



Office of the Bronx District Attorney

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Report of the Investigation into the Fatal Shooting of Kawaski Trawick

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Public Integrity Bureau

Bronx County District Attorney's
Report of the Investigation into the Shooting Death of
Kawaski Trawick

OVERVIEW OF INVESTIGATION

On April 14, 2019, at 11:08 p.m., Police Officer Brendan Thompson of the New York City Police Department shot Kawaski Trawick to death in his apartment at a supportive housing facility in the Bronx while responding to a complaint that Mr. Trawick had harassed the building's superintendent. Within minutes of the shooting, the New York City Police Department's ("NYPD") Force Investigation Division ("FID") notified the Bronx District Attorney's Office ("Office"), and within the hour, members of the Public Integrity Bureau responded to the scene and began interviewing witnesses. An Assistant District Attorney drafted and obtained a search warrant that night authorizing NYPD's Crime Scene Unit to search and photograph Mr. Trawick's apartment.

The Office conducted an in-depth investigation into the events of and leading up to April 14, 2019. The investigation consisted of, *inter alia*, the issuance of dozens of grand jury subpoenas, several applications submitted to the New York State Supreme Court, Bronx County, and numerous interviews of witnesses and relatives of Mr. Trawick, all in the interest of gathering relevant information and evidence. Relatedly, we have reviewed approximately 500 pages of documents, hundreds of photographs, and several hours' worth of video surveillance, body camera footage, and audio recordings.¹ The results of the investigation are contained herein.²

RESULTS OF INVESTIGATION – OVERVIEW³

¹ A composite video showing pertinent footage from body worn and surveillance cameras, and pertinent audio related to the incident, can be found here.

² Certain information obtained and analyzed as part of the Office's investigation has been omitted from this report as required by grand jury secrecy provisions, as noted herein (See *C.P.L. 190.25* [Grand Juries are secret proceedings]).

³ All times listed in this report are approximate.

- 10:29 p.m. A tenant who lived at Hill House⁴ called the building security desk and spoke to the security guard on duty that night (hereinafter “Security”) and complained that Mr. Trawick’s music was too loud and that Mr. Trawick was yelling. Security then called Mr. Trawick on the intercom, and told him to keep the noise down because his neighbors were complaining. Mr. Trawick refused to turn the music down. Eight minutes later, Mr. Trawick walked out of the building, carrying a large stick and a cell phone.
- 10:41 p.m. – Mr. Trawick came back inside the building, now carrying what appeared to be a knife. Video from the fourth floor hallway shows that Mr. Trawick went up to his door, searched through his coat pockets, then headed back downstairs.
- 10:43 p.m. – Mr. Trawick went down to the basement of the building and banged on the superintendent’s (hereinafter “the Super”) door, yelling at him to come up to his apartment to let him in, and threatening to punch him in the face.
- 10:44 p.m. – Security called 911 reporting that a tenant was “harassing” other tenants and the Super, and that Mr. Trawick had a stick.
- 10:47 p.m. – The radio dispatcher entered Security’s complaint in the NYPD computer-aided dispatch system as a “10-39H(1),” or “harassment.”
- 10:48 p.m. – Mr. Trawick entered the security area of the building and used the office phone to call 911, reporting that there was a fire in the building.
- 10:49 p.m. – The radio dispatcher assigned the 10-39(H)(1) job to unit 46 Response 4, comprised of P.O. Thompson and P.O. Herbert Davis. The dispatcher noted that this location was, in sum and substance, a sensitive location for an individual in a mental health crisis, commonly referred to by the police department as an emotionally disturbed person or an “EDP.”⁵
- 10:50 p.m. – FDNY dispatch assigned multiple FDNY units, including Ladder 59 and Engine 42, to respond to 1616 Grand Avenue in response to Mr. Trawick’s 911 call.
- 10:51 p.m. – The Super called 911, reporting that he was being threatened by a tenant. This information was added to the 10-39(H)(1) job on the computer-aided dispatch system.

⁴ Hill House is a supportive housing facility located at 1616 Grand Avenue in the Bronx. It is owned and operated by Services for the Underserved, a non-profit housing services provider. To be eligible for an apartment at Hill House, potential tenants must have been homeless for at least a year; must be financially stable, and in most cases employed; and must be compliant with taking their medication. Tenants are screened for these criteria in an interview process with SUS’s professional staff of social workers. *See* Services for the Underserved website (available at: <https://sus.org/our-services/low-income/>).

⁵ To the extent that the term “emotionally disturbed person” (commonly abbreviated as “EDP”) is used this report, it is a reflection of that term’s use in the NYPD Patrol Guide and in the case law of this state. Patrol Guide Section 221-13 defines “emotionally disturbed person” as “a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others.”

- 10:51 p.m. – Security called 911 again, telling the dispatcher that there was no fire, and that the tenant “has been losing his mind all day.” This information was added to the fire job.
- 10:53 p.m. – FDNY Engine 42 arrived at Hill House. Firefighters responded and saw Mr. Trawick standing outside holding a big stick.
- 10:55 p.m. – FDNY Ladder 59 truck arrived at Hill House. Shortly thereafter, P.O. Thompson and P.O. Davis arrived, but circled the block and waited nearly five minutes for the fire trucks to leave as they were blocking the street.
- 10:57 p.m. – Firefighters from Ladder 59 broke down Mr. Trawick’s apartment door, at his request, and went inside. They did not see a fire, the burners on the stove were not on, and it did not appear to them that Mr. Trawick had been cooking.
- 10:58 p.m. – The Super came to the lobby, and a program director from a neighboring facility arrived at Hill House to investigate the commotion.
- 10:58 p.m. – FDNY EMS ambulance 19A3 was assigned to respond to the scene of a fire at Hill House.
- 10:59 p.m. – Ladder 59 firefighters came downstairs, left the building, and got on their trucks. Ladder 59 firefighters saw Mr. Trawick come back outside of the building.
- 10:59 p.m. – NYPD dispatcher assigned 46 Response 5, comprised of two other 46th Precinct officers, to the “59”, or “fire” job.
- 11:00 p.m. – Mr. Trawick went back inside the building, went upstairs to his apartment, and closed the door.
- 11:01p.m. – P.O. Thompson and P.O. Davis reported their presence at 1616 Grand Avenue in the computer-aided dispatch system.
- 11:02 p.m. – P.O. Thompson and P.O. Davis entered Hill House and spoke to the Super and Security. Meanwhile, the two officers of unit 46 Response 5 arrived at 1616 Grand Avenue, saw another police car already there, and kept driving.
- 11:05 p.m. – EMS ambulance 19A3 arrived on scene.
- 11:06 p.m. – P.O. Davis and P.O. Thompson arrived at Mr. Trawick’s door on the fourth floor.
- 11:06 p.m. – P.O. Davis knocked on Mr. Trawick’s door, pushing slightly as he knocked, and the door opened.

- 11:06 p.m. – P.O. Thompson turned on his body-worn camera.⁶
- 11:06 p.m. to 11:07 p.m. – P.O. Davis stood in the doorway of Mr. Trawick’s apartment and P.O. Thompson stood in the hallway. In this period of time, Mr. Trawick was holding a knife and a stick in his hands and asked the officers why they were in his home. The officers asked a total of 19 times for Mr. Trawick to put the knife down and Mr. Trawick asked the police why they were in his home multiple times.
- 11:07 p.m. – After failing to comply with the command to drop the knife P.O. Thompson tasered Mr. Trawick.
- 11:08 p.m. – Five seconds after being tasered, the electrical current stopped from the taser and Mr. Trawick rose to his feet, knife and stick in his hands, and ran toward the officers, screaming “Get out, bitch, I’m gonna kill you all!”
- 11:08 p.m. – P.O. Thompson shot Mr. Trawick four times.
- 11:08 p.m. – P.O. Thompson radioed “shots fired.”
- 11:10 p.m. – EMTs begin providing Mr. Trawick care, but he was shot in the heart and was nearly instantly killed.

FACTUAL SUMMARY OF THE APRIL 14, 2019 SHOOTING OF KAWASKI TRAWICK

I. UNDERLYING EVENTS

On the evening on April 14, 2019, Security at Hill House, an employee of a private security provider, was working the 4 p.m. to 12 a.m. shift at the front desk that night.⁷ She had been a security guard for three or four years, and had been assigned to the building since January 2019.⁸ At 6:30 p.m., Security received a call from one of the Hill House social workers, who was not in the building that night. The social worker told Security that neighbors had been calling all evening

⁶ P.O. Davis did not have his body camera on him that night, in contravention of NYPD policy. He accidentally left his body-worn camera behind at the charging dock at the precinct during his meal hour earlier that shift. BXDA interview of P.O. Herbert Davis, 9/17/2019.

⁷ BXDA interview of Security 6/20/2019.

⁸ *Id.*; FID audio recording of interview with Security.

complaining that Mr. Trawick was bothering them.⁹ Security checked the cameras in the building, but did not see anything unusual, so she went upstairs to Mr. Trawick's apartment on the fourth floor.¹⁰ From outside his apartment, Security could hear Mr. Trawick yelling in his apartment, although he was apparently alone.¹¹ Security then returned downstairs to the desk.

At 10:29 p.m., a tenant called Security and complained that Mr. Trawick's music was too loud and that Mr. Trawick was yelling.¹² Security then called Mr. Trawick on the intercom and asked him to keep the noise down because his neighbors were complaining.¹³ According to Security, Mr. Trawick responded, in sum and substance, "I run this shit, don't tell me to keep it down. I'll slit someone's throat like the white man did."¹⁴ Eight minutes later, at 10:38 p.m., Mr. Trawick exited the building wearing underwear, boots, an unbuttoned, sleeveless trench coat, with no shirt underneath, and carrying a large stick and a cell phone.¹⁵ He headed down the street toward the corner of Grand Avenue and Macombs Road, by the Starhill facility, another supportive housing facility operated by SUS.¹⁶

At 10:41 p.m., Mr. Trawick returned to Hill House, now holding what appeared to be a knife as well as a stick in his hand.¹⁷ Video from the fourth floor hallway shows Mr. Trawick go to his apartment door, search through his coat pockets, then head back downstairs.¹⁸ Mr. Trawick went to the basement to the Super's apartment and began banging on his door, yelling at him to come up

⁹ BXDA interview of Security, 6/20/2019. Security had worked for the private security provider for three or four years. She did not carry a gun or a shield, but was required to keep a logbook on scene and sign in guests. She knew Mr. Trawick from her time working in the building. *Id.*

¹⁰ BXDA interview of Security, 6/20/2019. The building's elevators were broken at the time, and thus the stairs were the only means to access the upper floors.

¹¹ BXDA interview of Security, 6/20/2019.

¹² *Id.*; FID audio recording of interview with Security.

¹³ BXDA interview of Security, 6/20/2019.

¹⁴ *Id.*

¹⁵ *Id.*; Video file 20190415001755 at 00:00.

