

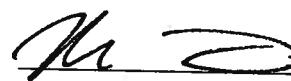
**THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
TRIAL DIVISION**

IN RE: : MISC. NO. 0001458-2021  
THE THIRTY-FIRST :  
INVESTIGATING GRAND JURY : NOTICE C-13

**ORDER TO UNSEAL PRESENTMENT NO. 3**

AND NOW, this 28<sup>th</sup> day of April, 2022 the Court hereby orders that a redacted copy of Presentment No.3 of County Investigating Grand Jury XXXI in the above-captioned matter be unsealed and referred to the Clerk of Court for filing as a public record. The Court further orders that the page containing the Grand Jury Foreperson's signature be removed from the unsealed copy and be retained under seal by the Clerk of Court.

BY THE COURT:



MIA R. PEREZ  
Supervising Judge  
Thirty-First County  
Investigating Grand Jury



**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
TRIAL DIVISION**

**IN RE:** : **MISC. NO. 0001458-2021**  
**THE THIRTY-FIRST COUNTY** :  
**INVESTIGATING GRAND JURY** : **NOTICE C-13**

**TO THE HONORABLE MIA R. PEREZ , SUPERVISING JUDGE:**

**PRESENTMENT NO. 03**

We, the Thirty-First County Investigating Grand Jury, were impaneled pursuant to the Investigating Grand Jury Act, 42 Pa. C.S.A. § 4541 et. seq., and have been charged by the Court to investigate the facts and circumstances surrounding the shooting and killing of twelve-year-old Thomas Siderio on March 1, 2022.

**SUMMARY OF THE GRAND JURY'S FINDINGS**

**INTRODUCTION**

On March 1, 2022, Thomas “TJ” Siderio (a twelve-year-old juvenile) and his friend, NK (a seventeen-year-old juvenile), were riding their bikes in the area of 18<sup>th</sup> and Barbara Streets in Philadelphia, PA at approximately 7:30 p.m. At around that time, they encountered officers from the Philadelphia Police Department’s Criminal Intelligence Unit - PO Edsaul Mendoza, PO Kwaku Sarpong, PO Robert Cucinelli and PO Alexander Camacho (collectively, “CIU Officers”) - in plain clothes and driving an unmarked car. The CIU Officers initiated a pedestrian stop of the boys because they recognized NK as tangentially connected to a stolen firearm investigation involving a third person – Santo Primerano (“Primerano”). PO Sarpong pulled the CIU Officers’ car to a stop, and at nearly the same time activated the emergency lights for the

undercover car. Also, at nearly the same time, a shot went off and broke the rear, passenger-side window of the undercover car. After the shot went off, the boys ran up 1700 Barbara Street, where they separated, with Thomas Siderio running alone up the sidewalk toward Moyamensing Avenue, carrying a gun. PO Mendoza pursued Thomas Siderio, running up the middle of Barbara Street. He fired at Thomas Siderio a total of three times. His first shot was at the bottom of the block, near the intersection of 18<sup>th</sup> and Barbara Streets. He fired his second shot, mid-block, after Thomas Siderio had discarded his gun. Unarmed, Thomas Siderio then stopped running, and either fell or dove to the ground. PO Mendoza then fired his third shot from less than ten feet away from the child, and fatally wounded him. Within one minute after the third shot, PO Mendoza's partner, PO Camacho, approached and asked PO Mendoza where the gun was located. PO Mendoza told PO Camacho that Thomas Siderio had thrown the gun "somewhere around there," pointing back along the flight path in the direction of the gun, which PO Camacho immediately located. Following the fatal shooting, the Officer Involved Shooting Investigation Unit ("OISIU") began its investigation, and with the help of the Crime Scene Unit ("CSU") and various other entities within the Philadelphia Police Department gathered and analyzed evidence. Several witnesses appeared and testified in front of this Grand Jury. A summary of that testimony and associated exhibits follows.

## **THE TESTIMONY**

### **The Investigation Pre-March 1, 2022**

1. Three of the CIU Officers and their supervisor have appeared and testified regarding this incident – PO Alexander Camacho, PO Robert Cucinelli, PO Kwaku Sarpong, and Sgt. Vincent Butler.

