



*Office of the New York State Attorney General Letitia James*

Office of Special Investigation

September 13, 2023

# Report on the Investigation into the Death of Yoskar Feliz

## INTRODUCTION

New York Executive Law Section 70-b authorizes the Office of the Attorney General, acting through its Office of Special Investigation (OSI), to investigate, and, if warranted, to prosecute offenses arising from any incident in which the death of a person is caused by a police officer or a peace officer, as defined. When OSI does not seek charges, Section 70-b requires OSI to issue a public report.

This is the report of OSI's investigation of the death of Yoskar Feliz, who was shot on January 20, 2022, by members of the New York City Police Department (NYPD) and died of his wounds. Having thoroughly investigated the matter and analyzed the law, OSI concludes a prosecutor would not be able to disprove beyond a reasonable doubt that the officers' use of deadly force against Mr. Feliz was justified and, therefore, will not seek charges.

## OVERVIEW

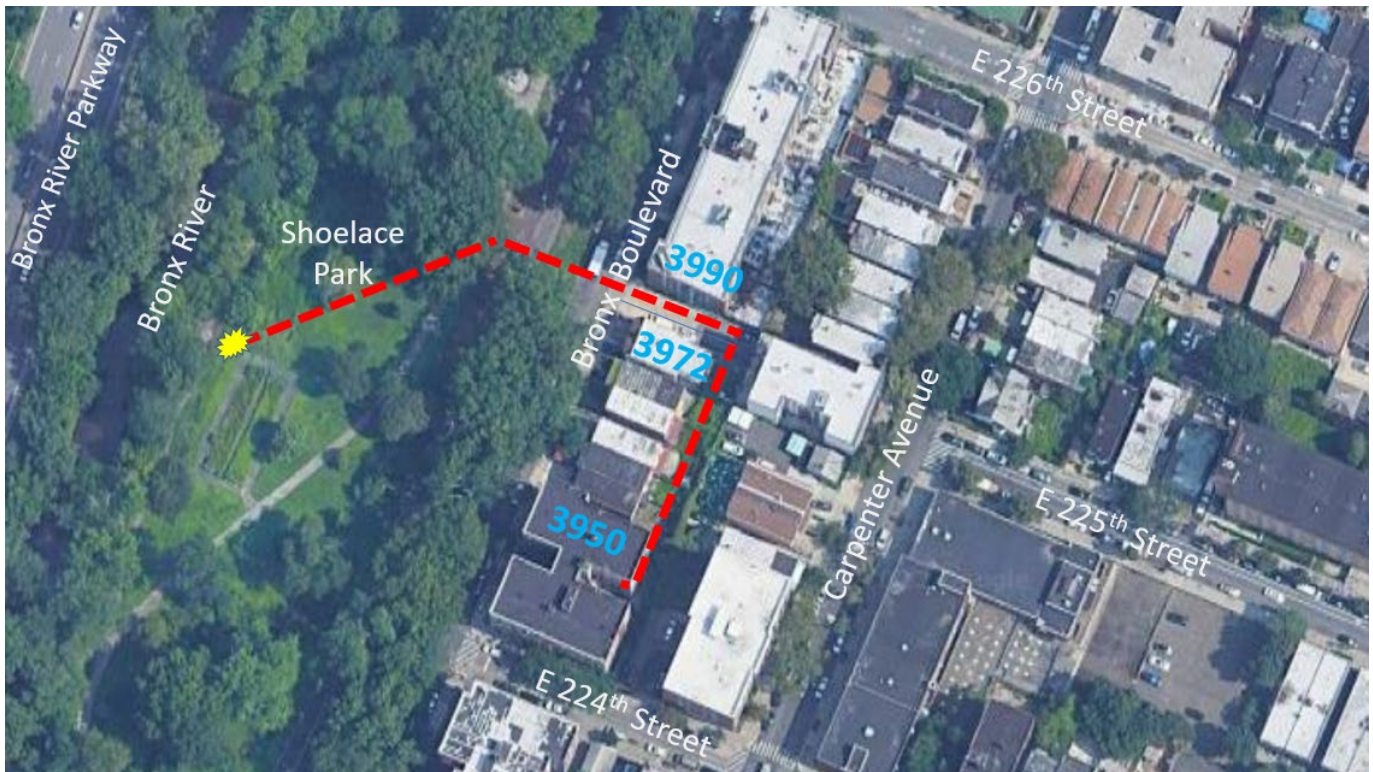
The shooting occurred at Shoelace Park in Bronx County. Mr. Feliz had broken into CP's<sup>1</sup> apartment at 3950 Bronx Boulevard, across the street from Shoelace Park. When he was confronted by NYPD Officers Jorge Chavez and Panagiotis Kostaras inside the apartment, Mr. Feliz brandished a gun and pointed it at himself and Officer Chavez. Officer Chavez fired a Taser at Mr. Feliz, which had no effect, and directed him to put down the gun. Mr. Feliz refused and, after firing two shots, escaped through a window. Mr. Feliz ran into Shoelace Park with the gun, where several responding officers pursued him and yelled for him to drop the gun. Mr. Feliz did not drop the gun, and NYPD Officers Jesus Ramos, John Curzio, and Fernando Garza shot at him. Mr. Feliz was struck by gunfire and taken to Jacobi Medical Center, where he died during surgery.