¹⁶ Video file 20190415004523.

¹⁷ BXDA interview of Security, 6/20/2019; Video file 20190415001755 at 00:26.

¹⁸ Video file 20190415002305.

and open his own apartment door on the fourth floor because he was locked out.¹⁹ The Super looked out of the peephole and saw Mr. Trawick holding a staff.²⁰ Video from the hallway shows that Mr. Trawick was outside of the Super's door, while carrying a stick and what appeared to be a knife in his hands. The video also shows Mr. Trawick banging on the Super's door, pacing back and forth, and gesticulating.²¹ The Super told Mr. Trawick that he wouldn't speak to him, and referred him to the note on the door directing tenants to contact the front desk if they need assistance.²² In response, Mr. Trawick tore the note off of the Super's door and told him, in sum and substance, "I will burn this motherfucker down and fuck you up."²³ Security observed these events over the building's security cameras and called 911 at 10:44 p.m. The conversation between Security and the 911 operator (hereinafter "OP1") is set forth below, in pertinent part²⁴:

OP1: New York City 911 do you need police, fire, or medical?

Security: Hi, yes, I have a tenant in the building who is harassing tenants and supers...

OP1: What's the address?

Security: Sixteen-sixteen Grand Avenue.

OP1: One-six, one-six Grand Avenue?

Security: Yes.

OP1: And what floor is the person on?

Security: Right now, he's in the basement banging on the super's door, but his apartment is 409 on the fourth floor.

OP1: 409...do you have a description of him in case he leaves?

¹⁹ Video file 20190415015121; BXDA interview of the Super, 5/28/2019.

²⁰ BXDA interview of the Super, 5/28/2019. In his 911 call that night, the Super said that he didn't know whether Mr. Trawick was armed. Super 911 call at 10:51 p.m.

²¹ Video file 20190415015121.

²² *Id.*; BXDA interview of the Super, 5/28/2019.

²³ BXDA interview of the Super, 5/28/2019; FID audio recording of interview of the Super, 4/14/2019.

²⁴ BXDA interview of Security, 6/20/2019; Security 911 call at 10:47 p.m.; Event Chronology: ICAD #D19041427694.

Security: Yes, he's short, bald, he has on a black, like robe, boxers, black boots, and a stick.

OP1: Okay. Nobody's injured, right?

Security: No. But hopefully none of these tenants open the door because he's banging on the door, I'm about to call the super now so that he knows not to open the door right now.

OP1: Okay. Alright. And, um...you're another tenant as well?

Security: No, I'm the security guard in the building.

At approximately 10:47 p.m., OP1, using the computer-aided dispatch system (hereinafter "CAD" or "ICAD"), created a new "job"—i.e., a description of a complaint along with an address—for police to respond to.²⁵ OP1 coded this job as a "10-39H(1)," which means "other crimes—harassment."²⁶ At approximately 10:49 p.m., dispatcher (hereinafter "D1") raised unit "46 Response Auto 4," comprised of P.O. Thompson and P.O. Davis.²⁷ D1 asked them, "can you please check on...the thirty-nine harassment, one-six-one-six Grand Avenue, states that tenant is harassing her, banging on the super's door."²⁸ P.O. Davis responded, "10-4."²⁹ D1 then added, "sensitive location for [unintelligible] EDP."³⁰ Neither P.O. Davis nor P.O. Thompson acknowledged this transmission

²⁵ Event Chronology: ICAD #D19041427694. CAD systems are used to classify and assign emergency responses geographically and by type of emergency using a code system which is publicly available online.

²⁶ Event Chronology: ICAD #D19041427694. Police officers are able to both receive radio transmissions containing information from the 911 operator and dispatcher, as well view the CAD information on a computer screen in their vehicles. So a police officer being assigned this job would have been able to see that it was a harassment complaint at 1616 Grand Avenue and seen the following description (reprinted verbatim): TENANT HARRASSING OTHER NEIGHBORS & BANGING ON THE SUPER DOOR —MLE SHORT BALD HEAD WRNG A BLK ROBE & BOOTS—CURRENTLY IN THE BASEMENT BANGING ON THE DOOR WITH A STICK —NO INJS —FC IS THE SECUIRTY OF THE BUILDING. *Id.*

²⁷ Event Chronology: ICAD #D19041427694; NYPD Resource Recap Report.

²⁸ Radio Run 4/14/2019 at 00:00.

²⁹ *Id.*

³⁰ *Id.* The dispatcher was reading from a pop-up message that appeared on the dispatcher's CAD screen after she entered the address into the computer, which stated: "This location may have an EDP, dispatch a supervisor." EDP Warning Message, 1616 Grand Avenue. This message attaches to an address for one year after a "54, EDP" job is recorded there and the police response to the job results in either an arrest, the preparation of a domestic incident report, or an emotionally disturbed person being "removed to hospital." On subsequent calls to such a location during the following year, a pop-up message will appear on the dispatcher's computer screen instructing the dispatcher to read a warning concerning the location. Dispatchers are required to read this message, along with various other messages and information about the job, when assigning police officers to respond to jobs involving "persons displaying signs of

over the radio.³¹ When the officers received this job at approximately 10:49 p.m., they were in the vicinity of 2030 Ryer Avenue in the Bronx, an approximately eight-minute drive from 1616 Grand Avenue.³²

At approximately 10:48 p.m., Mr. Trawick entered the security desk area and used the phone to call 911.³³ Mr. Trawick, a 911 operator (hereinafter “OP2”), and a FDNY Operator had a conversation, as set forth below, in pertinent part³⁴:

OP2: New York City 911 do you need police, fire, or medical?

Mr. Trawick: Hello?

OP2: This is 911, do you need police, fire, or medical?

Mr. Trawick: You said fire or medical?

OP2: Police, the fire department, or EMS.

Mr. Trawick: You’re supposed to say, “What’s the emergency?”

OP2: No, um...do you need? Do you need either one of those?

Mr. Trawick: It’s “What’s the emergency?” The emergency is, I’m having a problem with someone who’s trying to attack me in my building, and I need them to come over. I’m safe, but I need the keys to get into my home. And the super, for some reason, is busy.

OP2: What’s the address?

Mr. Trawick: Excuse me?

OP2: What is the address?

Mr. Trawick: Sixteen-sixteen Grand Avenue. Uh, yea, call the—

OP2: One-six, one-six Grand Avenue?

being emotionally disturbed” in order to “assist responders in handling the situation properly.” Radio Dispatcher Guide: Specific Incident Procedure 431.

³¹ *Id.*

³² P.O. Davis Memo Book; AVL car #4274-17.

³³ BXDA interview of Security, 6/20/2019.

³⁴ Trawick 911 call at 10:48 p.m.

Mr. Trawick: Yes, call the fire department.

OP2: You need the fire department?

Mr. Trawick: Yes.

OP2: Okay, hold on for the fire department.

Mr. Trawick: Thanks.

...

FDNY Operator: What's the address of the fire emergency?

Mr. Trawick: Yes, I have a fire at sixteen-sixteen Grand Avenue.

FDNY Operator: What's the address? One-six, one-six Grand Avenue?

Mr. Trawick: Yes.

FDNY Operator: What streets or avenue is that in between?

Mr. Trawick: I don't know, you should know. If you don't hurry up we're gonna burn down.

FDNY Operator: Alright it's one-six, one-six Grand Avenue? What's the fire emergency there?

Mr. Trawick: The building's on fire.

Security (in background): Kawaski...

Mr. Trawick: What do you mean, "what's the fire emergency?"

FDNY Operator: What apartment or floor?

Mr. Trawick: Hurry up, sir. It doesn't matter, if the building's on fire we'd be dead by now, my goodness.

FDNY Operator: The fire department will respond, what apartment or floor is the fire?

Mr. Trawick: It doesn't matter, get here.

FDNY Operator: Okay, what type of building is that, apartment building?

Security (in background): Alright, Kawaski [unintelligible]...

Mr. Trawick: Yes.

OP2: Sir, sir—

FDNY Operator: What type of building is that?

OP2: Sir, we need to know what apartment you're in.

Mr. Trawick: Honey, if the building's on fire why would I give you the address, and you'll know what apartment by getting here in a hurry! Do you know what an emergency is?

OP2: We do know what an emergency is, but in order for the fire department to respond to make sure that your safe, we need to know what apartment you're in—

Mr. Trawick: We'll be dead, bitch!

In response to Mr. Trawick's call, OP2 created a new event in the CAD system, this one for a report of a fire at 1616 Grand Avenue.³⁵ This job was categorized as a “59” or “fire,” and assigned to unit 46 Response 5.³⁶ In the ICAD system, this job was separate and distinct from the “harassment” job created earlier, such that a police officer viewing either job on the computer screen in the police vehicle would not necessarily see the other, although that police officer would be able to hear a brief description of the complaint as well as the job being assigned over the radio.

At approximately 10:48 p.m., the Super called 911 and had the following conversation with a 911 operator (hereinafter “OP3”):³⁷

OP3: New York City 911 do you need police, fire, or medical?

Super: It's not fire or medical, I feel threatened, okay? I'm the superintendent at sixteen-sixteen Grand Avenue.

³⁵ Event Chronology: ICAD #D19041427750.

³⁶ *Id.*

³⁷ Super 911 call at 10:51 p.m.

OP3: And what is the emergency, sir?

Super: I'm being threatened by a tenant. I'm the superintendent of the building and I'm being threatened by a tenant right now.

OP3: Any weapons?

Super: Excuse me?

OP3: The tenant has a weapon?

Super: I don't know what he has, he said he will punch me in my face, he said, "I will knock you out." He wants to get in his apartment, I told him, "You're not supposed to knock on my door, you're supposed to go to the house manager or the security and tell them whatever your problem is, never to knock on my door"—

OP3: What apartment is he in?

Super: He's in 409. He locked himself out of his apartment, he said, "Motherfucker, I will punch you in your face."

OP3: What is he, black, white, Hispanic?

Super: He's black.

OP3: What is he wearing?

Super: I don't know, I didn't open my door.

Super: This is not the first complaint I've had with him, okay?

OP3: Okay, well sir, that information is in the system, assistance will be there as soon as possible....

Super: Okay, thank you. Please have them call me, I will—hello?

Super: ...[O]ur building is one of their bathroom stops, okay? When they have to use the bathroom.... They're familiar with our building and with him, okay?

OP3: Okay then, assistance will be there as soon as possible...

OP3 merged this complaint into the ICAD job for a harassment created earlier by OP1 in response to Security's 911 call.³⁸

At approximately 10:51 p.m., almost immediately after Mr. Trawick's call ended, Security called 911 and had a conversation with yet another 911 operator (hereinafter "OP4"), which is set forth below, in pertinent part:³⁹

OP4: New York City 911 do you need police, fire, or medical?