2. The four PPD witnesses testified to varying levels of knowledge and involvement in the investigation that led to the events of March 1, 2022.
3. All four witnesses consistently stated that when the CIU Officers went on patrol on March 1, 2022, their primary target was Primerano and his involvement in a stolen firearm investigation.
4. The officers wanted to find an address for Primerano, after identifying him as a person involved in the February 2022 stolen firearms investigation. They planned to give this address information to detectives from the South Detective Division for a search warrant on Primerano's home.
5. Thomas Siderio was not the target of CIU investigators that night, and no PPD witness testified to having any information about Thomas Siderio possessing a firearm at any point during 2022. Both POs Sarpong and Cucinelli stated that they did not know Thomas Siderio, and had not even heard his name prior to March 1, 2022.
6. PO Camacho monitored the Instagram account "Santo\_215" in connection with the stolen firearm investigation and "215\_nick" (the account purportedly belonging to NK) because the user of this account interacted with the user of the "Santo\_215" account and appeared to also post about firearms.
7. PO Camacho searched police databases for individuals named "Santo" to try to match the Instagram account with a person, eventually developing Primerano as a potential suspect.
8. On March 1, 2022, Detective Quinn from South Detective Division showed PO Cucinelli some of the photos from the Santo\_215 account and asked him to identify the individual in the Instagram photos. PO Cucinelli did identify him as Santo Primerano.

9. The CIU Officers had no information of any criminal activity involving Thomas Siderio in 2022, and nothing involving NK or Primerano beyond their possible possession of a stolen firearm.
10. Based on the above identification, and the prior posts on social media with a possibly stolen firearm, the CIU Officers went on patrol that night to locate Primerano.

#### **March 1, 2022 – The Killing of Thomas Siderio**

11. On March 1, 2022, the CIU Officers were working in plainclothes, or regular street clothes, and they took an unmarked car out for surveillance.
12. In addition to working in plainclothes, the CIU Officers were also wearing bullet resistant body armor vests and had police badges hanging around their necks. PO Sarpong wore the vest underneath his shirt, whereas POs Camacho, Cucinelli and Mendoza wore the vest as their outer-most garment. Per testimony, each vest had a decal on the back that said “Police”, but had no other markings on the front.
13. PO Camacho noted that normally the CIU Officers would have only had two officers in each car, but due to a shortage of police vehicles they went out as a group of four. An additional undercover car with PO McMahon and Agent McAdams of the US Secret Service also participated in the surveillance for Primerano.
14. PO Sarpong was the driver of the car with PO Cucinelli in the front passenger seat, PO Mendoza seated behind PO Sarpong in the rear driver’s side seat, and PO Camacho seated behind PO Cucinelli in the rear passenger’s side seat.
15. The CIU Officers first checked two addresses where Primerano previously resided and then later focused on the 18<sup>th</sup> Street area for surveillance.

16. According to the CIU Officers, they chose to focus on this area because the Instagram account associated with Primerano posted a picture of two individuals on bikes. The photo that is the subject of this Instagram post was presented to this Grand Jury as part of Exhibit 10. Although two bikes are visible, neither individual in the photo is visible beyond their legs and feet and it is not clear who is standing with these bikes.
17. Although the CIU Officers did not appear to have any specific reason for believing Primerano would be in this area with NK at this particular time, they thought that Primerano might be with NK in this area because they often “hung out” together around 18<sup>th</sup> Street.
18. For approximately one hour before the shooting. PO Sarpong parked the unmarked, dark-colored Chevy Cruze (with tint on all windows except the front windshield) next to the Commodore Barry Recreation Center. The Barry Recreation Center lies between Johnston Street to the north and Bigler Street to the south with 18<sup>th</sup> Street on its eastern boundary and 19<sup>th</sup> Street to the west.
19. PO Sarpong double-parked the Cruze on 18<sup>th</sup> Street between Barbara and Stocker Streets.
20. At around 7:30 p.m., the CIU Officers saw two boys on bikes riding southbound on 18<sup>th</sup> Street. The boys rode past their car and PO Sarpong decided to drive the car around the block and re-approach the boys from the south.
21. PO Sarpong did not activate the police lights at this point. None of the four officers in the car called for uniformed backup.
22. PO Camacho stated that upon seeing the two boys he recognized one of them as NK, but none of the four officers recognized the other boy, the smaller one, Thomas Siderio. Thomas Siderio was wearing a face mask that did not conceal his face.

