

**ATTORNEY GENERAL'S REPORT REGARDING THE  
JUNE 2, 2024 OFFICER-INVOLVED SHOOTING  
IN NASHUA, NEW HAMPSHIRE**

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**I. INTRODUCTION**

New Hampshire Attorney General John M. Formella announces the completion of the investigation into a police officer use of deadly force incident that occurred in Nashua, New Hampshire on June 2, 2024, in which Ryan Prud'homme (age 41) was shot and killed. During that incident, Nashua Police Officer Jay Atchue fired two less-than-lethal rounds at Mr. Prud'homme, and Nashua Police Officer Joshua Martin fired a single gunshot at Mr. Prud'homme. Mr. Prud'homme sustained nonfatal injuries from the less-than-lethal rounds that struck him. The gunshot struck Mr. Prud'homme in the chest, killing him.<sup>1</sup> The purpose of this report is to summarize the Attorney General's factual findings and legal conclusions regarding that use of deadly force against Mr. Prud'homme. The findings and conclusions in this report are based upon information gathered during the investigation, including recorded witness interviews and written witness statements, video recordings of pertinent events, and numerous official reports generated during the course of the investigation.

As provided in RSA 7:6, RSA 21-M:3-b, and RSA 21-M:8, II(a), the Attorney General is the State's Chief Law Enforcement Officer. The Attorney General has the responsibility to

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<sup>1</sup> The discharge of the less-than-lethal shots at Mr. Prud'homme constitutes deadly force under the law. Although those projectiles are designed and utilized not to cause death but rather to incapacitate, they operate through the discharge of shots by use of gunpowder and are "capable of causing serious bodily injury or death." RSA 627:9, II.

Another Nashua police officer who encountered Mr. Prud'homme fired a single round from a less-than-lethal beanbag shotgun. There is no evidence that the discharged beanbag round struck Mr. Prud'homme, and so that use of force is not addressed in this report.

ensure that whenever law enforcement officers use deadly force, it is done in conformity with the law. When the Attorney General reviews the use of deadly force by law enforcement officers, he does not investigate or opine on the particular procedures or tactics used by the officers. Instead, the Attorney General's review of an officer-involved use of deadly force incident consists of a criminal investigation, which is limited to determining whether the involved officers complied with the applicable law.

Based on the investigation of this deadly force incident, Attorney General John M. Formella finds that the police use of deadly force against Ryan Prud'homme was legally justified.

## **II. SUMMARY OF THE FACTS**

On the evening of June 2, 2024, Ryan Prud'homme left his home in Pelham after a family argument in which he threatened to shoot himself and drove away, by himself, armed with a handgun. An emergency location search of Mr. Prud'homme's cellphone determined it to be in a retail shopping area off the Daniel Webster Highway in southern Nashua.

Nashua police officers went to that location, and there saw what appeared to be Mr. Prud'homme's truck parked in a lot. Responding police officers positioned themselves behind Mr. Prud'homme's truck and ordered him out of the vehicle. Instead, Mr. Prud'homme drove off.

As Mr. Prud'homme was leaving the parking lot in his truck, Officer Joshua Martin was arriving in his patrol car, and the two vehicles met on the access road to the lot and stopped. Officer Martin got out of his patrol car, drew his pistol and approached Mr. Prud'homme's truck. Mr. Prud'homme got out of his vehicle, holding a pistol.

The ensuing armed police encounter with Mr. Prud'homme spanned about a minute. Officer Martin initially was alone with Mr. Prud'homme, who stood in the middle of the road yards away. Mr. Prud'homme continued to brandish a pistol, mostly down by his waist. Officer Martin loudly and repeatedly ordered Mr. Prud'homme to drop his weapon. Mr. Prud'homme would not do so, and repeatedly responded that he wanted to die and expected Officer Martin to kill him.

During this standoff, and unbeknownst to Officer Martin, whose attention was focused on Mr. Prud'homme, Officer Jay Atchue approached, off to Officer Martin's side. Officer Atchue, who had a less-than-lethal projectile launcher, saw that Mr. Prud'homme was armed with a pistol and would not drop the weapon despite demands to do so.

Seconds after Officer Atchue arrived at the standoff, he fired once at Mr. Prud'homme with the less-than-lethal launcher in order to incapacitate and disarm him. Officer Martin heard the shot and incorrectly believed that Mr. Prud'homme had fired at him with his pistol. Almost instantaneously, Officer Martin in response fired a single gunshot at Mr. Prud'homme, who fell to the ground. While Mr. Prud'homme lay on the ground, moving and still holding the pistol, Officer Atchue fired another shot at him with the less-than-lethal projectile launcher. Mr. Prud'homme released the grip on his pistol, and within seconds officers approached him, secured the weapon, handcuffed him, and began treating his gunshot wound. Despite those medical efforts, Mr. Prud'homme died at the scene.

### **III. THE INVESTIGATION**

#### **A. Events Leading Up To the Armed Confrontation with Ryan Prud'homme**

On the evening of June 2, Ryan Prud'homme was at his home in Pelham with his wife. Earlier in the day, Mr. Prud'homme had what can fairly be characterized as a minor

disagreement with family members, an event that was neither alarming nor confrontational.