Security: Um, yes, I need the police officers to come please, but the tenant just called, like he ran, he's losing his mind, in the building, I called already, but he just called trying to say that there's a fire, there's no fire in the building at sixteen-sixteen Grand Avenue.

Security: There's no fire he's losing his mind, I already called before he called, and asked for police to come get him because he's threatening tenants and banging on doors and everything.

OP4: Alright. Does he have a mental history?

Security: Um, not that I know of.

OP4: Alright, he doesn't have a mental history, but what is he doing now?

Security: He just ran out the building, but before that he was banging on doors with a stick, a big wooden stick, he barely has on any clothes, yelling, screaming at tenants, and I'm getting crazy calls, like every minute.

³⁸ Event Chronology: ICAD #D19041427694. The operator transcribed that complaint into the following message for display on the ICAD computer screen: ANOTHER CALL -MCSUPER-APT [redacted]-BSM-STS TT IN APT 409 - KNOCKED ON DOOR THREATENED TO PUNCH HIM IN THE FACE -MC BLACK-CB [redacted]. *Id.*

³⁹ BXDA interview of Security, 6/20/2019; Security 911 call at 10:51 p.m.; Event Chronology: ICAD #D19041427750. Security was mistaken when she stated the police were there—the fire department was there, but police would not arrive in the building for another approximately 8 minutes. Video file 20190414235400 at 00:58.

OP4: Alright, do you know where he's at now?

Security: He ran out the building, he should be running right back soon, because he did it already.

OP4: Alright, um, I'm sending the police to where, sixteen-sixteen?

Security: Yes, Grand Avenue.

OP4: Alright. I'm sorry?

Security: He called the fire department here and it's not a fire.

OP4: What kind of place is this?

Security: It's assisted living, I believe?

OP4: Oh okay. Alright, assisted living, okay. So, now you want an ambulance for him?

Security: Yea he might need an ambulance, to be honest, yes, he might. But he called the fire department, so they're already coming, I hear them now.

OP4: I understand that, ma'am. Do you need an ambulance for him?

Security: I believe so, because I think he might be intoxicated with something, because he's been losing his mind all day.

OP4: What floor—between what two streets is this?

Security: I believe this is 147 and Grand...I mean 174 and Grand, I'm sorry.

OP4: It's Macombs Road and 147? What floor is this on?

Security: He's on four, fourth floor, 409.

OP4: 409 on the fourth floor?

Security: Yes.

OP4: How old is he?

Security: He might be in his mid-20s, late-20s, early-30s. The police are already here and the fire department.

OP4: The police are there?

Security: Yes.

OP4: Okay.

Security: Okay, thank you.

This complaint was added to the fire job under ICAD #D19041427750, and not under ICAD #D19041427694, such that 46 Response 4 would not see this information on the ICAD screen unless they sought it out in the CAD system.⁴⁰ Moments after this call ended, firefighters from Engine 42 walked into Hill House.

II. FDNY RESPONSE

At approximately 10:50 p.m., several units from the FDNY were assigned to respond to 1616 Grand Avenue.⁴¹ Engine 42 arrived first, at approximately 10:53 p.m.⁴² When Engine 42 arrived, Mr. Trawick was standing on the corner of Grand Avenue and Macombs Road down the street from Hill House, wearing a trench coat and boxer briefs and holding a big stick.⁴³ As Lieutenant Niambi Dukette of Engine 42 entered the building, he noticed Mr. Trawick walking down the street toward the building.⁴⁴ Mr. Trawick entered the building at the same time, 10:53 p.m., and began to lead Lt. Dukette toward the stairs, telling him and the other firefighters on the scene that his apartment was on fire.⁴⁵

⁴⁰ *Id.* Event Chronology: ICAD #D19041427694. The operator transcribed that complaint into the following message for display on the ICAD computer screen (reprinted verbatim): ANOTHER CALL FC STS ML CALLD FIRE DEPT AND THERE IS NO FIRE FC STS TT IS LOSING HIS MIND. ML WAS BANGING ON DOOR WITH A WOODEN STAIRS AND THREATENING STAFF — AND HE CALLED THE FIRE DEPT AND THERE IS NO FIRE. FC STS NEED AMBULANCE ML INTOX WITH SOMETHING ELSE BECAUSE BEEN LOSSING MIND ALL DAY. ML ON 4 FLR RM 409 AIDE ML LATE 20S EARLY 30 — FC STS POLICE IS AT LOC. *Id.*

⁴¹ BXDA interviews with FDNY personnel, 5/10/2019.

⁴² *Id.*

⁴³ *Id.*; BXDA interview of Lt. Niambi Dukette, 6/7/2019.

⁴⁴ BXDA interview of Lt. Niambi Dukette, 6/7/2019.

⁴⁵ *Id.*

Before Mr. Trawick could lead Lt. Dukette up the stairs, Security walked out of the office into the lobby and spoke to Lt. Dukette, telling him that there is no fire, and that Mr. Trawick was just “acting crazy.”⁴⁶ Lt. Dukette questioned Mr. Trawick about the alleged fire, and Mr. Trawick told him that he was locked out and there was food on the stove but the super wouldn’t let him in so he’d need them to break down his door.⁴⁷ Lt. Dukette assessed that there was no imminent danger and walked out of the building, where he greeted firefighters from Ladder 59, who had arrived at 10:55 p.m.⁴⁸

On the way to Hill House, the firefighters in Ladder 59 heard Lt. Dukette from Engine 42 put over on the radio, in sum and substance, “sounds like he’s just locked out.”⁴⁹ At approximately 10:55 p.m., Ladder 59 pulled up at 1616 Grand Avenue.⁵⁰ Mr. Trawick met them in the lobby.⁵¹ FDNY Captain Thomas Moore of Ladder 59 asked Mr. Trawick what was going on, what floor his apartment was on, and what his apartment number was.⁵² Captain Moore said that Mr. Trawick did not respond, but was acting in a loud, agitated manner, cursing at the superintendent and yelling about being locked out, about the super not having the key, and about having food on the stove.⁵³ The firefighters followed Mr. Trawick up the stairs to his apartment.⁵⁴

Once outside of the door of Mr. Trawick’s apartment, none of the firefighters that we spoke to reported smelling anything cooking or burning. One of the firefighters gained access to the apartment by forcibly opening the door.⁵⁵ The firefighter observed a pan on the stove, but stated

⁴⁶ *Id.* According to Security, Mr. Trawick never told Security that he was locked out. BXDA interview with Security, 6/20/2019.

⁴⁷ BXDA interview of Lt. Niambi Dukette, 6/7/2019.

⁴⁸ *Id.*

⁴⁹ BXDA interview of Captain Thomas Moore, 5/10/2019.

⁵⁰ BXDA interviews with FDNY personnel 5/10/2019.

⁵¹ BXDA interview with Firefighter Pat Concannon, 5/10/2019.

⁵² BXDA interview with Captain Thomas Moore, 5/10/2019.

⁵³ *Id.*

⁵⁴ Video file 20190414235400 at 02:20; Video file 20190415002350 at 00:00.

⁵⁵ BXDA interviews with FDNY personnel, 5/10/2019.

that it was not hot to the touch, and the burners were not on; he also saw a clothing hanger on the stovetop.⁵⁶

He asked Mr. Trawick his name, and Mr. Trawick responded, “You can call me ‘K,’ or ‘Jesus.’”⁵⁷ Captain Moore checked Mr. Trawick’s door to make sure it could close after the damage caused by its forcible opening, and found that that it could close but that the locking mechanism did not engage.⁵⁸ Mr. Trawick’s demeanor immediately changed once the door was opened;⁵⁹ he went from agitated to ecstatic, thanking the FDNY and fist-bumping the firefighters.⁶⁰

At approximately 10:58 p.m., the Super came up to the lobby just as the Program Director at Starhill, SUS’s facility down the street, arrived at Hill House to investigate the commotion.⁶¹

At 10:59 p.m., the Ladder 59 firefighters exited the building and while seated in the truck preparing to leave, Captain Thomas Moore saw Mr. Trawick outside, standing under the building’s awning.⁶² At approximately 11:00 p.m., Mr. Trawick walked back through the lobby and up the stairs to his apartment.⁶³ On his way back through the lobby, Mr. Trawick walked past the Super, Security, and the Starhill Program Director, but did not speak with or otherwise engage with them in any way.⁶⁴ All of the fire trucks left the block by 11:05 p.m.⁶⁵

III. NYPD Response

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Video file 20190414235400 at 04:21; BXDA interview of Starhill Program Director, 5/28/2019.

⁶² Video file 20190414235400 at 05:30; BXDA interview of Captain Thomas Moore, 5/10/2019.

⁶³ Video file 20190414235400 at 05:19.

⁶⁴ Video file 20190415001101 at 00:19.

⁶⁵ BXDA interviews with firefighters 5/10/2019. In total, six fire trucks and a battalion chief in an SUV responded to 1616 Grand Avenue and then cleared out once there turned out to be no emergency. *Id.*

P.O. Davis joined the police department in July 2003, and, at the time of the incident, had spent his entire 16-year career at the 46th Precinct.⁶⁶ P.O. Davis received Crisis Intervention Training (“CIT”) three days prior to this incident.⁶⁷ P.O. Thompson joined the NYPD in October 2015, and had also spent his entire career at the 46th Precinct.⁶⁸ He received CIT in April 2016 in the police academy, and was out patrolling the 46 Precinct later that month.⁶⁹ He and P.O. Davis had been steady partners for four months at the time of the incident.⁷⁰ Neither P.O. Davis nor P.O. Thompson had previously discharged their firearms in the line of duty.

On the evening of April 14, 2019, P.O. Thompson was driving during their 4 p.m. to 12 a.m. shift, leaving P.O. Davis to operate the radio and communicate with dispatch.⁷¹ The two had responded to several jobs that night, including another call for a harassment.⁷²

According to P.O. Thompson, as they drove to 1616 Grand Avenue, they did not discuss the radio run or the location of the job.⁷³ P.O. Davis was familiar with Hill House, having responded to the location previously over the years, and believed it provided housing for people with mental illnesses.⁷⁴ P.O. Thompson was not familiar with and could not recall ever having responded to Hill House before that night.⁷⁵ P.O. Thompson said that he did not hear an EDP warning from the dispatcher—neither when the “39” was assigned to their unit, nor when the “59” was assigned to unit

⁶⁶ PEPR: P.O. Herbert Davis; BXDA interview of P.O. Herbert Davis, 9/17/2019.

⁶⁷ PEPR: P.O. Herbert Davis. CIT is mandatory four day training designed to teach officers how to respond to and communicate with “emotionally disturbed persons,” including how to “realistically de-escalate crisis situations.” NYPD, Crisis Intervention Team Training Program (available at: <https://www1.nyc.gov/site/nypd/bureaus/administrative/training-specialized.page#cit>); as of April 3, 2019, around one-third of police officers in the NYPD had received CIT training. “Don’t pretend every cop can play social worker,” NY Post, April 3, 2019 (available at: <https://nypost.com/2019/04/03/dont-pretend-every-cop-can-play-social-worker/>)

⁶⁸ PEPR: P.O. Brendan Thompson; BXDA interview of P.O. Brendan Thompson, 9/17/2019.

