



Office of the New York State Attorney General Letitia James

Office of Special Investigation

September 10, 2026

Report on the Investigation of the Death of Djamshed Nematov

OVERVIEW

New York Executive Law Section 70-b (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. When OSI, as in this case, does not seek charges against the officer, 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 Djamshed Nematov, who was shot and killed by Officer Micheal Tavaras and Officer Kimberly O'Rourke of the New York City Police Department (NYPD), in Queens County, on March 8, 2024.

On March 8, 2024, at 6:57 p.m., NYPD Sergeant DeCostanza, Officer Tavaras, and Officer O'Rourke were dispatched to an apartment building in Queens County following 911 calls reporting a man who stabbed his wife with a knife. When they arrived, the officers encountered Mr. Nematov in the hallway of the second floor holding a large knife. Mr. Nematov ran toward the officers with the knife raised and pointed at them. Officers Tavaras and Officer O'Rourke fired their service weapons, striking Mr. Nematov. Sergeant DeCostanza discharged his Taser simultaneously. Mr. Nematov was pronounced dead at New York-Presbyterian Hospital shortly after the incident.

Mr. Nematov was 46 years old when he died.

Having thoroughly investigated the matter and analyzed the law, OSI concludes that a prosecutor would not be able to disprove beyond a reasonable doubt at trial that Officer Tavaras and Officer O'Rourke were justified when they shot Mr. Nematov and, therefore, will not seek charges against them and closes the matter with this report.

FACTS

Events Leading to the Shooting

911 Calls

On March 8, 2024, at 6:50 p.m., two separate 911 callers reported a stabbing and requested an ambulance at a residential building in Queens County. According to the 911 recordings, one of the callers identified himself as a neighbor and said Djamshed Nematov stabbed his wife. The other caller identified himself as Mr. Nematov's son and said his father stabbed his mother, and that Mr. Nematov was in the second-floor hallway and still had a knife. During the call, Mr. Nematov's son said the police arrived, and he told the responding officers, "...second floor...he has a knife in his hand, careful." The neighbor's 911 call can be found [here](#), and Mr. Nematov's son's 911 call can be found [here](#).

The Shooting

Summary of BWCs

Sergeant DeCostanza's BWC video (which can be viewed [here](#)) showed that at 6:57:19 p.m., as he approached the apartment building, two individuals told the officers from a second-floor window, "Careful, he has a knife in his hand." Sergeant DeCostanza took the stairs to the second floor behind Officer Tavaras and Officer O'Rourke. Each officer was in full NYPD uniform. The BWC footage showed that Officer O'Rourke was the first to arrive at the second floor. She opened the door and entered the hallway, followed by Officer Tavares and Sergeant DeCostanza. The BWC footage showed at 6:57:51 p.m., Mr. Nematov was standing in the hallway with a knife held by his side and pointed toward the officers. Officer O'Rourke and Officer Tavares unholstered and aimed their service weapons at Mr. Nematov. Sergeant DeCostanza unholstered and aimed his taser. According to the BWC footage, the officers told Mr. Nematov to "put it down," but Mr. Nematov did not comply and ran toward the officers.

Officer O'Rourke's BWC video (which can be seen [here](#)) showed that when she opened the door and entered the hallway, Mr. Nematov was standing in the hallway with a knife. Officer O'Rourke unholstered her firearm and aimed it at Mr. Nematov. The BWC footage showed that Mr. Nematov walked toward the officers with the knife pointed at them, and Officer O'Rourke discharged one round at Mr. Nematov. After Mr. Nematov fell to the ground, a civilian grabbed the knife and threw it away from Mr. Nematov's reach. The BWC footage showed Mr. Nematov was handcuffed and the officers administered aid and called for an ambulance.

Officer Tavares's BWC video (which can be seen [here](#)) showed that when he entered the hallway, Mr. Nematov was standing in the hallway with a knife raised toward the officers. Officer Tavares unholstered his firearm and aimed it at Mr. Nematov. BWC audio captured Officer Tavaras saying, "Put it down," and Mr. Nematov ran toward them. Officer Tavaras discharged three rounds at Mr. Nematov, who then fell to the ground.



Still photograph from Sergeant DeCostanza's BWC video showing officers speaking to 911 callers from the second-floor window.



Still photographs from Sergeant DeCostanza's BWC video of Mr. Nematov holding and pointing a knife at the officers, then running toward them



Still photographs from Officer O'Rourke's BWC video of Mr. Nematov holding a knife when Officer O'Rourke entered the second floor.



Still photographs from Officer O'Rourke's BWC video of the knife on the ground next to Mr. Nematov after he was shot.

Building Security Video

CCTV security video from the second-floor hallway of the apartment building (linked [here](#)) showed Mr. Nematov crouched in the hallway holding the knife before officers arrived. When the officers entered the hallway, Mr. Nematov stood up, raised the knife, pointed the blade at the officers, and ran toward them.



