

**ATTORNEY GENERAL'S REPORT REGARDING THE  
NOVEMBER 20, 2023 OFFICER-INVOLVED SHOOTING  
IN FRANKLIN, 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 at a multifamily residence in Franklin, New Hampshire on November 20, 2023. During that incident, after Nate Landrebe (age 42) repeatedly fired a shotgun out towards nearby police officers, two New Hampshire State Troopers—Aramus Caraballo and James Powers—fired multiple shots at him. Mr. Landrebe was shot seven times and died. 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. Landrebe.<sup>1</sup> The findings and conclusions in this report are based upon information gathered during the investigation, including review of photographs of the scene of the incident, recorded witness interviews and written witness statements, 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 ensure that whenever law enforcement officers use deadly force, it is done in conformity with the

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<sup>1</sup> From available forensic evidence, it is unknown which of the two troopers who fired on Mr. Landrebe actually struck him. That being said, under the law both officers used deadly force against Mr. Landrebe, and thus both are the subject of this report:

“Deadly force” means 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.

law. When reviewing the use of deadly force by law enforcement officers, the Attorney General 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 involved officers complied with the applicable law.

Based on the investigation of this deadly force incident, Attorney General John M. Formella finds that the use of deadly force against Nate Landrebe by Troopers Aramus Caraballo and James Powers on November 20, 2023, was legally justified.

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

On the evening of November 19, 2023, a resident of a multi-unit apartment building in Franklin called 911 and reported in substance that her neighbor, Nate Landrebe, had just damaged her apartment entrance doorway with what she believed was an ax. Franklin police officers responded to the complaint and discovered that a shotgun had been fired into the neighbor's door. Police officers on-scene attempted to make contact with Mr. Landrebe, who was in his apartment, but he refused to leave. After unsuccessful efforts by Franklin police to have Mr. Landrebe vacate his apartment, and after apparent gunfire was heard coming from the apartment, the New Hampshire State Police SWAT team was notified and responded to the apartment building.

SWAT personnel relieved local police officers on-scene and formed a perimeter around the apartment building. A crisis negotiator attempted to make contact with Mr. Landrebe by telephone and through a loudspeaker. Mr. Landrebe would not answer his cellphone. Over the loudspeaker, the negotiator repeatedly told Mr. Landrebe in substance that he was under arrest, and also repeatedly in substance directed him to leave the apartment building unarmed and with his hands visible. Mr. Landrebe refused to comply with those directives. The armed standoff

between Mr. Landrebe and the police spanned over the course of about five hours. During that period, police officers on multiple occasions heard gunshots coming from Mr. Landrebe's apartment, and saw him inside his apartment with a long gun.

Troopers Aramus Caraballo and James Powers were among the State Police SWAT team members who responded to the callout in Franklin. They were armed with semiautomatic rifles, and positioned themselves on a steeply inclined wooded area directly behind Mr. Landrebe's apartment building, facing the back of his first-floor apartment. Another SWAT member, a canine officer, also was behind the apartment building at a next-door house.

At about 2:30 a.m. on November 20, about four and a half hours after Mr. Landrebe began his armed standoff, police officers began to see smoke coming from the apartment building, the result of an active fire originating from Mr. Landrebe's apartment. Although the fire increased in intensity, Mr. Landrebe still refused to leave his apartment or surrender. At one point, Mr. Landrebe broke out a rear window to his apartment. Troopers Caraballo and Powers were positioned near one-another on the wooded slope facing that window, about fifty feet away, while the canine officer stationed at the adjacent house stood several yards from Mr. Landrebe's position. The canine officer directed Mr. Landrebe in substance to disarm and to leave through the front of the building. Mr. Landrebe, while at the window that he had broken out, fired his shotgun outward at least twice. Trooper Caraballo heard shots and saw muzzle flashes, and Trooper Powers heard the gunshots. Both troopers then opened fire on Mr. Landrebe, who either jumped or fell from the broken window and eventually collapsed on the ground under a porch about twenty feet away. Mr. Landrebe was dead when other SWAT members reached his position. Nobody else was injured. A loaded shotgun was just inside the broken window where

the police began firing at Mr. Landrebe. The fire was extinguished, but the building sustained heavy damage.

### **III. THE INVESTIGATION**

#### **A. The Fatal Shooting**

Nate Landrebe lived on a first-floor apartment at 32 West Bow Street, a multi-residence apartment building located off a main road in Franklin. Numerous other residences are in the immediate vicinity of 32 West Bow Street, including directly next door on both sides of the building. Mr. Landrebe's apartment ran the entire length of the right side of the building, front to back, and had a main interior entrance by the building's front entryway.