⁶⁹ PEPR: P.O. Brendan Thompson.

⁷⁰ BXDA interview of P.O. Herbert Davis, 9/17/2019.

⁷¹ *Id.*

⁷² NYPD Resource Recap Report.

⁷³ BXDA interview of P.O. Brendan Thompson, 9/17/2019.

⁷⁴ *Id.*

⁷⁵ BXDA interview of P.O. Brendan Thompson, 9/17/2019.

46 Response 5 approximately 10 minutes later.⁷⁶ Neither P.O. Thompson nor P.O. Davis used their NYPD-issued cellular telephones to access the Domain Awareness System (“DAS”) and retrieve more information on the location.⁷⁷ According to P.O. Thompson, upon dispatch, he had no reason to believe this job involved a person having a mental health crisis—it did not come over as a “54-EDP.”⁷⁸

Sometime between approximately 10:55 p.m. and approximately 11:01 p.m., P.O. Davis and P.O. Thompson arrived at the intersection of Grand Avenue and Macombs Road, in the vicinity of Hill House, but had to wait approximately five minutes for the fire department trucks to leave the area before they parked in front of Hill House.⁷⁹ At approximately 11:02 p.m., P.O. Davis walked into the building, followed by P.O. Thompson.⁸⁰ P.O. Davis recalled that the Super greeted them, and told them that Mr. Trawick tried to punch him in the face and had a stick and a knife.⁸¹ P.O. Thompson recalled speaking to the Super and to Security, and recalled that the Super had told him

⁷⁶ *Id.* At 10:59 p.m., dispatch assigned unit 46 Response 5, composed of Police Officer Adam Morales and Police Officer Cory Bowles, to the fire job at 1616 Grand Avenue. CAD Event Chronology D19041427750. Dispatch raised them and asked, “Can you please check and advise on this 59 residential fire, one-six-one-six Grand Avenue, it’s only one call in regards, FD has been notified, unknown which floor,” and then told them “sensitive location for premises [unintelligible] EDP,” along with other logistical information about the building, such as “responding to fire incidents you must use the stairs.” Radio Run 4/14/2019 at 11:45.

⁷⁷ *Id.*; BXDA interview of P.O. Herbert Davis, 9/17/2019. DAS “is a crime-fighting and counterterrorism tool, jointly developed by the NYPD and Microsoft, which utilizes the largest networks of cameras, license plate readers, and radiological sensors in the world.” “Technology” webpage, NYPD website (available at: <https://www1.nyc.gov/site/nypd/about/about-nypd/equipment-tech/technology.page>). DAS integrates numerous databases and collects information on individuals, such that an officer can look up a citizen’s name and immediately get their arrest history, DMV history, and much more.

⁷⁸ BXDA interview of P.O. Brendan Thompson, 9/17/2019. If the 911 operator deemed the subject of the complaint to be an emotionally disturbed person, the operator could have entered the job not as a “harassment” but as an “EDP,” the code for which is “54.” This would have triggered a specific response as mandated by the NYPD Patrol Guide, including that a supervisor respond to the scene, discussed *infra*.

⁷⁹ BXDA interview of P.O. Brendan Thompson, 9/17/2019; 46 OIS RMP Overview (AVL). P.O. Davis and P.O. Thompson did not speak to FDNY or exchange any information with FDNY that night. BXDA interview of P.O. Herbert Davis, 9/17/2019.

⁸⁰ Video file 20190414235400 at 09:06.

⁸¹ BXDA interview of P.O. Herbert Davis, 9/17/2019.

that Mr. Trawick had a stick and had come to his door and threatened him, and that Security told them that she had called 911 and that the man had been acting out.⁸²

Security said that P.O. Davis asked her whether Mr. Trawick had substance abuse or mental health issues; Security indicated that she was not privy to that information in her role as a security guard.⁸³ P.O. Davis, based on what he learned from Security and the Super, suspected that Mr. Trawick may be under the influence of an unknown substance and may have to be taken to the hospital.⁸⁴ The Super led the two officers up the stairs to the fourth floor, with the Starhill Program Director trailing behind them.⁸⁵ The two officers did not speak to one another on the way to the apartment.⁸⁶

IV. CONFRONTATION AT MR. TRAWICK'S APARTMENT

When they reached the fourth floor, the Starhill Program Director and the Super stopped in the stairwell while P.O. Davis and P.O. Thompson walked down the hallway to Mr. Trawick's door.⁸⁷ Both officers described hearing loud music coming from Mr. Trawick's door.⁸⁸ P.O. Davis said that when he knocked on the door, he heard the volume of the music increase.⁸⁹ P.O. Thompson's body camera footage begins as the officers are standing outside the door.⁹⁰

⁸² BXDA interview of P.O. Brendan Thompson, 9/17/2019.

⁸³ BXDA interview of Security, 6/20/2019.

⁸⁴ BXDA interview of P.O. Herbert Davis, 9/17/2019.

⁸⁵ Video file 20190414235400 at 11:12.

⁸⁶ BXDA interview of P.O. Brendan Thompson, 9/17/2019; Patrol Guide interview of P.O. Brendan Thompson, 12/5/2019.

⁸⁷ BXDA interview with Starhill Program Director, 5/28/2019.

⁸⁸ BXDA interview of P.O. Brendan Thompson, 9/17/2019; BXDA interview of P.O. Herbert Davis, 9/17/2019.

⁸⁹ Patrol Guide interview of Police Officer Herbert Davis, 4/15/2019.

⁹⁰ P.O. Davis did not have his body camera on him that night, in contravention of NYPD policy. *See* Patrol Guide Section 212-123. P.O. Thompson's body camera was an LE4 model made by the company Viewu. *See generally* "NYPD Completes Rollout of Body-Worn Cameras to All Officers on Patrol," NYPD Website, March 6, 2019 (available at: <https://www1.nyc.gov/site/nypd/news/pr0306/nypd-completes-rollout-body-worn-cameras-all-officers-patrol#/0>). While in the off position, this body camera constantly records and overwrites video footage, storing 30 seconds of footage with no audio prior to being turned on. *See* "New York to Pick Start-Up Over the Industry Leader for Police Body Cameras," New York Times, October 12, 2016, available at: <https://www.nytimes.com/2016/10/13/nyregion/new-york-police-body-cameras.html>). Once turned on, the camera records both video footage and audio. *Id.* Once plugged in back at the

While standing in the hallway, both officers began to put on gloves.⁹¹ At approximately 11:06 p.m., P.O. Davis knocked on Mr. Trawick's door, then backed up a step and finished putting on his gloves.⁹² About fifteen seconds later, P.O. Davis again stepped forward toward the door and knocked on it, this time more forcefully.⁹³ The door, which was partially secured by a chain that hung between it and Mr. Trawick's closet door, opened approximately 20-degrees as a result of P.O. Davis's knocking.⁹⁴ P.O. Davis reached out and pushed the door further open, while peeking inside and removing his telescoping baton from his belt.⁹⁵ P.O. Davis swung the door open, which made the chain fall to the floor, fully extended his baton down at his right side, and stood in the threshold of the doorway to Mr. Trawick's apartment.⁹⁶

The open door revealed Mr. Trawick standing in his boxer-short underwear, tall leather boots, and a beanie cap, with his left arm outstretched in a blocking gesture, and his right arm holding a wooden stick at his side.⁹⁷ The officers had a brief conversation with Mr. Trawick before the body-worn camera's audio recording activated, during which Mr. Trawick asked the officers why they were there.⁹⁸

Almost immediately after P.O. Davis extended his baton and positioned himself in the doorway, but before he could finish putting on his left glove (which he eventually dropped to the ground) P.O. Thompson reached with his left hand to his left side and removed his taser from its

stationhouse where body-worn cameras are stored, the video footage of the incident is available along with the 30 seconds of video, without audio, immediately prior to the device being turned on. *Id.*

⁹¹ Video file 20190414234512 at 01:08.

⁹² *Id.*; BXDA interview of Starhill Program Director, 5/28/2019; BXDA interview of P.O. Herbert Davis, 9/17/2019.

⁹³ *Id.* P.O. Thompson Body-worn Camera ("BWC") at 00:11.

⁹⁴ BWC at 00:15; BXDA interview of P.O. Herbert Davis, 9/17/2019.

⁹⁵ Video file 20190414234512 at 01:17.

⁹⁶ BWC at 00:20.

⁹⁷ BWC at 00:26.

⁹⁸ BXDA interview of P.O. Herbert Davis, 9/17/2019.

holster.⁹⁹ He then tapped on P.O. Davis's right shoulder with his right hand while holding his taser in his left hand.¹⁰⁰ P.O. Davis did not move from his position in the doorframe, and reached for his own taser.¹⁰¹ At that point, P.O. Thompson activated his body-worn camera.¹⁰²

As the audio recording commenced it captured music, along with Mr. Trawick standing in his apartment about seven feet from the door, asking, "Why are you in my home?"¹⁰³ P.O. Davis responded, "Put it down "¹⁰⁴ With P.O. Davis still standing in the doorway, P.O. Thompson pointed his taser over P.O. Davis's shoulder, placing the targeting laser dot on Mr. Trawick.¹⁰⁵ Then, in an aside to P.O. Thompson, P.O. Davis said, "We ain't gonna' tase him."¹⁰⁶ Mr. Trawick asked again, "Why are you in my home?"¹⁰⁷ P.O. Davis said again, "Put it down," while banging the end of his baton against the door to close the baton.¹⁰⁸

Mr. Trawick turned his back to the officers and walked away from them into his apartment to a radio near his kitchenette, where he turned off the music.¹⁰⁹ Mr. Trawick then turned back around toward the officers and walked toward them, again asking, "Why are you in my home? Why are you in my home?"¹¹⁰ Mr. Trawick switched the wooden stick into his left hand, and held up a knife with a black handle and an eight-inch serrated blade in his right hand.¹¹¹ P.O. Thompson then

⁹⁹ Video file 20190414234512 at 01:21. P.O. Thompson's taser was a X26P made by Taser. *See* P.O. Thompson Taser Report. This taser has two capabilities; one that functions like a traditional stun gun called the "drive-stun" function, and another that utilizes a cartridge that shoots out two "probes"—small dart-like projectiles designed to spread apart mid-air and stick in the target's body on impact—between which an electrical current is passed. This current results in a rapid and involuntary stimulation of the nerves and muscles between the two prongs, achieving "neuro-muscular incapacitation," thus causing the target to lose control of major stabilizing muscles for approximately five-seconds. Taser X26P User Manual at 6.

