes a non-binding recommendation to the State Attorney, who has ultimate authority to issue our Office's opinion on the matter.

Once a report like this is issued, the investigating agency has reviewed the matter, an experienced prosecutor and investigator have reviewed the matter, a full team of experienced prosecutors and investigators have reviewed the matter, and the elected State Attorney has reviewed the matter. These multiple levels of review, highlight the importance this Office attaches to making sure the opinions we render in these cases are thorough, correct, sound, and reliable.

The Office also seeks to ensure that its conclusions and reasoning related to OIS reviews are transparent. To this end, the Office has already undertaken a review of all public records to redact them according to the law. Additionally, the Office is releasing all public records related to this review concurrently with this report. In an effort to provide full and easily understood information, these public records have been organized, indexed, and Bates-labeled; these records can be accessed at <https://sao4th.egnyte.com/fl/zZjqnA1rEO>.

IV. OUR ETHICAL OBLIGATIONS AS LAWYERS AND PROSECUTORS

Prosecutors in the State Attorney's Office are members of the Florida Bar. As such, we are governed by the Rules of Professional Conduct of the Florida Bar. Rule 4-3.8 applies exclusively to prosecutors and provides, in part, that a prosecutor shall "refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause." Simply

put, a Florida prosecutor cannot institute charges that the prosecutor knows are not supported by probable cause.

Probable cause is the minimal standard that ensures our decisions are ethical. We also strive to follow additional guidance from the National District Attorneys' Association, the Association of Prosecuting Attorneys, and the American Bar Association. The National District Attorneys' Association's National Prosecution Standards require "a reasonable belief that charges can be substantiated by admissible evidence at trial." Nat'l District Attorney's Ass'n, Nat'l Prosecution Stds., Std. 4-2.2. The American Bar Association's Criminal Justice Standards for the Prosecution Function in Standard 3-3.9 provides similar guidance. That standard notes, "A prosecutor should not institute, cause to be instituted, or permit the continued pendency of criminal charges in the absence of sufficient admissible evidence to support a conviction."

In conclusion, our Office does not institute or maintain criminal charges against a person because a person or group wants us to do so. We only institute and maintain criminal charges when competent, admissible evidence provides us with a concrete belief that a reasonable probability of conviction after trial exists. We apply this same standard to any matter we investigate. The subject-matter of the investigation makes no difference to how we handle matters. Put simply, the subject-matter of the offense plays no role in our independent assessment of the facts of the case and the applicable law.

V. POTENTIAL OPINIONS

This report is a summary of the legal framework for our decision, the findings of our independent review, and the factual and legal basis for our opinion. Our legal opinion is just that—an opinion based upon our collective legal knowledge, education, training, and experience, taking into account all the facts that we currently know.

Our opinion necessarily is limited to the application of Florida criminal laws to the facts. We offer no opinion on matters such as internal administration, officer staffing, officer tactics, officer training, policing procedures, compliance with sheriff's or chief's directives and office policies, or similar issues. Those matters are beyond our expertise and the scope of this review.

When rendering an opinion on matters like this, our opinion will take one of three forms. First, our opinion may be that a particular shooting by an officer was justified. When we render this opinion, we believe that the known facts and circumstances of the case leave little or no doubt that the officer's actions, taken in light of all the available evidence, and when considering the totality of the circumstances known to the officer at the time, were "justified" within the meaning of Florida law.

Second, our opinion may be that no reasonable probability of conviction exists. When we render this opinion, we are unable to affirmatively say whether, in our opinion, the officer's actions were justified or not justified, but the evidence, lack of evidence, or conflicts in the evidence establish reasonable doubt about whether the shooting was justified or not. When reasonable doubt exists about whether a shooting was justified or not, a reasonable probability of conviction necessarily does not exist. When we render this opinion, we believe that the likely outcome of any criminal trial would be an acquittal.

Finally, our opinion may be that a particular shooting was not justified, and we can prove the shooting was not justified beyond a reasonable doubt. When this happens, we will present the facts of the case to a grand jury and seek an indictment for the appropriate criminal violation.

VI. FLORIDA USE OF FORCE LAW

A number of Florida statutes address the use of force generally and by law enforcement officers acting in the course and scope of their official duties specifically. Some of these are not relevant to the investigation into this matter. Accordingly, these will not be discussed in any detail. However, a white paper, *Authorized Use Of Force By Law Enforcement Officers In Florida*, attached as Exhibit B more fully outlines Florida's Use Of Force laws.

A. Justification Generally

While the use of force to defend oneself is often referred to as "self-defense," the appropriate legal term is "justification." Accordingly, the question this Office must answer in any officer involved shooting is whether the use of deadly force was justified under the law.

Section 782.02, Florida Statutes, states, "The use of deadly force is justifiable when a person is resisting any attempt to murder such person or to commit any felony upon him or her." Fla. Stat. § 782.02 (2017). Similarly, Section 776.012, Florida Statutes, permits the use of deadly force when a person "reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony."⁵

⁵ Forcible felonies are "treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual." Fla. Stat. § 776.08 (2017). In a recent opinion, *State v. Peraza*, --- So.3d ---- 2017 WL 3730352 (Fla. 4th DCA 2017), Florida's Fourth District Court of Appeal ruled that law enforcement officers enjoy the same benefit of these general justification laws that ordinary Florida citizens do.

When considering whether the use of force was justifiable, the law does not require the danger be real, just that the danger appeared so. “Whether [a person] was justified in the use of deadly force, you must consider the circumstances by which he or she was surrounded at the time the force was used. The danger need not have been actual; however, to justify the use of deadly force, the appearance of danger must have been so real that a reasonably cautious and prudent person under the circumstances would have believed that the danger could be avoided only through the use of that force. Based upon appearances, [the person] must have actually believed that the danger was real.” Fla. Std. Jury Instrs. in Crim. Cases 3.6(f) (2017).

These principles of justification apply to any case. Florida law, however, provides additional justification to law enforcement officers.

B. Justification for Law Enforcement Officers

Law enforcement officers are specifically permitted to use force, including deadly force, in two primary areas, making arrests and preventing escapes. Section 776.05, Florida Statutes, governs the use of force by law enforcement officers when making an arrest. A law enforcement officer need not retreat or desist from making an arrest simply because a person resists or threatens to resist the arrest. Namely, a law enforcement officer is justified in using any force:

- (1) Which he or she reasonably believes to be necessary to defend himself or herself or another from bodily harm while making the arrest;
- (2) When necessarily committed in retaking felons who have escaped; or
- (3) When necessarily committed in arresting felons fleeing from justice.⁶

Fla. Stat. § 776.05 (2017).

Overarching Section 776.05 is the principle that, to be justified, force must be reasonably necessary under the particular circumstances of the case.

⁶ In *Tennessee v. Garner*, 471 U.S. 1, 11 (1985), the United States Supreme Court addressed the use of deadly force against a fleeing felon. The Court noted that “[w]here the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent escape by using deadly force.”

VII. THE FACTS OF VERNELL BING, JR.'S DEATH INVESTIGATION

The officer-involved shooting of Vernell Bing, Jr. ("Bing") took place on May 22, 2016. On that date, JSO Officer Tyler L. Landreville ("Landreville") used his JSO-issued Glock .40 caliber pistol to shoot Vernell Bing, Jr. ("Bing"). Bing died from a single gunshot wound to the head on May 23, 2016.

At the time of the shooting, the responding prosecutor from this office was Assistant State Attorney Bernie de la Rionda ("ASA de la Rionda"). Although this officer-involved shooting took place prior to State Attorney Nelson taking office, we have evaluated and reviewed this officer-involved shooting like we would evaluate any other officer-involved shooting that takes place during State Attorney Nelson's administration.

Our evaluation has been comprehensive. It has included eyewitness interviews, review of the involved officer's written statement, review of the Medical Examiner's findings (to include an expert opinion on bullet trajectory path), review of all available radio traffic and dispatch records that surround the events that lead to the shooting, review of all available police reports surrounding the shooting, and review of all available police reports that surround other, related criminal events. The key facts and circumstances of the shooting and evidence we have reviewed are detailed below.

