



Office of the New York State Attorney General Letitia James

Office of Special Investigation

August 14, 2025

Report on the Investigation into the Death of Alan Weber

SUMMARY

New York Executive Law Section 70-b directs the Attorney General's Office of Special Investigation (OSI) to investigate and, if warranted, to prosecute offenses arising from any incident in which the death of a person is caused by a police officer or a peace officer. When, as in this case, OSI does not seek charges, Section 70-b requires OSI to issue a public report describing its investigation. This is the public report of OSI's investigation of the death of Alan Weber, who was shot and killed on October 10, 2023, by members of the Suffolk County Police Department (SCPD).

OVERVIEW

In the evening of October 10, 2023, four members of SCPD responded to a house at an address in East Northport, in Suffolk County. Previously, two 911 callers had requested police, saying a man at that address, whom one caller identified as Alan Weber, was yelling and screaming and wrecking the house. One caller said the man was married and had kids but said he did not know whether the kids were in the house. The officers arrived at 8:50 p.m., activated their body worn cameras (BWCs), approached the house, and shined a flashlight through a window. Mr. Weber came to the window, banged on it with his hands, and yelled at the officers. The officers told Mr. Weber to open the front door, but he did not. One officer kicked in the door, and the four officers entered; the interior was in disarray, fixtures in a bathroom were shattered, and loud music was playing. The officers went to the basement to look for Mr. Weber; their BWCs showed him standing in a rear area wearing a fencing mask and holding two fencing swords, one in each hand. The officers told Mr. Weber repeatedly to "drop it," but Mr. Weber did not comply. Officer Claudio Barrios fired a Taser, which did not incapacitate Mr. Weber. Mr. Weber began to run toward the officers holding the swords, and Officer Sergio Vigarito fired his gun, striking Mr. Weber, who died of his wounds.

Having thoroughly investigated the facts and analyzed the law, OSI concludes that a prosecutor would not be able to disprove beyond a reasonable doubt that Officer Vigarito's use of deadly physical force against Mr. Weber was justified under New York law and will not seek charges against him.

FACTS

911 Calls

On October 10, 2023, at 6:57 p.m., a 911 caller had asked police to respond to the house at an address he gave. He provided Mr. Weber's name and description and said Mr. Weber was going through mental health issues and was arguing with another neighbor; the caller said Mr. Weber was not armed. At 8:42 p.m. a second 911 caller asked for the police because the

person who lived at the address given by the first caller was wrecking his house and “just going crazy,” breaking things in the house and yelling. He said he did not see any weapons and believed the person was alone, but said the person was married and his kids come and go. The caller said he did not know if the kids were in the house, but hoped the person was alone.

Body Worn Camera Videos

At 8:50 p.m., Officers Barrios and Vigario and Officers Daniel Giustino and Eileen Cortez arrived at the address given by the 911 callers and activated their BWCs. Officers Barrios’s and Vigario’s BWC videos, which can be viewed here, [Officer Barrios](#) and [Officer Vigario](#), showed the following:

Officers Barrios and Vigario were the first officers to arrive. They approached the house and used flashlights to look into a first-floor window. Mr. Weber, in the house, approached the window, banged on it, and yelled at the officers. Officer Vigario said, a few times, “Open the door, Alan,” but Mr. Weber walked away from the window and did not open the door. Officer Vigario kicked open the front door. Officers Barrios and Vigario walked into the house followed by Officers Giustino and Cortez and BWCs showed that the house was in disarray, with loud music playing. As the officers walked past a bathroom on the first floor, BWCs showed that a toilet appeared to have been smashed to pieces. Officers Barrios and Vigario walked into the kitchen and down a staircase to the basement, with Officer Barrios in the lead, holding a flashlight.

Officer Barrios’s BWC showed that Mr. Weber was in a rear area of the basement, wearing a fencing mask and holding a fencing sword in each hand, as shown in the photo below:



Still image from Officer Barrios's BWC at 8:52:41 p.m.