¹⁰⁰ Video file 20190414234512 at 01:23.

¹⁰¹ Video file 20190414234512 at 01:25.

¹⁰² BWC at 00:29; Video file 20190414234512 at 01:30.

¹⁰³ BWC at 00:30; NYPD CSU Crime Scene Sketch Run #19/152.

¹⁰⁴ BWC at 00:30.

¹⁰⁵ *Id.*

¹⁰⁶ BWC at 00:31.

¹⁰⁷ *Id.* at 00:34.

¹⁰⁸ *Id.* at 00:36.

¹⁰⁹ *Id.* at 00:40.

¹¹⁰ *Id.*

¹¹¹ *Id.*; Crime Scene Unit photograph 1555339393473_dsc_7620.jpg.

said, “Oh, he’s got a knife.”¹¹² Mr. Trawick then said, “I have a knife because I’m cooking.”¹¹³ P.O. Davis responded to P.O. Thompson, “Yea, I know” and reached behind and gestured at P.O. Thompson while saying “Don’t, don’t, don’t,” before returning his attention back to Mr. Trawick and repeating, “Put the knife down.”¹¹⁴ P.O. Thompson, still standing behind P.O. Davis, holstered his taser, unholstered his handgun, a 9mm semi-automatic Glock 19, and pointed his handgun over P.O. Davis’s shoulder at Mr. Trawick.¹¹⁵ As P.O. Thompson had his handgun pointed at Mr. Trawick, P.O. Davis pointed his taser at Mr. Trawick, flitting the red targeting dot across Mr. Trawick’s chest and head and causing Mr. Trawick to move his head back and away, and to wave his hand in front of his face.¹¹⁶ Mr. Trawick moved his head away from the red laser while gesticulating with the stick and the knife, saying “I’m cooking!”¹¹⁷

While P.O. Davis stood in the doorway, taser drawn and pointed at Mr. Trawick and repeating commands to “Put the knife down,” Mr. Trawick said “I just called the fire department because I got locked out of my home.”¹¹⁸ Then the officers and Mr. Trawick had the following exchange:

P.O. Davis: Put the knife down.

Mr. Trawick: I brought the fire department, have already been here.

P.O. Davis: Put the knife down.

Mr. Trawick: Why did you just kick in my door?

P.O. Davis: The door was open with the chain, I knocked on the door, put the knife down on the counter.

¹¹² BWC at 00:43.

¹¹³ *Id.*

¹¹⁴ BWC at 00:46.

¹¹⁵ *Id.*

¹¹⁶ *Id.* According to a master taser instructor at NYPD consulted by this Office, officers are trained to shine the targeting dot on the target in a fashion that will convey to the target that they are about to be tased and induce them to comply.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

Mr. Trawick: Excuse me?
P.O. Thompson: My man, drop the knife.
Mr. Trawick: Why-why is my door...yes...
P.O. Thompson: Drop the knife.

P.O. Davis, who had his arm across the doorway at chest level, turned to P.O. Thompson and said, “I don’t have my camera on, so be careful.”¹¹⁹ P.O. Davis holstered his taser, moved his arm, and took a step back away from Mr. Trawick.¹²⁰ Mr. Trawick moved the stick back into his right hand, holding both the knife and the stick parallel to each other at his side, as he appeared to have difficulty speaking.¹²¹ Based on our review of the audio from the body-worn camera footage, we believe that Mr. Trawick made the following statement at that time: “just hold it in the center...of the brain...yea...hold it...hold it, hold it, the center, the center, the center of the brain,” while holding his left hand above his head and pointing down at his head with his index finger.¹²²

As Mr. Trawick stood there gesturing at his head with his left hand, Thompson took out his taser with his left hand, and, while still holding his handgun in his right hand, aimed the taser at Mr. Trawick’s abdomen and fired.¹²³ One of the two taser prongs hit Mr. Trawick in the right-center of his chest,¹²⁴ and the other prong hit him in the right thigh.¹²⁵ Mr. Trawick clutched his chest and cried out, then fell over on his back right side, his head hitting the wall before his body hit the floor, the stick and the knife still grasped in his right hand.¹²⁶

¹¹⁹ *Id.*; Video file 20190414234512 at 01:54.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² BWC at 1:25.

¹²³ *Id.*; Video file 20190414234512 at 01:54.

¹²⁴ BWC at 1:29; OCME Autopsy Photograph #029; Dr. Cederroth Autopsy Notes at 2; BXDA interview of EMT Christian Marte, 6/7/2019; BXDA interview of Lt. Kiara Wahlster, 6/7/2019; P.G. interview of P.O. Herbert Davis, 4/14/2019; P.G. interview of P.O. Brendan Thompson, 12/5/2019.

¹²⁵ New York City Office of the Chief Medical Examiner, Report of Autopsy, M.E. Case #B19-009360 (hereinafter “OCME Report”) at 6.

¹²⁶ *Id.*

After Mr. Trawick hit the ground, P.O. Thompson dropped his taser to the ground, holstered his handgun, and moved swiftly into the apartment toward Mr. Trawick, with P.O. Davis following behind in order to handcuff Mr. Trawick.¹²⁷ However, three seconds after the taser was fired, the alarm signaling the end of the five-second current sounded, and, two seconds after that, the electrical current from the taser stopped.¹²⁸ Once released from the electrical current that had incapacitated him, Mr. Trawick screamed and leapt to his feet before the officers could place Mr. Trawick in handcuffs.¹²⁹ P.O. Thompson could not press on the trigger of the taser and send an additional 5-second current through Mr. Trawick's body, because he had dropped it in the hallway.¹³⁰ The officers backed out of the apartment to create distance between themselves and Mr. Trawick as Mr. Trawick sprang to his feet, still holding the knife.¹³¹ As P.O. Thompson backed out into the hallway he unholstered his firearm.¹³²

Mr. Trawick, now with the knife in his right hand and the stick in his left hand, rushed toward the door, and screamed, "Get away!"¹³³ As P.O. Davis backed out into the hallway, Mr. Trawick, now about 11 feet from the officers, turned his back on them and ran to the far side of his apartment, reaching his arm out by the foot of his bed.¹³⁴ P.O. Davis made it out into the hallway, and saw P.O. Thompson slightly behind and to P.O. Davis's right, his gun raised and pointed at

¹²⁷ BXDA interview of P.O. Herbert Davis, 9/17/2019. P.O. Thompson's taser was armed with an Automatic Shut-Down Performance Power Magazine ("APPM"). *See* P.O. Thompson Taser Report; Taser X26P User Manual at 11. An APPM cartridge is designed to prevent a target from being shocked indefinitely, by shutting down the electrical current sent between the two probes after five seconds. *Id.* To initiate another five-second cycle of current, the user must release trigger and then pull the trigger again. *Id.* An alarm will sound for the last two seconds of a trigger-initiated cycle to warn the user that the electrical current will stop and must be recycled or the target may become physically capable once again. *Id.* *See also* Patrol Guide Section 221-08 ("Members should use a CEW for one standard cycle (five seconds) while constantly assessing the situation to determine if subsequent cycles are necessary.")

¹²⁸ *See* Taser X26P User Manual at Page 11. *Id.*

¹²⁹ BWC at 1:36.

¹³⁰ Video file 20190414234512 at 02:17.

¹³¹ *Id.*; BXDA interview with P.O. Herbert Davis, 9/17/2019; BXDA interview with P.O. Brendan Thompson, 9/17/2019.

¹³² Video file 20190414234512 at 02:17.

¹³³ BWC at 1:37.

¹³⁴ *Id.*; NYPD CSU Crime Scene Sketch Run #19/152.

Mr. Trawick.¹³⁵ P.O. Davis said to him, “No, no—don’t, don’t, don’t, don’t, don’t,” while pushing P.O. Thompson’s gun down with his right hand.¹³⁶

Mr. Trawick turned back around and ran and hopped at the same time toward the door, yelling, “Get out, bitch, I’m gonna kill you all!”¹³⁷ P.O. Thompson raised his firearm and pointed it at Mr. Trawick and P.O. Davis moved back and to the left slightly, and unholstered his taser and pointed it at Mr. Trawick.¹³⁸ Both officers stood in the doorframe, Davis to the left, Thompson to the right and behind Davis.¹³⁹ Mr. Trawick kept moving toward the door, screaming, “Get out!”¹⁴⁰

When Mr. Trawick came within approximately seven feet of P.O. Davis, P.O. Thompson opened fire with his handgun, discharging four rounds at Mr. Trawick.¹⁴¹ Mr. Trawick twisted around as he was shot, such that his back was now facing away from the officers, and then back again such that the left side of his body was facing the officers as he slammed the door shut and fell against the wall.¹⁴² When P.O. Thompson opened fire, P.O. Davis recoiled and stepped back, holding his ear.¹⁴³

At approximately 11:08 p.m., immediately after the shots were fired, P.O. Thompson used his NYPD radio and called over “Shots fired, I got shots fired, at 1616 Grand, shots fired....let me get a bus rolling.”¹⁴⁴ When the dispatcher asked, “in regards to the 39?” Thompson answered, “EDP with a knife.”¹⁴⁵ As P.O. Thompson got on the radio, P.O. Davis went to Mr. Trawick’s door and

¹³⁵ BWC at 1:39.

¹³⁶ *Id.*; Video file 20190414234512 at 02:21.

¹³⁷ *Id.*

¹³⁸ Video file 201904114234512 at 02:21.

¹³⁹ *Id.*

¹⁴⁰ BWC at 01:42.

¹⁴¹ NYPD CSU Crime Scene Sketch Run #19/152; BWC at 1:39.

¹⁴² *Id.*

¹⁴³ Video file 201904114234512 at 02:40.

¹⁴⁴ Radio run at 19:10. “Bus” means “ambulance” in police radio jargon.

¹⁴⁵ *Id.*

pushed it open partway, but found that it was blocked by Mr. Trawick's body.¹⁴⁶ Through the crack in the door, P.O. Davis could see that Mr. Trawick wasn't breathing, and believed he had already died.¹⁴⁷ On P.O. Thompson's body camera, P.O. Davis can be seen tapping his chest, and saying, "I didn't have my fucking camera on...I didn't even have my camera on because I ran out."¹⁴⁸

V. IMMEDIATE RESPONSE TO THE SHOOTING

Approximately twelve NYPD officers, including supervisors, rushed to the scene upon hearing "shots fired" on the radio.¹⁴⁹ P.O. Davis was captured on body camera footage describing the encounter as follows: "he came at us with a knife...we tased him, to try to stop him, because we tried to tell him 'put it down, put it down, put it down,' he wouldn't put it down, and he lunged."¹⁵⁰

Sergeant Eloise Walter and Sergeant Edwin Ching from the 46th Precinct arrived on scene within minutes.¹⁵¹ Sgt. Walter confiscated P.O. Thompson's gun and body camera and was briefed by P.O. Thompson as required by Patrol Guide Section 221-02. Sgt. Ching sent both officers to the hospital for ringing in the ears, a condition known as tinnitus, which is common from being in close proximity to gunshots without hearing protection.¹⁵²

FDNY EMT Christian Marte was dispatched to 1616 Grand Avenue at approximately 10:58 p.m., to "standby the scene of a fire."¹⁵³ While in the lobby of Hill House, Marte heard four gunshots from upstairs.¹⁵⁴ Marte and his partner, FDNY EMT Vincent Malveaux, reached Mr. Trawick's apartment at approximately 11:10 p.m.¹⁵⁵ Marte thought Mr. Trawick seemed lifeless from the

¹⁴⁶ Video file 201904114234512 at 02:48; BWC at 4:32; BXDA interview of P.O. Herbert Davis, 9/17/2019.

