



Office of the New York State Attorney General Letitia James

Office of Special Investigation

September 22, 2023

Report on the Investigation into the Death of Joshua Kavota

SUMMARY

New York Executive Law Section 70-b authorizes the Attorney General's Office of Special Investigation (OSI) 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 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 Joshua Kavota.

On Wednesday June 29, 2022, at 8:32 a.m.,¹ Village of Saranac Lake Police Department (SLPD) Officer Aaron Sharlow shot Joshua Kavota, causing his death. After a full evaluation of the facts and the law, OSI will not seek charges against PO Sharlow, because we conclude that a prosecutor could not disprove beyond a reasonable doubt that his actions were justified under Article 35 of the New York Penal Law.

FACTS

Background

OSI interviewed civilian witness P.W.,² who said that on April 6, 2022, 33-year-old Joshua D. Kavota entered the Lakeside House residential community living program in Saranac Lake, New York.³ Mr. Kavota lived at the Lakeside House residential community living program for approximately eight weeks. On June 1, 2022, Mr. Kavota entered the Lakeside House supportive living program, and moved into his own apartment, at 12 Bloomingdale Avenue in Saranac Lake.

Incident prior to the Shooting

OSI interviewed Lakeside House staff member M.C.,⁴ and he said that on June 29, 2022, at 8:10 a.m., he was driving to work and saw Mr. Kavota standing outside his apartment building, smoking a cigarette and talking to himself. At 8:15 a.m., M.C. arrived at work and spoke to T.M., the Lakeside House Finance Manager. T.M. told M.C. that Lakeside House received a phone call from a maintenance worker at 7:30 p.m. the night before that Mr. Kavota appeared

¹ All times are approximate.

² OSI does not publish the names of civilian witnesses. P.W. was interviewed by OSI On July 22, 2022.

³ Lakeside House is a community residence organization that focuses on housing for psychiatrically disabled adults licensed through the state's Office of Mental Health. Lakeside House provides a supervised residential community living program as well as supportive living. When individuals are in supportive living, they live independently in an apartment and Lakeside House employees oversee the resident; they check on them to make sure that their rent and bills are paid, medications are taken, and assist them with other daily functions.

⁴ On the date of the incident, New York State Police (NYSP) Investigator Shannon Lind took a statement from M.C., which was consistent with OSI's interview.

intoxicated and filthy in the laundry room of his apartment building.

According to M.C., this was atypical behavior of Mr. Kavota and he wanted to check on him right away. M.C. and C.B., another Lakeside House staff member, whom OSI interviewed,⁵ drove to Mr. Kavota's apartment building to check on him at 8:30 a.m. They did not have a key to his apartment. They entered the apartment building through the main door and knocked on the foyer door and Mr. Kavota answered the door; he appeared unclean. (Security video shows that M.C., C.B., and Mr. Kavota walked a few feet away from the building entrance and conversed by the parking lot next to the building.) According to M.C., Mr. Kavota asked M.C. and C.B. why they were there, and they said they were concerned about him. M.C. thought there was blood on Mr. Kavota's pants and fingers, and Mr. Kavota said it was "poop." M.C. suggested to Mr. Kavota that he go to the emergency room to get checked out. Mr. Kavota said, "I am not going to any ER" and "I am not going, you cannot make me." M.C. told Mr. Kavota that he understood but they might need to call for an ambulance to take him to the emergency room or that the police may need to come over and talk to him because they were worried about him. Mr. Kavota said, "he was not talking to anyone, and he was not going anywhere." M.C. started to walk away, and Mr. Kavota said "well, you are not calling the police." M.C. explained that they "were very concerned about him and think that he should go to the ER." At that point, Mr. Kavota became verbally aggressive, saying he "was not talking to any fucking police," pulled a knife out of his pocket, and started walking towards M.C. According to M.C., and as corroborated by security video,⁶ M.C. started to run away from Mr. Kavota. M.C. turned around and saw Mr. Kavota coming towards him with the knife. M.C. felt something in the right side of his abdomen. M.C. grabbed Mr. Kavota by his shirt and threw him down into the road. Mr. Kavota got up and stood in the road but did not say anything. M.C. got up and saw blood coming through his shirt and a cut on his right knee. M.C. and C.B. immediately drove to the Adirondack Medical Center (AMC) so that M.C. could get medical attention.⁷ Based on the Franklin County 911, at 8:35:14 a.m., about five minutes after this incident, C.B. called 911 and reported that Mr. Kavota had stabbed M.C. on Bloomingdale Avenue.⁸

