



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

Office of Special Investigation

***First Report Pursuant  
to Executive Law  
Section 70-b***

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October 1, 2021

# Introduction

This is the first report of the New York Attorney General's Office of Special Investigation, issued October 1, 2021, pursuant to New York Executive Law Section 70-b.

## ***Attorney General's Authority Regarding Deaths Caused by Police Officers and Peace Officers***

In 2015, in the wake of public concern over deaths of unarmed civilians caused by police officers, the Governor issued Executive Order 147 ("EO 147"), which appointed the Attorney General the special prosecutor to investigate such incidents and, if warranted, to prosecute related offenses. Under EO 147 the Attorney General's authority in those incidents superseded that of the state's district attorneys. The full text of EO 147 is attached as Exhibit 1.

In June of 2020, the Legislature passed, and the Governor signed, a new law, Section 70-b of the Executive Law, effective April 1, 2021, which confirms the Attorney General's exclusive authority to investigate and prosecute incidents where police officers cause the deaths of unarmed civilians, and expands that authority to deaths of persons who are armed or who are not civilians, and to deaths caused by certain peace officers, including corrections officers.<sup>1</sup> The law directs the Attorney General to establish an "office of special investigation" ("OSI") to handle these matters. The full text of Section 70-b is attached as Exhibit 2.

As a result of this expanded scope, as well as increased law enforcement awareness of and compliance with EO 147 and Section 70-b over time, the number of incidents reported to the Attorney General has increased five-fold, from fewer than four per month under EO 147 (July 2015 through March 2021) to 19 per month under Section 70-b so far (April through August 2021). Almost half of the matters reported to the Attorney General under Section 70-b to date relate to incarceration, an area not encompassed within EO 147.

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<sup>1</sup> Subdivision 1 of Section 70-b specifies the categories of peace officers within its scope, including peace officers "employed or contracted by [a] ... corrections agency" and peace officers defined by Subdivision 25 of Criminal Procedure Law Section 2.10, which reads: "25. Officials, as designated by the commissioner of the department of corrections and community supervision pursuant to rules of the department, and correction officers of any state correctional facility or of any penal correctional institution." In this report, the term "peace officer" is used solely to refer to the peace officers listed in Section 70-b, unless the context otherwise requires. EO 147 did not expressly address whether the Attorney General's authority extended to deaths caused by off-duty police officers; Section 70-b explicitly confers authority "whether or not [the officer is] formally on duty."

## ***This Report***

Subdivision 7 of Section 70-b requires the Attorney General to issue the first report concerning investigations and prosecutions under Section 70-b on October 1, 2021, and then annually on every succeeding October 1st. To permit time for drafting and analysis, this report includes OSI's activity and data for the five-month period from April 1, 2021, the effective date of Section 70-b, through August 31, 2021. The next report will include OSI's activity and data for the 12-month period, September 1, 2021, through August 31, 2022. This report also summarizes two indicted cases and lists 12 investigative reports concerning incidents occurring prior to April 1, 2021, which were not described in the Attorney General's last biennial report under EO 147, issued in December 2019 ("2019 Biennial Report"), which may be found here: <https://ag.ny.gov/sites/default/files/sipu-biennial-report-2019.pdf>.

# Overview of The Office of Special Investigation

## ***Transition from EO 147 to Section 70-b***

Section 70-b, passed by the Legislature in June of 2020, and effective April 1, 2021, significantly expanded the scope of the Attorney General's authority to investigate and prosecute deaths caused by police officers and peace officers, compared with the Attorney General's authority under EO 147. Under the prior authority the Attorney General handled relevant matters through the Special Investigation and Prosecution Unit, or SIPU. After the passage of Section 70-b, the Attorney General developed a plan to increase staffing. At the time of the 2019 Biennial Report under EO 147, the Attorney General assigned six Assistant Attorneys General ("AAG"s), one analyst, and two investigators to SIPU on a full-time basis.<sup>2</sup> As of the date of this report, on a full-time basis, and including supervisors, the Attorney General assigns 12 AAGs, four analysts, two family liaisons, and 12 detectives to OSI. The Attorney General has allocated additional attorney and investigator positions to OSI, which we are seeking to fill by year's end.

Due to the expanded scope of Section 70-b, the Attorney General's personnel reached out to law enforcement-related agencies around the state to prepare them for the change, including sending letters to every district attorney and police chief; speaking at the Winter Conference of the District Attorneys Association of the State of New York; speaking at the New York State Chiefs of Police Annual Conference; speaking to the New York State Department of Corrections and Community Supervision and the New York State Commission of Correction; speaking to the New York City Department of Correction, the New York City Department of Investigation, and the New York City Office of the Chief Medical Examiner; and speaking to 18 Chiefs' and Sheriffs' associations around the state.

In addition, Attorney General personnel who would be working on matters arising under Section 70-b participated in a three-day training program in March 2021, which included 16 presentations from internal and external experts on topics including legal issues arising under Section 70-b, investigative protocols and resources, family and community relations, investigations in correctional facilities, investigating motor vehicle cases, investigating deaths following restraint, responding to persons in mental or physical distress, and special topics in autopsy and toxicology reports.

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<sup>2</sup> In addition, AAGs and investigators assigned to other units in the Attorney General's office worked on SIPU matters part time. See 2019 Biennial Report, pages 51-56.

## ***OSI's Intake and Assessment Process***

All district attorney's offices, law enforcement agencies, and corrections agencies in the state may call OSI's hotline 24 hours a day, seven days a week, to report an incident potentially within OSI's authority under Section 70-b. OSI distributes a one-page information guide on the hotline procedure to agencies around the state, which is attached as Exhibit 3.<sup>3</sup> OSI receives almost all notifications of possible deaths caused by police officers or peace officers by way of the hotline.

When OSI receives notification of an incident, it conducts a preliminary assessment to determine whether the death was “caused by an act or omission” of a police officer or peace officer, or whether “there is a question as to whether the death was in fact caused by an act or omission of [a] police officer or peace officer [emphasis added].”<sup>4</sup> Section 70-b, Subdivision 1. In some cases this preliminary determination is clear, as when a police officer causes a death by gunshot. However, in other cases this determination may require substantial investigation, as when, for example, an incarcerated person dies and there is a question whether neglect (“an act or omission”) by personnel in the institution was a contributing cause of death.

After the preliminary assessment, if OSI does not find reason to believe a police officer or peace officer caused the death, OSI closes the matter. When OSI closes a matter, the Attorney General notifies the district attorney for the county where the incident occurred, in writing, as required by Section 70-b, Subdivision 2, that the Attorney General has determined the incident does not meet the requirements for the Attorney General's investigative authority or criminal jurisdiction under Section 70-b. See Exhibit 4, a table of all incidents arising from April 1 to August 31, which shows which incidents OSI closed in that period and which remained open at the end of the period.

A determination that an incident does not fall within the Attorney General's authority under Section 70-b is not necessarily a determination that no criminal conduct occurred. After receiving the written notification from the Attorney General of the determination that a matter is not within Section 70-b, the district attorney takes over the matter and determines whether criminal charges are warranted.

On the other hand, if OSI finds reason to believe a police officer or peace officer did cause the death, or there remains “a question as to whether the death was in fact caused by an act or omission of [a] police officer or peace officer,” OSI continues to investigate to determine whether to seek charges against the police officer or peace officer. See below, section on Open Matters, subsection on Open Assessments and Investigations.

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<sup>3</sup> The hotline phone number and email address are redacted from Exhibit 3, as only law enforcement agencies are authorized to use them.

<sup>4</sup> OSI receives some notifications where a person does not die, such as cases where a police officer shoots a person who is seriously wounded but survives. See, for example, Exhibit 4, Case 66. OSI also receives some notifications where a death occurs in a setting where no police officer or peace officer is employed, such as a death in a psychiatric institution. See, for example, Exhibit 4, Case 77. In such cases, OSI does not conduct an assessment of “cause,” as no death or no defined officer is involved, and the matter is by definition not within Section 70-b.

When, after OSI's investigation, the Attorney General determines to seek charges in a matter, AAGs assigned to OSI present evidence to a grand jury in the county where the incident occurred, and, if the grand jury returns an indictment, AAGs assigned to OSI prosecute the case. See below, section on Open Matters, subsection on Indicted Cases, for the two pending cases being prosecuted by OSI; both concern deaths occurring prior to April 1, 2021.

