New York State Office of the Attorney General

Special Investigations and Prosecutions Unit

Report on the Investigation into The Death of Saheed Vassell

Letitia James
NYS Attorney General

EXECUTIVE SUMMARY

On July 8, 2015, Governor Andrew Cuomo signed Executive Order No. 147 (hereinafter the "Executive Order"), appointing the Attorney General as the special prosecutor "to investigate, and if warranted, prosecute certain matters involving the death of an unarmed civilian . . . caused by a law enforcement officer." The Executive Order also authorizes the Office of the Attorney General ("OAG") to "investigate and prosecute in such cases where, in his opinion, there is a significant question as to whether the civilian was armed and dangerous at the time of his or her death."

Saheed Vassell died on April 4, 2018, after being shot multiple times by four members of the New York City Police Department (hereinafter "NYPD"). Mr. Vassell was a 34 year-old man who had lived in the Crown Heights section of Brooklyn for his entire life. According to medical records reviewed by the OAG, Mr. Vassell was diagnosed with bipolar disorder. Some neighbors were aware of this, but none of the police officers involved in this incident were. At the time of the shooting, Mr. Vassell was standing on Utica Avenue and Montgomery Street in Brooklyn, wielding and pointing a silver metal object in the direction of the police officers. Misperceiving the object to be a gun, officers discharged their weapons.

Governor Cuomo subsequently issued Executive Order 147.17, which expressly conferred jurisdiction upon the Attorney General to investigate any potential unlawful acts or omissions by any law enforcement officers related to Mr. Vassell's death. A summary of the facts discovered during the OAG's investigation follows.

On April 4, 2018, at approximately 4:39 pm, a person who was walking south on Utica Avenue (hereinafter "Caller 1")[1] called 911. Caller 1 reported that a man, later determined to be Mr. Vassell, was "walking around pointing… I don't know what is he pointing at people's face… if it's a gun, it's silver…"[2] Caller 1 then stated: "He's pointing things at people's faces …" When the 911 operator attempted to clarify what the caller saw, Caller 1 responded: "I don't know if it's a gun ma'am. It looks… it seems like a gun. It's silver." Caller 1 also stated: "No one is injured. He's just pointing in their face walking and walking back and putting it to their back." The caller provided a description of Mr. Vassell's appearance and the direction he was taking.

At approximately 4:40 pm, a second person (hereinafter "Caller 2") placed a 911 call. Caller 2 stated that, "[t]here's a guy walking around the street. He looks like he's crazy, but he's pointing something at people that looks like a gun and he's like popping it like if he's pulling a trigger. He's not pulling a trigger, but he's making the motion as if he is and there's something sticking out of his jacket." Caller 2 also provided the operator with a description of Mr. Vassell, as well as where he was walking. When the 911 operator asked: "You said that it looks like a gun?" Caller 2 responded: "Yes." Later during the call, after shots were fired, Caller 2 stated: "I just called the cops because I saw him doing it to like five people in the street … It's not a gun...

[1] All of the civilian witnesses are identified by numbers in this report in order to protect their privacy. OAG interviewed Caller 1, reviewed the recorded call, as well as the statements provided by Caller 1 to NYPD detectives on the day of the incident.

[2] See Exhibit 1 for transcripts of all 911 calls.

He has no… he did it to like three people… He pulled it like it's a gun … I'm sitting in the car and I'm watching the guy, he's crossing the street and he's pointing at them people's face like it's a gun. And pulling his hands. He's doing some [making sound]… pulling it back like he's making a trigger sound and people are like ducking and like trying to [inaudible] because they thinking it's a gun. There's something hanging out of his jacket. I'm like oh my god, I don't know if it's a gun or not, I don't know, you know, but…"

Despite the fact that the 911 callers were not completely sure whether the item Mr. Vassell was wielding was a gun (although they thought it was), the police officers on patrol received information that was less equivocal. For example, the information they received included "firearm job" and "caller states the male was pointing a gun at people." Furthermore, officers were never advised that Mr. Vassell was a person with a mental illness.[3] It is important to note that the police officers on patrol cannot hear an actual 911 call. Rather, a summary of the content is transmitted via the system to a dispatcher, who in turn communicates it to officers via NYPD-supplied cell phones, tablets, and/or over the radio.

NYPD Anti-Crime Unit Officers (hereinafter "ACU" officers[4]) responded to the dispatch transmission and indicated that they were responding to the firearm job. Three ACU officers were traveling in an unmarked police vehicle and responded without their lights and sirens activated. In addition to these three plainclothes ACU officers, a 71st Precinct Patrol Lieutenant and Sergeant also informed dispatch that they too were responding to the scene. The Patrol Sergeant was traveling immediately behind the ACU's unmarked car. At the same time, uniformed officers assigned to the Strategic Response Group (hereinafter "SRG")[5] overheard the dispatcher's communications regarding the man armed with a gun and responded to the area of the incident. The SRG officers' marked police car traveled several seconds behind the ACU officers' unmarked car.

While traveling north on Utica Avenue, the ACU officers saw Mr. Vassell, who fit the description provided by the dispatcher. One of the ACU officers also saw Mr. Vassell point what appeared to be a gun at people and also at a car that was stopped on Montgomery Street waiting for a traffic signal to change. The officers immediately stopped their car across from the northwest corner of Utica Avenue and Montgomery Street, and stepped out. The Patrol Sergeant and SRG cars parked to the side and rear of the ACU officers' car. Mr. Vassell turned, assumed a two-handed shooting stance and made a racking motion with the silver object, using his left hand. Believing that Mr. Vassell was about to fire a gun at them, the four officers fired their weapons at Mr. Vassell striking him multiple times. Police officers and Emergency Medical Technicians provided medical treatment to Mr. Vassell on the scene. However, after being transported to Kings County University Hospital and Medical Center, Mr. Vassell was pronounced dead.

[3] This information was never reported to 911 operators.

[4] The NYPD's Anti-Crime Unit is a plainclothes unit that is tasked with the responsibility of apprehending armed felons on the streets of New York City.

[5] The Strategic Response Group is a rapid response unit within the NYPD which is deployed to handle anti-terrorism activities, crowd control, special event security, and routine patrol of areas designated by the NYPD. SRG can be deployed to any location within the five boroughs of New York City, and is regularly requested by precinct commanders to respond to problems occurring at specific locations throughout the city.

NYPD and commercial surveillance cameras in the area captured footage of Mr. Vassell as he was walking.[6] Video surveillance confirms Caller 1's observations that Mr. Vassell was pointing what appears to be a metal object at several pedestrians as he walked along Utica Avenue.

The investigation by the OAG included, among other investigative steps:

(1) interviews of civilian eyewitnesses;
(2) interviews of 911 callers;
(3) interviews of NYPD officers who responded to the scene before and immediately after the shooting of Mr. Vassell, including the four officers who fired their weapons;
(4) interviews of FDNY EMS personnel who responded to the scene of the shooting;
(5) interviews of 911 operators that handled the 911 calls relating to the incident;
(6) review of video footage captured by NYPD cameras and commercial stores before, during, and after the shooting;
(7) review of NYPD and FDNY radio and computerized dispatch communications;
(8) review of video footage from the body worn cameras of NYPD officers that were equipped with body cameras;[7]
(9) review of New York City Office of Chief Medical Examiner records including, but not limited to autopsy, microscopy, and toxicology reports;
(10) review of independently retained forensic pathologist, James Gill's conclusions;
(11) review of Mr. Vassell's medical history;
(12) review of forensic reports including but not limited to ballistics, microscopic comparison;
(13) review of NYPD investigative reports;
(14) review of NYPD Crime Scene Unit images, sketches and reports;
(15) review of NYPD training materials and patrol guidelines regarding use of force and firearm tactics; and
(16) review of official NYPD public statements and press releases.

Based on a review of all of the evidence, the OAG finds that, pursuant to New York State Penal Law (hereinafter "PL") Section 35.30, the NYPD officers who shot Mr. Vassell were legally justified in their actions. PL Section 35.30 (1)(c) provides that deadly physical force may be used by police officers when, "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."

Considering all of the information obtained by the OAG during its investigation, we conclude that no criminal prosecution is warranted in this matter. Under the particular facts and circumstances of this case, the officers' use of deadly physical force was justified in that it was

[6] OAG reviewed surveillance from approximately 26 commercial security cameras, approximately four NYPD surveillance cameras along Utica Avenue between Sterling Place and Montgomery Street, and 24 individual police officer body worn cameras. A montage of the relevant video depicting Mr. Vassell and the police officers involved can be viewed here.

[7] The SRG and ACU officers were not required to wear body worn cameras at that time.

reasonable for them to believe that such force was necessary to defend themselves and others from what they reasonably believed to be Mr. Vassell's imminent use of deadly physical force.

Despite the fact that the officers' actions were justified pursuant to PL Section 35.30, the OAG nonetheless offers specific recommendations that might have prevented the tragic death of Mr. Vassell, or might have given the community greater faith in law enforcement's public response in the aftermath of the incident. Executive Order No. 147 provides that the OAG may offer "any recommendations for systematic reform arising from the investigation." In accordance with that section, the OAG recommends that:

1. 911 operators and police dispatchers should receive comprehensive critical incident training.

2. The NYPD should review and reform its public information policies and practices regarding which facts it should release to the public in police-involved uses of force.

STATEMENT OF FACTS[8]

A. 911 and Radio Communications

911 calls are received by operators who are assigned to the NYPD Communications Division. 911 callers report their concerns to these operators who, in turn, input into the "I/NetDispatcher" system a summary of their communications with these callers, which is thereafter sent to NYPD dispatchers. Officers do not hear the actual 911 call itself. Rather, they receive a summary of the 911 calls.

When a 911 call is considered a "priority," such as when a caller reports that an individual is armed with a gun, 911 operators can "pre-release" information to the dispatcher before the 911 call concludes so that it can be sent to officers on patrol more quickly. In such situations, as happened here, the information that is inputted into the system by 911 operators is simultaneously broadcast over the radio and sent out to Department-issued cell phones and tablets.

At approximately 4:39 pm on April 4, 2018, a person who was walking south on Utica Avenue, Caller 1, called 911. Caller 1 reported that a man, later found to be Saheed Vassell, was "walking around pointing… I don't know what is he pointing at people's face… if it's a gun, it's silver…." Caller 1 then stated, "[h]e's pointing things at people's faces …" When the 911 operator attempted to clarify what the caller saw, Caller 1 responded: "I don't know if it's a gun ma'am. It looks… it seems like a gun. It's silver." Caller 1 also stated: "No one is injured. He's just pointing in their face walking and walking back and putting it to their back." The caller provided a description of Mr. Vassell's appearance and the direction he was walking.

[8] None of the information referenced in this report was obtained through the use of Grand Jury subpoenas. The OAG issued subpoenas pursuant to New York State Executive Law § 63(8).

At approximately 4:40 pm, a second person, Caller 2, placed a 911 call. Caller 2 stated that, "[t]here's a guy walking around the street. He looks like he's crazy, but he's pointing something at people that looks like a gun and he's like popping it like if he's pulling a trigger. He's not pulling a trigger, but he's making the motion as if he is and there's something sticking out of his jacket." Caller 2 also provided the operator with a description of Mr. Vassell, as well as where he was walking. When the 911 operator asked: "You said that it looks like a gun?" Caller 2 stated: "Yes." Later during the call, after shots were fired, Caller 2 stated: "I just called the cops because I saw him doing it to like five people in the street … It's not a gun… He has no… he did it to like three people…He pulled it like it's a gun…I'm sitting in the car and I'm watching the guy, he's crossing the street and he's pointing at them people's face like it's a gun. And pulling his hands. He's doing some [making sound]… pulling it back like he's making a trigger sound and people are like ducking and like trying to [inaudible] because they thinking it's a gun. There's something hanging out of his jacket. I'm like oh my god, I don't know if it's a gun or not, I don't know, you know, but…"

Despite the fact that the 911 callers were unsure whether the item Mr. Vassell was wielding was a gun (although they thought it was), the police officers on patrol received information that was less equivocal. For example, the information they received included "firearm job" and "caller states the male was pointing a gun at people." Furthermore, officers were never advised that Mr. Vassell was a person with a mental illness. Both callers also provided the 911 operators detailed descriptions of Mr. Vassell's appearance, actions, and where he was going.

B. CAD Events

NYPD dispatchers are charged with the responsibility of broadcasting, over the police radio, the summaries of the 911 calls contained in the "I/NetDispatcher" system. These communications are commonly referred to as "CAD Events," (Computer Aided Dispatch) and they serve to contemporaneously alert police officers on patrol about reported emergencies and complaints.

The following is information from the CAD Events, in pertinent part: [9]

Start time: 00:01

NYPD MOS[10]: 7-1 Sergeant, Central, you're holding a uh firearms job at Utica and Empire?

DISPATCHER: It just came over Utica and Empire Blvd. Female caller states [inaudible] pointing a gun at people. Once again Utica and Empire Blvd.

NYPD MOS: (Inaudible)

DISPATCHER: 10-4

[9] The CAD Events transcript is attached as Exhibit 2 and the audio is available here.

[10] This refers to a Member of Service, an NYPD sworn officer.

NYPD MOS: 10-5 Anything?

DISPATCHER: I've got a description here for a perp who's male black wearing a brown jacket, blue jeans, and a black and white sneakers with a black hat.

NYPD MOS: 10-5 the job, Central.

DISPATCHER: Ah… Firearm job at ah Utica and Empire Blvd. That is Utica and Empire Blvd states… Caller states the male was pointing a gun at people… third party caller have a description for a male black with the brown jacket, blue jeans, black and white sneakers, black hat.

NYPD MOS: 10-5. What's the direction of flight on this perp?

DISPATCHER: Uh headed towards Utica and Carroll. Utica and Carroll at this time.

NYPD MOS: 7-1 Crime.

DISPATCHER: 7-1 Crime.

NYPD MOS: Just try to call back and see if the caller has eyes on the perp. We're 84.

NYPD MOS: 7-1 Sergeant, Central show me 84.

DISPATCHER: 10-4. 16-41. All other units arrive alive.

NYPD MOS: 7-1 Lieutenant coming down Utica.

DISPATCHER: 10-4 arrive alive.

NYPD MOS: Get a bus over here (inaudible).[11] Get a bus forthwith.

DISPATCHER: Ah where do you need the bus at?

