Office of the New York State Attorney General Letitia James

Office of Special Investigation

September 18, 2024

Report on the Investigation into the Death of Jarrel Garris

SUMMARY

New York Executive Law Section 70-b directs the Attorney General's Office of Special Investigation (OSI) to investigate and, if warranted, to prosecute offenses arising from any incident in which the death of a person is caused by a police officer or a peace officer. When OSI does not seek charges against the officer, Section 70-b requires OSI to issue a public report describing its investigation. This is the public report of OSI's investigation of the death of Jarrel Garris, who was shot on July 3, 2023, by a member of the New Rochelle Police Department (NRPD), in New Rochelle, Westchester County. Mr. Garris was declared brain dead on July 7, 2023, and was removed from life support on July 10, 2023.

OVERVIEW

As described in more detail below, on July 3, 2023, at 4:31 p.m., Officer Gabriella Chavarry of NRPD responded to a report of person eating food at a grocery store without paying. When Officer Chavarry arrived, the store manager pointed out Jarrel Garris, who was walking away from the store, as the person who had been eating the food in the store. Officer Chavarry, soon joined by NRPD Officer Kari Bird, approached Mr. Garris on foot and asked him what had happened. Mr. Garris did not respond and did not stop walking. Detective Steven Conn walked over and, determining that Mr. Garris was not complying with Officers Bird and Chavarry, attempted to handcuff him, and a physical struggle ensued.

In the first few moments, Officer Bird was on the ground, attempting to control Mr. Garris's legs, and Mr. Garris was standing over her. Officer Chavarry stood a few feet away trying to line up a shot with her Taser, which, ultimately, she did not fire. A few moments later, Mr. Garris was on the ground with his hands on Officer Bird's gun and holster. Detective Conn yelled "gun" and fired once at Mr. Garris. The shot went into the back of Mr. Garris's neck and rendered him motionless. Mr. Garris was brain-dead soon thereafter, but was kept on life support until, on July 10, 2023, life support was removed and Mr. Garris died.

After a full investigation of the facts and analysis of the law, OSI concludes that a prosecutor would not be able to disprove beyond a reasonable doubt at trial that Detective Conn was justified under New York law when he fired at Mr. Garris. Therefore, OSI will not present evidence to a grand jury and will close the investigation with the issuance of this report.

However, OSI makes a Recommendation, set forth at the end of this report, that NRPD's training and policies should make clear that officers have discretion to use physical force, or to refrain from using physical force, when attempting to obtain the compliance of a subject in response to a report of a petty nonviolent offense. As the present case shows, the proper use of this discretion could mean the difference between life and death. The decision to use physical force to obtain compliance for a petty offense, particularly where mental health may be a factor in noncompliance, should be made cautiously and should be based on objective criteria.

FACTS

Store Manager

NRPD spoke to and took a statement from J.F.,[1] the owner and manager of New Rochelle Farms grocery store, 465 North Street in New Rochelle. OSI asked to speak to J.F., but he told OSI he was getting threats in the neighborhood of his store and was unwilling to be interviewed by OSI or have further involvement in the investigation. He said he stood by his statement to the police, and said it was accurate.

According to J.F.'s statement, a man whom J.F. later identified as Mr. Garris entered the grocery store around 4:30 p.m., and a store employee told J.F. that Mr. Garris was eating fruit in the produce section. J.F. went to the produce aisle, saw Mr. Garris, and asked him if he was going to pay for the items that he opened and ate. J.F. said Mr. Garris looked at him in a "menacing" way and said he thought Mr. Garris would "hurt" him. J.F. walked over to the store phone and called the police, and Mr. Garris walked out of the store. J.F. said that Officer Chavarry, whom he knew, arrived quickly. J.F. approached Officer Chavarry's car and told her what happened. J.F. pointed out Mr. Garris, who was walking down the block a short distance from them. J.F. followed Officer Chavarry on foot while Officer Chavarry drove closer to Mr. Garris and parked her car. J.F. saw Officer Chavarry and another officer try to speak to Mr. Garris, but Mr. Garris did not stop walking. J.F. saw a third officer approach the group. The third officer placed one handcuff on Mr. Garris and Mr. Garris became "violent with the officer." J.F.'s statement read, "I saw the individual grab at Officer Chavarry's gun on her belt and then I saw the male officer pull his gun and he shot the individual."

J.F.'s statement said that after providing the portion of the statement summarized above, the NRPD showed him body camera footage and he realized that Officer Chavarry was not the officer whose gun was grabbed by Mr. Garris; it was the other female officer, whom he did not know.