The Shooting

Five minutes before C.B.'s 911 call, at 8:30:34 a.m., Franklin County 911 received two 911 calls⁹ that a man had been stabbed on Bloomingdale Avenue and that the suspect was

⁵ On the day of the incident NYSP Investigator Andrew Newton took a statement from C.B., which was consistent with OSI's interview.

⁶ [Video of stabbing](#) of M.C. It should be noted that the 12 Bloomingdale camera is approximately sixteen minutes behind.

⁷ M.C. had been stabbed in the abdomen and the right thigh.

⁸ [911 Call](#) from C.B.

⁹ [911 Call 1](#) & [Call 2](#)

wearing a blue shirt, blue jeans, and walking towards a Stewart's Shop. The description was relayed over SLPD radio.¹⁰ SLPD Officers Gabrielle Beebe and Aaron Sharlow,¹¹ in uniform and in separate marked cars, responded to the Stewart's Shop at 27 Bloomingdale Ave., in the Village of Saranac Lake. According to PO Beebe's body worn camera (BWC) video, at 8:34:32 a.m. she arrived at the Stewart's Shop and Mr. Kavota was standing in front, by the door.



Still image from PO Beebe's BWC showing Mr. Kavota standing in front of the store when she arrived.

The following description is based on PO Beebe's BWC unless otherwise stated. At 8:34:40 a.m. PO Beebe got out of her car, approached Mr. Kavota and asked him, "What's up?" Mr. Kavota replied, "He assaulted me," and "He trespassed on my property." At 8:34:45 a.m. PO Beebe asked, "OK, where is the knife?" Mr. Kavota replied, "I can't give you that." PO Beebe said, "I need you to take it out of your pocket and give it to me and give it to me right now." Mr. Kavota replied, "I can't do that," and "It is my property." At 8:34:50 a.m. PO Beebe said, "Sir, I need you to take the knife out of your pocket," and Mr. Kavota replied, "It's my property." At 8:34:54 a.m. PO Beebe said, "Sir, I need you to take the knife out of your pocket." Mr. Kavota replied, "I would be careful what you [inaudible]." At 8:34:56 a.m. Mr. Kavota put his right hand in his right pocket and charged towards PO Beebe with a knife in his hand. At 8:34:58 a.m. PO Beebe tripped and fell backward as Mr. Kavota continued to charge toward her.

¹⁰ [SLPD Radio 1](#) & [SLPD Radio 2](#)

¹¹ OSI requested interviews with POs Beebe and Sharlow, which they refused through their attorneys. PO Beebe was equipped with a BWC (video linked below); PO Sharlow was not wearing a BWC.



Still image from PO Beebe's BWC showing Mr. Kavota charging toward her with a knife, circled in red.

