

CASE SUPPLEMENTAL REPORT

Printed: 05/04/2018 12:25

Davie Police Department

OCA: **17067092**

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Case Status: *SAO REVIEW*Case Mng Status: *SAO REVIEW*Occured: *11/01/2017*Offense: *HOMICIDE / MURDER NON-NEGLIGENT MANSLAUGHTER*Investigator: *VELAZQUEZ, EDDY (770)*Date / Time: *11/01/2017 17:58:29, Wednesday*Supervisor: *RAVINE, SHAWN (635)*Supervisor Review Date / Time: *01/09/2018 16:28:28, Tuesday*

Contact:

Reference: *Supplement*

On November 1st, 2017, at 1:05pm, I was requested by Sgt Ravine to respond to the CVS Pharmacy located at 4610 S University Drive, in reference a shooting that had just occurred.

At 1:10pm, I arrived at the CVS Pharmacy and met with Sgt Horvitz, who stated the following: At 12:58pm, numerous calls were received advising of a shooting that had just occurred. One of the callers advised that she was inside the CVS Pharmacy and that somebody had just been shot. The caller described the suspected shooter as a white male wearing a black t-shirt and that he was still inside the store.

At 1:01pm, Officers Jomant, McDonough, A. Rodriguez, Madias, Pazienza, Chin, and Costello arrived on scene and observed a white male wearing a black t-shirt matching the description that was provided by dispatch. Officers observed a white male wearing a black t-shirt and tan shorts and a black male wearing a white t-shirt and jeans exiting the business together. Due to the allegations of a shooting, both males were ordered to the ground and detained.

Officer Chin handcuffed the white male, who was later identified as Matthew Barry, via his Florida Drivers License. Officer Chin asked Barry if there were any other person(s) with him. Barry advised that he shot somebody and that he was by himself. Barry was then placed into the backseat of Officer Rodriguez's marked patrol vehicle. Officer Rodriguez stood by his vehicle to watch Barry.

Officer Madias handcuffed the black male, who was later identified as Alexander Williams, via his Florida Drivers License. Officer Madias stated that as Williams was being ordered to the ground, he stated "He shot my friend" followed by "He got shot for a cell phone." Williams was patted down by Officer Madias, who located a silver I-phone 6 in his possession. Williams's hands were covered with what appeared to be blood. Officer Madias provided Williams with a bottle of water to wash his hands, which was immediately caught by Sgt Horvitz who took the water from Williams. The I-phone found on Williams was also covered in what appeared to be blood, so it was taken into evidence and subsequently given to CST Pitrelli for processing.

Officers McDonough, D. Perez, Spradling, Chang, Costello, Pazienza, A. Rodriguez, and Groeneveld proceeded to enter the front door, and they observed a black male, later identified as Andre Smith, lying supine on the floor by the front cash registers. His head was to the southwest and feet to northeast. It was apparent that Smith sustained a gunshot wound to his upper torso. According to Officer Groeneveld, Smith appeared to not be breathing.

As those officers cleared the store for other possible shooters or victims, Davie Fire rescue was brought in to attend the shooting victim. Nothing was located and they exited the store.

The shooting victim, Andre Smith, was transported to Memorial Regional Hospital by Davie Fire Rescue # 38. Officer Jomant rode with Davie Fire rescue and assisted them with life saving techniques. (See Jomant's supplement)

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Upon arrival at the hospital, Smith was brought into trauma room 3 where hospital staff continued their life saving efforts. Smith ultimately passed away. He was pronounced dead by Doctor Rosenthal, at 1:32pm. Detective Spiller responded to the hospital standing by until crime scene responded. See Spillers supplement for specifics.

The scene was immediately secured with crime scene tape by multiple officers. The crime scene log was recorded by Officer Tara Bradley. Multiple witnesses were brought to the Davie Police Department for their statements. Upon my request Barry was transported by Officer Rodriguez to the Davie Police Department and placed inside interview room #214. Williams was transported by Officer Stewart to the Davie Police Department, so a sworn statement can be taken. See there supplements for specifics.

