

**ATTORNEY GENERAL'S REPORT ON OFFICER-INVOLVED
SHOOTING IN DOVER, SEPTEMBER 30, 2013**

INTRODUCTION

The purpose of this report is to summarize the Attorney General's findings and conclusions with regards to the incident that led to the officer-involved shooting that occurred at an apartment building located at 1 Northway Circle in Dover, New Hampshire on September 30, 2013.

FACTS

On September 30, 2013, at approximately 7:25 p.m., Dover Police Department Lieutenant Brad Gould, Officer Andrew Choi, and Officer Alexander Mitrushi responded to 1 Northway Circle to investigate a reported assault. Dover Officer James Yerardi arrived on scene shortly thereafter. The victim of the reported assault, Misty Sullivan, a 32 year-old female, had reportedly been struck in the head numerous times with a hammer by a neighbor, 50 year-old Frank Thompson. It was also reported that Thompson had a handgun that he had pointed at Ms. Sullivan and other residents.

Upon arriving at the apartment, Lieutenant Gould and Officer Mitrushi entered the front of Building 1, while Officer Choi covered the back entrance with his rifle.¹ When Officer Yerardi arrived, he was directed to the back of the building to assist Officer Choi. At approximately the same time, New Hampshire State Trooper Christopher Storm, who was in the area and had been monitoring the police radio, offered his assistance. Lieutenant Gould requested that Trooper Storm respond to the scene and assist Dover officers.

As Lieutenant Gould and Officer Mitrushi entered the building, they saw a male on the second floor on the phone. The man said that the female victim had been attacked with a hammer, was in need of medical assistance, and was in an apartment (apartment # 5) at the end of the hallway on the right. He further stated that Thompson had gone back into his apartment at the far end of the hallway on the left (apartment # 6). The man told Lieutenant Gould that the suspect had a gun. Lieutenant Gould and Officer Mitrushi walked up a short set of stairs to the second floor of the building and a woman came out of the first apartment on the right. The woman was identified as the mother of the victim. The woman told the officers that her daughter had a head injury and needed help. She stated that her daughter was in the apartment directly across the hall from the suspect's apartment. The male witness the officers spoke to first was identified as the step-father of the victim.

The officers asked the victim's mother for the victim's telephone number and attempted, without success, to contact her. The officers then asked the Dover Police Department dispatch to attempt contact with the suspect, Frank Thompson, in order to ask him to surrender peacefully. The attempts to contact Thompson were also unsuccessful.

¹ Throughout this report, "front entrance" refers to the side of the building that faces Plaza Drive, and "back entrance" to the door that faces the Northway Circle cul-de sac.

Lieutenant Gould and Officer Mitrushi proceeded down the hallway toward the apartment where the victim was, apartment # 5, which was occupied by the LaRose family. The two officers had their sidearms drawn and in the ready position. The officers stopped approximately 6-8 feet short of the doors to apartments 5 and 6, and called for the victim to come out into the hallway. Ms. Sullivan came out into the hallway, and the officers escorted her out of the building and into an ambulance. She was visibly bleeding and had a towel wrapped around her head. Officer Mitrushi accompanied her to the hospital in the ambulance.

By this time, Trooper Storm had arrived at the scene and had joined Officers Yerardi and Choi at the back of the building. Lieutenant Gould radioed to Officer Yerardi and asked whether he had his rifle with him. Officer Yerardi did not have his rifle, but Trooper Storm offered to get his rifle and join Lieutenant Gould at the front of the building. Officer Choi was armed with his rifle and continuing to cover the back entrance. Trooper Storm retrieved his rifle from his cruiser and proceeded to the front of the building. When Trooper Storm arrived at the front of the building, Lieutenant Gould instructed him to cover the front entrance and hallway while he went to retrieve his rifle from his cruiser. Lieutenant Gould soon rejoined Trooper Storm with both his rifle and a tactical shield.