NYPD MOS: We got a male shot over here.

DISPATCHER: What's the location, please?

NYPD MOS: Rush Utica. All right, it's over here.

DISPATCHER: Utica. 10-5. Utica and where?

[11] A bus is an ambulance, in police terminology.

NYPD MOS: Utica and Montgomery. Rush the bus. Rush the bus, Central.

DISPATCHER: 10-4. Utica and Montgomery. We need units at Utica and Montgomery.

NYPD MOS: Rush that bus, Central. Rush the bus.

NYPD MOS: Central shots fired. Central, rush the bus, rush the bus.

NYPD MOS: We need a bus.

End time: 00:02:09

In response to hearing the CAD Events transmitted over the air, 71st Precinct Anti-Crime Police Officer Leon Dinham informed NYPD Dispatch that his unit was responding to the request for police assistance. Sergeant Joseph Naranjo, the 71st Precinct Anti-Crime Sergeant, thereafter asked NYPD Dispatch to call the 911 caller back to clarify whether she had "eyes on the perp." The NYPD Dispatch then proceeded to inform all of the responding units that the suspect was headed toward Utica and Carroll. Responding units were also given a general description of Mr. Vassell's appearance and clothing.

C. Civilian Witness Statements

At least five people were across the street from the northeast corner of Utica Avenue and Montgomery Street in the seconds before officers fired their weapons.[12] The following are summaries of these witnesses' interviews with OAG investigators:

1. Civilian Witness 1

Civilian witness 1 (hereinafter "CW1") was familiar with Mr. Vassell from the community and was under the impression that Mr. Vassell was mentally ill. On April 4, 2018, CW1 recalled that Mr. Vassell was wearing a brown jacket and jeans as he walked along Utica Avenue. CW1 was standing outside a corner store waiting for another person (hereinafter "CW2", below) when she saw Mr. Vassell walk across Montgomery Street towards the barbershop on the opposite corner. CW1 believed that Mr. Vassell had perhaps gone to run an errand for the barbers. Mr. Vassell stayed in the barbershop for approximately five minutes before coming out. He then proceeded to cross the street. CW1 then observed three "detective cars" and one "regular car" pull up to the intersection. CW1 kept her eyes on the "detectives" as they had their weapons in their hands. Within seconds, the officers fired multiple shots. CW1 did not hear any of these officers say anything prior to firing their weapons.

2. Civilian Witness 2

Civilian witness 2 (hereinafter "CW2") was also familiar with Mr. Vassell from the neighborhood and had seen him on many previous occasions. In the moments before the shooting, CW2 saw Mr. Vassell walking and apparently talking to himself and "appeared to be

[12] Video surveillance footage confirms that there were no civilians close to Mr. Vassell at the time that he was shot.

mad." CW2 saw a marked police car and another black ("detective") car pull up and stop near the corner where CW2 was standing. CW2 stated that several people (who he understood to be plainclothes officers,) stepped out of the black car. CW2 observed Mr. Vassell turn toward the officers and raise his hand with two fingers pointed in their direction. CW2 saw the officers immediately fire approximately eight shots towards Mr. Vassell. CW2 did not hear the plainclothes officers say anything before the shooting. After the officers fired several shots, CW2 turned and ran into corner store. CW2 reported that he recognized a number of these officers from the 71st Precinct.

3. Civilian Witness 3

Civilian witness 3 (hereinafter "CW3") is a friend of Mr. Vassell from the neighborhood and had known him for approximately ten years. Mr. Vassell would regularly come to the barbershop and run errands for him. On April 4, 2018, a few minutes before the shooting, CW3 was standing outside the barbershop with his friend (hereinafter "CW4", below). CW3 saw Mr. Vassell walk by the barbershop and Mr. Vassell gave him a hug. CW3 saw something in Mr. Vassell's hand, but could not describe what it was. CW3 stated that Mr. Vassell never pointed the object at him, or at anyone else at this time.[13] CW3 further stated that Mr. Vassell then walked across the street and an unidentified person gave him five dollars. CW3 said that, after receiving the money, Mr. Vassell started walking to the nearby deli. CW3 lost sight of Mr. Vassell when he moved behind a truck. CW3 then noticed a black car pull up on the same side of the street where he was standing. CW3 observed who he understood to be two plainclothes officers step out of the car and immediately fire several shots across the street and in the direction that Mr. Vassell had been walking. CW3 indicated that he could not see Mr. Vassell at the time of the shooting.

4. Civilian Witness 4

Civilian witness 4 (hereinafter "CW4") was friendly with Mr. Vassell and had known him for approximately 15 years. CW4 owns a barbershop. Mr. Vassell would come into the barbershop on an almost daily basis, and he would occasionally sweep the floor. On April 4, 2018, CW4 saw Mr. Vassell walking along Utica Avenue past the barbershop. CW4 reported that Mr. Vassell was wearing a brown jacket, black and white sneakers, and blue jeans. CW4 saw Mr. Vassell holding something in his right hand that appeared to be dark in color. Mr. Vassell passed CW4 on the street, then looked into the barbershop. Mr. Vassell pointed this object at CW3 and another man who were standing outside the barbershop. He heard Mr. Vassell say "what's up?" CW4 interpreted Mr. Vassell's actions and tone to suggest he was kidding around with the other men. Mr. Vassell then walked away and started to cross the street. CW4 then saw a black unmarked car traveling on Utica Avenue. This vehicle suddenly turned left and stopped in the intersection. Three plainclothes officers stepped out of the car. Within two or three seconds of their exiting the vehicle, the officers "took cover," and began shooting. None of these officers ever yelled "police" or "stop" prior to discharging their weapons. CW4 believed that Mr. Vassell still had the object in his hand when the plainclothes officers arrived at the intersection. Despite the fact that CW4 attempted to attract the officers' attention prior to the shooting, they

[13] A review of the videotape footage and another civilian witness' statement does not corroborate some of CW3's account.

paid him no mind. CW4 lost sight of Mr. Vassell after the plainclothes officers arrived because a parked truck obstructed his view. As a result, CW4 did not actually witness the shooting.

5. Civilian Witness 5

Civilian witness 5 (hereinafter "CW5") knew Mr. Vassell from the neighborhood for several years. On April 4, 2018, CW5 stated that he was standing at the corner of Utica Avenue and Montgomery Street at the time of the shooting. Before the incident, CW5 heard what he described as "a commotion" behind the health food store. He turned around and saw Mr. Vassell walk up to, and take a swing at, another man as he walked along Utica Avenue. While Mr. Vassell did not actually strike the man, CW5 reported hearing Mr. Vassell yell something that he could not decipher, as he threw a punch. The man said something back to Mr. Vassell and continued walking down Utica Avenue. Mr. Vassell then proceeded to approach CW5 at the corner and said, "Hello Mr. President." He then walked to the other side of the street. CW5 did not recall seeing anything in Mr. Vassell's hands at the time that he was walking on Utica Avenue. CW5 then saw Mr. Vassell walk across Montgomery Street. CW5 recalled seeing what he interpreted to be an unmarked police car turn into the intersection of Utica Avenue and Montgomery Street. CW5 observed who he understood to be several plainclothes officers step out of the car and start shooting. CW5 heard someone say something immediately before the shooting, but could not tell whether it was one of the plainclothes officers or a nearby civilian. After the shots rang out, CW5 ran into the deli.

D. Videotaped recordings

NYPD investigators collected surveillance footage from numerous local businesses and NYPD ARGUS[14] cameras. This footage, as well as audio from the 911 calls and radio communications with police officers, was thereafter provided to video technology experts at the New York State Police to prepare a montage of the video.[15] We emphasize that because the source of each piece of video footage, as well as the audio 911 calls and dispatch recordings, contain different time stamps, the montage cannot be comprehensively synched in time. As a result, the montage does not represent a precise second-by-second account of the events of April 4, 2018. For example, the sounds of gunshots captured on the audio of a 911 call, and the content of the calls themselves, do not correspond precisely to the images on the video footage contained in the montage.

The video montage shows the events of April 4, 2018, as Mr. Vassell was walking through the neighborhood. At times, Mr. Vassell approaches various people; sometimes he has an object in his hand, and at times he points it at people. The object is visible in parts of the video montage and in other parts, it is more difficult to see. The video footage also captures the reactions of the people with whom Mr. Vassell was interacting. Some of these people do not appear to respond while others appear to respond with alarm, or move away from Mr. Vassell.

[14] These cameras are part of an NYPD-maintained surveillance system throughout the city.

[15] The montage video can be viewed here.

E. Police Witnesses[16]

1. Police Officer Anthony Bottigliere

Before April 4, 2018, Police Officer Anthony Bottigliere (hereinafter "PO Bottigliere") had served as an NYPD officer for more than six years. He was assigned to the 71st Precinct Anti-Crime unit in Brooklyn for about five years before this incident. PO Bottigliere had never before fired his weapon while on patrol.

On April 4, 2018, PO Bottigliere was working from 9:30 am to 6:05 pm, along with Police Officers Leon Dinham and Bekim Molic (hereinafter PO Dinham and PO Molic). Consistent with the Anti-Crime assignment, the officers were on routine patrol, in plain clothes, and driving an unmarked car. PO Bottigliere was seated in the rear passenger side seat of the car, PO Dinham was in the front passenger side seat, and PO Molic was the driver. At about 4:40 pm, the officers heard a radio transmission from NYPD dispatch regarding a man pointing a gun at people in the vicinity of Utica Avenue and Empire Boulevard. The radio transmission included a description of the man, but PO Bottigliere could not recall what that description was. At the moment the officers heard the radio transmission, they were approximately one block away from the intersection of Utica Avenue and Montgomery Street.

The officers responded to the radio transmission and drove north on Utica Avenue. PO Bottigliere said that as their car approached the intersection of Utica Avenue and Montgomery Street, he saw several civilians scattering in every direction. He described their demeanor as "frantic." PO Bottigliere reported that their car suddenly veered left and abruptly stopped at an angle in the middle of the intersection. PO Bottigliere then stepped out of the car. To the best of his recollection, he and his partners had their shields out. He saw a man he later learned was Mr. Vassell walking quickly across Montgomery Street with a silver object in his hand. It appeared to be a gun. Before this day, PO Bottigliere had never had any interactions with Mr. Vassell.

PO Bottigliere positioned himself outside of the front passenger side of the unmarked car just past the engine block. He saw PO Dinham slightly in front, and to his right. PO Bottigliere recalled PO Molic positioned on the driver's side of the vehicle, and to PO Bottigliere's left. PO Bottigliere stated that he saw Mr. Vassell emerge from behind the car parked on Montgomery Street. At this time, PO Bottigliere shouted "stop." PO Bottigliere also heard others yell "stop," "drop the gun," and "drop it." Mr. Vassell then turned towards the police, raised his arm, holding what PO Bottigliere believed to be a gun in his right hand. Mr. Vassell made what PO Bottiligliere described as a "racking" motion with his left hand. PO Bottigliere then heard one shot and he fired two shots at Mr. Vassell. As he fired, he could hear other gunshots, which seemed to be simultaneous. PO Bottigliere said that after he heard the first shot, he thought that he and his partners were being shot at. PO Bottigliere did not see Mr. Vassell point the silver object at anyone other than himself and his partners. After the shots were fired, PO Bottigliere

[16] Consistent with their legal rights, the four NYPD officers who fired their weapons agreed to be interviewed with their counsel present. OAG also interviewed a Sergeant and two other NYPD officers who responded to the scene. The summaries below also include information from radio transmissions.

approached Mr. Vassell. There was a silver "pipe-like" object positioned right next to Mr. Vassell on the ground (see photo below.)[17] PO Bottiligliere saw PO Molic performing chest compressions on Mr. Vassell.

PO Bottigliere stated that because of the verbal commands given to Mr. Vassell, the information transmitted to the officers over the radio, and the crowded street, he believed that Mr. Vassell was going to use deadly physical force against himself and his partners or pedestrians.

2. Police Officer Leon Dinham

Police Officer Leon Dinham (hereinafter "PO Dinham") had served as an NYPD police officer for more than five years before the date of the incident. He had never before fired his weapon while on patrol.

On April 4, 2018, PO Dinham was working from 9:30 am to 6:05 pm, along with Police Officers Bekim Molic and Anthony Bottigliere. At a few minutes after 4:30 pm, his Department-issued cell phone vibrated and he saw a transmission about a man with a firearm on Utica Avenue and Empire Boulevard. PO Dinham immediately informed PO Molic about what he had seen on his phone. He then heard Sgt. Naranjo over the radio asking for more information and heard a description of the man and where he was walking.

As PO Dinham and his partners approached Montgomery Street, he stated that he saw a man pointing a firearm at someone on the sidewalk. He described the object as having the same shape, color and characteristics as a revolver. PO Dinham said he saw Mr. Vassell point the object at several people and then he stepped into the street and pointed it at a car stopped in traffic. The officers drove towards Montgomery as Mr. Vassell crossed the street. When their car

[17] This object was later secured and vouchered by the NYPD Crime Scene Unit.

stopped, PO Dinham saw Mr. Vassell on the sidewalk behind a car, and then walking around to the front of that car. PO Dinham and his partners then stepped out of their car. PO Molic was approximately ten feet to his left. PO Dinham yelled, "drop it." Mr. Vassell looked to his left, and moved his hand like he was racking a slide to the gun and pointed it at the officers. PO Dinham did not recall when he drew his weapon, but his weapon was drawn at the time that he shouted "drop it." PO Dinham did not recall hearing shots before he fired his weapon three times. After the shots, PO Dinham called for an ambulance.

3. Police Officer Bekim Molic

Police Officer Bekim Molic (hereinafter "PO Molic") had served as an NYPD police officer for more than four years before the incident. He had never before fired his weapon while on patrol.