Officer Barrios aimed his Taser at Mr. Weber and said, "Put it down, or you're going to get Tased." Mr. Weber said, "No, you put it down. I don't care." Mr. Weber took a step forward and Officer Barrios discharged his Taser, striking Mr. Weber. Mr. Weber turned away, but the Taser did not appear to have incapacitated him, and he turned back toward the officers. Officer Barrios discharged his Taser a second time and Mr. Weber began to run at the officers, holding the fencing swords, as shown below.



Still image from Officer Vigario's BWC at 8:52:48 p.m.

Officer Vigario fired his gun seven times, and Mr. Weber fell to the floor. (Officer Giustino walked into the basement just before Officer Vigario fired his gun, and Officer Cortez was partway down the staircase at the time of the shooting.) Officer Barrios placed Mr. Weber in handcuffs and began to perform cardiopulmonary resuscitation (CPR).

Emergency medical services arrived and began to aid Mr. Weber at 8:59 p.m. They placed him on to a stretcher and transported him to Huntington Hospital, while they continued to perform CPR. Mr. Weber was pronounced dead at the hospital a short time later.

Officer Interviews

Background

In their interviews with OSI, Officers Barrios and Vigario said they knew Mr. Weber prior to October 10, 2023, having previously responded to 911 calls by neighbors or family members when Mr. Weber appeared to suffer mental health episodes. On those occasions Mr. Weber was not armed and did not seem to be a danger to himself or others, and so there were no physical altercations and the officers did not attempt to detain him.

Police Officer Claudio Barrios

In an interview with OSI, Officer Barrios said he received a radio run for an emotionally disturbed person acting violently in his own home, breaking things, and screaming. He and his partner, Officer Vigario, were the first officers to arrive at the house, where they were joined by Officers Giustino and Cortez. He said he and Officer Vigario approached a window near the front door of the house. Officer Barrios said he saw Mr. Weber inside, holding what appeared to be a sledgehammer, and saw blood on Mr. Weber's face and shirt. He said Officer Vigario told Mr. Weber to open the door, and Mr. Weber responded by banging on the window and screaming at the officers. Officer Barrios did not see anyone other than Mr. Weber inside the house through the window, but was not sure if Mr. Weber was alone. The officers entered the house after Officer Vigario kicked open the front door. They looked for Mr. Weber by going through the living room, a hallway, and the kitchen. In the kitchen, they saw a staircase leading to the basement and saw that the basement lights were on; they went down, thinking Mr. Weber could be there.

In the basement, Officer Barrios said he saw Mr. Weber standing in a back room, wearing a fencing mask, and holding two fencing swords, one in each hand. Fearing for his safety and the safety of his partner, he told Mr. Weber to put the swords down. Mr. Weber refused and took a step forward, at which point Officer Barrios fired his Taser. The Taser prongs struck Mr. Weber causing Mr. Weber to retreat, but Mr. Weber then turned toward the police officers again. Officer Barrios discharged a second shot from his Taser, but it did not incapacitate Mr. Weber. Mr. Weber, with a fencing sword in each hand, ran toward Officers Barrios and Vigario. He saw Officer Vigario fire his gun at Mr. Weber multiple times, causing Mr. Weber to fall to the floor. After the shooting, Officer Barrios said he placed handcuffs on Mr. Weber and started CPR.

