



# **NORTH MIAMI POLICE DEPARTMENT**

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**OFFICE OF PROFESSIONAL COMPLIANCE**

**INTERNAL AFFAIRS CASE #16-06**  
Investigative Summary

## **Internal Affairs Investigation #16-06**

By Internal Affairs Sergeant Diana Román

July 22, 2016

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On this date, at approximately 10:00 a.m., this investigator, along with Assistant Chief Larry Juriga, were summoned to Chief Gary Eugene's office to review the radio transmission of a North Miami Police Department (NMPD) police-involved shooting involving Officer Jonathan Aledda. The shooting took place on July 18, 2016, at approximately 5:00 p.m., at NE 14<sup>th</sup> Avenue and 127<sup>th</sup> Street, in the City of North Miami. The case was reported under NMPD Case #2016-22884. Other related case numbers are the Florida Department of Law Enforcement's (FDLE) Case #MI-27-0045, and the NMPD's Office of Professional Compliance (OPC) Administrative Review Case #2016-04. While listening to the radio transmission, its contents revealed Commander Emile Hollant appears to have been present prior, during, and after the police-involved shooting incident. However, when Chief Eugene specifically asked Commander Hollant whether he was a witness while at the scene on the date of the shooting, Commander Hollant advised he was not. Given the belief that Commander Hollant was not a witness to the incident, he was neither separated by the Investigative Section, nor interviewed in a timely manner, as other witness officers were during the incident. Following the review of the radio transmission, Chief Eugene directed this investigator to initiate an Internal Affairs investigation for Commander Hollant's apparent obstruction of a law enforcement investigation. Chief Eugene also advised that Commander Hollant would be placed on administrative leave without pay.

Following the meeting with Chief Eugene, at approximately 12:00 p.m., Commander Hollant was summoned to Uniform Patrol Major Timothy Belcher's office where he was advised of the commencement of this internal affairs investigation for obstruction of an investigation and his administrative leave status. Per policy, Commander Hollant then surrendered various city-owned items, including his assigned service weapon, identification card, and badge. All impounded items were documented on a property receipt and transferred to the NMPD's Property Unit. At his request, Commander Hollant was transported to his residence by Major Belcher and this

investigator. (For further details, refer to the Administrative Leave Memorandum & Property Receipt.)

Also on this date, a memorandum was sent to Chief Eugene requesting formal authorization for the OPC to initiate the Internal Affairs investigation he requested. The investigation was approved. (For further details, refer to the Request to Initiate Internal Affairs #16-06 Memorandum.)

**Investigator's Note #1:**

**Timeline of the investigation:** In light of the nature of the allegation, this investigation was tolled at the request of FDLE Assistant Special Agent in Charge, Christopher J. Woehr, pending the completion of their investigation of Officer Aledda's police-involved shooting. Per Chief Eugene's request, the police shooting investigation was taken over by them on July 20, 2016. This case was also tolled pending review by the State Attorney's Office (SAO). On August 2, 2016, the SAO released a Close-Out Memorandum on Commander Hollant's case before the completion of the FDLE's case. Upon request, on August 29, 2016, this investigator received an official copy of the SAO's Close-Out Memorandum, which states (For further details, refer to the SAO's Close-Out Memorandum.):

*We conclude that Commander Hollant did not lie and that there was no intent by Commander Hollant to mislead or obstruct investigators or command staff...at best, the allegation that he provided inconsistent statements to investigators or command staff officers appears to have been the result of simple miscommunication.*

Despite the SAO's Close-Out Memorandum on Commander Hollant's case, FDLE's lead investigator, Agent Daniel Mosquera, made a second request to this office, on August 12, 2016, that this investigation remain tolled pending the conclusion of their investigation, given that both cases were connected. On or about December 20, 2016, FDLE delivered to the NMPD, as well as the SAO, their completed investigative case file on Officer Aledda's police-involved shooting. At that time, the Internal Affairs investigation on Commander Hollant commenced. On February 27, 2016, at the request of the SAO, this investigator, along with NMPD Officer Adam Burden,

responded to the SAO to discuss Commander Hollant's case with Assistant State Attorney (ASA) Howard Rosen. The latest information obtained was shared with him. ASA Rosen then advised the SAO would review the information provided. At that time, this investigation was tolled once again. On April 14, 2017, this investigator received via email from ASA Rosen the SAO's response to their second review of this case, which states:

*This email will serve to confirm that upon reviewing the statements that you provided, in conjunction with the statements that we already had from both Commander Hollant and Chief Gary, our conclusion in this matter remains the same, and we are not going to be amending our Preliminary Inquiry Close-Out Memo.*

Thereafter, this case was no longer tolled. However, it bears noting, pursuant to the Florida First District Court of Appeals' decision, *Mcquade v. Florida Department of Corrections* (decided on November 30, 2010), time limits do not apply to investigations initiated pursuant to internal complaints. (For further details, refer to the Miscellaneous/ Correspondence folder.)

**Investigator's Note #2:**

**Request for outside agency assistance:** On September 15, 2016, given this investigator's rank, and the necessity to interview various NMPD executive and command staff members in this case, Chief Eugene requested this investigator inquire with the Miami-Dade Police Department's Professional Compliance Bureau, as well FDLE's Professional Compliance Section, whether any of these agencies could assume responsibility for Commander Hollant's Internal Affairs investigation. However, pursuant to the Florida Third District Court of Appeals' decision, *Miami-Dade County v. Dade County Police Benevolent Association* (decided November 24, 2014), the exclusive authority to investigate any and all complaints against police officers, that may lead to disciplinary action, rests upon the employing agency.

## INVESTIGATION

July 18, 2016

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At approximately 5:25 p.m., this investigator arrived at the scene of the police shooting involving Officer Jonathan Aledda. As it relates to this case, while at the scene, this investigator made contact with Commander Hollant and inquired whether he had seen any person(s) recording the incident when he arrived at the scene. Commander Hollant responded he went to get his binoculars during the incident, but at one point he did see people recording from the apartment complex located at 12700 NE 14<sup>th</sup> Avenue. Thereafter, this investigator focused on locating the digital media potentially available at that location with the assistance of the NMPD's Investigative Section. This investigator did not witness Chief Gary Eugene, nor Detective Gaudio, ask Commander Hollant whether he was a witness.

July 19, 2016,

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On this date, this investigator received from the Miami-Dade Police Department's (MDPD) Communications Bureau the 9-1-1 calls and police radio transmission relating to Officer Aledda's officer-involved shooting. The following is a synopsis of what the audio files revealed (For further details, refer to the 9-1-1/Radio Transmission Recording & Transcript):

### 9-1-1 Call

On July 18, 2016, at approximately 5:00 p.m., a caller, later identified as Marlene J. McKalla, advised the MDPD's Communications Bureau that in the vicinity of 14<sup>th</sup> Avenue and NE 127<sup>th</sup> Street there was a "guy in the middle of the road and he has what appears to be a gun...to his head." The caller also advised there was "a guy trying to talk him out of it," and added referring to a "Spanish" person that he looked "mentally ill" and "mentally disturbed." During the call, Ms. McKalla described the person holding the object, which was "shaped like a gun," later identified as Mr. Arnaldo Soto, and the person she repeated was trying to help, later identified as Mr. Charles H. Kinsey.

### Radio Transmission Synopsis

Note: The minutes noted are transmission recording times, not actual event times.

The first 10 minutes encompass mostly silence and non-related calls for service.

10:00: Call is dispatched as a "Male with a gun to his head in the middle of the roadway."

15:22: Cmdr. Hollant advises "Looks like he is loading up his gun." Repeats.

15:41: Sgt. Reid advises to lookout for crossfire.

16:00: Ofc. Bernadeau advises "...person with him is advising it's a toy car."

16:08: Dispatcher repeats "244 Subject with a gun."

16:31: Ofc. Aleda advises he has a clear shot.

16:57: Ofc. Bernadeau advises "I have a visual, it does not appear to be a firearm."

17:25: Cmdr. Hollant advises "Shots fired."

18:06: Someone advises "Subject down."

18:11: Ofc. Aleda advised "It's a toy gun." Also, the "Subject is a 43."

18:25: Dispatcher inquired "Anyone injured?" Ofc. Aleda says "Negative."

18:30: Dispatcher asked whether Rescue needed.

18:38: Ofc. Bernadeau inquires, "Confirm it's a toy gun?"

18:48: Ofc. Bernadeau advises he is moving in. Repeats.

19:06: Sgt. Reid advises all to "Stand by."

19:46: Ofc. Bernadeau advises it is safe for the units to "...move in."

20:07: Ofc. Aleda advises to start Rescue.

20:27: Cmdr. Hollant advises to start Rescue.

21:23: Cmdr. Hollant advises to start DB.

July 21, 2017

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On this date, this investigator requested from the NMPD's Communications Unit a Detail Call For Service Report for the police-involved shooting on July 18, 2016. This inquiry revealed the following (synopsis) officers registered their involvement with the NMPD's Communication Unit (For further details, refer to the Detail Call For Service Report.):

- Commander Emile Hollant
- Sergeant Milton Reid

- Sergeant Ernesto Reyes
- Officer Tamara Numa
- Officer Yosbel Llerena
- Officer Natalie Buissereth
- Officer Farokh Mirjah
- Officer Jonathan Aledda
- Officer Kevin Warren
- Officer Javier Portales
- Officer Ashlee Villard
- Officer Alens Bernadeau
- Officer Osvald Salien
- Detective Nelson Perez
- Detective Sarah Zuniga
- Officer Paul Laguerre
- Detective Michael Gaudio
- Officer Angel Raquejado
- Officer Erika Carter
- Officer Monique Bony
- Officer Kevin Crespo
- Officer Pedro Lao
- Officer Christina Travieso
- Officer Pinky Joachim

August 5, 2016

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On this date, the SAO forwarded this investigator a copy of the statement provided to them by **Commander Hollant**. The following is a synopsis of the transcribed statement:

Commander Hollant indicated he was at the scene for some minutes prior to the shooting, but had stepped away when Officer Aledda used deadly force during the incident. He added Chief Eugene asked him specifically at the scene, "Did you witness the shooting?" Commander

Hollant stated he explained to Chief Eugene he did not, given that he ran to his vehicle to retrieve his binoculars. He added, "They had said that he had a toy in his hands and I wanted to make sure that it was a toy. And, as I was retrieving my binoculars, I heard three shots." Commander Hollant stated that when he initially approached the scene, he saw two people on NE 14<sup>th</sup> Avenue at 127<sup>th</sup> Street, but he continued driving to park his vehicle midblock between 13<sup>th</sup> and 14<sup>th</sup> Avenue on 128<sup>th</sup> Street. He then ran to the scene. Relating to the point when Commander Hollant left the scene, he was asked whether he was more focused on retrieving the binoculars at that moment than he was on looking back at the scene. Commander Hollant replied, "Yes." Commander Hollant provided the SAO with a drawing of where he parked his vehicle on 128<sup>th</sup> Street, as well as the location where Mr. Kinsey and Mr. Soto were. (For further details, refer to the transcription.)

