



Office of the New York State Attorney General Letitia James

Office of Special Investigation

May 13, 2022

Report on the Investigation into the Death of Steven Leconte

Introduction

New York Executive Law Section 70-b authorizes the Office of the Attorney General (“OAG”) to investigate and, if warranted, prosecute offenses arising from any incident in which the death of a person is caused by a police officer. When OAG does not seek charges, Section 70-b requires issuance of a public report.

On July 8, 2021, New York City Police Department Sergeant Steven Joseph and Police Officers Christopher Chacon and Matthew Varela shot Steven Leconte, causing his death. Having thoroughly investigated the matter and analyzed the law, OAG will not seek charges against these officers because the evidence indicates their use of deadly force was justified under Article 35 of the New York Penal Law.

Summary of Investigative Steps

OAG’s investigation into the death of Steven Leconte included review of: body-worn camera footage from the three involved officers and surveillance footage from 11 locations; dispatch recordings and associated records, such as 911 calls, radio runs, and NYPD dispatches; photographs of the scene and of physical evidence; reports by NYPD’s Force Investigation Division and Firearms Analysis Laboratory; NYPD Policies and Procedures; and the Medical Examiner’s autopsy report. OAG also interviewed the Medical Examiner, civilian eyewitnesses, and the NYPD officers involved in the shooting.

Facts

A. Summary of Events

On July 8, 2021 at 10:26 p.m., Steven Leconte (DOB: 2/22/68), armed with a handgun, approached five men gathered outside Boardwalk Wine and Spirits at 1195 Halsey Street in Brooklyn. Crossing from the opposite side of Halsey Street, Mr. Leconte stood in the center of the roadway and opened fire,¹ striking two men in front of the store and an employee standing behind the counter inside.² Mr. Leconte fled, running northbound on Halsey towards Wilson Avenue. EI,³ one of the men seated outside the liquor store, who was uninjured in the shooting, pulled a revolver out of a bag at his feet and pursued Mr. Leconte. EI fired three shots at Mr. Leconte as he ran down Wilson Avenue, appearing to strike him once in the leg, causing him to fall. EI fled while Mr. Leconte crawled on the sidewalk to a parked car where he was found by responding NYPD officers about 10 seconds later.

¹ NYPD recovered 13 shell casings at that location, which the Firearms Analysis Laboratory determined were fired from Mr. Leconte’s handgun.

² OAG made multiple unsuccessful attempts to call the three victims of Mr. Leconte’s shooting.

³ OAG uses initials to maintain civilians’ anonymity.

While patrolling in an unmarked car near Wilson Avenue and Elder Street, Sergeant Steven Joseph (“Sgt. Joseph”) and Police Officers Christopher Chacon (“PO Chacon”) and Matthew Varela (“PO Varela”), of the NYPD’s 83rd Precinct Public Safety Unit, heard the shots fired at Boardwalk Wine and Spirits and arrived there about one minute later. Three men standing in front of the store told the officers they had been shot and that the shooter fled around the corner onto Wilson Avenue.

Sgt. Joseph and PO Chacon gave chase on foot while PO Varela drove down Wilson Avenue in the patrol car. They came upon Mr. Leconte in front of 520 Wilson Avenue where he was crouched beside a parked car. Mr. Leconte had a handgun in his left hand. The officers repeatedly shouted commands at Mr. Leconte to drop his gun, but he pointed it at PO Chacon. At that point, all three officers fired their weapons, fatally striking Mr. Leconte. The officers approached Mr. Leconte, secured his gun, and took turns administering CPR until emergency medical services arrived on scene to transport Mr. Leconte to the hospital where he was pronounced deceased at 11:28 p.m.