23. As they circled back, the CIU Officers saw the two boys standing next to their bikes on the northeast corner of 18<sup>th</sup> and Barbara Streets.
24. The CIU Officers decided that they would stop the boys while they were in plainclothes and an unmarked car although Philadelphia Police Department Directives, specifically Directive 12.8, require that "police officers in plainclothes and detectives will not routinely make traffic stops unless the actions of the violator are a clear danger to pedestrian or vehicular traffic and no marked unit is readily available." None of the CIU Officers had seen either of the boys in possession of a gun when they made the decision to conduct the pedestrian stop and none of them saw the boys involved in any criminal activity. Nothing either boy did, before the initiation of the stop, required the CIU Officers to initiate the stop in an unmarked car with officers in plainclothes.
25. Several of the CIU Officers acknowledged that generally police should not make vehicle or pedestrian stops using unmarked cars or when they are in plainclothes. Sgt. Butler testified that Directive 12.8 does govern vehicle and pedestrian stops.
26. One of the purposes of working in an undercover capacity is to blend in and conduct surveillance, and thus, making traffic stops somewhat defeats that purpose. This practice of having an undercover unit make a traffic stop also goes against general police practices beyond Philadelphia directives.
27. The decision to initiate a pedestrian stop when officers are in an unmarked vehicle and wearing plainclothes is also tactically problematic, and wearing a badge around the chest is not an effective way for officers to identify themselves.
28. Further complicating the stop, none of the CIU Officers had any information that any information that NK was in possession of the stolen firearm at any time within the

previous week. The only evidence of his possession of a gun that appeared to be the stolen firearm was in an Instagram live video posted approximately one week earlier inside of a home and not on the street.

29. Indeed, their purported reason for the stop varied somewhat between the CIU Officers. PO Sarpong, the driver, and the person who had actual control over the car, and therefore, the decision to make the stop asserted that “We were stopping [NK] in particular to get a good address on [NK] because we was pretty much planning on doing a social media job on him because we knew he was 17 years of age.” PO Sarpong did not say anything about wanting to stop Thomas Siderio.
30. Sgt. Butler, the supervisor for the CIU Officers, offered a similar explanation for the stop, stating that they were making the stop “[b]ecause they recognized one of the individuals as being involved in the investigation, meaning [NK].”
31. In contrast, PO Camacho and PO Cucinelli, both of whom testified on the same day – March 18, 2022 – and after PO Sarpong and Sgt. Butler, for the first time stated that they intended to stop the boys for a traffic violation, i.e., riding their bicycles the wrong way on 18<sup>th</sup> Street, in addition to the firearms investigation.
32. Neither officer offered this reason when questioned by OIS investigators on either March 1 or March 3. Neither PO Camacho nor PO Cucinelli appear to have told their supervisor about this reason for the stop, and it appears nowhere in the subsequent police paperwork.  
<sup>33</sup>. PO Camacho, after asserting that issuing a motor vehicle violation ticket was part of the reason for their stop, later acknowledged that he did not give anyone a ticket during this entire encounter and “we never – I don’t give tickets for the most part.”

34. Despite making the decision to conduct a stop, PO Sarpong did not put on the lights to indicate that this was an undercover police car while they drove up to the boys, the earliest he put the lights on was immediately before the gunshot went off, as the car was slowing to a stop. The timing of the shot relative to the activation of the lights, however, is not clear.
35. With the exception of activating the unmarked car's emergency lights, none of the CIU Officers announced themselves as police officers.
36. As the unmarked car came to a stop north of the intersection of S. 18<sup>th</sup> and Barbara Streets, the CIU Officers heard a gunshot from the corner. NK also heard a gunshot at about the same time, but neither NK nor the CIU Officers saw who fired the shot.
37. After the gunshot, a projectile hit the rear passenger side window of the unmarked car, shattered the glass, and caused glass shards to hit PO Camacho in the face.
38. All four CIU Officers exited the car, following proper procedure that they should exit a car that is taking fire.
39. PO Sarpong got out of the car and took cover behind a Nissan SUV which was parked at the corner of 18<sup>th</sup> and Barbara Streets.
40. After taking cover behind the Nissan, a few seconds passed and PO Sarpong looked out from behind the car and down 1700 Barbara Street. At that point he heard a gunshot, and according to him, felt a bullet fly past his face.
41. After hearing the gunshot, PO Sarpong discharged once up Barbara Street "in the direction where [he] believe[d] the gunshot was coming from", although he did not have any specific target. After firing, he took cover again behind the SUV, heard two more gunshots, and then came back out from behind the cover of the SUV to reassess.