December 20, 2016

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On this date, Chief Eugene forwarded this investigator the completed FDLE investigative file on Officer Aledda's police-involved shooting. The following is a synopsis of the information contained in the file that specifically relates to Commander Hollant, as generated by the NMPD, before forwarding the case to FDLE for investigation. (For further details, refer to the FDLE Investigative File.)

In his investigative report, NMPD **Detective Michael Gaudio** states that when he initially responded to the scene of the shooting, as the lead investigator in charge, he asked Commander Hollant whether he was present during the incident and had seen what occurred. According to Detective Gaudio, Commander Hollant stated he did not witness the incident and had just arrived.

The following is a synopsis of evidence generated by FDLE contained within their investigative file that specifically relates to Commander Hollant (For further details, refer to the FDLE Investigative File.)



During **Chief Gary Eugene's** statement to FDLE, taken in conjunction with the SAO on July 28, 2016, he explained that once he arrived at the scene of the police shooting, and the incident was being discussed with other staff members present, including A/Chief Juriga, Commander Hollant approached Chief Eugene. At that time, Chief Eugene signaled him to stop, given that the Chief believed Commander Hollant was a witness and he did not want him to partake of the case-related discussion taking place. Chief Eugene stated Commander Hollant then told him that either he did not witness the shooting, or he was not a witness because he went to get his binoculars from his vehicle before the shooting. Per Chief Eugene, given Commander Hollant's response, thereafter he was allowed to partake in the briefing where details of the police shooting were being discussed. Chief Eugene also stated that on July 21, 2016, he was approached by A/Chief Juriga, accompanied by Major Trevor Shinn, who told him Commander Hollant "lied" to him because he made a radio transmission where he "gave the order—he actually made a statement that cause the guy- the shooter to open fire." Chief Eugene later states that after listening to the radio transmission he felt he was "misled" by A/Chief Juriga because, from what he understood from listening to the radio transmission, Commander Hollant did not cause the officer to discharge his weapon. Chief Eugene added he felt Commander Hollant did not lie when he stated he did not witness the actual shooting, given that, as he claims, he went to get his binoculars during that time. Chief Eugene also made remarks during his statement that the NMPD's handling of the case was a "mess," among other failures. He added he was concerned that NMPD investigators were more concerned with clearing the shooting officer than conducting an impartial investigation. Also, he had no idea this case would be of a controversial nature until the next day. In offering a "broad perspective of the makeup of the Department," Chief Eugene stated he was afraid that if an NMPD officer got shot and asked for backup that an NMPD officer may say, "I'm not going." Chief Eugene also stated he was not contacted by any of his staff members following the shooting. He insisted the first staff member he spoke to was Commander Hollant when the Chief arrived at the scene. (For further details, refer to the transcription.)

During **Commander Emile Hollant's** statement to FDLE, taken in conjunction with the SAO, on August 11, 2016, he indicated that as he arrived at the scene he saw two people on the street heading south on NE 14<sup>th</sup> Avenue. He then continued driving and lost sight of them as he

made a right-hand turn on NE 128<sup>th</sup> Street, between 13<sup>th</sup> and 14<sup>th</sup> Avenue, in order to set up a command post in that area, if necessary. Commander Hollant then ran towards 14<sup>th</sup> Avenue where he saw Mr. Kinsey and Mr. Soto. Commander Hollant stated it was at this juncture he perceived Mr. Soto to be loading up a weapon, which he communicated on the police radio. He further states that a few minutes passed when he heard two people, someone on the police radio, as well as Mr. Kinsey, say that the object was a toy. At that time, Commander Hollant stated he went to retrieve his binoculars from the trunk of his police vehicle, and as he was retrieving them, he heard three gunshots. He then waited a few seconds before he advised on the police radio that shots had been fired. Later, the dispatcher inquired whether Fire Rescue was needed. Commander Hollant stated, "The dispatcher asked if Fire Rescue was needed. I could not answer that because I was not within sight of the scene." As Commander Hollant was "running back" to the corner of NE 14<sup>th</sup> Avenue and 128<sup>th</sup> Street, he saw officers closing in on the subjects, and when he arrived "the guys had already taken him into custody." Commander Hollant also stated, "As I'm running back I saw the officers closing in as they were taking the subject into custody." When Commander Hollant was asked whether NMPD Detective Michael Gaudio asked him at the scene whether he was a witness, Commander Hollant stated "No. I was asked and I do not believe it was by Detective (Gaudio) at all. The only person that asked me any questions whatsoever was the Chief of Police. I do not remember (Gaudio) ever asking me any question if I was present." Commander Hollant drew on a map of the area the location where he was initially positioned when he went to the scene, and the location where he went to retrieve his binoculars. (For further details, refer to the transcription.)

The FDLE investigative file also contained statements taken of most NMPD officers listed as being at the scene, as well as several civilian witnesses. All FDLE statements were transcribed and included in this case file, as the statements provide a description of the scene prior to the shooting. The following is a list of the civilian witnesses noted (For further details, refer to the transcriptions.):

- MDFR Captain Manuel Emilio Rodriguez
- MDFR Paramedic Darren Thompson
- MDFR Paramedic Laury Morales

- Charles H. Kinsey
- Jiovanny Taylor
- Ennis Kirkland
- Jason Zalabeta
- Walton Green
- Sivano Gilbert Hernandez
- Thomas L. Mathews
- Marlene J. McKalla
- Sara McDevitt
- Marcelo J. Rojo
- Maria B. Valdez

December 23, 2016

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On this date, this investigator obtained a copy of the NMPD's initial report, Case #2016-22884, for the police-involved shooting on July 18, 2016, as well as all supplemental investigative reports. The following is a synopsis of the steps taken by the NMPD's Uniform Patrol officers, as well as Investigative Section detectives, during the initial investigation of the case (For further details, refer to the NMPD's Initial and Supplemental Reports.):

- Ten Uniform Patrol officers generated reports that reflect actions taken, to include steps they took to protect the scene, witnesses, and to assist with the processing of the scene.
- A Crime Scene Entry Sheet was generated, which also reflects the following officers present at the scene (not noted on the Detail Call For Service Report):
  - Chief Gary Eugene
  - Assistant Chief Larry Juriga
  - Assistant Chief Neal Cuevas
  - Major Annmarie Cardona
  - Commander Angel Rivera
  - Commander Rafael Estrugo
  - Commander Patricia Fishel

- Sergeant James Mesidor
- Officer Duhamel Jeanite
- Six Investigative Section members generated reports that reflect actions taken, to include a canvass of the scene for witnesses, the interview of witnesses, and the collection of evidence.
- One Crime Scene Technician generated a report that reflects actions taken, to include the collection of marked ground evidence after photographing, the collection of several Gunshot Residue Tests, the processing and photographing of five firearms, the production of a scene sketch, and the production of property receipts and other applicable forms.

January 26, 2017

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On this date, the following officers listed under Officer Aledda's police-involved shooting were interviewed for information relating to Commander Hollant's actions during the incident:

At approximately 10:00 a.m., **Sergeant Ernesto Reyes** responded to the OPC for a formal statement. Below is a synopsis of his digitally recorded statement:

Sergeant Reyes indicated that during the incident he was positioned at the NE 14<sup>th</sup> Avenue and 129<sup>th</sup> Street intersection where he had a view of the 128<sup>th</sup> Street intersection, north of where Mr. Kinsey and Mr. Soto were. He stated he maintained that exterior perimeter point because, based on radio transmissions, he believed Sergeant Milton Reid and Commander Hollant to be closer to the scene further south on 128<sup>th</sup> Street. Sergeant Reyes advised he was looking south on NE 14<sup>th</sup> Avenue throughout the incident and he did not see Commander Hollant walking or running in the area of 128<sup>th</sup> Street. He added he first saw Commander Hollant after the shots were fired and the officers were given notice that it was safe to approach the scene. Sergeant Reyes stated he first saw Commander Hollant within the inner perimeter on 14<sup>th</sup> Avenue, midblock between 127<sup>th</sup> and 128<sup>th</sup> Street, when he moved in. (For further details, refer to the transcription.)

At approximately 11:30 a.m., **Sergeant Kessler Brooks** responded to the OPC for a formal statement. Below is a synopsis of his digitally recorded statement:

Sergeant Brooks indicated he was off duty when requested to respond to the scene as a Public Information Officer (PIO). When he arrived, there was police caution tape "all around." He added Chief Eugene was present at the scene and told him to get with Detective Sergeant James Mesidor for information. Sergeant Brooks stated he did not witness Chief Eugene, nor Detective Gaudio, ask Commander Hollant whether he was a witness in the case. (For further details, refer to the transcription.)