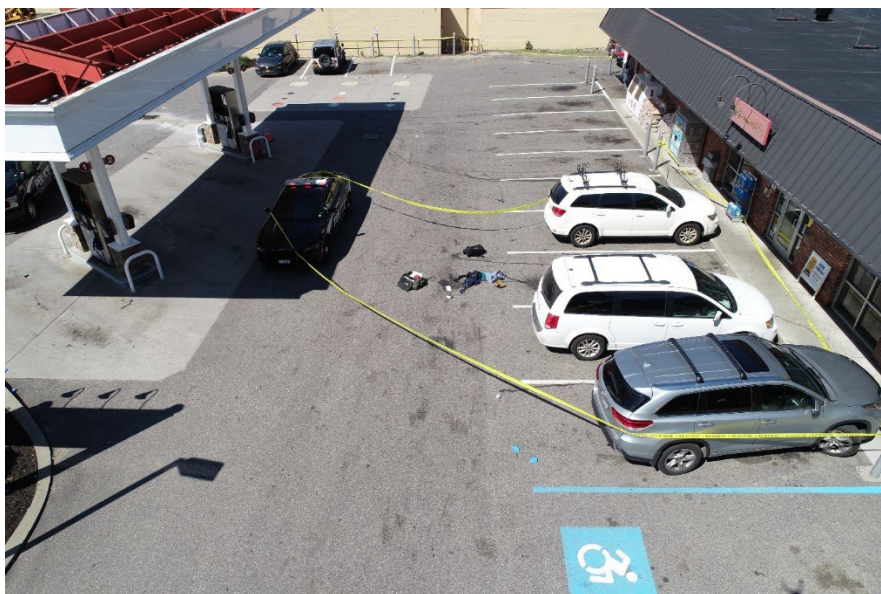


Still images from PO Beebe's BWC showing PO Beebe falling backward as Mr. Kavota continued to charge.

PO Beebe's BWC shows that at 8:35:00 a.m. PO Sharlow, who was behind and to the left of PO Beebe, fired two rounds at Mr. Kavota, who was leaning over PO Beebe, striking him and

causing him to fall to the ground.¹² Based on the SLPD Radio and BWC video, at 8:35:08 a.m. PO Sharlow radioed “shots fired, shots fired.” Based on the BWC, at 8:35:39 a.m. PO Beebe told PO Sharlow to “get the knife away from” PO Sharlow recovered the knife from the ground near Mr. Kavota at 8:35:42 a.m.

According to her BWC video, PO Beebe began life-saving measures on Mr. Kavota at 8:36:25 a.m. and asked nearby civilians for assistance. PO Beebe asked PO Sharlow where he hit Mr. Kavota, and he said Mr. Kavota was struck in the chest. PO Beebe radioed that Mr. Kavota was unconscious and not breathing. PO Beebe did chest compressions on Mr. Kavota until emergency medical services (EMS) arrived at 8:37:57 a.m. and took over his care. According to medical records, when EMS arrived they found that Mr. Kavota had no pulse and no respirations. EMS took Mr. Kavota to a hospital where, at 8:58 a.m., he was pronounced dead.



Overhead photo showing the crime scene at the Stewart's Shop.

Additional Civilian Witnesses

OSI and NYSP investigators interviewed a total of 16 civilian witnesses. In addition to P.W. and M.C., whose statements are summarized above, statements of four additional civilian witnesses are summarized below. The statements of the remaining civilian witnesses were consistent with these summaries.

D.T.

According to his statement to NYSP,¹³ D.T. works across from the Stewart's Shop and at 8:30

¹² [Video of shooting](#)

¹³ NYSP Investigator Paul Hill interviewed and took a statement from D.T. at 11:20 a.m. on June 29, 2022.

a.m. went to Stewart's to get breakfast. D.T. said he noticed a man with a limp go to Stewart's, and two men followed him. D.T. heard one of men say, "he's over there" and pointed in the direction of Stewart's. D.T. said two SLPD units came in "hot" to the Stewart's parking lot and the man was standing to the right of the entry door. D.T. said the female SLPD officer approached the man and the male SLPD officer got out of a truck and was right behind the female officer.

D.T. said the female officer told the man "to drop the knife," and the male officer was behind her. D.T. said the female officer repeated the command a couple of times and had her hand on her gun. D.T. said it looked like the man was "holding something," but he could not see what was in his hands; it appeared that the man had two hands near the center of his chest and was holding or hiding something. D.T. said the man abruptly charged toward the female officer, that she dropped to the ground or fell while trying to back up and was arched up in a defensive position. D.T. said the male officer had his gun drawn when the man started "charging," and when the man was standing over the female officer he heard two shots. After the two shots, D.T. saw the female officer pop up, draw her gun, and get into a defensive position. D.T. saw the male officer quickly grab a first aid kit from the back of his truck. Both officers began assisting the man, and another person stated chest compressions. The ambulance arrived quickly and loaded the man into the ambulance.