B. Video Evidence of Events Prior to Officers’ Encounter with Mr. Leconte

The initial shooting was captured on CCTV footage from cameras at 532 Wilson Avenue,⁴ 1195A Halsey Street,⁵ and 526 Wilson Avenue.⁶ Footage from 532 Wilson Avenue shows that Mr. Leconte approached Boardwalk Wine and Spirits from the opposite side of Halsey street and fired his gun in the direction of the storefront at 11:00:47; 11 seconds later, at 11:00:58, it shows that Mr. Leconte fled northbound toward Wilson Avenue and rounded the corner, followed by EI. Footage from 1195A Halsey shows the Boardwalk Wine and Spirits storefront and a group of five men outside who came under fire at 11:08:22; at 11:08:30, it shows that EI reached into a bag at his feet, withdrew a revolver, and pursued Mr. Leconte. Footage from 526 Wilson Avenue shows that Mr. Leconte fled westbound on Wilson Avenue with EI in pursuit; it shows that EI stopped and fired three shots at Mr. Leconte, who fell to the ground and crawled to a parked car while EI turned around and ran eastbound back toward Boardwalk Wine and Spirits;⁷ and it shows that 10 seconds later the officers came upon Mr. Leconte.

⁴ Footage from 532 Wilson Avenue can be accessed [HERE](#). Please note that the time stamps are 12 hours and 34 minutes ahead.

⁵ Footage from 1195A Halsey Street can be accessed [HERE](#). Please note that the time stamps are 42 minutes ahead.

⁶ Footage from 526 Wilson Avenue can be accessed [HERE](#). Please note that this footage is not time stamped.

⁷ Footage from inside Boardwalk Wine and Spirits shows that EI returned to the store after shooting Mr. Leconte and handed a bag with the revolver inside it to one of Mr. Leconte’s shooting victims. Footage also shows that the NYPD recovered the bag and revolver later that night and, according to the NYPD’s Firearms Analysis Laboratory’s microscopic analysis reports, found three spent shell casings in the revolver’s cylinder.

The subsequent events were captured on the three officers' body-worn cameras ("BWC"), as well as CCTV footage from 526 Wilson Avenue,⁸ all of which were reviewed by OAG.

C. Officer Interviews and BWC Evidence of Officers' Encounter with Mr. Leconte

OAG interviewed the responding officers: Sgt. Joseph, PO Chacon, and PO Varela. They provided their accounts of the moments leading up to their arrival on scene and what followed.

PO Varela said he was driving an unmarked patrol car. Sgt. Joseph was seated in the front passenger seat and PO Chacon was in the rear right passenger seat. Around 10:26 p.m., while patrolling near Wilson Avenue and Elder Street with the patrol car's windows rolled down, all three officers said they heard at least 10 gunshots in rapid succession coming from the adjacent block. PO Varela said he drove in the direction of the gunshots and arrived at Boardwalk Wine and Spirits approximately one minute after the shooting began.

BWC footage shows that the officers got out of the car and, in front of Boardwalk Wine and Spirits, met three men who said they had been shot.⁹ The men pointed at the street corner behind Sgt. Joseph and PO Chacon and shouted, "Over there! Left, left, left!" Sgt. Joseph and PO Chacon ran left from Halsey Street onto Wilson Avenue; as they rounded the corner, a bystander shouted to them from across the street and pointed down Wilson Avenue, saying "Right there, over there."¹⁰ While Sgt. Joseph and PO Chacon gave chase, PO Varela said he got back into the patrol car and reversed into the intersection of Halsey Street and Wilson Avenue; he made a right turn onto Wilson Avenue and drove in the direction that Sgt. Joseph and PO Chacon were running.¹¹

While searching for the suspect, PO Chacon ran westbound in front of Sgt. Joseph on Wilson Avenue and past Mr. Leconte, who was crouching beside a parked car in front of 520 Wilson Avenue. BWC shows that Sgt. Joseph, running a few feet behind PO Chacon, stopped in front of Mr. Leconte and illuminated him with his flashlight and told PO Chacon to "Hold up."¹² PO Chacon told OAG he did not notice Mr. Leconte until Sgt. Joseph alerted him to his presence. With his flashlight on Mr. Leconte, Sgt. Joseph's BWC captured a handgun in Mr. Leconte's left hand at 22:27:42.