42. PO Camacho, meanwhile, immediately held his face and felt pain after the shot came through the door because glass had hit him in the face.
43. PO Camacho saw the other officers getting out of the car and running away. He also heard additional gunshots, but did not see what happened down Barbara Street. PO Camacho does not recall how many shots he heard.
44. PO Cucinelli got out of the car along with the other three CIU Officers and took cover behind a parked car. PO Cucinelli took cover because he heard additional gunshots after the first one and wanted to be cautious given the tactical uncertainties of the situation.
45. PO Mendoza ran ahead on his own up Barbara Street. None of the other three CIU Officers saw what happened at the other end of the street.
46. Surveillance video, however, did capture the pursuit up Barbara Street from the corner. Primarily two cameras – a WYZE camera placed at 17XX Bigler Street, facing out the rear of the property onto 1700 Barbara Street, and a Ring Camera looking out the front of a home on 1700 Barbara Street.
47. Det. Peter Marrero of the OISIU created a compilation entered as Exhibit 4 which merged video from the WYZE camera and audio from the Ring camera. This Grand Jury watched both the individual videos and the compilation.
48. Given that this is a video at night, the camera loses some of the detail of the incident, but the following is visible and audible.
49. At approximately 20 seconds into the compilation video (Exhibit 4), there is a pop sound that resembles a gunshot. A six to seven second pause follows this pop at which point there is some yelling and two additional pops in rapid succession.

50. Within one to two seconds of the two gunshots, an individual – Thomas Siderio -- runs along the sidewalk on the northside of 1700 Barbara Street. Thomas Siderio runs past a white van (the second car parked from the upper left corner of the screen) at 27-28 seconds. This van is significant because it is the location where Crime Scene later recovered the firearm that Thomas Siderio apparently possessed.
51. At approximately 32 or 33 seconds an individual – PO Edsaul Mendoza -- comes into view running in the middle of the street on 1700 Barbara. He shouts something and then fires a shot. At about this same time, Thomas Siderio dives or falls to the ground. At this point, Thomas Siderio is unarmed and on the sidewalk along the driver's side of a pickup truck parked on the north side of Barbara Street, while PO Mendoza continues running up the middle of Barbara Street.
52. It is apparent that Thomas Siderio stops running, although the camera view of his full body is blocked by a pickup truck, because when PO Mendoza approaches this truck, he slows down and then turns to run onto the sidewalk from the street, cutting between the back end of the parked truck and an adjacent parked car. Additionally, the viewer never sees Thomas Siderio flee past the pick-up.
53. PO Mendoza does not take cover during his approach, which would have been the tactically correct decision if he believed Thomas Siderio remained armed. Instead, he chooses to follow the “exact opposite” tactical strategy that would be expected if he thought there was “any possibility” that Thomas Siderio remained armed. Specifically, he runs up the street, completely exposed, without backup, and then runs between two parked cars through the “fatal funnel” to confront Thomas Siderio, who was behind the cover of the pickup truck.

54. Professor Seth Stoughton, an expert in police training and tactics as well as uses of force, testified before this Grand Jury and defined the “fatal funnel” as “any time officers are moving through a predictable narrow area. So a doorway is the best example of the fatal funnel, but also a hallway. Anywhere that the officer is going to be in a predictable position. In order to enter this room, you have to go through the door. Well, if someone has to go through the door, what that means is all the subject has to do is direct their fire, point their weapon in the area of the door and anything that goes through that door is a potential target.”

55. Instead of taking cover or approaching cautiously, PO Mendoza runs onto the sidewalk without slowing or reassessing, finds Thomas Siderio unarmed and not fleeing, and fires one shot into Thomas Siderio’s back from within ten feet.

56. Thomas Siderio was struck by one bullet in the back which passed through his body and came out of his chest. This single gunshot wound killed him within 90 seconds.

57. Medical Examiner Dr. de la Garza concluded that this third shot caused the perforating gunshot wound that killed Thomas Siderio. She based this conclusion on the likely positioning of Thomas Siderio's body at the time of the shot, meaning Dr. de la Garza concluded that at the time that PO Mendoza shot Thomas Siderio, he (Siderio) had turned his body slightly. From the footage in Exhibit 4, it appeared to her that as PO Mendoza came between the two parked cars and onto the sidewalk, Thomas Siderio turned slightly to his right. Dr. de la Garza observed this movement on the video and concluded it was consistent with what she saw with respect to the wound through Thomas Siderio’s back and chest, thus, the third shot struck and killed him, not either of the previous two.