## FACTS

Shoelace Park is between the Bronx River to the west and Bronx Boulevard to the east and runs from East Gun Hill Road northward to East 230<sup>th</sup> Street. The shooting occurred near a bocce court by the Bronx River between East 224<sup>th</sup> and East 225<sup>th</sup> Streets. The map below shows the route taken on foot by Mr. Feliz from 3950 Bronx Boulevard to Shoelace Park, based on security videos.

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<sup>1</sup> Initials are used to protect civilians' identities.



3950 Bronx Boulevard is an apartment building across from Shoelace Park. On January 19, 2022, security cameras captured Yoskar Feliz breaking into an apartment in the building; he spent an hour and a half trying to enter the apartment through various windows by way of a ladder and a dumpster; at 2:29 am, he finally gained entry by climbing the fire escape and entering through a bedroom window.<sup>2</sup>

OSI interviewed CP. She told OSI that she is Mr. Feliz's ex-girlfriend. She said that on January 20, 2022, the superintendent called her and said he had seen Mr. Feliz on security video enter her apartment through a window, so she should be careful.<sup>3</sup> At the time, CP was staying with her mother, and the Bronx County District Attorney was prosecuting Mr. Feliz for a crime he allegedly committed against CP. At 1:30 pm, after the call from the superintendent, CP called 911 and said she suspected someone had broken into her apartment, believed the person to be dangerous, and had an order of protection against the person. CP did not identify the person by name or state her relationship with the person. OSI interviewed CP's building superintendent, who confirmed that he contacted CP because he had seen Mr. Feliz enter her apartment through a window on security video.