The officers spoke again with the step-father of the victim. He confirmed that Thompson had a handgun and was in his apartment. Lieutenant Gould decided to start evacuating people from the second floor of the building and knocked on the door to the apartment across from that of the mother and step-father of the victim. Upon receiving no answer, Lieutenant Gould directed the occupants of Ms. Sullivan's mother and step-father's apartment to evacuate, and then decided that he and Trooper Storm would try to evacuate the people in the LaRose apartment, across from Thompson's apartment.

Lieutenant Gould and Trooper Storm made their way down the hallway toward the apartment across from Thompson's, with Lieutenant Gould leading the way and holding the tactical shield and his rifle, while Trooper Storm was behind him with his rifle trained on the door to Thompson's apartment. Lieutenant Gould tried to knock on the wall outside of the LaRose's apartment with his boot, but was unable to get their attention. Lieutenant Gould realized at this point that it was likely that Thompson was aware of the police presence at the apartment building, and further, probably knew that the officers were in the hallway. Therefore, Lieutenant Gould and Trooper Storm decided to try and make contact with Thompson, in an effort to persuade him to surrender peacefully.

Lieutenant Gould called to the suspect, "Frank, Dover PD, come out with your hands up." Thompson replied, "No thank you," and Lieutenant Gould again requested that he come out with his hands up so that nobody would get hurt. Lieutenant Gould then asked Thompson whether he had a firearm, and Thompson responded that he did not. Lieutenant Gould then repeated his request that Thompson come out into the hallway peacefully.

Shortly after this, both officers in the hallway heard a click, which sounded like the dead bolt lock on Thompson's apartment door. Immediately thereafter, the door to Thompson's apartment opened and both officers saw the flash of gun fire as Thompson fired his handgun at

them. As the officers began to retreat back down the hallway, Lieutenant Gould was knocked onto his back. Trooper Storm began returning fire in the direction of Thompson's apartment. Lieutenant Gould did the same, beginning to return fire from his position on the floor, and continuing to do so once he recovered his footing and both officers began to retreat back down the hallway.

From the other end of the building, Officer Choi had been maintaining a position with his rifle aimed at Thompson's apartment door. Officer Choi had heard Lieutenant Gould repeatedly ordering Thompson to come out and show his hands. Officer Choi then heard an exchange of gunfire. He saw someone standing in the doorway to Thompson's apartment and he believed the man was firing in his direction. Officer Choi fired his rifle at the man, but thought that his rifle had jammed. Officer Choi took cover and removed and reinserted the magazine into his rifle and began to move back into position to reengage Thompson. At this point, the glass in the door where he was standing was blown out by gunfire. Officer Choi took cover away from the doorway and kept his rifle trained on the doorway in the event that Thompson attempted to flee.

Lieutenant Gould and Trooper Storm exited the front of the apartment building and took cover behind cars in the parking lot. On the way out of the building Lieutenant Gould radioed that shots had been fired and requested backup. Lieutenant Gould instructed Officer Yerardi to retrieve his rifle from his cruiser. The officers surrounded the building and held their positions until other police officers began arriving.

The four officers who had been on scene then went to the command post and briefed other officers on what had occurred. They were then directed to return to the Dover Police Department to surrender their rifles, handguns, and uniforms. While turning in their equipment, Lieutenant Gould discovered that he had what appeared to be bullet holes in the legs of his uniform pants.

After the gunfire exchange with officers, Thompson retreated into his apartment and closed the door. The Dover Police and the New Hampshire State Police set up command posts and the Strafford Regional Tactical Operations Unit was also deployed. A New Hampshire State Police robot unit was called in to assist in making contact with Thompson in order to end the standoff. The robot is controlled remotely and transmits video images back to a laptop used by the robot operator.

The robot entered the apartment building and was positioned outside the door of Thompson's apartment in the hallway. The robot then attempted to open the door to Thompson's apartment. The robot was able to open the door approximately one inch, but unable to open the door any further. At this point, canisters of tear gas were fired into Thompson's apartment through the windows in the hope of getting him to leave the apartment. After two volleys of tear gas produced no movement from inside the apartment, the robot again attempted to open the door, and this time the door opened freely.