C.S.D.

According to his statement to NYSP,¹⁴ at 8:30 a.m. C.S.D. was in his car, near Stewart's Shop, and, as he made a right turn from Broadway to Bloomingdale Avenue, he saw a man with a knife. The man pointed the knife at an older man and woman. C.S.D. did not know any or the people or their names and said the man with the knife seemed "out of it"; he would take a step toward the older man and woman and the older man was pointing his finger at the man with the knife. C.S.D. could not hear any words that were said and could not see if anyone was injured. C.S.D. said that when he saw the man with the knife, he immediately called 911 to report it. C.S.D. said the knife looked like a pocketknife, not a hunting knife, and had a dark colored blade. As C.S.D. drove by the older man and woman got into a dark colored car and the man with the knife walked toward them. Once they were in the car, the man with the knife walked toward Stewart's Shop.

C.S.D. called 911 and told the dispatcher about the man with the knife and gave a description of what he was wearing and the confrontation with the older man. When C.S.D. was on the phone with 911 in his car, the man with the knife walked up to his car and asked for a cigarette. C.S.D. told the man "No" and rolled up his car window. C.S.D. said that man seemed

¹⁴ NYSP Investigator Michael Manor interviewed C.S.D. on June 29, 2022, at 10:53 a.m. at the NYSP Ray Brook station. OSI's interview of C.S.D. on July 22, 2022, was consistent with that statement.

like he was “out of it” and like he was under the influence of something.

C.S.D. pulled into the Stewart’s parking lot and told people in the parking lot that there was a man with a knife at the end of the street. C.S.D. parked his car and a female police officer arrived at the Stewart’s Shop. As C.S.D. was walking into the store, the man with the knife was in front of the store in the parking lot but he did not have the knife out. The female police officer approached the man with the knife and asked for the knife, and he said he couldn’t give it to her. The female police officer asked why, and he said that it was his personal property. C.S.D. said that the door closed behind him, and he could no longer hear what was said between the female officer and the man with the knife, but he could see the man standing in front of Stewart’s and the female officer standing in the parking lot. C.S.D. said the man took out the knife with his right hand and lunged at the female officer. C.S.D. said he believed the man hit the officer’s right torso with the knife; her gun was not out at that time. C.S.D. said that the female officer was either knocked back or jumped back; they both fell toward a car in the parking lot and then he heard two gunshots. C.S.D. saw the female officer with her gun pointed at the man with the knife as he fell to the ground in the parking lot. The man yelled and then was on his back. C.S.D. did not know where the man was shot and did not see any blood.

C.S.D. said the female officer put her gun away, checked the man for a pulse, and began CPR. C.S.D. saw a Stewart’s employees and a man help with CPR until the ambulance arrived. C.S.D. does not know any of the people by name. C.S.D. saw the man who had the knife get placed into an ambulance.

C.D.

According to his statement to NYSP,¹⁵ C.D. was driving through Saranac Lake and, at the intersection of Broadway and Bloomingdale Avenue, he saw a wallet in the road. C.D. stopped to pick up the wallet and a delivery truck driver came over to him and asked him for the wallet; the delivery truck driver was on the phone with 911 and said a man was just attacked where the wallet was in the road, and he pointed out the guy who attacked the man, and said he was pacing back and forth in front of the apartment building.

C.D. said that he thought the man had noticed him talking to the delivery driver and he walked away from them. C.D. said the man appeared disoriented; he was not walking in a straight line, waving his hands around, and talking to himself. C.D. and the delivery driver followed the man into the Stewart’s parking lot. C.D. said that he saw a female SLPD officer pull into the parking lot and then another SLPD car pull into the parking lot. C.D. tried to give the male officer the wallet and could see the female SLPD officer speaking to the man. C.D. heard the female

¹⁵ NYSP Investigator Kowalowski interviewed C.D. at 4:19 p.m. on June 29, 2022. OSI’s interview of C.D. on July 21, 2022 was consistent with that statement.