Police Officer Sergio Vigario

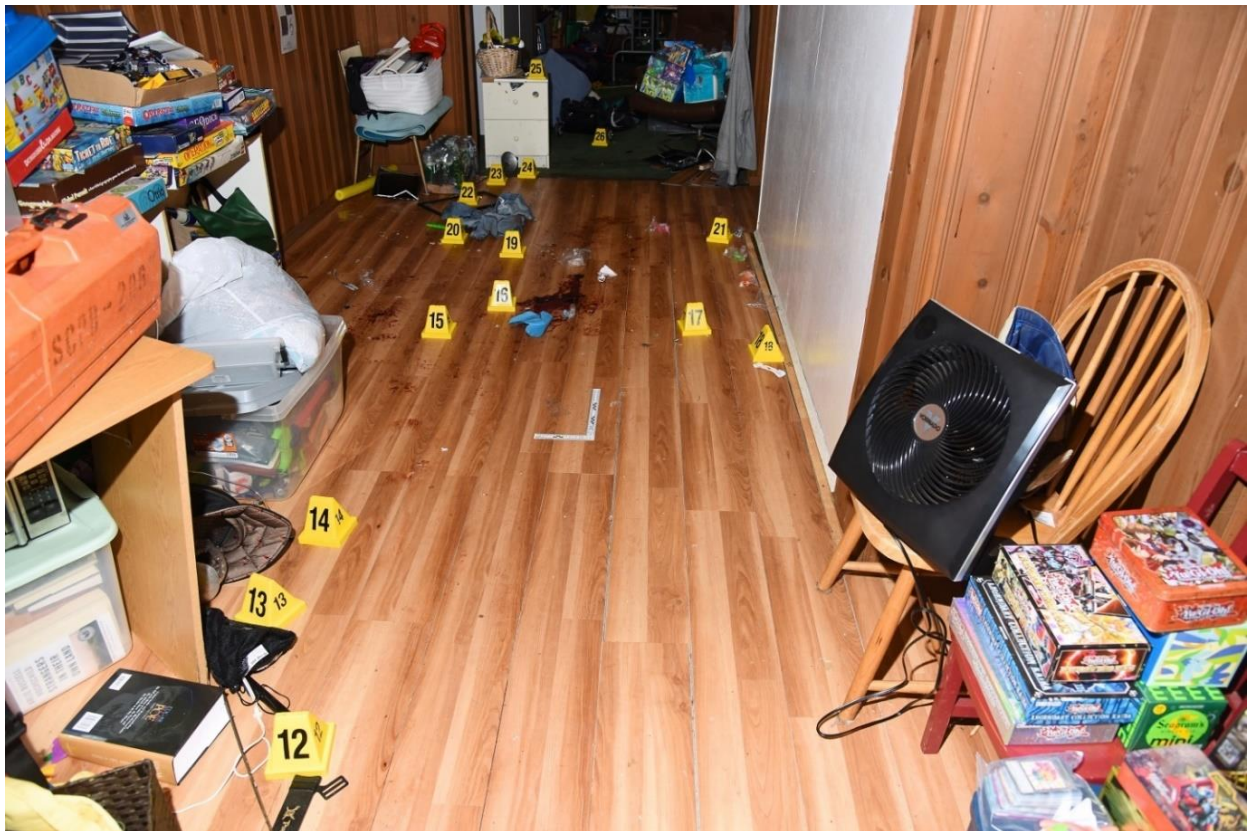
In an interview with OSI, Officer Vigario said he saw Mr. Weber through a window with blood on his face and shirt. His partner, Officer Barrios, said Mr. Weber was holding a sledgehammer. Officer Vigario said he asked Mr. Weber to open the door and Mr. Weber banged on the window and yelled at him. The officers' plan was initially to determine whether or not Mr. Weber was a danger to himself or others, and to make sure no one else was inside the house. Officer Vigario kicked open the door and entered the house. He saw that the house was in disarray with broken light fixtures and loud music playing. He walked past the bathroom where he saw that the toilet and shower had been destroyed. When he and Officer Barrios went to the kitchen, he saw a staircase leading to the basement with the lights on.

Officer Vigario said he followed Officer Barrios down the stairs. Officer Vigario said he saw Mr. Weber in a rear room of the basement, wearing a fencing mask and holding a fencing sword

in each hand. Officer Barrios had his Taser out, and Officer Vigario took out his gun. Officer Vigario said both officers told Mr. Weber to drop the swords, but Mr. Weber did not comply. Officer Barrios discharged his Taser twice, but it did not incapacitate Mr. Weber. Mr. Weber ran toward Officers Barrios and Vigario while still armed with fencing swords. Officer Vigario said he feared for his own and his partner's physical safety, and fired his gun multiple times at Mr. Weber, causing Mr. Weber to drop the swords and fall to the floor. Officer Vigario said he stopped shooting as soon as he thought Mr. Weber could no longer stab him or his partner.