Detectives Williams, Bennett, Di Cintio, and Marseco were called to respond to the scene and assist with the investigation. Detectives Drake and Paez responded to the Police Department to assist with the interviews of the witnesses.

I contacted Crime Scene Technician Pitrelli to photograph and process the scene. Upon her arrival, we did a walk-through of the crime scene. The actual scene consist of the inside of business (CVS Pharmacy,) which was a single story commercial type structure, which faces Griffin Road to the north; adjacent to this business, the parking lot is along the north and west side with two entrances/exits, one on University Drive and the other on SW 78th Ave.

At 1:13pm, I entered the crime scene and just to the northeast of the entrance doors, I observed several cardboard boxes of candy scattered on the floor. I observed stains consistent with the color of blood on the boxes and on the floor. I observed three 9mm spent casings on the floor near the bloody boxes. Just southwest of the entrance, I also observed stains consistent with the color of blood. On the west side of aisle #23, near the front of the store, I observed a black firearm underneath the makeup display. See photos and CST Pitrelli's supplement on crime scene specifics.

During the investigation, Williams mentioned that he and Smith drove to the CVS in a black Ford Sport Trac that was parked in the parking lot on the west side of the building. Barry told officers he arrived in his girlfriend's Red Honda CRV, which was also parked in the parking lot on the west side of the building.

As part of the Homicide investigation, I requested both vehicles to be seized and towed to the Davie Police Department for processing. The vehicles are described as a red Honda CRV bearing Florida tag CSEZ14 and a gray Ford Sport Trac bearing Florida tag IIUY23. Both vehicles were sealed with evidence tape by CST Piltrelli, before being towed to the Davie Police Department's secured bay, by Superior Towing. Officer McDonough followed the vehicles to the pd. See his supplement for specifics.

I requested that Detective Ortenzo, respond to the CVS. I assigned him the responsibility of accessing the video.

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Detective Ortenzo met with Ciera Lawson, who's the manager at CVS and she gave him authorization to download the video. See his supplement for specifics.

At 2:07pm, I cleared the scene at the CVS and responded to the Davie PD.

At 3:12pm, I contacted the Broward County Medical Examiner's Office and reported Smith's death to Investigator Wendy Crane. Investigator Crane advised she would not respond to the scene based on the fact that Smith had already been transported to Memorial Regional Hospital. Investigator Crane did not respond to the hospital. She notified the Removal Transportation Services and had them transport the body to the Broward County Medical Examiner's Office. I was advised by Investigator Crane that the autopsy was going to be done on November 2nd, 2017, at 9:00am, by Dr Boiko, MD.

At 3:32pm, Detective Drake and I began interviewing witnesses. We first interviewed Carmen Santos, who's the CVS employee that had called 911. Santos was transported to the Davie Police Department by Detective Di Cintio prior to her statement. During her statement, Santos advised that she was at the front of the store, working behind the cash registers. Santos said just prior to the shooting she observed two guys walk inside the store. Santos said the first male was a white male and he was wearing a black t-shirt. The second male was a black male and he was wearing a white t-shirt. Santos stated the males walked towards the photo lab, which was located at the northeast corner of the business. Santos said she heard the white male say "Call the police, Call 911." Santos thought it was a joke until she heard the white male say "Get off me. Get up off me. I'm telling you to stop." Santos stated at that point she hid behind the counter and called 911. Santos advised that as she was ducked behind the counter she could hear a lot of commotion going on, but wasn't able to see anything. Santos advised the white male continued saying "Call 911." She then heard what appeared to be five gun shots. Santos said another black male wearing a white shirt walked into the store and stated "Oh, why did you have to shoot him?" Carmen said the white male came up by the counter, looked over and said "Are you calling 911. Make sure you call 911. You saw it, right? You saw it?" Carmen said she told the white male she was on the phone with the police and once officers arrived, they escorted her outside. After the interview, Santos was shown two photo line-ups, by Detective Di Cintio. Santos was only able to identify one of the males involved. She identified the white male, which was photo 4 in the second line-up. Photo 4 was identified as Matthew Barry as the person who told her to call 911. The other photo line-up contained a photo of Andre Smith.