⁸ Sgt. Joseph's BWC Footage can be accessed [HERE](#), PO Chacon's BWC Footage can be accessed [HERE](#), PO Varela's BWC Footage can be accessed [HERE](#), Zoomed footage from 526 Wilson Avenue can be accessed [HERE](#). Please note that the footage from 526 Wilson Avenue is not time stamped.

⁹ Sgt. Joseph BWC: 22:27:22

¹⁰ Sgt. Joseph BWC: 22:27:30

¹¹ PO Varela BWC: 22:27:28

¹² Sgt. Joseph BWC: 22:27:39



Sgt. Joseph's and PO Chacon's BWC footage at 22:27:43 shows that the officers drew their weapons and issued commands to Mr. Leconte to "put the gun down." BWC shows that PO Varela arrived in the patrol car and took cover behind an SUV parked in front of the car where Mr. Leconte was crouched.¹³ With their guns drawn on Mr. Leconte, Sgt. Joseph stepped backwards towards Halsey Street while PO Chacon stepped backwards towards Weirfield Street, each repeatedly telling Mr. Leconte to drop his gun. BWC footage shows that for 12

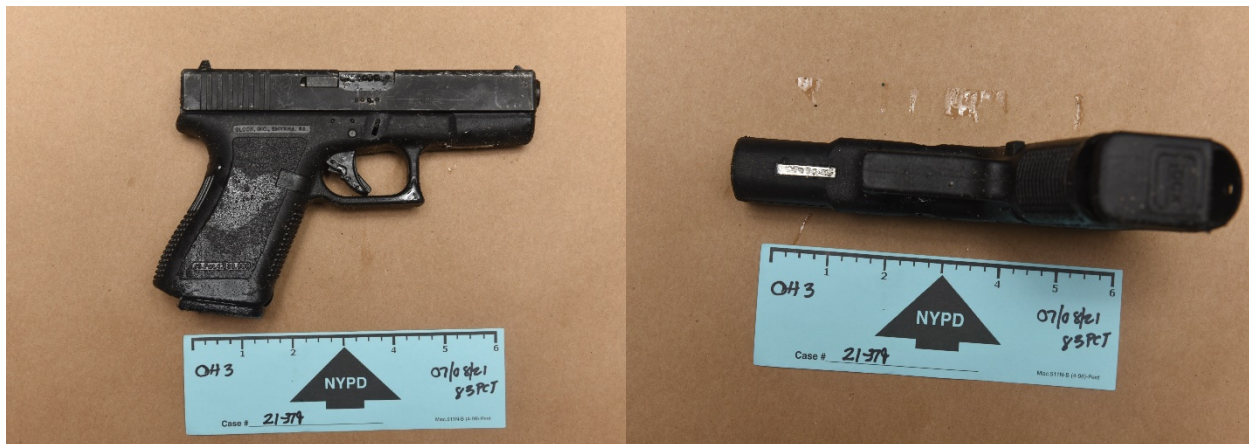


¹³ PO Varela BWC: 22:27:46

seconds,¹⁴ the three officers repeatedly told Mr. Leconte to drop the gun until, according to Sgt. Joseph and PO Varela, Mr. Leconte shook his head and raised his gun at PO Chacon, which was captured on PO Varela's BWC footage at 22:27:55.¹⁵

Once Mr. Leconte pointed his handgun at PO Chacon, PO Chacon fired his weapon, followed by Sgt. Joseph and PO Varela.¹⁶ Based on the NYPD's Firearms Analysis Laboratory reports reviewed by OAG, PO Chacon and PO Varela fired eight shots each; Sgt. Joseph fired three shots. The reports indicate that of these 19 shots, 10 struck Mr. Leconte.