While at home, Mr. Prud'homme argued with his wife about the earlier incident. The argument, which was only verbal, ended when Mr. Prud'homme, who was visibly agitated, walked away.

Shortly thereafter, Mr. Prud'homme returned to his wife. Wholly unexpected to her, Mr. Prud'homme was armed with a handgun. He cocked the weapon and told his wife in substance that she was going to watch him shoot himself.<sup>2</sup> Mr. Prud'homme's wife purposely kept her head down so as to not see anything and called Mr. Prud'homme's parents, who lived nearby. Mr. Prud'homme, still armed with the pistol that he had brandished while threatening to kill himself, drove off in his truck. At about 7:50 p.m.—about the same time Mr. Prud'homme drove away—911 was called, in substance reporting that he was armed with a gun and was “not in a good place.” The call was made out of concern that Mr. Prud'homme would harm himself, not that he could harm others.

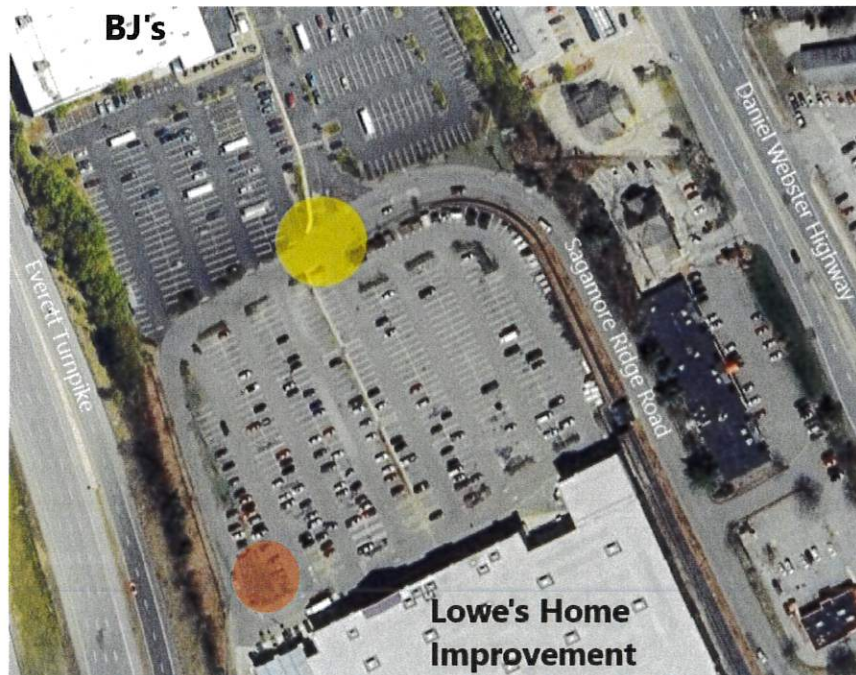
Friends and family members of Mr. Prud'homme attempted to contact him by cellphone. Mr. Prud'homme responded with some text messages, including ones to his wife apologizing and explaining that he “can't recover from this.” An emergency location “ping” generated for Mr. Prud'homme's cellphone placed the device in the area of Sagamore Ridge Road in Nashua; that is the access road adjacent to Lowe's and BJ's off of the Daniel Webster Highway. Nashua police were notified of Mr. Prud'homme's believed location, and that he was armed with a firearm and suicidal. Several police officers responded to that area in order to try to find Mr. Prud'homme.

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<sup>2</sup> Mr. Prud'homme had struggled with depression and had previously threatened suicide, but he was not known to have ever acted previously on such threats.

**B. The Police Encounters with Ryan Prud'homme**

Nashua Police Officers Jay Atchue and Gabriel Iacoviello first arrived at Lowe's, at about 8:40 p.m. By that time, the Lowe's and nearby BJ's both had been closed for about forty minutes, and there were only a few vehicles scattered in the parking lot. The officers spotted what appeared to be Mr. Prud'homme's truck parked in the Lowe's lot.<sup>3</sup> Officers Atchue and Iacoviello drove behind Mr. Prud'homme's location, activated their vehicle police lights, and ordered Mr. Prud'homme to leave his vehicle. Instead, Mr. Prud'homme drove off, at a normal rate of speed, towards Sagamore Ridge Road. That initial encounter lasted less than a minute, and the officers did not pursue Mr. Prud'homme as he left.



*An overheard photo showing the area between Lowe's and BJ's where the fatal encounter between Ryan Prud'homme and the police occurred. The location highlighted in red shows the approximate location where police initially spotted Mr. Prud'homme's parked truck in the Lowe's parking lot. The location highlighted in yellow shows the approximate location where the subsequent armed encounter between Mr. Prud'homme and police occurred. The overheard is a stock photo, and does not represent vehicular presence at the time of the shooting, which was less.*

<sup>3</sup> Surveillance footage recorded Mr. Prud'homme arriving at the parking lot at about 8:05 p.m., and he remained parked, in the same space, until he drove off when police approached.

