



Office of the New York State Attorney General Letitia James

Office of Special Investigation

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Report on the Investigation into the Death of Anthony Zaremski

OVERVIEW

In the morning of May 23, 2023, members of the Saratoga County Sheriff's Office (SCSO) executed a federal search warrant at Anthony Zaremski's apartment in Clifton Park as part of a Drug Enforcement Agency (DEA) investigation. The officers were not equipped with body worn cameras (BWCs). Deputy Jeffery Simpson led the team into the apartment, turned down a hallway, and saw Mr. Zaremski raise a handgun and open fire. Deputy Simpson returned fire and shot Mr. Zaremski in the leg and in the head. Deputy Simpson was shot in the leg, another bullet grazed a deputy's helmet, and another bullet hit a deputy's ballistic vest. EMS, who were staged nearby, transported Deputy Simpson and Mr. Zaremski to Albany Medical Center, where Mr. Zaremski was pronounced dead. Deputy Simpson underwent surgery and was later released from the hospital.

Evidence collected from the scene, including Mr. Zaremski's gun and spent shell casings, indicated that Mr. Zaremski fired 12 times, that Deputy Simpson fired twice, and that no other officer fired a gun during the incident. In interviews, SCSO members and a neighbor said that the officers announced their presence before entering the apartment.

It was the practice of SCSO's special operations team (SOT) not to use BWCs when executing search warrants. Therefore, OSI recommends that SCSO require SOT members to be equipped with and to activate BWCs during every encounter with members of the public unless the incident commander on site has a specific and articulable reason for protecting a confidential communication, and, even then, to de-activate audio only and keep video going.

Anthony Zaremski was 23 years old when he died.

FACTS

Morning of the search

On May 23, 2023, SOT executed two federal search warrants in Saratoga County as part of the DEA investigation. In an interview, SCSO Deputy John Rich told OSI that SCSO Sergeant Guy Gurney briefed them that morning and divided them into two groups, with Alpha Team assigned an apartment in Halfmoon, and Bravo Team assigned Mr. Zaremski's apartment in Clifton Park. Deputy Rich said he was part of Bravo Team, which was led by Sergeant Biagio Guida and included Deputies Dennis Lobosco, Gary Pitcherale, Robert Whipple, and Jeffery Simpson.

In an interview, Deputy Whipple told OSI that Bravo Team was to secure Mr. Zaremski's apartment for DEA agents to search. Bravo Team were provided a picture of the apartment and a picture of Mr. Zaremski, but were not provided a floor plan. In an incident report, Deputy Pitcherale said they were advised that Mr. Zaremski had a "lengthy criminal history which included Criminal Possession of a Weapon 2nd – Loaded Firearm, Attempted Murder 2nd, Reckless Endangerment, and Criminal Possession of a Weapon 2nd." (OSI reviewed Mr.

Zaremski's rap sheet and, at the time of his death, Mr. Zaremski had an arrest for attempted murder that was resolved with a misdemeanor plea, a felony conviction for an attempt to distribute narcotics, and a pending charge of criminal possession of a firearm.)

In his incident report, Deputy Pitcherelle said that around 4:45 a.m. the officers left the briefing and assembled near Mr. Zaremski's apartment. Members of SOT were not equipped with BWCs. (SCSO Senior Investigator Matthew Kavanagh told OSI that SCSO's BWC policy allows SOT members to choose whether to wear BWCs on a particular assignment.) Deputy Daniel Yetto, who was not part of Bravo Team, was in the parking lot and activated his BWC at 5:29 a.m., when the shooting started; the image below is a still from his BWC with an arrow indicating Mr. Zaremski's apartment on the second floor.



The layout of the apartment is shown in the image below, which was generated after the incident by an FBI forensic team using laser scans. OSI added Bravo Team's route and Mr. Zaremski's probable position on the bed when the deputies entered.



In an interview with OSI, Deputy Lobosco said his assignment that morning was to drive an armored car, called a Bearcat. After dropping off the entry team, he activated the Bearcat's emergency lights and parked by the apartment building. He heard Deputy Lancto, a member of Alpha Team, radio that they had found a lot of guns in the Halfmoon apartment and Bravo Team should be cautious. Seconds after the radio message ended, Deputy Lobosco heard "Shots fired" called out on the on the radio, grabbed his medical bag, and ran upstairs to Mr. Zaremski's apartment.