58. Further, in Exhibit 4, after Siderio stops running, movement is visible in the area where he stopped. After the third and final shot, Thomas Siderio's body disappears from the screen and moaning can be heard briefly before the moaning stops within approximately five seconds.
59. The Medical Examiner found that the cause of death was a perforating gunshot wound to the chest. The manner of death was homicide.
60. At approximately 1 minute, 50 seconds in the compilation video, PO Camacho comes onto the screen walking in the middle of 1700 Barbara Street. He asks PO Mendoza, "where's the gun?" at approximately 1 minute 55 seconds, to which PO Mendoza replies "he threw it around there" while walking down 1700 Barbara and pointing in the direction of the white van parked next to 1739 Barbara Street. PO Camacho then immediately walks toward the white van where he finds and secures the gun. This video is corroborated by PO Camacho's testimony.
61. Additionally, a Crime Scene Photo in Exhibit 12 taken from behind FCC 5 (the FCC located near Thomas Siderio's body) facing westbound down Barbara Street shows the white van located next to 17XX Barbara Street where the gun was recovered. This photo is significant because it provides the view from the area where PO Mendoza stood when he told PO Camacho that Thomas Siderio "threw it around there." The gun is not visible in this photo and neither is the number 5 evidence marker placed next to it. There are also a number of obstructions on the sidewalk that would have blocked PO Mendoza's view, including trash cans along the sidewalk. This photo further corroborates that when PO Mendoza told PO Camacho that Thomas Siderio threw the gun back along his (Siderio's) flight path, it was because PO Mendoza saw or heard the boy throw the gun as he ran up

the street and thus PO Mendoza believed that Thomas Siderio was unarmed at the time of the discharge.

62. After he was struck, Philadelphia police transported Thomas Siderio to Presbyterian Hospital within minutes of the discharge.

63. Thomas Siderio was pronounced deceased at the hospital at 7:59 p.m.

### **The Immediate Aftermath**

64. Marked units began to arrive on the scene, as well as the Crime Scene Unit, and the CIU Officers' supervisor, Sgt. Vincent Butler.

65. Sgt. Butler spoke to the CIU Officers on the scene. Upon finding PO Mendoza, Sgt. Butler asked which officers discharged, to which PO Mendoza replied that he, PO Mendoza, had discharged, and that PO Sarpong had also discharged.

66. Sgt. Butler later drew a map recounting what he had learned from the discharging officers when interviewed by the OISIU team.

67. PO Sarpong told Sgt. Butler that he (Sarpong) took cover behind an SUV at the corner of 18<sup>th</sup> and Barbara Streets and discharged once at the corner of the block. In Exhibit 8, Sgt. Butler's map, there is an "X" on the map drawn by Sgt. Butler in the presence of Det. Murawski at OISI at the intersection of 18<sup>th</sup> and Barbara Streets with "Sarpong" written next to it. This "X" indicates the approximate area where PO Sarpong said he had discharged his single round.

68. PO Mendoza told Sgt. Butler that he fired his first shot in the same area – around the intersection of 18<sup>th</sup> and Barbara Streets – indicated by an "X" with PO Mendoza's name written next to it in exhibit 8.

69. The arrows on Exhibit 8 show the paths of Thomas Siderio and PO Mendoza up Barbara Street, respectively, the first on the sidewalk, and the second in the street. This description correlates with what appears on the surveillance video from 1735 Bigler Street.
70. Sgt. Butler also indicated on his map the location of the gun that was recovered, which was 1739 Barbara Street, marking it with an "X" and the word "gun". Approximately parallel to this location are two additional "X" marks with Mendoza written next to them.
71. Sgt. Butler indicated that the two "X"s in the street are an "approximate area, that was where the route that he [Mendoza] was taking where his second, where he discharged again." Sgt. Butler further clarified that PO Mendoza told him that "[Mendoza was] running up the block, he [Thomas Siderio] was on the sidewalk, [Siderio] pointed the gun at [Mendoza], [Mendoza] fired two more times."
72. According to Sgt. Butler, PO Mendoza told Sgt. Butler that he fired all three shots from the street. He did not tell Sgt. Butler that he fired any shots while standing on the sidewalk. Available video contradicts this account of events.
73. Sgt. Butler further clarified that he marked the two "X"s on the map to note "this is where he [PO Mendoza] said to me [Sgt. Butler], this is where I was when the gun was pointed at me and I discharged twice."
74. It is clear based on witness testimony, crime scene evidence, and audio and video evidence available, that by the time PO Mendoza fired his second of three shots, Thomas Siderio did not possess a gun and could not have pointed it at PO Mendoza.
75. When questioned further about PO Mendoza's position for these final two shots, Sgt. Butler attempted to obscure PO Mendoza's location when he fired the two shots stating

