



Office of the New York State Attorney General Lettla James

Office of Special Investigation

September 10, 2026

Report on the Investigation of the Death of Lahionel Ernesto Abreu Soto

OVERVIEW

New York Executive Law Section 70-b (Section 70-b) authorizes 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 peace officer, whether or not formally on duty. When, as in this case, OSI does not seek charges, Section 70-b requires issuance of a public report. This is the public report of OSI's investigation of the death of Lahionel Ernesto Abreu Soto, who was shot and killed on August 17, 2025, by New York City Police Department (NYPD) Police Officer Giovanni Martinez.

On the evening of August 17, 2025, Officer Martinez was off-duty and speaking with friends next to a double-parked car in front of 502 West 173rd Street, New York County, when two mopeds drove past them, made a U-turn, and stopped next to them. The moped drivers were dressed in black and wore black masks. One of the moped drivers, Mr. Soto, stepped off his moped, took a firearm from his waistband, and approached Officer Martinez. Officer Martinez took his off-duty firearm from his waistband and fired at Mr. Soto. Mr. Soto retreated to the rear of the double-parked car, still pointing a gun at Officer Martinez. Officer Martinez went toward Mr. Soto and fired again, and Mr. Soto collapsed. Officer Martinez called 911 and secured Mr. Soto's firearm until police arrived. Mr. Soto was taken to a local hospital and pronounced dead.

Mr. Soto was 30 years old at the time of his death.

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 Martinez's use of deadly force against Mr. Soto was justified under New York Law and, therefore, will not seek charges and closes the matter with this report.

FACTS



Google Maps photo showing the street view of 502 West 173rd Street; the yellow circle indicates the area where the shooting occurred.

The Scene

The shooting occurred in front of 502 West 173rd Street, between Audubon and Amsterdam Avenues. 502 West 173rd Street was an apartment building in a residential neighborhood in Washington Heights, in New York County. West 173rd Street between Audubon and Amsterdam Avenues was a one-way, one-lane westbound street.

Videos

The Shooting

Security Video from 502 West 173rd Street

According to security video from 502 West 173rd Street, on August 17, 2025, at 9:47 p.m., Officer Martinez and two women stood in the street, next to a double-parked white car, in front of the apartment building; the video did not capture audio. Officer Martinez was wearing a necklace that was visible on video. Two mopeds traveled east on West 173rd Street, against the flow of traffic, past Officer Martinez and the women. The moped drivers were dressed in dark-colored clothes and wore what appeared to be dark-colored masks. Both mopeds made a U-turn after passing them and, at the same time, Officer Martinez reached toward his right

waistband area. Mr. Soto drove up next to Officer Martinez while the second moped driver stopped directly behind Mr. Soto. The video showed that Mr. Soto stepped off his moped and approached Officer Martinez, and Officer Martinez took a firearm from his waistband and fired at Mr. Soto. Based on OSI's review, it appeared that Mr. Soto held a shiny object in his right hand and pointed it toward Officer Martinez as he ran to the rear of the white double-parked car, crouched behind it, and appeared to point the object toward Officer Martinez again. Officer Martinez walked around the left side of the car toward the rear and fired again at Mr. Soto; Mr. Soto appeared to collapse near the right side of car. The video showed that the second moped driver drove away but could be seen at the corner of West 173rd Street and Amsterdam Avenue driving in circles. At 9:49 p.m. Officer Martinez walked toward the right side of the car as he appeared to speak on his cell phone. At 9:51 p.m. responding NYPD officers arrived. An ambulance arrived at 9:55 p.m., and, at 9:57 p.m., Mr. Soto was placed on a stretcher and loaded into the ambulance. The video, redacted according to the Attorney General's video release policy, can be viewed [here](#).

Security Video from 511 West 173rd Street

OSI viewed video from 511 West 173rd Street, an apartment building opposite 502 West 173rd Street. The video timestamp was incorrect, set one hour behind, as shown by OSI's review of video from 502 West 173rd Street, body-worn camera (BWC) footage, and the 911 dispatch event chronology report. OSI uses corrected times in the summary that follows.

According to the video, at 9:47 p.m., two mopeds traveled east on West 173rd Street, made a U-turn, and stopped in front of 511 West 173rd Street. Mr. Soto stepped off the moped and immediately thereafter the video's audio captured the sound of five gunshots; Officer Martinez was not visible in the video. Mr. Soto appeared to run, and the other moped driver drove away. The video, redacted according to the Attorney General's video release policy, can be viewed [here](#).

