



Office of the New York State Attorney General Lettla James

Office of Special Investigation

May 12, 2023

Report on the Investigation into the Death of Clarence Little

CLARENCE LITTLE – REPORT

Introduction

New York Executive Law Section 70-b authorizes the office of New York's 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 Clarence Little, who was shot on January 4, 2022, by New York City Police Department (NYPD) Officer Carlos Delgado. Mr. Little died of his injuries at Brookdale Hospital on February 3, 2022. Having thoroughly investigated the matter and analyzed the law, OSI will not seek charges against Officer Delgado because it would not be able to disprove beyond a reasonable doubt that his use of deadly force against Mr. Little was justified under New York law.

Summary

On January 4, 2022, Clarence Little entered a Dollar Tree store in Brooklyn wearing a white bubble jacket, a wig, sunglasses, and a hospital mask. He bought some items and left the location. Mr. Little was recognized by a Dollar Tree employee, who called 911 at 4:45 p.m. and told the operator that a person who had previously robbed the store had returned. NYPD officers Gunvinder Singh and Carlos Delgado responded. In the minutes between the 911 call and the arrival of the officers, Mr. Little returned to the store. Mr. Little waited on line at a register. When it was his turn at the register, Mr. Little pulled out a gun from the right pocket of his jacket and emptied the contents of the register into his pockets and a brown paper bag. Mr. Little moved quickly towards the exit door. As he was walking through the doors to the street, Officers Singh and Delgado were entering. A Dollar Tree employee screamed for the police to stop Mr. Little. Mr. Little ran into Officer Singh and a struggle ensued. Mr. Little pulled the gun from his right coat pocket and fired. Officer Singh and Mr. Little fell to the floor with Officer Singh on top of Mr. Little. Mr. Little fired again. Officer Delgado, standing over Officer Singh and Mr. Little, fired two shots from his service weapon, one of which struck Mr. Little in the neck. Mr. Little stopped struggling. The officers rendered aid and called for an ambulance. A .380 semi-automatic firearm was recovered next to Mr. Little.

An ambulance took Mr. Little to Brookdale Hospital. He had multiple surgeries, including amputation of his right leg at the knee. Mr. Little died on February 3, 2022, at Brookdale Hospital. An autopsy performed by the New York City Office of Chief Medical Examiner (OCME) determined that Mr. Little died of complications from a gunshot wound to the neck and that his manner of death was homicide.

Facts

a. The Scene

The shooting occurred in Kings County in the entryway of a Dollar Tree store at 2120 Rockaway Parkway. The entryway has an outer and an inner set of glass doors, and a small, carpeted vestibule between them.



Photo of the vestibule area of the Dollar Tree taken by the NYPD Crime Scene Unit.

b. Background of Officers

OSI interviewed NYPD Officers Carlos Delgado and Gunvinder Singh. At the time of his interview, Officer Delgado had been a member of the NYPD for sixteen years, assigned to the 69th Precinct since graduating from the Police Academy. Prior to this incident, he had never fired his service weapon in the line of duty and had never encountered Mr. Little. Officer Singh had been a member of the NYPD for six years, assigned to the 69th Precinct the entire time. He also had never encountered Mr. Little prior to January 4, 2022. Officer Delgado and Officer Singh had been partners for about two years prior to this incident.

c. Clarence Little

Clarence Little was 45 years old at the time of the shooting and lived less than half a mile from the Dollar Tree. A bench warrant for Mr. Little's arrest was active at the time of the shooting.

d. Events Leading to the Shooting

On January 4, 2022, Mr. Little entered the Dollar Tree and, according to surveillance video from the Dollar Tree, stood on line at Register 3 at 4:22 p.m.¹ Mr. Little was dressed in a white bubble jacket with the hood over his head, a black wig, sunglasses, and a black surgical mask. There were two customers ahead of him. A Dollar Tree employee manned the register. After about ten seconds, Mr. Little left the line. At 4:29 p.m., Mr. Little returned to the line at Register 3 and purchased what appeared to be a wine glass and some candles. He paid in cash, which caused the Dollar Tree employee to open the register. The Dollar Tree employee put the items in a brown paper bag and gave Mr. Little his change. Mr. Little left the register area but did not leave the store. OSI and NYPD's Force Investigation Division (FID) separately interviewed the Dollar Tree employee. The employee said the employee recognized Mr. Little from previous shoplifting and robbery incidents and kept watch of him. The employee knew Mr. Little by the nickname "Gottie."² According to store video surveillance, Mr. Little returned to the line at Register 3 at 4:35 p.m. At 4:36 p.m., when he was next in line, Mr. Little let another customer go ahead of him. Mr. Little let another group of customers skip his place in line and paced the floor at the end of the register. Mr. Little purchased a drink with cash at 4:39 p.m. He placed the drink in a brown paper bag and left the store.