At 6:40 pm, Detective Drake and I interviewed Ciera Lawson, who's the manager at CVS. Lawson drove herself to the Davie Police Department prior to her statement. Lawson advised she arrived at CVS around 7:00am. Lawson said she was opening boxes on the Christmas aisle, which is located near the front of the store, when she noticed two males having a disagreement. Lawson said she was unsure what the argument was about, but they were definitely arguing. She states the Christmas aisle is at the very front of the store near the registers. Lawson said one male was white and

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the other male in front of her was black. Lawson wasn't able to see what they were wearing, because the shelves in front of her were too high. She stated that during the argument, one of the males screamed "Call 911." Lawson said at that moment she ran towards the front of the store to dial 911 and observed her employee, Santos taking cover behind the front counter. Lawson advised that she picked up the phone to dial 911, and then heard what appeared to be a gunshot. Lawson ducked down behind the counter and told Santos to dial 911. Lawson said she heard several more gunshots, but she wasn't sure exactly how many. Lawson then made contact with a 911 operator, who heard the white male asking Santos "Did you see what happened, did you see it?" Lawson advised that she didn't witness the altercation or the shooting, but she recalls hearing scuffling then gunshots going off. Shortly after this occurred, the police arrived and escorted Lawson outside. After completing her statement, Lawson was shown two photo line-ups, by Detective Di Cintio. She was unable to identify any of the parties involved.

At 7:00pm, Detective Ortenzo provided me with a copy of the surveillance video from the CVS. At 12:29pm, Barry and Smith are seen walking into the store. Barry is wearing a black shirt and Smith is wearing a white shirt. Once inside Barry and Smith walk to the back of the store, outside the camera views. At 12:31pm, Smith is seen walking out of the store then returns at 12:32pm. At 12:35pm, Smith exits the CVS and walks to the west of the building. At 12:36pm, Barry is seen exiting the building and also walks to the west of the building. At 12:56pm, Barry is seen walking into the CVS, followed by Smith. Barry appears to be looking over his shoulder as he walks into the CVS. Once inside Barry walks to the left of the store by the cash registers with his right hand in his front right pocket and is being followed by Smith, who appears to have his hands concealed by his waistband. At some point, Barry turns around and pushes Smith away, but Smith continued to grab and reach for him. Smith continued to push Barry to the point that he drew his firearm out of his right pocket and fired. Due to the quality of the video, it was unknown how many times Barry fired the gun. Smith is seen going down to the ground and Barry is pacing back and forth by the cash registers which are located at the front of the store. Barry appears to be talking to the cashier, who was on the phone behind the cash registers. At 12:57pm, Williams is seen walking into the CVS wearing a white shirt. Williams is confronted by Barry, who appeared to order him to stay away. At 1:01pm, Barry is seen walking to the first aisle, just west of the entry doors placing what appeared to be his firearm in the aisle. Seconds passed and officers are seen entering the CVS.

At 7:22pm, Detective Drake and I interviewed Williams, who drove with the shooting victim, Smith to the CVS. Williams stated that he wanted to purchase an I-phone 8 and give Smith his old I-phone 7 to sell. Williams said that he gave Smith his old I-phone 7 because Smith was his friend and he didn't have a job. All Williams wanted in return was for Smith to give him \$25, so he can purchase his new I-phone 8. Williams said that he looked on the "Wanted tab" on Craigslist for a potential buyer. He explained that you enter the item that you want to sell on the "Wanted tab," and a buyer who's looking for that specific item will reply or have their contact information listed. Williams dialed and called the male who was looking to buy the I-phone 7 and had listed his phone number on an app. Williams spoke to a male on the phone who was later identified as Barry. They both agreed to meet at the CVS located at 4610 S University

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Drive. Williams said the buyer initially agreed to \$300, but after Williams sent him a picture of the phone with a scratch on it, they agreed on \$280. Williams said he and Smith drove to the CVS and parked on the westside of the business. Prior to their arrival, the buyer had told him that he would be arriving in a red vehicle. Williams and Smith waited until they observed a red vehicle pull into the parking lot, before getting out of the car. A white male (Barry) exited the red vehicle and entered the CVS. Williams said he waited in the vehicle and Smith went inside the CVS to conduct the sale. Williams said he was the person communicating with Barry to arrange the sale.