*An aerial photograph showing 32 West Bow Street, which is the light-blue colored building in the center of the photo. This photograph was taken after the fatal shooting occurred, and the broken windows and boarded-up windows and door seen in the front of the building were the results of the fire. The approximate location of Mr. Landrebe's first-floor walkthrough apartment inside the building is highlighted in red.*

Mr. Landrebe was a recovering methamphetamine addict. According to an acquaintance familiar with Mr. Landrebe's substance abuse issues, several weeks before the fatal shooting Mr.

Landrebe had relapsed and was “struggling” with his addiction. Mr. Landrebe also expressed paranoia directed at his neighbors in the apartment building.<sup>2</sup> Mr. Landrebe had been convicted in January, 2023, of stalking, *see* RSA 633:3-a, I, and based upon that felony conviction it was unlawful for him to possess firearms. *See* RSA 159:3, I.

At about 9:48 p.m. on November 19, 2023, an adult female called the 911. The caller was the downstairs neighbor of Mr. Landrebe at 32 West Bow Street, and their apartment entrances were near one another just inside the building’s front entrance. The neighbor reported in substance that her next-door neighbor, “Nate,” had just “knocked [her] whole door in” and that she wanted him arrested. The neighbor further reported that she believed that Mr. Landrebe had broken her door with an ax, and that he was still in the hallway. In a subsequent interview, the neighbor recounted that while inside her apartment she heard a “loud smash,” went to her front door to investigate, and saw that it had been damaged. When she looked out into the hallway she saw Mr. Landrebe, wearing gloves and carrying an “unknown object” strapped to his chest. The neighbor used her cellphone to take photos of Mr. Landrebe, who went into his apartment before the police arrived.

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<sup>2</sup> Investigators also spoke with Mr. Landrebe’s father, who lived in Kentucky and had last spoken to his son the day before the fatal shooting. Although Mr. Landrebe’s father did not know about his addiction struggles, he did notice that his son had seemed to be in “noticeable stress” for several months, which the father attributed to Mr. Landrebe’s reported issues with neighbors.



*A photograph of Mr. Landrebe taken by his neighbor when she went to investigate the damage to her front door and before the police arrived. The “unknown object” described by the neighbor that Mr. Landrebe had strapped to his chest, highlighted in yellow, was the backpack that he was wearing, filled with shotgun ammunition, when police found him after the fatal shooting.*

Franklin police officers arrived at 32 West Bow Street at about 9:56 p.m., while Mr. Landrebe’s neighbor was still on the phone with 911. The neighbor spoke with the responding officers and recounted how she heard a “loud bang,” saw damage to her front door, and saw Mr. Landrebe in the hallway. Officers inspected the neighbor’s door and discovered that it had had sustained visible shotgun blast damage directed into her apartment. The police officers who responded to the neighbor’s complaint attempted to make contact with Mr. Landrebe, but he was in his apartment and refused to leave.

For about an hour, Franklin police officers unsuccessfully tried to convince Mr. Landrebe to come out of his apartment. Although it was initially believed that Mr. Landrebe was in his apartment with an adult female, police later determined that he was apparently home alone. A Franklin detective who knew Mr. Landrebe from a prior incident, in which the police had convinced Mr. Landrebe to leave his apartment, contacted him by cellphone. The detective who spoke with Mr. Landrebe recognized his voice, but Mr. Landrebe claimed to be someone else and that “Nate” was in Massachusetts. The detective called Mr. Landrebe over one hundred times. Sometimes Mr. Landrebe answered the phone and eventually hung up on the detective,

while other times Mr. Landrebe did not pick up the phone. The detective also sent nearly two dozen text messages to Mr. Landrebe seeking to make contact with him or secure his peaceful surrender, but Mr. Landrebe did not reply to any of them.

At about 10:45 p.m., the New Hampshire State Police SWAT team was activated to respond to the ongoing crisis. The State Police SWAT team is a tactical unit that responds to high-risk incidents throughout the state. SWAT team members are comprised of officers from other units of the State Police, and undertake their SWAT team duties in addition to their regular unit duties. SWAT team members receive regular specialized team and individual training in addition to their unit-specific training. At the time of the request for SWAT team assistance on November 19, local police advised that the subject of the callout—Mr. Landrebe—had fired a shotgun through a neighbor's door and had barricaded himself in his own apartment.

Upon arrival of the SWAT team members to 32 West Bow Street beginning at about 11:30 p.m. on November 19, personnel took up defensive positions around the apartment building. A BearCat armored vehicle equipped with a loudspeaker was positioned in front of the building. From inside that vehicle, a crisis negotiator attempted to make contact with Mr. Landrebe. The negotiator repeatedly tried to call Mr. Landrebe but he would not answer his cellphone. The negotiator also used the vehicle's loudspeaker to call out to Mr. Landrebe. The negotiator called Mr. Landrebe by his first name—Nate—and announced in substance that the police were outside and were going to arrest him.<sup>3</sup> The negotiator also repeatedly directed Mr.