A Dollar Tree employee known to OSI called 911 at 4:45 p.m. and told the operator that a man who had previously robbed the Dollar Tree had come back wearing a white coat, blue jeans, a wig, and glasses.

Surveillance video of the entrance to the Dollar Tree shows Mr. Little had returned, holding the drink he previously purchased.³ As he entered the store from the vestibule, Mr. Little placed his right hand into his right coat pocket and walked down the stairs to the main shopping area of the store.

¹ All times are approximate.

² In social media accounts tied to Mr. Little through email and photos, Mr. Little uses the names "Gottie Gucci" and "Gottieguccbrim."

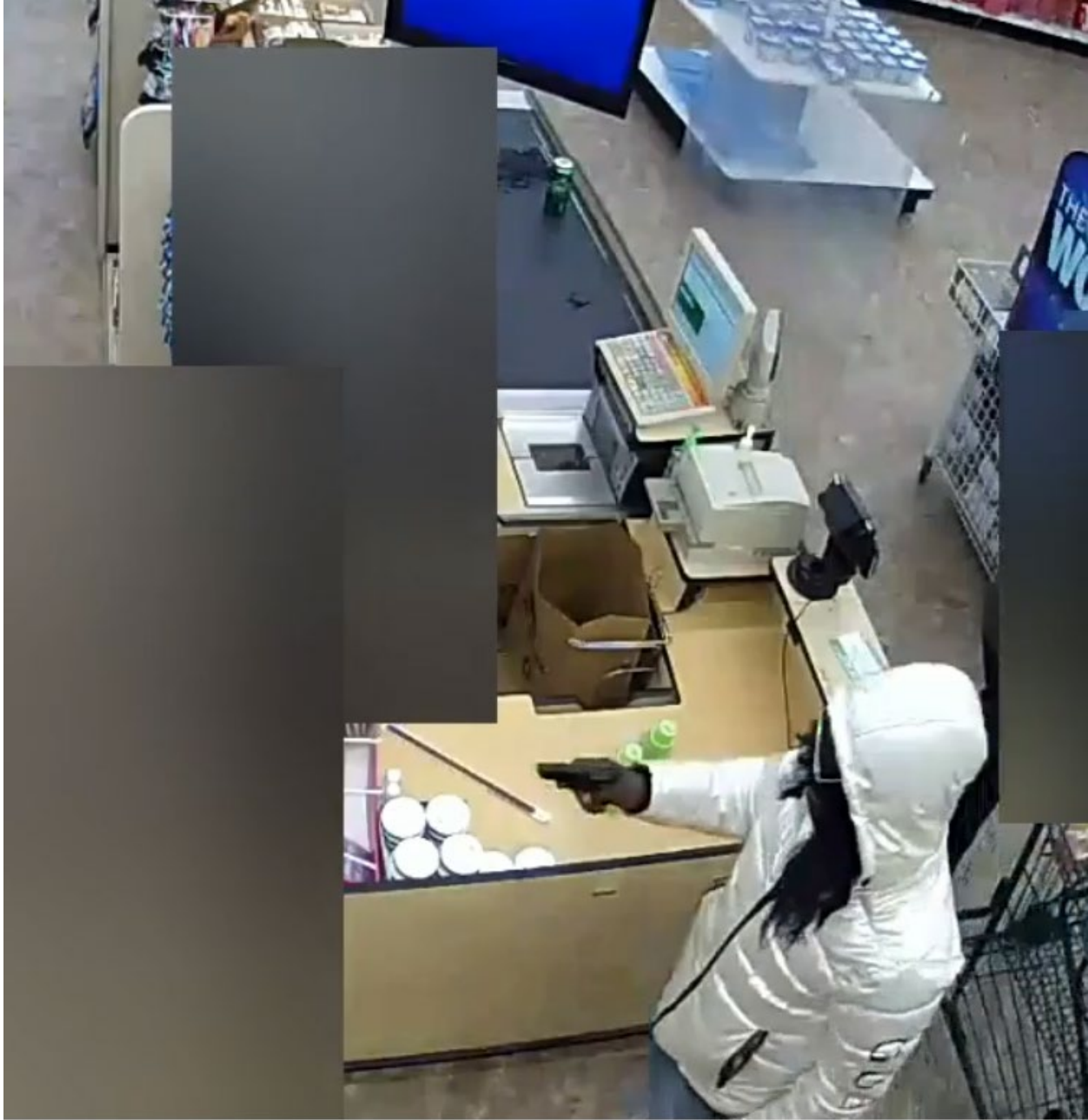
³ This surveillance video did not have a time or date stamp.



