

**ATTORNEY GENERAL’S REPORT REGARDING THE
JUNE 15, 2017 OFFICER-INVOLVED SHOOTING
INCIDENT IN NEWTON, NEW HAMPSHIRE**

I. INTRODUCTION

New Hampshire Attorney General Gordon J. MacDonald announces the completion of a report concerning the officer-involved shooting incident that occurred in Newton, New Hampshire, on June 15, 2017. That incident resulted in the fatal shooting of Michael R. Brown (age 40), of Presque Isle, Maine. The purpose of this report is to summarize the Attorney General’s findings and conclusions with regard to this officer-involved shooting incident. The findings and conclusions in this report are based on information gathered during the investigation including photographs, videos, physical evidence and witness interviews.

As provided in RSA 7:6 and 21-M:3-b, the Attorney General is the State’s Chief Law Enforcement Officer. The Attorney General has the responsibility to ensure that whenever a law enforcement officer uses deadly force, it is done in conformity with the law. Based on the investigation of this deadly force incident, the Attorney General finds that the use of deadly force by Massachusetts State Police Troopers Michael Caranfa, Robert Holland, George Katsarakes and Daniel Purtell, on June 15, 2017, was legally justified.

II. SUMMARY OF THE FACTS

On June 7, 2017, a sexual assault was reported to the Presque Isle, Maine Police Department by a sixteen year old female victim.¹ The perpetrator of the reported sexual

¹ The victim had reported the assault to a relative the night before.

assault was Michael R. Brown, of Presque Isle, Maine. A detective from the Presque Isle Police Department contacted Mr. Brown on June 7, 2017 about the allegations and tried to meet with him but Mr. Brown avoided him and fled. Despite significant efforts to find Mr. Brown, law enforcement was unable to locate him.

On June 7, 2017, the Presque Isle police learned that Mr. Brown had contacted his girlfriend and said he was not going back to prison, was suicidal and had tried to commit suicide that day.² A detective sent out a BOLO (be on the lookout bulletin) to surrounding police agencies regarding Mr. Brown but he was not located.

On June 14, 2017, the Presque Isle police spoke to Mr. Brown's girlfriend. She told the police that she had heard from Mr. Brown the night before and he told her that he was no longer suicidal and had left the area. However later that day, the Presque Isle police received a call from one of Mr. Brown's relatives. That person told the police that she had heard that Mr. Brown had said that if he got caught, he would be looking for the police to kill him. Mr. Brown also said that he was not going to "go down without a fight," and that the "police will be killing him." As a result, an updated BOLO was issued regarding Mr. Brown advising law enforcement that:

*Subject has told his family that he has no intentions
of being arrested and is planning on suicide by cop.
He has made suicidal statements.*

On June 15, 2017, Mr. Brown stole a Toyota Tacoma pickup truck and a loaded 9mm pistol from his uncle in Westfield, Maine. Later that day a third BOLO was put out to law enforcement, seeking assistance in locating Mr. Brown. That BOLO advised law enforcement

² Mr. Brown had a significant prior criminal record consisting of multiple felony level offenses, including being a felon in possession of a firearm. Mr. Brown had also served time in prison.

that a temporary warrant had been issued for Mr. Brown by the Presque Isle Police Department for Gross Sexual Assault. The BOLO gave a physical description of Mr. Brown and noted that Mr. Brown was believed to be driving a stolen 2001 Toyota Tacoma pickup truck containing a stolen 9mm handgun loaded with a fifteen round magazine.

At approximately 8:30 p.m., Mr. Brown's phone was "pinged"³ and was located in Hampton, New Hampshire. At about 10:00 p.m., Mr. Brown's phone was pinged again and this time was located in Malden, Massachusetts. At 11:10 p.m., Malden police officers reported that they were in pursuit of the stolen Toyota pickup truck. Eight minutes later, a Massachusetts State Trooper used a spike strip⁴ in an attempt to disable the stolen truck. Both of the truck's passenger side tires were shredded as a result. Mr. Brown did not stop, however, and continued to flee from the police.

Mr. Brown eventually traveled onto I-495 north, where the Massachusetts State Police took over a primary role in the pursuit.⁵ Eventually, several Troopers joined the pursuit as it made its way north on I-495. As the pursuit continued, Mr. Brown drove erratically. At times he shut off his headlights and drove at speeds up to seventy-five miles per hour.⁶ The situation was made even more dangerous as two of stolen truck's tires were shredded and gone, thus Mr. Brown was driving on just the rims on that side of the truck.

At 11:26 p.m., Mr. Brown began throwing items out of the truck, including a blanket and other items. A minute later, Mr. Brown fired a gunshot from the truck at the pursuing

³ To "ping" a cell phone means sending a signal remotely to the phone in order to determine its approximate location.

⁴ A spike strip is a device used to shred a vehicle's tires to try to disable it and get it to stop.

⁵ The Troopers were driving fully-marked police cruisers and were wearing their department-issued uniforms.

⁶ The speed limit is 65 miles per hour on the highway.

Troopers. Three minutes later, Mr. Brown fired more gunshots from the truck out the center back window.

At 11:40 p.m., Mr. Brown approached a construction site on I-495. He crossed the median and began driving north in the southbound lane on I-95, shutting off his headlights. A few minutes later, Mr. Brown went the wrong way on the ramp to Exit 60/Rte. 286 in Salisbury, Massachusetts. The pursuing Troopers did not follow Mr. Brown across the median, rather they continued north in the proper lane of travel. They were able to determine Mr. Brown's direction of travel with the assistance of a State Police helicopter, which had been deployed to assist.