Evidence Collection and Analysis

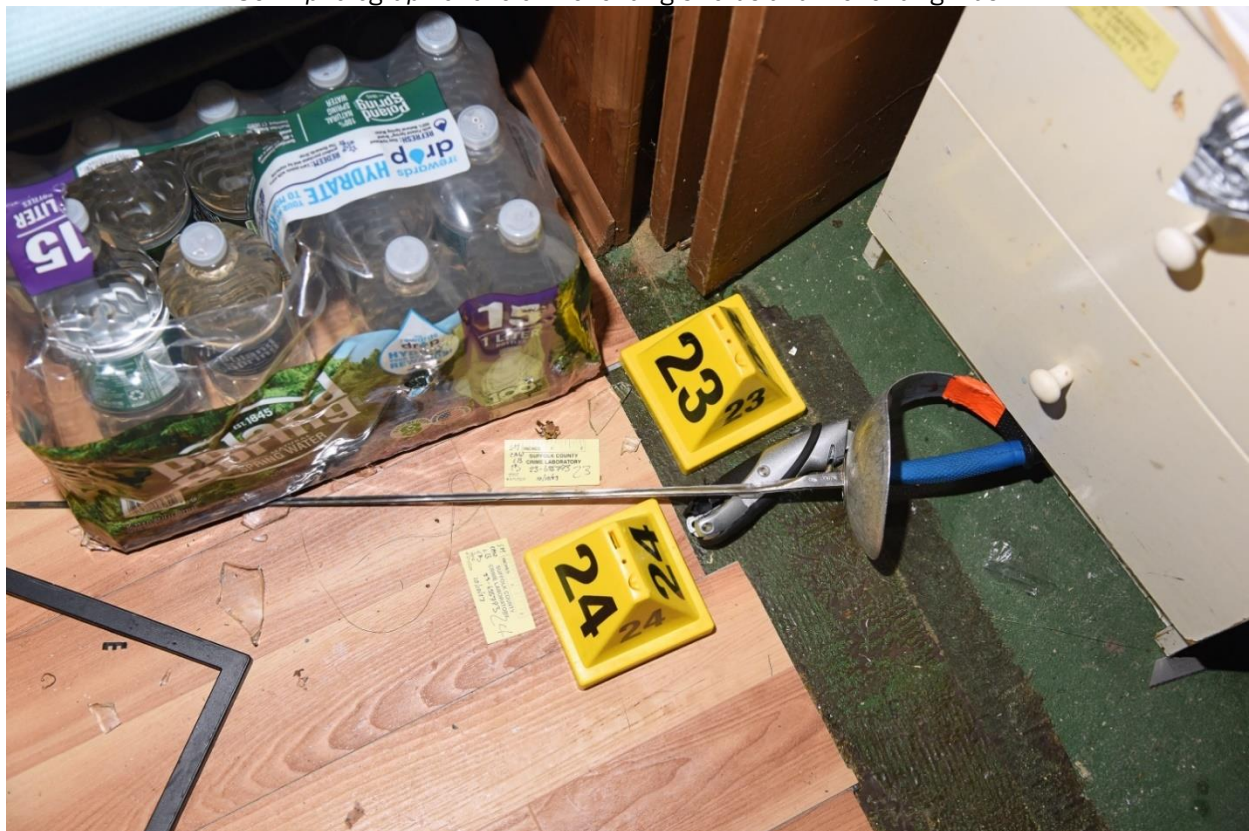
SCPD detectives and forensic scientists from the Suffolk County Medical Examiner, Crime Laboratory, processed the scene. In the basement, they recovered, among other things, Taser probes, spent shell casings, fired bullets and fragments, two fencing swords, and a fencing mask.



SCPD photograph of the basement after the shooting.