On April 4, 2018, PO Molic was working from 9:30 am to 6:05 pm, along with Police Officers Leon Dinham and Anthony Bottigliere. They were assigned to the 71st Precinct Anti-Crime unit. He was in plainclothes and driving an unmarked car. The car was in the area of Utica Avenue and Midwood when a 911 call came over his radio of a man with a gun at Utica Avenue and Empire, pointing it at people. As he approached that area, he saw a person fitting the description with what he believed to be a gun in his right hand, walking across the street. He stopped the car in the intersection and got out with his shield around his neck. He heard someone yell "drop it" as Mr. Vassell was turning towards them. Mr. Vassell turned towards them, got into a shooting stance, pointed the gun at them and appeared to rack it. PO Molic thought Mr. Vassell was going to shoot. PO Molic then drew his weapon and fired four times. As he was firing, he heard other shots being fired. After the shooting, he helped to handcuff Mr. Vassell. First aid was begun.[18]

4. Police Officer Omar Rafiq

Police Officer Omar Rafiq (hereinafter "PO Rafiq") had served as an NYPD police officer for more than six years before the incident and had been assigned to the rapid response Strategic Response Group (hereinafter "SRG") unit[19] for almost three years. PO Rafiq had never before fired his weapon while on patrol.

PO Rafiq was working on patrol in the 73rd Precinct from 9:00 am to 5:35 on the day of the incident with his partner, Police Officer Angel Vazquez (hereinafter "PO Vazquez"). The officers were in uniform and driving a marked NYPD SUV. PO Vazquez was the driver and PO Rafiq was seated in the front passenger seat. The officers had finished their tour and were beginning to go back to the SRG command station when PO Rafiq observed an unmarked police car speed pass them with its emergency lights and sirens activated. PO Rafiq also heard a radio

[18] The NYPD Patrol Guide Procedure No: 208-02 (Arrests: Removal to Department Facility for Processing) mandates arresting officers to handcuff a prisoner with his hands behind his back.

[19] SRG is an NYPD rapid response unit which handles anti-terrorism activities, crowd control, special event security, and routine patrol of areas designated by the NYPD. SRG can be deployed to any location within the five boroughs of New York City, and precinct commanders regularly request SRG to respond to specific issues in their precincts.

communication that there was a man with a firearm at Carroll Street and Utica Avenue. When they approached Montgomery Street and Utica Avenue, he saw Anti-Crime police officers exiting an unmarked police car. The officers were looking towards Montgomery Street, and PO Rafiq looked that way as well. He saw Mr. Vassell coming down the street with an object in his right hand which PO Rafiq thought was a firearm. It was silver and cylindrical. PO Rafiq told his partner "that's the guy" and told him to stop the car. PO Rafiq got out of the car and approached the front of the car. Mr. Vassell looked in the direction of the Anti-Crime police officers to his left and pointed the object at them while in a shooting stance. He then heard a shot and he fired, thinking that Mr. Vassell had fired. PO Rafiq did not give any commands to Mr. Vassell before firing because Mr. Vassell's actions were too quick. PO Rafiq did hear other shots and saw Mr. Vassell fall to the ground. Immediately after the shooting, PO Rafiq and his partner approached Mr. Vassell, who was laying on the ground. They rolled him over and saw a grey metal cylindrical object in his hand. Mr. Vassell was handcuffed and an ambulance was called. Sgt. Vazquez applied dressings to Mr. Vassell's injuries.

5. Police Officer Angel Vazquez

PO Angel Vazquez (hereinafter "PO Vazquez") had served with the NYPD for 6 ½ years. He had been assigned to the SRG for 1 ½ years. PO Vazquez was an FDNY EMT for two years before becoming a police officer.

On April 4, 2018, PO Vazquez was working from 9:00 am to 5:35 pm with PO Rafiq. They were assigned to the 73rd Precinct. PO Vazquez was the driver of their police vehicle. At approximately 4:30 pm, he and his partner had concluded their patrol duties and were returning to the SRG command station. On their way back to the base, PO Vazquez saw an unmarked police car speed past with emergency lights and sirens activated. A "gun run" came over the radio and PO Vazquez began to follow the unmarked car to the intersection of Montgomery Street and Utica Avenue. There, he saw the unmarked car stop in the intersection. Three plain-clothes officers stepped out of that vehicle. PO Vazquez stopped his car behind and to the left, of this unmarked car. As PO Vazquez stepped out of his vehicle, he looked to his left and observed Mr. Vassell in a two-handed shooting stance. Mr. Vassell was pointing an object that appeared to be a gun in the direction of the officers. PO Vazquez immediately heard multiple shots ring out, and he observed Mr. Vassell fall to the ground. Once PO Vazquez determined that the shots had stopped, he and PO Rafiq approached Mr. Vassell along with one of the three plain-clothes officers. PO Vazquez cut open Mr. Vassell's shirt with a knife to assist this officer in providing emergency first aid. When PO Vazquez rolled Mr. Vassell over, he observed a "shower head-like" pipe underneath his person. PO Vazquez then commenced CPR. PO Vazquez applied medical dressing to Mr. Vassell's gunshot wounds, and attended to Mr. Vassell until Emergency Medical Service personnel arrived.

6. Sergeant Joseph Naranjo

Sergeant Joseph Naranjo (hereinafter "Sgt. Naranjo") had served as an NYPD police officer for 6 years before the incident. He was promoted to Sergeant three months before the incident. On April 4, 2018, Sgt. Naranjo was working from 2:50 pm to 11:47 pm as the patrol supervisor in the 71st Precinct. He was partnered with Police Officer Ali Hassan.

At approximately 4:40 pm, Sgt. Naranjo received an alert on his department-issued cellular phone. This alert indicated that a 911 caller had reported that a man was pointing a firearm at people and walking toward Carroll Street on Utica Avenue. The alert also indicated that the 71 Precinct ACU (Molic, Dinham and Bottigliere) was responding to the call. Sgt. Naranjo informed NYPD dispatch that he was also responding to the location. Sgt. Naranjo and his partner then followed the unmarked ACU car as it proceeded to the scene. As Sgt. Naranjo was driving up Utica Avenue, he observed a male who fit the description on the corner of Utica and Montgomery Street. The ACU vehicle pulled into the intersection, stopped, and the three officers emerged from the vehicle. Sgt. Naranjo's car pulled behind the ACU car. As the three officers exited the ACU car, he saw Mr. Vassell assume a shooting stance with a silver object in his hands and point it in the officers' direction. Sgt. Naranjo heard someone from the officers' direction yell, "drop it," but Mr. Vassell did not comply. The ACU officers fired their weapons at Mr. Vassell and he fell to the ground. From the time the ACU car stopped until the officers started firing was about 10-15 seconds. Sgt. Naranjo called an ambulance and saw some of the officers giving Mr. Vassell first aid. There was a silver object on the ground next to Mr. Vassell at this time.

7. Officer Ali Hassan

Police Officer Ali Hassan (hereinafter "PO Hassan") had served as an NYPD police officer for 9 ½ years before the incident. On April 4, 2018, he was working from 2:50 pm to 11:47 pm, partnered with Sgt. Naranjo.

They were travelling on Utica Avenue when Sgt. Naranjo received a notification over his NYPD-issued phone that there was a man with a gun on Utica and Empire. Sgt. Naranjo informed the dispatcher that they were responding to the call. The ACU unit also responded to the call. PO Hassan saw the ACU car make a U-turn in the intersection and stop. Three officers immediately got out of that car. As PO Hassan stopped the vehicle, Sgt. Naranjo got out. PO Hassan heard someone yell a command. He heard shots as he was exiting his car, unholstering his weapon. He saw Mr. Vassell on the ground. He saw an officer providing CPR to Mr. Vassell.

F. 911 Operators

1. First 911 Operator

The first 911 operator graduated from the NYPD Police Academy in March of 2018. She had only been answering 911 calls as an operator for approximately a month at the time of this incident. The first 911 operator had an independent recollection of the call that she received on April 4, 2018. This was the call initiated by the first 911 caller at 4:39 pm. She remembered the female caller sounding frightened. The caller stated that there was a man with a gun and that he was pointing it at people. The caller added that one of the people that he was pointing the gun at was a child. At a certain point in the call, the caller stopped providing locations. It appeared to the first 911 operator that the caller became increasingly frightened as the man turned around and faced her direction. The first 911 operator believed that she heard a gunshot ring out before the call was disconnected.

The first 911 operator reported receiving training regarding calls that involve emotionally disturbed persons [in police department terminology]. This training encouraged operators to: (a)

ask for a description of the subject, (b) ask whether there are any weapons involved, (c) if a relative was calling, inquire as to the subject's past history and date of birth, and (d) ask whether there are any injuries.

The first 911 operator explained that there is no specific code for "a possible weapon" that can be inputted into the system. She did not code the call as an emotionally disturbed person because there was no specific reference by this caller to any mental problem. Because the caller did not identify herself as a family member, the 911 operator did not ask questions about Mr. Vassell's history. The caller only mentioned that the man in question "possibly" had a gun. Despite the fact that the first 911 operator acknowledged that she could perhaps have posed more questions about the gun and the subject's actions, she reported feeling confident that she had secured sufficient information based upon the 911 caller's representations and obvious fear. The first 911 operator focused on the caller's description of the subject's behavior and relayed that what he possessed was a gun because she was concerned that lives were in danger.

2. Second 911 Operator

The second 911 operator had been employed as an NYPD 911 operator for approximately three months at the time of this incident. On April 4, 2018, she received a 911 call with regards to a male who was "acting crazy" and "possibly had a gun." This was the second call received, made by caller 2 at 4:40 pm. The second 911 operator classified the job as an "Emotionally Disturbed Person" because the caller reported that the male was "acting crazy." As a result of this designation, the information that she inputted into the CAD system was directly sent to FDNY/EMS.

The second 911 operator later added a code into the system alerting responding officers that the subject was armed with a firearm. As she inputted this information into the system, she sent it to both EMS and NYPD dispatchers. The second 911 caller remained on the line at the time that the shots were heard over the phone.

G. Firearms and Ballistics Evidence

The OAG's review of ballistics evidence in this case establishes that PO Bottigliere fired two shots, PO Molic fired four shots, PO Rafiq fired one shot, and PO Dinham fired three shots. The service weapons used by each officer were capable of firing sixteen rounds.[20] In addition, a review of the witness and officer statements establishes that there was no break in the firing by the officers and that the shooting took place over a matter of seconds.

[20] The magazine can hold 15 rounds, and the chamber of the firearm can hold an additional round.

MEDICAL EXAMINER

Dr. Gene Maya, Medical Examiner II at the New York City Office of the Chief Medical Examiner, performed the autopsy upon Mr. Vassell at approximately 9 a.m. on April 5, 2018. The autopsy report shows that Mr. Vassell was 5'9" and weighed 136 pounds.[21] He had sustained eight gunshot wounds, each to the front of his body, one to the head; three to the torso, one to his lower left extremity, one to his right lower extremity, and two to his right and left upper extremities. Mr. Vassell also sustained a graze wound to his right lower extremity.

Samples of Mr. Vassell's blood and bodily fluids were submitted for toxicological analysis. This analysis established that Mr. Vassell had a blood alcohol content of 0.07 g%.[22] The testing also found the presence of cannabinoids in his system.

At the request of Mr. Vassell's family, the OAG retained the services of an independent medical examiner. Dr. James Gill, a board-certified anatomic and forensic pathologist, performed a second autopsy and reviewed the records of the first autopsy. Dr. Gill confirmed the findings and conclusions in Dr. Maya's report, including the fact that there were no entrance gunshot wounds to the back of Mr. Vassell's body.[23]

LEGAL ANALYSIS

Under Penal Law §35.30(1)(c), a police officer is justified in using deadly physical force when the officer (i) is "effecting or attempting to effect an arrest…of a person whom he or she reasonably believes to have committed an offense," and (ii) "reasonably believes that…the use of deadly physical force is necessary to defend the police officer…or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force." *See Williams v. City of New York*, 2 N.Y.3d 352 (2004); *see also Stevens v. Metro. Transp. Auth. Police Dep't*, 293 F.Supp.2d 415, 420 (S.D.N.Y. 2003); *Brown v. State*, 250 A.D.2d 796, 797 (2d Dept. 1998). When such a defense is raised, it must be disproven beyond a reasonable doubt in order to establish the officer's criminal culpability. *See* N.Y. Crim. Jury Instr. 2d Penal Law §35.15(2). *See also People v. McManus*, 67 N.Y.2d 541, 546-47 (1986) ("[W]henever justification is sufficiently interposed by the defendant, the People must prove its absence to the same degree as any element of the crime charged.")

Although the Court of Appeals has not directly addressed the meaning of the "reasonably believe" language in Penal Law §35.30, it has interpreted identical language in the context of another subsection of the justification statute, Penal Law §35.15. Under PL §35.15(1), "A person may…use physical force upon another person when, and to the extent, he or she reasonably believes such to be necessary to defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by such person…." Furthermore, under PL §35.15(2)(a), a person may use deadly physical force, if "the actor reasonably believes that such other person is using or about to use deadly physical force."

[21] See Exhibit 3.

[22] The New York State legal blood alcohol limit for motorists is 0.08 g%. Vehicle and Traffic Law Section 1192(2).

[23] See Exhibit 4.

In *People v. Goetz*, 68 N.Y.2d 96 (1986), and then later in *People v. Wesley*, 76 N.Y.2d 555 (1990), the Court held that the phrase "reasonable belief" has both a subjective component and an objective component. The subjective component is satisfied if the defendant in fact actually believed, "honestly and in good faith," that deadly force was being used or was about to be used against him (or a third person) at the time he used deadly physical force, and that the use of deadly physical force was necessary in order to repel the danger, regardless of whether that belief was accurate or not. *Goetz*, 678 NY2d at 114. The objective component is satisfied if a "reasonable person" under the same "circumstances" could have held those beliefs. *Goetz*, 678 NY2d at 115. ("Statutes or rules of law requiring a person to act "reasonably" or to have a "reasonable belief" uniformly prescribe conduct meeting an objective standard measured with reference to how "a reasonable person" could have acted." *Goetz*, 678 NY2d at 112).

New York courts have invoked the *Goetz* "reasonable belief" test to interpret PL §35.30(1)(c) in both criminal and civil contexts. In *People v. Haste*, 40 Misc.3d 596 (Supp. Ct. 2013), a Bronx Supreme Court dismissed a manslaughter indictment against an officer on the grounds that the Grand Jury had not been properly instructed on the *Goetz* standard. "[T]he prosecutor should have explained. . . that the focal point of [the Grand Jury's] deliberations on this issue should be . . . whether [Police Officer Haste] reasonably believed that the use of deadly physical force was necessary to defend himself…*See People v. Goetz* 68 N.Y.2d 96, 115, 506 N.Y.S.2d 18, 497 N.E.2d 41 (1986)." In *Brown v. State*, 250 A.D.2d 796 (2nd Dept. 1998), the court was obliged to interpret the meaning of reasonableness under PL §35.30 in order to resolve a state law tort claim for battery against a police officer. In so doing, it cited to *Goetz* and *Wesley*, ruling that "[p]ursuant to Penal Law § 35.30(1)(c), an officer may not use deadly physical force upon another person unless he or she reasonably believes that the use of deadly physical force is necessary." *Brown*, 250 A.D.2d at 797.