At approximately 2:00 p.m., **Officer Paul Laguerre** responded to the OPC for a formal statement. The following is a synopsis of his digitally recorded statement:

Officer Laguerre indicated he arrived at the scene five minutes after the shooting, at which time he began to set up police caution tape on the outside/southern perimeter of the scene. He did not enter the inner perimeter afterwards. (For further details, refer to the transcription.)

At approximately 4:30 p.m., **Detective Sergeant James Mesidor** responded to the OPC for a formal statement. The following is a synopsis of his digitally recorded statement:

Sergeant Mesidor indicated he arrived at the scene as part of the investigative team approximately 30 minutes after the shooting. At that time, he attempted to identify witness officers by asking the officers present, including Commander Hollant, who was in proximity to him, whether any of them witnessed the incident. Sergeant Mesidor stated Commander Hollant did not come forward with any information at that time. Sergeant Mesidor added he saw when Detective Gaudio approached Commander Hollant at the scene, but he did not hear their conversation. Sergeant Mesidor added he later learned through the news media of Commander Hollant's radio transmission relating to the loading of a weapon. He added, had he known this information on the date of the incident, he would have had Commander Hollant separated and interviewed as other witness officers were. (For further details, refer to the transcription.)

At approximately 5:00 p.m., **Detective Michel Tovar** responded to the OPC for a formal statement. The following is a synopsis of his digitally recorded statement:

Detective Tovar indicated he arrived at the scene approximately 45 minutes after the shooting. At that time, he made contact with Detective Gaudio, who instructed him to conduct a canvass at a nearby building for witnesses. Detective Tovar did not witness Chief Eugene, nor Detective Gaudio, ask Commander Hollant whether he was a witness. Detective Tovar then mentioned a conversation he had with Commander Rivera, who asked him whether Commander Hollant told him he was a witness to the shooting. Detective Tovar said he did not have this conversation with Commander Hollant, and he told Commander Rivera he had not. (For further details, refer to the transcription.)

At approximately 6:00 p.m., **Detective Nelson Perez** responded to the OPC for a formal statement. The following is a synopsis of his digitally recorded statement:

Detective Perez indicated that, before the shooting, he took a perimeter point in the area of NE 13<sup>th</sup> Avenue and 127<sup>th</sup> Street, but he could not see Mr. Kinsey, nor Mr. Soto, from his location. He added that following the shooting, he saw Commander Hollant in the area of NE 14<sup>th</sup> Avenue and 128<sup>th</sup> Street. Detective Perez did not witness Chief Eugene, nor Detective Gaudio, ask Commander Hollant whether he was a witness. (For further details, refer to the transcription.)

At approximately 6:15 p.m., **Detective Saul Castro** responded to the OPC for a formal statement. Below is a synopsis of his digitally recorded statement:

Detective Castro indicated he arrived as part of the investigative team approximately 20 minutes after the shooting, at which time he began to canvass the area for witnesses. Detective Castro was not sure whether he saw Commander Hollant at the scene. (For further details, refer to the transcription.)

On this date, the following officers were interviewed for information relating to Commander Hollant's actions during the police-shooting incident:

At approximately 6:00 a.m., **Sergeant Sarah Zuniga** responded to the OPC for a formal statement. The following is a synopsis of her digitally recorded statement:

Sergeant Zuniga was a detective at the time of the shooting and responded to assist with the initial investigation of the case. She indicated she was off duty when requested to respond to the scene. According to her, upon arrival, all witness officers had been separated. She added she did not witness Chief Eugene, nor Detective Gaudio, ask Commander Hollant whether he was a witness. Sergeant Zuniga stated she later learned Commander Hollant was possibly at the scene during the police shooting based on the incident's radio transmission. She added that as a former police shooting investigator, had she known this information, she would have isolated Commander Hollant and would not have allowed him to walk around the scene as they were conducting their investigation. (For further details, refer to the transcription.)

At approximately 8:00 a.m., **Officer Ashlee Villard** responded to the OPC for a formal statement. The following is a synopsis of her digitally recorded statement:

Officer Villard indicated she held a perimeter point before the shooting south of Mr. Kinsey and Mr. Soto at NE 14<sup>th</sup> Avenue and 125<sup>th</sup> Street. After the shooting, she was instructed to follow the ambulance transporting Mr. Kinsey. She does not recall seeing Commander Hollant at the scene while switching tasks. (For further details, refer to the transcription.)

At approximately 10:00 a.m., **Officer Pinky Joachim** responded to the OPC for a formal statement. Officer Joachim was re-interviewed, per her request, on March 4, 2017, to correct the portion of her previous statement relating to her perimeter point before the shooting. The following is a synopsis of her digitally recorded statements:

Officer Joachim stated she arrived at her perimeter point at NE 14<sup>th</sup> Avenue and 129<sup>th</sup> Street, but she is not sure at what juncture during the incident since she did not hear the gunshots. When she arrived, she did notice other officers taking cover. She later heard notification that the scene was cleared for officers to approach. During this time, Officer Joachim stated her vision was focused south towards 127<sup>th</sup> Street. During that time, she did not observe Commander Hollant moving about in that area. Officer Joachim stated once the officers were cleared to move in, she approached 127<sup>th</sup> Street and she saw Commander Hollant already within the inner perimeter midblock between 127<sup>th</sup> and 128<sup>th</sup> Street. Officer Joachim drew on a map of the area her perimeter point and the location where she first saw Commander Hollant when she moved in. (For further details, refer to the transcriptions.)

At approximately 10:45 a.m., **Officer Angel Raquejado** responded to the OPC for a formal statement. The following is a synopsis of his digitally recorded statement:

Officer Raquejado stated that before the shooting he held a perimeter point at the northwest corner of NE 14<sup>th</sup> Avenue and 128<sup>th</sup> Street. During that time, Commander Hollant and Sergeant Reid were near him. Officer Raquejado then took cover behind a concrete pole, since other officers were in command of the scene. He added he does not know where Commander Hollant went after that, or whether he left the scene, but Officer Raquejado moved for cover by himself and Commander Hollant was no longer next to him. Officer Raquejado does not recall seeing Commander Hollant after the shooting. (For further details, refer to the transcription.)

At approximately 2:00 p.m., **Officer Yosbel Llerena** responded to the OPC for a formal statement. The following is a synopsis of his digitally recorded statement:

Officer Llerena stated that before the shooting he took a perimeter point at the NE 14<sup>th</sup> Avenue and 129<sup>th</sup> Street intersection along with Sergeant Reyes and Officer Joachim. Officer Llerena stated he did not see Commander Hollant before the shooting. He added that following the shooting, as he was waiting for a clear signal to move in, his vision was focused south of his position towards 127<sup>th</sup> Street. He added that during that time he did not observe Commander Hollant running through the area of 128<sup>th</sup> Street. Also, that he did not see him in that area once



the officers began to move in. Officer Llerena indicated that once he reached the inner perimeter he saw Commander Hollant already there just north of 127<sup>th</sup> Street. He added Commander Hollant was there along with Officers Aledda, Warren, Bernadeau, and Sergeant Reid. (For further details, refer to the transcription.)

February 1, 2017

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On this date, the following officers were interviewed for information relating to Commander Hollant's actions during the police shooting incident:

At approximately 10:00 a.m., **Investigative Section Major Annmarie Cardona** responded to the OPC for a formal statement. The following is a synopsis of her digitally recorded statement:

Major Cardona indicated that following the shooting, she made contact with Investigative Commander Angel Rivera and A/Chief Juriga. She added that once she arrived at the scene, at approximately 6:30 p.m., discussions took place with other staff members present relating to the case, which Chief Eugene witnessed. Major Cardona added that to ascertain who was writing the initial Uniform Patrol report for the incident, she asked Commander Hollant, "Are you involved in this?" and he said, "No." Major Cardona later had to order Commander Hollant to have Officer Erika Carter write the report after Officer Carter told Commander Hollant she did not feel comfortable writing it. Major Cardona stated she did not witness Chief Eugene, nor Detective Gaudio, ask Commander Hollant whether he was a witness. She added that when the NMPD's Investigative Section met with FDLE to transfer the investigation to them, she felt it was "embarrassing" that the radio transmission for the police shooting revealed Commander Hollant to have been present at the scene, yet he was not interviewed by NMPD investigators. Major Cardona stated Commander Hollant was an NMPD detective in the past and he should have known he was a witness. Also, he should have informed an investigator the extent of what he did see. She added that as a consequence of Commander Hollant not coming forward Detective Gaudio's investigation and case report were missing information that otherwise would have been included had Commander Hollant notified investigators the extent of his involvement. (For further details, refer to the transcription.)

At approximately 3:00 p.m., **Commander Rafael Estrugo** responded to the OPC for a formal statement. The following is a synopsis of his digitally recorded statement:

Commander Estrugo stated he arrived at the scene of the shooting approximately an hour after its occurrence. Following his arrival, he did not witness Chief Eugene, nor Detective Gaudio, ask Commander Hollant whether he was a witness in the case. Commander Estrugo added that on the date of the shooting he expressed his concerns to Chief Eugene about the shooting in general and suggested to him that he "get in front of this" with the news media, given that a white officer shot a black male, the wrong person, and video existed. He then explained that sometime during the evening of July 18<sup>th</sup>, while Commander Estrugo was at the NMPD's station, Commander Hollant approached him. At the time, Commander Hollant showed Commander Estrugo a pair of binoculars and explained to him how he did not witness the shooting and said, "I had to go to the car to get these binoculars, I couldn't even find them." Commander Estrugo also said that in the days that followed the shooting he witnessed a conversation between Commanders Hollant and Rivera at the NMPD station where Commander Rivera told Commander Hollant he had information that "would have helped clear the officer." Commander Estrugo stated Commander Hollant then told Commander Rivera he did not know Commander Rivera was in the "business of clearing the officer." (For further details, refer to the transcription.)

