



**Conclusion of the Review into the Police-Involved Shooting
Death of Kenneth Chamberlain, Sr.**

July 26, 2023

Westchester County District Attorney Miriam E. Rocah announced in June 2021 that she was initiating an independent review into the 2011 police-involved shooting death of Kenneth Chamberlain, Sr., a 68-year-old former Marine. Mr. Chamberlain, who suffered from mental illness, was shot and killed in his home on November 19, 2011, following a confrontation with White Plains police after they responded to an accidental activation of Mr. Chamberlain's medical alert system. DA Rocah initiated this review at the request of the Chamberlain family and community members to evaluate whether legal grounds existed to convene a new grand jury to investigate Chamberlain's death, and, if so, what charges could be considered. DA Rocah also undertook this review for a second important purpose: to identify ways in which police practices and the grand jury process could be improved in future cases to be more transparent, fair and compassionate to grieving families like the Chamberlains.

Conclusions of the Independent Review

The independent review was led by John Gleeson, a retired U.S. District Court judge and former federal prosecutor, and Douglas Zolkind, also a former federal prosecutor, both partners at Debevoise & Plimpton LLP, with several firm associates, who were appointed to serve pro bono as Special Assistant District Attorneys. The Debevoise team reviewed material including the Westchester County District Attorney's Office (WCDAO) case file, the grand jury transcripts and exhibits, and certain materials from civil proceedings related to the incident. After the completion of the review, the Debevoise team reported to DA Rocah its findings and recommendations.

The independent review did not identify a basis to resubmit charges to a new grand jury. The bar for doing so is very high under New York law, with good reason, to protect the subjects of such investigations from prosecutorial overreach. Grand jury determinations are final and not subject to resubmission unless a court authorizes it upon a finding of good cause. Courts typically examine whether: (1) new evidence has been discovered since the previous submission; (2) the grand jury failed to give the case a complete and impartial investigation; or (3) there is a basis for believing the grand jury acted in an irregular manner. The most common basis for a finding of good cause to resubmit charges is the discovery of new evidence. New evidence means evidence that the prosecution either did not know or could not have known through the exercise of due diligence at the time of the grand jury presentation. Here, the independent review found there was no new evidence, as described above, and found no other basis to seek court authorization to resubmit charges to a new grand jury. DA Rocah agrees with this conclusion and is grateful to the Debevoise team for the countless hours and dedication they put into doing the careful review necessary to reach a conclusion on this important question.

District Attorney's Findings

While there was no legal basis to resubmit charges to a new grand jury, DA Rocah and members of her Executive team, including Amy Finzi, Chief Assistant District Attorney, Tarek Rahman, Counsel to the District Attorney and Wade Hardy, Deputy Chief Criminal Investigator, found areas where reform and change are still necessary, especially in the handling of interactions between law enforcement and those suffering from mental illness.

An important goal of the District Attorney’s review was to identify ways that police could implement changes to help prevent future tragedies like Mr. Chamberlain’s death. Given the pending civil litigation relating to Mr. Chamberlain’s fatal shooting and laws regarding grand jury secrecy, there are significant limits in what can be publicly stated by the District Attorney’s Office. However, publicly available materials reviewed by DA Rocah and her team raise serious questions about the following:

1. Whether Mr. Chamberlain’s death could have been avoided by better (a) protocols; (b) implementation of existing protocols; and/or (c) training of officers, all with respect to interactions with individuals suffering a mental health crisis;
2. Whether and to what extent WPPD adjusted its approach to the encounter given that officers on the scene knew that Mr. Chamberlain had been characterized as an “Emotionally Disturbed Person” and officers were provided information about his mental health issues;
3. Whether adequate attempts were made to de-escalate the situation by using either (a) members of the WPPD or surrounding departments who were specially trained in de-escalation techniques (particularly related to individuals with mental health issues), or (b) family members—both on scene, nearby, and available by phone;
4. Whether better supervision, training and oversight could have prevented conduct by the WPPD during the long standoff that arguably escalated the encounter; and
5. Whether the WPPD was sufficiently transparent about the inexcusable use of a racial slur by a WPPD officer toward Mr. Chamberlain, who is Black, during the long standoff preceding his death.