The robot entered the apartment to search for Thompson. Thompson was located in the bedroom, on the bed, wrapped in a blanket and in the fetal position. Thompson's hands were not visible, but it was clear that he was still breathing. The robot made several attempts to remove

the blanket in order to determine whether Thompson had a weapon in his hands. Before the blanket could be successfully removed, Thompson rolled off the bed and began to crawl out of the bedroom and into the main room of the apartment. During this time, police attempted to make contact with Thompson through a police public address system, asking him to come out of the apartment and informing him that the police wanted to provide him with medical attention.

Through the robot camera, officers were able to see Thompson crawl toward the apartment doorway and retrieve a gun from somewhere to the right of the door. Thompson put a magazine into the gun, racked the slide, and chambered a round in the gun. Thompson could be seen shifting his position, during which time the arm holding the gun was extended above him. Thompson fired a round from the gun in an upward direction toward the closet. Thompson then pointed the gun to the left side of his chest and fired a round. Officers directing the robot could see that Thompson's gun was now in the "lock back" (empty) position. They therefore directed the robot to retrieve the gun from Thompson's hand and bring it out of the apartment. Police officers then entered the apartment and moved Thompson out into the hallway, at which time they determined that he was deceased. The apartment building was then secured for subsequent search.

Recorded interviews were conducted with Ms. Sullivan and Mr. and Mrs. LaRose. On the evening of the attack, Ms. Sullivan, who was staying with the LaRose's, went over to Thompson's apartment to borrow some sugar, something she had done in the past. When Thompson came to the door she noted that he looked strange and his eyes did not look right. Thompson said that he was fine and told her that she could fill the container that she brought with sugar. While she was sitting at his table filling the container, she felt a hard object strike the back of her head and thought that Thompson had hit her with a frying pan. When she turned around she saw that Thompson had a hammer in his hand with which he struck her in the head two more times. Ms. Sullivan crawled to the apartment door, which she discovered Thompson had locked. Thompson tried to prevent her from unlocking the door while he continued to hit her with the hammer. As he did this, the victim heard Thompson yell: "If you won't be with me, bitch, you're going to die!" At one point, the victim noticed that Thompson had retrieved a gun from somewhere and was also holding this in his hand. She was able to unlock the door and escape into the hallway, where she called to the LaRose's for help. Ralph and Lisa LaRose came into the hallway. Ralph LaRose stated that he saw Thompson standing in the hallway "in a psychotic state." Ralph grabbed the victim and brought her back into his apartment. He then observed Thompson throw some items out into the hallway, and then go back into his apartment, after which he returned holding a black semi-automatic handgun. Thompson began waving this gun around and pointed it at the LaRose's and the victim. They retreated into their apartment, closed the door behind them, and called 911.

Officers from the Dover Police Department and the State Police Major Crime Unit conducted searches of Thompson's apartment and the interior hallway of Building 1. Defects on the wall and door of Thompson's apartment indicated that four shots were fired from Officer Choi's position. Three spent cartridge casings and one live ejected round were recovered outside the rear of the building near Officer Choi's position. Officer Choi's rifle was missing five rounds, which is consistent with four rounds being fired in the direction of Thompson, and one live round being ejected when Officer Choi attempted to clear his rifle jam.

Nineteen spent rifle casings were found in the hallway, and one live rifle round was found by the front entryway of the building. Lieutenant Gould had stated that the magazine fell out of his rifle by this entry door, causing one round to eject, as he retreated from the gunfire in the hallway. The recovered casings were consistent with defects and rifle round fragments found in the floor, ceiling, and walls of the hallway.

An examination of the service weapons (handguns) of all four officers who were present during the shooting incident revealed that none of these weapons had been fired.