Williams stated that approximately five minutes later, he saw Smith walking back to his vehicle. He said Smith told him there was an issue with the I-cloud on the phone. According to Williams, Smith eventually re-enters the CVS, and exits a few moments later. Williams wasn't sure what happened on the second meeting inside the store. A short time later he observed Barry exit the CVS and walk to his vehicle. Williams decides to approach Barry as he's entering his vehicle to talk to him about the I-phone 7 that was being sold. Williams said Barry told him "Oh, your friend is being suspicious and he's shaking, making me feel uncomfortable." Williams said he wasn't a confrontational person and knowing the deal wasn't going as planned, he wanted to make the deal work. Williams stated Barry told him "What's wrong with your friend? "

According to William's statement, Barry told him that he had a CCL (Carrying Concealed License) and Williams replied back " Who doesn't have a CCL? I have mine too." Williams mentioned later in his interview that Smith got mad and began antagonizing Barry by telling him "Do it, do it then." Williams said Smith was trying to provoke Barry by telling him " Oh, I'm gonna kick your ass. Come on."

At that point Williams told Smith to "chill" and go back to his car. He noticed Barry had his hand in his pocket, and during the conversation he told Barry "Oh, you have a weapon? I have a weapon too." Williams said he never had a weapon, but he told Barry that he did because he wanted to scare him. Williams stated he never saw a gun on Barry, he only assumed Barry had one. Williams stated Barry told him that he was robbed in North Miami and Smith's actions were giving him the same feelings as he got that day, which made him feel uneasy. Williams and Barry eventually agreed to complete the transaction for the phone. Smith gave Barry the I-phone 7 and in exchange Barry gave Smith \$280 cash. Williams said Smith then gave him the \$280 in cash. Williams continued to talk to Barry after the deal was finished and at one point Smith walked up to Barry as if he was going to physically fight him. Barry told Smith that he didn't want him to get any closer than ten feet and that the transaction was done, he wanted to leave.

According to Williams, Smith walked behind Barry as he was walking into CVS. He stated Barry seemed to be intimidated by Smith and he was trying get away from him. Williams added that Barry and Smith began to argue. Williams heard Barry say "Why are you following me, why are you following me?" Williams said Smith was trying to get the SIM card from the phone, so he followed Barry inside the CVS. Williams told Smith " Yo, Dre let's go. Let's go. Let's go" and Smith replied " Aw, fuck that. Aw, fuck that." Williams stated that as he was approaching the front

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entrance/exit doors of the CVS, he heard what appeared to be one gun shot. He saw people running out of the CVS and he said to himself " Oh, please, God, don't tell me he shot this kid for this." Williams stated he refers to Smith as "Dre." Williams said he entered the CVS, and was confronted by Barry. Williams stated Barry pointed a gun at him and said "Back up." Williams looked to his left and saw Smith laying on the ground bleeding. William said he tried to stop the bleeding, but once officers arrived he was escorted outside.

During the interview, Williams was asked if there was anything illegal in his vehicle and he said that there was marijuana in Smith's truck, along with an unknown amount of US currency, a lap top computer, and an I-pad that he used to set up the deal with Barry. (A search warrant was obtained and executed on November 2nd, 2017). Located inside the truck was a gray backpack containing a laptop, a blue backpack, gray travel case containing a scale and \$350 in cash, three yellow halves of a pill, and marijuana. No I-pad was located inside the vehicle. See CST Pitrelli's supplement for specifics.