Events After the Shooting

BWC footage from NYPD Sgt. Josue Vassallo, Officers Nabel Cespedes, Joshua Moscoso, and several other officers, showed that, at 9:51 p.m., Officers Cespedes and Moscoso were the first officers to arrive at 502 West 173rd Street. Mr. Soto was lying on the ground, near the rear of a double-parked white car; he appeared to be unconscious. Officer Martinez approached the officers and said he was a police officer and had shot Mr. Soto. He said, "He pulled this out on me," and pointed to a firearm on the ground. Officer Cespedes picked up the firearm and a magazine next to the firearm, as Officer Moscoso confirmed Officer Martinez's identity. According to the BWC video, Officer Cespedes walked over to Mr. Soto, lifted his shirt, and said, "Rush the bus, he's shot in the chest." Officer Cespedes applied pressure on Mr. Soto's chest while another officer checked his neck for a pulse. At 9:53 p.m.

Officer Cespedes handed the firearm to Sgt. Vassallo and administered chest compressions to Mr. Soto. Sgt. Vassallo handed the firearm to another officer. BWC video showed that neither Officer Cespedes nor Sgt. Vassallo wore gloves when they handled the firearm. At 9:54 p.m. an officer arrived with an automated external defibrillator (AED) and Officer Cespedes placed the AED pads to Mr. Soto's chest. The AED did not register and no prompt was given. At 9:56 p.m. paramedics arrived and transported Mr. Soto to NYC Health + Hospitals/Harlem; Officer Cespedes rode in the ambulance with Mr. Soto. At 10:11 p.m. the ambulance arrived at the hospital and Mr. Soto's medical care was transferred to emergency room staff.

911 Calls

On August 17, 2025, at 9:48 p.m., Officer Martinez called 911, identified himself as an off-duty police officer, and told the dispatcher that multiple shots were fired at 502 West 173rd Street. Initially, Officer Martinez said two men were involved and one of them was on a moped with a gun, possibly shot, at the end of the block. On the 911 recording, Officer Martinez is heard yelling, "Yo! Yo! Get into cover! Get into cover!" Officer Martinez told the dispatcher that one of the men was shot, requested an ambulance, and said the second person was at the corner. He described the man who fled as wearing all black clothing and a face mask. The 911 call can be accessed [here](#).

There were five additional calls to 911. Each caller reported that they heard multiple gunshots but did not see the shooting. One caller said someone was on the ground and a man wearing a gray hoodie ran toward Amsterdam holding a black firearm.

Witness Interviews

(OSI does not publish the names of civilian witnesses)

RC

OSI interviewed RC, Officer Martinez's friend, who said she and CV were with Officer Martinez on August 17, 2025. RC said they met in Washington Heights after 9:00 p.m. to help her sister move. According to RC, they were in front of 502 West 173rd Street when two men wearing all black and ski masks rode up to them on mopeds. Mr. Soto stopped directly in front of Officer Martinez and RC, and the second rider stopped at the end of the street. RC said Mr. Soto got off the moped, faced Officer Martinez, and said something in Spanish. RC asked Officer Martinez what Mr. Soto said and immediately thereafter heard gunfire. RC said she crouched next to her car and heard Officer Martinez tell her to "Take cover." RC said the shooting happened quickly and she did not see a gun in Officer Martinez's or Mr. Soto's hand before or after the shooting. After the shooting, RC saw Mr. Soto on the ground and saw the second moped driver at the end of the street. According to RC, the second moped driver appeared to watch the incident scene and RC said she feared he might be armed.

CV

OSI interviewed CV, Officer Martinez's friend, who said she, RC, and Officer Martinez were in Washington Heights to help RC's sister move. According to CV, they were standing outside, next to RC's car, when two men wearing all black and ski masks rode past them on mopeds, against traffic, and made a U-turn after they passed RC's car. Mr. Soto rode up to Officer Martinez, got off the moped, and approached Officer Martinez. CV said Mr. Soto asked Officer Martinez a question as he took a firearm from his waistband. CV said Officer Martinez then took a firearm from near his hip and shot Mr. Soto. According to CV, Officer Martinez pulled out his firearm only after Mr. Soto pulled out his firearm. CV said she saw the other man on the moped on the next block.

Police Officer Giovanny Martinez

OSI interviewed Officer Martinez in the presence of his attorney.

Officer Martinez joined NYPD on July 5, 2023. On the day of the shooting, he was assigned to the 45th Precinct in the Bronx. Prior to August 17, 2025, Officer Martinez said he had never discharged his on-duty or off-duty firearms, apart from training. Officer Martinez said he did not know Mr. Soto and had never encountered him prior to August 17, 2025.