In both criminal and civil cases, when suspects are brandishing either a weapon or what appears to be a weapon, courts have held that, absent clear delusion or malice, an officer's use of deadly physical force was a reasonable response to the presented threat. *See, e.g., Diaz v. State,* 144 A.D.3d 1220 (3rd Dept. 2016) (state trooper shot a fleeing suspect who had purportedly brandished a pistol and pointed it in the trooper's direction).

A distinct standard for judging the reasonableness of a police officer's use of deadly physical force was articulated in the United States Supreme Court case *Graham v. Connor*, 490 U.S. 386 (1989). Addressing the question of when "the force used to effect a particular seizure is 'reasonable' under the Fourth Amendment," the Court established a test that contained only an objective (but no subjective) component. In determining whether that component was satisfied, it looked not to the beliefs of a "reasonable person" under the circumstances, but rather to the conduct of a "reasonable officer on the scene." *Graham*, 490 U.S. at 396.

Although New York courts have not expressly looked to *Graham* to interpret the language of §35.30(1)(c),[24] both Federal District Courts and the Second Circuit Court of Appeals

[24] One New York criminal case, *People v. Lora*, 85 A.D.3d 487 (1st Dept. 2011), does echo the language of *Graham*, invoking a "reasonable officer" standard and analyzing the overall reasonableness of a police officer's conduct in terms of the "realities of urban life in relation to the dangers to which [police] officers are exposed daily, which

have done so in adjudicating battery claims against police officers. In *Chamberlain v. City of White Plains*, 986 F.Supp.2d 363, 398 (SDNY 2013), for example, the court ruled that, since the §35.30 reasonableness standard "is the exact same [standard] as the one used to analyze a Fourth Amendment excessive force claim," §35.30 should be read to call for a *Graham* reasonable officer analysis. *See also Jamison v. Metz*, 541 Fed. Appx. 15 (2d Cir. 2013).

The *Graham* standard emphasizes that it is improper solely to evaluate an officer's decisions in hindsight. "The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham*, 490 U.S. at 396-97. *See also Lee v. City of Richmond, Va.*, 100 F .Supp. 3d 528, 536 (E.D. Va. 2015); *Francis v. Garcia*, 702 Fed. Appx. 218 (5th Cir. 2017).

In this case, under either the *Goetz* or the *Graham* standard, the use of deadly physical force against Mr. Vassell by the four police officers involved in the case at hand is legally justified.

As a threshold matter, immediately prior to their use of force, the officers reasonably believed that Mr. Vassell was committing one or more crimes. Moreover, they were attempting to effect an arrest for those crimes. What each had heard over the radio, and what each had seen in the moments prior to the shooting support this conclusion. Each officer stated that he believed Mr. Vassell to be in possession of a gun. In light of these perceptions, even before Mr. Vassell pointed the gun at them, each of the discharging officers had ample reason to believe that he was committing the crime of Criminal Possession of a Weapon at the very least. Similarly, it is abundantly apparent that each of these officers emerged from their vehicles with the intention of taking Mr. Vassell into custody.

It is important to note that at the time that each of the four officers began firing their weapons, all of the officers in question reasonably believed that use of deadly physical force by Mr. Vassell was imminent. Each of the interviewed officers stated that he believed that Mr. Vassell was about to fire a gun at them. The totality of the circumstances suggests that this belief was eminently reasonable. The object that Mr. Vassell possessed looked like a gun - he held it in a manner consistent with someone who was preparing to fire a weapon, he assumed what was described as a "shooting stance," pointed it in their direction, and made a racking motion, as if prepared to discharge a firearm.

Furthermore, each of the four officers reasonably believed that his use of force was necessary to stop the threat that Mr. Vassell posed. A total of ten shots were fired. At least two of the officers reported being under the impression that Mr. Vassell had fired upon them when they heard the initial gunshots ring out. No officer involved in this case fired his weapon more than four times. All fired in one burst, and over a course of literally seconds. There is absolutely no evidence to suggest that any of the four officers continued to fire his weapon after Mr. Vassell fell to the ground. To the contrary, the evidence indicates that the gunshots stopped as soon as it was apparent that the perceived threat was concluded.

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often require split-second decisions, with life or death consequences." *Lora*, however, involved the court's interpretation of the reckless manslaughter statute, not PL §35.30.

For these reasons, the OAG concludes that there is no legal basis for criminally charging any of the officers.

RECOMMENDATIONS

1. 911 Operators and Dispatchers Should Receive Comprehensive Critical Incident Training

In 2016, the Police Executive Research Forum (hereinafter "PERF"), an independent organization focused on identifying best practices relative to critical issues in policing, issued its "GUIDING PRINCIPLES ON USE OF FORCE."[25] In the report, PERF provided 30 recommendations (deemed "30 Guiding Principles") broadly dealing with improvements to law enforcement responses in the areas of "use-of-force policies, training, tactics, and equipment."[26] Guiding Principle 29 emphasizes the need for "[w]ell trained call-takers and dispatchers [since they are] essential to the police response to critical incidents."[27]

Cases across the country highlight the tragic consequences of dispatchers who do not transmit accurate information to police officers. For instance, in the fatal shooting of Tamir Rice by a Cleveland police officer, the Cuyahoga County prosecutor characterized as a "crucial mistake" the failure of the dispatcher to advise responding police officers that the subject of the call "might be a juvenile" and that the gun he was pointing at people could be "fake." Rice was 12-years old and found to be holding a pellet gun.[28] In another fatal incident in Weirton, West Virginia, the dispatcher advised responding officers to watch for a weapon, but did not advise that, according to the caller, the weapon was unloaded, the subject was drunk, and he "was going to threaten the police with [the gun] just so they would shoot him."[29] The subject, ultimately found to be holding an unloaded weapon, was shot and killed by a responding officer. Indeed, the phenomenon of what they refer to as "dispatch priming" shows that "priming officers with incorrect [] information about what a subject [is] holding significantly increase[s] the likelihood" of a shooting error … while "priming officers with the correct information … significantly decrease[s] the likelihood for error."[30]

As noted above, PERF has recognized the significant role 911 call-takers and dispatchers play "in improving the police response to critical incidents of all types, including incidents that have the potential for use of lethal force."[31] PERF's training program, developed to help officers

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[25] https://www.policeforum.org/assets/30%20guiding%20principles.pdf

[26] *Id* at Page 11.

[27] *Id* at Page 68.

[28] https://www.chicagotribune.com/news/nationworld/ct-tamir-rice-911-dispatcher-suspended-20170314-story.html

[29] https://features.propublica.org/weirton/police-shooting-lethal-force-cop-fired-west-virginia/

[30] https://www.policeone.com/officer-shootings/articles/483051006-How-dispatch-priming-can-drive-some-disastrous-shooting-decisions/

[31] https://www.policeforum.org/assets/EmergencyCommunications.pdf

defuse critical incidents [Integrating Communications, Assessment and Tactics – "ICAT"] similarly recognizes the important role of dispatchers in reducing fatal uses of force and encourages the co-training of dispatchers and police officers; ICAT also trains responding officers, where time permits, to contact dispatchers in order to receive further information about the subject of a critical incident.[32]

It would be inappropriate to lay blame for this tragedy at the feet of the call-takers and dispatchers. However, we note that the first person to call 911 in this incident advised the dispatcher that she did not know what Mr. Vassell was pointing at people. When the call-taker later in the call questioned, "[a]nd he's pointing a gun at people?" the caller replied, "I don't know if it's a gun ma'am. It looks … it seems like a gun. It's silver." A second person told another call-taker that Mr. Vassell "looks like he's crazy but he's pointing something at people that looks like a gun…" Those descriptions were somewhat ambiguous and equivocal. Yet, the information ultimately relayed to the officers was that Mr. Vassell was pointing a gun at people. Given the inaccurate information that Mr. Vassell was in fact carrying a gun, the officers never considered that they might be dealing with an individual experiencing a mental crisis who was not armed with a weapon. We recommend that the NYPD correct any training deficiencies that may have contributed to this tragic result.

2. The NYPD Should Develop a Policy To Govern the Release Of Public Information in Critical Officer-Involved Incidents

A day after the shooting, media reports indicated that an NYPD source had released information about Mr. Vassell's previous contacts with law enforcement and protected health information. Based upon the OAG's investigation, it appears that this information was obtained from sealed records. Pursuant to CPL Section 160.50(1)(c), this information should not have been publicly released. Because the OAG obtained no evidence that any of the involved police officers were aware of any of this information, it could not have formed any part of their decisions to use force in this incident. Thus, release of such information served no useful purpose except to denigrate Mr. Vassell.

Six days after Mr. Vassell's death, the NYPD, noting its commitment to transparency, also released portions of some of the video footage it had obtained.[33] The publicly-released footage did not include much of the videotape showing the interactions between Mr. Vassell and civilians before the shooting. The released footage was also slowed down and stopped at various points, apparently to emphasize a narrative that the object Mr. Vassell wielded appeared be a weapon.

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[32] See generally https://www.policeforum.org/about-icat; and see *Id.* at fn. 7 (p. 69) (*inter alia* citing Wallkill, New York Police Chief Robert Hertman advising that his department adopted the ICAT program and uses actual dispatch members in role-playing scenarios in order to enhance effectiveness.)

[33] Further, at one point the NYPD incorrectly reported that the OAG had participated in the decision to release videotape footage. In fact, the OAG was not consulted and played no role in the NYPD's determination of whether and when to release the video footage. The OAG recommends that law enforcement consult with the prosecuting entity before it releases video footage in instances of officer-involved uses of force.

As of the date of this report, the NYPD has no written, publicly available policy governing the release of video in critical incidents. For some time, law enforcement agencies have been encouraged to develop "[c]lear and concise policies and procedures relating to … [among other issues] video evidence" in officer-involved incidents.[34] As noted below, many agencies have embraced this recommendation, generated policies, and made them available to the public.[35] Such an approach serves the dual purpose of establishing expectations and promoting consistency. The OAG recommends that the NYPD, the largest law enforcement agency in the country, generate a publicly available policy governing the release of video in critical officer-involved incidents and that it include, at minimum, the elements below:

- The scope of incidents to which the policy applies;
- The number of days by which material will be released;
- The manner in which the material will be disseminated;
- A process to define when and under what circumstances release of video may be delayed; and
- A process to notify persons or entities affected or impacted by the video's release.

In the absence of a policy providing guidance as to when, how, and under what circumstances video will be released, law enforcement agencies will understandably invite criticism for seeming to selectively release quickly video that enhances the public's perception of officers' actions, while selectively withholding for as long as possible those videos that cast the officers' actions in a negative light. We therefore urge the NYPD to adopt a policy that fosters transparency, fairness and consistency.

CONCLUSION

The death of Mr. Saheed Vassell was a tragedy. However, as noted above, based upon all of the facts and circumstances found during its investigation, the OAG concluded that the evidence was such that a properly instructed grand jury could not find probable cause for a criminal charge. As a matter of law, the officers' use of force in this case was justified. We nonetheless issue this report to assist the public in understanding the basis for the OAG's conclusion in this case and to provide context to our policy recommendations.

[34] https://www.theiacp.org/sites/default/files/2018-08/e051602754_Officer_Involved_v8.pdf

[35] See LAPD 420.55 Critical Incident Video Release Policy and Santa Clara County Police Chiefs' Association Office Involved Incident Guidelines.

EXHIBIT 1

File: 911 msg 001

FIRST 911 CALL

Start time: 00:00:01

DISPATCHER: New York City 9-1-1. Do you need police, fire?

911 CALLER: *(overlapping)*… Hi. I'm walking down Utica Avenue in the direction to East… um… walking away from Eastern Parkway towards Empire Boulevard… the guy in a brown jacket walking around pointing… I don't know what is he pointing at people's face… if it's a gun, it's silver…

DISPATCHER: *(overlapping)*… You said, you said Utica Avenue and Eastern Parkway?

911 CALLER: Utica… I'm walking in the direction towards Empire Boulevard.

DISPATCHER: So, Empire Boulevard?

911 CALLER: Right. I'm walking on Utica…

DISPATCHER: Uh huh.

911 CALLER: in the direction toward Empire Boulevard. I'm between…

DISPATCHER: *(overlapping)*… Ok, ma'am.

911 CALLER: Carroll and… I'm sorry?

DISPATCHER: Ok. And, and you said…

911 CALLER: *(overlapping)*… He's walking, I don't know what he's doing…Yes

DISPATCHER: He's Black, White, Hispanic?

911 CALLER: He's African-American guy. He has on a brown jacket. He's pointing things at people's faces…You know?

DISPATCHER: *(overlapping)*… Brown jacket. What color are the jeans?

911 CALLER: He has on a blue jeans, black and white sneakers.

DISPATCHER: Black and white sneakers?

911 CALLER: *(overlapping)*… a black hat, right. He's almost…

DISPATCHER: *(overlapping)*… a black hat?

911 CALLER: *(overlapping)*… to the corner of Crown Avenue. A lady is walking with her child, just points the silver thing in the lady's face. He going inside a… this looks like a…just came out a nail shop.

DISPATCHER: *(overlapping)*…And he's pointing a gun at people?

911 CALLER: I don't know if it's a gun ma'am. It looks… it seems like a gun. It's silver.

DISPATCHER: Give me one second. Ok ma'am.

911 CALLER: [*unintelligible*] I see it… I see it…

DISPATCHER: *(overlapping)*… Help is… help is… help is on the way, help is on the way. I just have a few more questions. Is he dark-skinned, light-skinned…

911 CALLER: *(overlapping)*… No problem, ma'am. He's dark.

DISPATCHER: He's dark-skinned? Ok.

911 CALLER: Yea.

DISPATCHER: Is he slim, medium build, heavy set?

911 CALLER: Slim.

DISPATCHER: Slim. Ok.

911 CALLER: Yea.

DISPATCHER: And which way is he headed?