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<sup>3</sup> During the standoff, the police had obtained a judge-signed warrant to arrest Mr. Landrebe on felony charges of felon in possession of a dangerous weapon and reckless conduct, and a misdemeanor charge of criminal mischief, in connection with his discharge of a shotgun at his neighbor's residence. *See* RSA 159:3, 631:3, 634:2. The police also had obtained a judge-signed warrant to search Mr. Landrebe's apartment.

Landrebe to disarm and to leave the building with his hands visible. Despite those regular and frequent directives, Mr. Landrebe remained in his apartment.

Among the SWAT team members who responded to 32 West Bow Street were Troopers Aramus Caraballo, James Powers, and Stephan Wong-Wagner. Those three officers were assigned to secure the rear of the apartment building, and went together to that area. Troopers Caraballo and Powers, armed with semiautomatic rifles, climbed a steep slope in a wooded area just behind the building, and positioned themselves next to one-another. From that heightened vantage point, they could see down onto the rear of the apartment building. Trooper Wong-Wagner, who was with a canine, could not safely ascend the slope and positioned himself off an adjacent apartment building, closest to Mr. Landrebe's apartment. Trooper Wong-Wagner stood behind a picket-style wooden privacy fence several yards from the apartment.



*An overhead photograph of 32 West Bow Street showing the approximate and relative locations of Mr. Landrebe and Troopers Caraballo, Powers, and Wong-Wagner at the time of the fatal shooting incident. Mr. Landrebe's approximate location, standing at a window facing the back of the building, is indicated by the red circle. Trooper Wong-Wagner's approximate location behind the next-door residence is indicated by the green circle. The approximate position of Troopers Caraballo and Powers on the wooded slope behind the building is indicated by the blue circle. The red rectangle, by the building's back porch, indicates the approximate location where Mr. Landrebe's body was found after the shooting.*



From their positions behind the building, all three officers could hear the crisis negotiator calling out to Mr. Landrebe through a loudspeaker. In particular, they heard the negotiator repeatedly in substance announce to Mr. Landrebe that the police were outside and had a warrant for his arrest, and direct him to disarm and leave by the front of the building with his hands visible. Troopers Caraballo and Powers knew from review of callout reports and from an on-scene briefing that Mr. Landrebe had shot at a neighbor's door and was inside his apartment, and that he had fired additional shots while there.

The armed standoff between Mr. Landrebe and the police that began at about 10:00 p.m. on November 19 continued for about five more hours, until about 3:00 a.m. on November 20. Throughout that time, the crisis negotiator repeatedly but to no avail called out to Mr. Landrebe and instructed him to disarm and to surrender. The SWAT team attempted to use the BearCat to break through the front entrance of 32 West Bow Street in order to restrict Mr. Landrebe's movements inside the building and to more accurately assess the outlay of the building's interior, but that effort was unsuccessful because the entrance was too high off the ground for the vehicle to breach. At times Mr. Landrebe engaged the police officers outside his building—shining a flashlight at them and making hand gestures suggesting that he wanted time. Also occasionally when Mr. Landrebe would appear in an apartment window, officers saw him holding some type of long gun. Several times during this period police officers heard apparent gunshots from inside the building; police reports document apparent gunshots heard at about 10:32 p.m. on November 19, and at about 1:05 a.m., 1:06 a.m., and 1:11 a.m. on November 20.

Beginning at about 2:30 a.m., police officers began seeing smoke come from 32 West Bow Street, and determined that the building was on fire. Firefighters were already on-scene, but remained on standby at the front of the building while Mr. Landrebe remained armed inside

his apartment. SWAT personnel heard breaking glass from the side of Mr. Landrebe's apartment, and saw him on the side of the building appearing to try to leave through that broken window. Before SWAT members could apprehend Mr. Landrebe he retreated back into his apartment.

From their positions behind 32 West Bow Street, Troopers Caraballo, Powers, and Wong-Wagner heard breaking glass from one of Mr. Landrebe's rear windows. That window was about three feet off the ground, and about eight feet from the next-door house where Trooper Wong-Wagner was stationed. Trooper Wong-Wagner repeatedly called out to Mr. Landrebe to exit to the front of his apartment building with nothing in his hands. Mr. Landrebe remained in his apartment, and refused to leave. Soon afterwards, an adult female and an adult male—later determined to be residents of a second-floor apartment—exited the building through a rear porch and headed to the front of the building.

After the couple left, the three officers stationed at the back of the building again heard glass breaking in the area of Mr. Landrebe's apartment. Trooper Wong-Wagner again repeatedly directed Mr. Landrebe in substance to disarm and leave through the front of the building. Instead, while Mr. Landrebe was at his apartment window, he fired a shotgun outwards from his apartment, and Troopers Caraballo and Powers fired on him. The individual officer accounts of that exchange of gunfire are summarized below.