On August 17, 2025, at 9:00 p.m., Officer Martinez went to West 173rd Street, between Audubon Avenue and Amsterdam Avenue, to assist friends who were moving. He said as he and RC waited for their friends near 502 West 173rd Street, he saw two men on mopeds, each wearing black clothing and face coverings, drive east on West 173rd Street against the flow of traffic. According to Officer Martinez, when the men rode past, one man, Mr. Soto, appeared to look directly at him, and both men made a U-turn. Officer Martinez said he was aware of several recent moped related robberies that had been committed by men dressed in dark clothing and face coverings in the area. He felt his life was in danger because he was wearing a necklace that was clearly visible outside his shirt. Officer Martinez said he "prepared himself for the worst" and put his hand on his off-duty firearm, which was concealed in his waistband, as the men on the moped approached him and RC. The men stopped next to Officer Martinez and RC, and Mr. Soto asked Officer Martinez about someone named Esteban (Officer Martinez told OSI he did not know Esteban). Officer Martinez said Mr. Soto pulled out a firearm from his waistband as he stepped off the moped and he discharged his off-duty firearm in the direction of Mr. Soto. Officer Martinez said he, RC, and Mr. Soto ran, and that he was unaware Mr. Soto had been shot; he thought Mr. Soto and the other moped rider fled. He called 911 to report the incident. While on the call with the 911 dispatcher, Officer Martinez walked around the double-parked car he was standing next to at the time of the shooting and saw Mr. Soto on the ground with a firearm next to his hand. Officer Martinez said he walked over to Mr. Soto, kicked the firearm away, and put his foot on top of it to prevent anyone from taking it while he waited for the police.

Officer Martinez said he did not have an opportunity to identify himself as a police officer to Mr. Soto or tell him to put his gun down, because the incident happened so quickly, they were in very close proximity to each other, and he feared that Mr. Soto would harm him and RC. Officer Martinez did not recall how many times he discharged his firearm, or if he continued to shoot at Mr. Soto as he ran away.

According to Officer Martinez, he wanted to render first aid to Mr. Soto but heard the sound of a moped and feared it was the other moped driver who was with Mr. Soto. Officer Martinez said he felt surrounded and thought that bending down to assist Mr. Soto would make him vulnerable.

Evidence Collection and Analysis

NYPD's Crime Scene Unit (CSU) collected evidence and took photographs. As described above, in the summary of BWC video, the first officers to the scene recovered a firearm next to Mr. Soto after he was shot; it was later determined to be a green CZ model P-10 C 9mm Luger firearm. CSU Sergeant Matthew Noftsier inspected the firearm: the magazine, which was recovered next to the firearm, had a maximum capacity of 15 rounds and contained 14 live rounds. The firearm did not have any live rounds in the firing chamber.

NYPD's Firearms Analysis Section (FAS) tested the recovered firearm and found it to be operable.

CSU Sergeant Josue Vassallo inspected Officer Martinez's off-duty firearm, a Sig Sauer P365 9mm firearm with a capacity of 11 rounds (10 in the magazine and one in the firing chamber). The firearm had one live round in the chamber and five live rounds in the magazine, which was consistent with Officer Martinez having fired five rounds.