¹⁴⁷ BXDA interview of P.O. Herbert Davis, 9/17/2019.

¹⁴⁸ BWC at 3:35.

¹⁴⁹ See generally body-worn camera of responding officers.

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² See generally body-worn camera of responding officers; Aided worksheets: Davis and Thompson; Patrol Guide interview of Sgt. Eloise Walter, 4/15/2019.

¹⁵³ BXDA interview of EMT Christian Marte, 6/7/2019.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

moment they arrived.¹⁵⁶ Because Mr. Trawick was partially blocking the door, Marte and Malveaux moved him toward the center of the room and laid him flat on the ground.¹⁵⁷ Marte saw two taser prongs—one in Mr. Trawick’s chest, and one in his right thigh—and a bullet hole in the right side of Mr. Trawick’s chest.¹⁵⁸ Marte began chest compressions, rescue breaths, and administration of oxygen, and put AED pads on Mr. Trawick’s chest, but the AED did not detect a shockable rhythm, such that it would not be possible to restart Mr. Trawick’s heart with an electrical charge.¹⁵⁹ At 11:25 p.m., FDNY EMTs and firefighters carried Mr. Trawick down the stairs to Marte and Malveaux’s ambulance.¹⁶⁰ At approximately 11:30 p.m., the ambulance pulled away from 1616 Grand Avenue and arrived at Bronx Lebanon hospital at approximately 11:35 p.m.¹⁶¹ At 11:46 p.m., Dr. Diana Kim-Liu pronounced Mr. Trawick dead.¹⁶²

VI. Medical Examiner’s Findings

On April 15, 2019, Dr. Terra Cederroth, medical examiner at the New York City Office of the Chief Medical Examiner (“OCME”), performed an autopsy on Mr. Trawick’s body. She found that Mr. Trawick was 5’7” and 150 pounds at the time of his death, and that he was “well-developed” and “well-nourished.”¹⁶³ Dr. Cederroth found that Mr. Trawick was killed by two gunshot wounds to the torso, which she labeled “A” and “B” for the purpose of organization.¹⁶⁴ Dr. Cederroth also noted the taser probe stuck in Mr. Trawick’s upper right thigh.¹⁶⁵

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ BXDA recorded this observation in notes taken during the initial interview with EMT Christian Marte on 6/7/2019.

¹⁵⁹ *Id.*; see also BXDA interview of Lt. Kiara Wahlster, 6/7/2019; BXDA interview of Paramedic Helen Franco, 6/7/2019.

¹⁶⁰ BXDA interview of EMT Christian Marte, 6/7/2019.

¹⁶¹ *Id.*

¹⁶² OCME Notice of Death form.

¹⁶³ Autopsy Report at 6.

¹⁶⁴ *Id.* at 7; BXDA interview of Dr. Terra Cederroth, 7/18/2019. Dr. Cederroth instructed that it is not possible to tell which wound was caused first, and that no inference about the order of the wounds should be drawn from these labels.

Id.

¹⁶⁵ Autopsy Report at 9; OCME Autopsy Photograph #053.

The bullet that caused gunshot wound “A” entered Mr. Trawick’s middle-left back and pierced Mr. Trawick’s left lung and heart and lodged in his right pectoral muscle.¹⁶⁶ This bullet traveled “from back to front, from left to right, and slightly upward.”¹⁶⁷ This wound caused his left lung to collapse.¹⁶⁸ The bullet that caused gunshot wound “B” entered through Mr. Trawick’s right mid chest, traveling front to back, left to right, and downward, piercing Mr. Trawick’s right lung, liver, and diaphragm, and lodging in Mr. Trawick’s middle-right back.¹⁶⁹ This wound caused his right lung to collapse.¹⁷⁰ According to Dr. Cederroth, each of these wounds would have been independently fatal, gunshot wound “A” within seconds, gunshot wound “B” within minutes, absent immediate hospital-level care.¹⁷¹

Reinaldo Fonseca, OCME criminalist and assistant director of Forensic Toxicology, issued a toxicology report on May 22, 2019.¹⁷² Toxicology testing indicated that Mr. Trawick had less than 0.1 milligrams per liter of amphetamine in his blood, and 0.29 milligrams per liter of methamphetamine in his blood.¹⁷³ According to Dr. Gale Cooper, director of Forensic Toxicology, the amount of methamphetamine in Mr. Trawick’s system was not so high a concentration that one would be in danger of overdosing.¹⁷⁴

LEGAL ANALYSIS

I. P.O. THOMPSON’S FIREARM DISCHARGE

¹⁶⁶ Autopsy Report at 8; BXDA interview of Dr. Terra Cederroth, 7/18/2019; Autopsy Notes; OCME Autopsy Photographs #023, 027.

¹⁶⁷ *Id.*

¹⁶⁸ BXDA interview of Dr. Terra Cederroth, 7/18/2019.

¹⁶⁹ *Id.*; Autopsy Report at 9; Autopsy Notes; OCME Autopsy Photographs #023, 027.

¹⁷⁰ BXDA interview of Dr. Terra Cederroth, 7/18/2019.

¹⁷¹ *Id.*

¹⁷² Autopsy Report at 24.

¹⁷³ *Id.*

¹⁷⁴ BXDA interview of Dr. Gail Cooper, 7/18/2019.

In this section, we discuss P.O. Thompson's criminal liability for firing his service firearm, which resulted in Mr. Trawick's death. We have concluded that P.O. Thompson intentionally fired his weapon four times and that Mr. Trawick died as a result of the discharge of the firearm. The Penal Law requires us to next evaluate whether or not P.O. Thompson was justified in his actions. In order to sustain charges related to the shooting, the People must be able to disprove, beyond a reasonable doubt, that P.O. Thompson was justified in shooting Mr. Trawick.

Two justification provisions under Penal Law Article 35 are relevant to the facts set-forth above, Penal Law sections 35.15(2) and 35.30(1)(c). Pursuant to Penal Law section 35.15(2): "A person may not use deadly physical force¹⁷⁵ upon another person . . . unless: (a) The actor reasonably believes that such other person is using or about to use deadly physical force..." The statute also states that the actor may not use deadly physical force in self-defense if he knows he can retreat safely. Crucially, however, under Penal Law section 35.15(2)(a)(ii), police officers have no such duty to retreat.

Penal Law section 35.30(1)(c) states that:

A police 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) [r]egardless of the particular offense which is the subject of the arrest or attempted escape, 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.

¹⁷⁵ 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." Penal Law § 10.00(11).

Both Penal Law sections 35.15(2) and 35.30(1)(c) require us to consider whether P.O. Thompson reasonably believed that the use of deadly physical force upon P.O. Thompson or another by Mr. Trawick was imminent.

In addition to the guidance provided by the statutes, case law also is informative as to the application of the law to the facts at issue. In *People v. Goetz*, 68 N.Y.2d 96 (1986), and then later in *People v. Wesley*, 76 N.Y.2d 555 (1990), the Court of Appeals interpreted the “reasonably believe” language contained in Penal Law § 35.15 (1), which provides that “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... from what he or she reasonably believes to be the use or imminent use of unlawful physical force...” The Court set forth a two-part test for assessing “reasonable belief.” The test requires a subjective and objective analysis. In order to be justified in the use of deadly physical force, a defendant must have (a) actually believed deadly force was necessary to avert the imminent use of deadly force, and (b) that belief must have been reasonable in light of the circumstances. *People v. Goetz*, 68 NY2d 96 (1986). “The reasonableness inquiry depends only upon the officer’s knowledge of circumstances immediately prior to and at the moment that he made the split-second decision to employ deadly force.” *Salim v. Proulx*, 93 F.3d 86, 92 (2d Cir. 1996).

In *People v. Brown*, the Court found that the defendant’s belief that the use of deadly physical force was reasonable where the victim, a civilian, backed the defendant, an off-duty correction officer, down while swinging his fists at the defendant and reaching for defendant’s gun while telling him, “You going to pull out a gun, you better use it.” *People v. Brown*, 160 A.D.3d 39, 45, 71 N.Y.S.3d 422, 428 (2018), *rev’d*, 33 N.Y.3d 316, 125 N.E.3d 808 (2019), *reargument denied*, 33 N.Y.3d 1136, 132 N.E.3d 1099 (2019).

In *People v. Singh*, the Court found that the jury could conclude that the defendant reasonably believed deadly physical force was necessary to protect his and his friend's life where the victim "brandished a large knife" and threatened to kill the defendant's friend. *People v. Singh*, 139 A.D.3d 761, 763, 31 N.Y.S.3d 168, 171 (2nd Dept. 2016).

In *People v. Marchant*, the Court found that the People failed to disprove that defendant reasonably believed deadly physical force was necessary to stop her intoxicated boyfriend—who pursued her through the home, cornered her in the bathroom, and grabbed her by her hair—from using deadly physical force against her. *People v. Marchant*, 152 A.D.3d 1243, 1245, 60 N.Y.S.3d 616, 618 (4th Dept. 2017).

When judging the reasonableness of a police officer's use of physical force, the United States Supreme Court advises that every use of force "must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight," and with "allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving." *Graham v. Connor*, 490 U.S. 386, 396-97, 109 S. Ct. 1865, 1872, 104 L. Ed. 2d 443 (1989).

The Court of Appeals has held that justification in the use of force to defend oneself or another "renders such conduct entirely lawful." *People v. McManus*, 67 NY2d 541, 547 (1986). In *McManus*, the Court also held that "there is no basis for limiting the application of the defense of justification to any particular *mens rea* or to any other particular crime involving the use of force." *Id.* at 547.

Here, applying the *Goetz's* two part test, we must evaluate whether: (1) P.O. Thompson actually believed that his use of deadly force was necessary to avert the imminent use of deadly force

by Mr. Trawick and (2) would a “reasonable person” in P.O. Thompson’s position, knowing what he knew and being in the same circumstances, have had those same beliefs.