that "it wasn't clear to me that he (Mendoza) fired two more times at that location or whether it was one there and one at the top of the block. That wasn't clear to me."

However, Sgt. Butler did not tell Det. Murawski when he marked these two "X"s on the map that he was not clear on PO Mendoza's position when he fired the last two shots. In fact, Det. Murawski had a different understanding.

76. Immediately after the shooting, Sgt. Butler told Det. Murawski what information he gathered from the officers on scene about the location of evidence and the location of the officers' discharges.

77. Det. Murawski testified that Sgt. Butler put two X marks near the intersection of 18<sup>th</sup> and Barbara Streets with the name "Sarpong" and "Mendoza" written next to each. These marks indicated to Det. Murawski that the officers told Sgt. Butler that they discharged one time in the area near the intersection.

78. The CSU also found FCCs that matched the guns of PO Sarpong and PO Mendoza, respectively, in this area near the intersection of S. 18<sup>th</sup> and Barbara Streets.

79. Det. Murawski further testified that the two X marks next to "Mendoza" and approximately parallel with 1739 Butler Street, mid-block, indicated that PO Mendoza told Sgt. Butler that he discharged twice from this location.

80. Although PO Mendoza told Sgt. Butler that he fired twice from the street near the location of the gun, this statement is not true. PO Mendoza's actual third and fatal shot occurred much closer to Thomas Siderio, while PO Mendoza was standing on the sidewalk, mere feet away, with an unobstructed view of the no-longer-fleeing and unarmed boy.

81. The following facts suggest that PO Mendoza believed that Thomas Siderio was unarmed when he fired the third and fatal shot: PO Mendoza's close proximity to Thomas Siderio at the time the officer fired the fatal shot; PO Mendoza's statement about the location of the gun to PO Camacho, less than one minute later; PO Mendoza's decision to run straight up to Thomas Siderio when he could not fully see him, passing between two parked cars and failing to take advantage of cover; PO Mendoza's untruthful statement about where he fired his final two shots.

### **The Investigation**

82. The CSU and Firearms Identification Unit ("FIU") both collected and analyzed evidence from the crime scene.

83. Of particular importance are the location of the Taurus firearm, the fired cartridge casings ("FCC"), the identification and connection between the recovered FCCs and the guns used at the scene, and the bullet or metal fragments found at the scene.

84. FIU investigator PO Norman DeFields testified before this Grand Jury regarding his findings. PO DeFields received and analyzed three firearms – P1, a police Glock 9mm firearm recovered from PO Sarpong; P2, a police Glock 9mm firearm recovered from PO Mendoza; and P3, a Taurus G2C 9mm recovered from the street next to 17XX Barbara Street.

85. PO DeFields also received and reviewed five FCCs recovered from the scene, marked as FCCs 1 through 5 in his report. The FCCs also correspond to numbers on the CSU Property Receipt 9032044 which in turn correspond to the yellow evidence flags visible in the CSU Photos and the maps. FCC 1, number 1 on the CSU map, was fired from P1, the gun recovered from PO Sarpong.