A. Bing's Background and History

At the time of the shooting, Bing was a 22 year old, black male. He stood 5'7" tall and weighed 134 lbs. Known aliases for Bing included "Red" and "Christopher Ukderell Bing"

According to the National Crime Information Center, JSO records, and the Duval County Clerk's Online Resource ePortal ("CORE"), Bing has the following record of local arrests and convictions:

[REDACTED]

[REDACTED]

██████████; burglary to an unoccupied conveyance on September 3, 2012 (dropped); armed burglary on September 3, 2012 (dropped);⁸ leaving the scene of an accident on June 10, 2014 (criminal traffic citation issued); auto theft and providing a false name or identification on June 20, 2014 (prosecuted as a misdemeanor and sentenced to 28 days in jail); auto theft and resisting without violence on December 14, 2014 (adjudicated guilty of both counts and sentenced to seven months in county jail);⁹ aggravated assault on a police officer on May 22, 2016 (charges from this matter).

Bing has no record of incarceration or supervision by the Florida Department of Corrections. His longest term of custody was the seven month sentence he served from the December 14, 2014 incident.

At the time of the shooting, JSO suspected that Bing had been involved in a recent shootout on April 16, 2016, and possibly an earlier armed robbery on March 20, 2016, because they knew that the Camaro was involved in both incidents.¹⁰

B. Landreville's Background and History

Landreville is a patrol officer with JSO. Landreville currently is assigned to Zone 3, but at the time was assigned to Zone 1. Landreville holds a Bachelor's degree and has been a police officer with JSO since April 29, 2009. Landreville's only Internal Affairs record consists of a vehicle crash that took place on April 6, 2014. Landreville received informal counseling and remedial training following that event. Landreville has no record of internal discipline, including no record of excessive force. Landreville has received several commendations. Prior to this incident, Landreville had never discharged his weapon while on duty.

According to open-source information, Landreville served in the Army and was deployed to Afghanistan in 2010. While there, he received military decorations, including the Army Commendation Medal and Iraq and Afghanistan Campaign Medals. According to information relayed by Landreville's counsel, Landreville enlisted in the Florida Army National Guard while in high school and has served in the military for the past 13 years. His Army career includes having completed Airborne and Air Assault schools, holding a Special Forces

⁸ According to the arrest and booking report for this incident (JSO CCR No. 2012-650809) this incident involved the alleged theft by Bing of a firearm from a neighbor's vehicle.

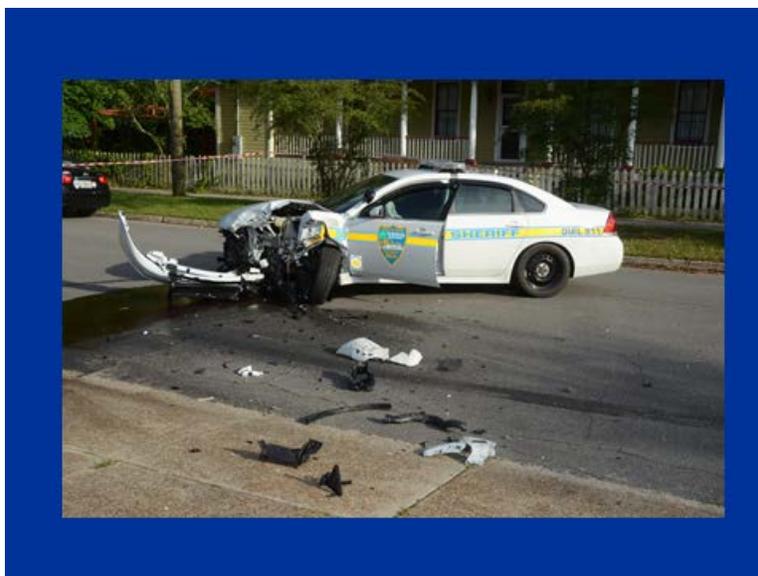
⁹ According to the arrest and booking report, officers spotted Bing pulling into a gas station and exiting a stolen vehicle. When the officers attempted to make contact with Bing, he fled on foot. The report also notes that Bing used the alias name of Christopher Ukderell Bing.

¹⁰ The facts and circumstances of those incidents are set forth below.

tab, achieving the rank of Sergeant First Class, and being deployed outside the United States in service to the country on four prior occasions.

C. Overall Summary

This officer-involved shooting took place on Sunday, May 22, 2016, at approximately 5:54 p.m. The shooting brought an end to a dangerous, high-speed chase and pursuit of Bing by JSO officers. At the time, Bing was driving a stolen Chevrolet Camaro that was reported stolen at gunpoint. Active JSO intelligence connected the stolen vehicle and a person resembling Bing to a separate violent shootout about a month earlier. During the high-speed chase, Bing fled from officers at speeds exceeding 100 miles per hour, while placing the pursuing officers, innocent motorists, and helpless pedestrians in grave danger. Vehicle-computer records from the stolen Camaro and Landreville's police cruiser show that, just before the shooting, Bing accelerated as he drove toward Landreville's cruiser, rammed the cruiser with Landreville inside, and caused significant vehicle damage and the deployment of Landreville's airbag system. The photograph below depicts Landreville's vehicle as it appeared after impact.



Bing did not stop. He continued to plow through a fixed stop sign and ultimately crashed the stolen Camaro into a close-by residential building. The photographs below depict how the stolen Camaro looked when Bing finally stopped.



Both Bing and Landreville exited their vehicles. Bing ignored Landreville's commands to stop. As Bing continued to walk away, Landreville reports that he saw Bing turn towards Landreville and reach for his waist band. At this point, Landreville shot at Bing five times. Landreville reports that he did so because he feared that Bing, who was suspected in an earlier shootout and had just rammed Landreville's police car, was reaching for a firearm. One bullet struck Bing in the front of his head. The bullet wound was oval in shape and the bullet path was from front to back, left to right, and minimally downward. Bing died the following day from this gunshot wound.

D. Crimes Prior to May 22, 2016

In order to fully understand the events that took place on May 22, 2016, detailing two criminal episodes prior to May 22nd is necessary. Those incidents establish that Bing was operating a stolen vehicle and was previously involved in a shootout. This criminality is what led to Bing's high speed chase on May 22.

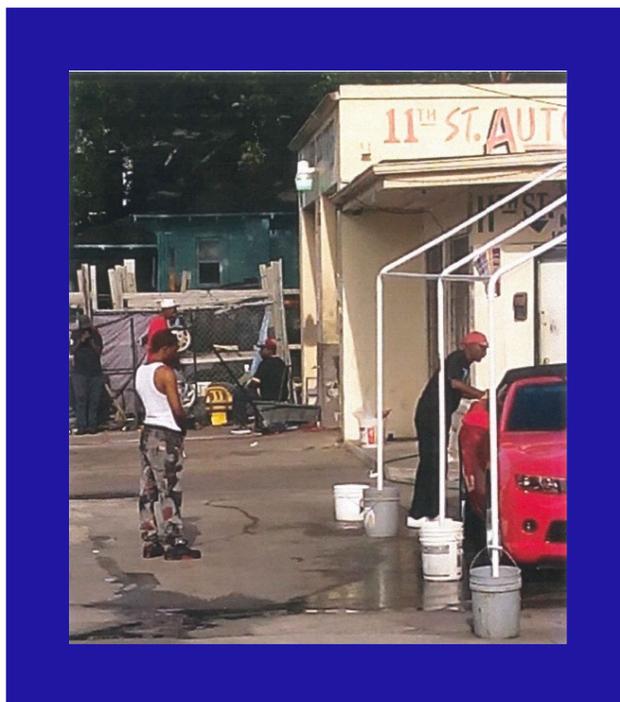
Armed Robbery and theft of Camaro on March 20, 2016 (JSO CCR 2016-179972)

On March 20, 2016, Ronny Wilson ("Wilson"), a 22-year-old man, went to a residence on Autrey Avenue after seeing a "Backpage" ad on the internet for commercial sex with a woman. At the time, Wilson was driving a 2015 red Chevrolet Camaro with a black convertible top. Wilson's mother had rented the vehicle for him. When Wilson arrived, two unknown black men and a female robbed him at gunpoint. They took Wilson's clothing, shoes, jewelry, wallet, cellphone, and the 2015 red Camaro. Wilson heard them say they needed to get rid of him, and when they opened the door of the residence, he ran naked to a nearby home, where he contacted police. When he reported the crime to police, Wilson stated that a .40 caliber handgun was inside the stolen vehicle. On May 23, 2016, (the day after the May 22 OIS) Wilson reviewed a photo array that contained Bing's photo. Wilson did not identify Bing as one of the robbers. See JSO General Off. and Supp. Reports for incident number CCR 16-179972.