At 8:47pm, Detective Drake and I interviewed Barry. He was read his Miranda Rights from a prepared text and agreed to speak to us without an attorney present. A copy of a Rights Form was placed into the case file.

During the interview, Barry stated that he buys and sells electronics for a living. Barry said he primarily deals with I-phones & I-pads and that he purchases them on the internet. Barry said since he buys and sells electronics, he usually posts his phone number as a point of contact using sites such as Craigslist, EBAY, and others. Barry advised he was contacted by a male that was selling an I-phone 7 plus for \$300. It was later determined the male who Barry was negotiating with was Alex Williams. Barry called and asked to see a picture of the phone, which appeared to have a scratch on it. Both parties agreed on a set price of \$280 for the phone, and decided to meet at the CVS located at 4610 S University Drive to conduct the transaction. Barry arrived at the CVS at approximately 12:29pm, and did not see anyone. Barry decided to call Williams. As he was making the phone call, he was approached by a black male who appeared extremely nervous and his hands were shaking. The male was later identified as Andre Smith. Barry said he felt that something wasn't right with Smith, so he suggested they go inside the CVS where he felt more comfortable to do the transaction. Barry and Smith walked to the back of the store by the Pharmacy and sat down on two chairs to discuss the deal. Barry said Smith didn't want to hand over the phone, until he saw the money, so Barry showed him the cash. Smith told Barry "Give me the money for the phone." Barry replied by telling him "no", because he wanted to make sure the phone was operable and in good condition. Barry said for some reason Smith told him he couldn't back up the data on the phone, so he wanted to complete the transaction at a later time. Smith then walked out of the CVS and Barry remained inside for a few moments. According to Barry, he felt something suspicious was going on with Smith, so he decided to wait a few minutes and then leave. After a few minutes, Barry exits the CVS and proceeds to walk to his car. At that moment, he was approached by an unknown black male that was holding an I-phone. The male was later identified as Alex Williams. Barry stated Williams told him he still wanted to complete the sale of the phone. Barry said Williams kept walking back and forth to his truck that was occupied by Smith, which was parked several

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parking spaces down from Barry's car.

Barry stated he wanted to leave, but Smith and Williams wanted to complete the transaction. Barry then handed Smith \$280 in cash and in return Smith handed him the I-phone 7plus. Once the sale was completed, Barry began to walk to his car and then heard Smith yell profanities and act irate towards him. Barry said Smith and Williams approached him and asked to see the phone, because they forgot to do something to it and wanted it back. Barry told them the transaction was complete and there was nothing further to discuss. Barry stated that Smith's aggression began to escalate. Barry then asked them "What do you need from the phone, I already gave you the money?" Williams told Barry they forgot to remove the SIM card from the phone and wanted back. Barry stated Smith got really close to him, which made him uncomfortable, so he told him to back up, and that he'll remove the SIM card for him. Barry removed the SIM card and gave it to Smith. Knowing that the transaction was completed and there was nothing else to discuss, Barry attempted to get to his car and leave, but Williams and Smith were blocking his path. Barry said numerous times "I want to leave, I want leave, I want to get to my car," but Williams and Smith wouldn't move. Barry said he remained calm the whole time and tried to defuse the situation several times. Barry advised Smith kept threatening that he was going to kick his ass and kill him and wanted the phone back. Barry said Smith and Williams were blocking him from his car, so he continued to tell them he wanted to leave, but they refused.

Barry recalled Williams telling him he sometimes carries a gun. Barry said he never told them he had a gun nor did he show it any way. Barry states he had his hand in his pocket on the firearm as a precaution because the situation was escalating and he was feeling very nervous and scared. Barry said he has a CCW(Carrying Concealed Weapon), for the past 17 years and due to the fact that his business primarily deals with cash, he carries a gun for protection. It was confirmed through Davie teletype that Barry indeed had a CCW valid through 07/05/2018. A copy was placed into the case file.

At this point Barry felt that if he could not safely get to his car and that the altercation could turn physical, and that he was in fear for his life, he felt that the only place to go was inside the CVS, where people were present. Barry retreated into the CVS and Smith followed him.