If OSI determines not to seek charges because the evidence appears insufficient to sustain a prosecution, or if OSI presents the matter to a grand jury which does not return an indictment, OSI must issue a report, posted to the Attorney General's public website, describing the investigation and the result, pursuant to Subdivision 6 of Section 70-b. OSI has not published any reports concerning deaths that occurred from April 1 to August 31, 2021. This report lists the 12 reports published by OSI, and by its predecessor, SIPU, after the 2019 Biennial Report; these 12 reports concern deaths that occurred prior to April 1, 2021. See section below, Published Reports of Closed Matters.

## ***OSI Data***

The data discussed in this section are also set forth in the table attached as Exhibit 4.

### ***Number of Notifications Received and Status***

In the five-month period covered by this report (April 1 through August 31, 2021), law enforcement agencies, incarceration authorities, and district attorney's offices notified OSI of 95 incidents potentially coming within Section 70-b (Exhibit 4, column A). This is an average of 19 notifications per month. By contrast, for the 69-month period from July 8, 2015, the effective date of EO 147, through March 31, 2021, the day before Section 70-b became effective, our records indicate SIPU received an average of 3.78 notifications per month. The five-fold increase in the rate of reported incidents is likely the result of the expanded scope of Section 70-b over EO 147, as described above, as well as law enforcement agencies' increased awareness of and compliance with the mandates of EO 147 and Section 70-b over time.

Of the 95 notifications OSI received from April 1 to August 31, OSI closed 70 in that period (Exhibit 4, column L). Of these closed matters, OSI:

- » closed 13 because a person did not die;
- » closed one because a police officer or peace officer, as defined, was not involved; and
- » closed 56 because OSI's preliminary assessment did not show reason to believe a police officer or peace officer caused the death by an act or omission.

The remaining 25 notifications were open as of August 31, pending preliminary assessment or investigation. Brief descriptions of OSI's open matters are listed below, section on Open Matters, subsection on Open Assessments and Investigations.

## ***Selected Categories of Notifications***

### ***Shootings***

Of the 95 notifications OSI received from April 1 to August 31, 15 involved shootings by police officers. (Exhibit 4, column J). OSI closed six of these matters because there was no death. The other nine are under investigation and are described below, section on Open Matters, subsection on Open Assessments and Investigations. Preliminarily, the decedent had a weapon, or had what appeared to be a weapon, in all of the nine shooting incidents under investigation.<sup>5</sup> The officers or their cars were equipped with video in 11 of the 14 shooting incidents (Exhibit 4, column K).

### ***Restraint***

Of the 95 notifications OSI received from April 1 to August 31, two involved deaths following restraint by police (Exhibit 4, column J). OSI closed these matters after preliminary reviews did not find reason to believe the restraint was the cause of death. We await final autopsy and toxicology reports and will reopen either matter if a report indicates the restraint was a cause of death. It appears the decedent was not armed in either of the restraint matters. The officers were equipped with video in one of the two restraint cases (Exhibit 4, column K).

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<sup>5</sup> These preliminary facts are subject to change as the investigations proceed. Under EO 147 the Attorney General did not have authority to investigate or prosecute matters where the decedent was armed, only authority in "matters involving the death of an unarmed civilian," or where "there [was] a significant question as to whether the civilian was armed and dangerous at the time of his or her death."

## ***Incarcerated Persons***

As noted, the Attorney General has authority under Section 70-b to investigate deaths caused by corrections officers and other peace officers who work in jails, prisons, and holding facilities throughout the state. This is a new authority, which the Attorney General did not have under EO 147. For perspective, New York State has an incarceration system overseen by the state's Department of Corrections and Community Services with more than 30,000 incarcerated persons; New York City has an incarceration system overseen by the city's Department of Correction with more than 5,000 incarcerated persons; and the 57 counties in the state outside New York City have local facilities which collectively hold more than 9,000 incarcerated persons.<sup>6</sup>

Of the 95 notifications OSI received from April 1 to August 31, 42 concerned incarcerated persons (Exhibit 4, column I). Of those, we classify 10 as apparent suicides (including one attempted suicide) and the remainder, 32, as medical emergencies (Exhibit 4, column J), including suspected drug overdoses.

We closed 31 of the 42 incarceration matters by August 31: in one instance no person died (Exhibit 4, Case 29), in one instance the institution was not staffed by police officers or peace officers (Exhibit 4, Case 77); in 29 instances our preliminary assessment did not find reason to believe a police officer or peace officer caused the death by an act or omission (Exhibit 4, column L). The remaining 11 incarceration matters were open as of August 31, pending preliminary assessment or investigation. The open matters are described in the section below on Open Matters, subsection on Open Assessments and Investigations.

Given the limited sample size to date, we do not know if suicide or attempted suicide will continue to account for almost a quarter (10 of 42) of the incarceration incidents reported to OSI. However, the numbers are a matter of concern, raising a question whether personnel in the state's jails, prisons, and holding facilities have the training, resources, and procedures they need to identify persons at risk of suicide or to protect them adequately. OSI will continue to examine these data and the underlying facts of the cases, as well as the existing training, resources, and procedures for the state's correctional facilities, with a view to making recommendations in our next annual report.

Of the 32 incarceration incidents we classify as medical emergencies, some appear to be the result of drug overdoses. In the absence of final autopsy and toxicology reports, which are often unavailable for months after the death of an incarcerated person, the causes of death in many of these cases are not yet known, and we do not know what proportion of the medical emergencies were in fact drug overdoses. A high number of drug overdoses would be a matter of concern, raising a question whether personnel in the state's jails, prisons, and holding facilities have the training, resources, and procedures they need to prevent incarcerated persons

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<sup>6</sup> For New York City and local jail figures, see New York State Division of Criminal Justice Services jail population report, September 1, 2021, [https://www.criminaljustice.ny.gov/crimnet/ojsa/jail\\_population.pdf](https://www.criminaljustice.ny.gov/crimnet/ojsa/jail_population.pdf). For New York State DOCCS figures, see Fact Sheet, April 1, 2021, <https://doccs.ny.gov/system/files/documents/2021/04/doccs-fact-sheet-april-2021.1.pdf>. The most recent annual report of the New York State Commission of Correction (SCOC), for the calendar year 2019, states SCOC conducted 73 mortality investigations in the state's prisons, jails, and holding facilities, and found the causes of death in those 73 cases to be 27 suicides, 25 "medical deaths," 19 overdoses, and two homicides. [https://scoc.ny.gov/pdfdocs/annualreport\\_2019.pdf](https://scoc.ny.gov/pdfdocs/annualreport_2019.pdf).



from obtaining potentially lethal drugs in potentially lethal amounts. OSI will continue to examine these data and the underlying facts of the cases, as well as the existing training, resources, and procedures for the state's correctional facilities, with a view to making recommendations in our next annual report.

Of the 42 incidents reported to OSI concerning jails, prisons, and holding facilities, there were 17 where some video capability was available (Exhibit 4, columns I and K), including seven in which officers were equipped with body-worn cameras. We will continue to review video capability and effectiveness in the incidents arising in jails, prisons, and holding facilities, with a view to making recommendations in our next report. We note, however, that fixed video installations in correctional settings will not capture relevant visuals or audio of every incident, because, for privacy reasons, those installations are set up to avoid views inside cells or shower or toilet areas. In addition, incarcerated persons or prison personnel may be aware of camera locations and intentionally evade being recorded.

## **Rikers Island**

Of the 42 incarceration matters arising from April 1 to August 31, 2021, six involve deaths at Rikers Island, including two apparent suicides.<sup>7</sup> Although the troubles at Rikers Island are not new<sup>8</sup> recent local news stories describe deteriorating conditions.<sup>9</sup> Responding to the number of notifications OSI has received concerning deaths at Rikers Island, and to the concerns expressed in the media and by people in affected communities, the Attorney General visited Rikers Island on September 21, 2021, to see the conditions first hand. Two days later, on September 23, the Attorney General's Civil Rights Bureau submitted a letter to the federal court overseeing the Rikers Island monitor. Citing the deaths under review by OSI, the letter states, "These tragic occurrences suggest the need for swift remedial action to improve security, access to medical care, and adequate working and living conditions for everyone at Rikers [Island]..., even as our investigations are ongoing." The letter to the court is Exhibit 5 to this report.

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<sup>7</sup> Three additional deaths occurred on Rikers Island (including one at the Vernon C. Bain Center jail boat anchored north of Rikers Island) after August 31, during the drafting of this report, for a total of nine since April 1.

<sup>8</sup> In February of 2018 the New York State Commission of Correction issued a report called "The Worst Offenders: Report: The Most Problematic Local Correctional Facilities of New York State." The report introduced the section on Rikers Island this way: "Rikers Island continues to be plagued by managerial failures, significant structural problems, regulatory compliance failures, identified deficiencies that remain unaddressed, and unabated harm to both staff and inmates alike. The Commission has sought to assist Rikers management in addressing these and many other deficiencies, and facilitate improvements, but those efforts have not been successful, further highlighting the need for closure of all jail facilities located on Rikers Island." <https://scoc.ny.gov/pdffdocs/Problematic-Jails-Report-2-2018.pdf>.