While Mr. Prud'homme was driving from the Lowe's parking lot, Police Officer Joshua Martin was driving to the lot in a marked patrol car, to assist in the search for Mr. Prud'homme. The two vehicles met and stopped on Sagamore Ridge Road, facing each other, in between Lowe's and BJ's. That encounter began at about 8:41 p.m., less than a minute after Mr. Prud'homme drove off from Officers Atchue and Iacoviello, who were still in the nearby parking lot. At the time of the initial vehicle stop, there were no other police officers present with Officer Martin.

Officer Martin got out of his vehicle, drew his service pistol, and approached Mr. Prud'homme's truck. Mr. Prud'homme left his truck with his arms raised, holding a pistol. The accounts provided by Officer Martin and others on-scene regarding the encounter that followed up to the point of the fatal shooting—which occurred about fifty-five seconds later—as well as available video recordings of those events, are detailed below.



*An overhead photo showing the approximate locations of Mr. Prud'homme and Officers Martin and Atchue at the time of the shooting. The blue objects are police vehicles, and the white object is Mr. Prud'homme's truck. Mr. Prud'homme's position is indicated by the yellow circle, Officer Martin's position by the front of Mr. Prud'homme's truck is indicated by the red circle, and Officer Atchue's position by the driver's door of his patrol car is indicated by the green circle.*

C. Witness Accounts

1. Police Officer Joshua Martin

Police Officer Martin was interviewed on June 13, 2024. At the time of the shooting, Officer Martin had been a member of the Nashua Police Department for about three months, with prior police experience dating back to about July, 2020.

When Officer Martin first saw Mr. Prud'homme, Mr. Prud'homme's back was to him with his arms raised. When Mr. Prud'homme turned and faced Officer Martin, Officer Martin realized that Mr. Prud'homme was holding a pistol, which was pointed at the officer as Mr. Prud'homme lowered his arms while turning to face the officer.

When Officer Martin saw the pistol in Mr. Prud'homme's hand, he backed away, and eventually took cover by Mr. Prud'homme's nearby truck. Officer Martin repeatedly ordered Mr. Prud'homme to drop his gun, which Mr. Prud'homme still was holding down by his waist. Mr. Prud'homme, who was crying, replied that he would not drop the weapon, that the officer was going to have to kill him, and that he wanted to die. Mr. Prud'homme held the handgun down by his side, and was moving the weapon "all around"—at times level, and at times muzzle pointed down—at waist level. Officer Martin did not see any other police officers and did not believe that any other officers were present.

At one point during the armed confrontation, Officer Martin heard a single gunshot, which he believed came from Mr. Prud'homme's weapon. Simultaneous to that heard shot, Officer Martin claimed that he saw Mr. Prud'homme move the pistol that he was holding "up to his chest level, pointed towards me." At that time, Officer Martin fired his pistol once at Mr. Prud'homme, who immediately fell to the ground. Officer Martin then noticed, for the first time, that Officers Atchue and Iacoviello were also present, positioned to his left.

## **2. Police Officer Jay Atchue**

Police Officer Atchue was interviewed on June 12, 2024. At the time of the shooting, Officer Atchue had been a member of the Nashua Police Department for about four years.

From Officer Atchue's position in the Lowe's parking lot where he had initially encountered Mr. Prud'homme in his parked truck, Officer Atchue saw Officer Martin make contact with Mr. Prud'homme nearby. Officer Atchue quickly drove over to that location. There, Officer Atchue saw that Mr. Prud'homme was standing in the road, holding a handgun. Officer Atchue could not see Officer Martin, but heard him yelling to Mr. Prud'homme to drop his weapon. Mr. Prud'homme did not drop his pistol, and was saying that he wanted to die. Officer Atchue did not tell Officer Martin that he had arrived on-scene.

Officer Atchue was armed with a less-than-lethal projectile launcher. Officer Atchue claimed that he yelled out "beanbag," to alert other officers that he was firing his launcher, and fired at Mr. Prud'homme once. Officer Atchue saw the round strike Mr. Prud'homme by his right ribs, and saw him fall to the ground. Officer Atchue was unaware that Officer Martin had fired his pistol. While Mr. Prud'homme was on the ground, he was still holding the pistol despite continued commands to drop the weapon, so Officer Atchue fired his less-than-lethal projectile launcher again, striking Mr. Prud'homme in the leg. Officer Atchue stopped firing when Mr. Prud'homme released his grip on his firearm.

## **3. Other People On-Scene**

Two other police officers were present at the time when Ryan Prud'homme was shot. One was Officer Gabriel Iacoviello, who had been with Officer Atchue in the Lowe's parking lot when Mr. Prud'homme was initially approached in his parked truck. The second was Officer Richard Byron, who arrived on-scene after Officer Martin first encountered Mr. Prud'homme but

before the shooting. At the time of the shooting, Officer Byron was taking cover at his vehicle, which was parked behind Officer Martin's vehicle.