According to recorded radio transmissions, PO Varela reported "shots fired" and, at 10:28 p.m., requested EMS for Mr. Leconte,¹⁷ who appeared unresponsive. Sgt. Joseph secured Mr. Leconte's handgun, which was later identified as a Glock 19 with a defaced serial number. The officers told OAG that they could not find Mr. Leconte's pulse and took turns administering CPR until EMS arrived six and a half minutes later, at about 10:35 p.m.¹⁸ The Medical Examiner's Autopsy Report says that EMS transported Mr. Leconte to Wyckoff Heights Medical Center where he was pronounced deceased at 11:18 p.m.



Mr. Leconte's Glock 19

¹⁴ Sgt. Joseph BWC: 22:27:43-22:27:55

¹⁵ Due to poor lighting, PO Chacon's BWC footage did not clearly capture Mr. Leconte pointing his handgun at him.

¹⁶ PO Chacon BWC: 22:27:55

¹⁷ The audio on PO Varela's BWC records that he requested an ambulance at 10:28 p.m. and put a "rush" on the ambulance at 10:33 p.m.

¹⁸ PO Chacon's BWC shows the officers performing CPR: 22:29:28-22:36:04, but this part of the BWC is redacted for privacy reasons.

D. 911 Calls

NYPD dispatch received five 911 calls reporting gunfire at 1195 Halsey Street. All five calls, which were reviewed by OAG, occurred after Sgt. Joseph, PO Varela, and PO Chacon arrived on scene. Three of the five callers were victims of Mr. Leconte's shooting requesting emergency medical services.

Caller 1 called 911 at 10:27 p.m., reporting gunfire from the initial shooting by Mr. Leconte and the subsequent shooting by the NYPD officers.¹⁹ Caller 1 said she heard gunfire through her window coming from a liquor store near the corner of Halsey Street and Wilson Avenue, and while speaking to the dispatcher, reported additional gunfire, hearing "at least 15 shots... going back and forth." Caller 1 said she could see police officers on scene.

DR called 911 at 10:27 p.m.²⁰ DR identified himself as an off-duty federal corrections officer and said there was a shooting at 1195 Halsey Street and that he had been shot in the leg. While on the phone, he reported active gunfire.

The third²¹ and fourth²² 911 calls were made at 10:28 p.m. by DG and KD. Both callers requested emergency medical services to Halsey Street, though the dispatchers could not hear the exact address on either call. KD said he had been shot.

Caller 5 called 911 at 10:28 p.m.,²³ and said he heard "a lot of gunfire everywhere" at 232 Weirfield Street by Wilson Avenue. He reported 30 gunshots "going back and forth," but did not see the shooting itself. He said he was seeing police officers perform CPR on a person who was shot.

E. Medical Examiner

Dr. Dimath Alyemni of the New York City Office of Chief Medical Examiner (OCME) performed an autopsy of Mr. Leconte on July 9, 2021 and determined the cause of death as "gunshot wounds of head and torso." She determined the manner of death as "Homicide (shot by police)." In an interview with OAG, Dr. Melissa Pasquale, Deputy Chief Medical Examiner at OCME,²⁴ who reviewed Dr. Alyemni's autopsy report, said that the fatal injuries were a gunshot wound to Mr. Leconte's head and several gunshot wounds to his torso, which struck vital organs.

¹⁹ Caller 1's 911 Call can be accessed [HERE](#).

²⁰ DR's 911 Call can be accessed [HERE](#).

²¹ DG's 911 Call can be accessed [HERE](#).

²² KD's 911 Call can be accessed [HERE](#).

²³ Caller 5's 911 Call can be accessed [HERE](#).

²⁴ Dr. Alyemni was unavailable to meet with OAG on the day of the interview.