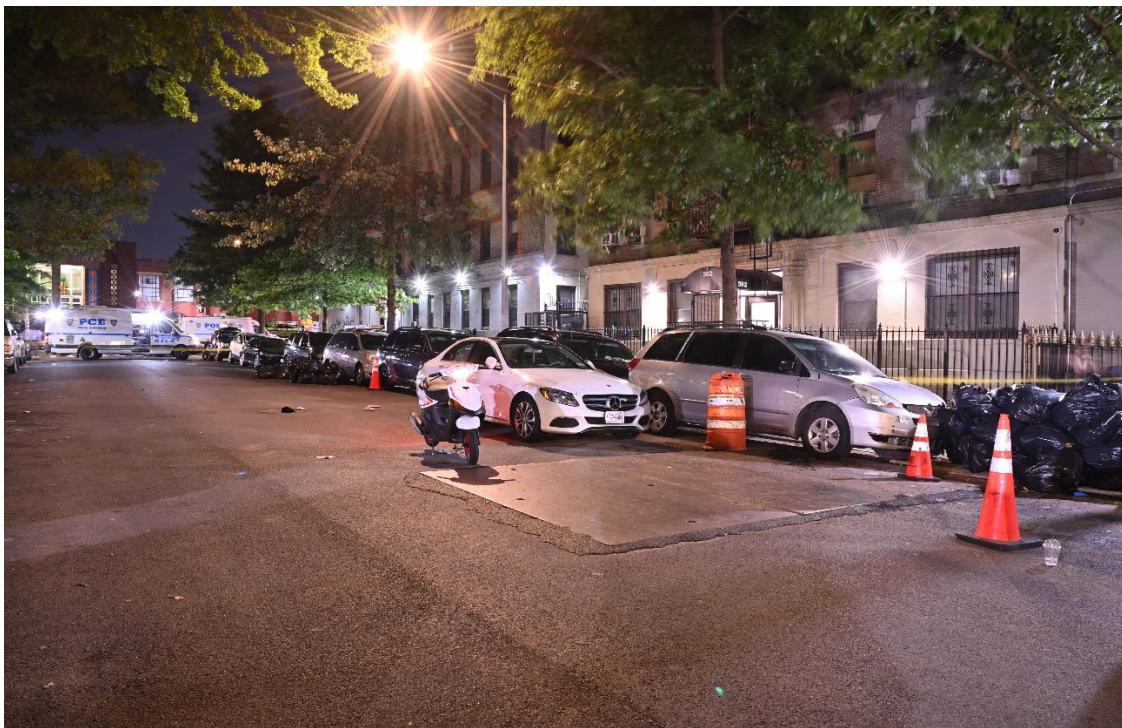
CSU recovered five discharged 9mm Speer +P shell casings (consistent with NYPD issued ammunition), and two deformed discharged rounds. FAS microscopically compared the 9mm shell casings and deformed rounds with test fires from Officer Martinez's off-duty firearm and concluded the following:

- The five discharged 9mm Speer +P shell casings were discharged from Officer Martinez's firearm; and
- The two deformed rounds were discharged from Officer Martinez's firearm.

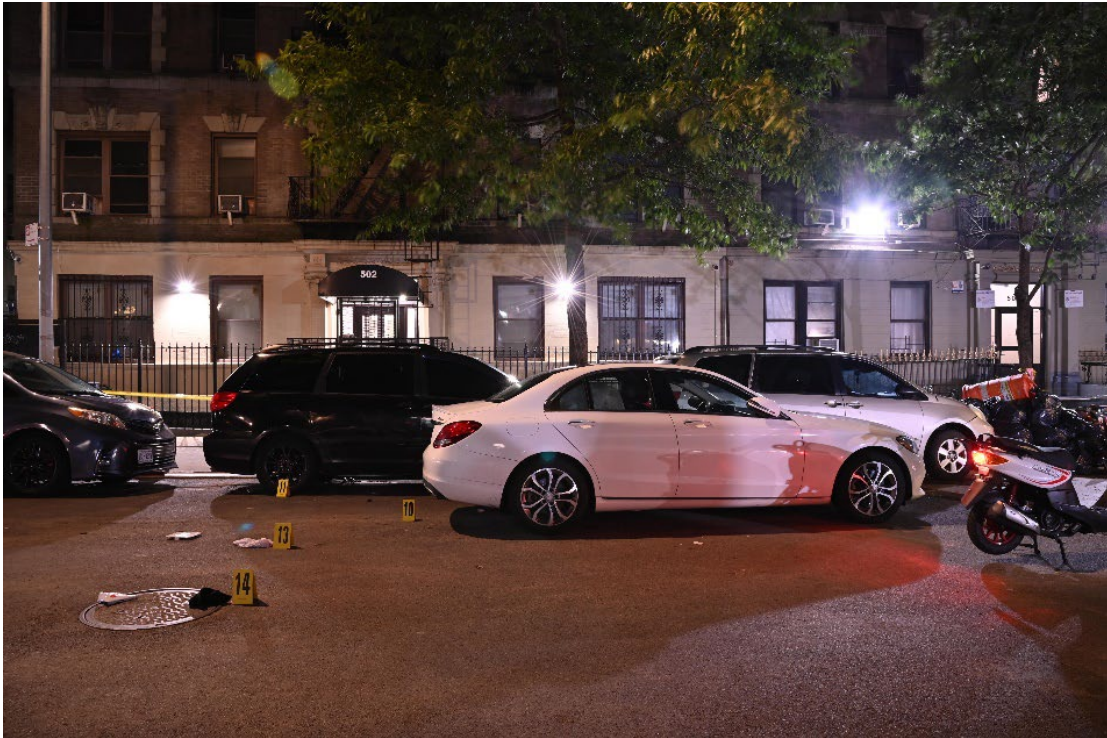
The CZ P-10 C 9mm Luger firearm recovered next to Mr. Soto, the magazine, and the live rounds, were examined for potential fingerprint evidence. The NYPD laboratory report said there were "no latent prints/friction ridge detail suitable for capture/identification" observed on the items.