From Officer Iacoviello's position in the Lowe's parking lot where he and Officer Atchue initially encountered Mr. Prud'homme, he heard Officer Martin commanding Mr. Prud'homme to put down his gun. Officer Iacoviello responded to that scene, and when he arrived Officers Martin and Atchue already were there with Mr. Prud'homme. Mr. Prud'homme would not put down his handgun, and said that he wanted to die. At one point, Officer Atchue fired a less-than-lethal round, which Officer Iacoviello saw strike Mr. Prud'homme, and Officer Iacoviello heard a separate gunshot. Mr. Prud'homme fell to the ground but continued to hold the handgun despite additional commands to disarm, at which point Officer Atchue fired another less-than-lethal round. Mr. Prud'homme then dropped his gun.

When Officer Byron arrived behind Officer Martin, Mr. Prud'homme already was standing in the road. From Officer Byron's position, he saw Mr. Prud'homme, who was holding a handgun, and Officer Martin, who was yelling at Mr. Prud'homme to drop his weapon. At the time, Officer Byron was unaware that any other police officers were present. As Officer Byron moved to Officer Martin's position, he attempted to fire his less-than-lethal shotgun at Mr. Prud'homme, but the weapon misfired. Officer Byron then saw Mr. Prud'homme laying on the ground still moving and heard additional commands to drop the gun. At that point, Officer Byron successfully discharged a beanbag round from his shotgun, but it did not strike Mr. Prud'homme.

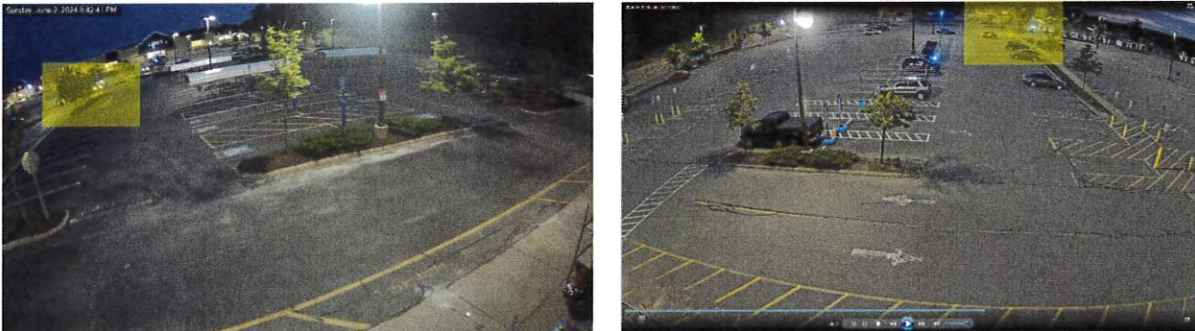
As previously noted, at the time of the police use-of-force encounter with Ryan Prud'homme both Lowe's and BJ's were closed. A private citizen was present outside Lowe's, mistakenly believing that the store was still open. As that customer walked up to Lowe's he

heard someone yell, “Put down the gun.” The customer then heard two gunshots and left without seeing anything.

An employee of BJ’s reported that while outside the store he saw an encounter between the police and the driver of a truck at the end of the parking lot. The driver was armed with a handgun, which he held despite multiple commands from the police to drop the weapon. The employee recounted that at one point, while the driver’s arm holding the handgun was at shoulder level and pointed at nearby officers, he heard two gunshots and saw the driver fall to the ground.

**D. Video Evidence**

Both Lowe’s and BJ’s had operable and running external surveillance cameras at the time of the shooting, but the views of the incident were obscured and distant, and provided no useful investigative information. There was no known private citizen recordings of events.



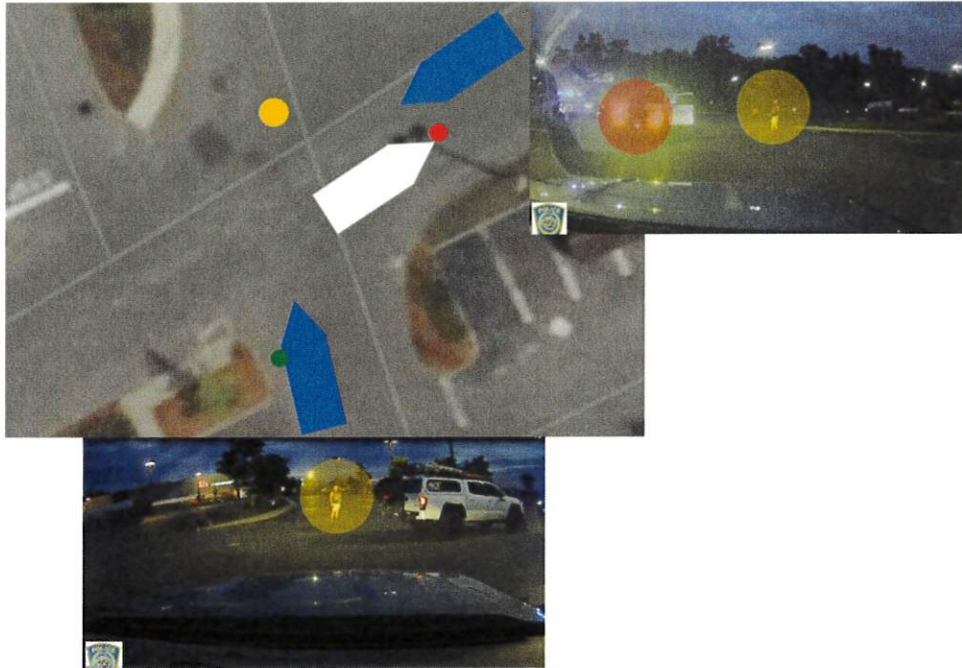
*Still photos from outside surveillance footage from BJ’s (left) and Lowe’s (right). The area of the shooting is highlighted in yellow in both stills.*