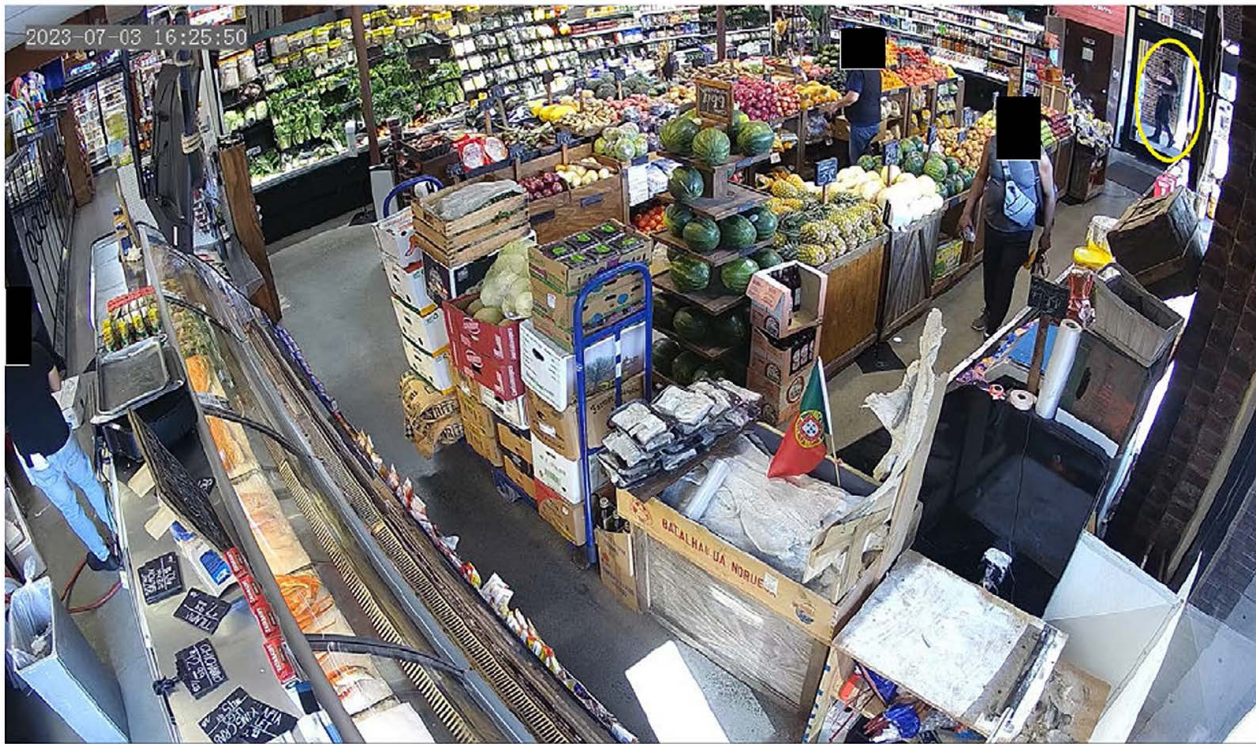
Store Video

OSI obtained security video from New Rochelle Farms grocery store, which shows Mr. Garris walking into the store at 4:25:50 p.m. and drinking from water bottles in the vestibule of the store (Store Video Link 1) and eating strawberries and other fruit in the produce section (Store Video Link 2 and Store Video Link 3). The video shows that J.F. walked over to Mr. Garris at 4:30:56 p.m. (Store Video Link 4). The video shows Mr. Garris but not J.F. during the confrontation at 4:30:58 (Store Video Link 5). The video shows J.F. walking away from Mr. Garris at 4:31:25 p.m. and picking up the phone to call the police (Store Video Link 6). The video shows Mr. Garris leaving the store at 4:32 p.m. (Store Video Link 7).

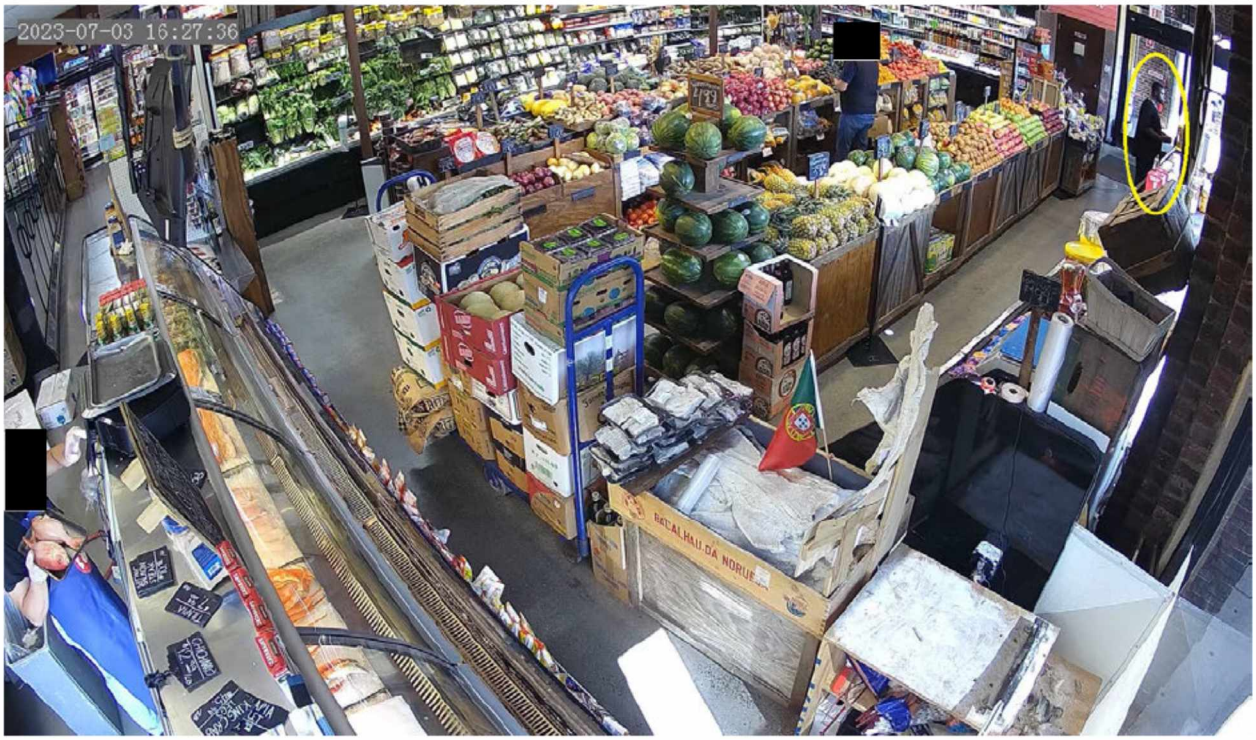
[1] OSI does not publish names of civilian witnesses.