After Mr. Brown exited the highway, Trooper Daniel Purtell was permitted to deliberately contact Mr. Brown's truck with his cruiser in an attempt to end the pursuit. When Trooper Purtell made contact with the truck, Mr. Brown fired at him. Trooper Purtell again tried to bump the truck, and Mr. Brown fired at him a second time. Being fired at prompted Trooper Purtell to shoot back at Mr. Brown. Trooper Purtell's shots had no effect and Mr. Brown continued fleeing.

Mr. Brown drove erratically, again reaching speeds up to seventy-five miles per hour in rural areas. He also drove with his headlights off at times and almost drove head-on into another vehicle. At no time did Mr. Brown stop or indicate that he intended to surrender. Instead, he continued to try and elude the Troopers.

At 11:51 p.m., the pursuit crossed into Newton, New Hampshire from Massachusetts and continued on Amesbury Road.⁷ Mr. Brown approached a "T" shaped intersection in

⁷ New Hampshire law (RSA Chapter 614) allows Massachusetts law enforcement officers to pursue a suspect into New Hampshire during a "fresh pursuit."

Newton where Amesbury Road meets Bear Hill Road. As Mr. Brown attempted to turn left from Amesbury Road onto Bear Hill Road, he lost control of the truck. The truck spun out turning 180 degrees. The truck at that point was stopped on the side of the road and was facing the pursuing Troopers. The Troopers stopped short of Mr. Brown's disabled truck.⁸

The Troopers who had been pursuing Mr. Brown got out of their cruisers, with their weapons drawn. Trooper Robert Holland shouted at Mr. Brown and told him to show his hands. Mr. Brown did not shut off the truck, did not step out of the truck, or in any way indicate that he was surrendering. Instead, Mr. Brown revved the truck's motor and accelerated forward, toward several Troopers who were outside their cruisers. As Mr. Brown accelerated forward, Troopers Michael Caranfa, Robert Holland, George Katsarakes, and Daniel Purtell, shot at Mr. Brown. As recounted in more detail later in this report, each Trooper articulated his own reasons for firing at Mr. Brown. Those reasons are summarized as follows:

Trooper Caranfa fired because he saw Mr. Brown put his right hand straight out toward the passenger side window. He believed Mr. Brown was going to shoot him or hit him with his vehicle, based on the facts that Mr. Brown had already fired gunshots and had driven erratically for miles.

Trooper Holland fired because he believed that Mr. Brown would run him over or shoot him, based on the fact that Mr. Brown had already fired gunshots at the Troopers before.

Trooper Katsarakes fired because as Mr. Brown drove by him, he saw Mr. Brown with his arm extended holding a silver pistol, which was pointed in Katsarakes's direction.

Trooper Purtell fired because Mr. Brown's truck accelerated straight at him, leading Purtell to believe that Mr. Brown would run him over or shoot at him again.

⁸ One cruiser overshot the intersection and ended up just past the truck on Bear Hill Road.

After the Troopers fired at Mr. Brown, the truck went off the road striking a tree. The air bags deployed and the front of the truck sustained significant damage. Mr. Brown was removed from the truck, placed on the ground and handcuffed. EMS was called, but Mr. Brown was deceased. No one else was in the truck with Mr. Brown. No Troopers or private citizens were physically injured during the incident.

When the stolen truck was later searched, the police located a silver 9mm pistol, Mr. Brown's wallet and ID, and a note from Mr. Brown's mother telling him that she loved him no matter what.

III. THE INVESTIGATION

Since the incident on June 15, 2017, the Attorney General's Office and the New Hampshire State Police Major Crime Unit have been investigating the circumstances that led to the confrontation and the shooting. That investigation has entailed interviewing witnesses, reviewing reports and diagrams, an examination of vehicles and physical evidence recovered from the scene, and reviewing available digital evidence to include audio and video recordings of portions of the incident.⁹ All of the Massachusetts State Police Troopers who discharged their weapons during the incident have also been fully cooperative with the investigation and were interviewed.

A. Interviews with the Troopers who discharged their weapons

All four of the Massachusetts State Police Troopers who discharged their weapons during the incident agreed to be interviewed. Those interviews are summarized below.

⁹ Residents in the area heard gunfire, but none reported seeing the shooting incident.

1. Trooper Michael Caranfa¹⁰

Trooper Caranfa is assigned to the Newbury, Massachusetts barracks with the Massachusetts State Police. Trooper Caranfa has fifteen years of law enforcement experience; four years with the Amherst, New Hampshire Police Department and eleven years with the Massachusetts State Police.

Trooper Caranfa was on duty on June 15, 2017, and at about 10:30 p.m., he was working at an accident scene in Amesbury, Massachusetts, with Trooper George Katsarakes. While there, Trooper Caranfa heard a BOLO from dispatch regarding Michael Brown. The BOLO indicated that Presque Isle police were looking for a gold colored Tacoma pickup truck with veteran's registration. The BOLO also indicated that Mr. Brown was wanted for aggravated sexual assault, and that he had stolen the truck and a 9mm handgun. Dispatch also reported that Mr. Brown may intend to commit "suicide by cop." Finally, Mr. Brown had reportedly been "pinged" and located in Hampton, New Hampshire, about thirty minutes away.