Still photos from CCTV security video of Mr. Nematov holding a knife pointed at the officers when he ran toward them.

OSI Interviews

Sergeant DeCostanza told OSI that on March 8, 2024, he responded to a 911 call reporting an assault with a knife and a woman stabbed. He said when he got to the apartment building, he heard people screaming out of a window, "He has a knife." He said there were people in the vestibule who identified themselves as relatives of Mr. Nematov and the 911 callers. These relatives opened the door to let the officers into the building. Sergeant DeCostanza said they went to the second floor to aid the woman who was stabbed and make any necessary arrests. He said when he got to the second floor, he saw Mr. Nematov holding a large knife raised to his chest and pointed toward the officers. He heard Officer Tavaras tell Mr. Nematov to "drop the knife," but Mr. Nematov charged at the officers with the knife. Sergeant DeCostanza said he saw that the other officers had their firearms drawn and he drew his Taser. He said he discharged his Taser, and as he did so, Mr. Nematov charged at them and he heard three gunshots. He knew the Taser deployed but was not sure if it attached to Mr. Nematov. He saw Mr. Nematov fall to the ground and the knife fall out of his hand. Sergeant DeCostanza said they moved the knife away from Mr. Nematov, handcuffed him, and administered aid and called for an ambulance.

In her interview with OSI, Officer O'Rourke said she responded to a 911 call reporting an assault with a knife where a person was stabbed. She said she was informed the person with the knife may be an emotionally disturbed person (EDP) and that he was being held down by people in the building. She met Officer Tavaras and Sergeant DeCostanza in the building vestibule and led them to the second floor. She said that when she got to the second floor, she saw Mr. Nematov in a running stance with a large knife in his hand raised chest high. She said she believed Mr. Nematov was about to charge at her and the other officers. She drew her firearm and discharged one round when Mr. Nematov charged at them. Officer O'Rourke said that she did not have time to tell Mr. Nematov to put the knife down before he charged at them, and she thought Mr. Nematov was going to kill her or the other officers. Mr. Nematov fell to the ground, and the knife fell out of his hand, but was still within his reach. She helped handcuff Mr. Nematov, applied pressure to his wounds, and administered chest compressions.

In his interview with OSI, Officer Tavares said he responded to 911 calls reporting an assault with a knife and someone injured. He said he drove with Sergeant DeCostanza to the apartment building where they met Officer O'Rourke in the building vestibule, and she led them up to the second floor. He said that based on information from the call, he believed Mr. Nematov was being held down and secured by people in the building, and that they were going to render aid to the injured person and take Mr. Nematov into custody. Officer Tavares said when he reached the second-floor hallway, he saw Mr. Nematov with a large knife in his hand, so he drew his firearm and told Mr. Nematov to "put it down." He said he saw Mr. Nematov clench the knife and run toward them. Officer Tavares said he thought Mr. Nematov was going to kill them, so he discharged his firearm three times.

Post-Shooting

After the gunfire, Sergeant DeCostanza's BWC video showed that he told the officers to move the knife and guard it, handcuff Mr. Nematov, render first aid, and call for a rush on an ambulance. The BWC footage showed the officers placed Mr. Nematov on his back, found the wounds, applied pressure, and administered chest compressions to Mr. Nematov while other responding officers rendered aid to Mr. Nematov's wife. BWC footage showed Emergency Medical Technicians (EMTs) arrived at 7:01:49 p.m., four minutes after the gunfire ended. The EMTs took over life-saving measures and placed Mr. Nematov onto a stretcher and into the ambulance at 7:13:38 p.m. The EMTs transported Mr. Nematov to New York-Presbyterian Hospital where he was pronounced dead upon arrival at 7:34 p.m.

Sergeant DeCostanza's BWC video showed that Mr. Nematov's wife suffered several injuries including stab wounds to the leg, hands, and arms, and was transported by ambulance to Elmhurst Hospital. She survived her injuries.

Evidence Collection and Analysis

NYPD's Crime Scene Unit (CSU) processed the scene. CSU photographs and paperwork showed they recovered two knives from the scene: one was taken from inside the building, in the hallway on the ground where Mr. Nematov was shot; the other knife was recovered from the ground outside of the building, under the second-floor apartment window. Witnesses from inside the apartment told OSI investigators that the knife outside of the building under the second-floor apartment window was the one Mr. Nematov used to stab his wife. The same witnesses said that one of the family members disarmed Mr. Nematov and threw the knife out of the window, but Mr. Nematov grabbed another one.

Weapons Recovered



Still photographs from BWC footage and an CSU photograph of the knife recovered near Mr. Nematov.