911 Call

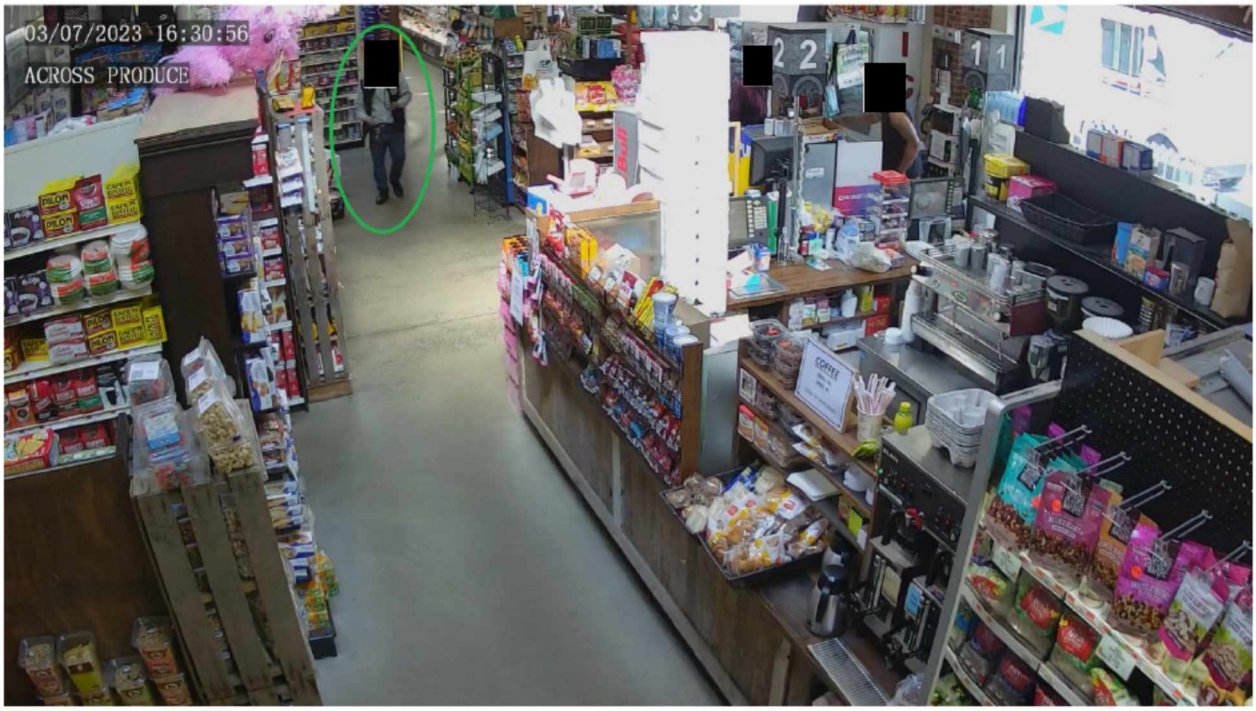
OSI obtained the 911 call made by J.F. at 4:31 p.m. J.F. said there was a man inside his store eating and drinking things, that he was walking out of the store, but was still in sight. J.F. said the man was "an unstable person" who was eating and drinking things and "talking gibberish." J.F. said the man was Black and wearing a black t-shirt and blue sweatpants.



Mr. Garris circled in yellow, entering the store and drinking water from the vestibule



Mr. Garris circled in yellow eating produce



J.F. circled in green approaching Mr. Garris

Body Worn Camera (BWC)

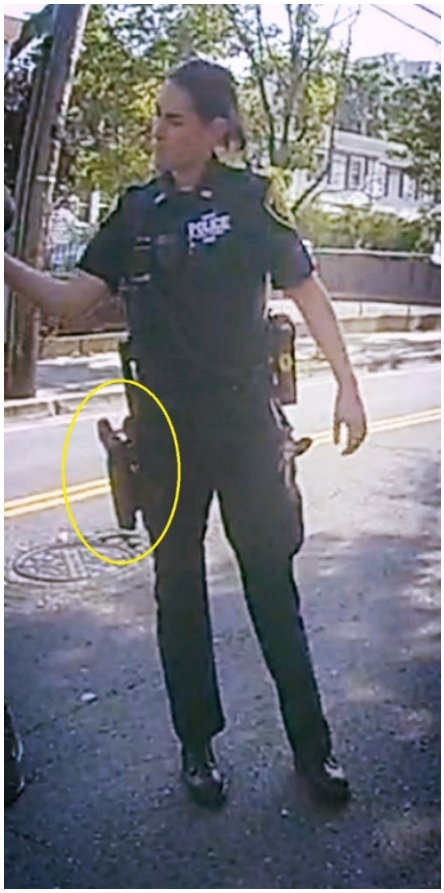
Officer Chavarry arrived on scene at 4:31:55 p.m. according to the NRPD Event Report. OSI interviewed Officer Chavarry, who said she spoke to J.F. from inside her car and J.F. pointed out Mr. Garris as the shoplifter. Officer Bird arrived on scene at 4:32:00 p.m. according to the NRPD Event Report. Detective Conn was the third officer to arrive and was the officer who fired his weapon, killing Mr. Garris. OSI obtained the BWC footage for all three officers (Bird BWC; Chavarry BWC; Conn BWC). The BWC recordings for Officer Chavarry and Officer Bird began when they were in their separate police cars before they approached Mr. Garris on foot. Detective Conn's BWC began later, when he put a handcuff on Mr. Garris.