911 CALLER: He's on, he's, he just crossed Carroll Avenue. He's walking down Utica 'cus he just crossed Carroll. The next block will be Montgomery, then will be Empire Boulevard.

DISPATCHER: So, he's, he's headed towards Utica Avenue and then…

911 CALLER: No. He's walking on Utica itself.

DISPATCHER: Mm hmm.

911 CALLER: And he's… the next corner will be Montgomery and then the next corner after that will be Empire Boulevard.

DISPATCHER: Towards Montgomery…

911 CALLER: He's in between [??]…

DISPATCHER: *(overlapping)*… Ok.

911 CALLER: He's walking down Utica between Montgomery and Crown right now, as we speak.

DISPATCHER: Ok. Between Montgomery and Carroll. Ok.

911 CALLER: Crown, Crown.

DISPATCHER: Crown. Ok.

911 CALLER: Mm hmm. He's about, like maybe, two more steps from the corner of Montgomery right now.

DISPATCHER: Ok, ma'am. Again, he's male, Black, wearing a brown jacket, blue jeans, black and white sneakers, a black hat and he's slim and he's dark-skinned.

911 CALLER: Yes.

DISPATCHER: Ok. How tall is he? If you had to…

911 CALLER: *(overlapping)*… He's, maybe he's about, uh, I'll say five-nine or six

DISPATCHER: Five-nine or five…

911 CALLER: *(overlapping)*… If I'm not mistaken.

DISPATCHER: *(overlapping)*… Five-six [??].

911 CALLER: He's walking, now he's walking down Montgomery, now he's walking down Montgomery. So, he's in between… he's walking down Montgomery, he's in between Utica and Schenectady.

DISPATCHER: Ok, ma'am. Anyone injured?

911 CALLER: I'm sorry? No. No one is injured. He's just pointing in their face [??] walking and walking back and putting it to their back.

DISPATCHER: Ok. And he's putting an object…

911 CALLER: *(overlapping)*… Alright. He's coming back, he's coming back, he's coming back, *(crying)* [??] coming back.

DISPATCHER: Ok.

911 CALLER: He's walking somewhere. He's, he's crossing the street. I'm crossing Montgomery and Utica and he's crossing now, ma'am.

DISPATCHER: Ok, ma'am. Help is on the way. And you said…

911 CALLER: *(overlapping)*… Oh my god.

DISPATCHER: He's pointing the object at people's backs?

911 CALLER: Yes, ma'am. Yes, ma'am

DISPATCHER: Ok. Ok. And this… you said it was silver?

911 CALLER: *(crying)*

DISPATCHER: Ma'am, ma'am, ma'am.

End time: 00:03:10

File: 911 msg 002

SECOND 911 CALL

Start time: 00:00:01

DISPATCHER: New York City 9-1-1. Do you need police, fire, or medical?

911 Caller: Uh… police.

DISPATCHER: What's the address?

911 CALLER: Uh… it looks… it's… um… it's in the street. The guy is walking. The closest address that I can see is 3-5-6 Utica Avenue in Brooklyn.

DISPATCHER: 3-5-6 Utica Avenue? What's the streets that is in between?

911 CALLER: Between Carroll and I can't see the other street. I think it's Crown.

DISPATCHER: Ok ma'am. What's the emergency?

911 CALLER: There's a guy walking around the street. He looks like he's crazy, but he's pointing something at people that looks like a gun and he's like popping it like if he's pulling a trigger. He's not pulling a trigger, but he's making the motion as if he is and there's something sticking out of his jacket.

DISPATCHER: Ok. Is anybody injured?

911 CALLER: Nobody's injured.

DISPATCHER: Ok. Give me one second. Ok. Help is on the way… just have a few more questions. Ok?

911 CALLER: Uh-huh.

DISPATCHER: *(overlapping)*… You said that it looks like a gun?

911 CALLER: Yes.

DISPATCHER: Ok. The male… is he White, Black, Hispanic, Indian, or Asian?

911 CALLER: He's Black… I don't see where he's gone.

DISPATCHER: Ok and he… how old does he look?

911 CALLER: He looks in his late 30s.

DISPATCHER: And what was he wearing today?

911 CALLER: Uhh… looked like a beige-ish, brownish jacket.

DISPATCHER: Ok. What color pants?

911 CALLER: Um… I didn't catch his pants. I'm trying to see if I can still see him.

DISPATCHER: You didn't catch the pants?

911 CALLER: No.

DISPATCHER: Alright. The police are on the way. I'm going to connect you to EMS so they can send you some help. Ok? Stay on the line for me.

911 CALLER: Ok.

(Dial tone…phone ringing)

EMS: E-M-S 8-6-3-3

DISPATCHER: 8-6-3-3… 2-6-0-2… I have a pre-release in Brooklyn. The job number is 27-59. Caller's on the line.

EMS: 2-7-5-9. Thank you. Hello caller.

911 CALLER: Hello?

EMS: I want to make sure. This is for 3-5-6 Utica Avenue in Brooklyn?

911 CALLER: Yea. It's not there. The guy is walking in the street and I'm in my car.

EMS: Ok. What's he wearing?

911 CALLER: He's wearing like a beige jacket… I can't even… I was so focused on the stupidness he was doing. He's… *(tires screeching)*… Oh my god! Malaysia! [sounds like]… Malaysia! [sounds like]… lay down! … lay down baby! Stay in there!

DISPATCHER: He's shooting ma'am?

911 CALLER: Ok. Shot's fired. So I'm going to my car.

EMS: Ok. Stay in your car…

911 CALLER: *(overlapping)* Yes.

EMS: *(overlapping)*… make sure everybody is safe.

911 CALLER: Yes.

EMS: Did you see if anybody got shot, ma'am?

911 CALLER: The cops are there. The co… I don't know. Somebody fired shots, but I know the cops are there. The cops…the cops are here. A lot of cops are here. Let me grab my daughter. My daughter's in the street. Come! Come over here! Come! You didn't see the crazy guy? You didn't see the guy? He was walking up to people and doing like *(making sound)* like he was pulling a gun [??] whole time here. The same guy… [??]. I called the cops. That's the same guy. I just called the cops because I saw him doing it to like five people in the street. *(Background voice inaudible)*… It's not a gun. *(Background voice inaudible)*… He has no… he did it to like three people. *(Background voice inaudible)*… Yea. *(Background voice inaudible)*… Probably. *(Background voice inaudible)*… He pulled it like it's a gun. Yea. *(Background voice inaudible)*… I'm sitting in the car and I'm watching the guy, he's crossing the street and he's pointing at them people's face like it's a gun. And pulling his hands. He's doing some *(making sound)*… pulling it back like he's making a trigger sound and people are like ducking and like trying to [??] because they thinking it's a gun. There's something hanging out of his jacket. I'm like oh my god, I don't know if it's a gun or not, I don't know, you know, but… *(Background voice inaudible)*... I called the cops. Hell yea I called the cops.

DISPATCHER: Ma'am is somebody injured? Do you see anybody injured?

911 CALLER: I can't see because I'm in my car and the cops are blocking the street all down the block, but I did hear alotta shots fired.

DISPATCHER: How many shots did you hear?

911 CALLER: Like seven.

DISPATCHER: Hello?

911 CALLER: Hello?

DISPATCHER: What's your last name, ma'am?

911 CALLER: [redacted]

DISPATCHER: Ok. *(Male voice in background)*. What's your phone number, ma'am?

911 CALLER: My phone number is [redacted]

DISPATCHER: Mmm hmm.

911 CALLER: [redacted]

DISPATCHER: [redacted]

911 CALLER: Uh huh.

(Voices in background)

EMS: Alright ma'am. Keep yourself safe. You see anything else, you let us know, ok?

911 CALLER: Thank you, uh huh.

EMS: Thank you.

DISPATCHER: Thank you, buh-bye.

End Time: 00:04:12

Please note: Personal information has been redacted to protect the privacy of the 911 caller.

EXHIBIT 2

CAD EVENTS

Start time: 00:01

NYPD MOS: 7-1 Sergeant, Central, you're holding a uh firearms job at Utica and Empire?

DISPATCHER: It just came over Utica and Empire Blvd. Female caller states [inaudible] pointing a gun at people. Once again Utica and Empire Blvd.

NYPD MOS: (Inaudible)

DISPATCHER: 10-4

NYPD MOS: 10-5 Anything?

DISPATCHER: I've got a description here for a perp who's male black wearing a brown jacket, blue jeans, and a black and white sneakers with a black hat.

NYPD MOS: 10-5 the job, Central.

DISPATCHER: Ah… Firearm job at ah Utica and Empire Blvd. That is Utica and Empire Blvd states… Caller states the male was pointing a gun at people… third party caller have a description for a male black with the brown jacket, blue jeans, black and white sneakers, black hat.

NYPD MOS: 10-5. What's the direction of flight on this perp?

DISPATCHER: Uh headed towards Utica and Carroll. Utica and Carroll at this time.

NYPD MOS: 7-1 Crime.

DISPATCHER: 7-1 Crime.

NYPD MOS: Just try to call back and see if the caller has eyes on the perp. We're 84.

NYPD MOS: 7-1 Sergeant, Central show me 84.

DISPATCHER: 10-4. 16-41. All other units arrive alive.

NYPD MOS: 7-1 Lieutenant coming down Utica.

DISPATCHER: 10-4 arrive alive.

NYPD MOS: Get a bus over here (inaudible). Get a bus forthwith.

DISPATCHER: Ah where do you need the bus at?

NYPD MOS: We got a male shot over here.

DISPATCHER: What's the location, please?

NYPD MOS: Rush Utica. All right, it's over here.

DISPATCHER: Utica. 10-5. Utica and where?

NYPD MOS: Utica and Montgomery. Rush the bus. Rush the bus, Central.

DISPATCHER: 10-4. Utica and Montgomery. We need units at Utica and Montgomery.

NYPD MOS: Rush that bus, Central. Rush the bus.

NYPD MOS: Central shots fired. Central, rush the bus, rush the bus.

NYPD MOS: We need a bus.

NYPD MOS: Anybody got a script? Who we looking for?

DISPATCHER: Have a description.

NYPD MOS: We got him, Central. We just need a bus. Hurry up, rush that bus, Central. Rush that bus.

NYPD MOS: (inaudible)

NYPD MOS: 10-5 location.

DISPATCHER: Can you 10-5 if you have the perps in custody? Is the perp in custody at this time?

DISPATCHER: 7-1 Lieutenant.

NYPD MOS: Get a boss on the scene over there forthwith, Central.

NYPD MOS: (Inaudible) Central.

DISPATCHER: Do we have the perp in custody at this time?

NYPD MOS: (Inaudible) Central.

DISPATCHER: 10-5 it.

NYPD MOS: (Inaudible) Montgomery and Utica for crowd control right now.

DISPATCHER: 10-4 we need units at Montgomery and Utica for crowd control at this time. Montgomery and Utica for crowd control.

End time: 03:14

EXHIBIT 3

OFFICE OF CHIEF MEDICAL EXAMINER
OF THE CITY OF NEW YORK

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

CERTIFICATION AS A BUSINESS RECORD

I have been delegated by Barbara A. Sampson, M.D.-Ph.D., Chief Medical Examiner, to certify and authenticate records of the Office of Chief Medical Examiner of the City of New York ("OCME") pursuant to Rule 4518 of the New York Civil Practice Law and Rules.

OCME has been ordered to produce certified copies of documents concerning decedent,
Saheed Ndale Vassell **ME # K18-08672**

OCME is a governmental office organized under the New York City Charter § 557 and the New York City Administrative Code §§17-201 – 17-206. All records contained in its Records Department concerning this matter are maintained in OCME's regular course of business. OCME medical examiner files contain autopsy records generated by OCME staff in the regular course of their business, as well as documents received from other sources which are relevant to the particular case.

The copies provided here represent all the documents contained in the above-cited OCME medical examiner case file.

I have examined the original records maintained by OCME's Records Department and I have compared the copies provided here to the originals from which they were photocopied, and I attest that the records bearing this certification and authentication are a true and correct copy of the original records so described and are accurate and genuine.

I have affixed the official seal of the Office of Chief Medical Examiner of the City of New York to certify these copies as genuine and as business records of the Records Department of the Office of Chief Medical Examiner.

Signature

Yvelisse Matias
Print Name

Clerical Associate IV
Title

April 25, 2018
Date

[Seal of the Office of Chief Medical Examiner]

OCME Records Certification Form 1 Rev 1/15

OFFICE OF CHIEF MEDICAL EXAMINER
CITY OF NEW YORK

REPORT OF AUTOPSY

Name of Decedent: Saheed Ndale Vassell
Autopsy Performed by: Gene Maya, M.D.

M.E. Case #: K-18-008672
Date of Autopsy: 04/05/2018

FINAL DIAGNOSES

I. PENETRATING GUNSHOT WOUND OF HEAD, WITH:
   A. PERFORATION OF SKULL AND BRAIN.
   B. COMMINUTED SKULL FRACTURES.
   C. BULLET RECOVERED AND SUBMITTED.

II. PENETRATING GUNSHOT WOUNDS OF TORSO (X3), WITH:
   A. PERFORATION OF LEFT LUNG, AORTA, T5 AND T6 VERTEBRA, AND SPINAL CORD.
   B. PERFORATION OF STOMACH AND SMALL INTESTINES.
   C. LEFT HEMOTHORAX (1 L).
   D. RENAL PALLOR.
   E. HEMOASPIRATION PATTERN IN LUNGS.
   F. BULLETS (X3) RECOVERED AND SUBMITTED.

III. PENETRATING GUNSHOT WOUND OF LEFT LOWER EXTREMITY, WITH:
   A. SOFT TISSUE HEMORRHAGE.
   B. BULLET RECOVERED AND SUBMITTED.

V. PERFORATING GUNSHOT WOUND OF RIGHT LOWER EXTREMITY.

VI. GRAZE WOUND OF RIGHT LOWER EXTREMITY.

VII. PERFORATING GUNSHOT WOUNDS OF RIGHT AND LEFT UPPER EXTREMITIES (X2), WITH:
   A. RIGHT RADIUS AND HUMERUS FRACTURE.

CAUSE OF DEATH: **GUNSHOT WOUNDS OF HEAD AND TORSO WITH INJURY OF BRAIN, AORTA AND SPINAL CORD**

MANNER OF DEATH: **HOMICIDE (SHOT)**

New York City Office of Chief Medical Examiner
I certify the attached are true copies of document(s) in OCME's possession.