Although Nashua police officers are equipped with body cameras, the devices worn by Officers Martin, Atchue, and Iacoviello had depleted batteries—the incident occurred during the end of their shifts—and thus those body cameras did not record the shooting.<sup>4</sup> The patrol

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<sup>4</sup> The body camera worn by the fourth police officer present during the shooting—Officer Byron—was operational. That footage contributes no substantive visual information of events to

vehicles driven by Officers Martin and Atchue were equipped with front-positioned cameras, which recorded the entirety of the shooting. That footage contains audio as well as video, and although the audio captured words between Mr. Prud'homme and the police, at times their words are drowned out by sounds from the vehicles' interior radios.



*Still photos from the vehicle cameras from Officer Atchue's patrol vehicle (below) and Officer Martin's patrol vehicle (right). Mr. Prud'homme is circled in yellow in both photos, and Officer Martin is circled in red, at the front of Mr. Prud'homme's truck in the photo on the right.*

When Officer Martin approached Mr. Prud'homme's truck, the officer had his pistol out and directed Mr. Prud'homme to "get out of the car" and "get on the ground." Mr. Prud'homme left his truck with his back towards Officer Martin and with his hands raised over his head. While Mr. Prud'homme was walking away from his truck, back still towards Officer Martin, he then simultaneously turned to face Officer Martin and lowered his arms. Mr. Prud'homme held a handgun in his right hand, which was pointed at Officer Martin as Mr. Prud'homme turned to face the officer. Officer Martin again yelled at Mr. Prud'homme to "get on the ground" and

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that provided by the footage from the vehicles used by Officers Martin and Atchue, but does provide some clearer audio towards the end of the incident.

reported over the radio that Mr. Prud'homme "has a gun on me." Mr. Prud'homme remained standing, in the middle of the road, with the gun he held by his side. Officer Martin moved to the front of Mr. Prud'homme's truck and directed Mr. Prud'homme at least seven times to "put down the gun."



*Still photos from the vehicle camera from Officer Martin's patrol vehicle, showing both Officer Martin (left) and Mr. Prud'homme (right). In both photos Mr. Prud'homme is holding a pistol in his right hand. These photos have been cropped and enlarged.*

Mr. Prud'homme did not drop his weapon, and held the gun primarily down by his waist with the muzzle pointed towards the ground. Mr. Prud'homme, while holding the gun, also spoke. What exactly Mr. Prud'homme said is hard to discern from the available recordings, but he appears to have said words to the effect of "I want to die." At one point, Officer Martin warned Mr. Prud'homme that he did not want to but would shoot him, to which Mr. Prud'homme responded "I know you will." Just before Mr. Prud'homme was shot, he announced, "I am going to die tonight."

Audio then captured two nearly instantaneous shots, not readily distinguishable from one-another. The first—Officer Atchue's less-than-lethal round,<sup>5</sup> struck Mr. Prud'homme, causing

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<sup>5</sup> The order of shot discharge—the projectile from Officer Atchue's less-than-lethal launcher, followed immediately by the bullet from Officer Martin's pistol—is determined audibly from available police footage, in that the first shot sounds closer in the footage from Officer Atchue's vehicle and the second shot sounds closer in the footage from Officer Martin's and Officer Byron's vehicles and from the latter's body camera footage.

him to physically recoil before he fell to the ground. The audio recorded Officer Atchue announcing “beanbag” just after the first less-than-lethal shot and Officer Martin’s pistol is fired, but no similar announcement is audible prior to that shot.



*Still photos from the vehicle cameras from Officer Atchue’s patrol vehicle (left) and Officer Martin’s patrol vehicle (right) just before Mr. Prud’homme was shot. Mr. Prud’homme is still holding a pistol in his right hand, which is by his waist. These photos have been cropped and enlarged.*

**E. Physical Evidence/Autopsy Results**

The handgun that Mr. Prud’homme held during his armed encounter with the police was a semiautomatic pistol. The gun was loaded with one chambered round, ready to fire, and an additional ten rounds in a thirteen-round magazine. Investigators recovered the two expended less-than-lethal rounds fired by Officer Atchue, as well as the less-than-lethal shotgun beanbag round fired by Officer Byron.