Dr. Alyemni's report, reviewed by OAG, lists eleven entry wounds to Mr. Leconte's head, torso, and legs. Dr. Alyemni recovered nine bullets and fragments from Mr. Leconte's body.²⁵ During the interview with Dr. Pasquale, OAG asked whether the medical examiner was able to distinguish between the bullets fired by the police and the bullet fired by EI. Based on her review of the autopsy report, Dr. Pasquale said they were unable to make a conclusive determination. However, the NYPD's examination of the of the bullets recovered from Mr. Leconte's body along with the Firearms Analysis Laboratory's microscopic analysis reports, both of which were reviewed by OAG, appear to indicate that the bullet recovered from Mr. Leconte's left knee was fired by EI.

Legal Analysis

The evidence indicates the three officers' use of deadly physical force against Mr. Leconte was justified under New York Law.

When effecting or attempting to effect the arrest of an individual whom a police officer reasonably believes has committed an offense, Penal Law §35.30(1)(c) justifies an officer's use of deadly physical force:

“when he or she reasonably believes that:

... 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 PL Section 35.30, officers are under no duty to retreat.

The New York Court of Appeals, in *People v. Goetz*, 68 N.Y.2d 96 (1986), and *People v. Wesley*, 76 N.Y.2d 555 (1990), held that “reasonable belief” has a subjective and an objective component. The subjective prong is satisfied if the individual using deadly physical force actually believed, “honestly and in good faith,” that such force “was about to be used against [another] and that his own use of that force was necessary to repel that danger.” *Goetz*, 68 N.Y.2d at 114. The objective component is satisfied if a “reasonable person” under the same “circumstances” could have held those same beliefs. *Goetz*, at 115.

Sgt. Joseph, PO Chacon, and PO Varela told OAG they heard gunshots from a nearby block while on patrol. The officers went where they believed the gunshots were fired and found three gunshot victims. The officers pursued the shooting suspect, using directions provided by the

²⁵ A tenth bullet was recovered from Mr. Leconte's body which the ME determined was old and oxidized and was not a result of the shootings on July 8, 2021.

victims, and saw Mr. Leconte. Shining a flashlight on him, they saw a gun in his left hand. They drew their weapons, moved away from him, and repeatedly commanded him to drop his gun. Sgt. Joseph, PO Chacon, and PO Varela each said he fired his weapon only after Mr. Leconte raised his gun at PO Chacon.

The BWC footage of all three officers corroborates their accounts of the incident. It shows that at the moment the officers fired their weapons, Mr. Leconte had raised his gun and pointed it at PO Chacon. It was reasonable to believe Mr. Leconte was about to use deadly physical force against PO Chacon. Sgt. Joseph's, PO Chacon's, and PO Varela's use of deadly physical force prevented Mr. Leconte from shooting and was justified by law.

Penal Law §35.30(1)(c) imposes no duty to retreat on police officers when effecting (or attempting to effect) an arrest of a person for an offense. Under the circumstances of this case, it was clear the three officers had reasonable cause to arrest a man armed with a firearm who had just used that firearm to injure three persons, that they were searching for that man, and that, if they found him, they intended to arrest him for one or more offenses.

Even if the officers had not been attempting to make an arrest, their conduct was justified under PL Section 35.15, which provides:

A person may ... use physical force upon another person when and to the extent he or she reasonably believes such to be necessary to defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by such other person ... [but]

A person may not use deadly physical force upon 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...

Under the circumstances of this case, the officers could not have retreated without endangering themselves or others. At the moment the three officers fired their weapons, Mr. Leconte had his gun pointed at PO Chacon. Any retreat would have left PO Chacon in clear danger. Furthermore, having seen the victims of Mr. Leconte's shooting, the officers could not retreat with any certainty that Mr. Leconte would not fire his weapon at other civilians in the vicinity.

Based on the evidence in this investigation and the law, OAG concludes that Sgt. Joseph's, PO Chacon's, and PO Varela's use of deadly force was justified and will not seek charges in this matter.

May 13, 2022