<sup>9</sup> For example: <https://www.nytimes.com/2021/08/24/nyregion/rikers-island-emergency-chaos.html>; and <https://www.nytimes.com/2021/09/15/nyregion/rikers-island-jail.html>. OSI's investigations have not confirmed the statements in news stories about individual deaths.

## **Motor Vehicle Accidents**

Of the 95 notifications OSI received from April 1 to August 31, 14 involved motor vehicle accidents (Exhibit 4, column J). OSI closed 10 of these 14 matters during the reporting period (Exhibit 4, column L): four because there was no death and six because we did not find reason to believe a police officer caused the death (for example, no evidence of physical contact between an officer's car and the decedent, no evidence of a reckless high-speed chase, or the decedent caused the accident by driving into the officer's car). Four motor vehicle accidents are being assessed or under investigation as of August 31 and are described in the section below on Open Matters, subsection on Open Assessments and Investigations. Three of the four open matters involved off-duty officers in their private cars.

## **Demographic Data**

As shown in Exhibit 4, column G, of the 96<sup>10</sup> subjects in the incidents reported to OSI from April 1 to August 31, 2021:

- » 23 were Black, 43 were White, 21 were Hispanic, and three were Asian (we do not yet have the racial or ethnic identity of six subjects);
- » 88 were male, six were female, and one was trans/non-binary (we do not yet have the gender of one subject);
- » two were under 20 years old, 35 were 20 to 39 years old, 35 were 40 to 59 years old, and 19 were 60 years old or older (we do not yet have the ages of five subjects).

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<sup>10</sup> Although there were 95 reported incidents from April 1 to August 31, one incident had two subjects, for a total of 96 subjects. Of the 96 reported subjects, 13 did not die.

## Open Matters

### Indicted Cases

OSI is prosecuting one indicted cases:

#### *People v. Allen*

The defendant, who was an off-duty member of the New York City Police Department, is charged with Murder in the Second Degree and other crimes for shooting and killing Christopher Curro, who was 25 years old, in Farmingdale, Nassau County, on May 12, 2020. Curro was unarmed. The defendant was arraigned on the indictment on August 20, 2021, and was ordered remanded pending trial. The indictment is attached as Exhibit 6.

### **Open Assessments and Investigations Under Section 70-b (April 1 through August 31, 2021)**

As of August 31, OSI is conducting a preliminary assessment or a full investigation in each of the 25 following matters, which arose from April 1, 2021, the effective date of Section 70-b, through August 31, 2021. The facts set forth below are based on information gathered to date by OSI. We note in each case whether OSI is engaged in (a) a preliminary assessment to determine whether a police officer or peace officer caused the death, or whether there is “a question as to whether the death was in fact caused by an act or omission of [a] police officer or peace officer” (“assessment”), or, (b) having found cause or a “question” of cause, is conducting a full investigation (“investigation”). As all the listed matters are open, and OSI’s assessments and investigations are in progress, the facts as set forth below are subject to change.

### *Tyler Green*

On April 6, 2021, in Oneonta, Otsego County, an officer of the Oneonta Police Department shot and killed Tyler Green, who was armed with a knife (investigation).

### *Mark Gaskill*

On May 14, 2021, in Rochester, Monroe County, officers of the Rochester Police Department shot and killed Mark Gaskill, who was armed with a handgun (investigation).

### *Jesse Bonsignore*

On May 20, 2021, in Manorville, Suffolk County, an officer of the Suffolk County Police Department shot and killed Jesse Bonsignore, who was armed with a knife (investigation).

### *Lopamudra Desai*

On May 23, 2021, in Queens, an off-duty member of the New York City Police Department, driving her personal car, struck and killed Lopamudra Desai as she was crossing the street (investigation).

### *Marcelo Palaez and Leonardo Rodriguez*

On May 24, 2021, in Queens, an off-duty member of the New York City Police Department, driving his personal car, struck Marcelo Palaez and Leonardo Rodriguez while they were crossing the street; Mr. Palaez died the next day, and Mr. Rodriguez died on July 14, 2021 (investigation).

### *Timothy Flowers*

On June 4, 2021, in Rochester, Monroe County, officers of the Rochester Police Department shot and killed Timothy Flowers, who was armed with a handgun (investigation).

### *Jose Mejia*

On June 10, 2021, in a facility on Rikers Island, Bronx County, inmates found Jose Mejia unresponsive in his cell and alerted corrections officers. Attempts to revive Mejia were unsuccessful (assessment).

### *Christopher van Kleeck*

On June 12, 2021, in Wallkill, Orange County, officers of the Wallkill Police Department shot and killed Christopher van Kleeck, who was armed with a knife (investigation).

### *Robert Jackson*

On June 30, 2021, in a facility on Rikers Island, Bronx County, corrections officers found Robert Jackson unresponsive in his cell and alerted medical. Attempts to revive Jackson were unsuccessful (assessment).

### *Steven Leconte*

On July 8, 2021, in Brooklyn, New York City Police Department officers shot and killed Steven Leconte, who was armed with a handgun (investigation).

### *Daniyal Shaukat*

On July 15, 2021, Daniyal Shaukat, who was riding an e-scooter, died in a collision with a personal car driven by an off-duty Nassau County Corrections Department officer in West Hempstead, Nassau County (assessment).

### *Eriberto Bisoño*

On July 26, 2021, Eriberto Bisoño died in a hospital as a result of an act of apparent suicide, committed on May 31, 2021, while he was incarcerated at Sing Sing, in Westchester County (assessment).

### *Roger Lynch*

On August 6, 2021, in Franklin, Delaware County, a member of the New York State Police shot and killed Roger Lynch, who was armed with a shotgun (investigation).

### *Ronald Pierce*

On August 9, 2021, in the Oneida County jail, Ronald Pierce was found unresponsive, and efforts to revive him were unsuccessful (assessment).

### *Brandon Rodriguez*

On August 10, 2021, in a facility on Rikers Island, Bronx County, Brandon Rodriguez died by apparent suicide (assessment).

### *David Kingsley*

On August 11, 2021, in the Elmira Correctional Facility, Chemung County, David Kingsley died by apparent suicide (assessment).

### *Mark Garrett*

On August 21, 2021, Mark Garrett, incarcerated in the Fishkill Correctional Facility, Dutchess County, died during a procedure at a nearby hospital (assessment).

### *Sequoyah Woodberry*

On August 24, 2021, in Buffalo, Erie County, Sequoyah Woodberry, a passenger in a car being pursued by Buffalo Police Department officers, died in a collision with a second car (assessment).

### *Su Kim*

On August 24, 2021, at Midstate Correctional Facility, Oneida County, Su Kim died by apparent suicide (assessment).

### *Malek Rahman*

On August 25, 2021, at a New York City Police Department holding facility in the 40th Precinct Station House in the Bronx, Malek Rahman was found unresponsive, and attempts to revive him were unsuccessful (assessment).

### *David Wandell*

On August 27, 2021, in Elmira, Chemung County, officers of the New York State Police, Elmira Police Department, Chemung County Sheriff's Office, and the New York State Parole Department shot at David Wandell, who was armed with a handgun, and who died from one or more of those shots (investigation).

### *Abel Rosas*

On August 27, 2021, in Green Haven Correctional Facility, Dutchess County, Abel Rosas was found unresponsive, and attempts to revive him were unsuccessful (assessment).

### *Michael Rosado*

On August 29, 2021, in the Bronx, two off-duty officers of the New York City Police Department shot at Michael Rosado, who died from at least one of those shots, and who was armed with a handgun (investigation).

### *Segundo Gualpa*

On August 30, 2021, in a facility on Rikers Island, Bronx County, Segundo Gualpa died by apparent suicide (assessment).

### *Davidson Stinfill*

On August 30, 2021, Spring Valley Police Department officers, Rockland County, responded to a medical emergency call for Davidson Stinfill, but were unable to revive him (assessment).

## **Open Investigations Arising Prior to April 1, 2021**

OSI is conducting investigations in the six matters listed below, which arose prior to April 1, 2021. The facts set forth are based on information gathered to date by SIPU and OSI. As these matters are open, and OSI's investigations are in progress, the facts as set forth below are subject to change.

### *Jeffrey McClure*

On June 7, 2020, in Northport, Suffolk County, a member of the Suffolk County Police Department shot and killed Jeffrey McClure, who was armed with what appeared to be a rifle.