Sometime between March 20, 2016, and April 16, 2016, Bing obtained the stolen Camaro. To date, it remains unknown how Bing obtained the stolen car, or whether Bing had any involvement with the initial theft of the vehicle from Wilson.

Shooting at the Tire Shop carwash on April 16, 2016 (JSO CCR 2016-242781)

On April 16, 2016, at the Tire Shop carwash on 11th Street and Phoenix Street, Bing and another black male (who to date remains unidentified) were involved in a shooting, in broad daylight. Both individuals brandished firearms and shot at each other. An eyewitness took a photo of one of the shooters, shown below, and provided that photo to police. The eyewitness advised he witnessed the black male in the white tank top and camouflage pants shoot at another man.



In an effort to identify and apprehend the shooter, JSO disseminated the Tire Shop Photo as part of an intelligence bulletin issued on April 29, 2016. In addition to being distributed to local law enforcement, the intelligence bulletin was published on local media. See JSO Gen. Offense and Supp. Reports for incident number CCR 16-242781.

Bing was ultimately identified as the person in the Tire Shop Photo by his girlfriend, Kashana Daniels on July 29, 2016.

E. The JSO Intelligence Bulletin

On April 29, 2016, JSO issued Intelligence Bulletin 16-194 related to the shootout. The bulletin read:

On 04/16/16, a shooting occurred at the 11th Street Tire Shop located at 1077 East 11th Street. Preliminary Investigation revealed two unknown suspects engaged in a verbal altercation that escalated into a shootout with one another. The suspects fired multiple rounds into a residence and an unoccupied vehicle. No injuries were reported. A photograph was taken of one suspect. The suspect is a black male with a medium complexion. The suspect is approximately 5'7" in height, weighing approximately 150 lbs., low haircut, wearing a white tank top, camouflage pants, and black/red in color tennis shoes. The suspect pictured was seen driving a 2015 or 2016 red in color Chevy Camaro. The

vehicle has a black convertible top and dark tinted windows. Attached is a photograph of the suspect and vehicle.¹¹

F. Attempts to Stop the Stolen Vehicle Prior to May 22

On May 10, 2016, JSO officers observed the stolen Camaro in the area of Myrtle Avenue and Kings Street. The stolen Camaro immediately fled upon officers spotting it, and officers were unable to locate the stolen Camaro again that day. *See* email from Sergeant Scott Rammage to Detective Cory Williams dated Tuesday, May 10, 2016.

On May 18, 2016, JSO Officers C.M. Weippert and J.A. Newkirk spotted what appeared to be the stolen Camaro at Laura and 25th Streets driven by a black male resembling Bing. The officers noted that the tag on the vehicle was 3819HJ, a tag not assigned to the vehicle.¹² When the officers attempted to stop the stolen Camaro, the vehicle fled at a high rate of speed towards Main Street, and the officers did not pursue. *See* JSO Gen. Offense Rep. for incident number CCR 2016-320181.

G. Information Conveyed to Landreville on May 22, 2016

While responding to an unrelated call at approximately 4:30 p.m. on May 22, 2016, Officer Landreville spoke with Sergeant J.C. Nobles (“Nobles”). During the conversation, Nobles relayed to Landreville that a red Camaro convertible was wanted in connection with a shooting about a month earlier. Nobles further advised Landreville that on three prior occasions, JSO units had attempted to make a felony stop on the Camaro, but the Camaro had fled law enforcement. *See* Written Statement of Tyler L. Landreville; JSO Sup. Rep. 3 for incident number CCR 2016-330793.

H. High-Speed Chase on May 22, 2016

On May 22, 2016, Bing led police on a high-speed chase, ultimately rammed the stolen Camaro into Landreville’s police car, plowed through a fixed stop sign, and careened into a residential dwelling. Historical details of the chase come from multiple sources, including a dash camera video attached to Sergeant W.R. Smith’s vehicle, personal observations of the pursuing officers, radio transmissions among the pursuing officers, and vehicle crash data retrieval systems.

¹¹ This photograph is referred to as the “Tire Shop photo” and can be found on the previous page of this Report.

¹² This was the same tag on the Camaro on May 22, 2016, the date of the officer-involved shooting.

The chase began when Nobles observed the stolen Camaro at the intersection of East 9th Street and Brackland Street. Nobles saw Bing standing outside the vehicle and noticed that Bing looked like the person involved in the prior shootout. When Nobles turned northbound on Brackland Street, Bing jumped in the vehicle and fled. Nobles recognized both the stolen Camaro and what looked to be the person from the photograph in Intelligence Bulletin 16-194, described above. Nobles then put out a BOLO to summon other officers to assist. During the ensuing chase, Nobles personally observed Bing driving the stolen Camaro at a high rate of speed. *See* JSO Supp. Rep. 3 for incident number CCR 2016-330793.

Another participating officer was JSO Officer A.F. Carrion (“Carrion”). Carrion saw the stolen Camaro when Carrion was approaching the intersection of North Main Street and East 8th Street. He also observed Bing driving the stolen Camaro at a very high rate of speed with other police cruisers following. Carrion stopped at the light on the northbound lane of Main Street and activated his overhead lights to warn other vehicles and pedestrians. Once the stolen Camaro reached Carrion’s location, Carrion watched the stolen car launch directly at, and pass within inches of, Carrion’s police car. At the time, Carrion believed that either the stolen Camaro or debris from the stolen Camaro actually struck Carrion’s police car. Carrion radioed this information to other officers (including Landreville) by stating, “he—signal 3’d my vehicle.”¹³ Carrion then watched as the red Camaro drove the wrong way down the northbound lanes of Main Street.¹⁴ *See* JSO Supp. Rep. 3 for incident number CCR 2016-330793.

Another participating officer was Officer B.D. McEwan (“McEwan”). He recalled hearing the earlier information put out by Sergeant Nobles. He also saw Bing driving the stolen Camaro in a way that was “extremely reckless.” He observed Bing run through red lights and stop signs without any hesitation or concern for the safety of others. *See* JSO Supp. Rep. 3 for incident number CCR 2016-330793.

Another officer who observed Bing’s behavior was Sergeant W.R. Smith (“Smith”). During the chase, Smith observed Bing traveling as fast as 115 miles per hour. He also observed Bing traveling in the wrong direction on Main Street. *See* JSO Supp. Rep. No. 2 for incident number CCR 2016-330793. Smith’s cruiser also had an operational dashboard camera that recorded much of the chase. The recording depicts, in real time, Bing’s reckless behavior, his active flight from pursuing officers, and, for much of the video, him operating the stolen

¹³ A signal three is the numeric code for “hit and run.”

¹⁴ Carrion lost sight of the vehicle, but participated in the perimeter at the shooting scene. While there, he heard a person in the crowd say that the red Camaro almost struck a pedestrian with a young child shortly after almost hitting Carrion.

Camaro at speeds exceeding 100 miles per hour. See video footage from Sgt. W.R. Smith's dashboard camera.