Signed Date

Yvelisse Matias

OFFICE OF CHIEF MEDICAL EXAMINER
CITY OF NEW YORK

ADDITIONAL AUTOPSY NOTES

NAME OF DECEDENT: Vassell, Saheed Ndale M.E. CASE # K - 18 - 008672

(T) = from top of Head (F) = From floor to hips
(H) = from Heel

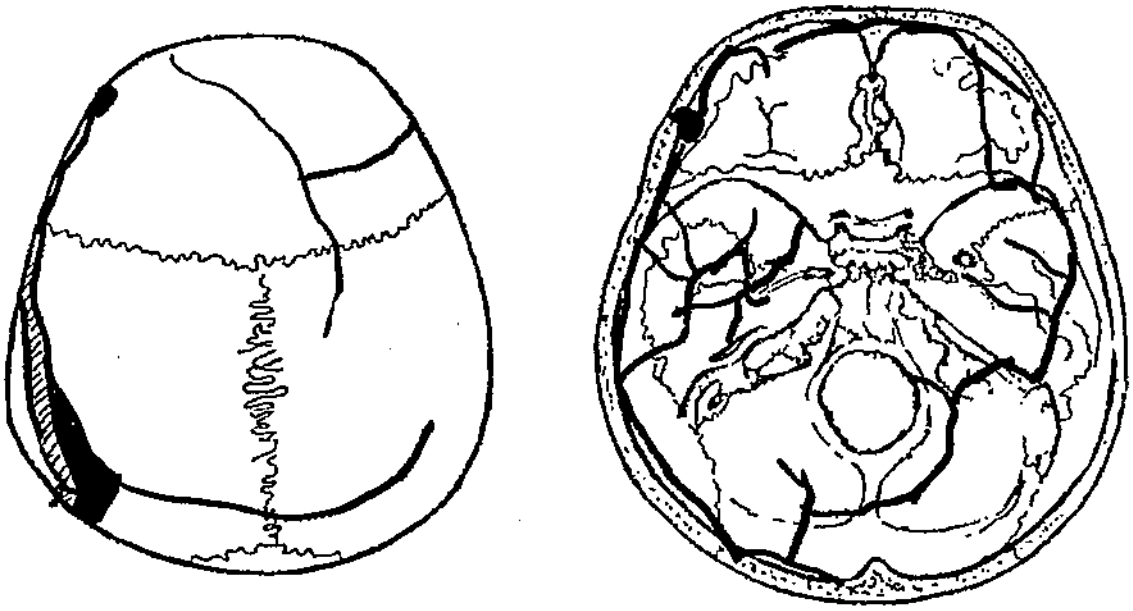
	Letter	Centered	Midline	Size	Margin of Abrasion	Fouling Stippling	Track	Course and Direction
GSW of Head	(A)	ENT: 8" (F) L: 3" (T)	ENT: 2¼ (L) L: 1¾ (R)	¼"	3/16" 7-8°	ϕ	(L) frontal bone → thal → temporal gyrus → (R) parietal → (R) occipital lobe Lateral: (R) post. skull	F→B L→R
GSW of Chest #1	(B)	ENT: 15" (T) L: @ T6	ENT: 2" (L) L: midline	¼"x¼" irreg	⅛-⅜" 3°-11°	ϕ	→ 1st rib → LU lung → aorta ant → T5 → spinal cord → T6 Lodged post to spinal cord	F→B L→R ↓
GSW of Chest #2	(C)	ENT: 15¾ (T) L: 19" (T)	ENT: 1⅜ (L) L: 2½ (L)	⅜"x¼" irreg	1/16"-5/16" 2°-9°	ϕ	→ 2nd ICS → LU lung → LL lung → 9th ICS Lodged (L) mid back	F→B R→L ↓
GSW of Abdomen	(D)	ENT: 28" (D) L: 27½ (F)	ENT: 7/8" (L) L: 2¼ (L)	3/16x⅛"	3/16" 5-9°	ϕ	→ Abdominal muscles → Stomach → Small intestine → Ilium/psoas → lodged (L) lower back	F→B R→L SI. ↑
GSW of (L) Thigh	(E)	ENT: 31" (H) L: 35" (H)	ENT: 3¾ (R) L: 3" (R)	⅝"x¼"	1¾x ¾" 6" 6 o'clock	ϕ	- skeletal muscle Lodged within	↑ F→B SI. R→L
GSW of (R) knee	(F)	ENT: 19½" (H) X: 21½" (H)	ENT: 2¼ (L) X: 3½ (L)	ENT: 3/4"x 3/4" X: ¾ x ½"	⅜" 7-8°	ϕ	- soft tissue	↑ SI. R→L.
Grazed wound of (R) thigh	(G)	28½" (H)	5" (L)	2¼ x ⅝"		ϕ		
GSW of (R) forearm	(H)	ENT: 14" (F) X: 18" (F)		ENT: 7/16" X: ⅜"	¼" 5-7°	ϕ	→ skeletal muscle → R hand + thumb	R→L→posterior
GSW of (L) Forearm	(I)	(1): 11½" (F) (2): 11.75" (F)		(1): ⅜" (2) ⅞"	(1) 5/16" radial (2) 3/16" ulnar	ϕ	→ soft tissue	~

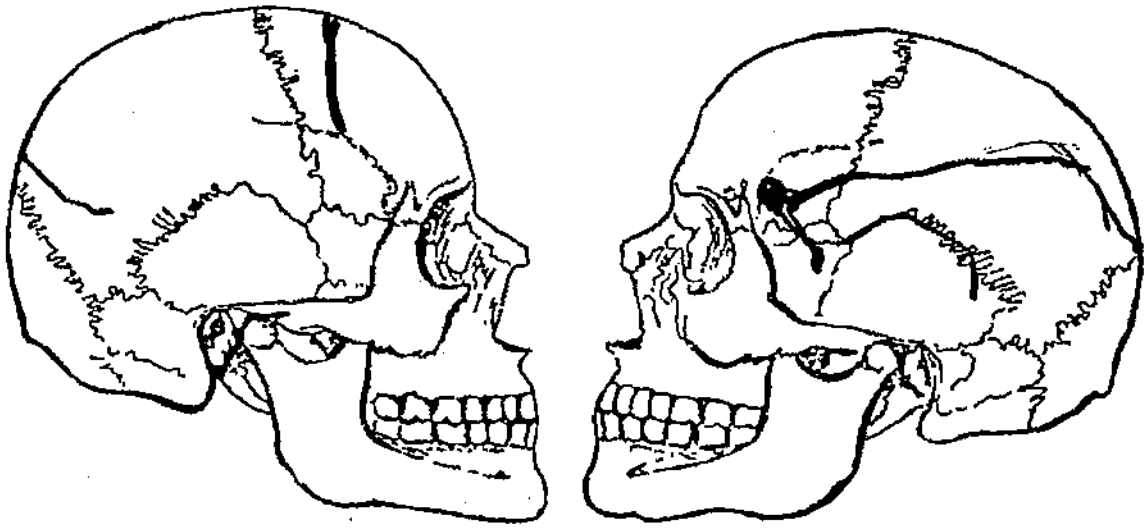
EXAMINED BY DR. MAYA DATE 4 / 5 / 2018

OFFICE OF CHIEF MEDICAL EXAMINER
CITY OF NEW YORK

ADDITIONAL AUTOPSY NOTES

NAME OF DECEDENT: Vassell, Saheed Ndale M.E. CASE # K-18-008672





EXAMINED BY DR. Maya, Gene DATE 4 / 5 / 20 18

OFFICE OF CHIEF MEDICAL EXAMINER
City of New York

M.E. # K / 18 / 8672

Name of the deceased: Saheed Ndale Wassell

Address: [redacted]

Date and place of birth: [redacted]

Closest known family member name: [redacted]

Address: [redacted]

Phone: [redacted]

Did the deceased live with another person? [redacted] If yes:

Name: _____ Relationship: _____

Address: _____

_____

Phone: (____) _____

To your knowledge did the deceased have any of these following conditions:

- ☐ High blood pressure
- ☐ Heart problems
- ☐ Diabetes
- ☐ Seizures
- ☐ Lung problems
- ☐ Tuberculosis
- ☑ Psychiatric Illness
- ☐ Cancer
- ☐ Venereal Disease
- ☐ AIDS
- ☐ Alcohol Abuse
- ☐ Drug Abuse
- ☐ Hepatitis
- ☐ Other: _____
- ☐ Pregnant in last 6 months

If yes, the outcome was:

- ☐ Live Birth
- ☐ Induced termination
- ☐ Spontaneous termination
- ☐ None

Date of outcome _____

If the deceased was treated for any of the above conditions, please list the doctor's name, hospital, clinics, and dates of treatment:

NA - Kings County

[redacted]

ME 2022 (Rev. 8/93)

Office of Chief
Medical Examiner

Barbara A. Sampson, M.D.-Ph.D.
Chief Medical Examiner
520 First Avenue
New York, New York 10016
Telephone: 212-447-2335 Fax: 212-447-2334
Email: bsampson@ocme.nyc.gov
Official Website: www.nyc.gov/ocme

POLICE CONTINUITY IDENTIFICATION

M.E.#: K-18-8672

STATE OF NEW YORK)
CITY OF NEW YORK)

I, PO ROBBIE BOODOO #17247
(Name, Rank and Shield),

of 71ST PCT
(Command)

first saw the body of the deceased, which bears the above Medical Examiner number, at

S/W corner of Utica Ave + Montgomery St
(Address/Location) on

4/4
(Date) 2018, at 1645
(Time).

I subsequently saw: (*check one*)

- ✓ The remains of same deceased
- ○ Postmortem photographs of same deceased

at the Office of Chief Medical Examiner on APRIL 5 2018 at 0935
(Date) (Time).

Signed: _____
Identifying Police Officer

Given to me this 5 day of April 2018.

Identified to _____ at 4:30 PM
(Medical Examiner or Identification personnel) (Time).

NYC
Office of Chief
Medical Examiner

Barbara A. Sampson, M.D.-Ph.D.
Chief Medical Examiner

Robert Mos
Medico-Legal Investigations
RMos@ocme.nyc.gov
www.nyc.gov/ocme

421 E 26TH Street,
New York, New York 10016
Cellular: [redacted]
Office: [redacted]
Fax: [redacted]

Investigation Report

Name of Decedent:	**Unknown, Unknown**	*Case No:*	**K-18-008672**
Report Date & Time:	**April 04, 2018 19:09**	*Disposition:*	**ME Case**
Place of Death:	**451 Clarkson Avenue, Brooklyn, NY, 11203**		

Case Synopsis

Unknown black male in his 20's multiple GSW's.

Subjective Findings

Decedent is a black male in his 20's who was shot by NYPD, EMS finds decedent in traumatic arrest they initiate ACLS and transport. Decedent arrived in the ED asystolic, ACLS was continued, sonogram showed no heart movement and decedent was subsequently pronounced. As per reporting physician, Dr Sasi, he observed multiple GSW's including the head and torso. No bloods were drawn.

Additional Information

According to P.O. Bibolova #12818 incident occurred at Montgomery St and Utica Ave in the confines of the 71st Pct.
Decedent was registered at KCH as Male Unk-Kansascity.

The information provided above is true and correct to the best of my knowledge and belief.
Electronically signed by [redacted]

Notice of Death

Borough: Brooklyn *Report Date:* 04/04/2018 *Time:* 17:47 **K-18-008672**

Decedent Information:

Name: Vassell, Saheed Ndale *Age:* 34 Years
Sex: Male *Veteran:* No *Date of Birth:* [redacted]
Race: Black *Marital Status:* Unknown
Place of Death: [redacted] *Tel Place of Death:* [redacted]
Cross Street:
Residence: [redacted]

Reporter Information:

From: Medical Facility *Facility:* Kings County Hospital Center
Caller Name: Sasi, Dr *Shield:* *Tel:* [redacted]
Sixty-One No: *Aided No:* *Chart No:* 2807259

Circumstances of Death:

App. Manner: Unknown

Hospital and Physician Information:

Facility: Kings County Hospital Center *Date:* 04/04/2018 *Time:* 17:00
Pronounced By: *Date:* 04/04/2018 *Time:* 17:01
Physician: *Tel:*
Address:

MLI Contact, Scene and Disposition:

Name	Date Time	Activity
Mos, Robert ((917) 337-7311, (212) 323-1554)	04/04/2018 17:52	Assigned
O'Uhuru, Sarahn	04/04/2018 17:52	Accepted
O'Uhuru, Sarahn	04/04/2018 17:53	Scene Visit Not Required
O'Uhuru, Sarahn	04/04/2018 17:55	ME Case
Mos, Robert	04/04/2018 19:09	MLI Completed Report Generated

Scene Investigation: No

Case Disposition: ME Case (Jordan, Brittany) *Date:* 04/04/2018 *Time:* 17:56

Case Notes:

[redacted]

Communications	04/04/2018 20:28	Crystal Bain
Notes: paperwork received		
Communications	04/04/2018 20:28	Crystal Bain
Notes: Body is in the morgue		
Communications	04/04/2018 20:27	Crystal Bain
Notes: Case number given to Gardner in admitting		
Communications	04/04/2018 17:41	Sarahn O'Uhuru

Notes: Male, UNK-KansasCity. Approximately in his 20s multiple gunshot wounds brought in by EMS, he had no pulse when he arrived at hospital.

Case Hold History:

[redacted]

Initial Call Recorded By: O'Uhuru, Sarahn

Printed: 04/25/2018-10:49

COMPLAINT FOLLOW-UP
MEDICAL EXAMINER CASE
PD 313-081-H (Rev. 10-90)-H1

Additional Copies For	1 Jurisdiction	3	9 Pct of Report	Aided/Acc. No.	12 Complaint No.	File No.
	00		71		1968	

17 Date of this Report	Day of Week of This Report	31 Date Orig Report	Date Assigned	M.P. Case Number	Unit Reporting
04/05/18	THUR	Mo. 04 Day 04 Yr.			MISSING PERSONS SQUAD

DETECTIVE ASSIGNED	P.D.S. CASE NO.	M.E. CASE NO.	BOROUGH NO.	ZONE	ZONE NO.
DET. BARNETT	2-8	K18-8672		S-12	

Previous Classification	45	48	49	50	51	52	61 Rep. Agency Code	Case Status
							0 0	Oper ✓ Closed
Classification Changed To: HOMICIDE							Invoice No.	