Chief Medical Examiner Jennie Duval conducted an autopsy on Ryan Prud’homme on June 3, 2024. Mr. Prud’homme suffered a single gunshot wound, which entered his left chest. That bullet was recovered from Mr. Prud’homme’s back. Mr. Prud’homme’s autopsy also documented two incomplete circular abrasions, consistent in appearance with impact wounds from the less-than-lethal projectiles fired by Officer Atchue. One of those pattered abrasions was to Mr. Prud’homme’s right abdomen, and the other was to his right thigh.

Mr. Prud’homme’s death was determined to be a homicide, with his cause of death the gunshot wound to his chest. As used by the Office of the Chief Medical Examiner, the term “homicide” is defined as the killing of one person by another.

Toxicology testing of a sample of Mr. Prud'homme's blood revealed an alcohol concentration of 0.141,<sup>6</sup> as well as the presence of prescription antidepressants appearing within therapeutic ranges.

#### IV. APPLICABLE LAW AND LEGAL STANDARDS

New Hampshire's laws regarding self-defense, defense of others and the use of physical force by law enforcement are set forth in RSA Chapter 627. RSA 627:5, II delineates when a law enforcement officer is justified in using deadly force. Under RSA 627:9, II, "deadly force" is defined as "any assault . . . which the actor commits with the purpose of causing or which he knows to create a substantial risk of causing death or serious bodily injury." "Purposely firing a firearm capable of causing serious bodily injury or death in the direction of another person . . . constitutes deadly force." RSA 627:9, II.

Under RSA 627:5, II(a), a law enforcement officer is justified in using deadly force "when he reasonably believes such force is necessary . . . to defend himself or a third person from what he reasonably believes is the imminent use of deadly force." The phrase "reasonably believes" means that the actor "need not have been confronted with actual deadly peril, as long as he could reasonably believe the danger to be real." *State v. Gorham*, 120 N.H. 162, 163-64 (1980). The term "reasonable" "is determined by an objective standard." *State v. Leaf*, 137 N.H. 97, 99 (1993). Further, all the circumstances surrounding the incident should be considered in determining whether there was a reasonable belief that deadly force was necessary to defend oneself or another. When reviewing a deadly force incident, the actor's conduct should be viewed considering "the circumstances as they were presented to him at the time, and not necessarily as they appear upon detached reflection." *N.H. Criminal Jury Instructions*, 3.10. In

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<sup>6</sup> New Hampshire law prohibits operation of a motor vehicle with a blood alcohol concentration of 0.08 or higher for anyone over 21 years old.

other words, when analyzing the reasonableness of an actor's use of deadly force, the inquiry must focus on the situation from the standpoint of a reasonable person facing the same situation. That examination cannot be made with the benefit of hindsight. The amount of deadly force used by the actor to protect himself or another must be reasonable, and not excessive. *See State v. Etienne*, 163 N.H. 57, 70 (2011).

Also applicable in this case is the justification provision regarding legal use of deadly force by law enforcement when conducting arrests:

A law enforcement officer is justified in using deadly force only when he reasonably believes such force is necessary [t]o effect an arrest . . . of a person whom he reasonably believes [h]as committed or is committing a felony involving the use of force or violence . . . or otherwise indicates that he is likely to seriously endanger human life or inflict serious bodily injury unless apprehended without delay; and [h]e has made reasonable efforts to advise the person that he is a law enforcement officer attempting to effect an arrest and has reasonable grounds to believe that the person is aware of these facts.

RSA 627:5, II(b). That being said, lawful police use of deadly force under this provision is further tempered by relevant constitutional jurisprudence, which place additional limitations thereon. *See, e.g., Tennessee v. Garner*, 471 U.S. 1, 11-12 (1985) (deadly force cannot be used against apparently unarmed and nondangerous fleeing suspect).

Federal cases, while largely addressing the civil standards that apply to federal civil rights lawsuits, provide some discussion of the "reasonableness" standard for the use of force by police officers that is useful in analyzing officer-involved use of force cases in this state. In *Graham v. Connor*, 490 U.S. 386 (1989), the United States Supreme Court stated that "[t]he 'reasonableness' of a particular 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." *Id.* at 396. The Supreme Court continued:

The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.

*Id.* at 396-97; *see also Ryburn v. Huff*, 565 U.S. 469, 477 (2012) (same).

The Eleventh Federal Circuit has noted that:

The Supreme Court has emphasized that there is no precise test or ‘magical on/off switch’ to determine when an officer is justified in using excessive or deadly force. . . . Nor must every situation satisfy certain preconditions before deadly force can be used. . . . Rather, the particular facts of each case must be analyzed to determine whether the force used was justified under the totality of the circumstances.

*Garczynski v. Bradshaw*, 573 F.3d 1158, 1166 (11<sup>th</sup> Cir. 2009) (citations omitted). That is because “the law does not require perfection—it requires objective reasonableness.” *Phillips v. Bradshaw*, No. 11-80002-CIV-MARRA, 2013 U.S. Dist. LEXIS 44646 \*55-56 (S.D. Fla. March 28, 2013). The law must account for the fact that dangerous situations often unfold quickly and law enforcement officers sometimes need to make quick decisions under less-than-ideal circumstances. *See Huff*, 565 U.S. at 477 (finding that appeals court panel “did not heed the District Court’s wise admonition that judges should be cautious about second-guessing a police officer’s assessment, made on the scene, of the danger presented by a particular situation.”).