*A photograph of the rear 32 West Bow Street taken from the approximate position of Troopers Caraballo and Powers in the steeply-sloped wooded area behind the building. The window highlighted in red is where Mr. Landrebe was when he discharged his shotgun outwards, and the area highlighted in green is Trooper Wong-Wagner's approximate location at the time.*



*A photograph of the rear corner of 32 West Bow Street (blue building on the left) nearest Mr. Landrebe's apartment. The window that Mr. Landrebe broke out and from where he fired his shotgun outward is around the corner on the left, indicated by the red arrow. That window is about one foot off the building's corner. The green arrow points towards Trooper Wong-Wagner's position behind the residence next door. The alley between the two buildings is about six feet wide.*

Mr. Landrebe either fell or jumped from his apartment window, and Troopers Caraballo and Powers stopped firing when they lost sight of him. Only about a second transpired between Mr. Landrebe's final shot and when Troopers Caraballo and Powers fired on him. Mr. Landrebe was last seen outside the apartment building, moving towards the nearby back porch. Police sent a drone and robot to look for Mr. Landrebe in that area. Although those search efforts were hampered by the spreading fire, Mr. Landrebe ultimately was found lying on the ground by the porch, dead. Nobody other than Mr. Landrebe sustained injury during the shooting. Firefighters extinguished the active fire at 32 West Bow Street, which spread through the building.

**B. Witness Accounts**

**1. Trooper Aramus Caraballo**

Trooper Caraballo was interviewed on December 1, 2023. At the time of the shooting, Trooper Caraballo had been a member of the New Hampshire State Police for about eight years, and a member of the SWAT team for about the last five years of his State Police tenure.

From Trooper Caraballo's position with Trooper Powers in the wooded area on the slope behind 32 West Bow Street, soon after he saw smoke coming from the apartment building he saw and heard Mr. Landrebe break out the upper portion of a window facing the rear of the building, towards him. Trooper Caraballo moved a few feet further down the slope to get a better view of that window, and from there could see Mr. Landrebe standing inside his apartment at the window. Mr. Landrebe was unarmed, and was speaking with Trooper Wong-Wagner, who was nearby behind the privacy fence of the adjacent residence. Trooper Wong-Wagner told Mr. Landrebe to leave by the front of the building with nothing in his hands. Mr. Landrebe refused to go out front, demanded that the fire department respond, and complained about the crisis negotiator who was talking over the loudspeaker.

Shortly thereafter, Trooper Caballo saw the adult male and female leave the apartment building by way of the rear porch, and heard Trooper Wong-Wagner direct them to the front of the building by the alley nearest that porch. Trooper Caraballo watched Mr. Landrebe's window while that couple moved to safety, and when they left he saw Mr. Landrebe kick out the bottom portion of the rear window. Trooper Wong-Wagner, still by the privacy fence, again tried to speak to Mr. Landrebe, and Trooper Caraballo could tell that Mr. Landrebe was growing agitated by the tone of his voice.

Trooper Caraballo could see Mr. Landrebe's torso through the apartment window, and simultaneously saw a muzzle flash and heard a gunshot. Mr. Landrebe quickly ducked out of view and re-emerged at the window, and Trooper Caraballo simultaneously saw and heard a second muzzle flash and gunshot. In response, Trooper Caraballo aimed at Mr. Landrebe and fired "several times," until he lost sight of him. Trooper Caraballo explained that he fired out of concern for the safety of Trooper Wong-Wagner, whose cover nearby behind the privacy fence provided no protection against gunfire, and of any occupants who may have still been in that next-door residence. After Trooper Caraballo lost sight of Mr. Landrebe, who had been moving towards the nearby porch, he trained his rifle on that area. There, Trooper Caraballo again saw a flash—what he believed to be another gunshot—and fired what he believed was his last shot at the flash. While Trooper Caraballo held his position, a robot, followed by an apprehension team, went to the porch and found Mr. Landrebe there.

## **2. Trooper James Powers**

Trooper Powers was interviewed on November 29, 2023. At the time of the shooting, Trooper Powers had been a member of the New Hampshire State Police for about fifteen years, and a SWAT team member for about the last three years of his State Police tenure.

From Trooper Powers' position next to Trooper Caraballo on the wooded slope behind 32 West Bow Street, after seeing smoke start to billow from the building he heard breaking glass in the rear area of Mr. Landrebe's apartment. Trooper Powers heard Trooper Wong-Wagner repeatedly tell Mr. Landrebe in substance to go to the front of the building with nothing in his hands, and also heard Mr. Landrebe respond in substance that he was not leaving and that he wanted the fire department. Shortly thereafter, Trooper Powers heard the negotiator on the loudspeaker direct Mr. Landrebe to "put the gun down," and heard on his police radio that other officers saw Mr. Landrebe with a gun. Soon after those reports, Trooper Powers saw the adult male and female leave the building by way of the rear porch.