A number of key police radio transmissions took place immediately before the shooting. For instance, at 5:48 p.m., Landreville joined the pursuit, radioed other officers, and advised that he had taken a position at I-95 and Martin Luther King Boulevard. A minute later, Nobles broadcast a request for assistance from Zone 5 units and relayed, "*It's a 33 and 88 suspect vehicle.*"¹⁵ At 5:49 p.m., Landreville relayed, "I've got a red Chevy Camaro going Southbound 95. Correction. Northbound MLK. It's in the emergency lane. Speeds approaching 90 mph. Moderate traffic." Also at 5:49 p.m., McEwan radioed that Bing "ran the red light. ...*This is believed possibly the 33 and 88 suspect.*" At 5:50 p.m., Smith broadcast that "speeds are about 115 now."¹⁶ At 5:52 p.m., Carrion relayed, "he—signal 3'd [hit and run] my vehicle." At 5:53 p.m., Landreville radioed, "shots fired," gave his location, and then relayed, "Signal 4. Rescue 10-68."¹⁷ Landreville confirmed that the suspect was "18"¹⁸ and again stated, "I need rescue. 10-68." See Radio Transmissions for JSO incident number CCR 2016-330793.

During the chase, Landreville was driving his JSO patrol cruiser, vehicle no. 597, a 2015 white Chevrolet Impala. The chase ended when Bing rammed Landreville's police car, plowed over a nearby stop sign, and careened into a residential building.

Through this Office's Trial Support Unit, we have prepared a digital recreation of the route of chase. We have melded the radio transmissions between and among the pursuing officers, the available dashboard camera footage, and selected photographs to recreate the pursuit and to establish those things that Officer Landreville learned on May 22, 2016. That recreation is contained in the disc included as Exhibit C¹⁹ to this report.

¹⁵ JSO uses numeric codes for radio transmissions. Signal 33 is code for shots fired, and signal 88 is code for aggravated assault. Thus, Nobles advised other participating officers that the vehicle was suspected in an aggravated assault with shots fired.

¹⁶ At the time of this radio transmission, the visible speedometer on Smith's dashboard video recorder showed that Smith was pursuing Bing and travelling at 108 m.p.h.

¹⁷ Signal 4 is the numeric code for a traffic accident. Signal 10-68 is the numeric code for "quick; emergency." Landreville thus was radioing for quick emergency help.

¹⁸ Signal 18 is the numeric code for "shot."

¹⁹ Exhibit C contains 4 different demonstrative films. The first, titled "*1 OIS Bing*" is a recreation of the chase that incorporates available video and audio, as well as a model of the Medical Examiner's findings. The second, titled "*Investigative Findings Camaro*" addresses facts related to the stolen Camaro and the ultimate search of the Camaro. The third, titled "*Surveillance Video White SUV*" demonstrates significant time stamps. The last, titled "*Surveillance Video Eric Coleman*" memorializes Coleman's location and perspective from his location.

I. Computer Data From Vehicles

As part of the death investigation, JSO OIS Investigators obtained data from the Crash Data Retrieval Systems of the stolen Camaro and Landreville's police car that detail the speeds, initiation of braking systems, and amount of accelerator depression for the five seconds immediately before Bing rammed Landreville. That data shows that Bing was accelerating and had increased his speed by ten miles per hour from 55 miles per hour to 65 miles per hour right before the crash. Bing applied his brake for a half second during the second right before impact. At all other times, Bing had engaged the accelerator of his vehicle, ranging from 50 percent (50%) to ninety-nine percent (99%).

A table summarizing the data is set forth below:

Bing Camaro		1st Event -- Striking Police car	
Time	Accelerator Pedal, % Full	Service brake	Speed MPH
-5.0	68	Off	55
-4.5	99	Off	55
-4.0	99	Off	57
-3.5	99	Off	58
-3.0	91	Off	59
-2.5	89	Off	61
-2.0	72	Off	63
-1.5	0	Off	65
-1.0	0	On	60
-0.5	50	Off	53

Conversely, the data from Landreville's police cruiser shows opposite behavior. During the five seconds before impact, Landreville slowed his vehicle from 53 miles per hour to 14 miles per hour. Right before impact, Landreville had engaged his vehicle brakes for all but 1.5 seconds. Landreville had not engaged his accelerator.

A table summarizing that data is set forth below:

Landreville JSO patrol car			
Time	Accelerator Pedal, % Full	Service Brake	Speed MPH
-5.0	0	Off	53
-4.5	0	On	52
-4.0	0	On	41
-3.5	0	On	32
-3.0	0	On	23
-2.5	0	On	17
-2.0	0	Off	15
-1.5	0	Off	15
-1.0	0	On	14
-0.5	0	On	14

See Bosch Crash Data Retrieval Reports.

The force coefficient of the combined speeds was 79 mph at impact. Simply put, the undisputable car computer data shows that the collision was a violent, forceful, and life-threatening crash.

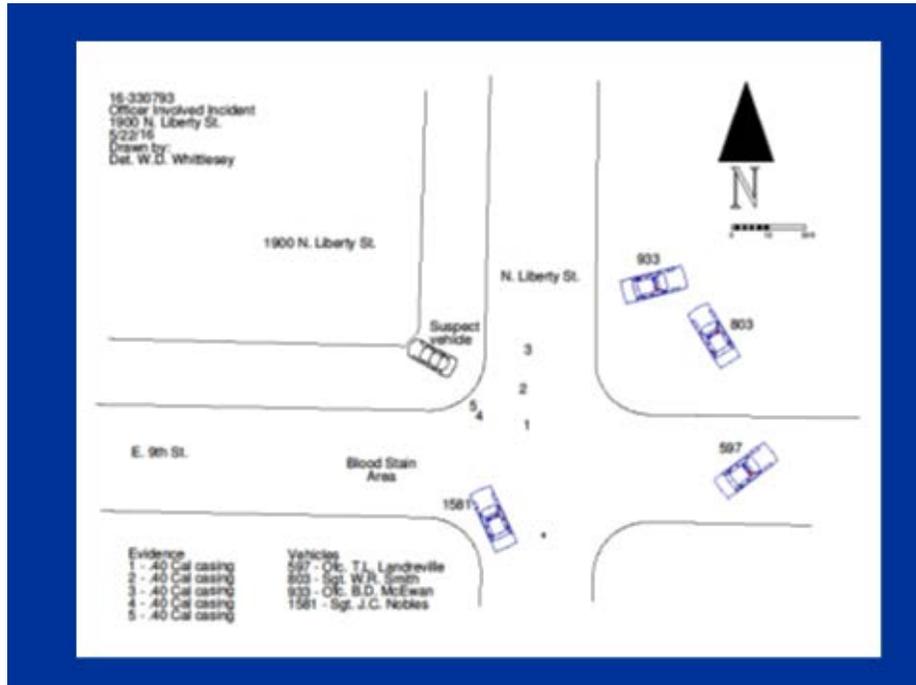
J. The Shooting

Following the crash, Landreville shot Bing. The shooting took place at approximately 5:53 p.m. on May 22, 2016. Landreville, from a standing position, fired five .40 caliber rounds from his service weapon, a Glock 22, SN NBP529. One of those rounds hit Bing in the head. Landreville immediately radioed for emergency rescue to respond quickly and provided lethal cover as other patrol officers arrived. Jacksonville Fire and Rescue transported Bing to UF Health, and Bing died the next day. See JSO Response to Resistance Rep. for incident number CCR 2016-330793.