Troopers Caranfa and Katsarakes left the accident scene in Amesbury, gassed up their cruisers, and headed out onto I-495. They heard radio communications that Mr. Brown was on I-495, that spike strips had been utilized, but that Mr. Brown was continuing to flee. Along the way, Trooper Caranfa also heard that Mr. Brown had leaned out of the truck and had fired a shot. Not long after hearing that information, Mr. Brown drove by with several cruisers in pursuit.

¹⁰ Trooper Caranfa was interviewed by members of the Office of the Attorney General and investigators from the New Hampshire State Police Major Crime Unit in the presence of his counsel on June 19, 2017.

Trooper Caranfa joined the pursuit. He noted that the truck was driving erratically, and was driving on just rims on the passenger side. The pursuit proceeded northbound. At times, the truck's lights were shut off as it drove about sixty miles per hour.

As Mr. Brown approached the intersection with Route 125, he opened the truck's center rear window and fired several shots out the window. Trooper Caranfa estimated that there were several Troopers within one hundred feet of Mr. Brown when he fired those shots.

Mr. Brown eventually crossed over into the median and drove northbound in the southbound lane on I-495/95. Trooper Caranfa continued north on I-495/95 and lost sight of Mr. Brown. He eventually saw Mr. Brown again, getting off at Exit 60/Rte. 286 heading into Salisbury, Massachusetts. Trooper Caranfa and other Troopers caught up to Mr. Brown and continued to follow him. At that point, Trooper Caranfa had moved up in the pursuit. They drove through a residential area and at times, Mr. Brown drove with his headlights off. At one point, Mr. Brown almost drove head-on into another car. As this was happening, dispatch tried to locate an open area where it would be safe to try and force Mr. Brown to stop by bumping his truck with a cruiser. Trooper Caranfa reported that Trooper Daniel Purtell, who was one of the Troopers involved in the pursuit, made an attempt to bump the truck and force it off the road. Trooper Purtell was unsuccessful. Trooper Purtell reported that Mr. Brown had fired at him twice, and that Trooper Purtell had returned fire.

Mr. Brown and the pursuing Troopers continued onto Amesbury Road and eventually into Newton, New Hampshire. As they approached the intersection with Bear Hill Road the truck went left and spun out, doing a 180-degree turn. The truck ended up stuck in the grass

on the side of the road. The Massachusetts State Police cruisers had their blue lights on as well as take down lights.¹¹ One siren was going at that point.

Mr. Brown was still in the truck and spinning the tires as he tried to free the truck. Trooper Caranfa was afraid that Mr. Brown would open fire at them. Trooper Caranfa got out of his cruiser with his department-issued .223 caliber rifle and started to try and move to a stone wall on the side of the road to get cover. As he did that, the truck broke free and started to drive forward out onto the road, toward the intersection. Trooper Caranfa heard gunfire at that point. He said that he was out in the open as the truck continued forward and crossed near him, about twenty to thirty feet away. As that happened, Trooper Caranfa saw Mr. Brown put his right hand straight out toward the passenger side window and in Trooper Caranfa's direction. Trooper Caranfa could not see if there was anything in Mr. Brown's hand, but he feared for his safety and believed that Mr. Brown was going to shoot him or hit him with his vehicle based on the fact that Mr. Brown had already fired shots out on the highway and his erratic operation.

As the truck passed by him, Trooper Caranfa fired six to seven shots at Mr. Brown. The truck drove past and crashed into a tree. Trooper Caranfa saw a shadow in the truck that appeared to be an arm reaching toward the passenger window, extended. Trooper Caranfa again believed that Mr. Brown was going to shoot at him so he fired one or two more shots until the movement stopped.

Trooper Caranfa stated that events happened quickly at the intersection, estimating that less than thirty seconds elapsed from the time Mr. Brown spun out until he crashed into the tree.

¹¹ Take down lights are bright lights typically on the light bar on the cruiser's roof that provide additional lighting.

2. Trooper George Katsarakes¹²

Trooper Katsarakes is assigned to the Newbury, Massachusetts barracks with the Massachusetts State Police. Trooper Katsarakes has twenty-seven years of law enforcement experience; one year with the Maryland State Police, three years as a Deputy United States Marshall, and twenty-three years with the Massachusetts State Police.

Trooper Katsarakes was on duty on June 15, 2017, and at about 9:00 p.m., he was working at an accident scene in Amesbury, Massachusetts, with Trooper Michael Caranfa. At about 10:30 - 10:45 p.m., Trooper Katsarakes heard over his radio that a pursuit was going on. He had heard a BOLO from dispatch earlier regarding Michael Brown. The BOLO reported that Mr. Brown was wanted for a sexual assault out of Maine, was armed, and was looking to commit suicide by cop.

Troopers Katsarakes and Caranfa left the accident scene and gassed up their cruisers as Trooper Katsarakes listened to the progress of the pursuit on his radio. He and Trooper Caranfa headed out onto I-495 to disable Mr. Brown's vehicle using stop sticks. They abandoned that effort when they realized that the location would not work and joined in the pursuit instead.

As he joined the pursuit, Trooper Katsarakes heard someone say on the radio that Mr. Brown had fired shots at them. Trooper Katsarakes could see the Toyota truck Mr. Brown was driving and noted that it was going sixty to seventy miles per hour and listing to the passenger side.¹³ At some point, Mr. Brown threw some items out of the truck. A couple of

¹² Trooper Katsarakes was interviewed by members of the Office of the Attorney General and investigators from the New Hampshire State Police Major Crime Unit in the presence of his counsel on June 20, 2017.