Still from surveillance video of the entrance and vestibule area of the Dollar Tree.

Surveillance video shows Mr. Little on line at Register 1 at 4:56 p.m., attempting to purchase two small bottles of detergent.⁴ Mr. Little spilled some of his drink at the register station and the Dollar Tree employee manning the register gave Mr. Little a paper towel to clean up the spill. The Dollar Tree employee began to ring up Mr. Little. Mr. Little handed cash to the Dollar Tree employee and placed his right hand in his right coat pocket. The Dollar Tree employee opened the register and Mr. Little took out a gun from his right coat pocket and pointed it at the store workers.

⁴ Surveillance video located [here](#).



Still from surveillance video of the Dollar Tree register area showing Mr. Little pointing a gun at store employees.

Mr. Little demanded the money from the register. He stepped around the counter to the register and emptied its contents into a brown paper bag and his left jacket pocket.



Still from surveillance video of the Dollar Tree register area showing Mr. Little taking money from an open register with a gun in his right hand.

Mr. Little placed his right hand, still holding the firearm, into his right coat pocket and walked toward the store exit. Mr. Little left the store with his right hand still in his right jacket pocket and his left hand holding the brown paper bag.



Still from surveillance video of the entrance and vestibule area of the Dollar Tree showing Mr. Little leaving the store.⁵

⁵ Surveillance video is [here](#).

e. The Shooting

OSI interviewed Officers Singh and Delgado.

Officer Singh told OSI that he and Officer Delgado were at the 69th Precinct when NYPD dispatch directed them to the Dollar Tree for a suspect from the past. In the recording of the dispatch, which OSI has listened to, the dispatcher described the suspect as a male black, wearing a tan jacket, blue jeans, New Balance sneakers, and a hood. There was no indication that the suspect was armed. Officers Singh and Delgado responded to the store in a marked police car and in uniform.

Officer Delgado told OSI he approached the entrance of the Dollar Tree behind Officer Singh. Mr. Little was leaving the store and a worker was jumping up and down pointing at the man and saying, "That's him."

Officer Singh said Mr. Little tried to brush past him. According to footage from Officer Singh's body worn camera (BWC),⁶ Mr. Little came through the inner set of doors of the Dollar Tree and was crossing the vestibule area with his right hand in his right jacket pocket and his left hand holding a paper bag.



Still from Officer Singh's body worn camera just before Mr. Little and Officer Singh ran into each other.

⁶ Officer Singh and Officer Delgado said they activated their BWCs after Mr. Little was shot because the struggle with Mr. Little occurred right as the officers were entering the Dollar Tree. When an officer activates the BWC, the device retains one minute of video before activation, but without sound. Therefore, while the struggle and shooting of Mr. Little were captured on BWC, there is no audio until after the shooting. PO Singh's BWC is [here](#). PO Delgado's BWC is [here](#).

Officer Singh told OSI he grabbed Mr. Little and they struggled to the ground. According to Officer Delgado's BWC, Mr. Little and Officer Singh struggled to the ground and Mr. Little was initially face up with Officer Singh on top of him.



Still from Officer Delgado's body worn camera showing Officer Singh struggling with Mr. Little.

Officer Singh told OSI that he had both hands on Mr. Little and his gun holstered, and that he never unholstered his gun during the encounter. Officer Delgado said he heard two shots as Mr. Little was struggling with Officer Singh but did not see Mr. Little's gun. Officer Delgado said he fired his gun two times because he thought Mr. Little was trying to shoot him and Officer Singh. The first shot had no effect on Mr. Little, as Mr. Little continued to struggle with Officer Singh, leading Officer Delgado to fire again. Officer Singh said he heard one shot while he was struggling with Mr. Little and then a second shot while they were on the floor. Officer Singh said he then heard more shots but didn't know who was shooting.

According to his BWC, Officer Delgado fired into the neck area of Mr. Little at 4:59 p.m.



Still from Officer Delgado's body worn camera just before Officer Delgado fired.

After the final shot, Officer Singh said Mr. Little went limp. Officer Singh did not see Mr. Little's gun until they rolled him over and began performing cardio-pulmonary resuscitation (CPR). When Officer Singh stood up, he kicked the firearm away from Mr. Little.