On February 2, 2017

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On this date, the following officers were interviewed for information relating to Commander Hollant's actions during the police shooting incident:

At approximately 10:00 a.m., **Assistant Chief Larry Juriga** responded to the OPC for a formal statement. The following is a synopsis of his digitally recorded statement:

A/Chief Juriga indicated he arrived at the scene at approximately 6:20 p.m., but prior to his arrival, he contacted Chief Eugene by phone to make sure he was aware of the incident. He

added that while at the scene a discussion was taking place about the case with Chief Eugene and other staff members when Commander Hollant approached the group. At that time, Chief Eugene stopped Commander Hollant and said, "I believe you are a witness," at which time Commander Hollant stated, "I am not a witness." According to A/Chief Juriga, Chief Eugene repeated to Commander Hollant something to the effect that he was a witness, at which time Commander Hollant repeated, "I'm not a witness, I wasn't here." A/Chief Juriga stated he did not witness Detective Gaudio ask Commander Hollant whether he was a witness. A/Chief Juriga stated, given that Commander Hollant appeared to have been present at the scene, based on the incident's radio transmission, it was critically important for him to be separated and not partake of the discussions taking place about the case. He added, as a consequence of Commander Hollant not stating what he did observe, Detective Gaudio was missing relevant information during his initial investigation, and his subsequent investigative report contained inaccurate information, given that it states that Commander Hollant had just arrived at the scene. As for Chief Eugene's statement intimating he was "misled" by his staff when A/Chief Juriga notified him of Commander Hollant's involvement in the case, A/Chief Juriga stated that at no point was Chief Eugene misled. He added Chief Eugene was asked to listen to the recording because, according to it, Commander Hollant was at the scene. Also, that it was his responsibility to notify Chief Eugene of this information. During his statement, A/Chief Juriga made no mention of Chief Eugene communicating to him any issues he had with the NMPD's Investigative Section's handling of the initial investigation. (For further details, refer to the transcription.)

At approximately 1:00 p.m., **Uniform Patrol Assistant Chief Neal Cuevas** responded to the OPC for a formal statement. The following is a synopsis of his digitally recorded statement:

A/Chief Cuevas indicated he learned of the shooting through the news media because they called him to see whether he had any information. Once he arrived at the scene, approximately an hour to an hour-and-a-half later, he made contact with Chief Eugene, who briefed him on what he knew so far. A/Chief Cuevas then spoke to Commander Hollant and asked him whether he was present when the shots were fired, at which time Commander Hollant stated, "I was on the scene but then I went to my car to retrieve some binoculars, on my way back the

shots were fired." A/Chief Cuevas stated that while at the scene he did not witness Chief Eugene, nor Detective Gaudio, ask Commander Hollant whether he was a witness. A/Chief Cuevas did not make mention of any complaints made to him by Chief Eugene as it relates to the adequacy of the Uniform Patrol Section officers' handling of the scene. (For further details, refer to the transcription.)

At approximately 2:00 p.m., **Detective Michael Gaudio** responded to the OPC for a formal statement. Detective Gaudio was re-interviewed, per his request, on February 3, 2017, as he wanted to add to his statement the importance of witnesses and their management at the scene. The following is a synopsis of his digitally recorded statements:

Detective Gaudio indicated that on the date of the incident he overheard on the police radio the transmission that shots were fired. He arrived at the scene shortly after that. Detective Gaudio added that while at the scene he went around asking officers whether they saw anything and when he asked Commander Hollant he told him, "No, no Mikey. I just got here." After that, Detective Gaudio said he kept moving asking others the same question. Detective Gaudio added he did not witness Chief Eugene ask Commander Hollant whether he was a witness. Detective Gaudio explained that when he received a copy of the incident's radio transmission it revealed that Commander Hollant was present and saw something. As such, Detective Gaudio stated that, had he known this information on the date of the incident, he would have separated Commander Hollant and would have brought him to the station for an interview as he did with other witness officers. Detective Gaudio added Commander Hollant withheld information that was relevant to the case. As a consequence, the file handed over to FDLE was "missing that piece." As it relates to witnesses, Detective Gaudio stated the best time to talk to a witness is right after the incident "cause it's all fresh in their memory." He added that the more time passes, the more information is potentially lost. Also, "As an investigator for almost 12-13 years now, you know, you've learned. This is what you do. You separate and you talk to them and then you compare it to other information that you've had. In this case we didn't have it with - with Commander Hollant." (For further details, refer to the transcriptions.)

At approximately 4:00 p.m., **PIO Officer Natalie Buissereth** responded to the OPC for a formal statement. The following is a synopsis of her digitally recorded statement:

Officer Buissereth indicated that following the shooting, she arrived at the scene approximately 30 minutes later as the designated PIO officer. At that time, she asked Commander Hollant, the highest ranking officer, for information and added, "He kinda blew me off, he didn't really say anything to me." Officer Buissereth then saw Chief Eugene and went to him for information. She added she noticed Commander Hollant speaking with Chief Eugene, as well as Commander Rivera and Sergeant Mesidor. Subsequently, she was advised to confirm to the news media the Department was investigating a police-involved shooting. Officer Buissereth added she was the official PIO for the Department at the time, along with Sergeant Brooks, but, following the incident, Chief Eugene removed her from the PIO position, although he did not communicate this to her directly. Officer Buissereth attempted to make contact with Chief Eugene several times to ascertain the reason to no avail. Chief Eugene eventually told her, "I never thought you'd be on the chopping block." Officer Buissereth stated she did not inquire any further as to what Chief Eugene meant because she was "fed up," given that "throughout the whole shooting there was no control...information was just flying out the door." (For further details, refer to the transcription.)

Also on this date, Training Sergeant Andrew Rossi forwarded the OPC documentation reflecting several training courses attended by Commander Hollant, to include an advanced training certificate in Interviews and Interrogations for 40 hours in 2008, as well as an advanced training certificate in Line Supervision for 80 hours in 2013. (For further details, refer to Commander Hollant's Training.)

Also, personnel records reflect Commander Hollant was assigned to the NMPD's Investigative Section from June 12, 2011, to January 2, 2013.

On this date, at approximately 10:00 a.m., **Commander Angel Rivera** responded to the OPC for a formal statement. The following is a synopsis of his digitally recorded statement:

Commander Rivera stated he arrived at the scene approximately 45 minutes after the shooting. Present at the time were Chief Eugene, A/Chief Cuevas, as well as his Investigative Section chain of command, Major Cardona and A/Chief Juriga, for which he had no reason to believe Chief Eugene was not aware of what was transpiring so far. Commander Rivera then focused his attention on learning what his investigators had done so far, and at further directing their actions. Commander Rivera added he did not witness Chief Eugene, nor Detective Gaudio, ask Commander Hollant whether he was a witness. Commander Rivera explained that on or about July 21<sup>st</sup>, 2017, Major Trevor Shinn inquired whether Commander Hollant had been interviewed in the case, to which Commander Rivera replied he was not. At that point, Major Shinn advised Commander Rivera that Commander Hollant communicated on the police radio during the incident and he was a witness. Commander Rivera stated that, had he known this information sooner, Commander Hollant would have been separated with the other witness officers. Also, that Commander Hollant would not have been assigned the task of being the Patrol Liaison at the scene during the incident. Commander Rivera added this case entailed the involvement of witnesses who did not witness the actual shooting but "had enough sense to tell our investigators that they had seen events either prior or just after the shooting and they themselves consider themselves to be witnesses." Commander Rivera added those witnesses were interviewed and their observations were noted as part of the investigation. Commander Rivera further explained that when the case was forwarded to FDLE for investigation, and he met with their lead investigator, Agent Mosquera, Commander Rivera informed him that Commander Hollant had not been interviewed. Commander Rivera stated Agent Mosquera "was baffled, bewildered and asked me again...You guys haven't interviewed this person?" Commander Rivera added he was "embarrassed" this information was not provided to them, but he explained to Agent Mosquera they had just become aware Commander Hollant was on the scene during the shooting. As it relates to the conversation Commander Rivera had with Commander Hollant witnessed by Commander Estrugo, Commander Rivera indicated that

while at the police station he told Commander Hollant that FDLE would be contacting him for a statement. He also told him, "Commander Hollant, do you think it would have been prudent or part of your duty on your part for you to have told anybody on the scene or shortly thereafter that you were a witness to the shooting?" Commander Rivera said Commander Hollant became extremely agitated at that point and asked that they go to Commander Hollant's office, which is where Commander Estrugo witnessed the follow-up conversation. Commander Rivera stated that following his insistence that Commander Hollant should have told someone, Commander Hollant told him he told "plenty of people." When asked whether he could name one person, Commander Hollant stated he told Detective Tovar he was a witness. Commander Rivera said he was upset at that point because he specifically spoke to Detective Tovar the day of the shooting and they discussed the totality of their investigative steps. At that time, Detective Tovar never informed him Commander Hollant was a witness. After the conversation with Commander Hollant, Commander Rivera contacted Detective Tovar and asked him about Commander Hollant's statement to him. At the time, Detective Tovar "became extremely upset and stated that Commander Hollant is a liar." Commander Rivera said Detective Tovar was a "proficient and knowledgeable investigator" and had no reason to doubt him. (For further details, refer to the transcription.)

February 7, 2017

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On this date, at approximately 2:00 p.m., **Commander Patricia Fishel** responded to the OPC for a formal statement. The following is a synopsis of her digitally recorded statement:

Commander Fishel indicated she was off duty when she was recalled to the City after the shooting. She arrived over an hour after the incident. She added she was the Day Shift Uniform Patrol Commander at the time. Commander Fishel stated she did not witness Chief Eugene, nor Detective Gaudio, ask Commander Hollant whether he was a witness. (For further details, refer to the transcription.)