### *George Zapantis*

On June 21, 2020, in Queens, George Zapantis died following Taser use and restraint by members of the New York City Police Department.

### *Delroy Morris*

On July 25, 2020, in Brooklyn, Delroy Morris, who was riding a motorcycle, died in a collision with a marked patrol car driven by a member of the New York City Police Department.

### *Sofia Gomez*

On October 5, 2020, in the Bronx, a member of the New York City Police Department, driving a marked patrol car, struck Sofia Gomez as she was crossing a street; she later died of her injuries.

### *Monica Goods*

On December 22, 2020, on the New York Thruway in Ulster County, a New York State Trooper, driving a marked cruiser, struck a car, causing it to roll over and kill Monica Goods, a passenger.

### *Judson Albahm*

On March 4, 2021, in Jamesville, Onondaga County, members of the DeWitt Police Department, the New York State Police, and the Onondaga County Sheriff's Office shot at Judson Albahm, who was armed with what appeared to be a handgun, and who died from at least one of those shots.

## ***Published Reports Of Closed Matters***

Under EO 147, when the Attorney General determined not to seek charges in an incident where a police officer caused the death of an unarmed civilian, or where evidence was presented to a grand jury but no indictment was obtained, the Attorney General published a report explaining the result. Listed below are the reports published since the 2019 Biennial Report, giving the name of the decedent, date and place of death, and the involved agency, with a live link to the full report. OSI has not published any reports of closed investigations concerning deaths arising since April 1, 2021, the effective date of Section 70-b.

[Dwayne Pritchett](#): January 28, 2018, New York City Police Department, Bronx County.

[Evgeniy Lagoda](#): April 12, 2019, Port Authority of New York and New Jersey Police Department, Queens County.

[Troy Hodge](#): June 16, 2019, Lockport Police Department, Niagara County.

[DeWayne Watkins](#): June 18, 2019, Syracuse Police Department, Onondaga County.

[Ferdy Jacinto-Martinez](#): July 25, 2019, Rockland County Correctional Facility, Rockland County.

[Susan Harrington](#): August 19, 2019, Washington County Sheriff's Office, Washington County.

[Allan Feliz](#): October 17, 2019, New York City Police Department, Bronx County

[Tina Davis](#): January 5, 2020, Spring Valley Police Department, Rockland County.

[Matthew Felix](#): February 25, 2020, Nassau County Police Department, Queens County.

[Daniel Prude](#): March 23, 2020, Rochester Police Department, Monroe County.

[Michael Wallace](#): March 24, 2020, Schenectady Police Department, Schenectady County.

[Wenzola Rountree](#): July 19, 2020, Suffolk County Police Department, Suffolk County.

## Recommendations

Section 70-b directs the Attorney General to include in this report “recommendations for any systemic or other reforms recommended as a result of [the] investigations” undertaken pursuant to that law. In the 2019 Biennial Report, and in a prior biennial report, issued in 2017, under EO 147, the Attorney General, similarly, listed recommendations for systemic reform. As Section 70-b has been in effect only six months, the recommendations set forth below take account of investigations conducted under the authority of EO 147 as well as current matters.

### **Body-Worn and Dashboard Cameras**

The Attorney General’s 2019 biennial report under EO 147 recommended that:

“all police agencies outfit their officers with body-worn cameras with audio capability and police vehicle dashboard cameras. In addition, officers outfitted with body-worn cameras or operating vehicles equipped with dashboard cameras must be trained on the proper use of this equipment to ensure that all critical interactions with civilians are captured on video.”

As the Attorney General said at the time, research shows substantial benefits to police agencies who adopt body-worn and dashboard cameras, including transparency, improved performance, accountability, documentation of evidence, enhanced officer training, and the prevention and resolution of citizen complaints. Also, at “a time when police-civilian encounters are increasingly recorded by members of the public, body-worn and dashboard cameras provide the additional benefit of ensuring that events are captured from as many perspectives as possible.” 2019 Biennial Report, pages 48-49.

We note the Legislature recently passed, and the Governor signed, Executive Law Section 234 directing the New York State Police to equip all state police officers with body-worn cameras while on patrol. This is a significant achievement, which will, as the new law states, “increase accountability and evidence for law enforcement and the residents of the state.” According to news reports, the State Police will introduce the body-worn cameras on a rolling basis, with statewide deployment expected by the end of 2021; the 3,000 cameras will cost \$7.6 million a year.<sup>12</sup> Other large police departments in the state, including the New York City Police Department, now deploy body-worn or dashboard cameras.

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<sup>12</sup> Associated Press, apnews.com, April 1, 2021: [https://apnews.com/article/new-york-law-enforcement-agencies-andrew-cuomo-albany-b8d0359e498c87ca842451935c6fa9#:~:text=\(AP\)%20%E2%80%94%20Some%20New%20York,and%20local%20law%20enforcement%20agencies.&text=The%20rollout%20of%203%2C000%20cameras,law%20signed%20in%20June%2C%20Gov](https://apnews.com/article/new-york-law-enforcement-agencies-andrew-cuomo-albany-b8d0359e498c87ca842451935c6fa9#:~:text=(AP)%20%E2%80%94%20Some%20New%20York,and%20local%20law%20enforcement%20agencies.&text=The%20rollout%20of%203%2C000%20cameras,law%20signed%20in%20June%2C%20Gov)



However, state law does not mandate that all police departments and sheriff's departments in the state deploy body-worn cameras or dashboard cameras. Our recent reports, cited above, indicate, for example, that the Port Authority Police Department (death of Evgeniy Lagoda), the Spring Valley Police Department (death of Tina Davis), and the Nassau County Police Department (death of Matthew Felix) did not equip their officers with body-worn cameras. Based on a survey conducted by the Attorney General's Office in January 2021 of more than 500 police agencies in the state, only 112 of the responding agencies (about 35%) said they equip their officers with body worn cameras; 210 responding agencies (about 65%) said they do not equip their officers with body worn cameras, including the Suffolk County Police Department (2533 officers) and the Nassau County Police Department (2448 officers).

Therefore, we urge the Legislature to require by statute that all police and sheriff's departments in the state deploy body-worn and dashboard cameras. We understand that the purchasing, deployment, and training involved in the use of such cameras are expensive and require expertise, and therefore the Legislature should include resources for funding and training together with the mandate to equip officers with cameras.

## ***Responding to Mental Health Crises***

In the 2019 Biennial Report, the Attorney General made two recommendations that touched on the need to train law enforcement personnel to respond to persons undergoing mental health crises, whether drug-induced or otherwise: the recommendation to train 911 operators and dispatchers to accurately record and transmit the facts conveyed to them, including those possibly indicating mental health crises, and the recommendation to train responding officers in de-escalation methods. 2019 Biennial Report, pages 43-45.

We note that the New York City Police Department, in June of this year, announced it would train all 35,000 of its members in de-escalation methods, using a program called Integrating Communications, Assessment and Tactics, or ICAT.<sup>13</sup> Separately, the New York State Division of Criminal Justice Services offers a course for police trainers called Fundamental Crisis Intervention Skills for Law Enforcement, which is part of the mental health section of the Basic Course for Police and Peace Officers, and which “includes hands-on scenarios encountered by police when responding to calls for service involving a person experiencing a mental health crisis.”<sup>14</sup>

However, as in the case of cameras, without a legislative mandate it is not likely that every police and sheriff's department in the state will provide training of this kind to its 911 operators and dispatchers and its responding officers. Our recent cases in fact suggest the need of such training in specific departments, including the cases cited above involving Tina Davis (Spring Valley Police Department), Evgeniy Lagoda (Port Authority Police Department), Ferdy Jacinto-Martinez (Rockland County Correctional Facility), and Daniel Prude (Rochester Police Department).

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<sup>13</sup> <https://www.nyl.com/nyc/all-boroughs/news/2021/06/24/nypd-rolls-out-new-icat-de-escalation-tactics-training>

<sup>14</sup> <https://www.criminaljustice.ny.gov/ops/training/calendar.htm>

Therefore, we urge the Legislature to make such training mandatory by statute, and to provide the funding and other resources to make possible the universal implementation of such training across all police and sheriff's departments in the state.