Shortly afterwards, as smoke from the building increased in intensity, Trooper Powers heard glass break again, in the same area of the back of Mr. Landrebe's apartment where he had heard it earlier. Trooper Powers could not see that area clearly from his position, so he moved closer to Trooper Caraballo, who was slightly ahead of him. From that new vantage point, Trooper Powers saw a male—Mr. Landrebe—standing at the window inside his apartment, breaking out glass. Trooper Powers heard Trooper Wong-Wagner again command Mr. Landrebe to leave from the front of the building with nothing in his hands. Mr. Landrebe replied that he was not coming out, and also was swearing and yelling "incoherently."

While Mr. Landrebe was at the apartment window, Trooper Powers heard "three to four" gunshots. Trooper Powers knew that the shots had not been fired by any of the SWAT team members because their weapons were suppressed and made distinctly different sounds when discharged. Trooper Powers believed that the shots came from Mr. Landrebe, and were directed outwards either towards Trooper Wong-Wagner or towards his and Trooper Caraballo's position in the woods.

“Immediately after” Trooper Powers heard gunshots from Mr. Landrebe’s position at the window, he heard Trooper Caraballo fire his suppressed rifle. “Almost simultaneously” with hearing Trooper Caraballo’s shots, Trooper Powers saw Mr. Landrebe outside the building, moving towards the porch. At that time, Trooper Powers fired on Mr. Landrebe. Although Trooper Powers at that time could not see Mr. Landrebe’s hands, he believed that Mr. Landrebe was still armed with the weapon that he had just fired and was moving so armed towards an area where Trooper Powers believed firefighters, civilians, and other police officers to be. Nothing at that time led Officer Powers to believe that Mr. Landrebe was moving towards the side of the apartment building to surrender, and he fired on Mr. Landrebe to prevent him from endangering the people who he knew to be out front.

Officer Powers believed that he shot at Mr. Landrebe five to eight times, and stopped shooting when he lost sight of Mr. Landrebe by a retaining wall at the rear of the building. Trooper Powers radioed other team members that he had lost sight of Mr. Landrebe and requested the assistance of a robot to locate him, and remained at his position on the slope with Trooper Caraballo while an apprehension team approached Mr. Landrebe.

### **3. Trooper Stefan Wong-Wagner**

Trooper Wong-Wagner was stationed at the back corner of 32 West Bow Street nearest Mr. Landrebe’s ground-floor apartment. Trooper Wong-Wagner was behind a privacy fence, and from his vantage point he could not see Mr. Landrebe’s apartment over the fence. While Trooper Wong-Wagner was at that corner, he heard a window breaking, and was able to make verbal contact with Mr. Landrebe. Mr. Landrebe requested the fire department to respond. Trooper Wong-Wagner directed Mr. Landrebe to disarm and to leave the building from the front. Although Mr. Landrebe was speaking with Trooper Wong-Wagner, most of what Mr. Landrebe

said were curses and “rambling.” At one point, Trooper Wong-Wagner heard additional sounds of glass breaking, followed “a few seconds” later by “at least three” gunshots from the apartment, followed by “a burst” of differently-sounding suppressed fire from Troopers Caraballo’s and Powers’ position

#### **4. Other Law Enforcement Officers**

At the time of the shooting, local police officers had withdrawn and had been replaced by members of the State Police SWAT team. Only Troopers Caraballo, Powers, and Wong-Wagner were stationed behind 32 West Bow Street, so no other police officers saw events in that area leading up to the discharge of weapons. Other SWAT members did report seeing Mr. Landrebe in his apartment windows during the standoff, sometimes holding some type of long gun. SWAT team members also heard apparent gunshots from inside his apartment on multiple occasions during the standoff, and at the end of the standoff heard multiple apparent gunshots from the apartment followed by suppressed fire.

#### **5. Private Citizens**

As part of the investigation, investigators spoke with several inhabitants of buildings nearby 32 West Bow Street. None of those interviewed private citizens reported seeing the fatal shooting. Several people did report that from their residences they heard someone over a loudspeaker announcing that the police were outside and directing “Nate” to disarm and leave the building, and also heard several apparent gunshots during the standoff.

#### **C. Video Evidence**

No known private citizen recording devices, such as cellphones or surveillance cameras, captured the shooting incident. Trooper Caballo was not wearing a body camera.<sup>4</sup> Although

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<sup>4</sup> Whether to use and/or activate a body camera in a tactical situation such as that confronted by SWAT team members in Franklin involves an officer’s professional judgment about whether doing so would



Troopers Powers and Wong-Wagner were wearing body cameras and the devices were activated, given their positions in-cover in a dark area the video from the footage is poor. Other police video recording devices that were active during the shooting incident were not directed behind the building where the shooting occurred.