On this date, the following officers were interviewed for information relating to Commander Hollant's actions during the police shooting incident:

At approximately 8:00 a.m., **Officer Kevin Crespo** responded to the OPC for a formal statement. This investigator also interviewed him under the police shooting incident (AR 16-04, with the SAO's approval) where he describes the scene further. The following is a synopsis of his digitally recorded statements:

Officer Crespo indicated that prior to the shooting he took a position at NE 14<sup>th</sup> Avenue south of 127<sup>th</sup> Street along with Officer Bernadeau. He stated he was on the southwest corner, while Officer Bernadeau was on the southeast corner. Officer Crespo added he did not see Commander Hollant until after the shooting when Officer Bernadeau and he approached Mr. Kinsey and Mr. Soto. At that time, they requested officers to handcuff them while they kept cover because they did not know whether they were a threat or not. Officer Crespo stated he was focused on Mr. Kinsey and Mr. Soto, but approximately 30 seconds to a minute later he noticed Commander Hollant walking south approximately 50 feet north of 127<sup>th</sup> Street. Officer Crespo stated he did not see Detective Gaudio at the scene. Under the OPC's Administrative Review of the shooting incident, Officer Crespo said that before the shooting there was much yelling back and forth, and he recognized a potential for crossfire, for which he was yelling to the officers north of him to get out of the way. He added Mr. Soto was moving around the object he was holding, and was making "really weird noises." (For further details, refer to the transcription.)

At approximately 2:15 p.m., **Officer Alens Bernadeau** responded to the OPC for a formal statement. The following is a synopsis of his digitally recorded statement:

Officer Bernadeau indicated that prior to the shooting he took a position on NE 14<sup>th</sup> Avenue south of 127<sup>th</sup> Street. From that position, he could see Sergeant Reid and Commander Hollant taking cover behind police vehicles located approximately 20 to 25 feet south of NE 128<sup>th</sup>



Street. Officer Bernadeau said he was not sure exactly who was on which side, but that, once he approached the light pole he used for cover closest to Mr. Kinsey and Mr. Soto, he could see who was on the north side of the street. Officer Bernadeau stated Commander Hollant was present during the shooting and said, "...it was prior to and after. After the shooting...he was on the scene the whole time -- prior to and after he was there." He added that before the shooting he did not see anyone leave the area. Also, that he was focused on the subject and the officers were behind them, so he could see them there. Officer Bernadeau added he was concerned they would be in the line of fire. Once the shots were fired, Officer Bernadeau moved closer to Mr. Kinsey and Mr. Soto, at which time he held cover and asked for officers on the police radio to move in to assist. At that point, Officer Bernadeau stated Commander Hollant came running from the north with Officers Aledda and Warren, as well as Sergeant Reid, but he is not sure who arrived first. Officer Bernadeau stated he believed Commander Hollant witnessed the shooting based on his angle, and added, "I'm not sure if -- if at the time he was looking or not, but I think he should've." He added that prior to the shooting Sergeant Reid was relatively close to Commander Hollant. Officer Bernadeau drew on a map of the area his position, as well as Commander Hollant's and Sergeant Reid's positions prior to the shooting. (For further details, refer to the transcription.)

Also on this date, the NMPD's Accreditation Manager, Dale Briganti, provided PowerDMS (policy program) documentation to this investigator reflecting Commander Hollant's acknowledgment, by way of signature, of various NMPD policies, to include his acknowledgment of the Department's General Rules and Regulations policy on September 29, 2015. Documentation was also provided on April 18, 2017, demonstrating proof of Commander Hollant's acknowledgment of the Department's Police Shooting policy on December 22, 2015. (For further details, refer to the Power DMS documentation.)

Also on this date, this investigator received a telephone call from ASA Jose Arrojo's secretary indicating he wanted to meet to discuss this case. This investigator later received a calendar invite, organized by ASA Arrojo, on April 14, 2017, at 1:32 p.m., requiring this investigator's appearance at the SAO on February 27, 2017, at 11:30 a.m.

On this date, at approximately 2:00 p.m., **Sergeant Milton Reid** responded to the OPC for a formal statement. The following is a synopsis of his digitally recorded statement:

Sergeant Reid indicated that before the shooting he was positioned at NE 14<sup>th</sup> Avenue between 127<sup>th</sup> and 128<sup>th</sup> Street where he recognized the potential for crossfire, which he stated on the police radio. While at that location, Commander Hollant was near him, but, once Commander Hollant said on the radio that it looked like the subject was loading up a weapon, Commander Hollant left the scene and returned approximately less than 30 seconds later with a pair of binoculars. Commander Hollant then positioned himself in front of Sergeant Reid at about 15 feet. Sergeant Reid added, "I then see Hollant come back with binoculars so I'm, like, great, now we can finally see what the hell is going on and shortly after that is when I heard the shots." Sergeant Reid added Commander Hollant was "trying to get a good line of sight," and he was "waiting for him to tell us what's going on..." When this investigator asked Sergeant Reid whether he believed Commander Hollant witnessed the shooting, Sergeant Reid answered, "Yeah, he was there. That's right where I saw him looking so he should have seen it." Sergeant Reid stated he paid attention to what Commander Hollant was doing for five or ten seconds. When asked whether the shots were fired while Commander Hollant was looking through the binoculars, Sergeant Reid stated, "I don't know but I'm assuming it's a possibility." Following the shooting, Sergeant Reid changed his focus to the subjects. Sergeant Reid further explained he did not know it was a police shooting; instead, he thought one of the subjects shot the other. Once Sergeant Reid moved in to assist with handcuffing, he does not recall whether Commander Hollant was still there. Sergeant Reid added he did not witness Detective Gaudio ask Commander Hollant whether he was a witness. Sergeant Reid drew on a map of the area the position of his and Officer Aledda's vehicle prior to the shooting, as well as Commander Hollant's position. (For further details, refer to the transcription.)

February 22, 2017

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On this date, at approximately 1:20 p.m., retired **Major Trevor Shinn** responded to the OPC for a formal statement. The following is a synopsis of his digitally recorded statement:

Major Shinn indicated he did not respond to the scene of the shooting, as he was off duty. Upon his return to work, a day or two after the shooting, he listened to the radio transmission of the shooting as the Major overlooking the OPC. After realizing that Commander Hollant made a statement on the radio about a gun, and believing Commander Hollant was not interviewed on the date of the shooting, Major Shinn brought this information to A/Chief Juriga's attention. He added he "...wanted to make sure that the Department is transparent and doing a professional job." Major Shinn and A/Chief Juriga later made notification to Chief Eugene. At that time, Major Shinn told the Chief, "Chief, based on what he - he was on the scene, he made some observations, he made a radio transmission that clearly indicates that he has information that would be credible to the - for the totality of the circumstances for this event." Major Shinn added Chief Eugene was told to listen to the radio transmission. Major Shinn said that following that conversation, he never heard anything about Chief Eugene feeling misled on this issue. (For further details, refer to the transcription.)

February 24, 2017

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On this date, at approximately 2:00 p.m., **Officer Kevin Warren** responded to the OPC for a formal statement. This investigator also interviewed him under the police shooting incident (AR 16-04, with the SAO's approval) where he describes the scene. The following is a synopsis of his digitally recorded statement:

Officer Warren stated that before the shooting he was next to Officer Aledda on NE 14<sup>th</sup> Avenue between 127<sup>th</sup> and 128<sup>th</sup> Street. Officer Warren recalled seeing Officer Aledda prior to the shooting, as they were next to each other. He also recalled seeing Sergeant Reid left of his location before the shooting. Officer Warren drew on a map his and Sergeant Reid's position. Officer Warren stated that after the shooting, when the units moved in, he saw

Commander Hollant there along with Officers Bernadeau and Crespo, as well as Sergeant Reyes. He then stated that he saw him, "right before I get up to the...group of the people right there, that's where I see him." While attempting to get a more detailed location as to where exactly Officer Warren saw Commander Hollant, he stated Commander Hollant was walking up to the scene with him, "kinda like parallel walking...I see him on my peripheral...we are walking up together." Under the OPC's Administrative Review of the shooting incident, Officer Warren stated that after the shooting he was the one who handcuffed Mr. Soto. (For further details, refer to the transcriptions.)

February 27, 2017

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On this date, this investigator, along with Officer Burden, met with ASA Howard Rosen pursuant to ASA Arrojo's request. At that time, ASA Rosen was made aware of the latest information in this case and statements were submitted to him, to include Sergeants Reid's and Reyes', as well as Officers Bernadeau's, Llerena's, and Joachim's. He advised they would review the same. On April 14, 2017, ASA Rosen sent this investigator the SAO's response to their second review of this case, which states, "This email will serve to confirm that upon reviewing the statements that you provided, in conjunction with the statements that we already had from both Commander Hollant and Chief Gary, our conclusion in this matter remains the same, and we are not going to be amending our Preliminary Inquiry Close-Out Memo."

March 16, 2017

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On this date, this investigator requested from Chief Eugene's secretary, Gia Smith, Chief Eugene's and A/Chief Juriga's phone records for July 18, 2016, from the time of the shooting at approximately 5:00 p.m., to approximately two hours later. This request revealed Chief Eugene made three separate contacts (two of them incoming) with A/Chief Cuevas between 5:24 p.m. to 5:27 p.m., shortly after the shooting. A/Chief Juriga's phone records reflect he contacted Chief Eugene at 5:41 p.m., after making two contacts with Investigative Major Cardona following the shooting. (For further details, refer to the Phone Records.)

April 6, 2017

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On this date, this investigator, along with CST Patricia Alvarez and test Officer Nelson Seda, responded to the area of NE 14<sup>th</sup> Avenue and 128<sup>th</sup> Street to conduct a timing test. The test was based on information provided by Commander Hollant during previous testimony and a drawing on a map he produced to FDLE. On the map, he identified the location where he parked his vehicle when he first arrived at the scene, between NE 13<sup>th</sup> and 14<sup>th</sup> Avenue on 128<sup>th</sup> Street. He also identified the location where he was when he initially ran to his vehicle to get his binoculars before the shooting, which was several feet (unknown) south of 128<sup>th</sup> Street. The test consisted of positioning a vehicle on Position A (Vehicle #1 per CST) on NE 14<sup>th</sup> Avenue, and Position B (Vehicle #2 per CST) on 128<sup>th</sup> Street. It bears noting, the position of the marker vehicles utilized on this date were placed at the farthest point indicated by Commander Hollant. Photographs obtained by CST Alvarez reflect these areas for comparison with Commander Hollant's drawing. Following the placement of the vehicles, CST Alvarez timed the test officer's movement from Position A to Position B, and vice versa, during a regular walk, fast stride, and jog. The test revealed the following:

<b>Movement Type/Distance</b>	<b>Vehicle #1-Vehicle #2</b>	<b>Vehicle #2-Vehicle #1</b>
Walk	1:27:16 min.	1:27:84 min.
Fast Stride	1:12:22 min.	1:14:72 min.
Jog	0:39:72 secs.	0:42:31 secs.