## ***Deaths in Jails, Prisons, and Holding Facilities***

As discussed above, the Attorney General has authority under Section 70-b to investigate and, if warranted, prosecute offenses arising from incidents where a death is caused by a police officer or peace officer in a jail, prison, or holding facility. This authority was not included in EO 147. In the five months of data included in this report, from the effective date of Section 70-b on April 1, 2021, through August 31, 2021, OSI received 42 notifications of deaths in jails, prisons, and holding facilities. Of those, 10 appear to be suicides or attempted suicides, and we classify 32 as “medical emergencies,” at least some of which appear to be drug overdoses, which we will only be able to confirm upon receipt of final autopsy and toxicology reports. For comparison, the New York State Commission of Correction reported in its most recent annual report, for the year 2019, that it conducted 73 mortality investigations and classified 27 deaths as suicides, 25 deaths as “medical deaths,” 19 deaths as overdoses, and two deaths as homicides.<sup>15</sup>

Because of the limited sample size of OSI's matters to date and the newness of OSI's experience in this area, we do not make recommendations concerning incarceration matters in this report. However, the number of apparent suicides and drug overdoses are a matter of concern, and raise a question whether personnel in the state's jails, prisons, and holding facilities have the training, resources, and procedures they need (a) to identify persons at risk of suicide and to protect them adequately, and (b) to prevent incarcerated persons from obtaining potentially lethal drugs in potentially lethal amounts. OSI will continue to examine these data and the underlying facts of the cases, as well as the existing training, resources, and procedures for the state's correctional facilities, with a view to making recommendations in this area in our next annual report.

**OCTOBER 1, 2021**

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<sup>15</sup> New York State Commission of Correction, 2019 report, [https://scoc.ny.gov/pdfdocs/annualreport\\_2019.pdf](https://scoc.ny.gov/pdfdocs/annualreport_2019.pdf).

# ***Exhibit 1***

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No. 147

#### EXECUTIVE ORDER

##### A SPECIAL PROSECUTOR TO INVESTIGATE AND PROSECUTE MATTERS RELATING TO THE DEATHS OF CIVILIANS CAUSED BY LAW ENFORCEMENT OFFICERS

WHEREAS, the Constitution of the State of New York obliges the Governor to take care that the laws of New York are faithfully executed; and

WHEREAS, I have solemnly sworn, pursuant to Article 13, Section 1 of the Constitution, to support the Constitution and faithfully discharge the duties of the office of Governor; and

WHEREAS, there have been recent incidents involving the deaths of unarmed civilians that have challenged the public's confidence and trust in our system of criminal justice; and

WHEREAS, public concerns have been raised that such incidents cannot be prosecuted at the local level without conflict or bias, or the public perception of conflict or bias; and

WHEREAS, it is necessary to ensure that a full, reasoned, and independent investigation and prosecution of any such incident is conducted without conflict or bias, or the perception of conflict or bias; and

WHEREAS, the foregoing compels me to conclude that my constitutional obligations provide that in cases where an issue of a real or perceived conflict of interest exists, and to ensure full confidence in our system of criminal justice, a special prosecutor should be appointed with respect to such incidents. Such appointment of a special prosecutor will supersede in all ways the authority and jurisdiction of a county district attorney to manage, interpret, prosecute or inquire about such incidents; and

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Laws of the State of New York, and particularly by subdivision 2 of section 63 of the Executive Law, hereby require the Attorney General (hereinafter, the "special prosecutor") to investigate, and if warranted, prosecute certain matters involving the death of an unarmed civilian, whether in custody or not, caused by a law enforcement officer, as listed in subdivision 34 of section 1.20 of the Criminal Procedure Law. The special prosecutor may also investigate and prosecute in such instances 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;

FURTHER, for any matter covered herein, the special prosecutor shall have the powers and duties specified in subdivisions 2 and 8 of section 63 of the Executive Law for purposes of this Order, and shall possess and exercise all the prosecutorial powers necessary to investigate, and if warranted, prosecute the incident. The special prosecutor's jurisdiction will displace and supersede the jurisdiction of the county district attorney where the incident occurred; and such county district attorney shall have only the powers and duties designated to him or her by the special prosecutor as specified in subdivision 2 of section 63 of the Executive Law;

FURTHER, for any matter covered herein, the special prosecutor shall conduct a full, reasoned, and independent investigation including, but not limited to, (i) gathering and analyzing evidence, (ii) conducting witness interviews, and (iii) reviewing investigative reports, scientific reports, and audio and video recordings;

FURTHER, for any matter covered herein, the special prosecutor shall, (i) attend in person, a term or terms of the County or Supreme Court to be held in and for the County of such appropriate jurisdiction consistent with this Order, (ii) appear in person before any grand jury drawn for any term(s) of said court, for the purpose of conducting any and all proceedings, examinations, and inquiries, and (iii) bring any and all criminal actions and proceedings which may be had or taken before said grand jury and other grand juries concerning or relating to any and all alleged unlawful acts as described by this Order;

FURTHER, for any matter covered herein, the special prosecutor will provide to me, or my designee, a report on all cases where, (i) the special prosecutor declines to present evidence to a grand jury regarding the death of a civilian as described in this Order, whether in custody or not, allegedly caused by a law enforcement officer, or (ii) the grand jury declines to return an indictment on any charges. The report will include, to the extent possible and lawful, an explanation of that outcome and any recommendations for systemic reform arising from the investigation.

This Executive Order shall continue until modified, suspended or terminated by the Governor.



GIVEN under my hand and the Privy Seal of the

State in the City of Albany this eighth

day of July in the year two thousand

fifteen.

A handwritten signature in dark ink, likely of the Governor, written in a cursive style.

BY THE GOVERNOR

A handwritten signature in dark ink, reading "William J. Mahow", written in a cursive style.

Secretary to the Governor

# ***Exhibit 2***

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OFFICIAL COPY  
STATE OF NEW YORK  
CHAPTER 95 LAWS OF 2020

FILED  
STATE RECORDS

2574--C

SEP 11 2020

2019-2020 Regular Sessions

DEPARTMENT OF STATE

IN SENATE

January 28, 2019

Introduced by Sens. BAILEY, BENJAMIN, BIAGGI, BRESLIN, CARLUCCI, COMRIE, GIANARIS, HOYLMAN, JACKSON, KAVANAGH, KRUEGER, LIU, MAY, MONTGOMERY, MYRIE, PARKER, RAMOS, RIVERA, SALAZAR, SANDERS, SEPULVEDA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to creating an office of special investigation within the office of the attorney general

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The executive law is amended by adding a new section 70-b  
2 to read as follows:

3 § 70-b. Office of special investigation. 1. There shall be established  
4 within the office of the attorney general an office of special investi-  
5 gation. Notwithstanding any other provision of law, the office of  
6 special investigation shall investigate and, if warranted, prosecute any  
7 alleged criminal offense or offenses committed by a person, whether or  
8 not formally on duty, who is a police officer, as defined in subdivision  
9 thirty-four of section 1.20 of the criminal procedure law, or a peace  
10 officer as defined in section 2.10 of the criminal procedure law,  
11 provided that such peace officer is employed or contracted by an educa-  
12 tion, public health, social service, parks, housing or corrections agen-  
13 cy, or is a peace officer as defined in subdivision twenty-five of  
14 section 2.10 of the criminal procedure law, concerning any incident in  
15 which the death of a person, whether in custody or not, is caused by an  
16 act or omission of such police officer or peace officer or in which the  
17 attorney general determines there is a question as to whether the death

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD05660-21-0

1 was in fact caused by an act or omission of such police officer or peace  
2 officer.

3 2. The attorney general has investigative authority and criminal  
4 jurisdiction under this section at the time of the death of the person  
5 and the attorney general retains investigative authority and criminal  
6 jurisdiction over the incident unless the attorney general determines  
7 that such incident does not meet the requirements of this section. If  
8 the attorney general determines the incident does not meet the require-  
9 ments for the attorney general to have investigative authority and crim-  
10 inal jurisdiction pursuant to this section, the attorney general shall,  
11 as soon as practicable, provide written notice of such determination to  
12 the district attorney for the county in which the incident occurred.

13 3. In connection with any particular incident encompassed by this  
14 section, the attorney general shall conduct a full, reasoned and inde-  
15 pendent investigation, including but not limited to: (a) gathering and  
16 analyzing evidence; (b) conducting witness interviews; (c) reviewing and  
17 commissioning any necessary investigative and scientific reports; and  
18 (d) reviewing audio and video recordings. The attorney general shall be  
19 empowered to subpoena witnesses, compel their attendance, examine them  
20 under oath before himself or herself or a magistrate and require that  
21 any books, records, documents or papers relevant or material to the  
22 inquiry be turned over to him or her for inspection, examination or  
23 audit, pursuant to the civil practice law and rules, in connection with  
24 such incident.