Inside the apartment

Deputy Pitcheralle

In an interview, Deputy Pitcheralle told OSI that the deputies executing the warrant approached the second story apartment in a stack formation, with Deputy Simpson in the lead, carrying a ballistic shield, followed by Deputies Whipple, Pitcheralle, and Rich, and Sergeant Guida. They took positions outside the door to the apartment. Deputy Whipple struck the apartment door twice with a breaching ram causing it to break from its hinges, and yelled,

“Sherriff’s Office, warrant!” as they entered the apartment. The other members of Bravo Team also told OSI they announced their presence and authority when they entered the apartment.

Deputy Simpson

OSI asked Deputy Simpson for an interview, but, through counsel, he refused. In his incident report, Deputy Simpson said he announced his presence as he led the officers into the apartment, holding a ballistic shield and a gun with a flashlight attached. He entered a short hallway and saw with his flashlight that Mr. Zaremski was lying in bed in a bedroom at the end of the hall. He yelled, “Show me your hands!” and saw Mr. Zaremski raise a handgun and fire at him. Deputy Simpson used his shield for protection and shot once at Mr. Zaremski. He moved toward the gunfire and saw a muzzle flash in the bedroom followed by a painful burning in his leg. He said he fired a second shot, dropped to the floor, and took cover in a room to the right of the hallway. He said team members provided medical aid and then carried him from the building. BWC footage from a deputy in the parking lot showed that Bravo Team members carried Deputy Simpson to the parking lot, cut away his bloody right pant leg, and applied a tourniquet. They placed him in an ambulance that went to Albany Medical Center, according to Simpson’s incident report. SCSO Criminal Investigator Jonathan Becker said in his incident report that he went to Albany Medical Center and secured the bullet that Dr. Cory Czajka removed from Deputy Simpson’s leg.

Deputy Whipple

In an interview, Deputy Whipple told OSI that the deputies announced their presence while he battered the apartment door and again when they entered the apartment. He was the second deputy inside, following directly behind Deputy Simpson. He said the lights were off, but he could see in the morning light. They turned down a hallway, and he saw Mr. Zaremski kneeling or sitting on a bed. He heard Deputy Simpson order Mr. Zaremski to show his hands and drop the gun and then saw muzzle flashes in the bedroom and heard gunshots as sheetrock exploded behind him. Deputy Simpson was in front of him, blocking his field of fire. He saw Deputy Simpson shoot twice and then yell out that he was shot. Deputy Whipple told him to get into cover, and when he did not move, he tackled him into an empty bedroom. He said Deputy Simpson passed out for a few seconds and woke up screaming in pain. He provided aid to Deputy Simpson while Deputy Pitcherale and Sergeant Guida secured the scene.



FBI photograph after the incident, showing the view from the hallway where the officers were to the bedroom where Mr. Zaremski was when the shooting occurred. Three bullet holes are circled.

Deputy Pitcheralle

In an interview, Deputy Pitcheralle told OSI that the deputies announced themselves and entered the apartment. He was following Deputy Simpson and Deputy Whipple down a short hallway when he heard rapid gunshots. He suddenly felt pressure on his right side and dropped to his knees. He saw Deputy Whipple, who was in a room providing aid to Deputy Simpson, motion toward the back bedroom. Deputy Pitcheralle said he cautiously approached the back bedroom and saw Mr. Zaremski lying motionless in bed. He kept his gun pointed at him while he and Sergeant Guida swept the bedroom and the bathroom. They found an unhurt young woman in the corner of the bedroom and sent her outside. Deputy Pitcheralle said he did not fire his gun during the incident. After clearing the rooms, they approached the bed, pulled back the covers, and saw that Mr. Zaremski's head was covered in blood and that a black handgun was on his chest with the slide locked back. (When a handgun is fired until it is out of ammunition, the slide will lock in an open position to facilitate loading the next magazine.) Sergeant Guida threw the gun to the corner of the bedroom, and they swept the rest of the apartment. Deputy Pitcheralle told OSI they radioed for medical because Mr. Zaremski appeared to be breathing, and a DEA medic aided Mr. Zaremski until EMS arrived.