According to Barry, Smith was yelling obscenities and demanding the I-phone back threatening to kill him and beat his ass.

Once inside the CVS, Barry immediately tells the cashier behind the counter "to call 911, this guy will not leave me alone." Barry said he had left his phone inside his car prior to the transaction, so he wasn't able to call the police from his own phone. Barry said he kept asking the employees to call 911.

Barry stated that Smith's actions made him feel his life was in danger and that he was going to be robbed or shot.

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Barry said he continued to back away from Smith telling him to leave him alone, but Smith lunged towards him several times, trying to grab at him. As Barry attempted to get away from Smith by backing up and pushing Smith's hands away from him, Barry remembered that Smith and Williams had told him they had a gun, so he didn't know if Smith was going to use it on him or not. According to Barry, Smith continued to lunge at him in an aggressive manner to the point that Barry was in fear for his life, so he pulled out his handgun and fired at Smith. Barry believes he fired two shots, but doesn't remember exactly how many shots he fired.

Shortly after the shooting, Barry said Williams walked inside the CVS. Barry wasn't sure what involvement Williams had at this point, so he told the cashier, who was still behind the counter, to let the police know who he was when they arrived. Barry said he concealed the gun behind one of the aisles at the front of the store in order to avoid Williams from finding it and he did not want to have a gun in his hand when police arrived. Barry stated police arrived shortly and he was escorted out of the CVS and detained.

During the interview, Barry said he can show me the communication applications he used to purchase the I-phone (Craigslist ad). Once the interview was completed, Barry signed a consent to search for the Red Honda, in order to retrieve his I-phone. The Honda belonged to Barry's girlfriend, Adriana Paez, who responded to the Davie Police Department and also signed a consent to search. Once the I-phone was retrieved from the Honda, Barry showed me the text messages and the application that he used for the transaction. A copy of the Craigslist ad was placed into the case file.

Barry gave verbal/written consent for access to his I-phone. The original consent forms were placed into property as evidence and a copy was placed into the case file. Detective Granit extracted the data from Barry's I-phone and once the phone extraction was completed, Barry was given his I-phone back. The Honda was released to Adriana Paez.

On November 2nd, 2017, Detective Ortenzo prepared and executed a search warrant on the 2005 Ford bearing Florida tag IIUY23, who belonged to Derick Smith. CST Pitrelli processed the vehicle. See Detective Ortenzo's and CST Pitrelli's supplement for specifics.

On November 2nd, 2017, at 11:28am, Detective Drake took a sworn statement from Michael Mccard, who is employed by CVS and works in the pharmacy. Mccard advised that at approximately 1:00pm. He heard someone yell "Call 911," and he heard several "shots" fired. After the shots ended, he proceeded to the front of the store where he observed a black male wearing a white shirt lying on the ground. Officers arrived as he was checking on the male. Mccard did not witness the shooting, nor did he see who did the shooting.

On November 2nd, 2017, at 1:59pm, Detective Drake took a sworn statement from Greg Steen. Steen stated that he walked into the CVS at approximately 1:00pm, and came into contact with a white male holding a gun who stated "We have a situation here." Steen then looked to his left and observed a male on the ground. Steen then walked out of the

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store and waited for police to arrive. After the interview, Steen was shown two photo line-ups by Detective Lisa Choquette. Steen was not able to make an identification on the first photo line-up. On the second Photo line-up, Steen identified photo 3 as the white male who was holding the gun. Photo 3 was identified as Barry. The original photo line-up and affidavit was placed into property as evidence. A copy was made and placed into the case file.

On November 2nd, 2017, at 9:00am, Detectives Bennett and Ortenzo, CST Pitrelli, and I responded to the Broward County Medical Examiner's Office to document the post mortem examination and autopsy of the decedent. Once the autopsy was complete, Dr Boiko advised a bullet struck the lung and liver. CST Pitrelli collected three projectiles that were removed from the decedent's left back, left buttock, and left hip bone; these projectiles were subsequently processed by CST Pitrelli.