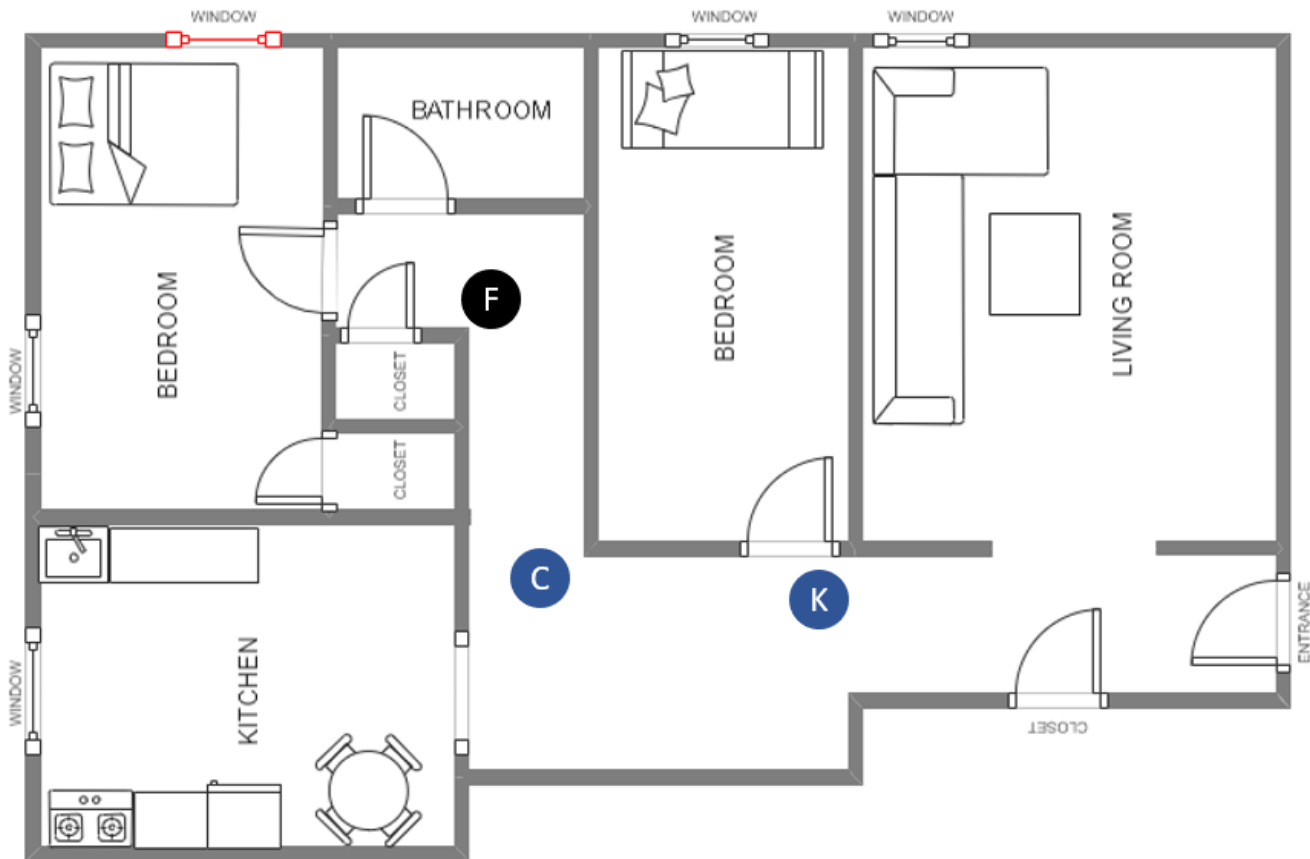
Officers Chavez and Kostaras from NYPD's 47<sup>th</sup> Precinct responded to 3950 Bronx Boulevard. CP and her mother drove to the building and met the officers outside at 1:44 pm. Officers Chavez's and

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<sup>2</sup> All times are approximate. The time stamps on the videos from 3950 Bronx Boulevard were twenty minutes ahead of the correct time; the times stated in this memo are adjusted to reflect the correct time. A segment of the security video showing Mr. Feliz climbing into the building can be viewed at this [link](#).

<sup>3</sup> At this time Mr. Feliz had been in CP's apartment more than 24 hours, based on the times in the security video.

Kostaras's BWCs show CP speaking with them and handing her keys to Officer Chavez.<sup>4</sup> The officers entered the building with CP and her mother, and CP directed the officers to her apartment, on the ground floor to the left of the lobby. At 1:45 pm, Officer Chavez opened CP's apartment door with her key. Officer Chavez asked CP for a name as the officers entered the apartment and CP said Yoskar Feliz.



A diagram of CP's apartment (not to scale). The positions of Officers Chavez and Kostaras when they encountered Mr. Feliz are marked with their initials.

Officer Chavez's BWC shows that he entered first, holding his Taser in one hand and his flashlight in the other; he called out for "Yoskar" multiple times. Officer Kostaras followed immediately behind with his flashlight.<sup>5</sup> The two officers cleared the living room, foyer closet, and the first bedroom. While Officer Chavez was turning the corner at the end of the hallway, Mr. Feliz appeared with a gun pointed to his right temple and said, "Back up, I'm not going to do nothing." Officer Chavez repeatedly told Mr. Feliz to "put the gun down." Officer Kostaras drew his gun and pointed it at Mr. Feliz, who told the officers "I don't want to do nothing. I just want to tell her, please."

Mr. Feliz continued to point the gun at his temple and ignored Officer Chavez's repeated commands to drop it. At 1:46 pm, Officer Chavez's BWC shows he fired a Taser at Mr. Feliz. Mr. Feliz backed away,

<sup>4</sup> The officers' BWCs show CP speaking with the officers, but there is no audio for the first minute of the recording. When an NYPD officer turns on their BWC, video and audio recording begin immediately and the prior minute of video recording, without audio, is saved.