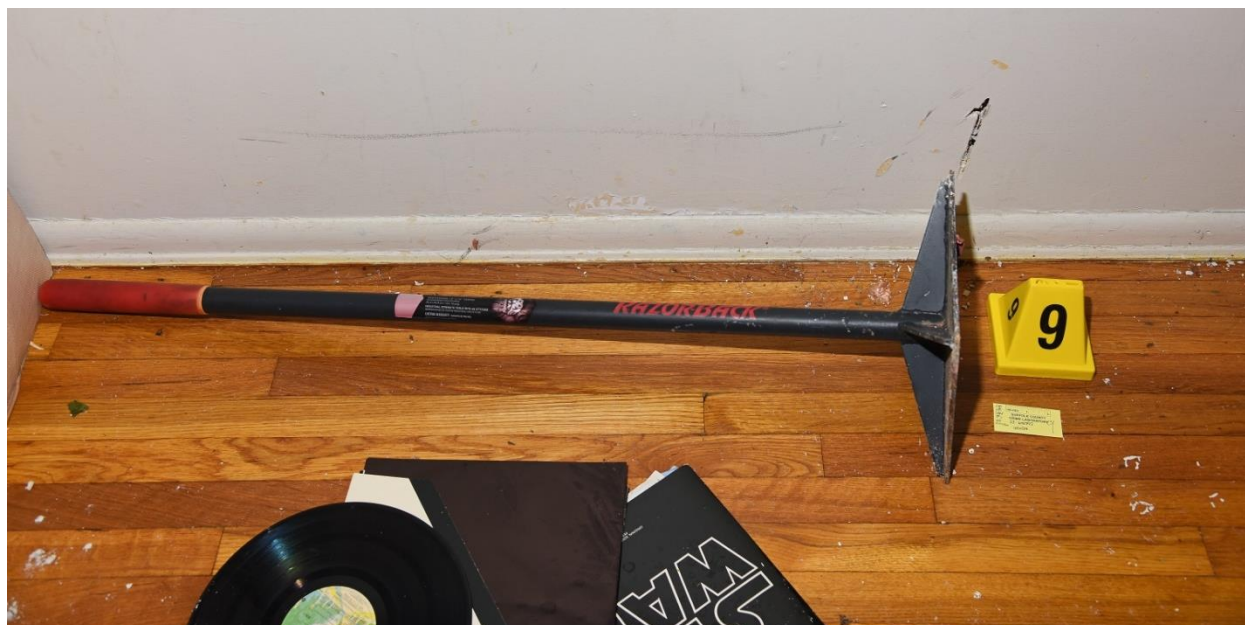


SCPD photograph of one of the fencing swords and the fencing mask.



SCPD photograph of a bullet fragment and the second fencing sword.

No sledgehammer was found in the house, but there was a heavy steel garden tool in the hallway leading to the basement stairs.



SCPD photograph of a heavy steel garden tool in the hallway leading to the basement stairs.

SCPD Detectives took Officer Vigario's firearm, a 9mm Glock, Model 45, semiautomatic pistol. It had a 17-round magazine, for a total capacity of 18 rounds, if one round was in the firing chamber. Upon examination, Officer Vigario's firearm had one round in the chamber, and 10 rounds in the magazine, which is consistent with his having fired seven shots, if the gun had been fully loaded.

Medical Examination and Autopsy

The autopsy of Mr. Weber was performed by Dr. Paul F. Mellena of the Suffolk County Office of the Medical Examiner, who determined that the cause of death was "multiple gunshot wounds" and that the manner of death was "homicide (shot by other person[s], police shooting)." The autopsy found that Mr. Weber was struck by gunfire six times, to his right shoulder, right forearm, neck, and torso.

LEGAL ANALYSIS

Article 35 of the New York Penal Law defines the circumstances under which a person may be justified in using deadly physical force against another. Justification is a defense, Penal Law Section (PL) 35.00, not an affirmative defense. To obtain a conviction at trial, a prosecutor must disprove a defense beyond a reasonable doubt, PL 25.00(1).

As the Court of Appeals stated in *People v Jairo Castillo*, 42 NY3d 628, 631 (2024):

“The defense of justification provides that a person may use physical force to defend himself against an assailant’s ‘imminent use of unlawful physical force,’ but does not authorize the use of ‘deadly physical force . . . unless . . . [the person] reasonably believes that [the assailant] . . . is using or about to use deadly physical force’ (Penal Law § 35.15). When considering a request for a justification charge, courts examine the evidence in the light most favorable to the defendant, and must provide the instruction if there is any reasonable view of the evidence that defendant was justified in his actions (see *People v Heiserman*, 39 NY3d 988, 990 [2022]). Justification has both a subjective requirement, that ‘defendant . . . actually believed . . . he [was] . . . threatened with the imminent use of deadly physical force,’ and an objective requirement, that defendant’s ‘reactions were . . . those of a reasonable man acting in self-defense’ (*People v Collice*, 41 NY2d 906, 907 [1977]).” (Square brackets and ellipses in original.)