25 4. The attorney general shall have criminal jurisdiction over any  
26 criminal conduct arising from any incident herein, and shall exercise  
27 all of the powers and perform all of the duties with respect to such  
28 actions or proceedings that a district attorney would otherwise be  
29 authorized or required to exercise or perform, including all the powers  
30 necessary to prosecute acts and omissions and alleged acts and omissions  
31 to obstruct, hinder or interfere with any inquiry, prosecution, trial or  
32 judgment arising from the incident. The criminal jurisdiction of the  
33 office of special investigation shall displace and supersede the juris-  
34 diction of the district attorney where the incident occurred; and such  
35 district attorney shall only have the powers and duties reserved to him  
36 or her in writing by the attorney general.

37 5. The attorney general shall designate a deputy attorney general for  
38 special investigation to exercise the powers and duties of the office of  
39 special investigation, who shall be in the exempt class of the civil  
40 service. The deputy attorney general may designate deputies or assist-  
41 ants, who shall be in the exempt class of the civil service, as neces-  
42 sary and appropriate. The other employees of the office of special  
43 investigation within the department of law, who are not otherwise  
44 exempt, shall all be in the competitive class of the civil service and  
45 shall be considered for purposes of article fourteen of the civil  
46 service law to be public employees in the civil service of the state,  
47 and shall be assigned to the appropriate collective bargaining unit.  
48 Employees serving in positions in newly created titles shall be assigned  
49 to the same collective bargaining units as they would have been assigned  
50 to were such titles created prior to the establishment of the office of  
51 special investigation within the department of law by this chapter. The  
52 deputy attorney general for special investigation may appear and conduct  
53 proceedings in person or by his or her deputy or assistant before any  
54 court or grand jury in connection with proceedings under this section.

55 6. (a) For any incident under this section, the office of special  
56 investigation shall issue a public report and post the report on its





1 website whenever the office of special investigation initiates an inves-  
2 tigation and (i) the office of special investigation declines to present  
3 evidence to a grand jury or (ii) the office of special investigation  
4 does present evidence to a grand jury but the grand jury declines to  
5 return indictment on any charges. The report will include, to the extent  
6 possible and lawful, the results of the investigation of the incident.

7 (b) The report shall also include: (i) with respect to subparagraph  
8 (i) of paragraph (a) of this subdivision, an explanation as to why the  
9 office of special investigation declined to present evidence to a grand  
10 jury; and (ii) any recommendations for systemic or other reforms arising  
11 from the investigation.

12 7. Six months after this subdivision takes effect, and annually on  
13 such date thereafter, the office of special investigation shall issue a  
14 report, which shall be made available to the public and posted on the  
15 website of the department of law, which shall provide information on the  
16 matters investigated by such office during such reporting period. The  
17 information presented shall include, but not be limited to: the county  
18 and geographic location of each matter investigated; a description of  
19 the circumstances of each case; racial, ethnic, age, gender and other  
20 demographic information concerning the persons involved or alleged to be  
21 involved; information concerning whether a criminal charge or charges  
22 were filed against any person involved or alleged to be involved in such  
23 matter; the nature of such charges; and the status or, where applicable,  
24 outcome with respect to all such criminal charges. Such report shall  
25 also include recommendations for any systemic or other reforms recom-  
26 mended as a result of such investigations.

27 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
28 sion, section or part of this act shall be adjudged by any court of  
29 competent jurisdiction to be invalid, such judgment shall not affect,  
30 impair, or invalidate the remainder thereof, but shall be confined in  
31 its operation to the clause, sentence, paragraph, subdivision, section  
32 or part thereof directly involved in the controversy in which such judg-  
33 ment shall have been rendered. It is hereby declared to be the intent of  
34 the legislature that this act would have been enacted even if such  
35 invalid provisions had not been included herein.

36 § 3. This act shall take effect April 1, 2021.

**APPROVED**

JUN 12 2020



FILED  
STATE RECORDS

SEP 11 2020

DEPARTMENT OF STATE



PRINTED ON RECYCLED PAPER

# ***Exhibit 3***

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Office of the New York State Attorney General  
**Office of Special Investigations**  
**Law Enforcement Guidelines**

Hotline Number:

(855) OSI- [REDACTED]  
(855) 674- [REDACTED]



**When Calling the Hotline, Provide:**

- » Name, rank/title and contact info of caller
- » The agency, rank, name, and contact info for supervising POC
- » Date/time of incident
- » Type of incident
- » Location of incident
- » Brief details of incident



**First Responders Should:**

- » Provide immediate medical assistance
- » Address any ongoing threat to public safety
- » Preserve and/or secure any evidence (vehicles should not be moved unless absolutely necessary)
- » Identify, and if at all possible, hold witnesses for OAG personnel



**On Scene Guidelines:**

- » Ensure supervisor is on scene or en route to take command of incident
- » Establish an appropriate crime scene (an expanded crime scene can always be scaled down if necessary)
- » Document everything – observations by responding officers, original 911 calls, anyone who entered crime scene, who responded (EMS and/or fire personnel)
- » Determine if BWCs were used, if so, lock down all relevant videos
- » Take photographs of involved officers at scene
- » Obtain any possible information about the deceased
- » Ensure no evidence is released without permission of OAG personnel
- » Ensure no evidence is tampered with, and if evidence has been moved or manipulated in any fashion, document by whom and why
- » If incident involved a firearm or taser, ensure firearm and/or taser is secured
- » Notify OAG if any search warrants are needed
- » Obtain signed consent forms for any seized evidence, where applicable
- » Identify, and where possible, retrieve and safeguard potential electronic evidence (cell phones, EZ pass, GPS, etc)
- » If there are any questions as to what steps should be taken, please contact the responding Detective and/or Assistant Attorney General for guidance

**The Office of Special Investigations Will Investigate Incidents Involving the Death of Persons Caused by a Police Officer or Peace Officer**

New York State Executive Law Section 70-b mandates the establishment of an Office of Special Investigation (OSI) within the Office of the New York State Attorney General (OAG), effective April 1, 2021. This legislation represents the codification – and the expansion – of the role currently performed by the Special Investigations and Prosecutions Unit (SIPU) since Executive Order 147 became effective on July 8, 2015.

The legislation requires OSI to “investigate and, if warranted, prosecute any alleged criminal offense or offenses committed by a person, whether or not formally on duty, who is a police officer...or a peace officer...concerning any incident in which the death of a person, whether in custody or not, is caused by an act or omission of such police officer or peace officer or in which the attorney general determines there is a question as to whether the death was in fact caused by an act or omission of such police officer or peace officer.” OSI will investigate every incident in which a police officer caused or may reasonably have caused the death of a person, whether the person is armed or unarmed, and whether the officer is on duty or not. The law further obligates OSI to investigate every incident in which certain state, county, or local peace officers caused or may reasonably have caused the death of a person or an incarcerated inmate.