He told OSI that when he removed his ballistic vest he saw a large bruise on his ribcage and a bullet stuck in his vest. He said the bullet was extracted and logged into evidence. Photographs of Deputy Pitcherale's vest show a small tear on the right side where the vest covers the ribs. In his incident report, Deputy Pitcherale said he went to Albany Medical Center for an evaluation of swelling and redness on his right side.



Photograph showing a small rip in the right side of Deputy Pitcherale's vest.

Medical Care

According to 911 recordings and police records, Clifton Park Emergency Corps ambulances staged near the apartment at the beginning of the operation in case there were injuries. The 911 recordings indicated that dispatchers sent an ambulance to treat Deputy Simpson at 5:31 a.m. and sent an ambulance for Mr. Zaremski at 5:38 a.m. There were no video recordings at the scene that showed the medical care Mr. Zaremski received.

According to Advanced Emergency Medical Technician (AEMT) Stephen Valois's signed report, at 5:40 a.m. the first ambulance crew, headed by AEMT Amanda Sewell, reached Mr. Zaremski, whom she described as unresponsive in bed with a gunshot wound to his head and rapid, shallow breaths. She reported that two medically trained officers were applying pressure to his head wound with a towel. The EMTs contacted dispatch and requested a

second ambulance. They attached defibrillator pads, a cardiac monitor, and began giving Mr. Zaremski oxygen with a non-rebreather mask. When they connected an IV to Mr. Zaremski, she said he reacted and began to moan. They took Mr. Zaremski outside on a stretcher and, around 6:06 a.m., the day shift ambulance crew arrived and assumed care. AEMT Valois wrote that due to the severity of Mr. Zaremski's head wound and his unresponsiveness, he intubated Mr. Zaremski. At 6:17 a.m. they connected him to a ventilator and transported him to Albany Medical Center with a police escort. They arrived at 6:45 a.m. and transferred care to the hospital staff. According to his death certificate and the SCSO incident report, Mr. Zaremski died at the hospital at 9:15 a.m.

Investigation and Evidence Collection

SCSO Investigator John Brady and OSI Detective John Pratt, at the SCSO station, attempted to interview the woman who was present in the bedroom at the time of the shooting. After being informed of her rights, she requested her attorney and declined to speak to law enforcement. SCSO did not charge her with a crime and released her that morning.

According to his incident report, Captain Brown coordinated the collection of firearms and magazines of the involved SCSO officers except for Deputy Simpson's, whose equipment was left in the apartment for processing by crime scene technicians. He said in the report that all the officers' rounds were accounted for, indicating that no officer other than Deputy Simpson had fired a gun.

Crime scene technicians from the Federal Bureau of Investigation (FBI) processed the scene in the apartment and elsewhere inside and outside the apartment building. According to the evidence log, they collected the following items:

- A Smith & Wesson M&P (for Military and Police) .45 caliber handgun, serial number NBE6636, with a 10-round magazine. (A 10-round magazine means the gun had a capacity of 11 rounds, if one round was in the firing chamber.) A loose, unfired round and two expended .45 caliber shell casings were recovered from the floor of the hallway in the apartment. SCSO Captain George Maxfield Jr. told OSI that federal agents counted eight rounds in the magazine. Deputy Simpson said in the use of force report that he fired two rounds from his gun, which he identified as a Smith & Wesson M&P .45 handgun, serial number NBE6636. The evidence recovered was consistent with his having fired two rounds.
- A Smith & Wesson M&P 9mm handgun in the bedroom where Mr. Zaremski was shot along with 12 expended 9mm shell casings: five from on the bed, four from the floor, and three from under the bed. Photographs of the handgun's magazine showed that its capacity was 12 rounds. The evidence recovered was consistent with Mr. Zaremski

having fired 12 rounds, if his gun had a full magazine but did not have a round in the firing chamber before the shooting began.



Photograph of the 9mm handgun found in Mr. Zaremski's bedroom with its magazine removed and displayed.

- A Google Nest doorbell camera mounted next to the apartment's front door. (OSI later subpoenaed Google for any video footage from that camera, and Google responded that there was none.)
- \$70,000 in cash from a safe, and packages of suspected narcotics, scales, and drug paraphernalia. Captain Maxfield told OSI that the suspected narcotics tested positive for fentanyl.