Based on the evidence in this investigation, OSI concludes that a prosecutor would not be able to disprove beyond a reasonable doubt that Officer Vigario’s use of deadly physical force was justified under the law. Officer Vigario could use deadly physical force if he reasonably believed it was necessary to defend himself or another person against Mr. Weber’s use or imminent use of deadly physical force. He saw Mr. Weber standing in the basement with a fencing mask on and holding a fencing sword in each hand. He and Officer Barrios told Mr. Weber to put the weapons down, which Mr. Weber did not do. Although Officer Barrios used his Taser twice, it did not incapacitate Mr. Weber, and he began to run toward the officers with the swords in his hands. Officer Vigario fired multiple times until he thought it would be safe to stop shooting. As a result, OSI will not seek charges and closes the matter with the issuance of this report.

RECOMMENDATIONS

1. OSI recommends that all SCPD officers who have not taken CIT training be required to do so.

In 2019, SCPD introduced the Crisis Intervention Training (CIT) program to its members. CIT is a 40-hour course that provides officers with tools to de-escalate situations involving persons experiencing a mental health crisis. Although both Officer Barrios and Officer Vigario completed the CIT program in 2022, the CIT program is not offered to recruits in the SCPD academy, and is not mandatory. Because police officers frequently respond to emergencies involving a person in crisis, all officers should have the benefit of the CIT program as preparation for those situations.

2. OSI recommends that SCPD require officers to call and await the arrival of specially trained ESU officers when the officers on scene determine that the person in crisis is not an immediate danger to others.

As important as the CIT program is, there will be situations in which police officers should be able to call upon mental health specialists to come to the scene – people specially trained to handle and control behavioral health crises. Such specialists would have more advanced training in de-escalation, as well as techniques to decrease feelings of agitation and anxiety of a person in crisis. Although, in the case of Mr. Weber, it would not have been safe for mental health specialists to enter the house to attempt communication with him, there will be cases where officers are able to determine that the situation is sufficiently safe for mental health specialists to engage with a person in distress.

OSI spoke with Sgt. Christopher Ingolia who leads the behavioral health unit at SCPD. He said there is currently no protocol in place for officers to co-respond with mental health clinicians to a 911 call about a person in a mental health crisis. He explained that SCPD does not have either the financing or resources for such a program. According to Sgt. Ingolia, when officers respond to a 911 call and determine that the person in crisis is either a danger to themselves or others and are “grossly symptomatic,” they can, under Mental Hygiene Law Section 9.41, bring the person to Stony Brook Hospital involuntarily. If the person is not an immediate danger to themselves or others, responding officers can call SCPD’s Emergency Services Unit (ESU) and wait for their arrival. ESU includes officers who are trained in communicating with people in crisis.

3. OSI recommends that SCPD require that responding officers, after determining that a person in crisis is not an immediate danger to others, call the DASH hotline so that the DASH specialists can engage with the person in crisis.

OSI spoke with Brooke Morris, clinical director at a Suffolk County hotline service called Diagnostic, Assessment, and Stabilization Hub (DASH), who said DASH has mobile crisis response teams of licensed professionals who visit persons in crisis due to mental illness, substance use disorder, or other life stressors, and who “conduct an assessment, develop a safety plan, and, if necessary, recommend outpatient services or a higher level of care.” Although DASH does not have a police co-response program, it has a telehealth program, created in 2021, for officers who engage with persons in crisis to call a clinician, who can do a behavioral and crisis assessment and attempt de-escalation over the phone. Ms. Morris told OSI that only about 20% of these calls end in hospitalization because DASH is so effective at de-escalation. The advantage of this collaborative approach is that it combines the officer’s experience handling potentially violent situations with the mental health clinician’s skill in evaluation and engagement with people in crisis.

Dated: August 14, 2025