These are the legal standards that help guide the Attorney General’s review of the use of deadly force by a law enforcement officer in New Hampshire.

## V. ANALYSIS AND CONCLUSION

The analysis of the law enforcement use of deadly force here begins with a review of pertinent circumstances leading up to that event. Here, police contact with Ryan Prud’homme began as a result of attempts to locate him upon a report that he was armed with a gun and “not in a good place.” Those reports were accurate. Mr. Prud’homme was armed with a pistol, a

weapon that in fact was loaded and ready-to-fire. And, Mr. Prud'homme was experiencing a serious mental health crisis. Although the exact cause of that crisis cannot be explained, Mr. Prud'homme unexpectedly and alarmingly threatened to take his own life with that pistol by cocking the weapon in front of his wife and telling her in substance that he was about to shoot himself. Thus, the Nashua police officers who encountered Mr. Prud'homme were accurately aware that he was armed and actively suicidal.

Mr. Prud'homme's behavior when confronted by the police legitimately added to safety concerns. He left his truck holding a handgun, and despite numerous and clear directives to disarm did not do so. To the contrary, Mr. Prud'homme verbally responded to the directives to drop the gun that he openly brandished by professing a desire to be shot by the police and an expectation that he would soon die. Objectively viewed, these words and conduct were plainly erratic and patently dangerous.

It is in light of these preceding relevant circumstances that the use of deadly force against Mr. Prud'homme must be assessed. From all the evidence, Officer Atchue first discharged his less-than-lethal projectile launcher, and then—almost instantaneously, but after—Officer Martin fired his pistol. Those different means of force will be discussed in turn.

**A. Officer Atchue's Less-Than-Lethal Firearm**

Based upon all the facts and circumstances of this case, the Attorney General has concluded that it was reasonable for Officer Atchue to fire less-than-lethal rounds at Ryan Prud'homme because when he did so Mr. Prud'homme posed an imminent deadly danger to himself and others, and the utilized less-than-lethal means were necessary to arrest Mr. Prud'homme, who at the time of his armed standoff was committing a felony involving the use of force.

As to the former justification—preventing Mr. Prud’homme from using deadly force against himself or others—Mr. Prud’homme had recently and openly expressed suicidality, and when confronted by Nashua police was behaving entirely consistent with that recent threat. Mr. Prud’homme was armed and openly brandishing a handgun, refused to disarm, and was talking about his expectation that he would soon die. In the face of such a legitimate, aggressive, and active suicide threat, a belief that Mr. Prud’homme imminently would follow-through with his expressed desire to end his own life—either directly by turning the gun he held on himself or indirectly by pointing the weapon at nearby officers to provoke defensive gunfire at him—was reasonable.

As to the latter justification—effecting Mr. Prud’homme’s arrest—Mr. Prud’homme engaged in threatening behavior with a pistol in the presence of police officers who he knew were present. This is a felony involving the threat of violence. RSA 631:3 (“A person is guilty of reckless conduct if he recklessly engages in conduct which places or may place another in danger of serious bodily injury.”), II (“Reckless conduct is a class B felony if the person uses a deadly weapon . . . .”); *see State v. Haines*, 142 N.H. 682, 700 (1998). Although Mr. Prud’homme only verbally threatened his own life and made no overt threats to anyone else, his conduct placed police officers and private citizens in his potential line of fire at risk. So were those nearby others also placed in danger by Mr. Prud’homme’s conduct in brandishing a loaded firearm out in the open in a clearly agitated state, and actively seeking to create a situation in which police officers may need to resort to shooting him, as he explicitly desired.

Further, the use of the less-than-lethal launcher by Officer Atchue against Mr. Prud’homme was reasonable. Germane to the analysis here is that although the less-than-lethal method employed constitutes “deadly force” under that term’s legal definition, *see* footnote 1,

*supra*, the method was not designed or employed with the intention to kill Mr. Prud'homme. Rather, Officer Atchue sought to disarm Prud'homme of the deadly weapon that Mr. Prud'homme was holding and refusing to drop, and to incapacitate Mr. Prud'homme so that he could safely be disarmed and placed in custody. Thus, Officer Atchue's use of force against Mr. Prud'homme was reasonable under the circumstances.

**B. Officer Martin's Pistol Discharge**

Analysis differs as to the legality of the use of deadly force by Officer Martin, who fired his pistol at Ryan Prud'homme. Such lethal means cannot be legally utilized in order to prevent Mr. Prud'homme from taking his own life or endangering others, or in order to arrest him for such dangerous conduct. Instead, assessment of the legality of the use of such deadly force against Mr. Prud'homme centers on the reasonableness of the expressed beliefs held by Officer Martin that when he fired his pistol, Mr. Prud'homme posed an imminent deadly threat, and that such deadly force against Mr. Prud'homme was necessary for protection from that perceived immediate deadly threat.<sup>7</sup> Based upon all the facts and circumstances of this particular case, the Attorney General has concluded that the beliefs held by Officer Martin—although, as discussed below, based in part upon misapprehensions on his part—were reasonable.