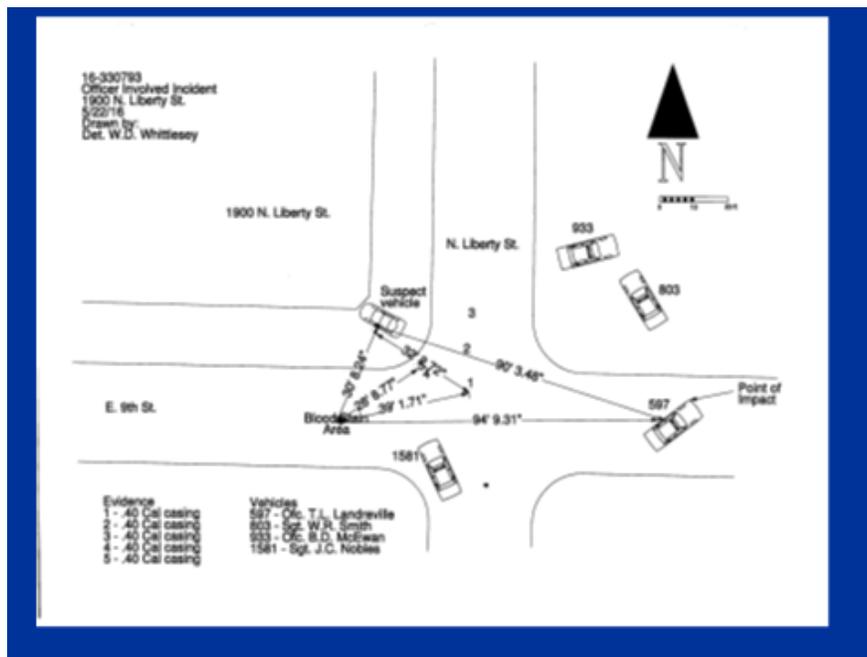
K. JSO Scene Investigation and Physical Evidence

JSO Crime Scene Unit detectives processed the scene and later the two vehicles involved. At the scene, detectives collected the stop sign that Bing plowed through and red paint samples now visible on Landreville's police car.

They also collected five cartridge casings from the locations numbered one to five in the diagram below.



The detectives photographed the scene (to include aerial photos), took measurements, and prepared a diagram depicting the distances between the stolen vehicle and Landreville's police cruiser. That diagram is reproduced below.



A scene detective also collected clothing that Bing had worn from UF Health. The clothing showed no bullet holes.

Bing did not have a gun on him when he was shot, and no gun was recovered in the car or the immediate area. No bullet strikes were detected on the roadway surrounding where Bing's body was located. Two days later, OIS Investigators located what they believed to be one additional bullet strike in a nearby fence.

FDLE conducted ballistic analysis of Officer Landreville's firearm and the five casings. This ballistics examination showed that the casings were fired from Landreville's pistol.

The tag affixed to the Camaro was not the tag issued to the car. No fingerprints of value were located on the tag. We do not know how Bing obtained the stolen Camaro or if, or how, Bing affixed the non-issued tag to the stolen Camaro.

Detectives located a plastic bag with four pieces of crack cocaine (1.6 grams) inside the Camaro on the driver's floorboard. The pieces were individually wrapped. The illegal drugs are depicted in the photo below.



For the full description of the scene processing and subsequent forensic analysis, *see* JSO Evidence Reports and Property Storage Cards for incident number CCR 2016-330793 and FDLE Reports for submitted evidence.

L. Medical Examiner's Findings

On May 24, 2016, Chief Medical Examiner Dr. Valerie Rao conducted an autopsy on Bing. She issued her final report on June 14, 2016, and the complete results of her examination are set forth in that report.

Dr. Rao determined that the manner of Bing's death was homicide, and the cause of Bing's death was a penetrating gunshot wound to the head. That wound was four-and-a-half inches from the top of Bing's head, and four inches to the left of the anterior midline. Dr. Rao described the bullet wound as oval in shape and the direction of the projectile as front to back, left to right, and slightly downward. *See Exhibit C 1 OIS Bing* for a three dimensional model demonstrating this trajectory. This finding is consistent with Bing turning his head over his left shoulder toward Landreville at the time of shooting.

Bing also had a deep abrasion (8.5 centimeters x 6.5 centimeters) to the left iliac crest region (the hip region). Extensive soft-tissue hemorrhage to this region was present.

Toxicology results revealed the presence of metabolites suggesting marijuana use by Bing.

M. Statements of Key Witnesses

The key witness statements obtained by JSO investigators and key sworn statements taken by this Office are outlined below. Landreville, through counsel, provided a signed, typewritten statement of his recollections. A number of witnesses were contacted, and they either had no information or simply heard the vehicle collisions and gun shots, but did not see anything.

This Office took recorded, sworn statements from the following witnesses who indicated they had knowledge: Eric Coleman, Octavia Dixon, Jerod Powers, Wally Marin, Allison D'Aurizio, James Compton, and Veronica Padmore. All other statements were witness statements provided to law enforcement.²⁰

The witnesses observed an event that, at most, lasted twelve (12) seconds. As made clear below, little consensus exists among their independent recollections about what they saw. Differences in their independent recollections range from insignificant to significant. Indeed, some of the witnesses' recollections are directly refuted by undisputable physical and video

²⁰ The OIS Investigator and the State Attorney's Office have been unsuccessful in their attempts to obtain more detailed statements from canvas witnesses Charles Thompson, Mark Whitley, and Houston Shears.

surveillance evidence. Importantly, each of the witness accounts was limited by their unique perspectives—none of which were the same as that of Officer Landreville.

We have only summarized below those witnesses who either claim to have seen or heard something significant.

1. Officer Tyler L. Landreville

Landreville, though his attorney,²¹ provided a voluntary, signed, type-written statement to JSO OIS Investigators.²² A copy of that statement is attached as Exhibit D. In the statement, Landreville says that while working another call, his Sergeant, J. Nobles, advised him that a red, stolen Camaro was wanted in connection with a nearby shooting about a month ago. He also learned from Sergeant Nobles that three prior attempts to conduct felony stops of the vehicle had failed.

Later in the day, Landreville heard on his radio that Sergeant Nobles had located the stolen Camaro. Landreville, in his police cruiser, took up a position at Martin Luther King Boulevard and I-95. From that position, he observed the stolen Camaro pass by in the far inside lane of Martin Luther King Boulevard. Landreville personally observed the stolen Camaro traveling at a high rate of speed, cut across three lanes of traffic without engaging a traffic signal, begin traveling in the emergency lane, and swerve in front of another vehicle.²³ Landreville also observed the stolen Camaro run a stop sign at West 19th Street and Myrtle Avenue. Landreville was trying to catch up to the stolen Camaro and noted that his patrol cruiser reached speeds exceeding 100 miles per hour. While traveling at this speed, Landreville also observed that moderate traffic was present, and the stolen Camaro was swerving in and out of traffic, which Landreville believed was an attempt to cause other vehicles to crash and block officers' pursuit. Landreville also watched as the stolen Camaro traveled the wrong way down the northbound lane of North Main Street, missing vehicles, pedestrians, and bicyclists.²⁴

²¹ The State Attorney's Office did not compel Landreville's statement, as doing so would have granted Landreville immunity under Florida law.

²² Pursuant to the United States Supreme Court's decision in *Garrity v. New Jersey*, 385 U.S. 493 (1967), Officer Landreville could not be compelled to give any statement that could be used against him in a criminal prosecution.

²³ Much of this statement is corroborated by Landreville's contemporaneous radio transmission at the time, the substance of which is noted above.

²⁴ This statement was corroborated by civilian information relayed to 911.

While the pursuit was ongoing, Landreville heard another officer on the police radio say that the stolen Camaro had just hit the officer.²⁵

Landreville ended up going east on 9th Street. As Landreville applied his own brakes, the stolen Camaro came into his lane of traffic. Landreville braked as the stolen Camaro rammed him at a high rate of speed. Landreville's vehicle spun, and his airbag deployed. The impact was so violent that the collision knocked Landreville's sunglasses off of his face and ripped the Fitbit he was wearing off of his wrist.

Landreville removed his seatbelt, and exited his vehicle. At that time, he observed Bing near the rear of the stolen Camaro. Landreville commanded Bing to stop, but Bing ignored Landreville's commands. As Bing was moving away, Bing looked over his left shoulder at Landreville, appeared to reach into his waistband, and began to "blade"²⁶ his body towards Landreville while looking at him. Landreville feared Bing was about to shoot him, pulled out his weapon, and began to fire. Landreville stopped firing as soon as Bing hit the ground. *See* Written Stmt. of Tyler L. Landreville.

2. Eric Coleman

Eric Coleman ("Coleman") is a witness who was in the area when the shooting took place. Coleman's known statements consist of a social-media video, a statement to JSO OIS Investigator, Detective Warkentein, and a sworn statement to this Office.