A Dollar Tree employee known to OSI told responding police officers, as captured on Officer Matthew Walling's BWC, that the employee saw Mr. Little attempting to leave the store when he was confronted by the officers. The employee said the officers tried to tackle Mr. Little at which point the employee saw Mr. Little pull a gun from his coat pocket and fire one shot. After that, the employee saw the officers struggling with Mr. Little and heard more shots; in the employee's interview with OSI, the employee would not commit to who shot first.

Shot Spotter technology detected a single gunshot incident in the general vicinity of the shooting.⁷

f. The Aftermath

According to Officer Singh's and Officer Delgado's BWC, after Mr. Little was shot Officers Delgado and Singh immediately called for an ambulance and began CPR. When Officer Singh attempted to move Mr. Little, a gun became visible under his body. According to OSI's count, seventy-four NYPD officers responded to the scene.

⁷ Shot Spotter uses acoustic sensors to detect and locate explosive detonations or the firing of a gun.



Stills from Officer Singh's body worn camera showing the gun under Mr. Little as he is moved by Officer Singh.

Mr. Little was taken by ambulance to Brookdale Hospital. OSI interviewed Officer Miriam Karim, who rode in the ambulance with Mr. Little with her BWC activated. Mr. Little was conscious in the ambulance and asked for water. After removing articles of clothing from Mr. Little, the emergency medical technician found a shell casing on the floor of the ambulance

and handed it to Officer Karim. Officer Karim, who, prior to becoming an NYPD officer, was a ballistics analyst for the NYPD, identified it as a 9mm shell casing.

According to hospital paperwork and OSI interviews, Officers Singh and Delgado were taken from the Dollar Tree to Kings County Hospital. According to their medical records, Officer Delgado was treated for tinnitus and Officer Singh was treated for tinnitus and acute pain of his left knee. Both were treated and released. At 6:14 p.m., while at the hospital, Officer Delgado was given a portable breath test by Sgt. Kalil, which showed a .000% blood alcohol level.

g. Mr. Little's Hospitalization

OSI reviewed two thousand and three pages of Mr. Little's medical records from his stay at Brookdale Hospital.

Mr. Little was brought by ambulance to the Brookdale Hospital Emergency Room at 5:39 p.m. on January 4, 2022, with a gunshot wound to his neck. He was breathing unassisted when he entered the facility and was intubated in the ER. His medical records note multiple spinal fractures. After surgery on January 4, Mr. Little's medical records note he suffered from sepsis and could not be weaned off of a ventilator.

According to his medical records, Mr. Little was shackled to his hospital bed by his arm in the surgical intensive care unit when, at 2:17 p.m. on January 14, 2022, doctors requested that the shackle be moved from Mr. Little's arm to his leg. At first, NYPD Officer Matthew Wolff refused, causing hospital staff to speak with Officer Wolff's supervisor. The shackle was ultimately moved from the arm to Mr. Little's ankle with soft restraints on his wrist later that day, at 10:42 p.m.

On January 16, Mr. Little's doctors amputated his right leg at the knee; he went into cardiac arrest after the operation but was revived. On January 18, the medical records noted a gastrointestinal bleed, infection, and seizures. On January 23, Mr. Little was diagnosed with pneumonia. On February 2, Mr. Little underwent compassionate extubation. Oxygen supplementation was discontinued on February 3. Mr. Little went into cardiac arrest and died on February 3, 2022, at 11:00 a.m.

OSI interviewed one of Mr. Little's treating doctors who said the gunshot wound to Mr. Little's neck was not a lethal injury and that cocaine induced compartment syndrome and other co-morbidities led to Mr. Little's death. Specifically, an anoxic brain injury, which could have been caused by cocaine abuse, was a significant contributing factor to Mr. Little's demise.

Videos Reviewed

OSI reviewed ninety-nine videos related to the shooting of Mr. Little consisting of eighty body worn camera videos and nineteen videos obtained from store surveillance cameras.

Evidence Collection

The NYPD's Crime Scene Unit (CSU) responded to the scene of the shooting where they collected and invoiced a gun, a brown paper bag, and United States currency. CSU also collected evidence at the hospital including sunglasses, a black Nike bag, a wig, a white bubble jacket, a wallet, headphones, and other clothing; the wig and white bubble jacket had possible ballistic evidence.

Ballistic Evidence

The gun recovered from the vestibule of the Dollar Tree was a Taurus Spectrum .380 semi-automatic pistol, with a 9mm shell casing stuck in the ejection port.⁸ This is known as a “stovepipe jam” and happens when the spent shell casing fails to eject from the firearm after it is fired; when that happens, the firearm cannot be fired again until the ejection port is cleared. The NYPD Ballistics Lab tested the firearm and found it to be operable.