<sup>5</sup> Officers Chavez's and Kostaras's BWC footage, showing their entire encounter with Mr. Feliz, can be viewed at this [link](#).

and the Taser did not appear to have any effect on him.<sup>6</sup> Officer Kostaras put over the radio, “10-13, suspect has a weapon, a firearm.”<sup>7</sup> Officer Chavez took cover behind the corner of the hallway and continued to tell Mr. Feliz to put the gun down. Mr. Feliz said he didn’t want to shoot himself and that he would put the gun down if the officers got out of the house.

At 1:47 pm, Officer Chavez retreated to the apartment entrance while Mr. Feliz stayed behind the corner leading to the long hallway, with his upper body visible to Officer Chavez. Officer Kostaras took cover in the living room, where he did not have a clear line of sight to Mr. Feliz. As shown in the BWC screenshot below, Mr. Feliz popped his upper body around the hallway and pointed his gun at Officer Chavez; the BWC captures him saying, “back up,” “don’t shoot me,” “I don’t want to hurt myself,” and “talk to me, please.” Officer Chavez responded, “I will talk to you,” and “Sir, you need to put the gun down first.” Officer Chavez moved to the left of the apartment door before Mr. Feliz disappeared behind the corner.



Still from Officer Chavez’s BWC at 1:47:04 pm. Mr. Feliz is pointing a gun at Officer Chavez, who has a Taser in his left hand and a flashlight in his right hand.

Officer Chavez exchanged his Taser for his firearm and continued to tell Mr. Feliz to put his gun down. As shown in Officer Chavez’s BWC screenshot below, Mr. Feliz popped around the corner again and pointed his gun at Officer Chavez, who took cover to the left of the apartment door. Mr. Feliz asked Officer Chavez not to shoot him before disappearing behind the corner again.

<sup>6</sup> Mr. Feliz was wearing thick clothing, which the Taser might not have penetrated.

<sup>7</sup> Officer Kostaras’s BWC at 1:46:35 pm. In the NYPD, the code “10-13” means “officer needs assistance.”



*Still from Officer Chavez's BWC at 1:47:43 pm. Mr. Feliz is pointing a gun at Officer Chavez a second time. Officer Chavez has his flashlight in his left hand and his gun in his right hand.*

Mr. Feliz disappeared from Officer Chavez's view behind the corner and two shots are audible on the BWC at 1:48 pm. BWC captured Officer Kostaras saying Mr. Feliz may have gone out the window. Officer Chavez put over the radio "shots fired" and told Officer Kostaras to get out of the apartment. Officers Chavez and Kostaras stayed outside the apartment door and waited for back-up.

Security video from 3950 Bronx Boulevard shows that at 1:49 pm Mr. Feliz climbed out of CP's bedroom window, which faces the back of the apartment building, holding a gun in his right hand. Mr. Feliz had blood on his left hand and his head<sup>8</sup> as he ran around the building and scaled a wall.<sup>9</sup>



Still from security video showing Mr. Feliz, having left CP's apartment through a window, at the back of 3950 Bronx Boulevard at 1:49 pm.

When Officers Chavez and Kostaras went inside CP's apartment, CP and her mother stayed in the lobby and later went to a neighbor's apartment on the second floor of the building. CP's mother called 911 at 1:49 pm and said there were already police officers in her apartment who needed help: "They need back-up because they can't use the radio. There's a guy with a gun pointing at them." CP's mother said two shots were fired but said she didn't know if someone was hurt. The 911 call lasted about three minutes and ended after CP's mother said back-up had arrived.

The building video showed five officers responding to the building at 1:50 pm. Officers Chavez, Kostaras, and Eugene Urman cleared the apartment at 1:51 pm after hearing over the radio that shots were fired in the park. Officer Chavez's BWC showed that one window was broken in the back bedroom.<sup>10</sup>

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<sup>8</sup> The blood on Mr. Feliz's head was likely the result of climbing through the broken window, as he appeared injury free when he disappeared from the view of Officer Chavez's BWC.

<sup>9</sup> The security video showing Mr. Feliz leaving the apartment building can be viewed at this [link](#).