¹³ The truck was listing to the side because both tires on that side had been shredded during the pursuit.

miles north of Exit 49 on I-495 northbound, Mr. Brown fired at least two shots (possibly more) at the Troopers. As they got close to a worksite on I-495, Mr. Brown cut across the median and headed northbound in the southbound lane. Trooper Katsarakes lost sight of Mr. Brown but was able to determine his position from radio broadcasts from the State Police helicopter that was overhead, assisting in the pursuit.

Trooper Katsarakes exited off of I-495 and caught up to Mr. Brown as he drove through Salisbury into Amesbury, Massachusetts. Mr. Brown drove erratically, sometimes without his headlights, at speeds up to seventy miles per hour. As the pursuit continued, Trooper Katsarakes heard Trooper Daniel Purtell report that Mr. Brown had shot at him and that Trooper Purtell had fired back.

The pursuit continued along a sweeping turn and then someone on the radio said that the road would end and Mr. Brown would need to go left or right. Mr. Brown got to the end of the road and tried to go left, but could not negotiate the turn and spun around 180 degrees. The truck came to a stop, facing the pursuing Troopers.

Trooper Katsarakes got out of his cruiser, which was facing the truck. He was armed with his department-issued .233 rifle. Trooper Katsarakes could hear the truck's engine revving as he tried to take cover near his driver's side fender. Mr. Brown managed to free the truck and drove forward. As that happened, Trooper Katsarakes could see into the truck through the passenger side window, which was either down or missing. Trooper Katsarakes had a clear view because his cruiser's headlights were on, his blue lights were on, and his center take down light was on. As the truck drove by and Trooper Katsarakes was exposed, he could see Mr. Brown extend his arm and point a shiny pistol in Trooper Katsarakes's direction. Trooper Katsarakes felt that he was in danger at that point and that Mr. Brown

was a threat to him and others as he drove away. Trooper Katsarakes then fired about a half dozen shots at the truck, which continued down the road and hit a tree.

After the truck hit the tree, Trooper Katsarakes and other Troopers approached the truck, opened the driver's door, and removed Mr. Brown and placed him on the ground. At some point, a Trooper handcuffed Mr. Brown as well.

Trooper Katsarakes estimated that about a minute passed from the time Mr. Brown spun out until he crashed into the tree.

3. Trooper Robert Holland¹⁴

Trooper Holland is assigned to the Andover, Massachusetts barracks with the Massachusetts State Police. Trooper Holland has seven years of law enforcement experience; three years with the Salem, New Hampshire Police Department, one year as a reserve officer in North Andover, Massachusetts, and three years with the Massachusetts State Police.

Trooper Holland was working the 11:00 p.m. to 7:00 a.m. shift on June 15, 2017. At around 10:45 or 10:50 p.m., he heard over his radio that Malden police officers had located a vehicle in a gas station and had tried to stop it, but the vehicle fled. Trooper Holland also learned that the vehicle was stolen out of Maine, had Maine veteran's plates, and that the operator had a stolen firearm.

Trooper Holland drove out onto I-495 and heard that the pursuit was moving in his direction. He eventually joined the pursuit and saw the truck was driving all over the road, driving on just the rims on the passenger side. The truck was traveling at around sixty to

¹⁴ Trooper Holland was interviewed by members of the Office of the Attorney General and investigators from the New Hampshire State Police Major Crime Unit in the presence of his counsel on June 20, 2017.

seventy miles per hour. Trooper Holland could not see the driver, but eventually saw several items being thrown out the driver's side window. The items appeared to be a shirt, blanket, and some other small items.

A short time later, a Trooper radioed that the driver of the truck (Michael Brown), had fired a shot from the truck. Trooper Holland later heard a "pop," and someone said over the radio that a shot had been fired.

As the pursuit approached the I-495/95 split, Mr. Brown cut across the median and drove northbound on I-495 south. Mr. Brown then drove the wrong way on an exit ramp and got off and headed into Salisbury.

The pursuit continued and Trooper Holland was the second cruiser in line, behind Trooper Daniel Purtell. Trooper Holland said that Mr. Brown drove erratically as they followed him, traveling at forty to fifty miles per hour with his headlights off. Another cruiser passed by Trooper Holland and Trooper Holland became third in line. Trooper Purtell was given permission to make contact with Mr. Brown's truck in an effort to stop it, and when the Trooper struck the truck, Mr. Brown fired another shot.

A short time later, Trooper Holland heard someone say over the radio that they were approaching a "T" intersection. When they arrived at the intersection, Mr. Brown had taken a left and had spun out or crashed. Trooper Holland began to make the left hand turn and then saw that the truck was facing in his direction, and thus Trooper Holland stopped. He got out, armed with his department-issued .45 caliber pistol. He took cover behind a cruiser. Trooper Holland shouted commands to Mr. Brown and told him to show them his hands. Instead, Mr. Brown revved the truck's engine and attempted to drive away. Mr. Brown managed to get the truck free and it accelerated forward in the general direction where he and

Trooper Purtell were located. As that happened, Trooper Holland thought that Mr. Brown would run him over or shoot at him, based on the fact that Mr. Brown had already fired at them before. Trooper Holland then fired four or five times in the direction of the driver. Other Troopers were also firing from behind his location.

The truck continued down the road and hit a tree. After that, several Troopers approached the truck and removed Mr. Brown.