SLPD officer say, "Show me the knife," and the man said "No." C.D. said things happened quickly; someone yelled "No, no," and the man lunged at the female SLPD officer with a knife, and she went down backward. C.D. heard the male SLPD officer yell something and shoot at Mr. Kavota two times. After the gunshots, C.D. said the man with the knife stiffened up, spun around, and fell backward.

C.D. said the knife looked like a large steak knife; 8-10 inches long with a heavy blade and a wooden handle. C.D. said that right after the man was shot, both officers rendered aid, and an ambulance arrived quickly. C.D. said the man was mumbling for a little while but went unconscious, and the police officers started CPR.

E.M.

According to her statement to NYSP,¹⁶ E.M. was the manager at Stewart's Shop in Saranac Lake, and at 5:00 a.m. a male customer she knows, Mr. Kavota, came into the store, made a purchase and left. E.M. said Mr. Kavota always seems agitated but seemed more agitated today. At 7:30 a.m. Mr. Kavota came back to the store, and she told him he was not allowed on the property. Mr. Kavota did not say anything; he turned around and left the store. She continued to work the cash register. E.M. said she was outside the store with a DEC Officer concerning a gas spill and a woman came over and said, "there is a guy with a knife pushing people in the road." E.M. looked across the street and saw the person she was talking about. E.M. started walking back into the store and saw the man walking towards the Stewart's Shop so she pressed her pendant panic alarm to notify the police and told her co-workers to push their pendants as well. E.M. said there were numerous customers in the store at that time. She went back to her office, called SLPD, and told the 911 dispatcher that a man "was outside the shop and had a knife." E.M. hung up, went to the front door, and saw the man asking customers for a cigarette. He got a cigarette and stood by the front door but did not go inside. E.M. said she asked the customers in the shop to stay inside and that the police would be there soon.

E.M. said SLPD Officers Beebe and Sharlow arrived; the man was still in front of the store under a hanging flower basket. E.M. said Officer Beebe approached the man in the parking lot and told the man "to give her the knife." He said, "it was his personal property." E.M. saw the man immediately raise a knife up with his right hand, point the knife at PO Beebe, and lunge at her. The knife blade was three to four inches. E.M. heard PO Beebe scream and saw her fall to the ground while the man continued going toward PO Beebe with the knife. E.M. said, "there was no doubt in my mind he was going to stab PO Beebe." E.M. heard two gunshots and saw the man fall to the ground. She did not see who shot him, but she assumed that it was PO Sharlow. E.M. went outside; PO Beebe confirmed that the knife was away from the man and E.M. began helping, offering her black fleece jacket to apply ~~pressure to his chest. E.M. did~~

¹⁶ E. M. provided a statement to NYSP Investigator T. Connolly at 12:34 p.m. on June 29, 2022.

not see the wound or blood, but the officer was applying pressure to his upper right chest. PO Sharlow gave E.M. protective plastic gloves and she held the pressure on Mr. Kavota's chest. PO Sharlow began chest compressions and CPR. EMS arrived and she backed away to tend to the customers in the store and to make sure that her partners were okay. EMS transported Mr. Kavota away and more police arrived at the store.

Evidence Collection

Based on police reports, radio transmissions and NYSP reports and correspondence, NYSP Investigators responded and assumed control of the scene from the SLPD. Members of SLPD and NYSP set up a perimeter and managed the flow of traffic around the Stewart's Shop. Investigators conducted interviews with civilian witness and retrieved the videos from Stewart's Shop and other nearby businesses.