NAME OF DECEASED (LAST NAME, FIRST, M.I.)	AGE	RACE	SEX
VASSELL, SAHEED	[redacted]	M	B

ADDRESS: [redacted] APT. NO.: [redacted]

DATE OF OCCURRENCE	TIME OF OCC.	DAY OF WEEK	PLACE OF OCCURRENCE
04/04/18	1645	WED	FRONT OF 414 UTICA AVENUE (STREET)

EXPIRED AT	DATE	TIME
KINGS COUNTY HOSPITAL	04/04/18	1701

MOS IDENTIFYING	SHIELD	COMMAND
PO BOODOO	17247	71

FAMILY MEMBER IDENTIFYING: | RELATIONSHIP:

ADDRESS:

PHOTO/PRINTS	COMMAND
DET. MURPHY	MPS/MU

DOCTOR PERFORMING AUTOPSY	DATE	LOCATION
DR. MAYA	04/05/18	KINGS/OCME

CAUSE OF DEATH:

BULLETS RECOVERED DURING AUTOPSY:

DESCRIPTION OF CRIME:

AT T/P/O THE DECEDENT WAS WAVING WHAT APPEARED TO BE A GUN AT PEOPLE THEN TOOK A SHOOTING STANCE

AT THE POLICE AND POLICE OPEN FIRE HITTING HIM SEVERAL TIMES.

MEANS EMPLOYED: PHYSICAL FORCE | SHOTGUN | MACHINE GUN | OTHER
KNIFE | BLUNT INSTRUMENT | ✓ HANDGUN | RIFLE | STRANGULATION (DESCRIBE)

MOTIVE: ROBBERY | NARCOTICS | DISPUTE | UNK. | ✓ OTHER
BURGLARY | SEX CRIME | ORG. CRIME | JUSTIFIABLE | (DESCRIBE): POLICE SHOOTING

PERPS			NAME (LAST, FIRST, M.I.)
	1	ARRESTED / KNOWN	
	2	ARRESTED / KNOWN	
	3	ARRESTED / KNOWN	

RELATIONSHIP: FRIEND | ACQUAINTANCE | HUSBAND/WIFE | COMMON LAW | ✓ STRANGER | BOY/GIRL FRIEND | INTRA-FAMILY | UNKNOWN

CRIMINAL RECORD: Victim: [redacted] Perp(s).:

DETAILS:

DET. BEY AND DET LANGSTON FID PRESENT FOR AUTOPSY

REPORTING OFFICER'S RANK, SIGNATURE, COMMAND	NAME PRINTED	TAX REG. NO.	SUPERVISOR'S SIGNATURE	C.O.'s INITIALS
	MURPHY	[redacted]		

DIST.: 1 - ARREST & CRIME CODING UNIT 2 - UNIT REFERRED TO 3 - CRIME ANALYSIS UNIT 4 - CHIEF OF DETECTIVES (CIRD) 5 - FILE

ME Clinical Summary Worksheet

Fax to OCME Communications 24/7 at (646) 500-5762

Demographics

HCF Chart # ML#2807254	Last Name: Unk-Known city		First Name: Male
Demographics AA	Sex: ☒ Male / ☐ Female		Religion: unknown
[redacted]			Race: AA
			First Name: unknown
NOK Relationship			
NOK Contact information	Tel: ( ) - none		Cell: ( ) -
Was NOK Notified?	☐ Yes / ☒ No		If No, # attempts made:
If NOK is unknown was NYPD notified?	☒ Yes / ☐ No	Last Name: Bob DOO	Shield# 17247 Pct # 71/5
If NOK is unknown was PA notified?	☐ Yes / ☐ No	Last Name:	Tel: ( ) -

Please check one of the burial wishes below as identified by the NOK:

☐ City Burial requested *(signed authorization must be attached)*	☐ Private Burial requested	☒ Unknown
Family requests additional time	Reason:	
Objection to Autopsy?	☐ Yes / ☐ No UNKNOWN	If Yes, reason:

Hospital Data

Hospital / Medical Center Name	Kings County Hospital		
Admission Type (Check one)	☒ ER	☐ Inpatient	☐ Long Term Care
Transported to Hospital (Check one)	by ☐ Self or ☐ Family		☒ by EMS Unit
Admission Date	4/04/2018		Time: 17:00
Address from where decedent was transported:	unknown		
Primary Medical Doctor (PMD)	unknown		
PMD Contact Info	Tel: ( ) -		Cell: ( ) -
Pronouncing Physician Name:	John Killpatrick		Tel: [redacted]
Date Death Pronounced	4/04/2018		Time: 17:01
Suspected Cause of Death	traumatic arrest d/t multiple GSW		

Required documents must be attached

☐ Face Sheet	☐ EMS Patient Report (PCR)	☐ Discharge Summary or H&P
☐ Death Certificate	☐ Burial Permit	☐ Authorization for City Burial *(if requested)*

Clinical Summary

Please summarize the circumstances and reasons for admission, past medical history, diagnostic work, surgical procedures and findings. Please report any bullets, ulcerations of wounds and toxicology studies.

Pt arrived as traumatic arrest from multiple gunshot wounds, (13 total holes). ~~Pt p~~ Pt never had vital signs, Cardiac stand still continued @ bedside w/ trauma and pt pronounced deceased @ 17:01.

John Killpatrick MD
Prepared by

ER Attending
Title

Signature

Emerg.
Department

4/4/2018
Date

Contact #

01/08/2018

THIS IS A NEW YORK CITY GOVERNMENT RECORD AND SHOULD BE ACCURATELY COMPLETED BY HOSPITAL STAFF.
NOTE: This form must also accompany the decedent when transported to the Medical Examiner's Office.

Version 1.0

DEPARTMENT OF HEALTH AND MENTAL HYGIENE
OFFICE OF CHIEF MEDICAL EXAMINER
Barbara A. Sampson, M.D.-Ph.D.
Chief Medical Examiner
520 First Avenue, New York, New York 10016
Telephone: (212) 447-2030
Official Website: www.nyc.gov/ocme

Mortuary Release Document

Case No: K-18-008672 Time of release: 15:42 Date of release: 04/11/2018

I, Michael Gilmore (14352), representing the firm of Lisa S. Dozier Funeral Service, Inc., located at 169 Empire Boulevard, Brooklyn, New York, 11225, Telephone No. 7188565150, hereby certify that I have received from the Office of Chief Medical Examiner the body of Vassell, Saheed who died at Kings County Hospital Center. I have been duly authorized to receive the same by the father of the decedent, [redacted]

I have checked the identifying wristband, toe tags, photo and verified that they correspond with the decedent that I have been authorized to remove.

Released By:

Nelom, Lugene

(Mortuary Technician)

Released To:

Gilmore, Michael

(Funeral Director)

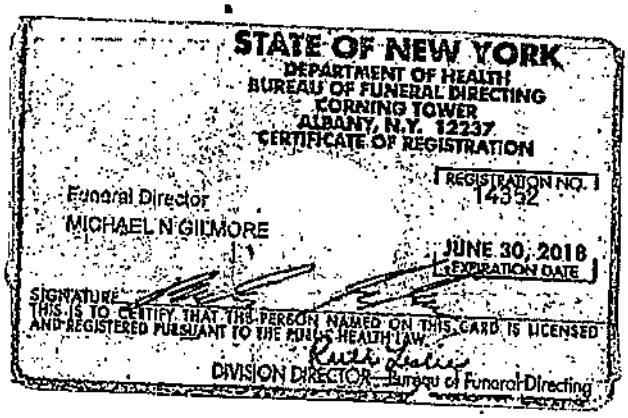
14352

(License No.)

Verified by:

O'Brien, Timothy

(Forensic Quality Specialist)



STATE OF NEW YORK
DEPARTMENT OF HEALTH
BUREAU OF FUNERAL DIRECTING
CORNING TOWER
ALBANY, N.Y. 12237
CERTIFICATE OF REGISTRATION

REGISTRATION NO.
14592

Funeral Director
MICHAEL N GILMORE

JUNE 30, 2018
EXPIRATION DATE

SIGNATURE

THIS IS TO CERTIFY THAT THE PERSON NAMED ON THIS CARD IS LICENSED AND REGISTERED PURSUANT TO THE PUBLIC HEALTH LAW.

DIVISION DIRECTOR—Bureau of Funeral Directing

This statement is made for the purpose of inducing the hospital or health care facility to release the death certificate and/or the remains of the deceased below-named and with the knowledge that the hospital or health care facility will rely on the truth of the statements made herein.

DEPARTMENT OF HOSPITALS

No death certificate and/or body will be released by the hospital to a funeral director until a copy of this form, properly executed, is on file.

K1800 8672

IT IS HEREBY CERTIFIED THAT THE UNDERSIGNED HAS BEEN AUTHORIZED TO TAKE CHARGE OF:

The remains of: (Name of deceased)	who died at:	on: (date)
Saheed Vassell (Male)	Kings county Hospital	4-4-18
b [redacted]		and who is the: (relationship) Father
Remains to be removed from: (Name of hospital, health care facility or mortuary) Kings County M.E		at (address) [redacted]

THIS AUTHORIZATION HAS NOT BEEN THE RESULT OF ANY SOLICITATION BY OR IN BEHALF OF THE *UNDERSIGNED*

Signature: (Funeral Director)	New York State Funeral Director's Lic. No.
	[redacted]
Representing the firm of: [redacted]	Address of firm [redacted]

EXHIBIT 4

James Gill, M.D.
Forensic Pathology Consultation
17 Otter Cove Drive
Old Saybrook, CT 06475

June 14, 2018

Re: Second autopsy on Saheed Ndale Vassell

Dear Mr. Nieves,

I, James Gill, M.D., am a licensed physician and board certified in anatomic and forensic pathology in the U.S. I have experience in autopsy pathology and in determining the cause and manner of death. At the request of Jose L. Nieves, Deputy Chief Special Investigations and Prosecutions Unit, Office of the New York State Attorney General, I have performed a second autopsy (see attached) on 04/08/2018 in the Brooklyn mortuary of the Office of Chief Medical Examiner of New York City in reference to the above matter and reviewed the following material:

1. Autopsy images K19-008672
2. Radiographs K19-008672
3. Autopsy report K19-008672 and associated reports and diagrams
4. Video of encounter with police and civilians

Brief synopsis of clinical history:
Mr. Vassell was a 34-year-old man with a history of psychiatric illness who was witnessed to point a metal object at several people in Brooklyn, NY on April 4, 2018. Witnesses reported it as a suspected firearm. Later, the metal object was determined to be part of a gas tank. Multiple police officers responded and reportedly fired 10 shots. Mr. Vassell was pronounced dead at Kings County Hospital Center. A medical examiner autopsy was performed on April 5, 2018 at the Brooklyn OCME. It included radiographs and images. Five bullets were recovered at autopsy. There is no history of recent suicidal ideation.

Opinions:
The following are my opinions:

1. The NYC OCME autopsy report on Mr. Vassell is thorough and accurate. The examination was properly performed and reported. The findings examined in the second autopsy agree with those in the OCME autopsy report.

2. Two of the gunshot wounds (the head and spinal cord wounds) each would have resulted in immediate incapacitation.

3. All of the gunshot wounds of the head and trunk had a front to back direction.

4. The bullets causing the perforating wounds of the arms may have re-entered the body.

5. The gunshot wounds of the right knee, right thigh (graze), and left thigh were likely caused by the same bullet. Since the bullet has a predominately upward direction, it is

consistent with occurring with the leg more horizontal to the ground than vertical and/or a ricochet bullet.

6. There is no evidence of close range injury although the clothing was not available for examination.

Pulled scalp hair and cavity blood is collected (2 small gray top tubes) and submitted to NMS labs. Cannabinoids (Delta-9 THC and Delta-9 Carboxy THC), caffeine, cotinine, and nicotine were detected in blood (see separate report). Ethanol was detected in the cavity blood (0.079 gm%). Toxicology testing at the OCME detected: Cannabinoids, ethanol (0.07 gm%), cotinine, acetone, and nicotine

All of my opinions are based on a reasonable degree of medical certainty. I reserve the right to revise my opinions based upon the receipt of new and/or additional information.

Sincerely,

James Gill, M.D.

Report of Autopsy

Decedent's Name: Saheed Ndale Vassell
City of Death: Brooklyn, NY
Date and Time of Death: 4/4/18, 17:01
Second Autopsy performed by: Dr. James Gill
Date of Second Autopsy: 4/8/2018

Final Diagnoses

I. Penetrating Gunshot Wound of Lateral Left Periorbital Head:
- A. Perforation of brain
- B. Skull Fractures
- C. Bullet (#1) and fragments recovered in right occipital skull.

II. and III. Penetrating Gunshot Wounds (2) of Anterior Chest:
- A. Perforations of left lung, Aorta, Thoracic Spinal Cord and Stomach.
- B. Bullets (#2 and #3) recovered (one in thoracic spinal cord and one in subcutaneous tissue of left back.

IV. Penetrating Gunshot Wound of Abdomen:
- A. Perforation of stomach, intestine, and left iliac crest.
- B. Bullet (#4) recovered in subcutaneous tissue of lower back.

V. Penetrating Gunshot Wound of Inner Left Thigh:
- A. Perforation with Graze of Soft Tissue.
- B. Bullet (#5).

VI. Perforating Gunshot Wound of Inner Right Knee.

VII. Graze of Inner Right Thigh.

VIII. Perforating Gunshot Wound of Left Forearm.

IX. Perforating Gunshot Wound of Right Elbow:
- A. Fracture of Elbow

Cause of Death: Gunshot Wounds of Head and Trunk

Manner of Death: Homicide (shot by police)

I , James Gill, MD, reviewed the autopsy images/radiographs and performed a second autopsy on the body identified as ***Saheed Ndale Vassell*** *(K18-008672) on* **04/08/2018**, *commencing at* ***11:15 AM*** *in the Brooklyn mortuary of the Office of Chief Medical Examiner of New York City. This autopsy was performed in the presence NYS AG Assistant Chief Investigator, John Sullivan.*

EXTERNAL EXAMINATION:
The previously-autopsied, non-embalmed body is of thin (136 lb., 69") lightly pigmented man whose appearance is consistent with the given age of 34 years. The curly black hair measures up to 3/4". The nose and facial bones are intact. The eyes have brown irides and the conjunctivae are without petechiae. The oral cavity has natural teeth in good repair. There are numerous tattoos of the arms, neck, and right face. The external genitalia are those of a normal man.