To be clear, the issues raised here are not purely historical. It is crucial to analyze how proper training, techniques and protocols can be implemented to avoid the need for the police to use deadly force, particularly related to individuals with mental health issues, and to ensure that all civilians they encounter are treated with respect.

Finally, it is clear from the District Attorney’s review that the Chamberlain family did not have confidence in the investigation and grand jury process. The WCDAO should have done more to help build that confidence and to help the Chamberlain family feel more supported throughout the process. Whenever law enforcement officials, including prosecutors, lose the trust of a victim or a victim’s family, it is a failure of one of the key missions—to ensure that grieving families believe that a just outcome has been reached. As the chief law enforcement officer in Westchester County, DA Rocah offers an official apology to the family of Kenneth Chamberlain, Sr.

District Attorney’s Recommendations

Based on her findings, DA Rocah makes the following recommendations:

1. No matter the facts and circumstances, the WCDAO will treat every victim’s family with respect and dignity. In matters related to police-involved shootings, as is the practice in other cases, the DA’s Office should: (a) ensure that prior to empaneling a grand jury, prosecutors explain the potential charges with families of police-involved

shooting victims and answer any questions the families may have about those charges; (b) do everything possible to give victims, families and the public confidence that the investigation is being conducted impartially; and (c) offer our robust victim services, such as trauma therapists, to grieving families. DA Rocah prioritizes the respectful and compassionate treatment of all victims' families.

2. All Westchester County police departments should have consistent, updated and enhanced training and enforcement protocols on how to handle and de-escalate situations involving individuals with significant mental health issues, and make them available to the public. In 2022, Westchester County implemented [mobile crisis response units](#) with local police to provide 24-hour mental health and behavioral crisis support in emergencies, and the WPPD has recently increased the scope of its Mental Health Outreach Team. However, further measures are needed to ensure all 42 police departments are actually utilizing this County service and DA Rocah is calling on local lawmakers to propose legislation that requires specific training and procedures across the County ("the Kenneth Chamberlain, Sr. Law"). For example, [Integrating Communications, Assessment, and Tactics \("ICAT"\)](#) is a training program geared toward dealing with individuals suffering from mental illness who exhibit signs of threatening behavior and may be armed with a weapon that is not a firearm.

3. While recognizing that under current New York state law, the Office of the Attorney General is responsible for investigating any incident where there is a question about whether a death was caused by a police officer, DA Rocah and her team recommend that for all investigations into police-involved shootings, protocols be established to ensure that the police agency investigating the use of force by a police officer is truly independent and not susceptible to undue influence. For example, smaller police departments without dedicated internal affairs bureaus, should refer investigations into the unlawful use of force by one of its officers to another department and then remain entirely uninvolved. The WCDAO's Public Integrity/Law Enforcement Integrity Bureau will be involved from the beginning of any investigation of a police-involved shooting over which the WCDAO has jurisdiction.

4. In police-involved shootings, once the grand jury process is complete, an assessment should be conducted by an official entity regarding what, if anything, the police, could have done differently to possibly avoid such a use of force. These assessments should be made available to the family and to the public to the extent permissible by law. In 2012, the City of White Plains issued a report entitled "An Analysis of the White Plains Police Department," which contains a section and recommendations regarding the use of force against Mr. Chamberlain. In our view this was not a comprehensive or sufficient public assessment of this tragedy. For example, it makes no mention of Mr. Chamberlain's status as an "Emotionally Disturbed Person" or his mental health issues, and the recommendations only focus on additional "tools" the police should have to make it easier to breach doors—there is no mention of the need for better de-escalation techniques.

5. The WCDAO will continue to reinforce a practice that DA Rocah implemented at the start of her administration to consider and submit all viable charges to the grand jury where there are competing, yet equally plausible, interpretations of events.

6. Following the conclusion of grand jury presentations in police-involved shootings over which the WCDAO maintains jurisdiction, the WCDAO should refrain from issuing broad and vague statements, which can be misleading and cause confusion. Instead, the office should strongly consider moving to unseal the charges submitted to the grand jury, as was done by this Office in the investigation of the killing of Kamal Flowers by the New Rochelle Police Department in 2020.

The District Attorney's findings and recommendations contained herein are based on information obtained and reviewed separate and apart from materials subject to grand jury secrecy and sealing statutes.