4. Trooper Daniel Purtell¹⁵

Trooper Purtell is a K9 officer assigned to Special Operations with the Massachusetts State Police. Trooper Purtell has twelve years of law enforcement experience as a Trooper with the Massachusetts State Police.

Trooper Purtell was on duty on June 15, 2017, working the 11:00 p.m. to 7:30 a.m. shift. At around 10:40 p.m., he heard radio traffic about a pursuit taking place in Malden, Massachusetts. Trooper Purtell learned that a BOLO had been put out for a truck out of Maine that was most likely stolen. The suspect (Michael Brown) was wanted out of Maine for a sex offense, most likely had a handgun, and wanted to commit suicide by cop.

Trooper Purtell monitored the pursuit over his radio, and heard that Mr. Brown was out of control and had hit stop sticks. Trooper Purtell caught up to the pursuit as it merged onto I-495 northbound. Mr. Brown was driving from forty to seventy-five miles per hour and was all over the road. A Trooper in front of Trooper Purtell radioed that Mr. Brown was firing out of the driver side window of the truck. Trooper Purtell believed he may have heard that Mr. Brown later fired a second time.

¹⁵ Trooper Purtell was interviewed by members of the Office of the Attorney General and investigators from the New Hampshire State Police Major Crime Unit in the presence of his counsel on June 20, 2017.

As the pursuit continued, Mr. Brown threw things out the truck's window and opened the rear, sliding window. When Mr. Brown reached a construction site on I-495, he drove across the median, heading northbound in the southbound lane.¹⁶ Mr. Brown shut off his headlights and exited the highway. Trooper Purtell caught up to him and was the lead pursuit vehicle.

As Trooper Purtell pursued, Mr. Brown was all over the road and varied his speed from thirty miles an hour up to seventy or seventy-five miles per hour. At one point, Mr. Brown almost hit another car head on. Trooper Purtell tried to find an area without side roads or homes in order to try and stop Mr. Brown. When he used his cruiser to bump the rear of the truck, Mr. Brown pointed a silver handgun out the back window and fired a shot at Trooper Purtell. Trooper Purtell tried to bump the truck again, and Mr. Brown fired another shot at him. In response to the gunfire from Mr. Brown, Trooper Purtell fired five shots back at Mr. Brown through his cruiser's windshield with his department issued .45 caliber handgun.

The pursuit continued as Trooper Purtell heard over his radio that the road was coming to an end. At the end of the road, Mr. Brown went left, spun out, and ended up on the grass. Trooper Purtell stopped his cruiser and quickly got out. Mr. Brown was facing him in the truck, and Trooper Purtell believed Mr. Brown would shoot at him again. Mr. Brown revved the truck's engine making a sound as if he had floored the gas pedal. Trooper Purtell yelled at Mr. Brown to stop. Instead, Mr. Brown accelerated forward straight at

¹⁶ There were construction vehicles and police officers at that work site, which was restricted to one lane of travel. The Troopers involved in the pursuit surmised that Mr. Brown may have thought the construction site was a road block, which is why he cut across the median strip.

Trooper Purtell. Trooper Purtell believed that Mr. Brown would run him over or shoot at him, so he fired several shots at Mr. Brown. He heard other shots being fired as well.

The truck continued past Trooper Purtell and hit a tree. Trooper Purtell approached the truck with others and put Mr. Brown on the ground. He believed someone else put handcuffs on Mr. Brown.

B. Other Troopers' reports and interviews

Reports were obtained from twenty-eight other Massachusetts State Troopers who were involved in at least some aspect of the pursuit. One was also interviewed. None of those twenty-eight Troopers discharged their weapons. Information from the Troopers with the most relevant information is summarized below.

1. Trooper David K. Bouchard

Trooper Bouchard was on duty on June 15, 2017. While on duty, he heard a BOLO for a truck out of Maine. The truck was stolen and being driven by a person (Michael Brown) who had also stolen a firearm. Later, Trooper Bouchard heard that the Malden police were in pursuit of the stolen truck.

Trooper Bouchard eventually joined the pursuit and became the seventh or eighth cruiser back from the front. During the pursuit, he heard Trooper Purtell announce that several shots had been fired from the stolen truck.

Eventually, the pursuit ended at a "T" intersection. Trooper Bouchard got out of his cruiser and was one hundred and fifty to two hundred feet away from the stolen truck when he heard four to five shots. Trooper Bouchard saw the stolen truck disabled against a tree. He provided cover while other Troopers removed Mr. Brown from the truck and handcuffed him.

2. Trooper Steven W. Grasso

Trooper Grasso was on duty on June 15, 2017. While on duty, he heard a BOLO for a truck out of Maine, being driven by Michael Brown. Mr. Brown was reportedly wanted for sexual assault and was in possession of a stolen truck and handgun. Trooper Grasso later heard that Mr. Brown's phone had been "pinged" and located in Malden, Massachusetts, and that Mr. Brown was being pursued by Malden police officers and Mr. Brown was refusing to stop for police. Trooper Grasso later heard that Mr. Brown was believed to be armed with a handgun and had threatened "suicide by cop."

Trooper Grasso proceeded onto Rte. 114 in the direction he thought Mr. Brown would take. He continued to monitor radio traffic and set up Stinger spike strips on the road on Rte. 114 at the intersection with Boston Road. A short time later, Mr. Brown passed by and drove the stolen truck over the spike strips. However, Mr. Brown did not stop and continued to flee.