**Please direct questions about these guidelines to:** [REDACTED]

**Do not send incident notifications or incident followup to this email address**

# ***Exhibit 4***

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Incidents Notified to the Attorney General Under Section 70-b, April 1 through August 31, 2021											
A	B	C	D	E	F	G	H	I	J	K	L
#	Incident Date	County	Agency	Name	Age	Race/Ethnic Group	Gender	Incarcerated	Manner of Death	Agency Video	Status as of August 31, 2021
1	4/1/2021	Bronx	MTA PD	Dylon McCliskey	33	Unknown	Male	No	Medical Emergency	No	Closed
2	4/3/2021	Bronx	NYPD	Abadual Gallo	Unk.	Unknown	Male	No	Shooting, no death	Yes	Closed, no death
3	4/5/2021	Seneca	DOCCS (Five Points)	Todd Branham	64	White	Male	Yes	Medical Emergency	No	Closed
4	4/6/2021	Otsego	Oneonta PD	Tyler Green	23	White	Male	No	Shooting	Yes	Open
5	4/7/2021	Greene	DOCCS (Coxsackie)	Jeremy Joseph	40	White	Male	Yes	Suicide	No	Closed
6	4/8/2021	New York	NYPD	Derek Graves	52	Black	Male	No	Medical Emergency	No	Closed
7	4/9/2021	Nassau	Nassau County PD	Hubert Lewis	61	Black	Male	No	Following Restraint	No	Closed
8	4/14/2021	Brooklyn	NYPD	Irena Pekarska	52	White	Female	No	Suicide	Yes	Closed
9	4/15/2021	Dutchess	DOCCS (Fishkill)	Andrew Moore	36	White	Male	Yes	Medical Emergency	No	Closed
10	4/19/2021	Bronx	NYC DOC (Rikers)	Thomas Braunson	35	Black	Male	Yes	Medical Emergency	No	Closed
11	4/20/2021	Manhattan	NYPD	Jose Muniz	31	Hispanic	Male	No	Shooting, no death	No	Closed, no death
12	4/26/2021	Sullivan	DOCCS (Sullivan)	Joshua Hunter	31	White	Male	Yes	Suicide	No	Closed
13	4/26/2021	Seneca	DOCCS (Five Points)	Andrew Jackling	43	White	Male	Yes	Suicide	No	Closed
14	4/28/2021	Franklin	NYSP	Barry Stewart	55	White	Male	No	Suicide	No	Closed
15	4/28/2021	Saratoga	NYSP/ Saratoga County Sheriff	Robert Sanders	49	White	Male	No	Suicide	Yes	Closed
16	4/29/2021	Dutchess	Redhook PD	Nick Annas	77	White	Male	No	Suicide	No	Closed
17	4/30/2021	Rockland	Village of Spring Valley PD	Robert Berenter	67	White	Male	No	Medical Emergency	No	Closed
18	5/1/2021	Bronx	NYC DOC (Rikers)	Richard Blake	45	Black	Male	Yes	Medical Emergency	Yes	Closed
19	5/2/2021	Cattaraugus	Cattaraugus County Jail	Franklin Chase	35	White	Male	Yes	Medical Emergency	No	Closed
20	5/6/2021	Dutchess	DOCCS (Green Haven)	Malik Abdullah	66	Black	Male	Yes	Medical Emergency	Yes	Closed
21	5/6/2021	Cayuga	DOCCS (Cayuga)	Domenick Krango	64	White	Male	Yes	Medical Emergency	No	Closed
22	5/6/2021	Manhattan	NYPD	Johnny Diaz	44	Hispanic	Male	No	Shooting, no death	No	Closed, no death
23	5/7/2021	Ontario	Ontario County Sheriff	Matthew Chwiecko	37	White	Male	No	Medical Emergency	Yes	Closed
24	5/10/2021	Rockland	Town of Clarkstown PD	Michael Torossain	67	White	Male	No	Medical Emergency	No	Closed
25	5/11/2021	Washington	DOCCS (Washington)	Michael Schermerhorn	31	White	Male	Yes	Medical Emergency	No	Closed
26	5/11/2021	Oswego	NYSP	Philip Watros	32	White	Male	No	Suicide	Yes	Closed
27	5/12/2021	Kings	NYPD	Boyce Hayward	26	Hispanic	Male	No	Shooting, no death	Unknown	Closed, no death
28	5/14/2021	Monroe	Rochester PD	Mark Gaskill	28	White	Male	No	Shooting	Yes	Open
29	5/18/2021	Columbia	Columbia County Jail	William Greco	37	White	Male	Yes	Suicide, no death	Unknown	Closed, no death
30	5/20/2021	Suffolk	Suffolk County PD	Jesse Bonsignore	44	White	Male	No	Shooting	No	Open
31	5/21/2021	Kings	NYPD	Angelo DeGracia	42	Hispanic	Male	No	Medical Emergency	Yes	Closed
32	5/22/2021	Cayuga	DOCCS (Cayuga)	Darrell Swartwood	45	White	Male	Yes	Medical Emergency	No	Closed
33	5/23/2021	Queens	NYPD	Lopamudra Desai	82	Hispanic	Female	No	Vehicular	No	Open
34	5/24/2021	Queens	NYPD	Marcelo Palaez & Leonardo Rodriguez	46	Hispanic	Male	No	Vehicular	No	Open
35	5/29/2021	Orange	Town of Goshen PD	Jason Smykla	37	White	Male	No	Medical Emergency	No	Closed
36	6/1/2021	Greene	DOCCS (Greene)	James LaRoche	40	Black	Male	Yes	Medical Emergency	Yes	Closed
37	6/4/2021	Kings	NYPD	John Greico	67	White	Male	Yes	Medical Emergency	Yes	Closed
38	6/4/2021	Monroe	Rochester PD	Timothy Flowers	29	Black	Male	No	Shooting	Yes	Open
39	6/10/2021	Bronx	NYC DOC (Rikers)	Jose Mejia	34	Hispanic	Male	Yes	Medical Emergency	Yes	Open
40	6/12/2021	Clinton	DOCCS (Clinton)	Edgardo Devictor-Lopez	36	Hispanic	Male	Yes	Medical Emergency	No	Closed
41	6/12/2021	Orange	Town of Walkill PD	Christopher VanKleeck	31	White	Male	No	Shooting	Yes	Open
42	6/14/2021	Greene	DOCCS (Coxsackie)	Andrew Gibson	62	Black	Male	Yes	Medical Emergency	No	Closed
43	6/17/2021	Rockland	Village of Spring Valley PD	Victor Martinez	46	Hispanic	Male	No	Medical Emergency	No	Closed
44	6/19/2021	Otsego	DOCCS (Otsego)	Steven Pawlowski	45	White	Male	Yes	Suicide	Yes	Closed
45	6/23/2021	Manhattan	NYPD	Gary Bryant	22	Black	Male	No	Suicide	Yes	Closed
46	6/23/2021	Schenectady	Schenectady PD	Leon Martin	15	Black	Male	No	Vehicular, no death	Yes	Closed, no death
47	6/25/2021	Westchester	City of Peekskill PD	Unknown	27	Unknown	Male	No	Medical Emergency, no death	No	Closed, no death
48	6/25/2021	Erie	DOCCS (Wende)	Edwin Ortiz	56	Hispanic	Male	Yes	Medical Emergency	No	Closed
49	6/26/2021	Onondaga	DOCCS (Five Points)	Lyle Davoy	64	White	Male	Yes	Medical Emergency	No	Closed
50	6/28/2021	Dutchess	DOCCS (Green Haven)	John Malaussen	55	White	Male	Yes	Medical Emergency	Yes	Closed
51	6/29/2021	Brooklyn	NYPD	Maria Loazia	77	Hispanic	Female	No	Vehicular	No	Closed
52	6/29/2021	Delaware	Delaware County Sheriff	Philip Treadwell	53	White	Male	No	Suicide	Yes	Closed
53	6/30/2021	Clinton	DOCCS (Clinton)	William Shafer	34	White	Male	Yes	Medical Emergency	Yes	Closed
54	6/30/2021	Bronx	NYC DOC (Rikers)	Robert Jackson	42	Black	Male	Yes	Medical Emergency	Yes	Open
55	6/30/2021	Queens	NYPD	Margarito Perez	21	Hispanic	Male	No	Vehicular, no death	No	Closed, no death
56	7/4/2021	Staten Island	NYPD	Miguel Avila	51	Hispanic	Male	No	Suicide	Yes	Closed
57	7/6/2021	Wyoming	DOCCS (Attica)	Louis Stoller	54	White	Male	Yes	Medical Emergency	No	Closed
58	7/6/2021	Clinton	DOCCS (Clinton)	Rodney Horn	55	Black	Male	Yes	Medical Emergency	Yes	Closed
59	7/6/2021	Wyoming	DOCCS (Attica)	Keith Goodman	61	White	Male	Yes	Medical Emergency	Yes	Closed
60	7/8/2021	Brooklyn	NYPD	Steven Leconte	53	Black	Male	No	Shooting	Yes	Open
61	7/8/2021	Manhattan	NYPD	Borkot Ullah	24	Asian	Male	No	Vehicular	Yes	Closed
62	7/8/2021	Nassau	Rockville Centre PD	Unknown	Unk.	Unknown	Unknown	No	Unknown, no death	No	Closed, no death
63	7/10/2021	Franklin	DOCCS (Franklin)	Charles McGill	57	Black	Male	Yes	Medical Emergency	No	Closed
64	7/11/2021	Wyoming	DOCCS (Attica)	Nicholas Perham	36	White	Male	Yes	Medical Emergency	No	Closed
65	7/14/2021	Dutchess	DOCCS (Green Haven)	Hale Adler	37	White	Trans Female	Yes	Medical Emergency	No	Closed
66	7/15/2021	Columbia	NYSP	Sarah Craddock	40	White	Female	No	Shooting, no death	Yes	Closed, no death
67	7/16/2021	Nassau	Nassau County PD	Daniyal Shaukat	24	Asian	Male	No	Vehicular	No	Open
68	7/19/2021	Onondaga	NYSP	Charles Fadale	66	White	Male	No	Vehicular	No	Closed
69	7/24/2021	Suffolk	Quogue Village PD	Justin Mendez	22	Hispanic	Male	No	Vehicular	Yes	Closed
70	7/25/2021	Cortland	Cortland County Sheriff	Casey Stockton	26	White	Male	No	Vehicular	Yes	Closed
71	7/26/2021	Chautauqua	Chautauqua County Jail	Louis Rivera	65	Hispanic	Male	Yes	Medical Emergency	Yes	Closed
72	7/26/2021	Westchester	DOCCS (Sing Sing)	Eriberto Bisono	27	Hispanic	Male	Yes	Suicide	No	Open
73	7/29/2021	Clinton	DOCCS (Clinton)	George Grant	60	Black	Male	Yes	Medical Emergency	Yes	Closed
74	7/30/2021	Staten Island	NYPD	Daniel Milton	22	White	Male	No	Following Restraint	Yes	Closed
75	8/4/2021	Westchester	Yonkers PD	Jojuan Alston	42	Black	Male	No	Medical Emergency	Yes	Closed
76	8/6/2021	Delaware	NYSP	Roger Lynch	59	White	Male	No	Shooting	Yes	Open
77	8/8/2021	Oneida	CNYPC	Jack Wright	Unk.	Unknown	Unknown	Yes	Medical Emergency	No	Closed, no officer
78	8/9/2021	Oneida	Oneida County Sheriff	Ronald Pierce	56	Black	Male	Yes	Medical Emergency	Yes	Open
79	8/10/2021	Bronx	NYC DOC (Rikers)	Brandon Rodriguez	25	Hispanic	Male	Yes	Suicide	Yes	Open
80	8/11/2021	Chemung	DOCCS (Elmira)	David Kingsley	33	White	Male	Yes	Suicide	No	Open
81	8/15/2021	Onondaga	Syracuse PD	Joseph Evans	67	Black	Male	No	Shooting, no death	Yes	Closed, no death
82	8/18/2021	Manhattan	NYPD	Unknown	Unk.	Black	Female	No	Suicide	Yes	Closed
83	8/19/2021	Dutchess	NYSP	Allan Forbes	Unk.	Unknown	Male	No	Vehicular, no death	Unknown	Closed, no death
84	8/21/2021	Dutchess	DOCCS (Fishkill)	Mark Garrett	57	Unknown	Male	Yes	Medical Emergency	No	Open
85	8/21/2021	Herkimer	Mohawk Village PD	James Jewett Jr.	29	White	Male	No	Vehicular, no death	No	Closed, no death
86	8/23/2021	Brooklyn	NYPD	Peter Barenboim	72	White	Male	No	Suicide	Yes	Closed
87	8/24/2021	Erie	Buffalo PD	Sequoyah Woodberry	21	Black	Female	No	Vehicular	No	Open
88	8/24/2021	Oneida	DOCCS (Mid-State)	Su Kim	64	Asian	Male	Yes	Suicide	No	Open
89	8/24/2021	Greene	NYSP	Tyler Lane	33	White	Male	No	Vehicular	No	Closed
90	8/25/2021	Bronx	NYPD	Malik Rahman	52	Black	Male	Yes	Medical Emergency	Yes	Open
91	8/27/2021	Chemung	NYSP	David Wandell	53	White	Male	No	Shooting	Yes	Open
92	8/28/2021	Dutchess	DOCCS (Green Haven)	Abel Rosas	55	Hispanic	Male	Yes	Medical Emergency	No	Open
93	8/29/2021	Bronx	NYPD	Michael Rosado	24	Hispanic	Male	No	Shooting	Yes	Open
94	8/30/2021	Bronx	NYC DOC (Rikers)	Segundo Guallpa	58	Hispanic	Male	Yes	Suicide	Yes	Open
95	8/30/2021	Rockland	Village of Spring Valley PD	Davidson Stinfill	19	Unknown	Male	No	Medical Emergency	No	Open