<sup>10</sup> This broken window is marked in red on the diagram on page 3.

After leaving 3950 Bronx Boulevard, Mr. Feliz ran north behind several houses before being captured on security video coming out of a driveway between 3972 and 3990 Bronx Boulevard. As shown in the still below, security video captured Mr. Feliz about to cross the street into Shoelace Park at 1:51 pm, still holding the gun in his right hand.<sup>11</sup>



Still from security video at 3990 Bronx Boulevard showing Mr. Feliz holding a gun in his right hand, about to cross the street to the park.

According to BWCs OSI reviewed, officers from the 47<sup>th</sup> Precinct had already arrived on scene in search of Mr. Feliz at this time. The BWCs of Officers Jesus Ramos, John Curzio, Fernando Garza, and Robert Candela show them pursuing Mr. Feliz on foot inside the park; Officers Ramos, Candela, and Garza yelled at Mr. Feliz to drop the gun.<sup>12</sup>

Officer Garza's BWC shows that at 1:51:27 pm, Mr. Feliz slowed down and stood by the bocce court next to the Bronx River. Officer Ramos's BWC captured him and other officers repeatedly yelling for Mr. Feliz to "drop the gun." At 1:51:38 pm, Officer Garza's BWC shows that Mr. Feliz raised his right hand to shoulder height, pointed forward; his left hand was out to the side, also at shoulder height. The BWC does not clearly show the gun in Mr. Feliz's right hand, due to the distance between him and Officer Garza. Officer Ramos fired the first shot at 1:51:39 pm. Officer Candela's BWC shows that there

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<sup>11</sup> The security video capturing Mr. Feliz running into the park with a gun can be viewed at this [link](#).

<sup>12</sup> The BWCs of Officers Jesus Ramos, John Curzio, Fernando Garza, and Robert Candela showing the pursuit in the park and the shooting can be viewed at this [link](#). Portions of the BWC footage are obstructed and shaky because the officers wore winter clothing and were running after Mr. Feliz. Officer Ramos was the closest officer to Mr. Feliz, but his BWC was obstructed by his jacket for most of the incident and does not provide a clear view of what happened. Officer Candela's, Officer Garza's, and Officer Curzio's BWCs captured some of Mr. Feliz's movements but are not clear due to the distance between them and Mr. Feliz.



was a brief pause before Officer Curzio fired two shots at 1:51:42 pm. Officer Garza fired one shot immediately after, and Officer Curzio fired two more shots.



*Still from Officer Garza's BWC footage showing Mr. Feliz with his right hand raised and Officers Ramos and Garza with their guns pointed at Mr. Feliz.*



*Still from Officer Curzio's BWC footage showing Officer Garza to his left and Officer Ramos to his right. Mr. Feliz is between the two officers behind the bocce court.*

Officer Garza's BWC shows Mr. Feliz turned and ran into the Bronx River, with the officers following closely behind. Officer Ramos was the closest officer to Mr. Feliz and fired four more shots at 1:51:51 pm. Officers Garza's, Curzio's, and William Sutton's BWCs show Mr. Feliz stood in the river as officers continued to shout at him to drop the gun and put his hands up. The BWCs show that Mr. Feliz's left hand was raised, but his right hand was down by his side, submerged in the water and not visible to officers. Many officers are heard on BWC shouting at Mr. Feliz to "put your other hand up."

At 1:52 pm, Officer Matthew Disilvestre's BWC shows Mr. Feliz held his left hand up in the air and his right hand by his side, with a pool of blood forming around him. Mr. Feliz treaded slowly to the side of the river and lay down at the edge of the riverbank, with his lower body still in the water. Officers Ramos and Disilvestre jumped into the river and grabbed Mr. Feliz, cuffed his hands behind his back, and assisted him out of the water. Officers are heard on BWC saying, "Get the bus."<sup>13</sup> Mr. Feliz was placed on the walkway next to the Bronx River and officers checked him for injuries and administered aid. EMS arrived at 1:58 pm and transported Mr. Feliz to Jacobi Medical Center. Mr. Feliz arrived at the hospital at 2:20 pm and was pronounced dead in the operating room at 3:50 pm.