According to Officer Chavarry's BWC, she approached Mr. Garris first, at 4:32:02 p.m. Officer Chavarry asked Mr. Garris what he was doing and whether he was eating food in the grocery store. Mr. Garris looked at Officer Chavarry, did not respond, and walked away. While crossing the street, Officer Chavarry asked Mr. Garris to talk to her. At that time, Officer Bird approached Mr. Garris and also asked Mr. Garris to stop and talk to them.

While still in the street, Mr. Garris stopped momentarily as both officers attempted to speak to him. According to Officer Chavarry's BWC, Detective Conn approached at a quick jog at 4:32:16 p.m. When Detective Conn approached, Officer Chavarry and Officer Bird were trying to verbally communicate with Mr. Garris. Officer Chavarry told Detective Conn that the complainant would like to press charges, she put out her hand in a stop motion towards Detective Conn and said, "But he's good."

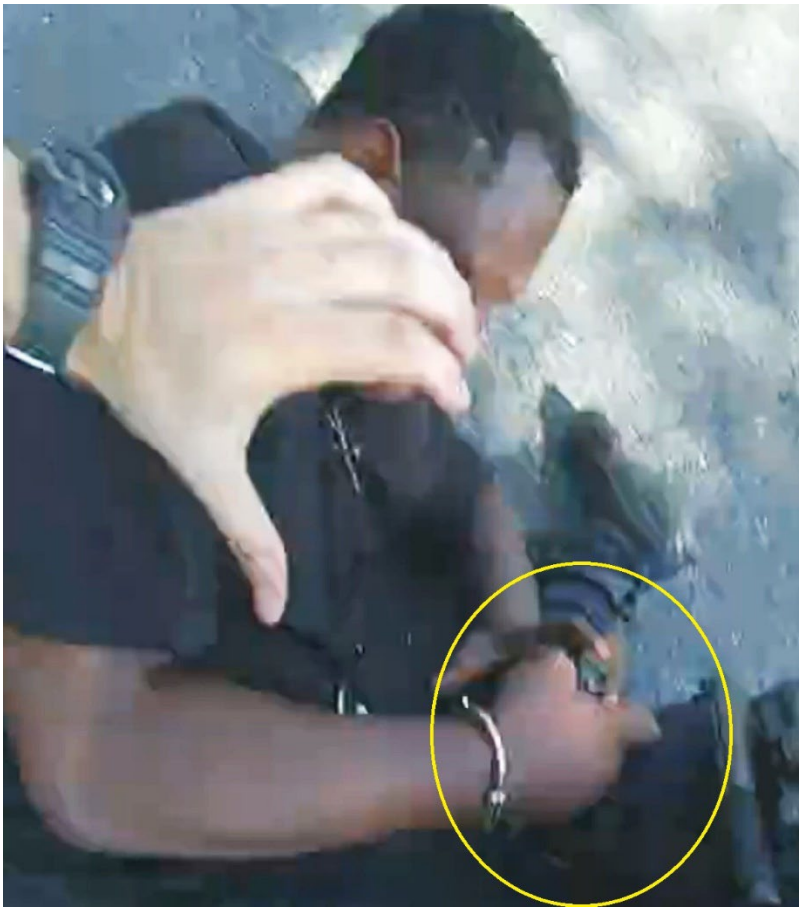
According to Officer Chavarry's BWC, Det. Conn grabbed Mr. Garris's wrist and placed a handcuff on it. Mr. Garris tried to pull away and a struggle began. Officer Chavarry's and Officer Bird's BWC captured Officer Bird saying "Stop Steve stop" a moment after the struggle began. According to Officer Bird's BWC, Officer Chavarry stepped back from the struggle and did not engage in it. Officer Bird was on the ground, holding Mr. Garris's leg. Detective Conn yelled, "Taser him, Taser him!" Officer Chavarry pulled out her Taser and aimed but, apparently because she did not have a clear shot, did not fire. Detective Conn yelled "gun!" several times and then shot Mr. Garris once.

Detective Conn's BWC began at 4:32:52 p.m., after he placed the handcuff on Mr. Garris. The beginning of the video shows Detective Conn punching Mr. Garris in the face. Eleven seconds later, at 4:33:02 p.m., the video shows Mr. Garris leaning over Officer Bird, who was on the ground. Two seconds later, at 4:33:05 p.m., the video shows Mr. Garris on the ground, grasping an object on Officer Bird's thigh with two hands. Officer Conn yelled "gun" at 4:33:05 p.m. and fired a shot two seconds later at 4:33:07 p.m.