The CZ P-10 C 9mm Luger was swabbed for DNA. The Office of Chief Medical Examiner's (OCME's) Department of Forensic Biology tested the following samples against Mr. Soto's DNA and made the following conclusions (OCME did not test the samples against anyone else's DNA):

- The swab from the “edges of trigger and trigger guard” showed three contributors. The results of a comparison to Mr. Soto's DNA were within the “uninformative range.” The report concluded that the results did “not support whether Lahionel Soto [was] included or excluded as a contributor to the sample.”
- The swab from the “textured areas of hand grip” showed three contributors. The results of a comparison to Mr. Soto's DNA were within the “uninformative range.” The report concluded that the results did “not support whether Lahionel Soto [was] included or excluded as a contributor to the sample.” (As described above, Officer Cespedes and Sgt. Vassallo handled the gun without gloves after Officer Martinez pointed it out to them.)



Crime Scene Unit photo of the incident scene showing Mr. Soto's moped next to the double-parked white car.



Crime Scene Unit photo of the incident scene; numbered markers indicate the ballistics evidence, and other potential evidence.





Two Crime Scene Unit Photos showing Mr. Soto's firearm, magazine, and live rounds.

Autopsy

After the shooting, Mr. Soto was transported to NYC Health + Hospitals/Harlem. At 10:14 p.m. Dr. Abraham Chacko pronounced him dead.

Dr. Terra Cederroth of OCME performed the autopsy and concluded that the cause of Mr. Soto's death was "gunshot wounds of torso" and deemed the manner of death to be "homicide (was shot)." Dr. Cederroth's report said Mr. Soto was shot three times: left upper chest; lateral left upper arm; and left upper back. The autopsy report noted that two bullets were recovered from Mr. Soto's body; one from the right upper back and one from the right axilla (underarm). A microscopic analysis of the recovered bullets determined that the bullets were "identified" as having been discharged from Officer Martinez's firearm.

LEGAL ANALYSIS

Article 35 of the New York Penal Law governs 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).

Under subdivision 2 of PL 35.15, a person may not use deadly physical force against another person unless, “(a) The actor reasonably believes that such other person is using or about to use deadly physical force. Even in such case, however, the actor may not use deadly physical force if he or she knows that with complete personal safety, to oneself and others he or she may avoid the necessity of so doing by retreating...; or (b) He or she reasonably believes that such other person is committing or attempting to commit a ... robbery.”

PL 160.00 defines robbery as “forcible stealing,” and states that “a person forcibly steals property and commits robbery when, in the course of committing a larceny, he uses or threatens the immediate use of physical force upon another person for the purpose of (1) Preventing or overcoming resistance to the taking of the property or to the retention thereof immediately after the taking; or (2) Compelling the owner of such property or another person to deliver up the property or to engage in other conduct which aids in the commission of the larceny.” In defining larceny, the Penal Law states, “A person steals property and commits larceny when, with intent to deprive another of property or to appropriate the same to himself or to a third person, he wrongfully takes, obtains or withholds such property from an owner thereof.” PL 155.05.

Deadly physical force is defined as “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(11). Serious physical injury means “impairment of a person’s physical condition 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). The Penal Law defines a deadly weapon as “any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged....” PL 10.00(12).

The Court of Appeals summarized the justified use of deadly physical force this way, in *People v Jairo Castillo*, 42 NY3d 628, 631 (2024) (square brackets and ellipses in the original):

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]).

Here, Officer Martinez said he was aware of recent gunpoint robberies by people on mopeds in Washington Heights and was wary when two people dressed in all black, wearing masks, drove past him opposite the flow of traffic, made an immediate U-turn, and approached him. Officer Martinez believed that Mr. Soto was going to rob him of his necklace and said he feared for his and his friends’ lives when Mr. Soto stepped off the moped and pulled out a firearm. According to Officer Martinez, he pulled out his firearm, fired it in the direction of Mr. Soto, and ran. Officer Martinez’s account is supported by surveillance video, eyewitness accounts, and the recovery of a firearm near Mr. Soto.

Based on the evidence in this investigation, OSI concludes that a prosecutor would be unable to disprove beyond a reasonable doubt that Officer Martinez’s use of deadly physical force was justified under the law and will close the matter with the issuance of this report.

Dated: September 10, 2026