## **Autopsy**

Dr. Kristin Roman of the New York City Office of the Chief Medical Examiner (OCME) conducted the autopsy and determined that Mr. Feliz suffered five gunshot wounds: three to the torso, one to the

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<sup>13</sup> NYPD officers commonly refer to the ambulance as the "bus."

right arm, and a graze wound on the left thigh. She determined Mr. Feliz's cause of death to be "gunshot wounds of torso and right arm" and deemed the manner of death to be "homicide."<sup>14</sup>

## Ballistics

Officers Ramos's, Curzio's, and Garza's firearms were taken from them after the shooting per standard procedure. Based on their firearms' state of the load after the shooting, Officer Ramos fired five shots, Officer Garza fired four shots, and Officer Curzio fired one shot in the park. Mr. Feliz fired two shots inside the apartment.

NYPD's Crime Scene Unit (CSU) recovered one black SCCY 9mm semi-automatic pistol from the Bronx River, near the spot where Mr. Feliz lay down after the shooting. The pistol's magazine had an eleven-cartridge capacity. Four cartridges were recovered from the pistol, three in the magazine and one in the chamber. CSU recovered two shell casings inside the bedroom near the broken window and a deformed bullet on the ground outside the broken window. FAS conducted a microscopic analysis and determined that the two shell casings and the deformed bullet were fired from the recovered gun, which was tested and found to be operable.



Black SCCY 9mm semi-automatic pistol with the magazine and bullets removed. The three bullets recovered from the magazine are to the left of the magazine and the bullet from the chamber is above the gun.

<sup>14</sup> Three bullet fragments were recovered from Mr. Feliz's torso and sent to the NYPD's Firearms and Analysis Section (FAS) for microscopy comparison. FAS found one fragment to be unsuitable for comparison and two fragments to be inconclusive when compared to the test fires of the officers' firearms.



CSU photos showing two shell casings in the bedroom (evidence markers 5 and 6) and a fired bullet found outside the bedroom window (evidence marker 7).

### Police Officer Interviews

OSI separately interviewed Officers Ramos, Curzio, Garza, Candela, Disilvestre, Chavez, and Kostaras, as summarized below.

Officer Chavez said he was Officer Kostaras's training officer and partner on January 20, 2022. They responded to 3950 Bronx Boulevard for a burglary in progress and met CP and her mother outside the apartment building. CP told them her ex-boyfriend was "dangerous"; she wasn't sure if her ex-boyfriend was inside her apartment and did not mention whether he had a gun. Officer Chavez said he and Officer Kostaras were not aware Mr. Feliz had a gun prior to encountering him inside the apartment. Officer Chavez requested backup while he was driving to the scene and after he arrived. Officer Chavez said he had his Taser and his flashlight out upon entering the apartment. He saw Mr. Feliz come from the corner at the back of the apartment, pointing a gun at his own head. Officer Chavez said he told Mr. Feliz to drop the gun repeatedly, and that Mr. Feliz said he didn't want to shoot but refused to drop the gun. Officer Chavez Tased Mr. Feliz, but it didn't have an effect on him. Officer Chavez said Mr. Feliz came in and out of view from the corner and pointed the gun at him; Officer Chavez retreated and took cover behind the apartment door. Officer Chavez said he heard two shots shortly after Mr. Feliz disappeared from the corner the last time. Officer Chavez directed Officer Kostaras to leave the living room, and both officers waited outside the apartment until backup arrived.

Officer Kostaras said CP handed her keys to Officer Chavez when they responded to the incident. Officer Chavez opened the door and both officers went inside the apartment while CP and her mother remained in the hallway. Officer Kostaras said he had his gun out and followed behind Officer Chavez. Officer Kostaras took cover in the living room when Mr. Feliz appeared around the corner with a gun. Officer Kostaras said he could not see Mr. Feliz clearly behind the living room wall but was able to hear

him and Officer Chavez, who told Mr. Feliz to drop the gun repeatedly. Officer Kostaras said he heard two shots and glass breaking, and thought Mr. Feliz jumped out the window. Officer Kostaras was directed by Officer Chavez to get out of the apartment, and he did so. Both officers waited outside until backup arrived and cleared the apartment.

Officers Garza, Ramos, and Candela said they were partners that day and working a day shift; they responded to 3950 Bronx Boulevard. After they arrived on scene, Officer Ramos and Officer Candela said they saw Mr. Feliz running in the park, fall and drop his gun, and pick up his gun to continue running.