(For further details, refer to the Timing Test, which includes photographs, a supplementary report, and Commander Hollant's drawing to FDLE.)

April 7, 2017

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On this date, at approximately 10:00 a.m., **Chief Gary Eugene** responded to the OPC for a formal statement. The following is a synopsis of his digitally recorded statement:

Chief Eugene stated that when he arrived at the scene, he initially made contact with Commander Hollant who made statements to him that sounded as if he was a witness, but Commander Hollant then mentioned that he went to get his binoculars; therefore, Chief Eugene thought Commander Hollant might have heard the gist of what transpired from someone else. Subsequently, during a group briefing taking place at the scene involving other staff members, Commander Hollant approached the group, but he was stopped by Chief Eugene as he still thought Commander Hollant might be a witness. At that time, Commander Hollant told Chief Eugene he did not witness the shooting, or he was not a witness, but Chief Eugene does not recall exactly how this statement was made. At that point, Chief Eugene felt the initial briefing of the case provided to him by Commander Hollant must have been gathered by him through other officers at the scene. As it relates to Chief Eugene's staff communicating with him, when asked whether A/Chief Juriga called him, Chief Eugene stated he remembered. When this investigator asked whether any other command staff member contacted him before the shooting, Chief Eugene said he could not remember, but he later acknowledged that A/Chief Cuevas called him when this investigator told him their contacts were registered on phone records. Chief Eugene explained they did call, but not to discuss the details of the case since he arrived at the scene before them; nevertheless, Chief Eugene did acknowledge his command staff communicated with him. Chief Eugene also acknowledged that what he referred to during previous testimony as an actual video of the shooting officer was a photograph taken of Officers Aleda and Warren, not a video. Also, after informing Chief Eugene of some of the steps taken by the NMPD's Investigative Section during the initial investigation of the shooting, he explained that during previous testimony he was not referring to the investigators and said, "I was not referring to DB (detective bureau)...I was being very critical of the commander (Hollant) on the scene...the leadership I expect from the higher rank on the scene..." As for Chief Eugene's previous statement intimating A/Chief Juriga misled him, he stated he apologized to A/Chief Juriga and Commander Rivera because he felt he should not have used the word "misled." He also acknowledged, contrary to his previous statement, A/Chief Juriga did not tell him that Commander Hollant gave the order to shoot. Chief Eugene stated, given what he knew about the case at this point, he believed Commander Hollant was a witness, and he should have written a police report. As for Chief Eugene's statement about the NMPD's Investigative Section attempting to protect the shooting officer, he offered no

facts to support his statement, except information he received from a conversation that took place between Commanders Hollant and Rivera. When asked whether he felt the investigative team was trying to protect anybody, Chief Eugene answered, "Not at all." As it relates to Chief Eugene's previous statement suggesting that some NMPD officers may not back each other up if shot, Chief Eugene stated he was not referring to officers and sergeants, but of his "command staff." (For further details, refer to the transcription.)

April 10, 2017

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On this date, this investigator sent Commander Hollant a Notice to Appear for a formal statement at the OPC on April 18, 2017, at 8:00 a.m. Per his request, the same was sent to Commander Hollant's personal email. Commander Hollant acknowledged receipt of the notice, which informed him of the complainant in this case, Chief Eugene; the nature of the allegation, Obstruction of an Investigation; and his legal rights. The notice also states, "Please contact me as soon as possible if you have any questions, concerns, or scheduling conflict." On April 12, 2017, Commander Hollant requested this investigator send a copy of the Notice to Appear to his attorney, Michael Joseph, Esq., via email, which was done on April 12, 2017, at 9:03 a.m.

April 18, 2017

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On this date, Commander Hollant's attorney, Michael Joseph, and a second representative, Domingo Montoute-Howard, arrived at the OPC at 8:30 a.m., instead of 8:00 a.m., as noted on the official Notice to Appear (Commander Hollant was on time). Also present was NMPD Officer Adam Burden. At 8:40 a.m., prior to the interview, the investigative file was submitted to them for review. Shortly thereafter, Commander Hollant's representatives raised two objections: First, that it was not clear Chief Eugene initiated this investigation, even though Chief Eugene signed a Request to Initiate Memorandum authorizing the same (included in the file); and second, that the nature of the allegation, Obstruction of an Investigation, was not sufficient. Commander Hollant's representatives stated that based on existing case law (did not produce), this investigator needed to provide the officer with "each policy violated" prior to answering questions on the allegation of obstruction. At that time, it was explained to Commander Hollant's representatives, in great depth,

that these were not violations; nevertheless, this investigator, along with Officer Burden, in a good-faith attempt to move forward, provided Mr. Joseph with a list of possible policy violations. Mr. Joseph then stated he wanted those in writing, which, although unnecessary, we agreed to do immediately. Despite repeated efforts made by Officer Burden and this investigator to move forward, Mr. Joseph insisted he wanted a continuance, but he was not available for the next two days. The parties then agreed to meet again on April 21, 2017, at 8:00 a.m., based on Mr. Joseph's schedule. Before leaving, Commander Hollant requested to be escorted to his locker, as well as his office. Sergeant Brittany Horn responded to assist him with this request.

In light of the doubt expressed by Commander Hollant's representatives that Chief Eugene authorized this investigation, at 2:15 p.m., this investigator met with Chief Eugene where he signed a memorandum reiterating his directive to conduct this investigation against Commander Hollant for Obstruction of an Investigation, by way of false statements. (For further details, refer to Chief's Memorandum Confirming Authorization.)

Also on this date, a 2<sup>nd</sup> Notice to Appear was sent to Commander Hollant and Mr. Joseph noting Chief Eugene as the complainant, and the nature of the allegation as "Obstruction of an Investigation, by way of false statements." The same was scheduled for April 21, 2017, at 8:00 a.m.

April 21, 2017

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On this date, Commander Hollant's representatives, Mr. Joseph and Mr. Montoute, appeared at the OPC at 8:30 a.m., instead of 8:00 a.m., as noted on the official Notice to Appear (Commander Hollant was on time). Also present was legal counsel on behalf of the City of North Miami, Alison Smith, Esq., and Officer Burden. Given Commander Hollant's representative's actions during the previous appointment, this investigator requested to record any interaction with Commander Hollant's representatives before handing over the file to Commander Hollant for review, but his representatives objected to being recorded. After that, no recording took place, and no objections were communicated. Commander Hollant was once again handed over the investigative file for review at 8:43 a.m. The parties later agreed to break for lunch from 12:00 p.m. to 1:00 p.m., but



Commander Hollant and his representatives responded back to the OPC at 1:25 p.m. Mr. Joseph then stated he needed to end the session at 3:00 p.m., even though this investigator expressed to him the proceedings could continue if they wished. Mr. Joseph was also advised Commander Hollant would be paid overtime if he wished to continue past his working hours. Mr. Joseph insisted he had to leave, at which time the parties agreed to meet on April 25, 2017, at 8:00 a.m., given that Mr. Joseph was not available on Monday, April 24<sup>th</sup>. Before leaving, Commander Hollant's representatives objected to the style of NMPD's reports. It was explained to them the initial report, and all its supplements, were printed as one document, but they still objected. This investigator then requested of the NMPD's Records Section that each officer and detective supplemental reports be printed individually with its own cover report for Commander Hollant to review. This request did not generate any new information.

April 25, 2017

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On this date, Commander Hollant and his representatives, Mr. Joseph and Mr. Montoute, arrived at 8:15 a.m., instead of 8:00 a.m. At the outset, Commander Hollant's representatives objected that the case could not move forward unless this investigator communicated to the SAO what they perceived to be perjurious statements made by Chief Eugene during his FDLE statement in comparison to his subsequent statement to this investigator. They demanded the Chief's latest statement be sent to the SAO. At that time, it was explained to Commander Hollant's representatives that, despite any concerns they may have with Chief Eugene's statements, the investigation into Commander Hollant's actions during the police-shooting incident was moving forward. Commander Hollant's representatives insisted they wanted some type of confirmation of an investigation on Chief Eugene. Despite the extensive explanation to them that their objections did not constitute a factual basis for a claim of a violation of Commander Hollant's rights, they insisted that it was and that they could not move forward unless Chief Eugene's statements were investigated. At that juncture, given the unnecessary delays in this case since April 18<sup>th</sup>, and the fact that Commander Hollant provided two sworn statements, one to the SAO, and one to FDLE, where he explains his actions on the date of the incident, this investigator made notification to Commander Hollant that the Office of Professional Compliance was officially recanting on its wish to obtain his sworn statement. Commander Hollant left with his representatives at 8:45 a.m.

**Investigator's Note #3:**

The following officers were not interviewed by this investigator, given that their perimeter point, or arrival time at the scene, prevented them from witnessing what transpired within the inner perimeter prior to and shortly after the shooting:

- Officer Tamara Numa
- Officer Farokh Mirjah
- Officer Javier Portales
- Officer Osvald Salien
- Officer Erika Carter
- Officer Monique Bony
- Officer Pedro Lao
- Officer Christina Travieso
- Officer Duhamel Jeanite

**INVESTIGATIVE ANALYSIS**

The investigation revealed the following:

The allegation of obstruction of an investigation by way of providing false statements led this investigation into three distinct areas directly related to previous sworn statements provided by Commander Hollant: First, his claim that he arrived and left the scene of a critical incident; second, his claim of the length of time he was absent from the scene; and third, his claim that he did not witness the shooting. Other areas were also explored.