Trooper Grasso removed the spike strips from the road and joined the pursuit. During the pursuit, he heard another Trooper report that Mr. Brown fired at least one round out his window. Trooper Grasso continued in the pursuit as it entered Newton, New Hampshire. He then heard over the radio that Mr. Brown had crashed, shots had been fired, and Mr. Brown was dead.

3. Lieutenant Matthew C. Gravini

Lieutenant Gravini was on duty on June 15, 2017. He was working a detail on Rte. 128 northbound at Route 4/225 in Lexington, Massachusetts. At about 10:30 p.m., he heard over the radio that Malden police were pursuing a pickup truck. The driver was wanted out of Maine for sexual assault and theft of a firearm.

Lt. Gravini left the detail he was working and joined the pursuit in North Andover, Massachusetts. After the pursuit entered onto I-495 northbound, Lt. Gravini heard what he believed were gunshots coming from the truck. Later, he heard the driver of the truck (Michael Brown), fire two more times at the cruisers. As the pursuit continued, Lt. Gravini saw the truck cross over the median strip and drive northbound in the southbound lane with its headlights shut off.

The pursuit eventually left the highway and continued through Amesbury, Massachusetts. The pursuit ended in New Hampshire at the intersection of Amesbury Road and Bear Hill Road. As the cruisers in front of Lt. Gravini came to a stop, he heard several shots being fired. He left his cruiser and approached the intersection and saw Mr. Brown's truck against a tree. Lt. Gravini and other Troopers approached the truck, removed Mr. Brown, and confirmed that he was dead. Afterward, Lt. Gravini asked who had fired and was told that Trooper Katsarakes, Trooper Purtell, Trooper Caranfa, and Trooper Holland had all fired at Mr. Brown.

4. Trooper Chanel S. Moreau

Trooper Moreau was on duty on June 15, 2017. While on duty, he heard a BOLO for a vehicle out of Maine driven by a suspect who was wanted for sexual assault, theft of a motor vehicle, and possession of a stolen firearm. Trooper Moreau later heard that the suspect "was intent on suicide by cop."

Trooper Moreau became involved in the pursuit of the stolen truck and at one point was one of the three lead cruisers. Trooper Moreau said that when the pursuit neared Exit 48 on I-495 northbound, he saw Mr. Brown's "hand exposed from the driver's side window." Then, he "observed a distinct muzzle flash and the sound of a round being fired" in the

direction of the cruisers. “Minutes later the operator again fired shots” at the cruisers “through his center rear window.” During the pursuit, Trooper Moreau also saw Mr. Brown turn off his headlights and throw things out of the truck.

Trooper Moreau remained with the pursuit as it entered into Newton, New Hampshire. The pursuit ended and the truck spun out at the “T” intersection. Trooper Moreau got out of his cruiser and as he did, he heard several shots being fired by Troopers in front of him. Mr. Brown’s truck ended up against a tree. Trooper Moreau provided cover as Troopers approached the truck and removed and handcuffed Mr. Brown.

5. Sergeant Edward H. Troy¹⁷

Sergeant Troy was on duty on June 15, 2017, and working a detail on I-495 in the North Andover/Lexington, Massachusetts area. While working at the detail, Sgt. Troy heard a BOLO over the radio for a stolen pickup truck. The driver (Michael Brown) was wanted for sexual assault and reportedly in possession of a 9mm handgun. Later, Sgt. Troy heard that Mr. Brown “was threatening to commit suicide by cop.” Then, Sgt. Troy heard that Mr. Brown’s phone had been “pinged” and he was being pursued by the Malden police.

Sgt. Troy continued to monitor the course of the pursuit over his radio and then joined the pursuit. At one point, he heard dispatch remind them that Mr. Brown was “alleged to be armed and wanted to commit suicide by cop.”

As the pursuit proceeded north on I-495, Sgt. Troy saw Mr. Brown throwing items out of his truck, including a jacket, tarp, and tennis ball. At around Exit 48, Sgt. Troy saw Mr. Brown put his hand out of the driver’s window. Sgt. Troy could see that there was a gun

¹⁷ Sgt. Troy was interviewed by members of the Office of the Attorney General and investigators from the New Hampshire State Police Major Crime Unit in the presence of his counsel on July 24, 2017.

in Mr. Brown's hand. He saw a "flash" and heard a loud "bang." Debris hit the lower front or underside of Sgt. Troy's cruiser leading him to believe that Mr. Brown had fired the handgun at Sgt. Troy's cruiser.¹⁸ Troy used his cruiser's spotlight to illuminate the cab of the truck to try and keep Mr. Brown from being able to aim at the pursuing cruisers. As the pursuit passed Exit 50, Mr. Brown pointed the handgun out the rear center window of his truck and fired at least two more shots toward the cruisers behind him. Sgt. Troy radioed the lead cruisers to put some distance between them and Mr. Brown to minimize the chances of being hit by gunfire.

When the pursuit approached the end of I-495 and the ramp to I-95 north, Mr. Brown crossed over the median and drove north in the southbound lane. Mr. Brown took an exit off the highway, going the wrong way on the ramp. The pursuit continued into Amesbury, Massachusetts on "side roads." Mr. Brown drove "fast," at times reaching speeds of seventy miles per hour.

As the pursuit continued, Trooper Purtell received permission to bump Mr. Brown's truck with his cruiser to try and stop it. Trooper Purtell made contact with the truck, but Mr. Brown did not stop. Instead, Mr. Brown shot at Trooper Purtell out of the truck's window and Trooper Purtell returned fire.