Social Media Recording

On a video posted on social media, (<https://sao4th.egnyte.com/dl/2Na4beusCx>) Coleman advised that just 30 minutes earlier he had observed a police car and another car collide. Coleman alleged that he observed "the suspect" get out of the car disoriented. He reported that the police officer then got out of his car. Coleman claimed the police officer got close enough to "the suspect" to tackle him or use his Taser. Instead, the police officer pulled out his firearm and shot. After the first shot, Bing fell to the ground. Coleman claimed that Bing was running away, and the police officer shot him in the back. Coleman then stated that the police officer appeared to open fire, and it looked like the police officer shot "the suspect" in the head and shot "the suspect" in the back about three to four more times. Coleman claimed this happened while "the suspect" was on the ground. Coleman stated that only one shot hit

²⁵ Ultimately, the officer examined his vehicle and determined that no impact took place. Nonetheless, the existence of this radio traffic is corroborated by the actual radio traffic recordings in which another officer reported that this took place. *See* Exhibit C 1 OIS Bing.

²⁶ The use of this language is significant. We have confirmed that JSO officers are trained to assess a person's whole body, hands, waistline, immediate area, and their demeanor when making discriminatory judgments about danger.

“the suspect” while he was standing. Coleman also stated that the police officer was running after “the suspect” at a faster pace than “the suspect” was capable of running. Coleman stated that the officer could have tackled “the suspect” and handcuffed him because “the suspect” was hurt and disoriented. Coleman said that the officer “chose to choose his gun over saving a life. He chose to take a life. He therefore committed a murder in my eyes because he could have tackled this man.” Coleman said that “the suspect” was limping away and could walk faster than he could run.

On the video, Coleman is wearing a black t-shirt and red shorts.

Statement to Detective Warkentein (May 23, 2016)

On May 23, 2016, Eric Coleman (“Coleman”) spoke with Detective Warkentein by phone. Coleman advised that he lived at 219 E. 9th Street and was standing on the sidewalk in front of his house when the event happened. He heard sirens and then saw a police car turn the corner on Liberty Street going about 30 miles per hour. He saw the cars crash and walked down the street. He observed Bing exit his vehicle. Coleman advised that Bing looked as if he was injured due to limping. Coleman claimed that the officer never said anything to Bing and started shooting. Coleman said the officer was about four to five feet away from Bing. Coleman claimed he witnessed the officer shoot Bing in the back. Coleman claimed that officer continued to shoot and while Bing was on the ground, shot him in the back of the head.

Sworn Statement to ASA de la Rionda (April 20, 2017)

Coleman provided a sworn statement to ASA de la Rionda on April 20, 2017.²⁷ During his statement, Coleman provided the following information. He was visiting his mother’s and aunt’s home located at 9th and Liberty Streets, a two-story duplex behind what Coleman referred to as “the blue building.” At the time of the incident, Coleman reported that he was standing outside the fence and gate area of the home on the sidewalk of the residence he was visiting. Coleman was talking, joking, and laughing with his sister, Octavia Dixon. He claimed nothing blocked his view of the events.

Coleman advised that he heard sirens, turned his head, and saw a police cruiser making a right turn off Liberty. The police car was going about 30 to 35 miles per hour and had its lights and siren activated. Bing’s car was speeding and flying down the road. The police cruiser turned wide, and, according to Coleman, the crash was unavoidable. Coleman

²⁷ Mr. Diallo Sekou accompanied Coleman to this sworn statement, but did not participate. This was the first interaction Coleman had with ASA de la Rionda. Multiple prior attempts to obtain Mr. Coleman’s statement had been unsuccessful.

estimated Bing's vehicle, a red Camaro, was going about 50 miles per hour. Neither vehicle ever stopped. The vehicles collided, and Bing's vehicle then crashed into a two-story building where people lived. Coleman then "jogged or ran down a little bit."

Coleman saw the police officer get out, and the officer appeared to be unharmed by the crash. Bing, however, got out and was stumbling, hurting, and disoriented. Coleman recalled Bing getting out of the passenger-side window. Coleman observed the officer run at Bing, stop around the intersection of 9th and Liberty, and draw his weapon. Coleman did not hear the officer say anything, including "freeze" or "stop." At this point, Coleman believed the officer was four or five feet from Bing. Coleman described Bing as "still like runnin', tryin' to get away." Coleman later stated that Bing was "kind of facing away from the officer, but he was running at an angle a little bit." The officer was shooting at Bing, and Coleman could not tell how many shots the officer fired at Bing or the number of shots that hit Bing. Coleman stated that Bing fell to the ground, and the officer continued to shoot him while he was on the ground. Coleman believed the officer fired five or six times.

Coleman returned to the fenced yard of the residence where he was visiting. Coleman recalled telling an officer that he [the other officer] "killed that man for no reason." Coleman did not know who this officer was. Coleman recalled this officer was uniformed and was taping off the scene and trying to prevent him from speaking with the media.

Coleman provided a recording of his recollection of what he saw to Diallo Sekou at the scene. This was the first time Coleman had met Sekou. Sekou asked Coleman if he could record his statement and upload it to Sekou's Facebook page. Coleman agreed, and provided Sekou with an account of what he saw.

Coleman conceded that some trees and a few cars could have obstructed his view "a little bit." Coleman's location was captured by surveillance video and his perspective was memorialized by still photography. See Exhibit C "*Surveillance Video Eric Coleman*." Coleman recalled Bing exiting the stolen Camaro from the passenger's side of the vehicle and said, "the window or something. Yeah." Coleman also claimed that he had moved to the street at the time of the shooting. Coleman never saw Bing putting his hands up. See Recorded Sworn Stmt. of Eric Coleman on April 20, 2107.

3. Charles Coleman Thompson

Charles Coleman Thompson ("Thompson") resided at 1843 Liberty Street North. He advised JSO OIS Investigators that he was in his back yard doing yard work when he heard the crash. As he began walking to the front of his house, he heard five gunshots. He paused and then proceeded to the front of his home. When he did, he observed the officer pulling the

suspect away from the crashed vehicle. He heard the officer saying something about the suspect was not dead.

4. James Richard Compton

James Richard Compton (“Compton”) was in the area with his girlfriend²⁸ looking for something to buy at a garage sale. He became aware of the police cars in the area and realized something was going on. Compton was driving on 9th Street just past Liberty Street heading west. He was approximately 100 yards down from Liberty Street when he heard a crash.

Compton looked back through his rearview mirror and saw a damaged police car in the center of 9th and Liberty. He then turned back around to talk to his girlfriend. When he turned back and looked where the police car was located, he saw an officer shooting. Compton did not see the officer’s gun, and did not recall the number of shots.

Compton saw Bing for approximately two seconds. When the officer shot, Compton described Bing as running with his arms flailing (extended out). Compton could not tell if Bing was facing the officer or the position of his torso when the officer shot.

Compton did not see anybody else other than the officer and Bing in the area. He saw Bing lying on the ground. Compton denied that the shooting officer continued shooting when Bing was on the ground. Compton’s recollection is confirmed by surveillance video collected from 228 E. 9th Street, Jacksonville, Florida 32206. Compton’s description of events can be viewed on Exhibit C at “*Surveillance Video White SUV.*”

5. Octavia Dixon

Statement to Detective Warkentein (May 23, 2016)

On May 23, 2016, Octavia Dixon (“Dixon”) spoke with Detective Warkentein by phone. Dixon advised that she was sitting on the porch of her house located at 219 E. 9th Street when she saw a police car crash in to a red car at 9th Street and Liberty Street. Dixon advised that she saw a guy get out of the red car limping and trying to run away. Dixon did not hear the officer give any commands and advised that the officer “shot the guy in the back of the head.” After the man fell to the ground, Dixon claimed the officer shot the man “two more times in the back.” Dixon claimed a second officer also came up and “shot the guy.”

Sworn Statement to ASA de la Rionda (August 30th, 2017)

Multiple efforts since May 23, 2016, were made by Detective Warkentein and ASA de la

²⁸ Compton’s girlfriend did not see anything that happened.