On November 3rd, 2017, at 6:27pm, I received an email from Derick Smith, who identified himself as Andre's father. He wanted to pick up his truck, which was the 2005 Ford Sport Trac bearing Florida tag IIUY23. The vehicle was registered to Derick. I called left several messages for Derick to pick up his vehicle, but I never got a response. On November 9th, 2017, at 4:22pm, I sent Derick an email advising that I was trying to get a hold of him so he can pick up his truck. On November 17, 2017, at 10:08am, Smith emailed me back and said he was going to pick up his truck. At 5:30pm, he showed up to the Davie Police Department and picked up the Ford Sport Trac. A copy of the emails were placed into the case file.

On November 10th, 2017, I received the Cause of Death Report from the Broward County Medical Examiner's Office. The report indicates that a post mortem exam was conducted by Dr. Iouri G. Boiko. As a result of this exam, the Cause of Death was determined [REDACTED] Manner of Death is Homicide. A copy of the cause of death report was placed into the case file.

On November 14th, 2017, at 2:58pm, Detective Ortenzo responded to the T-Mobile located at 2022 South Flamingo Road. During Williams's statement, he mentioned that went with Smith to this location and tried to buy himself an I-phone. Detective Ortenzo met with Daniel Perez, who's an employee of T-Mobile. Perez said he remembers helping Williams on opening a new account and purchasing a new I-phone on November 1st, 2017. Perez told Detective Ortenzo Williams wanted to purchase a new I-phone 8, but based on his credit, he was short the amount of money he needed to be put down. Perez asked Williams if he wanted to trade his old I-phone for a new one and Williams told him no. According to Perez, Williams told him that was going to the bank in order to withdraw the amount he needed to purchase the phone, but he never returned. Perez said Williams walked into the store with a black male. Perez advised that the store was equipped with surveillance cameras.

Detective Ortenzo was willingly given a copy of the surveillance video, which shows Williams and Smith walking into the T-Mobile at 11:54am. Williams and Smith are seen inside the store looking at different phones and it appeared Williams was holding a black I-phone in his hands. At 12:07pm, Williams and Smith exit the store. A copy of the video

Davie Police Department

OCA: 17067092

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Case Status: SAO REVIEW

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Occured: 11/01/2017

Offense: HOMICIDE / MURDER NON-NEGLIGENT MANSLAUGHTER

Investigator: VELAZQUEZ, EDDY (770)

Date / Time: 11/01/2017 17:58:29, Wednesday

Supervisor: RAVINE, SHAWN (635)

Supervisor Review Date / Time: 01/09/2018 16:28:28, Tuesday

Contact:

Reference: Supplement

was placed into property as evidence and another copy was placed into the case file.

On November 15th, 2017, at 1:04pm, Detective Bennett took a sworn statement from Patricia Boynton. Boynton stated that she was working at the CVS as a sales rep and was at the front of the store when two men walked in. Boynton described one of the males as being white and the other male as being black.

According to Boynton, the white male (Barry) was the first one to walk into CVS and at one point he turned around and told the black male (Smith) to stop following him. Boynton said as Barry walked in, he told the cashier to call the police. Boynton said Barry kept asking Smith to stop following him, but Smith continued. Boynton stated that at some point a physical altercation ensued, at which time she began to run to the west side of the store. A few seconds later, Boynton heard what appeared to be two gun shots. After the interview, Boynton was shown two photo line-ups by Detective Bennett. Boynton was able to make an identification on the first photo line-up. Boynton chose photo 4 as the black male and he was identified as Smith. On the second Photo line-up, Boynton identified photo 3 as the white male who was identified as Barry. The original photo line-ups and affidavit were placed into property as evidence. Copies were made and placed into the case file. See Detective Bennett's supplement for specifics.

