

**ATTORNEY GENERAL'S REPORT OF OFFICER INVOLVED USE OF DEADLY  
FORCE IN LEE, NH ON DECEMBER 3, 2012**

**April 3, 2013**

**I. INTRODUCTION:**

The purpose of this report is to summarize the Attorney General's findings and conclusions with regard to the officer-involved shooting in Lee, New Hampshire on December 3, 2012. The findings and conclusions contained in this report are based on information gathered during the investigation, including, crime scene examination, photographs and diagrams, information provided from investigators, interview reports, police investigative reports, and the recordings and transcripts of witness interviews. Many civilian and police witnesses were interviewed during the course of this investigation. All of the police officers and their departments involved in the incident, as well as the civilian witnesses, were cooperative with the investigation.

Based on the investigation's findings, and for the reasons detailed below, New Hampshire Attorney General Michael A. Delaney has determined that the deadly force which resulted in Mr. Steven Amazeen sustaining gunshot wounds to his legs and shoulder was a justified use of deadly force by the two Durham Police Officers who fired at Mr. Amazeen.

The investigation has revealed that the police officers' use of deadly force was precipitated by Mr. Amazeen's course of conduct on Monday, December 3, 2012. Mr. Amazeen's actions created a situation that led the police officers who fired their weapons to reasonably believe that they and/or others were in danger of death or serious bodily injury. That course of conduct included Steven Amazeen's discharge of his weapon inside and outside of his home, just prior to having contact with police officers on Lee Hook Road. In addition, when the officers encountered Mr. Amazeen on Lee Hook Road he was armed with a deadly weapon, he made threats to use his gun on himself and the police, and he failed to comply with police commands to drop his gun and surrender as he moved aggressively towards police officers. Finally, Mr. Amazeen raised his arm and pointed his gun directly at one of the Durham officers.

Accordingly, based on all the facts and circumstances of this case the officers' actions in shooting Mr. Amazeen were justified under the law.

**II. FACTS**

**The majority of this section of the report has been withheld pending the conclusion of the criminal prosecution against Mr. Amazeen, which is now pending in Strafford County Superior Court.**

**Mary Amazeen**

Mary Amazeen was interviewed by members of the New Hampshire State Police and the Lee Police Department. On December 2, 2012, Mary Amazeen lived at 289 Lee Hook Road,

Lee, New Hampshire with her husband, Steven Amazeen, and their five year old child. For the last several years their relationship has been strained due to finances and a death in the family. Mary told police that her husband suffers from depression and that recently his mental health had deteriorated. In the prior few weeks, Steven had started carrying his handgun at all times. The night of December 2, Mary and Steven had a fight which led to a discussion about getting a divorce. When Mary stated that she wanted a divorce, Steven reacted by firing his handgun into the floor of their bedroom. Steven then said he was going to take care of it right then and left the house. Mary then heard another gunshot in their yard, towards their barn. She then called 911.

Mary watched Steven leave their driveway and walk up Lee Hook Road. She heard the cruisers arrive on the scene and shouting back and forth. She heard her husband yelling, "Leave me alone," and the police trying to help him. She then heard four shots.

### **Physical evidence and medical treatment**

Mr. Amazeen's handgun, an AMT "Backup" .380 pistol containing 3 cartridges, including one in the chamber, was recovered at the scene.

The weapons carried by the police officers involved in the shooting, along with their uniforms were secured in evidence. The officer's service weapons were checked for the number of bullets fired. Five cartridges were missing from Sgt. Jack Dalton's weapon and four were missing from Officer John Lavoie's weapon. The police collected nine .40 caliber spent shell casings from the scene, consistent with the number of bullets missing from their weapons. The police located only one discharged bullet at the scene. This bullet was lodged in the open driver's side door of the Lee cruiser.

No bullets were recovered from Mr. Amazeen's body. Therefore, no ballistic analysis has been conducted to determine which of the officer's bullet struck Mr. Amazeen. Mr. Amazeen's wounds have been described as follows: a bullet wound entering his left thigh, crossing into his right thigh and lodging near his hip. This bullet was not removed during surgery. The trajectory of this wound is consistent with Mr. Amazeen turning toward Officer David Carpenter when the officers fired their weapons. The bullet that struck Mr. Amazeen's shoulder exited his back and was not located at the scene.

The police also located a bullet hole in the floor of the Amazeen's bedroom, with a .380 casing nearby. The police also seized a number of firearms from the residence.

### **III. THE 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. Under RSA 627:5, II (a), a law enforcement officer is justified in using deadly force when he reasonably believes

that 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). All the circumstances surrounding the incident should be considered in determining if the officer acted reasonably. See id. at 99; Aldrich v. Wright, 53 N.H. 398 (1873).

When analyzing the reasonableness of an actor’s use of deadly force, the State must consider that it would bear the burden at trial to disprove a claim of self-defense or defense of another, beyond a reasonable doubt. See, State v. McMinn, 141 N.H. 636, 645 (1997). The person who used deadly force would have no obligation to show that his conduct was reasonable or that it met the requirements of the law.

#### **IV. ANALYSIS AND CONCLUSION**

The evidence demonstrates that throughout the police encounter with Mr. Amazeen the police were threatened repeatedly with deadly force. Mr. Amazeen begged for the police to shoot him and threatened several times to shoot the officers if they did not shoot him. At one point, Mr. Amazeen pointed his weapon in close proximity to several officers in an effort to insight them to shoot him. When this failed, Mr. Amazeen’s attention was directed at the arriving Durham Officers. He immediately raised his weapon as he approached the officers, while begging them to shoot him. He approached in an aggressive manner and pointed his weapon at Officer Carpenter, refusing to comply with orders to stop and drop his weapon. When Mr. Amazeen reached the front of the Durham Police cruiser, and failed to drop his weapon or stop advancing, he left the officers no choice but to fire their weapons to protect Officer Carpenter’s life and themselves from deadly force. Durham Police Sergeant Jack Dalton and Durham Police Officer John Lavoie both fired their weapons at Mr. Amazeen. Mr. Amazeen immediately collapsed on the roadway with bullet wounds to his upper legs and his shoulder. Officer Lavoie provided emergency medical attention to Mr. Amazeen until the ambulance arrived and transported him to the Wentworth Douglas Hospital.

Based on all the facts and circumstances known to the officers at the time they fired their weapons, and examining the situation from the standpoint of objective police officers in their position, it was reasonable for them to conclude that Steven Amazeen was about to use deadly force against Officer Carpenter and/or themselves. The officers’ conclusion that deadly force was necessary is supported by all the facts and circumstances of the incident, including the fact that Mr. Amazeen had fired his weapon in his residence during a domestic dispute, had fired his weapon outside of his home, was found on the roadway begging to be killed, and that he engaged in threatening conduct designed to produce a defensive action by the police. In addition, Mr. Amazeen failed to obey numerous and repeated police commands, he failed to drop his gun and he failed to stop his aggressive movement towards the officers. Finally, Mr. Amazeen made

numerous threatening statements to use violence, and behaved most aggressively in the moments before he was shot as he advanced to within about 10 feet of Officer Carpenter when he raised his weapon and aimed it at Officer Carpenter.

Therefore, Durham Police Sergeant Jack Dalton and Durham Police Officer John Lavoie were both legally justified in using deadly force against Steven Amazeen to defend themselves and Durham Police Officer David Carpenter from what they reasonably believed was the imminent use of deadly force by Steven Amazeen.