Photo taken by NYPD CSU showing the .380 firearm on the floor of the Dollar Tree vestibule with a shell casing stuck in the ejection port

⁸ .380 auto and 9mm ammunition are the same diameter, meaning a .380 pistol can fire a 9mm bullet.

After microscopic comparison of the stovepiped shell casing with test fires from the recovered gun, the NYPD lab determined that the shell casing was fired from the recovered gun. One 9mm shell casing recovered from the vestibule floor was also compared to test fires from the recovered gun and was a match.

A 9mm shell casing was recovered from the street directly outside the Dollar Tree vestibule. According to Officer Karim, and confirmed by her BWC, a 9mm shell casing was also retrieved from the floor of the ambulance taking Mr. Little to the hospital. The NYPD lab compared these shell casings to test fires from Officer Delgado's service weapon and found them to be a match.

The Ballistics Laboratory performed microscopic and comparison analysis on the three bullet fragments CSU recovered from the vestibule area of the Dollar Tree on the carpet and door saddle. The Lab compared the fragments to test fires from the recovered gun (the Taurus Spectrum .380) and determined that the fragments were fired from the recovered gun.

The medical examiner recovered a bullet fragment from Mr. Little during autopsy; the NYPD Lab determined it to be unsuitable for comparison.

Medical Examination and Autopsy

OSI interviewed Dr. Julian Samuel of OCME and reviewed the autopsy report he prepared. Dr. Samuel concluded that the cause of Mr. Little's death was "complications of gunshot wound of neck with injury of spinal cord and major blood vessels" and that the manner of his death was "homicide."

Dr. Samuel noted that Mr. Little suffered one penetrating gunshot wound of the posterior neck, which went through his spine, subclavian artery, and right clavicle. The track of the bullet was from back to front, left to right, and downward. The bullet lodged in the sternocleidomastoid muscle in the neck and was recovered during the autopsy. The autopsy report notes that complications during Mr. Little's hospital stay contributed to his death, including neurogenic shock and paraplegia, rhabdomyolysis, compartment syndrome of the right leg, fasciotomy and amputation of the right leg at the knee, cardiac arrest after the amputation, an acute kidney injury, decubitus ulcers, prolonged intubation complicated by pneumonia, acute bronchopneumonia, bilateral pleural effusions, and cardiovascular disease.

Legal Analysis

New York Penal Law (PL) Article 35 sets forth the defense of justification to crimes involving the use of physical force. Justification is a defense, not an affirmative defense. PL Section 35.00. If a defense is raised at trial, the burden is on the prosecutor to disprove it beyond a reasonable doubt. PL Section 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, Officer Delgado used deadly physical force. Under PL Section 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 Section 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 Section 35.30 is the provision defining justification when a police officer or peace officer uses force to effect or attempt to effect an arrest.

PL Section 35.30(1) provides:

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

Police officers using deadly physical force pursuant to PL Section 35.30(1) are under no duty to retreat when threatened with deadly physical force, according to PL Section 35.15(2)(a)(ii).

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

deadly force was about to be used against them or another person and that deadly force is necessary for self-defense, and (b) a reasonable person under the same circumstances could believe the same.

Based on the evidence in this investigation, a prosecutor would not be able to disprove beyond a reasonable doubt that Officer Delgado's use of deadly physical force was justified under the law.

Under PL Section 35.30, Officers Delgado and Singh could use the physical force they reasonably believed to be necessary to effectuate the arrest of Mr. Little and could use deadly force if they reasonably believed it was necessary to defend themselves or another against Mr. Little's imminent use of deadly force.

Here, when Officers Singh and Delgado responded to the Dollar Tree, they had information that a person was in the store who had previously robbed or shoplifted from the store. As they arrived and ran into Mr. Little, a store employee pointed at Mr. Little and shouted, "That's him." Although not known to the officers at the time, Mr. Little had just robbed the Dollar Tree and committed Robbery in the First Degree, a class B violent felony. Based on the dispatch information and the actions of the store employee, the officers had the right to detain Mr. Little. When Officer Singh attempted to stop Mr. Little from leaving the store, Mr. Little struggled with him, pulled out a gun and fired twice. Officer Delgado returned fire. Given the circumstances, OSI would not be able to disprove beyond a reasonable doubt that Officer Delgado was justified in shooting Mr. Little.

In sum, the evidence in the investigation is insufficient to disprove beyond a reasonable doubt that Officer Delgado was justified under New York law in using deadly physical force. Therefore, OSI will not seek charges in the matter.