As to Trooper Powers' body camera, at about 2:55 a.m. smoke is seen billowing from 32 West Bow Street, and a few minutes later a voice is heard over a loudspeaker, although it is difficult to discern from the footage what is said.<sup>5</sup> At about 2:59 a.m., one of the troopers reports that Mr. Landrebe is "still in the window." In an approximately nine-second span beginning at 3:00 a.m., three separate gunshots are heard. Within about a second after the last of those three gunshots, differently-sounding and distinct suppressed shots are heard. Twenty-six suppressed shots are fired in quick succession in about eight seconds. Another suppressed shot is heard about five seconds later, followed by one of the troopers reporting, "He's down here, fallen." The last two suppressed shots are then fired, and one of the troopers reports that the target is "down behind the rock wall." All suppressed gunfire occurs over an approximately seventeen-second span.<sup>6</sup>

From Trooper Wong-Wagner's position behind the residence next to 32 West Bow Street, he could not see Mr. Landrebe's rear window, which was obscured by a privacy fence. Trooper Wong-Wagner's body camera did clearly pick up the voice of the negotiator stationed in the front of the apartment building, and her repeated pleas for Mr. Landrebe to leave the building

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endanger officer safety. Trooper Caraballo explained his decision not to wear such a device that to do so could compromise his location and expose it to gunfire.

<sup>5</sup> Trooper Powers moves often during the body camera footage, and those movements in turn produce noise in the audio that makes it difficult to hear or discern other sounds at times.

<sup>6</sup> As noted, the audio quality in Trooper Powers's body camera is poor. Some other SWAT members stationed elsewhere also had activated their body cameras, and the audio from those additional devices more clearly record Mr. Landrebe's three gunshots followed by different-sounding suppressed gunshots.

unarmed and that fire and medical personnel were waiting to assist as soon as he did so. The audio recording also captured the voices of several other SWAT team members who were positioned nearby Trooper Wong-Wagner during the standoff, including when Mr. Landrebe and police exchanged gunfire. For about thirty minutes before those shots, Trooper Wong-Wagner repeatedly told Mr. Landrebe—who Wong-Wagner called “Nate”—in substance that the police were outside and wanted to help, and that he needed to go to the front of the apartment building with nothing in his hands. Several times during that period the sound of shattered glass could be heard, and at times Mr. Landrebe could be heard as well. Most of what Mr. Landrebe says is unintelligible, although at times he clearly requests the fire department and can be heard coughing loudly. In response, Trooper Wong-Wagner repeatedly tells Mr. Landrebe that firefighters are either en route or are present, but that Mr. Landrebe first had to leave the building before the fire department could assist. Trooper Wong-Wagner’s body camera clearly captures three separate apparent gunshots within the span of about 11 seconds, the last of which is immediately followed by multiple differently-sounding and distinct suppressed shots.

**D. Physical Evidence**

A 12-gauge pump-action shotgun was recovered just inside the rear apartment window that Mr. Landrebe broke out. The weapon has a six-shot capacity. One unfired round was in the weapon’s chamber, ready-to-fire, and two additional unfired rounds were in its magazine. Just outside the window broken out by Mr. Landrebe were shards of broken glass from the window, two unfired shotgun shells and a folding knife. Three fired shotgun shells and one unfired shotgun shell were located inside Mr. Landrebe’s apartment by the broken window. Five additional fired shotgun shells were found on the floor elsewhere in Mr. Landrebe’s apartment.

Multiple separate areas of the apartment's interior had wall and door damage consistent with being caused by shotgun blasts.



*A photograph taken inside the rear window of Mr. Landrebe's apartment that he broke out before the fatal shooting. The loaded shotgun is circled in yellow, and two discharged shotgun shells are indicated by the red arrows. A third discharged shotgun shell is located to the left of the weapon, obscured by the wooden bureau.*

There were numerous apparent bullet holes along the exterior of the back window that Mr. Landrebe had broken out, consistent with multiple shots fired at him in that area. There also were apparent bloodstains just inside and outside the window, consistent with Mr. Landrebe sustaining bleeding injuries while in that area.

Mr. Landrebe was carrying a sheathed kitchen knife in his front waistband. He also was wearing a backpack that contained loose change, a dumbbell plate, a folding knife, and eighteen unfired shotgun rounds.