As previously noted in the analysis with respect to Officer Atchue, when Officer Martin encountered Mr. Prud'homme he was acting erratically and dangerously. But such conduct does not, in itself, justify the use of deadly police force through discharge of a weapon such as a

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<sup>7</sup> Lawful deadly physical force not only allows for the protection of the person who uses such force, but also others. However, Officer Martin explained in his interview that he was unaware that other police officers were present when he fired on Mr. Prud'homme. Accordingly, analysis will focus on whether Officer Martin reasonably believed that deadly force was necessary to protect himself from imminent deadly force from Mr. Prud'homme.

pistol. Rather, under the law, Officer Martin must have faced a threat of imminent deadly force by Mr. Prud'homme.

Here, that immediacy is established by Officer Martin's mistaken but reasonable belief that Mr. Prud'homme actually had discharged the pistol that he was openly brandishing and had earlier pointed in the officer's direction. There was in fact a discharge that preceded Officer Martin's firing of his own pistol. As Officer Martin explained, he believed that the shot had come from Mr. Prud'homme, because at the time the officer knew that Mr. Prud'homme was armed and the officer believed that at the time of the discharge he and Mr. Prud'homme were the only ones present. But that heard discharge did not come from Mr. Prud'homme. It instead came from Officer Atchue, who unbeknownst to Officer Martin had joined the encounter and fired his less-than-lethal projectile launcher.

From the available police video, a discharge is clearly heard immediately preceding Officer Martin's gunshot. That initial discharge is not appreciably different from Officer Martin's subsequent gunshot, other than loudness indicating its source was elsewhere from the officer. Moreover, despite Officer Atchue's claim that he made an audible warning before discharging his less-than-lethal projectile launcher, no such warning is heard from any of the available audible. And, at the time, Officer Martin was unaware that other officers were present. As Officer Martin explained, his attention was focused on Mr. Prud'homme. Although Officer Atchue and others did arrive, that occurred in the midst of Officer Martin's confrontation with the armed Mr. Prud'homme, and the other officers were positioned behind and to Officer Martin's periphery, where he could not see their arrival. Lastly here, Mr. Prud'homme not only was visibly armed with a pistol, but was actively talking suicidal—in effect that he wanted to die and be shot—circumstances indicating his readiness to fire and provoke the very outcome that he

verbally was seeking. From all this evidence, Officer Martin reasonably but mistakenly believed that Mr. Prud'homme had just fired at him.

At that point, the perceived threat of deadly force posed by Mr. Prud'homme was active and ongoing. Officer Martin was confronted with a person who, while facing the officer, was openly brandishing a pistol, was refusing to disarm or comply with other repeated directives, and was talking about how he was going to die and expected the officer to shoot him. In the midst of all these events, Officer Martin heard a weapon discharge, and the only known source of such was Mr. Prud'homme.

The reality is that Mr. Prud'homme did not fire his pistol, and that Officer Martin's belief otherwise was mistaken. But although legal justification places a high threshold for the use of lawful defensive deadly physical force, all that is necessary is a "reasonabl[e] belie[f] of] the imminent use of deadly force." RSA 627:5, II(a) (emphasis added). Here, Officer Martin's expressed but incorrect belief that Mr. Prud'homme fired must be both credible and reasonable. *See, e.g., State v. Holt*, 126 N.H. 394, 397 (1985) ("a belief which is unreasonable, even though honest" will not support a lawful justification claim). For all of the reasons just discussed, the evidence gathered from the investigation here establishes that Officer Martin's misapprehension as to the source of the shot preceding his firing was honestly-held and reasonable under the circumstances.

Officer Martin also was incorrect that Mr. Prud'homme raised his arm holding the pistol when the initial discharge was heard. Notably, this was a circumstance that the only known private citizen eyewitness to events also mistook. Even accepting that video can fail to fully capture the entirety of events due to such factors as poor angle or obstructions, here available recordings from two separate sources—the cameras from Officer Atchue's vehicle and Officer

Martin's vehicle—show that Mr. Prud'homme's arm was down by his waist and not raised when he was shot. But as noted, the belief that Mr. Prud'homme had just discharged his weapon was reasonable, and constituted not just imminent, but ongoing deadly force. Thus, whether at the time the gun was at Mr. Prud'homme's waist—and could easily be directed at anyone in the vicinity in less than a second—or actually pointed at those nearby does not alter the perceived deadly threat posed.

For all these reasons, Nashua Police Officer Jay Atchue was legally justified in using less-than-lethal force against Ryan Prud'homme, and Nashua Police Officer Joshua Martin was justified in using lethal force against Mr. Prud'homme during the same incident. Accordingly, no criminal charges will be filed against either officer from that incident.