Thompson's weapon was a black "Hi-Point" .45 caliber semi-automatic handgun. Five spent cartridge casings were recovered from the scene, three inside Thompson's apartment, and two from the hallway outside his apartment. One bullet was recovered in the ceiling above where Lieutenant Gould and Trooper Storm were positioned, and one bullet was recovered in the wall near Officer Choi's position at the rear door. Additionally, one bullet was recovered from Thompson's closet, which is consistent with the shot witnessed through the robot camera, and a fourth bullet was recovered from the floor near the spot where Thompson shot himself. A fifth bullet is unaccounted for, but likely went through the window near Officer Choi's position and out into the woods.

An autopsy was performed on Mr. Thompson's body by the Chief Medical Examiner, Dr. Thomas A. Andrew. The cause of Thompson's death was the self-inflicted gunshot wound of his left chest, which had an exit wound associated with it in his left lower back.² Dr. Andrew determined the manner of Thompson's death to be suicide. Thompson had also sustained a gunshot wound to the lower right abdomen. This wound was likely caused by gunfire from one of the law enforcement officers in the hallway and was potentially survivable had Thompson received medical attention. Toxicology tests revealed that Thompson had several drugs in his system, including acetaminophen, hydrocodone, tramadol, klonopin, and cymbalta.

A review of the Dover Police Department's internal records showed that there was some prior history of trouble between Thompson and Ms. Sullivan. Several months prior to this incident, the victim had stayed at Thompson's apartment for a short time when she had nowhere to live. At around that time, she alleged that Thompson had made inappropriate and unwelcome sexual advances and comments to her, and that he had retained some of her personal property. At a later point in time, about one month prior to his assault on the victim, Thompson reported to police that he suspected that she had stolen \$170.00 from him.

After the shooting incident described in this Report, family members of Frank Thompson turned over an email that Thompson had written to one of them just two days before. In it, Thompson mentioned his suspicion that Ms. Sullivan had stolen money from him, and stated that it had caused him difficulty in paying his rent. He then stated that he "may have to start shooting at cops if they try to bully me out before I get my fair say in trying to make up for the difference." He went on to say that he was "thinking of executing [Ms. Sullivan] and putting her out in the dumpster early Monday morning when the garbage men come as they probably won't even miss the body for a long time, and I'd have gotten rid of the gun long before then."

² This is likely the bullet that was found on the floor of Thompson's apartment, in the area where he shot himself.

LEGAL STANDARD AND ANALYSIS

Pursuant to RSA 627:5, II, a law enforcement officer may use 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.” “Deadly force” includes purposely firing a firearm capable of causing serious bodily injury or death in the direction of another person. *See* RSA 627:9, II. Therefore, when Frank Thompson fired his weapon at Lieutenant Gould, Trooper Storm, and Officer Choi, this constituted the use of deadly force. Thus, Lieutenant Gould, Trooper Storm, and Officer Choi would have been justified in firing upon Thompson if they reasonably believed that they or another person was in imminent danger of death or serious bodily injury from being fired upon by Thompson.

CONCLUSION

At the time Lieutenant Gould, Trooper Storm, and Officer Choi fired their weapons at Frank Thompson, they were confronted with deadly force from Frank Thompson. The officers had been attempting to persuade Thompson to end the armed stand-off peacefully and surrender so that the alleged assault on Ms. Sullivan could be investigated. Instead of heeding their commands to leave his apartment with his hands up, Thompson opened his door and fired upon the officers. RSA 627:5 permits law enforcement officers to use deadly force to defend themselves or others from what they reasonably believe to be the imminent use of deadly force. In light of the facts here, there is no need to analyze whether the officers reasonably believed that the use of deadly force was imminent because the use of deadly force was actually underway when the officers responded with deadly force. When the officers fired their weapons, each did so in response to the gunfire directed by Frank Thompson in their direction or in the direction of their fellow officers. And, though they directed deadly force towards Thompson, he did not in fact die from police gunfire, but by a self-inflicted gunshot wound from his own gun.

Accordingly, based upon all the facts and circumstances confronting the three officers who fired their weapons during this incident, their use of deadly force was necessary to defend themselves or other officers. Thus, their use of deadly force was justified under the law.