The pursuit ended at a "T" intersection with Bear Hill Road in Newton. Mr. Brown turned left at the intersection and spun out. Sgt. Troy stopped his cruiser and got out. He could see some Troopers to his right and some ahead of him near Mr. Brown's truck. The truck accelerated "hard" toward the Troopers. Sgt. Troy said that he was concerned that Mr.

¹⁸ Sgt. Troy later checked his cruiser for damage, but did not find any. He speculated that Mr. Brown's shot had hit the road, kicking up debris that hit his cruiser.

Brown would run the Troopers down or shoot at them. As the truck accelerated forward, Sgt. Troy heard several gunshots. After the shots stopped, the truck accelerated and drove into a tree off the side of the road.

Several Troopers approached the truck and removed Mr. Brown from the driver's side and handcuffed him. Mr. Brown was wounded and not moving. Sgt. Troy did not know at that time whether any of the Troopers' shots had hit Mr. Brown and assumed that Mr. Brown had shot himself.

C. Michael Brown's injuries

The New Hampshire Office of the Chief Medical Examiner conducted an autopsy on Michael Brown's body on June 16, 2017. Chief Medical Examiner Dr. Thomas A. Andrew determined that Mr. Brown's cause of death was a single gunshot wound to the neck that was caused by a rifle round.¹⁹ The manner of death was ruled a homicide. As used by the Office of the Chief Medical Examiner, the term "homicide" is defined as the killing of one person by another.

A blood sample was taken at autopsy for toxicological testing. That testing revealed the presence of the active and inactive components found in marijuana, as well as Amphetamines and Methamphetamines in Mr. Brown's blood at the time of the incident.

D. Physical evidence

The New Hampshire State Police Major Crime Unit searched the scene in Newton where the shooting incident occurred, as well as the involved vehicles.

A total of thirty discharged firearm cartridge casings were recovered in the vicinity of the Massachusetts State Police vehicles driven by the Troopers who discharged their

¹⁹ Mr. Brown also suffered non-fatal head and ankle injuries when his truck hit the tree at the end of the pursuit.

weapons during the incident. Of the thirty casings, twenty-one were rifle rounds and nine were handgun rounds. All were consistent with the caliber of the weapons used by the four Troopers who discharged their weapons during the incident.

The stolen Toyota Tacoma pickup truck that Michael Brown was operating was also searched. A silver colored Fratelli 9mm semi-automatic pistol was found inside the truck on the floor on the passenger side of the vehicle. A holster for that pistol was also found in the truck. The pistol contained no live rounds and had an empty magazine in it that could hold up to fifteen rounds. It was reported that the gun contained fifteen live rounds when Mr. Brown stole it. Therefore, the fact that it was found empty after the incident is consistent with Mr. Brown having fired up to fifteen shots before the pursuit ended, including some at the pursuing Troopers.

One discharged 9mm firearm cartridge casing was found in the truck, which is consistent with Mr. Brown having fired the pistol from inside the truck. It is likely that the other discharged cartridge casings from the rounds Mr. Brown fired during the incident were ejected out the truck's open windows or were possibly thrown out the window during the pursuit.

There was also damage to the truck's bed that appeared to have been caused by Mr. Brown hitting the truck as he fired gunshots at the Troopers during the incident. Bullet damage, two bullets, and five bullet fragments were located on and in the truck, consistent with impacts from some of the shots the Troopers fired at Mr. Brown during the incident.

Michael Brown's wallet and identification were located in the truck as well, along with a note from his mother that said:

Mike:

*Just want you to know I've always loved you know [sic]
matter what. Your [sic] my son. If I don't see you again
I'll always hold you close to my heart.
Take care.*

*Love
Mom
XOXO*

Trooper Purtell's cruiser windshield had damage consistent with the shots he fired back at Mr. Brown during the pursuit. None of the Massachusetts State Police cruisers showed any signs of bullet damage from Mr. Brown's shots that night.

E. Digital evidence

There were no police-issued video recording devices that recorded the incident. The Massachusetts State Police do not have body cameras and the Troopers involved in this incident did not have cruiser cameras. A Massachusetts State Police helicopter assigned to the State Police Airwing Section that assisted in the incident did record footage with a FLIR thermal imaging camera system.²⁰ A copy of that video was obtained and reviewed. The video footage is approximately 37 minutes and 15 seconds long. It is not in color; it is shades of gray and black. The footage captures some of the pursuit in Massachusetts and into New Hampshire, ending in Newton, where the officer-involved shooting incident occurred. However, none of that footage captured the shooting incident itself. The camera is not always directed at the actual pursuit or the vehicles involved. In addition, trees and buildings in the foreground sometimes obscured images in the line of sight. Although the truck that Mr. Brown stole is occasionally visible in the footage, Mr. Brown himself can only

²⁰ FLIR stands for forward looking infrared. A FLIR system detects small variations in heat (infrared radiation) to create an image of people, structures, vehicles and objects that is visible at night.

be seen after he is deceased and on the ground next to the stolen truck. The video footage is being released along with this report.