# ***Exhibit 5***

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STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
CIVIL RIGHTS BUREAU

September 23, 2021

***By Electronic Submission***

Hon. Laura Taylor Swain  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10006

**Re: *Nunez, et al. v. City of New York, et al.*, 11-cv-5845 (LTS) (JCF)**

Dear Judge Swain:

I write on behalf of the New York State Office of the Attorney General ("OAG") in connection with the Court's continuing jurisdiction over the above-referenced action to ensure compliance with the consent judgement regarding operations at the New York City Department of Corrections ("DOC").

By way of this letter motion, I respectfully request that the Court permit the OAG to file an amicus submission in this action, and if granted, to treat this letter as that amicus submission. My office has notified the parties of the OAG's intent to file this letter.

The OAG has serious concerns about the conditions at the jails operated by the DOC on Rikers Island ("Rikers") and the impact of those conditions on the health and safety of the people who work and are incarcerated at Rikers.

The conditions at Rikers implicate state interests for several reasons: New York Executive Law Section 70-b requires the OAG to investigate, and where warranted, prosecute deaths caused by the acts or omissions of corrections officers, including in local facilities; certain individuals in state custody are housed at Rikers; and the OAG has a general interest in ensuring that correctional facilities in New York operate safely and humanely within the boundaries of the law.

In the fewer than six months that have passed since April 1, 2021, when Section 70-b went into effect, the OAG has been notified of nine deaths of incarcerated individuals at Rikers and the DOC Vernon C. Bain Center ("VCBC") jail boat anchored north of Rikers. We do not yet have final autopsy reports in any of these cases, and therefore have not reached final conclusions as to the causes of death at this time. Nevertheless, this pattern of incarceration-related mortality is extremely troubling.

Honorable Laura Taylor Swain

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September 23, 2021

These tragic occurrences suggest the need for swift remedial action to improve security, access to medical care, and adequate working and living conditions for everyone at Rikers and VCBC, even as our investigations are ongoing.

The accounts of chaos, dysfunction, and violence that have been reported by incarcerated individuals and correctional staff are deeply disturbing.

I respectfully ask the Court to issue all appropriate remedial orders to address the conditions at Rikers for corrections officers, staff, and incarcerated individuals, including measures to relieve the intake backlog, incentivize the return of correctional staff to work, facilitate emergency repairs and other services to improve security and hygiene, and any other actions necessary to resolve the concerns at Rikers.

Respectfully submitted,

/s/ Conor Duffy

Conor Duffy  
Assistant Attorney General

[REDACTED]

Rick Sawyer  
Special Counsel

[REDACTED]

cc: Mary Lynne Werlwas, The Legal Aid Society  
Jonathan Abady, Emery Celli Brinkerhoff Abady Ward & Maazel  
Anna E. Friedberg, Deputy Monitor  
Kimberly Joyce, New York City Law Department  
Asim Rehman, General Counsel, New York City Department of Correction



# ***Exhibit 6***

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SUPREME COURT: COUNTY OF NASSAU  
STATE OF NEW YORK

-----X  
THE PEOPLE OF THE STATE OF NEW YORK

-against-

**INDICTMENT**

Indictment No. 1017N-21

ERRICK ALLEN,

Defendant.

-----X

**FIRST COUNT**

THE GRAND JURY OF THE COUNTY OF NASSAU, by this indictment, accuses the defendant, ERRICK ALLEN, of the crime of MURDER IN THE SECOND DEGREE, in violation of Section 125.25 (1) of the Penal Law, committed as follows:

The defendant, ERRICK ALLEN, on or about May 12, 2020 at approximately 8:08:44 PM, in front of 4 Langdon Road, in the County of Nassau, with intent to cause the death of Christopher Curro, caused the death of Christopher Curro by shooting him with a loaded firearm.

**SECOND COUNT**

THE GRAND JURY OF THE COUNTY OF NASSAU, by this indictment, accuses the defendant, ERRICK ALLEN, of the crime of MANSLAUGHTER IN THE FIRST DEGREE, in violation of Section 125.20 (1) of the Penal Law, committed as follows:

The defendant, ERRICK ALLEN, on or about May 12, 2020 at approximately 8:08:44 PM, in front of 4 Langdon Road, in the County of Nassau, with the intent to cause serious physical injury to Christopher Curro, caused the death of Christopher Curro by shooting him with a loaded firearm.

THIRD COUNT

THE GRAND JURY OF THE COUNTY OF NASSAU, by this indictment, accuses the defendant, ERRICK ALLEN, of the crime of MENACING IN THE SECOND DEGREE, in violation of Section 120.14 (1) of the Penal Law, committed as follows:

The defendant, ERRICK ALLEN, on or about May 12, 2020 at approximately 8:06:48 PM, on or near the dirt path to the wooded area off the northern portion of Langdon Road, in the County of Nassau, intentionally placed or attempted to place Christopher Curro in reasonable fear of physical injury, serious physical injury or death, by displaying a deadly weapon, to wit, a firearm.

Dated: August 5, 2021  
Mineola, New York

LETITIA JAMES  
Attorney General of the State of New York

By: \_\_\_\_\_

Investigative Counsel