At the NYSP barracks in Ray Brook, NYSP Senior Investigator Brendan Frost photographed, documented and secured the duty equipment of Officers Sharlow and Beebe. He examined Officer Sharlow's Glock 17 model 9mm duty weapon, found that it had a capacity of one round in the chamber and 17 rounds in the magazine, and that it had one round in the chamber and fifteen rounds in the magazine, indicating that two shots had been fired; he found that Officer Sharlow's two additional magazines each contained the full seventeen rounds. Inv. Frost examined Officer Beebe's gun. It was the same model as Officer Sharlow's, with the same capacity, and he found that the gun and additional magazines had the full capacity of rounds, indicating that no shots had been fired.

At 1:00 p.m. that day Inv. Frost and NYSP Investigators Kyle Otis and Brett Smith processed the scene at the Stewart's Shop. Inv. Frost recovered two 9mm casings. NYSP also recovered a knife with a 4 1/2-inch blade, which was in the parking lot on the ground.



Picture of the knife recovered on the ground in the parking lot.

Medical Examiner

Dr. Michael Sikirica of Albany Medical Center conducted the autopsy of Mr. Kavota on June 30, 2022, at Glens Falls Hospital. OSI Det. John Pratt and NYSP Invs. Frost, Otis, and Trevor Giroux attended. Dr. Sikirica's final report said the cause of death was "severe bilateral hemothorax due to perforations of right lung, heart, and inferior vena cava due to gunshot wound of chest" and that the manner of death was "homicide." Dr. Sikirica recovered two projectiles from Mr. Kavota's body, which he gave to the NYSP investigators.

LEGAL ANALYSIS

Article 35 of the Penal Law defines the circumstances under which an individual is justified in using deadly force against another. Justification is a defense, not an affirmative defense, Penal Law Section (PL) 35.00. Unlike an affirmative defense, the people have the burden at trial of disproving a defense beyond a reasonable doubt, PL 25.00(1).

PL 35.30 defines justification when a police officer uses deadly force in making an arrest for an offense, as follows:

"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.”

Police officers using deadly physical force pursuant to PL 35.30 are under no duty to retreat, PL 35.15(2)(a)(ii).

The Court of Appeals, in *People v. Goetz*, 68 N.Y.2d 96, 114-115 (1986), said that “reasonable belief” has both subjective and objective components: the subjective component is satisfied if the person using force actually believed, “honestly and in good faith,” that deadly force was about to be used against that person or another, and that the use of deadly force was necessary to prevent or stop the danger; the objective component is satisfied if a “reasonable person” under the same circumstances could have held the same belief. See also *People v. Wesley*, 76 N.Y.2d 555 (1990).

“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(11). defines “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 of impairment of the function of any bodily organ,” PL 10.10(10).

OSI concludes that a prosecutor would not be able to disprove beyond a reasonable doubt that Officer Sharlow was justified in using deadly physical force against Mr. Kavota under PL 35.30. The investigation shows that Officers Sharlow and Beebe responded to 911 calls of a man with a knife who had just stabbed someone. Therefore, even before arriving at the Stewart’s Shop the officers had information that a man had committed the offense of Assault in the First or Second Degree, PL 120.10 or 120.05.¹⁷ This information was confirmed upon their arrival at the Stewart’s Shop when, as BWC footage shows, Officer Beebe asked Mr. Kavota for the knife and, instead putting the knife down, Mr. Kavota charged at Officer Beebe with the knife in his hand. At that point the officers had reasonable cause to arrest Mr. Kavota, and Officer Sharlow fired, reasonably using deadly physical force to prevent Mr. Kavota from using deadly physical

¹⁷ Subdivision 1 of PL 120.10, Assault in the First Degree, reads as follows: A person is guilty of assault in the first degree when: 1. With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument. Subdivisions 1 and 2 of PL 120.05, Assault in the Second Degree, read as follows: “A person is guilty of assault in the second degree when: 1. With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person; or 2. With intent to cause physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument.”

force against another. As a result, OSI will not seek charges and closes the matter with the issuance of this report.

Dated: September 22, 2023