**Claim #1: Commander Hollant arrives and leaves the scene of a critical incident.**

Commander Hollant claims he was one of the last officers to arrive at the scene. Also, that he saw Mr. Kinsey and Mr. Soto when he initially approached the scene, but he lost sight of them as he

continued driving and turned right at NE 128<sup>th</sup> Street from NE 14<sup>th</sup> Avenue to park his vehicle at a location he considered suitable for a command post, which was midblock between NE 13<sup>th</sup> and 14<sup>th</sup> Avenue. He then ran over to the scene where he became the highest ranking officer. Shortly after that, Commander Hollant claims he left the scene to get his binoculars from his vehicle, for which he did not witness the shooting.

Based on officer and civilian witnesses, the following transpired before the shooting, and, to an extent, based on his statement, prior to Commander Hollant leaving the scene:

- Officer Crespo stated he was yelling back and forth with Mr. Soto, and Mr. Kinsey was yelling also. He added he was yelling at other officers, as he recognized the potential for crossfire. He stated it was an active scene.
- Witness Zalabeta advised Mr. Soto was screaming at Mr. Kinsey making “animalistic sounds.”
- Sergeant Reid communicated on the radio his concern for crossfire to the south where other officers were, which the dispatcher repeated.
- Officer Aledda advised on the radio he had a clear shot, which Officer Warren repeated on the radio, after officer Bernadeau advised on the radio that it might be a toy.
- Witness Valdez advised Officer Aledda was yelling before the shooting, although Officer Warren did not recall him yelling.
- Witness Hernandez advised that everyone had their rifles out.
- Witness McDevitt stated that, before the shooting, he felt something bad was going to happen.
- Witness Kirkland stated he thought the white individual was going to get shot.

It is unknown whether Commander Hollant observed and heard all of the above-listed occurrences (although he had in his possession a police radio), given that he left the scene to get his binoculars. Nevertheless, the following is what Commander Hollant had personal knowledge of before the shooting, as confirmed by his previous testimony:

- Commander Hollant stated Mr. Soto was screaming at Mr. Kinsey to shut up.

- Commander Hollant emitted a radio transmission stating that a subject was loading up a weapon after he arrived at a police-dispatched call involving a subject with a gun. Commander Hollant's statement was announced to all police units by the dispatcher.
- Commander Hollant saw Mr. Kinsey with his hands up.
- Commander Hollant stated he thought the incident might entail a hostage situation, which Sergeant Reid and Officer Warren mentioned as well.
- Commander Hollant stated he saw two officers south of Mr. Kinsey and Mr. Soto who had a "better visual" than him.
- Commander Hollant said he heard two people, Mr. Kinsey, and an officer on the police radio, say that the item was a toy. The dispatcher did not repeat this transmission. Instead, she repeated to all officers the call involved a "subject with a gun." Commander Hollant did not correct the dispatcher's error, neither did he advise on the radio, following his transmission that Mr. Soto was loading up a weapon, that he heard Mr. Kinsey say it was a toy. It is unknown whether officers were still en route to the scene in emergency mode following Commander Hollant's transmission and the dispatcher's error.
- Commander Hollant stated he observed Officer Aledda pointing his rifle in a southeasterly direction, which is where Mr. Kinsey and Mr. Soto were, as well as other officers. Commander Hollant did not indicate whether any commands or clarifications were made to Officer Aledda, given that Commander Hollant must have seen him pointing his rifle in a southeasterly direction prior to leaving the scene to retrieve his binoculars. According to Commander Hollant, the shooting had already taken place upon his return.
- Commander Hollant advised he ran to get his binoculars after he heard the dispatcher and Mr. Kinsey say it was a toy.

**Claim #2: Commander Hollant's length of absence from the scene.**

Commander Hollant stated approximately six times during previous testimony that he "ran" to retrieve his binoculars from the trunk of his vehicle and while retrieving them he heard the shots fired. According to A/Chief Cuevas, Commander Hollant told him, "On my way back the shots were fired." Commander Hollant also stated approximately six times during previous testimony

that after waiting a few seconds, he “ran” back to the scene after the shots were fired, but he also states on one occasion, “I do not remember if I ran back, if I walked back.” Commander Hollant also advised that when the dispatcher requested to know whether Fire Rescue was needed, and someone advised “negative” on the police radio, he could not advise whether medical attention was needed because he was not back at the scene yet. Commander Hollant stated he was running back to the corner of NE 128<sup>th</sup> Street and 14<sup>th</sup> Avenue when the units were in the process of moving in. Several witness officers advised that following the shooting they waited for a signal before they began to move towards the inner perimeter of the scene.

The following reflects pertinent lapses of time in relation to Commander Hollant’s statements and actual events, as depicted on the radio transmission of the incident:

- The time between Officer Bernadeau first advising the item is possibly a toy, to the time when he gives the clear for all units to move in, was 3:46 minutes.
- The time between Commander Hollant advising shots were fired, to the time when he states he cannot advise on Rescue, as he was still not back at the scene, was 1:05 minutes.
- The time between Commander Hollant advising shots were fired, to the time when Officer Bernadeau gives the clear for all units to move in, was 2:21 minutes. Commander Hollant claims he was running back to the corner of NE 14<sup>th</sup> Avenue and 128<sup>th</sup> Street when officers began to move in.

A timing test conducted of Commander Hollant’s Position A, where he claims he was when the shots were fired, to Position B, several feet south of 128<sup>th</sup> Street, and vice versa, as drawn by Commander Hollant on a map during his testimony to FDLE, revealed the following:

- It took the test officer during a regular walk 1:27:84 minutes to arrive from Position A to Position B, in comparison to Commander Hollant’s 2:21 minutes during a run to a shorter distance to the corner of NE 14<sup>th</sup> Avenue and 128<sup>th</sup> Street.
- It took the test officer during a fast stride 1:14:72 minutes to arrive from Position A to Position B, in comparison to Commander Hollant’s 2:21 minutes during a run to a shorter distance to the corner of NE 14<sup>th</sup> Avenue and 128<sup>th</sup> Street.

- It took the test officer during a jog 42:31 seconds to arrive from Position A to Position B, in comparison to Commander Hollant's 2:21 minutes during a run to a shorter distance to the corner of NE 14<sup>th</sup> Avenue and 128<sup>th</sup> Street.

It should be noted that, according to Commander Estrugo's testimony, Commander Hollant told him he was trying to find the binoculars in the trunk of his police vehicle on the day of the shooting, for which he did not witness the incident. During Commander Hollant's previous testimony, he stated the binoculars were corroded, and he was trying to clean them up. The time Commander Hollant spent on these tasks while the incident was unfolding is unknown, and it might account for the disparity in time between the test officer returning from Position A to the inner perimeter, between 127<sup>th</sup> and 128<sup>th</sup> Street, in approximately 42:31 seconds, as opposed to Commander Hollant approaching the corner of 128<sup>th</sup> Street from Position A in 2:21 minutes.

**Claim #3: Commander Hollant did not witness the shooting.**

Based on testimony provided by Commander Hollant, as well as testimony provided by Chief Eugene, A/Chief Juriga, A/Chief Cuevas, Major Cardona, Commander Estrugo, Sergeant Mesidor, and Detective Gaudio, it is clear Commander Hollant stated several times that he did not witness the actual shooting take place.

According to Sergeant Reid's testimony, before the shooting, Commander Hollant arrived at the scene, but he left for approximately 30 seconds and returned with a set of binoculars. Sergeant Reid stated Commander Hollant was looking through the binoculars in front of him, which would have placed him closer to Mr. Kinsey and Mr. Soto. At that time, Sergeant Reid stated he was waiting for Commander Hollant to advise whether the item held by Mr. Soto was a gun or not. Sergeant Reid stated Commander Hollant was looking through his binoculars in the direction of 127<sup>th</sup> Street before the shooting. On the other hand, Commander Hollant stated during previous testimony he could not remember where Sergeant Reid was.

Officer Bernadeau stated during previous testimony that he saw Commander Hollant at the scene prior to and after the shooting and that before the shooting Commander Hollant was situated near Sergeant Reid. Officer Bernadeau was situated south of 127<sup>th</sup> Street. Officer Bernadeau added he

was certain Commander Hollant was present during the shooting because the officers north of him where in his line of sight behind Mr. Kinsey and Mr. Soto. He added he was afraid of crossfire given the officers' positions. Officer Bernadeau also stated he saw Commander Hollant move in with Officers Warren and Aledda, as well as Sergeant Reid, when he cleared the officers to move in.

Officer Warren indicated he saw Commander Hollant walking up to Mr. Kinsey and Mr. Soto parallel to him after the shooting. Officer Warren also stated he was the one who handcuffed Mr. Soto. On the other hand, Commander Hollant stated, "When they were saying they were moving in, that's when I was running back to the corner of 128th and 14th and everybody was moving in. And when they took him into custody that's when I ran also, with them... Well the guys had already taken him into custody."

Prior to the shooting, Sergeant Reyes, as well as Officers Joachim and Llerena, where posted at the intersection of NE 129<sup>th</sup> Street and 14<sup>th</sup> Avenue. During their statements, they said their vision was focused south towards NE 127<sup>th</sup> Street following the shooting and they waited for a clear indication to move in. During this time, at no point did any of them observe Commander Hollant running back towards the scene in the area of 128<sup>th</sup> Street. To the contrary, they all stated Commander Hollant was already within the inner perimeter, between 127<sup>th</sup> and 128<sup>th</sup> Street, when they moved in.

**Other areas:**

Commander Hollant provided two other agencies, the SAO and FDLE, collectively, information emanating from personal knowledge he obtained prior to the actual shooting during the incident in question. His personal knowledge encompassed information relating to his observation of Mr. Soto's actions, Mr. Kinsey's actions, Officer Aledda's Actions, and other officers' actions, in addition to what he heard and perceived. Commander Hollant also provided information to said agencies relating to the actions he took during the incident.