In evaluating P.O. Thompson’s subjective beliefs, at the moment he fired the fatal shots, he said he believed that Mr. Trawick was going to continue toward him and his partner and attack them with the knife. The facts revealed during the course of this investigation support this belief. Specifically, the evidence shows that the officers arrived at Mr. Trawick’s door and found him standing in his apartment holding a stick and a knife, demanding to know why they were in his home. Even after repeated orders to Mr. Trawick to put the knife down, Mr. Trawick refused to comply with the officers’ instructions. P.O. Thompson used his taser to momentarily incapacitate Trawick, and moved into the apartment to attempt to restrain him. However, the electrical current from the taser wore off before the officers could restrain Mr. Trawick. In a matter of seconds, Mr. Trawick jumped to his feet and yelled “I’m gonna kill you all!” as he ran towards P.O. Thompson and P.O. Davis while holding a knife with an eight-inch blade raised at chest level in one hand and a stick in his other hand.¹⁷⁶ Based on this, coupled with the information P.O. Thompson learned from his conversation with the Super and Security, we have concluded that P.O. Thompson actually believed that his use of deadly physical force was necessary to avert Mr. Trawick’s imminent use of deadly physical force.

We have also concluded based upon the evidence in this case that we would not be able to disprove beyond a reasonable doubt that a reasonable person in P.O. Thompson’s position, and with his knowledge would have had the same belief.

¹⁷⁶ BXDA interview of P.O. Brendan Thompson, 9/17/2019.

For these reasons, the People would not be able to disprove beyond a reasonable doubt that P.O. Thompson's use of deadly physical force was not justified as a matter of law. Therefore, we have determined that criminal prosecution is not warranted.

II. OTHER CRIMINAL LIABILITY

In this section we will address other potential criminal liability relative to P.O. Thompson and P.O. Davis. In making this determination, we must assess if either officer committed any crimes during their approach of and interactions with Mr. Trawick, prior to the shooting. We have concluded that they did not.

Here, P.O. Thompson and P.O. Davis responded to Mr. Trawick's building for a "39," harassment call. After speaking to the Super and hearing his complaint of Mr. Trawick banging on his door and threatening him, the officers had reasonable cause to believe that Mr. Trawick had committed the offense of Harassment in the Second Degree (Penal Law §240.26(1)). To further investigate the Super's claim, the officers went to Mr. Trawick's apartment and knocked on the door, which caused the damaged door to open, revealing that Mr. Trawick was inside. Given the information that they were provided, their appearance at Mr. Trawick's apartment was not improper and the officers had the authority at that time to place Mr. Trawick under arrest. Additionally, as the events preceding the shots fired by P.O. Thompson unfolded, the officers had reasonable cause to place Mr. Trawick under arrest for menacing the officers with a knife and a stick, pursuant to Penal Law section 120.13.

Moreover, P.O. Thompson and P.O. Davis were authorized to take Mr. Trawick into custody pursuant to section 9.41 of the Mental Hygiene Law ("M.H.L."), which provides that:

Any ... police officer...may take into custody any person who appears to be mentally ill and is conducting himself in a manner which is likely to result in serious harm to himself or others. "Likelihood to result in serious harm" shall mean (1) substantial risk of physical harm to himself as manifested by threats of or attempts at suicide or

serious bodily harm or other conduct demonstrating that he is dangerous to himself, or (2) a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm. Such officer may direct the removal of such person or remove him to any hospital...

M.H.L. section 1.03(20) defines “Mental Illness” as “affliction with a... mental condition which is manifested by a disorder or disturbance in behavior, feeling, thinking or judgment to such an extent that the person afflicted requires care, treatment and rehabilitation.” For purposes of the Mental Hygiene Law, taking a person into custody is an arrest. *See generally Disability Advocates, Inc. v. McMabon*, 279 F. Supp. 2d 158, 165 (N.D.N.Y. 2003), *aff’d*, 124 F. Appx. 674 (2d Cir. 2005); *People v. Yaniak*, 190 Misc. 2d 84, 87, 738 N.Y.S.2d 492, 495 (Yates Co. Ct. 2001).

As discussed above, P.O. Thompson and P.O. Davis properly engaged Mr. Trawick at his apartment based on the information and allegations provided by the Super and Security, including his loud music disturbing neighbors, his threats to harm Security and the Super, and his carrying a stick throughout the building. This information, along with the officer’s own observations—such as Mr. Trawick holding a stick and a knife, waving that knife in front of him as he stood between five and seven feet from the two officers, refusing to drop the knife, and then speaking incoherently—authorized the officers to arrest Trawick pursuant to M.H.L. § 9.41. *See Thornton v. City of Albany*, 831 F. Supp. 970, 987 (N.D.N.Y. 1993) (police were authorized to enter into the home of and arrest decedent pursuant to M.H.L. § 9.41 where decedent was breaking windows in his apartment and throwing objects from the windows onto the street, and where defendant was “ranting and raving,” and “muttering” about retrieving his “brother’s .22,” and ultimately came running at officers with a knife in his hand); *People v. Yaniak*, 190 Misc. 2d 84, 87, 738 N.Y.S.2d 492, 495 (Yates Co. Ct. 2001) (police were authorized to approach, inquire, and ultimately arrest plaintiff pursuant to M.H.L. § 9.41 where police observed plaintiff “uncontrollably” in thick brush adjacent to a home,

wearing a wet wool sleeve shirt in November, and talking incoherently); *Heller v. Bedford Central School District* (police had probable cause to arrest plaintiff under M.H.L. section 9.41 where plaintiff worked as a teacher at a local school, recently purchased several firearms, and made paranoid and homicidal comments to an acquaintance); *Davila v. City of New York*, 139 A.D.3d 890, 892, 33 N.Y.S.3d 306 (1st Dept. 2016) (finding that officers were authorized to approach plaintiff-EDP without waiting for ESU, and were authorized to chase after him and physically restrain him after he punched one officer in the face); *People v. James*, 2001 WL 856396 (Sup. Ct. Bronx Co. 2001) (Gross, J.) (finding that warrantless entry into EDP's apartment was justified under the emergency doctrine); *Graniela v. City of New York*, 27 Misc2d 341 (Sup Ct, Kings County, 1961) ("Obviously, an officer cannot be expected to anticipate the conduct of a mentally disturbed individual. Nor is he required to have the degree of competence possessed by a psychiatrist nor to act with his prescience in treating with such a person. When it is considered that the city, through its police force is obliged to protect the public against the violence of a mentally ill person the responsibility of the officer to react forcibly to his unforeseeable and violent antics on a public street is the more urgent.").

Because there was no impropriety in P.O. Davis and P.O. Thompson's approach and entry into Mr. Trawick's apartment, we find no basis to bring any charges against either officer related to the interactions with Mr. Trawick prior to the shooting.

PRIOR POLICE RESPONSES TO MR. TRAWICK'S APARTMENT

In order to provide a full picture of how Mr. Trawick was treated by the responding officers and the NYPD dispatch-patrol system generally on the night he was killed, it is helpful to provide information on past responses to 911 calls complaining about Mr. Trawick. To that end, we will provide detailed accounts of three prior police responses to Mr. Trawick's apartment at Hill House

spurred by complaints about Mr. Trawick's behavior. Although these prior incidents do not figure in the core analysis of criminality provided in this report, they provide examples of disparate outcomes that deserve mention. Additionally, for the sake of laying bare potential deficiencies in the NYPD dispatch-patrol system, and in the practices of non-profit housing services providers, this report will provide a limited portion of what SUS management knew about Mr. Trawick's condition in the time leading up to these NYPD responses and Mr. Trawick's death.

Trawick moved into Hill House in June 2018. Friends, acquaintances, and neighbors of Mr. Trawick that were interviewed reported that during the last ten months of his life, Mr. Trawick was acting in ways that caused them concern, such as talking out of the window as if speaking to someone who was not there, standing in the hallway in nothing but his underwear, and moving all of the furniture in his apartment into the hallway and then moving it back in again.¹⁷⁷

During his time at Hill House, Mr. Trawick was involved in multiple incidents that resulted in the police responding to Hill House. One incident, on January 3, 2019, began with a 911 call from Mr. Trawick's neighbor, who reported that "somebody is banging, making noise in the hallways, breaking windows, I don't know what's going on...some guy running in the hallway, crazy."¹⁷⁸ This job was entered into the ICAD system as a "10-10," or "suspicious person," and assigned to Police Officer Michael Phipps and Police Officer Jacob Newman of the 46 Precinct, who were working patrol on the midnight shift.¹⁷⁹ While P.O. Phipps and P.O. Newman were en route to the building, the security guard at Hill House called 911 at approximately 4 a.m. and asked for a "fire truck," saying there was "a lot of smoke coming from the third floor."¹⁸⁰ This complaint was

¹⁷⁷ BXDA interviews of the Super (5/28/2019); I.T. (5/28/2019); V.J. (10/22/2019); A.S., J.M., and P.V. (7/1/2019); R.B. and R.H. (7/2/2019); D.W., T.J., and A.B. (7/31/2019); and R.T. (5/31/2019).

¹⁷⁸ J.M. 911 call, 1/3/2019, at 3:49 a.m.; BXDA interview of J.M., 7/1/2019.

¹⁷⁹ Event Chronology: ICAD #D19010302874.

¹⁸⁰ Security 911 call, 1/3/2019, at 3:49 a.m.; Event Chronology: ICAD #D190110302922; NYPD FID Timeline of Events, 1/3/2019, page 1. The security guard this night was not the same security guard present on the night of 4/14/2019.

also assigned to P.O. Phipps and P.O. Newman, who received this “59” fire job just after pulling up at 1616 Grand Avenue.¹⁸¹ P.O. Phipps and P.O. Newman responded to Hill House but left after determining that Mr. Trawick had left the building before they had arrived.¹⁸²

At 6:19 a.m., Mr. Trawick came back into the building.¹⁸³ Security called 911 again, telling the dispatcher that the police had told him to call again when Mr. Trawick came back.¹⁸⁴ The dispatcher categorized the job as “10-39,” or “other,” describing it on the radio as a claim of “harassment [made] by security,” and assigned the case to P.O. John-Michael Medina and P.O. Patrick Swayne, who were patrolling Sector C.¹⁸⁵ P.O. Medina and P.O. Swayne arrived at 1616 Grand Avenue at 6:38 a.m.¹⁸⁶ They stayed for approximately twenty minutes.¹⁸⁷ The two officers radioed over as they were leaving the location to close the job as “90-Y,” or “unnecessary.”¹⁸⁸

At approximately 2:10 p.m. on January 3, 2019, a member of the Hill House staff—after interviewing staff, and tenants, and reviewing security footage—reported to 911 that the night before, Mr. Trawick had run around the building with a metal pipe and a butcher knife, breaking windows, threatening tenants, and discharging a fire extinguisher.¹⁸⁹ The operator entered the complaint in the ICAD system as a “10-54,” or “Ambulance case: EDP,” and went over the radio describing the

¹⁸¹ P.O. Phipps Memo Book, 1/3/2019. While P.O. Newman and P.O. Phipps were at the building, another resident called 911, reporting that there was a man in the hallway “going crazy with a stick.” Tenant 911 call, 1/3/2019.