86. FCC 2 (number 2 on the CSU map) was fired from P3, the gun recovered from 1739 Barbara Street.
87. FCC 3 (number 4 on the CSU map) was fired from P2, the gun recovered from PO Mendoza.
88. FCC 4 (number 6 on the CSU map) was fired from P2, the gun recovered from PO Mendoza.
89. FCC 5 (number 7 on the CSU map) was fired from P2, the gun recovered from PO Mendoza.
90. CSU located FCC 5 on the sidewalk, near the end of the 1700 block of Barbara Street, at the opposite end of the street from the corner of 18<sup>th</sup> and Barbara Streets where CIU Officers initiated their traffic stop of NK and Thomas Siderio, not far from the shoes of Thomas Siderio in the street, and near the approximate location of Siderio's body.
91. CSU found all five FCCs in locations that closely corresponded to the approximate locations of each discharge based on the testimony of the witnesses present and the available audio and video surveillance footage.
92. PO DeFields also analyzed four bullets and bullet jacket fragments – B-1, B-2, BJF-1, and BJF-2 – comparing them to the three firearms. PO DeFields' analysis eliminated P3 as the source of any of the bullet pieces, meaning none of these four bullets or jacket fragments originated from the Taurus, that is, the non-police weapon recovered at the scene, including B-1, the bullet that killed Thomas Siderio, recovered by Det. Marrero from hospital staff.
93. PO DeFields could not determine conclusively which, if any of the bullet fragments or bullets were fired by police Glock 9mms, only that the bullets could not have come from

the Taurus due to the “difference of class characteristics. Meaning, they were polygonal-type of rifling inside of that barrel. This is conventional. P-3 has conventional like this with sharp edges on the lands and grooves. Polygonal, it’s more of a rounded or an octagon shape. So there is no way they were fired from Pistol P-3.”

## CONCLUSION

PO Mendoza shot and killed unarmed twelve-year-old Thomas Siderio. Thomas Siderio had likely fired the Taurus 9mm into CIU’s unmarked police car as it was pulling up to him and NK, immediately causing three officers to take cover and PO Mendoza to begin a tactically unsound foot chase. Directly after taking cover, PO Sarpong fired once at no target in particular, without regard to his potential “backstop”, or the neighborhood, and PO Mendoza fired three times: once at the beginning of the block near 18<sup>th</sup> and Barbara Streets, where the foot chase began, once in the middle of 1700 Barbara Street, and once at the end of the block, while standing on the sidewalk and relatively close to Thomas Siderio. At the time of the last two shots, Thomas Siderio was unarmed, having discarded the gun back at 1739 Barbara Street and just under 40 feet away. He had certainly stopped running and was possibly surrendering. PO Mendoza’s second shot, as corroborated by video, audio, and crime scene maps, was fired while the officer was running mid-block on Barbara Street, past the car where the Taurus was located and secured by PO Camacho. This shot did not hit Thomas Siderio. Nearly simultaneous with this shot, Thomas Siderio stopped running and went to the ground (either because he fell or dove). PO Mendoza then slowed down and changed direction, showing that he knew that Thomas Siderio had stopped and where he was located. PO Mendoza’s approach to Thomas Siderio was then completely inconsistent with PO Mendoza believing that Thomas Siderio was armed. He approached Thomas Siderio even though Siderio was behind a parked car, when the child could have been taking advantage of cover. PO

Mendoza's approach also required PO Mendoza to pass through an opening between the cars directly into his suspect's potential line of fire. PO Mendoza did not hesitate even a moment to enter this "fatal funnel." When PO Mendoza fired the third shot he was within half a car length of Thomas Siderio and thus would have had the opportunity to see Thomas Siderio clearly at the time of firing. Finally, PO Mendoza told PO Camacho immediately after the shooting that Thomas Siderio "threw it [the gun] around there," pointed to the location of the gun, and walked a few paces back toward 17XX Barbara Street. PO Camacho then immediately went to the location of the gun and secured it. The gun was sitting on the street, below the curb line, nearly 40 feet away, and behind a series of obstructions, including trash cans on the sidewalk, meaning PO Mendoza could not see the gun from where he was standing when speaking to PO Camacho. Thus, when PO Mendoza fired the third and fatal shot, he knew that 12-year-old, 5 foot tall, 111 pound Thomas Siderio no longer had a gun, and therefore, no ability to harm him.

#### **RECOMMENDATION OF CHARGES**

Based upon the evidence that we have obtained and considered, which establishes a *prima facie* case, we, the members of the 31<sup>st</sup> Philadelphia County Investigating Grand Jury recommend that the District Attorney or his designee institute criminal proceedings against defendant Edsaul Mendoza and charge him with the following offenses:

**Murder of the First Degree, 18 Pa. C.S. § 2502(a)**

**Murder of the Third Degree, 18 Pa. C.S. § 2502(b)**

**Voluntary Manslaughter, 18 Pa. C.S. § 2503**

**Possession of an Instrument of Crime. 18 Pa. C.S. § 907**