POSTMORTEM CHANGES:
There is no rigor mortis. Lividity is not visible. The body is cold.

CLOTHING:
Not available for examination.

INJURIES, EXTERNAL AND INTERNAL:
There are nine gunshot wounds of the body: One penetrates the head, three penetrate the torso, one penetrates the left leg, one perforates the left arm, one perforates the right arm, one perforates the right knee, and one grazes the right thigh. The directions are stated with reference to the standard anatomical planes with the body measured in the horizontal position. These injuries are labeled "A" through "I" for descriptive purposes only and coincide with the designation in the OCME report; no sequence is implied. Some of these wounds are consistent with re-entrance wounds (see below).

A. Penetrating Gunshot Wound of Lateral Left Periorbital Head:
The bullet enters the skull at the lateral left periorbital region and perforates the brain and fractures the skull. The deformed bullet (#1) lodges in the right occipital skull. The direction of this bullet is front to back, left to right, and without discernable vertical deviation.

B. and C. Penetrating Gunshot wounds (2) of Anterior Left Chest:
The bullets (#2 and #3) enter in the left infraclavicular region ("B" is more superior than "C"). The bullets perforate the lung, aorta, spinal cord, and stomach. One track is moderately more downward than the other. One bullet was recovered in the thoracic spinal canal ("B") and the second was in the left mid back in the subcutaneous tissues (partial exit, "C"). The directions of these bullets are front to back and downward. Per the autopsy report, wound "B" has a left to right direction and lodges in the spinal cord while wound "C" has a right to left direction and lodges in soft tissues of the left mid back.

D. Penetrating Gunshot wound of Lower Left Abdomen:
The bullet (#4) enters the left lower quadrant of the anterior abdomen and perforates the left pelvis. The bullet is recovered in the soft tissues of the lower left back. The direction

of this bullet is front to back, right to left, and slightly upwards. Per the OCME autopsy report, it perforates the stomach, and small intestine.

E. Penetrating Gunshot wound of Left Thigh*

The bullet (#5) grazes (skin tag points inferiorly) the medial thigh and then penetrates the left thigh and a bullet is recovered in the upper thigh soft tissue. Per the OCME autopsy report, there is no major vascular injury of fracture. The direction of this bullet is upwards, front to back, slightly right to left. The bullet is deformed.

F. Perforating Gunshot Wound of Medial Right Knee:*

The bullet enters the medial (inner) right knee with a subcutaneous track exiting just superior and medial to the entrance wound. The direction of this bullet is upward and slightly right to left without discernable front-back deviation.

G. Graze of Medial Right Thigh*

There is a vertically-oriented graze gunshot wound of the medial right thigh. This wound corresponds in location and symmetry with gunshot wound "E". Skin tags are not discernable.

**Given the direction of the tracks, the symmetry of the graze wounds in "E" and "G", and the depth and type of injury, a single bullet likely caused: the perforating knee wound ("F"), the graze wound of the right thigh ("G"), and the perforating gunshot wound of the left leg ("E").*

H. Perforating Gunshot Wound of Right Elbow:

The bullet enters the lateral-posterior right forearm, fractures the elbow, and exits the upper posterior elbow. The direction of this bullet is upward.

I. Perforating Gunshot Wound of Left Forearm:

The entrance and exit are on the posterior left forearm.

INTERNAL EXAMINATION:

A red biohazard bag in the torso contains the previously dissected organs which are examined. Representative sections had been previously retained for the stock jar (not available for review).

TOXICOLOGY

Specimens are submitted to the toxicology lab (NMS labs). See separate report.

PHOTOGRAPHY:

Postmortem photographs are made and retained.

James Gill, M.D.
5/13/18

NMS LABS

NMS Labs
3701 Welsh Road, PO Box 433A, Willow Grove, PA 19090-0437
Phone: (215) 657-4900 Fax: (215) 657-2972
e-mail: nms@nmslabs.com
Robert A. Middleberg, PhD, F-ABFT, DABCC-TC, Laboratory Director

CONFIDENTIAL

Toxicology Report

Report Issued 04/21/2018 10:01

To: **10878**
James Gill Forensic Pathlogy
17 Otter Cove Drive

Old Saybrook, CT 06475

Patient Name	SHAHEED, VASSELL
Patient ID	K18-008672
Chain	18102661
Age Not Given	**DOB** Not Given
Gender	Male
Workorder	18102661

Positive Findings:

Compound	Result	Units	Matrix Source
Ethanol	79	mg/dL	001 - Cavity Blood
Blood Alcohol Concentration (BAC)	0.079	g/100 mL	001 - Cavity Blood
Nicotine	Positive	ng/mL	001 - Cavity Blood
Caffeine	Positive	mcg/mL	001 - Cavity Blood
Cotinine	Positive	ng/mL	001 - Cavity Blood
Delta-9 Carboxy THC	9.8	ng/mL	001 - Cavity Blood
Delta-9 THC	6.7	ng/mL	001 - Cavity Blood

See Detailed Findings section for additional information

Testing Requested:

Analysis Code	Description
8092B	Postmortem, Expert, Blood (Forensic)

Specimens Received:

ID	Tube/Container	Volume/ Mass	Collection Date/Time	Matrix Source	Miscellaneous Information
001	Gray Vial	3.7 mL	04/08/2018 12:30	Cavity Blood	
002	Gray Vial	3.5 mL	04/08/2018 12:30	Cavity Blood	
003	Manilla Envelope	0.0142 g	04/08/2018 12:30	Head Hair	SCALP HAIR

All sample volumes/weights are approximations.

Specimens received on 04/10/2018.

Detailed Findings:

Analysis and Comments	Result	Units	Rpt. Limit	Specimen Source	Analysis By
Ethanol	79	mg/dL	10	001 - Cavity Blood	Headspace GC
Blood Alcohol Concentration (BAC)	0.079	g/100 mL	0.010	001 - Cavity Blood	Headspace GC
Nicotine	Positive	ng/mL	12	001 - Cavity Blood	GC/MS
Caffeine	Positive	mcg/mL	0.10	001 - Cavity Blood	GC/MS
Cotinine	Positive	ng/mL	12	001 - Cavity Blood	GC/MS
Delta-9 Carboxy THC	9.8	ng/mL	5.0	001 - Cavity Blood	LC-MS/MS
Delta-9 THC	6.7	ng/mL	0.50	001 - Cavity Blood	LC-MS/MS
Ethanol	Confirmed	mg/dL	10	001 - Cavity Blood	Headspace GC

Other than the above findings, examination of the specimen(s) submitted did not reveal any positive findings of toxicological significance by procedures outlined in the accompanying Analysis Summary.

Reference Comments:

1. Caffeine (No-Doz) - Cavity Blood:

   Caffeine is a xanthine-derived central nervous system stimulant. It also produces diuresis and cardiac and respiratory stimulation. It can be readily found in such items as coffee, tea, soft drinks and chocolate. The reported qualitative result for this substance is indicative of a finding commonly seen following typical use and is usually not toxicologically significant. If confirmation testing is required please contact the laboratory.

2. Cotinine - Cavity Blood:

   Cotinine is a metabolite of nicotine and may be encountered in the fluids and tissues of an individual as a result of tobacco exposure. Anabasine is a natural product occurring in tobacco, but not in pharmaceutical nicotine and a separate test for anabasine in urine can be used to distinguish tobacco from pharmaceutical nicotine use. The reported qualitative result for this substance is indicative of a finding commonly seen following typical use and is usually not toxicologically significant. If confirmation testing is required please contact the laboratory.

3. Delta-9 Carboxy THC (Inactive Metabolite) - Cavity Blood:

   Delta-9-THC is the principle psychoactive ingredient of marijuana/hashish. Delta-9-carboxy-THC (THCC) is the inactive metabolite of THC. The usual peak concentrations in serum for 1.75% or 3.55% THC marijuana cigarettes are 10 - 101 ng/mL attained 32 to 240 minutes after beginning smoking, with a slow decline thereafter. The ratio of whole blood concentration to plasma concentration is unknown for this analyte. THCC may be detected for up to one day or more in blood. Both delta-9-THC and THCC may be present substantially longer in chronic users. THCC is usually not detectable after passive inhalation.

4. Delta-9 THC (Active Ingredient of Marijuana) - Cavity Blood:

   Marijuana is a DEA Schedule I hallucinogen. Pharmacologically, it has depressant and reality distorting effects. Collectively, the chemical compounds that comprise marijuana are known as Cannabinoids.

   Delta-9-THC is the principle psychoactive ingredient of marijuana/hashish. It rapidly leaves the blood, even during smoking, falling to below detectable levels within several hours. Delta-9-carboxy-THC (THCC) is the inactive metabolite of THC and may be detected for up to one day or more in blood. Both delta-9-THC and THCC may be present substantially longer in chronic users.
   THC concentrations in blood are usually about one-half of serum/plasma concentrations. Usual peak levels in serum for 1.75% or 3.55% THC marijuana cigarettes: 50 - 270 ng/mL at 6 to 9 minutes after beginning smoking, decreasing to less than 5 ng/mL by 2 hrs.

5. Ethanol (Ethyl Alcohol) - Cavity Blood:

   Ethyl alcohol (ethanol, drinking alcohol) is a central nervous system depressant and can cause effects such as impaired judgment, reduced alertness and impaired muscular coordination. Ethanol can also be a product of decomposition or degradation of biological samples. The blood alcohol concentrations (BAC) can be expressed as a whole number with the units of mg/dL or as a decimal number with units of g/100 mL which is equivalent to % w/v. For example, a BAC of 85 mg/dL equals 0.085 g/100 mL or 0.085% w/v of ethanol.

Reference Comments:

6. Nicotine - Cavity Blood:

Nicotine is a potent alkaloid found in tobacco leaves at about 2 - 8% by weight. It is also reportedly found in various fruits, vegetables and tubers, e.g., tomatoes and potatoes, but at a smaller per weight fraction. As a natural constituent of tobacco, nicotine is found in all commonly used smoking or chewing tobacco products. It is also in smoking cessation products, e.g., patches. Nicotine has been used as a pesticide, although not as widely since the advent of more effective agents. Toxic effects of nicotine overdose include nausea, vomiting, dizziness, sweating, miosis, EEG and ECG changes, tachycardia, hypertension, respiratory failure, seizures and death. Anabasine is a natural product occurring in tobacco, but not in pharmaceutical nicotine. A separate test for anabasine in urine can be used to distinguish tobacco from pharmaceutical nicotine use. The reported qualitative result for nicotine is indicative of a finding commonly seen following typical use and is usually not toxicologically significant. If confirmation testing is required please contact the laboratory.

Chain of custody documentation has been maintained for the analyses performed by NMS Labs.

Unless alternate arrangements are made by you, the remainder of the submitted specimens will be discarded six (6) weeks from the date of this report; and generated data will be discarded five (5) years from the date the analyses were performed.

Workorder 18102661 was electronically signed on 04/21/2018 09:43 by:

Jolene J. Bierly

Jolene J. Bierly, M.S.F.S., D-ABFT-FT
Forensic Toxicologist

Analysis Summary and Reporting Limits:

All of the following tests were performed for this case. For each test, the compounds listed were included in the scope. The Reporting Limit listed for each compound represents the lowest concentration of the compound that will be reported as being positive. If the compound is listed as None Detected, it is not present above the Reporting Limit. Please refer to the Positive Findings section of the report for those compounds that were identified as being present.

Acode 52198B - Cannabinoids Confirmation, Blood (Forensic) - Cavity Blood

-Analysis by High Performance Liquid Chromatography/ TandemMass Spectrometry (LC-MS/MS) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
11-Hydroxy Delta-9 THC	1.0 ng/mL	Delta-9 THC	0.50 ng/mL
Delta-9 Carboxy THC	5.0 ng/mL		

Acode 52250B - Alcohols and Acetone Confirmation, Blood (Forensic) - Cavity Blood

-Analysis by Headspace Gas Chromatography (GC) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Acetone	5.0 mg/dL	Isopropanol	5.0 mg/dL
Ethanol	10 mg/dL	Methanol	5.0 mg/dL

Acode 8092B - Postmortem, Expert, Blood (Forensic) - Cavity Blood

-Analysis by Enzyme-Linked Immunosorbent Assay (ELISA) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Benzodiazepines	100 ng/mL	Opiates	20 ng/mL
Buprenorphine / Metabolite	0.50 ng/mL	Oxycodone / Oxymorphone	10 ng/mL
Cannabinoids	10 ng/mL	Salicylates	120 mcg/mL
Cocaine / Metabolites	20 ng/mL		

Analysis Summary and Reporting Limits:

-Analysis by Gas Chromatography/Mass Spectrometry
(GC/MS) for: Anesthetics, Anticoagulant Agents, Antifungal Agents, Antihypertensive Agents, Anxiolytics (Benzodiazepine and others), Hypnosedatives (Barbiturates, Non-Benzodiazepine Hypnotics, and others) and Non-Steroidal Anti-Inflammatory Agents (excluding Salicylate).

-Analysis by Gas Chromatography/Mass Spectrometry
(GC/MS) for: The following is a general list of compound classes included in the Gas Chromatographic screen. The detection of any particular compound is concentration-dependent. Please note that not all known compounds included in each specified class or heading are included. Some specific compounds outside these classes are also included. For a detailed list of all compounds and reporting limits included in this screen, please contact NMS Labs.
Amphetamines, Analgesics (opioid and non-opioid), Anorectics, Antiarrhythmics, Anticholinergic Agents, Anticonvulsant Agents, Antidepressants, Antiemetic Agents, Antihistamines, Antiparkinsonian Agents, Antipsychotic Agents, Antitussive Agents, Antiviral Agents, Calcium Channel Blocking Agents, Cardiovascular Agents (non-digitalis), Local Anesthetics Agents, Muscle Relaxants and Stimulants (Amphetamine-like and others).

-Analysis by Headspace Gas Chromatography (GC) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Acetone	5.0 mg/dL	Isopropanol	5.0 mg/dL
Ethanol	10 mg/dL	Methanol	5.0 mg/dL