Given the inconsistencies revealed during the investigation of the above claims, in addition to the information Commander Hollant provided to other agencies relating to this case, it appears that

Detective Gaudio' investigative report is both, missing information, and it contains inaccurate information, as it states that Commander Hollant told Detective Gaudio he had just arrived at the scene of the shooting.

Commander Hollant denies telling Detective Gaudio he had just arrived at the scene. The only officer who noticed Detective Gaudio having a conversation with Commander Hollant at the scene was Sergeant Mesidor, but he stated he did not hear the conversation.

According to NMPD investigators' statements, Commander Hollant did not inform any of them on the date of the shooting the extent of what was later revealed Commander Hollant claims he saw, heard, and perceived. Days later, according to Commander Rivera, Commander Hollant told him he told "plenty of people" at the scene that he was a witness. When Commander Rivera pressed for a name, Commander Hollant stated he told Detective Tovar. Detective Tovar denied ever having this conversation with Commander Hollant to Commander Rivera, and to this investigator during sworn testimony.

Records revealed Commander Hollant was a detective with the NMPD between 2011 and 2013.

Records revealed Commander Hollant received investigative training consisting of 40 hours, as well as line supervision training consisting of 80 hours.

Records revealed Commander Hollant acknowledged receipt of the Department's Police Shooting policy, as well as the Department's General Rules and Regulations policy.

During his interview with this investigator, Chief Eugene addressed, among other things, the concerns he expressed to FDLE during previous testimony about the NMPD in general. Chief Eugene conveyed the following:

- Following the discussion of existing phone records, Chief Eugene admitted he was contacted by his command staff following the shooting, but said the conversations did not relate to the details of the shooting since he arrived at the scene before them.



- Chief Eugene stated he misspoke when he said he was misled by A/Chief Juriga and added he apologized to him, as well as to Commander Rivera. It bears noting, this investigator was summoned to Chief Eugene's office on July 22, 2016, along with A/Chief Juriga, where Chief Eugene listened again to the radio transmission. At that time, Chief Eugene initiated this investigation. Thereafter, he never gave this investigator the directive to suspend this investigation.
- Chief Eugene recognized he was not shown a video of the shooting officer. Instead, he was shown a photograph.
- Chief Eugene stated he was not referring to the Investigative Section when he said the scene was a "mess," among other remarks. Instead, he said he was referring to Commander Hollant's leadership at the scene.
- Chief Eugene admitted he had no facts to support his suggestion that the Investigative Section would mishandle the case to protect the shooting officer. He said he made that comment based on a conversation he was told transpired between Commanders Hollant and Rivera, which Commander Hollant mentioned to him while sitting in his office with an attorney.
- Chief Eugene stated he was not referring to NMPD officers and sergeants when he suggested that some may not back each other up if wounded. He stated he meant that to be the problem with his command staff.
- Chief Eugene stated that on July 21, 2017, the night prior to his suspension, while at the NMPD's station, Commander Hollant apologized to Chief Eugene and said, "Chief, I'm sorry I let you down." Chief Eugene added Commander Hollant did not know whether he had to give FDLE his statement, but, according to the Chief, "He was more concerned about his failure of giving DB or the investigator in charge of the shooting in that sense, Detective Gaudio, his official statement."

May 4, 2017

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On this date, the investigative file was submitted to the Disposition Panel for determination.

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## **OFFICIAL RECORDS**

(Refer to the Case File Index for location.)

- 1) Request to Initiate Internal Affairs Case #16-06 Memorandum
- 2) Chief Eugene Confirmation of Authorization Memorandum
- 3) Administrative Leave Memorandum & Property Receipt
- 4) State Attorney's Office Close-Out Memorandum
- 5) FDLE Request to toll this investigation
- 6) NMPD Initial and Supplemental Reports
- 7) Detail Call For Service Report
- 8) Scene Entry Log
- 9) 9-1-1 Call / Radio Transmission w/Transcript
- 10) FDLE Investigative File
- 11) Timing Test
- 12) Officer Notices
- 13) Commander Hollant's Personnel Status
- 14) Commander Hollant's Training
- 15) Phone Records
- 16) Power DMS
- 17) Final Notifications
- 18) Correspondence

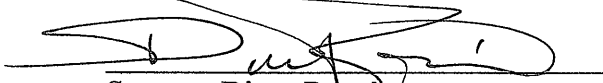
## **OFFICIAL STATEMENTS**

(Refer to the Case File Index for location.)

### Digitally Recorded Statements Obtained by the OPC

- 1) Chief Gary Eugene
- 2) Assistant Chief Larry Juriga
- 3) Assistant Chief Neal Cuevas
- 4) Major Annmarie Cardona
- 5) Commander Angel Rivera
- 6) Commander Rafael Estrugo
- 7) Commander Patricia Fishel
- 8) Sergeant James Mesidor
- 9) Sergeant Milton Reid
- 10) Sergeant Ernesto Reyes
- 11) Officer Yosbel Llerena
- 12) Officer Natalie Buissereth
- 13) Officer Kevin Warren
- 14) Officer Ashlee Villard
- 15) Officer Alens Bernadeau
- 16) Detective Nelson Perez
- 17) Detective Sarah Zuniga
- 18) Officer Paul Laguerre
- 19) Detective Michael Gaudio
- 20) Officer Angel Raquejado
- 21) Officer Kevin Crespo
- 22) Officer Pinky Joachim

I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in SS. 112.532 and 112.533, Florida State Statutes.

  
Sergeant Diana Román  
Office of Professional Compliance

5/4/2017  
Date

**North Miami Police Department**  
**Internal Affairs Case #16-06**

**Case File Index**

Summary Page #  
(If applicable)

**File Folder #1**

1)	Request to Initiate IA 16-06 Memorandum & .....	3,32
	Chief's Memorandum Confirming Authorization	
2)	Investigative Summary .....	N/A
3)	Disposition .....	N/A
4)	Administrative Leave Memorandum and Property Receipt.....	2
5)	State Attorney's Office Close-Out Memorandum.....	3
6)	FDLE Request to Toll.....	3
7)	NMPD Initial and Supplemental Reports for Case #2016-22884 .....	11
	(SEE Item #71 for digital media-related content.)	
8)	NMPD Detail Call for Service Report.....	6
9)	Scene Entry Log .....	11
10)	Radio Transmission .....	5
	(SEE Item #71 for digital media-related content.)	
11)	FDLE Investigative File .....	8
	(SEE Item #71 for digital media-related content.)	
12)	Timing Test of Commander Hollant's Position A to Position B Report.....	29
	Includes disk w/photographs and	
	Commander Hollant's Map of Positions to FDLE	
13)	Officer Notices .....	N/A
14)	Commander Hollant's Personnel Status.....	21
15)	Commander Hollant's Training .....	21
16)	Phone Records for 7/18/2016.....	28
17)	SOPs.....	N/A

**File Folder #2**

18)	Statement: Commander Hollant.....	7,9
19)	Statement: Ofc. Bernadeau.....	24
20)	Statement: Ofc. Bony.....	FDLE
21)	Statement: Wit. Bower.....	FDLE
22)	Statement: Sgt. Brooks.....	13
23)	Statement: Ofc. Buissereth.....	21
24)	Statement: Major Cardona.....	17
25)	Statement: Ofc. Carter, E. ....	FDLE
26)	Statement: Det. Castro.....	14
27)	Statement: Ofc. Crespo.....	24
28)	Statement: A/Chief Cuevas.....	19
29)	Statement: Cmdr. Estrugo.....	18
30)	Statement: Chief Eugene.....	9,29
31)	Statement: Cmdr. Fishel.....	23
32)	Statement: Det. Gaudio.....	20
33)	Statement: Wit. Green.....	FDLE
34)	Statement: Wit. Hernandez.....	FDLE
35)	Statement: Ofc. Joachim.....	15
36)	Statement: Ofc. Johnson.....	FDLE
37)	Statement: A/Chief Juriga.....	18
38)	Statement: Wit. Kinsey.....	FDLE
39)	Statement: Wit. Kirkland.....	FDLE
40)	Statement: Ofc. Laguerre.....	13
41)	Statement: Ofc. Lao.....	FDLE
42)	Statement: Ofc. Llerena.....	16
43)	Statement: Wit. Mathews.....	FDLE
44)	Statement: Wit. McDevitt.....	FDLE

**File Folder #3**

45)	Statement: Wit. McKalla.....	FDLE
46)	Statement: Sgt. Mesidor .....	13
47)	Statement: Ofc. Mirjah.....	FDLE
48)	Statement: MDFR Morales .....	FDLE
49)	Statement: Ofc. Numa .....	FDLE
50)	Statement: Det. Perez .....	14
51)	Statement: Ofc. Portales.....	FDLE
52)	Statement: Ofc. Raquejado.....	16
53)	Statement: Sgt. Reid.....	26
54)	Statement: Sgt. Reyes.....	12
55)	Statement: Cmdr. Rivera .....	22
56)	Statement: MDFR Rodriguez.....	FDLE
57)	Statement: Wit. Rojo .....	FDLE
58)	Statement: Ofc. Salien.....	FDLE
59)	Statement: Former Major Shinn.....	27
60)	Statement: Wit. Taylor .....	FDLE
61)	Statement: MDFR Thompson .....	FDLE
62)	Statement: Det. Tovar .....	14
63)	Statement: Ofc. Travieso.....	FDLE
64)	Statement: Wit. Valdez .....	FDLE
65)	Statement: Ofc. Villard .....	15
66)	Statement: Ofc. Warren.....	27
67)	Statement: Wit. Zabaleta.....	FDLE
68)	Statement: Sgt. Zuniga.....	15
69)	PowerDMS .....	25
70)	Final Notification .....	N/A
71)	Digital Media Flash Drive.....	N/A
72)	Miscellaneous/Correspondence .....	4