Autopsy

Medical Examiner Bernard Ng performed the autopsy and issued a report finding that Mr. Zaremski died from a "gunshot wound to the head," which "entered the head at the left temple and exited in the right temple resulting in extensive skull fracture and brain tissue destruction." He noted that there was no evidence of stippling around the entry wound, indicating that the shot was not fired at close range. He also found a gunshot injury to the left leg, where the projectile entered the left calf and came to rest near the knee joint.

Search Warrant

OSI reviewed the search warrant for Mr. Zaremski's apartment, authorized by United States Magistrate Christian Hummel, which named Anthony Zaremski and authorized officers to enter the apartment at any time of day or night and seize evidence related to the possession and distribution of controlled substances. Each member of the Bravo Team interviewed by OSI said they announced their presence when they broke down the door and entered the apartment. Google, in response to an OSI subpoena, said that they had no video footage in their possession for the Google Nest camera mounted next to the front door. JM, who lived with PK in the apartment below Mr. Zaremski (OSI does not publish the names of civilian witnesses), told OSI that PK said he heard the deputies announce their presence. When OSI spoke to PK he said he did not remember and declined to speak about it. Other neighbors interviewed by OSI could not say whether the deputies announced their presence.

OSI reviewed BWC footage recorded during Alpha team's execution of the search warrant at the other address, including BWC footage from an SCSO deputy in the parking lot which recorded the team yelling, "Sheriff's office, search warrant!" repeatedly as they entered and searched the apartment.

LEGAL ANALYSIS

New York Penal Law Article 35 defines when a person is 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 the 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])." (Ellipses and square brackets in original.)

“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” PL 10.00(1). “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 10.00(10).

Article 35 contains a provision, PL 35.30, defining justification when a police officer uses deadly force while effecting or attempting to effect an arrest for an offense. When attempting to effect an arrest, and confronting the use or imminent use of deadly physical force, a police officer need not retreat before using deadly force to defend him/herself or others, PL 35.15(2)(a)(ii). PL 35.30(1) provides, in pertinent part:

“A police officer or a peace officer, in the course of effecting or attempting to effect an arrest, or of preventing or attempting to prevent the escape from custody, 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 to prevent the escape from custody, 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 another person from what the officer reasonably believes to be the use or imminent use of deadly physical force.”

In this case, despite the absence of video, and despite Deputy Simpson’s refusal to be interviewed by OSI, there is substantial evidence that Deputy Simpson reasonably used deadly physical force to defend himself and the other officers present. The other officers’ statements are consistent in saying they announced their presence when entering the apartment. The ballistics evidence and crime scene analysis indicate that Mr. Zaremski fired 12 shots before his head was struck by one of Deputy Simpson’s shots. The evidence is that no officer present other than Deputy Simpson fired a gun, and Deputy Simpson was wounded by gunfire.

In sum, OSI concludes that a prosecutor would not be able to disprove at trial beyond a reasonable doubt that Deputy Simpson was justified in using deadly physical force. Therefore, OSI will not seek charges against him and closes the matter with the issuance of this report.

RECOMMENDATION

OSI has consistently recommended that all police departments equip their officers with BWCs. Here, while SCSO members who were not members of SOT wore BWCs, the SOT members executing the search warrant were not so equipped. If the SOT members had worn BWCs during the encounter, there would have been video footage confirming that they announced

their presence upon entering Mr. Zaremski's apartment, and showing the exchange of gunfire that resulted in Mr. Zaremski's death and serious physical injury to Deputy Simpson. Such footage would have greatly facilitated the investigation of this case and perhaps could have answered questions family members will have about Mr. Zaremski's death.

Deployment of SOT means that an encounter is more likely, not less likely, than many other police activities to involve a use of force. Therefore, although OSI recognizes the necessity of keeping certain police tactics confidential, the benefit of recording encounters between police officers and the public means that BWC use should be the default and the decision not to use BWC should be the rare exception.

Accordingly, OSI recommends that SCSO require SOT members to equip themselves with and activate BWC during every encounter with members of the public unless the incident commander on site has a specific and articulable reason for protecting a confidential communication; in such a case, the on-site commander should direct the members directly involved in confidential communications to de-activate audio but keep video going.

Dated: December 12, 2025