Rionda to take Dixon's sworn statement. After multiple failed attempts to secure Dixon's sworn testimony voluntarily, the State Attorney's Office issued a subpoena to Dixon on August 29th, 2017. The subpoena compelled Dixon's appearance at the State Attorney's Office on August 30th, 2017. On August 30th, Dixon appeared pursuant to the subpoena and provided a statement under oath to ASA de la Rionda about what she witnessed on May 22, 2016.

During this statement, Dixon explained that on that on May 22, 2016, she and her two daughters were visiting her mother at 219 E. 9th Street. They were returning from the store and were on 9th Street when they heard sirens. Dixon advised that she witnessed Bing open the passenger door, get out, and begin to limp away. She claimed that she witnessed the officer, without giving any verbal commands, shoot Bing in the back of the head.

When asked why she had not responded to attempts to secure her testimony at an earlier date, Dixon explained that she did not want to be "involved in this." See Recorded Sworn Stmt. of Octavia Dixon on August 30, 2017.

6. Veronica Padmore

During the sworn statement of Octavia Dixon, the State Attorney's Office learned of another person who purportedly witnessed the shooting. Octavia explained her cousin, Veronica Padmore ("Padmore") was also at the house. Octavia provided ASA de la Rionda and the OIS Investigator Padmore's contact information.²⁹ This was the first time anyone had provided such information to OIS Investigators or to the State Attorney's Office.

On September 18th, 2017 ASA de la Rionda took a sworn statement from Padmore. Padmore describes being at 219 E. 9th Street with Coleman and Dixon. She describes all three on the front balcony area of the house. Padmore described seeing Officer Landreville's car turn onto 9th Street and then hearing two separate crashes. She alleged that she ran into the street and there saw a man [Bing] attempting to cross the street when an officer came upon him and shot him in the back of the head. Padmore further advised that after the man fell to the ground, the officer stood over the man and continued shooting the man.

²⁹ This investigative effort and the statements made by Veronica Padmore (as well as other additional investigative follow-up) will be the subject of a separate supplemental report and will be made available to the public.

7. Wally Marin

Wally Marin ("Marin") was the front seat passenger in the car driven by Jerod Powers. Marin did not see or hear the Camaro hit the police car.

Marin did recall seeing a red blur (the Camaro) on 9th Street. Marin claimed the car crossed Liberty Street at a high rate of speed and crashed into a building. Marin saw Landreville approach the Camaro with his gun holstered. Then, as Landreville got to the intersection, he took his gun out of his holster.

Marin also saw Bing get out of the Camaro with his hands up and move towards Landreville. Marin then saw Bing turn from Landreville and go the opposite direction. Marin then focused on Landreville, expecting other officers to come upon the scene.

Marin advised that he heard Landreville scream at Bing, but he could not discern what Landreville said.

Marin saw Landreville shoot, but he denied seeing Bing's position or seeing what Bing was doing when Landreville shot. Marin claimed that he was looking at the officer's location and not at Bing. After the shooting, Marin looked over and saw Bing on the ground. Marin did not observe or hear any other shots after Bing was on the ground.

8. Jerod Powers

Jerod Powers ("Powers") was driving his car in the area when he became aware of police cars in the area looking for someone. Powers' two children were sitting in the backseat of his vehicle, and Marin, his friend, was sitting in the front passenger seat. Powers was driving north on Liberty Street between 8th and 9th Streets when he saw parts of what happened.

Powers advised that as he was approaching 9th Street, he saw a police car in front of him. Powers then saw a police car turn east on 9th Street and saw a Camaro come on 9th Street across Liberty Street at a high rate of speed and crash into building. From his vantage point, Powers did not see the crash between the stolen Camaro and Landreville's police car.

Powers advised that he next saw Bing get out of the Camaro and start to run southwest. As Powers watched Bing running, he saw Officer Landreville fire at Bing at least three times. Powers advised that he did not hear the shooting officer say anything before the shooting. He advised that his car windows were up. At the time of the shooting, Powers advised that he could not tell the position of Bing's hands.

VIII. LEGAL ANALYSIS

No one disputes that Landreville shot and killed Bing. The question, though, is whether the shooting was “justified” as that term is defined and explained above. To answer the question, we must consider “the circumstances by which [Landreville] was surrounded at the time the force was used. The danger need not have been actual; however, to justify the use of deadly force, the appearance of danger must have been so real that a reasonably cautious and prudent person under the circumstances would have believed that the danger could be avoided only through the use of that force.” Fla. Std. Jury Instrs. in Crim. Cases 3.6(f) (2017).

In his written statement, Landreville stated that he feared Bing was about to shoot him, so he shot Bing. In our opinion, given the totality of the circumstances, Landreville reasonably feared that his life was in danger. The facts that support this opinion fall into four categories: (1) what we can establish Landreville knew about Bing at the time he shot; (2) what we can establish Landreville saw Bing doing just before he shot; (3) the way the physical evidence corroborates what Landreville said happened; and (4) Landreville’s immediate response after shooting Bing—obtaining rescue and pleading with them to arrive quickly.

First, little doubt exists about what Landreville knew at the time he shot Bing. Much of what Landreville knew is undisputed and comes from sources other than Landreville’s statement. Bing was driving a stolen vehicle. The stolen vehicle was involved in a shootout about a month earlier. At 4:30 p.m., Sergeant Nobles advised Landreville and others that the stolen Camaro had been involved in that shootout and had fled from JSO officers on three prior occasions. At 5:49 p.m., just one minute after Landreville joined the chase, Nobles broadcast to participating officers that the vehicle was a suspected 33 [shots fired] and 88 [aggravated assault]. At 5:49 p.m., Landreville heard Officer McEwan broadcast the same information—that the driver was the possible 33 [shots fired] and 88 [aggravated assault] suspect. Bing also heard McEwan relay that Bing just ran a stoplight. At 5:50 p.m., Landreville heard Sergeant Smith broadcast that Bing was fleeing at speeds approaching 115 m.p.h. Finally, Landreville heard Officer Carrion relay that Bing had just “signal 3’d [hit and run]” him. In short, from what others told him, right before getting out of his police car, Landreville knew that Bing was believed to have previously shot a loaded gun (multiple times) at someone else; he knew that Bing was recklessly fleeing from officers during a high-speed chase that included running stoplights and speeding over 100 m.p.h. through well-populated and well-traveled areas of Jacksonville, all the while endangering other motorists, pedestrians, and bicyclists; and he believed that Bing had just hit another officer with his vehicle.

Landreville made his own observations too. In his written statement, Landreville noted that he personally observed the vehicle traveling at a high rate of speed, cut across three lanes

of traffic without engaging a traffic signal, begin traveling in the emergency lane, and swerve in front of another vehicle. Landreville broadcast his present-sense impressions over a police radio transmission that fully corroborates what he said. At 5:49 p.m., Landreville relayed, "I've got a red Chevy Camaro going Southbound 95. Correction. Northbound MLK. It's in the emergency lane. Speeds approaching 90 miles per hour. Moderate traffic." Landreville also observed the stolen Camaro run a stop sign at West 19th Street and Myrtle Avenue. Landreville was trying to catch up to the vehicle and noted that his patrol cruiser reached speeds exceeding 100 miles per hour.³⁰ While traveling at this speed, Landreville also observed that moderate traffic was present, and the vehicle was swerving in and out of traffic, conduct that Landreville believed was an attempt to cause innocent drivers of other cars to crash and block officers' pursuit. Landreville also watched as the stolen Camaro traveled the wrong way down the northbound lane of North Main Street, missing vehicles, pedestrians, and bicyclists.³¹ While much of this information comes from Landreville's own statement, the facts Landreville relay fully comport with the statements of other officers and the available video footage we have of the chase.

Landreville both knew and observed matters that would cause any reasonable officer to believe that Bing posed an extreme danger to police officers and others. To suggest otherwise simply ignores the available evidence.