¹⁸² BXDA interview of P.O. Michael Phipps, 8/21/2019; BXDA interview of P.O. Jacob Newman, 8/21/2019.

¹⁸³ Security 911 call, 1/3/2019, at 6:19 a.m.

¹⁸⁴ *Id.*

¹⁸⁵ 46th Precinct Radio Run, 1/3/2019 at 6:34 a.m.

¹⁸⁶ Event Chronology: ICAD #D19010304290.

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ T.W. 911 call

job as “an EDP...knocking on windows...threatening tenants with a stick and knife.”¹⁹⁰ The dispatcher assigned the job to P.O. Daniel DeMarco and P.O. Michael McAuliffe.¹⁹¹

P.O. McAuliffe and P.O. DeMarco arrived at Hill House at 2:18 p.m. and after speaking to staff, they went to the fourth floor and walked to Mr. Trawick’s apartment.¹⁹² P.O. McAuliffe knocked on the door, and Mr. Trawick opened it.¹⁹³ Mr. Trawick was standing in his apartment, “not acting violently or erratically.”¹⁹⁴ There was broken glass on the floor, and though Mr. Trawick was holding a kitchen knife in his hand, he was “not in a menacing way,” “just holding it.”¹⁹⁵ P.O. McAuliffe approached Mr. Trawick, grabbed Mr. Trawick by the wrist, and took the knife out of his hand.¹⁹⁶ He and P.O. DeMarco cuffed Mr. Trawick, who did not resist, and called for an ambulance.¹⁹⁷ EMTs responded about thirty-five minutes later, and took Mr. Trawick to Jacobi Medical Center.¹⁹⁸

On January 7, 2019, P.O. Paul McCarthy and three other officers from the 46 Precinct arrested Mr. Trawick in the lobby of Hill House for criminal mischief (Penal Law § 145.00(1)) stemming from the events of January 3;¹⁹⁹ the arrest occurred without incident.²⁰⁰

¹⁹⁰ Event Chronology: ICAD #D19010314606; 46th Precinct Radio Run, 1/3/2019 at 2:09 p.m. Event Chronology: ICAD # D19010314606. The operator transcribed that complaint into the following message for display on the ICAD computer screen: “ML EDP - KNOCKED OUT WINDOWS TO HIS APT ... ALSO WAS AGGRESSIVE ... WAS THREATENING TENANTS WITH STICK AND KNIFE ... POSS MALE NEED EVALUATION FOR USE OF CONTROL SUBSTANCE AND IRATIC BEHAVIOR.” *Id.*

¹⁹¹ NYPD FID Timeline of Events, 1/3/2019, page 2. Shortly after the dispatcher assigned this job, Lt. John Lewis of the 46th Precinct went over the radio, telling the dispatcher that he had called the 911 caller and spoke to her, and that she had told him that “the EDP is not violent at this time.” 46th Precinct Radio Run, 1/3/2019. Lt. John Lewis and P.O. Brendan Murphy arrived at Mr. Trawick’s apartment shortly after P.O. McAuliffe and P.O. DeMarco.

¹⁹² BXDA interview of P.O. Michael McAuliffe, 8/26/2019.

¹⁹³ *Id.*

¹⁹⁴ *Id.*; BXDA interview of P.O. Daniel DeMarco, 8/19/2019.

¹⁹⁵ BXDA interview of P.O. Michael McAuliffe, 8/26/2019. P.O. McAuliffe did not recall noticing seeing in the 45 minutes he was there any evidence that Mr. Trawick had been cooking at the time. *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Id.* Lt. John Lewis and P.O. Brendan Murphy arrived at Mr. Trawick’s apartment shortly after P.O. McAuliffe and P.O. DeMarco.

¹⁹⁸ NYPD FID Timeline of Events, 1/3/2019, page 2.

¹⁹⁹ Arrest Report #B19601070

²⁰⁰ Hill House security footage 1/7/2019.

On March 25, 2019, members of the NYPD were called to 1616 Grand Avenue because of threats Mr. Trawick made to the Super.²⁰¹ According to the Super, tension developed between the Super and Mr. Trawick over the building gym, as Mr. Trawick would take dumbbells and other workout materials and stash them in his apartment.²⁰² Eventually, building administrators directed the Super to lock the gym so Mr. Trawick couldn't get in.²⁰³ At about 3:40 p.m. on March 25, 2019, Mr. Trawick came down to the Hill House office area, asking why the door to the gym was locked.²⁰⁴ According to building staff, Mr. Trawick threatened several times to "smack the Super's glasses off his face" before walking away and returning to his apartment.²⁰⁵

Later that day, at 3:50 p.m., a staff member called 911 and reported that "Kawaski Trawick" was "walk[ing] around with a knife...[harassing] a staff member."²⁰⁶ The operator entered this complaint in the ICAD system as a "10-39H(1)."²⁰⁷ P.O. Ronnie Garcia who was on patrol with his partner arrived at Hill House at 3:57 p.m. where they were met in the lobby by the Super.²⁰⁸ The Super told them that Mr. Trawick had come downstairs holding a knife and peeling an apple with it and that he looked at the Super in a way that intimidated him.²⁰⁹ The Super told them that this interaction escalated to screaming, and that Mr. Trawick had gone back upstairs to his apartment.²¹⁰ P.O. Garcia and his partner went upstairs to speak to Mr. Trawick.²¹¹ P.O. Garcia turned on his

²⁰¹ BXDA interview of the Super, 5/28/2019.

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.* BXDA interview of I.T., 5/28/2019.

²⁰⁵ BXDA interview of the Super, 5/28/2019; BXDA interview of I.T., 5/28/2019.

²⁰⁶ Event Chronology: ICAD D#190110302922; Event Chronology: ICAD #D19032517432.

²⁰⁷ Event Chronology: ICAD D#19032517432.

²⁰⁸ BXDA Interview of P.O. Ronnie Garcia, 6/12/2020. P.O. Garcia had been at the 46th Precinct for approximately three years at that time. *Id.* He said that he was familiar with Hill House because it was in the sector he patrolled. *Id.* He knew the whole building is "like a shelter, so every time you go to that building you get [the EDP warning], even for [domestic violence] calls." *Id.* He could not remember whether the EDP warning was broadcast on this occasion. *Id.*

²⁰⁹ *Id.*

²¹⁰ *Id.*

²¹¹ *Id.*

body camera and knocked on Mr. Trawick's door.²¹² Mr. Trawick answered the door and spoke with P.O. Garcia.²¹³ Mr. Trawick agreed that he would keep his distance from the Super and avoid any more confrontations with him.²¹⁴ P.O. Garcia filled out a complaint report, in which he recorded the Super's harassment complaint and noted that "c/v is afraid and fears for his safety" and "states that this is an ongoing issue [with] perp."²¹⁵ The responding officers closed out the complaint report as a harassment.²¹⁶

The following day, March 26, 2019, at 11:18 a.m., The Super called 911 to report that other building staff had told him that Mr. Trawick was walking around with a knife looking for him.²¹⁷ The operator entered this complaint in the ICAD system as a "10K(1)," or "possible crime involving a knife."²¹⁸ The dispatcher, seeing the EDP history pop-up on her screen, announced over the radio, "this address has a previous history for EDPs...the person with the knife lives in apartment 409."²¹⁹ Police Officer Ysia Collado and her partner were assigned this job.²²⁰ P.O. Collado heard the EDP warning over the radio.²²¹

When P.O. Collado and her partner arrived, staff members told P.O. Collado that Mr. Trawick had threatened the super, although not directly, and that Mr. Trawick was "crazy" and he has had "problems."²²² P.O. Collado and her partner went up to Mr. Trawick's apartment on the

²¹² *Id.*

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ Complaint Report #2019-046-002897.

²¹⁶ *Id.* When the commission of an offense classified as a violation in the penal law is reported to NYPD officers, they can exercise discretion and "close out" the complaint, meaning the police will not seek the subject of the complaint, nor will he or she be arrested on that complaint on his next contact. NYPD Patrol Guide Section 208-01. The officers in the instant scenario would have had no reason to believe this was anything other than a heated argument between two rational individuals.

²¹⁷ Event Chronology: ICAD #D19032610695.

²¹⁸ *Id.*

²¹⁹ Radio Run 3/26/2019.

²²⁰ BXDA interview of P.O. Ysia Collado, 6/16/2020.

²²¹ *Id.*

²²² *Id.*

fourth floor.²²³ After repeated knocking without an answer, P.O. Collado left and ultimately prepared a complaint report that was closed out as a violation.²²⁴ Neither P.O. Collado nor her partner activated their body-worn cameras during the incident.²²⁵

NON-LEGAL CONCLUSIONS

While this Office does not offer policy recommendations, our investigation has revealed the need for a thoughtful review of police procedures and training techniques, and appropriate support for the residents and staff of supportive housing services in the City.

Specifically, our investigation showed shortcomings in the communication and receipt of information to officers responding to the scene. Improved communication will put responding officers in a better position to assess their interactions with civilians and, when necessary, implement the appropriate procedures and protocols consistent with their training when engaged in volatile situations.

On April 14, 2019, the original radio run directed P.O. Davis and P.O. Thompson to Hill House to respond to Hill House on a harassment call. Although the dispatcher made note of a pop-up notification and put over the radio an “EDP” warning, neither P.O. Thompson nor P.O. Davis heard the message. It is notable that unlike the radio run from January 3, 2019, the April 14, 2019 job was not coded as a “54”, a more direct indication to the responding officers that the subject of the call was believed to be “an emotionally disturbed person,” despite these calls complaining of similar conduct. Coding this complaint as a “54” would have also necessitated that an available supervisor be assigned.²²⁶ It is clear that the responding police officers were unaware of Mr. Trawick’s history at Hill House and his prior interactions with the police at that location. The police officers

²²³ *Id.*

²²⁴ BXDA interview of P.O. Ysia Collado, 6/16/2020; Complaint Report #2019-046-003007.

²²⁵ BXDA interview of P.O. Ysia Collado, 6/16/2020.

²²⁶ Radio Dispatcher Guide Section 431.

interacted with security and the building's superintendent, but neither of them were aware of Mr. Trawick's medical history, beyond a general description of his behavior. There were no staff members present at the time of the incident that were aware of and had access to Mr. Trawick's file.

The death of Mr. Kawaski Trawick was profoundly tragic; in order to avoid similar tragedies in the future, improved communication, an increase in the flow of information, improved training and adequate staffing at supportive housing facilities should be explored. However, as a matter of law, the People are not able to prove beyond a reasonable doubt that P.O. Thompson's use of deadly physical force was not justified. For this reason, the People find that criminal charges are not warranted in this matter.

Link to video of incident: <https://youtu.be/s2tqABQaD-I>