A still from BWC showing Officer Bird with her thigh-holstered gun, circled

Screenshot from Detective Conn's BWC, about two seconds prior to the shooting, with Mr. Garris's hands circled. Detective Conn's left hand is at the left.



Closeup of above screenshot from Detective Conn's BWC, two seconds before shooting, with Mr. Garris's hands circled.

According to the BWC videos of Officers Chavarry and Bird, after Mr. Garris was shot, the three officers handcuffed Mr. Garris. According to Detective Conn's BWC, after the shot, while handcuffing Mr. Garris, Detective Conn said, "He has your gun." Detective Conn abruptly stood up, racked his firearm, and pointed it at Mr. Garris, who was on the ground, not moving. Officer Bird said, "Dude I have my gun." Detective Conn holstered his weapon and continued the handcuffing of Mr. Garris.

Within moments of the shooting, BWCs show that a man stopped his car and got out to help the officers render aid. OSI learned through interviews with the NRPD that the man was an off-duty NRPD Officer named Anthony Rodriguez.

According to the BWCs, multiple officers arrived and performed CPR until ambulances arrived. Mr. Garris had no weapons on his person and no contraband.

Officer Interviews

OSI interviewed Detective Conn, Officer Bird, and Officer Chavarry.[2]

Officer Bird

Officer Bird said she knew Detective Conn for a few years and knew Officer Chavarry for less time. She said she was in uniform that day and was outfitted with a thigh-holster, which straps to the officer's thigh, instead of the waistband belt. Officer Bird said she heard a call over the radio for a man eating the products in a grocery store and responded to the area of New Rochelle Farms grocery store. Officer Bird said she was hesitant to place Mr. Garris under arrest without additional assistance because he was much larger than she was and had a vacant appearance, which indicated he might be noncompliant.

Officer Bird said the moment Detective Conn placed a handcuff on Mr. Garris, Mr. Garris became aggressive. Officer Bird said she went to the ground to grab Mr. Garris's legs, believing she would have a better chance controlling his movement by holding his legs than she would in an upper-body struggle, given the difference in size between her and Mr. Garris. During the struggle between Mr. Garris, Detective Conn, and her, Officer Bird never felt Mr. Garris pulling on or grabbing her holster or her gun. When Detective Conn yelled "gun," she did not see a gun and did not know what Detective Conn was referring to. After Mr. Garris was shot, Officer Bird looked at her holster and saw that its hood was down. Officer Bird explained that her holster was a double-action release, which requires a person to push the hood down and forward, and then lean on a button while pulling the firearm up and out of the holster. Officer Bird said she did not push the hood down herself, and never attempted to release her firearm. When asked why she said "Stop Steve, stop" at the beginning of the struggle, Officer Bird said she did not remember but guessed it was because multiple things were going through her mind during the give and take of the struggle, and she was directing Mr. Garris to "stop" struggling and alerting Detective Conn to get on the same page with her.

Officer Bird explained that a few minutes before being called for the grocery store theft, she was talking to Detective Conn outside their precinct stationhouse, which was within a block of the New Rochelle Farms grocery store. While talking to him, Officer Bird saw Mr. Garris slowly crossing the street; he seemed "out of it." Detective Conn walked over to Mr. Garris and asked if he needed help or needed assistance crossing the street. Mr. Garris did not respond. Mr. Garris walked away without incident. Officer Bird said she had never seen Mr. Garris before.

[2] Each interview was conducted in the presence of the officer's attorney and pursuant to OSI's standard proffer agreement, which provides that OSI will not use the witness's statements from the interview as evidence in its case in chief if OSI prosecutes the witness. The full proffer agreements are attached as Exhibits 1, 2, and 3, to this report.

Officer Chavarry

Officer Chavarry said she had never met Mr. Garris before and did not know Detective Conn. Officer Chavarry said she was trying to get Mr. Garris talking and trying to get him to respond to her when she first approached him. Officer Chavarry said when Detective Conn came to the scene, she cannot remember why she told Detective Conn "But he's good" after she said the store manager requested an arrest. Officer Chavarry said she heard Detective Conn yell "Taser him," but she could not get a clear shot.

Detective Conn

Detective Conn said he was on a special overtime traffic detail at the time of the shooting. He was working close to the stationhouse, which was a block away from the shooting. Detective Conn said he later realized he dealt with Mr. Garris prior to the day of the shooting – that he had taken Mr. Garris to a hospital on a prior occasion, though he did not remember specifics about the event or the date.[3]

Detective Conn described seeing Mr. Garris a few minutes before the shooting when he was talking to Officer Bird. Mr. Garris was slowly crossing the street. Detective Conn thought Mr. Garris was on drugs because of his behavior and vacant expression, but he had done nothing wrong, so Detective Conn just asked if he needed help.