Troopers Caraballo and Powers each was equipped with a semiautomatic rifle, and typically kept twenty-eight rounds of ammunition in the weapon's magazines. Inspection of both

weapons after the shooting indicated that, assuming twenty-eight-round magazines were used, Trooper Caraballo fired twenty-two times, and Trooper Powers fired seven times.<sup>7</sup>

**E. Fire Investigation**

There was extensive fire and smoke damage to 32 West Bow Street. The New Hampshire State Fire Marshal's Office conducted an investigation into the fire. That investigation determined that the area of the fire origin was a closet in Mr. Landrebe's apartment that housed an electrical panel. Because of the fire damage to that area of origin, the cause of the fire could not be determined. Investigation could not rule out either that Mr. Landrebe purposely set the fire using an open flame, or that the fire occurred accidentally from damage to the electrical system. That damage, in turn, could have been caused by a shotgun blast, as such ballistics damage was observed to the closet doorframe directed towards the electrical panel.

**F. Autopsy Results**

Deputy Chief Medical Examiner Mitchell Weinberg conducted an autopsy on Nate Landrebe on November 21, 2023. Mr. Landrebe sustained seven separate gunshot wounds. Specifically, entrance gunshot wounds were documented to Mr. Landrebe's upper cheek, right middle back area, upper left thigh, lateral right hip, right forearm, and left forearm and wrist. All of the injuries except the gunshot to the wrist were pass-through wounds. There was a deformed

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<sup>7</sup> Investigators recovered eleven spent rifle-caliber shell casings—which are ejected when rounds are fired—from the area where Troopers Caraballo and Powers fired their weapons. As to the discrepancy between rounds fired according to magazine counts and available audio, on the one hand, and recovered shell casings, on the other, the area where the troopers fired was wooded and covered with recent fallen foliage and had a steep decline, factors that could have impeded investigators' ability to locate all spent casings.

bullet recovered from Mr. Landrebe's wrist, and multiple small bullet fragments recovered from other wound areas.<sup>8</sup>

Nate Landrebe's death was determined to be a homicide, with his cause of death multiple gunshot wounds. 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 Mr. Landrebe's blood revealed the presence of amphetamine and methamphetamine.

#### **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.

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<sup>8</sup> Firearm of origin cannot be determined for the pass-through wounds. To the extent even feasible, forensic testing was not conducted on the single recovered deformed bullet and recovered small bullet fragments in order to possibly determine their source firearm(s).

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 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).

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. Police presence at Mr. Landrebe’s apartment building resulted from criminal allegations made against him by an identified private citizen who reported that he had just committed violent acts against her property. The police who received that criminal complaint were obligated to follow-up on it. And, when Franklin police officers arrived on-scene, they discovered that the reported property damage had occurred due to Mr. Landrebe firing a shotgun into his neighbor’s apartment. Mr. Landrebe’s conduct constituted a violent felony offense that placed others in peril. *See RSA 631:3, I & II* (“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 . . . [and] is a class B felony if the person uses a deadly weapon . . .”).

And, his possession of a firearm in itself was a felony due to his felony conviction from earlier in the year. When the police attempted lawfully to further investigate, Mr. Landrebe refused to leave his apartment, precipitating the lengthy armed standoff that followed.

Over the ensuing approximately five hours, the police unsuccessfully attempted to convince Mr. Landrebe to disarm and leave his apartment, repeatedly calling out commands to do so by loudspeaker that could be heard by officers positioned behind the building and occupants of nearby residences. Despite those repeated and plain directives, Mr. Landrebe neither surrendered nor disarmed. To the contrary, during this time police officers outside Mr. Landrebe's apartment saw him holding a long gun, and heard on multiple occasions apparent gunfire. A subsequent search of Mr. Landrebe's apartment revealed multiple shell casings and areas of ballistics damage consistent with his firing of a shotgun inside the apartment.

It is in light of these preceding relevant circumstances that the use of deadly force against Mr. Landrebe by officers should be assessed. Immediately preceding that use of force, Mr. Landrebe broke out his rear apartment window, conduct directly counter to the repeated orders to him to leave by way of the front of the building. While Mr. Landrebe was breaking his window, a nearby officer—Trooper Wong-Wagner—again repeatedly told him to exit from the front of the building without anything in his hands. Instead, and without warning, Mr. Landrebe fired three shots outside of his apartment while at the window. From Mr. Landrebe's immediately-preceding discourse with Trooper Wong-Wagner, Mr. Landrebe knew that at least one police officer was directly outside his apartment window where and when he fired. Those multiple shots fired by Mr. Landrebe are confirmed not only by what Trooper Caraballo saw first-hand, but also by audio from body camera footage recording three separate unsuppressed gunshots and



by three spent shotgun shells found with a shotgun just inside the window where Trooper Caraballo saw Mr. Landrebe fire.