Second, in addition to personally watching and hearing about Bing's general dangerousness, Landreville experienced it firsthand. At the time of the crash, Landreville watched Bing aim the stolen Camaro at him, accelerate, and ram his police cruiser with so much force that his sunglasses and securely fastened Fitbit went flying. Bing then plowed through a fixed stop sign and crashed into a residential building.

In the seconds just before Landreville opened his car door and faced an unknown danger, he had heard other officers talking about how dangerous Bing was, he witnessed Bing's life-threatening behavior firsthand, and he felt the actual impact of being a victim of Bing's attempt to kill him with a speeding, stolen vehicle. No conflict in the evidence exists about any of these facts.

Conflicts do exist, though, about what happened in the split-second period when Landreville shot Bing. Landreville says that Bing looked over his left shoulder, reached for his waistband, and continued looking at Landreville. Landreville believed Bing's actions meant

³⁰ While Landreville's police cruiser did not have a dashboard camera, Sergeant Smith's vehicle did, and the footage from that camera corroborate that Bing was traveling in excess of 100 miles per hour.

³¹ This fact is also corroborated by other officers who saw this behavior by Bing.

that Bing was about to shoot him the way he shot at someone else a month earlier. Coleman, Dixon, and Padmore have described Officer Landreville shooting Bing in close range, shooting Bing in the back of his head, and continuing to shoot Bing while standing over Bing on the ground.

In resolving these conflicts and determining which testimonial evidence is reliable and which is not, we have thoroughly analyzed all of the available independent evidence, including medical evidence, physical evidence at the scene, real time radio transmissions, computerized crash data, and surveillance video. This independent evidence is not subject to the frailties of human bias, perception, or memory.

While we know of no video-recordings that detail the all-important, split-second right before Landreville shot, Landreville's description of the events is corroborated by the independent and objective evidence in the case, including the physical evidence, medical evidence, computerized crash data, and preserved radio transmissions. Specifically, Officer Landreville's description of the chase of the stolen Camaro is supported by the radio transmissions. Landreville's recollection of learning that Bing had hit another officer during the chase is also confirmed by radio traffic. His description of braking in an attempt to avoid a collision that appeared to him to be intentional is corroborated by the Bosch Crash Data Retrieval taken from his and the stolen Camaro's airbag computer systems.

Officer Landreville's description of Bing turning towards him and looking over his left shoulder is substantiated by the medical evidence. The Medical Examiner's findings regarding the location and shape of the bullet wound as well as the bullet trajectory³² corroborate Officer Landreville's description. While Landreville's account is the only evidence that suggests Bing was reaching for his hip when Landreville shot, the noted contusion to Bing's hip supports, rather than refutes, Landreville's statement. Bing may well have been reaching for an injured hip, but in the split-second he had to react, Landreville easily interpreted that Bing was reaching for a gun.

While Landreville's post-shooting actions do not establish what happened right before Landreville shot, his actions corroborate, rather than refute what Landreville said. Right after Landreville shot Bing, Landreville immediately radioed for help and immediately sought rescue to provide emergency medical care to Bing. The tone and pitch of Landreville's voice and the speed and cadence of his words, when compared with his earlier radio broadcasts, show that Landreville was operating in a tense, uncertain, and rapidly evolving situation. Landreville's statements and actions provide no support for the notion that Landreville callously,

³² The Medical Examiner's findings show that the gunshot wound to Bing was in the front of Bing's head, and the bullet trajectory traveled from front to back.

indifferently, and intentionally took another man's life without reasonable justification. Instead, they show that Landreville immediately sought medical care for a man that just seconds earlier he viewed as a threat to Landreville's continued existence.

Officer Landreville's voluntary statement was provided to the OIS Investigators on May 27, 2016. When Officer Landreville provided his account of what he saw and felt, he did not have access to any of the other evidence in this case. Indeed, until the release of this report, Officer Landreville has never been provided any of the investigative reports, data, physical evidence, or medical evidence. All of this independent and objective evidence supporting Landreville's statements further evinces their substantial reliability.

Conversely, Coleman's, Dixon's,³³ and Padmore's claims are refuted by the physical evidence, medical evidence, computerized data, radio transmissions, and available video evidence. Despite their claims, no gunshot wounds to Bing's back or the back of Bing's head exist. No bullet strikes on or around the ground where Bing fell are present. Though not known to Coleman when he gave his statement, a surveillance video from across the street captures Coleman's location during the shooting. The video quality is grainy, but the red shorts Coleman was wearing that day are clear in the video. Coleman's position on the sidewalk and his movements are also captured. Undeniably, the surveillance video shows Coleman was in a different location than the location where he claimed to be when the shooting occurred. See Exhibit C "*Surveillance Video Eric Coleman.*" The substantial conflicts between Coleman's, Dixon's, and Padmore's accounts and the independent, objective, and unassailable evidence renders their accounts unreliable.³⁴

Landreville's mistaken belief that Bing had a gun does not mean Landreville's use of deadly force was not justified in the legal sense. Police officers daily must make split-second decisions that potentially could end their life or result in their taking someone else's life. The law does not require perfection and infallibility in this area. The law requires that the officer's fear be reasonable in light of what he knew.

In *Graham v. Connor*, 490 U.S. 386, 396 (1989), the Supreme Court counseled that the "calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Id.* at 396-97.

³³ Both Coleman and Dixon have provided more than one statement in which inconsistencies exist among their own accounts.

³⁴ While we do not find Coleman's, Dixon's, or Padmore's accounts to be reliable, this does not mean we think they are not genuine or that they do not believe they saw what they claim. We simply observe that these witness accounts are inconsistent with the more reliable physical evidence.

Even if subsequent investigation shows a suspect was not armed at the time, the officer's use of force may nonetheless be justified. The law does not require omniscience. Instead, before employing deadly force, police "must have sound reason to believe that the suspect poses a serious threat to their safety or the safety of others. Officers need not be absolutely sure, however, of the nature of the threat or the suspect's intent to cause them harm—the Constitution does not require that certitude precede the act of self-protection." *Elliott v. Leavitt*, 99 F.3d at 644.

Given that Bing committed several felonies during the course of a high speed car chase, including an attempt to murder Officer Landreville, there were ample grounds for Landreville to reasonably believe that Bing posed a threat of death or serious physical harm to Landreville, other pursuing officers, and the general public.

IX. CONCLUSION

Our role is to evaluate, review, and pursue criminal charges when the taking of life is unjustified. That evaluation requires full consideration of what someone knew or reasonably believed at the time they acted.

This Office has had months to review, dissect, and analyze every available and known fact about this shooting. Officer Landreville did not have that luxury. Instead, Landreville had a split-second to decide whether the man he believed to be a suspect in a shootout, the man he and other officers observed engaged in a dangerous, high speed chase, the man who had just hit him head-on, and the man who now was turning and reaching for his waist band, was about to shoot at him. One would be very hard-pressed to find a tenser, more uncertain, and more-rapidly evolving situation than the situation Bing created on May 22. Not only did Landreville believe that Bing posed an immediate threat to him; Bing also posed an imminent threat to the public.

Landreville's decision to shoot Bing was informed by facts that unquestionably established that Bing was potentially armed, was absolutely dangerous, and had no respect for law or life. Landreville knew these things from what he heard, what he saw, and what he had personally experienced.

We will never fully know what Vernell Bing's intentions were on that fateful day. Did he plan to just escape and do nothing? Was he in pain and grabbing his injured left hip? Did he motion to his waist on purpose? Was it a simple miscalculation? Was he trying to taunt the officer he just rammed? Was he trying to end it all with assistance from the police? Or was there some other reason motivating his action?

What we do know is that Bing's actions left no doubt in the mind of Officer Landreville that Bing was an immediate threat to him and an imminent threat to others. Every mile Bing fled and every second Bing drove was one more opportunity to pull over and surrender to lawful commands to stop. Bing chose to do otherwise. Bing's actions and Bing's choices are what gave rise to Landreville's decision to shoot.

Based on the available facts we have reviewed and our review of applicable Florida law, it is our legal opinion that the actions of Officer Landreville on May 22, 2016, were justified, as defined by Florida law. We will, therefore, take no further action in this matter.