Detective Conn said when he approached the scene a few minutes later he saw Mr. Garris walking away from Officers Chavarry and Bird and he thought there was a problem. When asked about his thoughts regarding Officer Chavarry's statement, "But he's good," Detective Conn said he does not know why Officer Chavarry said that, but, from his perspective, the officers were not in a good situation because Mr. Garris was being noncompliant by walking away from them. Detective Conn decided to put Mr. Garris in handcuffs to get control of the situation. Detective Conn said as soon as the handcuff was on Mr. Garris, he pulled away and started struggling and pushed Officer Bird to the ground. Detective Conn said he punched Mr. Garris because Mr. Garris was pulling away and trying to strike him. Detective Conn said he was hoping Officer Chavarry would be able to Taser Mr. Garris. But soon after Detective Conn told Officer Chavarry to Taser him, Detective Conn saw Mr. Garris grabbing Officer Bird's gun with two hands. He said Mr. Garris was pulling on the gun itself, and he saw the gun rising upward out of the holster. Detective Conn said he believed Mr. Garris was moments away from obtaining Officer Bird's gun and that she was moments away from being shot by Mr. Garris. In response, Detective Conn drew his weapon and fired a single shot at Mr. Garris. Detective Conn said he only shot Mr. Garris once because Mr. Garris was immobilized after the single shot and it was not necessary to fire again.

[3] OSI obtained paperwork confirming an incident as described by Detective Conn, which occurred on February 10, 2020.

After Mr. Garris was shot, Detective Conn said they started rendering aid immediately. While rendering aid, he thought he heard Officer Bird say, "He has my gun," and therefore stood up quickly and racked his firearm, because it had not returned back to the neutral ready position after he fired it. When Detective Conn heard Officer Bird say that she had her gun, he re-holstered his firearm.

Medical Examiner and Autopsy Report

Mr. Garris was declared brain dead on July 7, 2023, and was kept alive on life support until July 10, 2023, so his organs could be harvested.

Dr. Aleksandar Milovanovic, a medical examiner for the Westchester County Department of Laboratories and Research performed the autopsy of Mr. Garris at the Medical Examiner's Facility in Valhalla and issued an autopsy report. OSI reviewed the report and interviewed Dr. Milovanovic. According to the report, Mr. Garris had a single bullet wound to the neck. The entrance wound was on the right posterior neck below the right ear. The wound did not show soot, stippling or powder tattooing.[4] The report said the bullet wound track was back to front, right to left, and horizontal. The bullet was recovered from the body by the third cervical vertebra. Mr. Garris had two rib fractures; the right second and fourth rib had dislocated fractures with hemorrhages. The toxicology report showed the presence of PCP and marijuana metabolites. The cause of death was "bullet wound of neck involving cervical spine/spinal cord" and the manner of death was "homicide."

LEGAL ANALYSIS

New York Penal Law Article 35 sets forth the defense of justification to crimes involving the use of physical force. Justification is a defense, not an affirmative defense, Penal Law Section (PL) 35.00. If a defense is raised at trial, the burden is on the prosecutor to disprove it beyond a reasonable doubt, PL 25.00(1). The defendant is entitled to have the jury instructed on the defense of justification even if the defendant does not offer evidence, as long as the defense is implied by the prosecutor's evidence. *People v. Steele*, 26 N.Y.2d 526 (1970).

In this case, Detective Conn used deadly physical force. Under PL 10.00(1) "deadly physical force" is "physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury." Under PL 10.00(10) "serious physical injury" is "physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ."

[4] OSI's experience with Medical Examiner interviews indicates that the absence of soot, stippling, or powder tattooing means that the gun when fired was eighteen inches or more from the deceased's skin.

PL 35.30 is the provision defining justification when a police officer or peace officer uses force to make an arrest and provides, in part:

> "A police officer or a peace officer, in the course of effecting or attempting to effect an arrest … of a person whom he or she reasonably believes to have committed an offense, may use physical force when and to the extent he or she reasonably believes such to be necessary to effect the arrest … or in self-defense or to defend a third person from what he or she reasonably believes to be the use or imminent use of physical force; except that deadly physical force may be used for such purposes only when he or she reasonably believes that … (c) regardless of the particular offense which is the subject of the arrest … the use of deadly physical force is necessary to defend the police officer or peace officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force."

Police officers using deadly physical force pursuant to PL Section 35.30 are under no duty to retreat when threatened with deadly physical force, PL 35.15(2)(a)(ii).

Under PL 35.30, the person who uses deadly physical force is justified when the person reasonably believes deadly force is necessary to defend the person or another against the imminent use of deadly force. "Reasonable belief" means that a person actually believed, "honestly and in good faith," that physical force was about to be used against him and that physical force was necessary for self-defense (subjective component), and it means that a "reasonable person" under the same "circumstances" could have believed the same (objective component). *People v. Goetz*, 68 N.Y.2d 96 (1986); *People v. Wesley*, 76 N.Y.2d 555 (1990). Therefore, before using deadly force in self-defense, (a) a person must honestly and in good faith believe deadly force was about to be used against them or another person and that deadly force is necessary for self-defense, and (b) a reasonable person under the same circumstances could believe the same.

Based on the evidence in this investigation, OSI concludes that a prosecutor would not be able to disprove beyond a reasonable doubt at trial that the officer's use of deadly physical force was justified under the law. At the time Detective Conn drew his gun and fired, Mr. Garris was engaged in a physical struggle with Officer Bird and Detective Conn. BWC video supports the conclusion that Mr. Garris was gripping Officer Bird's holster and firearm at the time Detective Conn yelled "gun" and drew his own firearm to shoot Mr. Garris. Officer Bird's statement that the holster's safety hood had moved into the forward and unlocked position during the struggle supports the conclusion that Mr. Garris had his hands on the holster. Applying the analysis in *Goetz*, a prosecutor would not be able to disprove beyond a reasonable doubt that Detective Conn reasonably believed it was necessary to use deadly force to defend himself, Officer Bird, and Officer Chavarry.