CSU photographs of the knife Mr. Nematov allegedly used to stab his wife, thrown out of the window by family members and recovered from outside the building.

Ballistics Evidence

CSU took possession of Officer O'Rourke's and Officer Tavares's firearms, which were NYPD-issued 9mm pistols with 15-round magazines, for a total capacity of 16 rounds if one round is placed in the firing chamber.

NYPD Firearm Analysis Section (FAS) found that Officer O'Rourke's firearm had one round in the chamber and 14 rounds in the magazine, which was consistent with Officer O'Rourke firing one shot. Officer Tavares's gun had one round in the chamber and 12 rounds in the magazine, which was consistent with Officer Taveras firing three shots.

Therefore, four rounds were fired by Officers Orouke and Tavares, consistent with the four 9mm shell casings found at the scene.

FAS tested and compared the shell casings recovered from the hallway with Officer O'Rourke's and Officer Taveras's guns. FAS found that one shell casing was fired by Officer O'Rourke and three were fired by Officer Tavares.

The medical examiner recovered three deformed bullet fragments from Mr. Nematov's torso and left leg during the autopsy. FAS compared the deformed bullets with Officer Taveras's and Officer O'rouke's guns and found that the deformed bullets were fired from Officer Tavares's gun.

Medical Records and Autopsy

Lincoln Hospital Medical Records

OSI reviewed Mr. Nematov's New York Presbyterian Hospital medical records, which said that Mr. Nematov was admitted to the hospital on March 8, 2024, at 7:25 p.m. According to notes made by Dr. Ngyuen, Mr. Nematov was pulseless and intubated upon arrival. Dr. Ngyuen saw three penetrating wounds to his left abdomen, left leg, and left arm. Medical notes stated that Taser wires were pulled out of Mr. Nematov after removing Mr. Nematov's clothing at the scene. Despite resuscitative efforts, Dr. Ngyuen pronounced Mr. Nematov dead at 7:34 p.m.

Autopsy

Dr. Gina Prochilo, from the Office of Chief Medical Examiner of the City of New York, conducted an autopsy of Mr. Nematov and OSI reviewed the autopsy report. Dr. Prochilo concluded that

the cause of death was “gunshot wound of the torso with injuries of major blood vessels.” The autopsy report showed that Mr. Nematov had a penetrating gunshot wound to the torso (meaning the bullet remained in the torso), a penetrating gunshot wound of lateral left torso (meaning the bullet remained in the lateral left torso), a perforating gunshot wound to the left elbow (meaning the bullet exited the left elbow), and a perforating gunshot wound to the left leg (meaning the bullet exited the left leg). Dr. Prochilo determined the manner of death was “homicide (shot by police)”. OSI interviewed Dr. Prochilo and she reported that the gunshot wound to the torso was the one fatal wound.

LEGAL ANALYSIS

Article 35 of the Penal Law defines the circumstances under which a person may be justified in using deadly force against another. Justification is a defense, not an affirmative defense, Penal Law Section (PL) 35.00. To obtain a conviction at trial, a prosecutor must disprove a defense beyond a reasonable doubt, PL 25.00(1). As detailed below, based on the evidence in this investigation, OSI concludes that a prosecutor would be unable to disprove beyond a reasonable doubt that the use of deadly physical force by Officer Tavares and Officer O’Rourke was justified.

In this case, the officers used deadly physical force. Under PL 10.00(1) deadly physical force is “physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.” Under PL 10.00(10) serious physical injury is:

“physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.”

PL 35.30 is the provision defining justification when a police officer or peace officer uses force to effect or attempt to effect an arrest.

PL 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.”

Under the law, therefore, deadly physical force by a police officer is justified when the officer reasonably believes deadly force is necessary to defend the officer or another against the imminent use of deadly physical force. Police officers using deadly force pursuant to PL 35.30(1) are under no duty to retreat when threatened with deadly physical force, according to PL 35.15(2)(a)(ii).

In *People v Jairo Castillo*, 42 NY3d 628, 631 (2024), the New York Court of Appeals stated:

“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]).” (Ellipses and square brackets in original.)

Here, Officer O’Rourke and Officer Taveras responded to an apartment building for 911 calls reporting that a woman was stabbed, and when they arrived, they saw Mr. Nematov holding a knife. The officers told Mr. Nematov to drop the knife, but instead he ran at the officers with the knife pointed at them. Officer O’Rourke and Officer Taveras each said they believed Mr. Nematov was going to kill them with the knife. At that point, Officer O’Rourke and Officer Taveras discharged their service weapons.

Based on the evidence in this investigation, OSI concludes that a prosecutor would not be able to disprove beyond a reasonable doubt that Officer Taveras’s and Officer O’Rourke’s use of deadly physical force was justified under the law. As a result, OSI will not seek charges and closes the matter with the issuance of this report.

Dated: September 10, 2026