It was only when Mr. Landrebe actually discharged his weapon out towards nearby police officers and was moving to where other people were, apparently armed with the very weapon he had just fired, that Troopers Caraballo and Powers simultaneously fired on him. At that time, the deadly threat Mr. Landrebe posed to the officers who were in his line of fire—particularly Officer Wong-Wagner, who was stationed several yards away in a position that provided inadequate ballistics protection—as well as nearby police officers,<sup>9</sup> firefighters, and civilians was not just imminent, which would have justified the use of deadly defensive force. *See* RSA 627:5, II(a) (“A law enforcement officer is justified in using deadly force only when he reasonably believes such force is necessary, [t]o defend himself or a third person from what he believes is the *imminent* use of deadly force.”) (emphasis added). Rather, Mr. Landrebe was actually using deadly force: it was active and ongoing. It was also effectuated deadly force by him that was not justified under the law.

Although Trooper Powers did not see Mr. Landrebe’s hands—and, in fact, Mr. Landrebe was not holding a gun when he was outside his apartment—the officer’s belief that Mr. Landrebe was still armed was reasonable. Trooper Powers had been informed before he took up his position on the slope behind 32 West Bow Street that Mr. Landrebe was armed and had actually fired a weapon into a neighbor’s door, and that other officers had heard Mr. Landrebe firing additional gunshots while inside his apartment. Shortly before the fatal shooting, Officer Powers

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<sup>9</sup> As noted, other police officers were positioned near Trooper Wong-Wagner, but neither Trooper Caraballo nor Trooper Powers reported awareness of anyone with Trooper Wong-Wagner. Although the presence of other people in Mr. Landrebe’s line of fire objectively increased the risk that he posed to others, the subjective beliefs held by Troopers Powers and Caraballo focuses just on the believed presence of Trooper Wong-Wagner.

heard over his police radio that Mr. Landrebe had just been seen with a firearm, and the crisis negotiator had directed him to drop his gun. Lastly, immediately before Trooper Powers fired he heard multiple gunshots from Mr. Landrebe's position at his apartment window. That rapidly-unfolding sequence of events is confirmed by the audio from Trooper Powers' body camera, which was active at the time of the shooting: only about a second after the last of three shots fired by Mr. Landrebe did Troopers Caraballo and Power shoot at him.

Similarly, although Mr. Landrebe did not have a firearm when at the rear porch area and Trooper Caraballo fired his final shots,<sup>10</sup> it was reasonable for Trooper Caraballo to believe that Mr. Landrebe was still armed and posed an ongoing deadly threat. Although the "flash" that Trooper Caraballo reported seeing by the porch area that prompted him to fire was not a discharged gunshot, the officer's belief otherwise was not unreasonable. Notably here, the rear of the apartment building was dark, and although Troopers Caraballo and Powers were using night vision goggles such devices only enhanced their vision to an extent and their effective use was hindered by lighting emitted from the active building fire. There was nothing that Trooper Caraballo saw indicating that Mr. Landrebe was unarmed, and for the same reasons just discussed with respect to Trooper Powers all the circumstances that occurred during the quickly-unfolding exchange of gunfire supported Trooper Caraballo's belief that Mr. Landrebe still had the shotgun that he had just been seen firing when seen by the porch just seconds later.

In response to what Mr. Landrebe quickly escalated into an active shooter situation, Troopers Caraballo and Powers believed that he posed a deadly threat to others in the immediate vicinity, and that deadly force against him was necessary in order to end that ongoing peril.

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<sup>10</sup> Although Trooper Caraballo recalled firing a single final shot, the audio from Trooper Powers' body camera audio captures two final suppressed shots fired in quick succession. To the extent those shots were fired by Trooper Caraballo rather than Trooper Powers, the discrepancy between that audio and Trooper Caraballo's recollection does not impugn his account of events.

Based upon all the facts and circumstances of this case, the Attorney General has concluded that the belief actually held by each officer was reasonable. The situation created by Mr. Landrebe and faced by the law enforcement officers who encountered him required immediate response, in order to eliminate that active and ongoing threat to life. That is what the firing officers did—respond to Mr. Landrebe’s actual use of illegal deadly force, by using lawful and appropriate defensive deadly force. That is justified use of deadly force under the law.

Next, the law enforcement use of deadly force against Mr. Landrebe was reasonable in relation to the existing deadly threat that he posed. The number of shots fired at him did not transform the lawful use of defensive force either to unlawful retaliation or to an unreasonable application of justifiable force. Troopers Caraballo and Powers fired within a second of Mr. Landrebe’s final shot, and their responsive fire occurred over a span of less than twenty seconds while Mr. Landrebe was moving while still apparently armed. Each officer who fired explained that he shot until he could no longer see Mr. Landrebe. Under all these circumstances, the use of force applied was reasonable and not excessive.

In conclusion, New Hampshire State Troopers Aramus Caraballo and James Powers were legally justified in using deadly force against Nate Landrebe. Accordingly, no criminal charges will be filed against either officer as a result of Mr. Landrebe’s death.