In sum, the evidence in the investigation is insufficient to disprove beyond a reasonable doubt that Detective Conn was justified under New York law in using deadly physical force. Therefore, OSI will not seek charges and closes the investigation with this report.

RECOMMENDATION

OSI recommends that NRPD's training and policies make clear that officers have discretion to use physical force, or to refrain from using physical force, when attempting to obtain the compliance of a subject in response to a report of a petty nonviolent offense. As the present case shows, the proper use of this discretion could mean the difference between life and death. The decision to use physical force to obtain compliance for a petty offense, particularly where mental health may be a factor in noncompliance, should be made cautiously and should be based on objective criteria.

NRPD should enhance its training and policies for obtaining compliance for a petty nonviolent offense to provide officers with objective criteria for assessing whether physical force is warranted. Such criteria should include determinations:

- Whether the safety of the community requires a custodial arrest, or whether another method of charging, such as a desk appearance ticket, or a discretionary issuance of a warning to disengage from future criminal behavior, would be in the community's interest;
- Whether the subject is physically combative or passively non-compliant;
- Whether, in the case of passive noncompliance, there are ways to achieve compliance without physical force;
- Whether other law enforcement personnel on the scene have advanced training in de-escalation or in interactions with people in mental health crises, who should take the lead in resolving the situation; and
- Whether methods of nonviolent resolution were sufficiently explored and exhausted.

Training on these enhanced policies should include the use of real-life scenarios, so that officers will become accustomed to the many kinds of situations they may encounter, and the kinds of responses that could be effective, without the need to resort to physical force in every case.

It is not possible to know whether use of the approach outlined above would have led to a different outcome in the present case. However, Mr. Garris's reported offense was petty and nonviolent. Although he was not complying with the requests of Officers Bird and Chavarry to stop and talk with them, his noncompliance was not violent or physical. Officer Bird had been recently trained in crisis intervention training. Officer Bird, however, did not have the opportunity to implement her training when Detective Conn grabbed Mr. Garris's arm in an attempt to gain compliance through physical force. Mr. Garris was not physically combative

until Detective Conn grabbed his arm, and Detective Conn's action appeared to provoke a physically combative response from Mr. Garris, which in turn led to Mr. Garris's death when he grabbed Officer Bird's gun.

While deaths and serious injuries resulting from an encounter over a petty offense are rare, they are among the most distressing and perhaps the most preventable of poor law enforcement outcomes. Police-involved deaths such as those of Eric Garner (loose cigarettes), George Floyd (counterfeit $20 bill) and Jarrel Garris (eating $15 worth of strawberries) highlight the need for better training and policies.

Dated: September 18, 2024

EXHIBIT 1

OFFICE OF THE ATTORNEY GENERAL, STATE OF NEW YORK
OFFICE OF SPECIAL INVESTIGATION
PROFFER AGREEMENT

1. This proffer agreement applies to the interview (Interview) that an Assistant Attorney General in the Office of Special Investigation (OSI) of the Office of the Attorney General of the State of New York (OAG) will conduct of KARI BIRD (Witness) on September 28, 2023, concerning the death of Jarrel Garris (the Events). Its provisions do not apply to any statements made by Witness at any other time.
2. This proffer agreement is not a cooperation agreement. There are no agreements between Witness and OAG other than this proffer agreement. The Interview is voluntary; Witness is under no compulsion of any kind to attend or answer questions at the Interview.
3. Pursuant to this proffer agreement Witness will appear at the Interview and answer questions about the Events posed by an Assistant Attorney General in OSI. In exchange, if OAG ever brings a criminal case against Witness, OAG promises not to use any statement Witness makes in the Interview in its case in chief against Witness in the grand jury or at trial.
4. Notwithstanding paragraph 3, OAG may and will use Witness's statements from the Interview as follows:
    a. To further OSI's investigation of the Events in any manner OSI deems advisable, and any evidence so derived may be used against Witness in any grand jury proceeding, any trial, or any other proceeding;
    b. To cross-examine Witness in any grand jury proceeding, any trial, or any other proceeding; and
    c. To offer rebuttal evidence against Witness in any grand jury proceeding, any trial, or any other proceeding.
5. In addition, notwithstanding paragraph 3, if OSI publishes a report concerning the Events pursuant to the requirements of Executive Law Section 70-b (Report), OSI will include Witness's statements from the Interview in the Report.
6. OAG will not be bound by the promise in paragraph 3 if Witness's statements in the Interview are not full, fair, and accurate. For purposes of this agreement, "full" means that Witness's statements do not omit material information about the Events; "fair" means that Witness's answers are not materially misleading; and "accurate" means that none of Witness's statements are false in any material respect.
7. Unless it is a use covered by paragraph 4, or unless required by law, OAG will not provide Witness's statements from the Interview to another prosecuting agency if that agency does not agree to abide by the terms of this proffer agreement.
8. Witness has conferred with the attorney whose signature appears below before agreeing to this proffer agreement and understands every term of this proffer agreement. Witness will make no claim or assertion in any court that any state or federal constitutional or

statutory provision, or any case law, or any other agreement should prevent the use of Witness's statements from the Interview in the manner provided for in this proffer agreement.