On November 17th, 2017, I contacted FDLE to see if they can assist me with enhancing the surveillance video and the 911 audio tapes. I spoke with Collin Bruce, who handles all the video and audio for FDLE. Bruce stated he would be able to assist me with enhancing the surveillance video and audio of the 911 tapes. Both copies were sent to Bruce through email using "Dropbox."

On November 20th, 2017, all supplements written by assisting officers and detectives were placed into the case file. All statements were sent for transcription and once returned, they were placed in the case file; along with the video of all interviews that were recorded.

On November 20, 2017, Detective Bennett and I met with Andrea Goldbern Smith, who is Andre Smith's mother. Andrea was with her attorney, Jasmine Rand, who was present during the statement. Andrea agreed to speak to me and provide a statement in this case.

At 10:05am, Andrea was sworn in and the statement began. Andrea advised that the last time she saw Andre was the night before the shooting. Andrea stated Andre did not spend the night at the house, because he went to a Halloween Party with friends. Andrea said she got worried the next morning, because Andre never came home. Andrea stated she sent Andre a text, but he never texted her back. Andrea thought that was weird, because Andre usually would text her right back. I asked Andrea if she believed Andre was getting into trouble and she stated she did not think so. Andrea described Andre as a happy, good kid.

Earlier in the investigation, a search warrant was obtained for a Samsung cell phone that belonged to Andre Smith.

CASE SUPPLEMENTAL REPORT

Printed: 05/04/2018 12:25

Davie Police Department

OCA: **17067092**

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Case Status: SAO REVIEW**Case Mng Status:** SAO REVIEW**Occured:** 11/01/2017**Offense:** HOMICIDE / MURDER NON-NEGLIGENT MANSLAUGHTER**Investigator:** VELAZQUEZ, EDDY (770)**Date / Time:** 11/01/2017 17:58:29, Wednesday**Supervisor:** RAVINE, SHAWN (635)**Supervisor Review Date / Time:** 01/09/2018 16:28:28, Tuesday**Contact:****Reference:** Supplement

During the extraction of the phone` information, a text message was sent from (954) 815-5361 (Andrea`s phone number), the night before the shooting occurred. Andrea confirmed that the listed number was her phone number and she is the only one that uses the phone, but did not mention sending the text message. In the message, the sender stated that Andre was "wasting his life away and that he needed to stay away from the crowd he was hanging around with". They further advised that, "You`re my only son and I want you to stay positive." It appears that the message was sent from Andrea, but she did not confirm or deny sending the text.

The statement was concluded at 10:11am.

CST Pitrelli electronically submitted an E-TRACE of Barry`s gun, which was traced back to the purchaser, Matthew Jay Barry. CST Pitrelli prepared an FDLE evidence submission request to have the Ruger LC9s 9mm caliber, the four FC Luger spent casings, the projectiles recovered from the decedents left buttock, left back and left hip bone were sent to the FDLE lab for analysis and comparison. The firearm was test fired and was entered in the Florida NIBIN database. No associations were made. FDLE sent the firearm back to the Davie Police Department, where it was placed back into property as evidence.

According to Barry`s statement, he felt that he had to discharge his firearm in order to protect and defend himself from the imminent commission of a forcible felony. He believed he was being robbed. He perceived an immediate threat of violence. There was no duty to retreat from any place where Barry had a lawful right to be, but according to both Barry and Williams, Barry repeatedly asked to leave, retreat into the CVS, told Smith to leave him alone, asked the cashier to call 911, attempted to push Smith away from him as he grabbed and reached for him, until he believed he had no other option then to draw his firearm and fire in self-defense. Barry felt that his life was in imminent danger, he felt it was necessary to pull out his firearm and fire at Smith in order to defend himself from an immediate threat of serious bodily harm or death. The law states that Barry may use any level of force if he reasonably believed the threat rose to the level of being in imminent danger. This case will be presented to SAO for review. Based on all witness testimony, physical evidence at the scene, after assessing videos from the business surveillance systems, reviewing all of the reports in this investigation, this investigation concludes that there is no probable cause to charge Barry and that this homicide is justified as a result of self-defense.