The Massachusetts State Police helicopter video recording also captured radio traffic between the Massachusetts State Police Troopers involved in the pursuit. Relevant portions of that audio footage include the following transmissions by the involved Troopers:

- *On rims on passenger side. 70 miles per hour.*
- *He's throwing stuff out the windows.*
- *75 miles per hour.*
- *He just fired a shot out the window. Shots fired out the window. Driver's window.*
- *65 miles per hour.*
- *He's still on rims.*
- *More shots fired out center back window.*
- *Advise NH that he's got the handgun on his person and he's fired two shots at us.*
- *We're approaching exit 53, 53 at this time. He is firing shots out of the vehicle.*
- *Heading the wrong way, 495 south, north in the south.*
- *He's shut his headlights off. Still northbound in the southbound lane.*
- *Still on Newton Road. He took another shot.*
- *30 - 35 miles per hour.*
- *I took some rounds. I might a took some through my windshield. I fired back. I was unable to PIT him.²¹*
- *Looks like a silver handgun.*
- *Amesbury Road.*

²¹ "PIT" means Precision Immobilization Technique. It is a technique used by a pursuing law enforcement officer to bump the fleeing vehicle to cause it to turn sideways and stop.

- *Bear Hill Road.*
- *Ok, he spun out at the Amesbury intersection.*
- *Hit a tree, he's into a tree.*
- *Shots fired.*
- *Subject crashed.*
- *Start EMS.*

The recording ended shortly after that last transmission.

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. Under RSA 627:5, II (a), a law enforcement officer, like a private citizen, 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. 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 weapon capable of causing serious bodily injury or death in the direction of another person constitutes 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 the

actor had a reasonable belief that deadly force was necessary to defend himself 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, which is afforded by one viewing the circumstances after the fact. The amount of deadly force used by the actor to protect himself or others must also be reasonable, and not excessive. See State v. Etienne, 163 N.H. 57, 70 (2011).

In Graham v. Connor, 490 U.S. 386 (1989), the United States Supreme Court discussed the standards by which a police officer's conduct would be judged when excessive force claims were brought against him. The Court confirmed 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 Court went on to explain how to determine what is reasonable in situations where police officers use force:

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).

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 (11th Cir. 2009) (citations omitted). That is because “the law does not require perfection – it requires objective reasonableness.” Phillips v. Bradshaw, 2013 U.S. Dist. LEXIS 44646 *55-56 (S.D. Fl. 2013). Specifically, the law accounts for the often fast moving nature of dangerous situations and the need to make decisions in less-than-ideal circumstances. See Ryburn v. Huff, 565 U.S. at 477 (chastising the lower circuit court for not “heed[ing] 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 review in an officer-involved use of deadly force case.

V. ANALYSIS AND CONCLUSION

Based on all the facts and circumstances of this case, the Attorney General has concluded that Michael R. Brown was attempting to avoid apprehension on June 15, 2017, and created a dangerous situation, which he escalated to the point where it became reasonable for four Massachusetts State Troopers to conclude that they faced an imminent threat of deadly force from Mr. Brown.

At the time of the incident, Mr. Brown was wanted for a sexual assault out of Maine. He had a lengthy felony criminal record and had already been to prison, which likely explained why he had made it clear to others that he was contemplating suicide, and was not going back to prison. Mr. Brown also said that he would not go down without a fight and

would try to commit suicide by cop. To further his attempt to elude authorities, Mr. Brown had stolen a truck and a fully loaded 9mm pistol.

On June 15, 2017, Mr. Brown's cell phone signal was detected in Hampton, New Hampshire and later, in Malden, Massachusetts. When Malden police officers located Mr. Brown and tried to take him into custody, Mr. Brown fled and drove erratically, putting the lives of others at risk. Even after two of Mr. Brown's tires were shredded, Mr. Brown continued to try and elude the police by driving at a high rate of speed and sometimes shutting off his headlights.

Mr. Brown escalated an already dangerous situation when he began firing a pistol out of his truck at the pursuing Troopers. Mr. Brown further endangered others when he shut off his headlights and drove the wrong way on the highway and up an exit ramp. Mr. Brown continued to flee from the Troopers and fired out of the truck at least two more times at Trooper Purtell, thereby confirming his intent to use deadly force to avoid capture.

The pursuit only ended because Mr. Brown lost control of the truck at the end of Amesbury Road in Newton, New Hampshire, and spun out on the side of the road. Despite being ordered to show his hands, Mr. Brown refused to comply and showed no signs of surrendering. Instead, he accelerated toward the Troopers who were outside their cruisers and put them at risk of being struck by the truck. As Mr. Brown did that, he also raised his right arm and pointed the 9mm pistol at two Troopers. Mr. Brown's dangerous and potentially deadly actions at the intersection prompted four Troopers to act to protect

themselves and others by shooting at Mr. Brown. As a result, Mr. Brown was fatally wounded by one rifle shot to the neck.²²

Based on all the facts and circumstances known to the Troopers at the time, including the BOLO information, Mr. Brown's erratic driving, and his attempts to shoot the Troopers both before and after arriving at the intersection of Amesbury Road and Bear Hill Road, it was reasonable for Massachusetts State Troopers Michael Caranfa, Robert Holland, George Katsarakes, and Daniel Purtell, to conclude that they (as well as others in the immediate vicinity) faced an imminent threat of deadly force from Mr. Brown. Accordingly, Troopers Michael Caranfa, Robert Holland, George Katsarakes, and Daniel Purtell, were all legally justified in using deadly force against Mr. Brown. Therefore, no criminal charges will be filed against the Troopers as a result of the incident that resulted of the death of Michael R. Brown.

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²² Since all four Troopers were justified in their use of deadly force against Mr. Brown, no forensic testing will be done to determine which one fired the fatal shot.