Officer Ramos said he had his Taser out and chased Mr. Feliz while yelling for him to drop the gun; Mr. Feliz stopped by the bocce court and turned to face him, at which point Officer Ramos dropped his Taser and took out his gun. Officer Ramos said Mr. Feliz pointed the gun at him, and he shot at Mr. Feliz once. Officer Ramos said he saw Mr. Feliz grab his stomach and run into the Bronx River. Officer Ramos said he saw Mr. Feliz point the gun at him again, and Officer Ramos fired four more shots.

Officer Candela told OSI he saw Mr. Feliz turn to face officers at the bocce court and saw him move his hand up and down while holding the gun. Officer Candela said he had his gun out but pulled back because Officer Curzio ran in front of him, causing him to lose sight of Mr. Feliz momentarily.

Officer Curzio said that when he responded to the park he saw Officer Ramos and Officer Garza chasing Mr. Feliz. Officer Curzio heard many officers ordering Mr. Feliz to drop the gun; he fired one shot at Mr. Feliz because he saw Mr. Feliz point his gun at Officer Ramos.

Officer Garza told OSI he saw Mr. Feliz turn toward Officer Ramos and raise the gun before Officer Ramos fired four shots; Mr. Feliz ran into the water and Officer Garza lost sight of him because his view was obstructed by trees.

## LEGAL ANALYSIS

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

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

PL 35.30(1) defines justification when a police officer or peace officer uses force to effect or attempt to effect an arrest:

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

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

When an officer is justified in using deadly physical force pursuant to PL 35.30, the officer does not have a duty to retreat, PL 35.15(2)(a)(ii).

Based on the evidence in this investigation, OSI concludes that a prosecutor would not be able to disprove beyond a reasonable doubt that the officers’ use of deadly physical force was justified under the law.

Under PL 35.30, the 47<sup>th</sup> Precinct officers could use the physical force they reasonably believed to be necessary to effectuate the arrest of Mr. Feliz and could use deadly force if they reasonably believed it was necessary to defend themselves or another against Mr. Feliz’s imminent use of deadly force. When Mr. Feliz pointed a gun at Officers Chavez in CP’s apartment, when he fired the gun inside CP’s apartment, and, later, when he pointed the gun at Officer Ramos, there was probable cause to believe that Mr. Feliz committed a number of crimes, including Burglary in the First Degree, a class B violent

felony,<sup>15</sup> Criminal Possession of a Weapon in the Second Degree, a class C violent felony,<sup>16</sup> and Menacing a Police Officer, a class D violent felony.<sup>17</sup>

The responding officers knew from the radio transmissions that Mr. Feliz had a gun and that shots had been fired. The officers who chased Mr. Feliz through the park saw the gun in his hand and directed him to put it down. Officers Ramos, Garza, and Curzio shot at Mr. Feliz after they saw him point his gun at Officer Ramos. Mr. Feliz's gun was later recovered and found to be operable; BWC audio and ballistic analysis confirmed that Mr. Feliz had fired the gun twice in CP's apartment.

In sum, the evidence in the investigation is insufficient to disprove beyond a reasonable doubt that Officers Ramos, Garza, and Curzio were justified under New York law in using deadly physical force. Therefore, OSI will not seek charges and will close this matter with the issuance of this report.

Dated: September 13, 2023

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<sup>15</sup> Under PL 140.30, a person commits Burglary in the First Degree when "he knowingly enters or remains unlawfully in a dwelling with intent to commit a crime therein, and...while in the dwelling or in immediate flight therefrom, he...is armed with...a deadly weapon." "Deadly Weapon" includes, under PL 10.00, "any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged."

<sup>16</sup> Under PL 265.03, a person commits Criminal Possession of a Weapon in the Second Degree when "such person possesses any loaded firearm."

<sup>17</sup> Under PL 120.18, a person commits Menacing a Police Officer when "he or she intentionally places or attempts to place a police officer...in reasonable fear of physical injury, serious physical injury or death by displaying a deadly weapon...pistol...or other firearm...where such officer was in the course of performing his or her official duties and the defendant knew or reasonably should have known that such victim was a police officer or peace officer."