EXHIBIT 2

OFFICE OF THE ATTORNEY GENERAL, STATE OF NEW YORK
OFFICE OF SPECIAL INVESTIGATION
PROFFER AGREEMENT

1. This proffer agreement applies to the interview (Interview) that an Assistant Attorney General in the Office of Special Investigation (OSI) of the Office of the Attorney General of the State of New York (OAG) will conduct of GABRIELLE CHAVARRY (Witness) on November 13, 2023, concerning the death of Jarrel Garris (the Events). Its provisions do not apply to any statements made by Witness at any other time.
2. This proffer agreement is not a cooperation agreement. There are no agreements between Witness and OAG other than this proffer agreement. The Interview is voluntary; Witness is under no compulsion of any kind to attend or answer questions at the Interview.
3. Pursuant to this proffer agreement Witness will appear at the Interview and answer questions about the Events posed by an Assistant Attorney General in OSI. In exchange, if OAG ever brings a criminal case against Witness, OAG promises not to use any statement Witness makes in the Interview in its case in chief against Witness in the grand jury or at trial.
4. Notwithstanding paragraph 3, OAG may and will use Witness's statements from the Interview as follows:
    a. To further OSI's investigation of the Events in any manner OSI deems advisable, and any evidence so derived may be used against Witness in any grand jury proceeding, any trial, or any other proceeding;
    b. To cross-examine Witness in any grand jury proceeding, any trial, or any other proceeding; and
    c. To offer rebuttal evidence against Witness in any grand jury proceeding, any trial, or any other proceeding.
5. In addition, notwithstanding paragraph 3, if OSI publishes a report concerning the Events pursuant to the requirements of Executive Law Section 70-b (Report), OSI will include Witness's statements from the Interview in the Report.
6. OAG will not be bound by the promise in paragraph 3 if Witness's statements in the Interview are not full, fair, and accurate. For purposes of this agreement, "full" means that Witness's statements do not omit material information about the Events; "fair" means that Witness's answers are not materially misleading; and "accurate" means that none of Witness's statements are false in any material respect.
7. Unless it is a use covered by paragraph 4, or unless required by law, OAG will not provide Witness's statements from the Interview to another prosecuting agency if that agency does not agree to abide by the terms of this proffer agreement.
8. Witness has conferred with the attorney whose signature appears below before agreeing to this proffer agreement and understands every term of this proffer agreement. Witness will make no claim or assertion in any court that any state or federal constitutional or

statutory provision, or any case law, or any other agreement should prevent the use of Witness's statements from the Interview in the manner provided for in this proffer agreement.

EXHIBIT 3

OFFICE OF THE ATTORNEY GENERAL, STATE OF NEW YORK
OFFICE OF SPECIAL INVESTIGATION
PROFFER AGREEMENT

1. This proffer agreement applies to the interview (Interview) that an Assistant Attorney General in the Office of Special Investigation (OSI) of the Office of the Attorney General of the State of New York (OAG) will conduct of STEVEN CONN (Witness) on November 13, 2023, concerning the death of Jarrel Garris (the Events). Its provisions do not apply to any statements made by Witness at any other time.
2. This proffer agreement is not a cooperation agreement. There are no agreements between Witness and OAG other than this proffer agreement. The Interview is voluntary; Witness is under no compulsion of any kind to attend or answer questions at the Interview.
3. Pursuant to this proffer agreement Witness will appear at the Interview and answer questions about the Events posed by an Assistant Attorney General in OSI. In exchange, if OAG ever brings a criminal case against Witness, OAG promises not to use any statement Witness makes in the Interview in its case in chief against Witness in the grand jury or at trial.
4. Notwithstanding paragraph 3, OAG may and will use Witness's statements from the Interview as follows:
    a. To further OSI's investigation of the Events in any manner OSI deems advisable, and any evidence so derived may be used against Witness in any grand jury proceeding, any trial, or any other proceeding;
    b. To cross-examine Witness in any grand jury proceeding, any trial, or any other proceeding; and
    c. To offer rebuttal evidence against Witness in any grand jury proceeding, any trial, or any other proceeding.
5. In addition, notwithstanding paragraph 3, if OSI publishes a report concerning the Events pursuant to the requirements of Executive Law Section 70-b (Report), OSI will include Witness's statements from the Interview in the Report.
6. OAG will not be bound by the promise in paragraph 3 if Witness's statements in the Interview are not full, fair, and accurate. For purposes of this agreement, "full" means that Witness's statements do not omit material information about the Events; "fair" means that Witness's answers are not materially misleading; and "accurate" means that none of Witness's statements are false in any material respect.
7. Unless it is a use covered by paragraph 4, or unless required by law, OAG will not provide Witness's statements from the Interview to another prosecuting agency if that agency does not agree to abide by the terms of this proffer agreement.
8. Witness has conferred with the attorney whose signature appears below before agreeing to this proffer agreement and understands every term of this proffer agreement. Witness will make no claim or assertion in any court that any state or federal constitutional or

statutory provision, or any case law, or any other agreement should prevent the use of Witness's statements from the Interview in the manner provided for in this proffer agreement.