

# ATTORNEY GENERAL'S REPORT REGARDING THE MAY 20, 2020 OFFICER USE OF NON-DEADLY FORCE IN ALBANY, NEW HAMPSHIRE

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## I. INTRODUCTION

New Hampshire Attorney General Gordon J. MacDonald announces the completion of the investigation into the officer-involved use of force against Jean Saint Preux (age 34) that occurred in Albany, New Hampshire on May 20, 2020. The purpose of this report is to summarize the Attorney General's factual findings and legal conclusions regarding the use of force by New Hampshire State Troopers Hawley Rae and Margaret Ready. The findings and conclusions in this report and as detailed below are based upon information gathered during the investigation, including videos of Mr. Saint Preux's arrest taken by him as well as by an eye-witness, surveillance footage, booking room footage, police officer reports, to include detailed reports by both Trooper Rae and Trooper Ready, and a recorded witness interview and statement.

As provided in RSA 7:6, the Attorney General is the State's Chief Law Enforcement Officer. The Attorney General has the responsibility to ensure that law enforcement officers use force in conformity with the law. Following a review of the force used by Trooper Ready and Trooper Rae during Mr. Saint Preux's arrest, the Attorney General's Office finds that their actions were legally justified.

In addition to examining the use of force, the Attorney General reviewed the arrest to determine whether Trooper Ready or Trooper Rae violated the New Hampshire Civil Rights Act, RSA chapter 354-B. RSA 354-B:2, authorizes the Attorney General to bring civil enforcement actions to impose fines and enjoin future violations of the New Hampshire Civil Rights Act. Following a review of the traffic stop and arrest by Trooper Ready and Trooper Rae, the Attorney General's Office finds that their actions did not violate the New Hampshire Civil

Rights Act because those actions did not interfere with the rights accorded to Mr. Saint Preux by the laws and constitutions of New Hampshire and the United States.

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

On May 20, 2020, New Hampshire State Police Trooper Hawley Rae and Trooper Margaret Ready conducted a motor vehicle stop in Albany of Mr. Jean Saint Preux for a potential inspection violation. Mr. Saint Preux failed to provide his license and registration when asked, leading to Trooper Ready's decision to arrest him for disobeying a police officer. He then failed to submit to the arrest and exit the vehicle, despite repeated commands to do so. As a result, the troopers broke the vehicle's driver side window in order to physically remove him. Trooper Ready then used her TASER<sup>1</sup> on Mr. Saint Preux, causing him to jump from the vehicle. Once out of the vehicle, Mr. Saint Preux continued ignoring the troopers' directives, and the troopers continued using physical force with him until he was placed in handcuffs and escorted to the police cruiser. Mr. Saint Preux recorded a portion of the interaction, as did an eye-witness. The interaction was also captured by the town hall's surveillance camera.

After the incident, the New Hampshire Attorney General's Office commenced a review of the lawfulness of the force used against Mr. Saint Preux. On October 6, 2020, Mr. Saint Preux pled guilty to an uninspected vehicle violation and a class A misdemeanor charge of disobeying a police officer stemming from the May 20, 2020 incident. One count of simple assault was placed on file without a finding, while an additional charge of simple assault and resisting arrest were *nolle prossed*.

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<sup>1</sup> A TASER is a handheld device that is capable of delivering a non-lethal shock to the body.

### **III. TROOPER HAWLEY RAE AND TROOPER MARGARET READY'S ARREST OF MR. JEAN SAINT PREUX**

#### **A. Scope of Review**

The Attorney General's Office considered the following evidence, obtained by the State Police during their investigation into Mr. Saint Preux's conduct, when determining whether Trooper Rae and Trooper Ready lawfully used non-deadly force: videos of Mr. Saint Preux's arrest taken by him as well as by Albany Town Administrator Kelley Collins, town hall surveillance footage, booking room footage, police officer reports, to include detailed reports by both Trooper Rae and Trooper Ready and use of force reports, and Ms. Collins's recorded interview and written statement. The Attorney General's Office attempted to speak to Mr. Saint Preux, but he declined to do so. Both Trooper Rae and Trooper Ready also declined to be interviewed, but their attorneys submitted written letters on their behalf.

Although the State Police policy on use of force was obtained, Trooper Rae and Trooper Ready's tactics were not part of this review. The Attorney General does not investigate or opine on the particular procedures or tactics used by law enforcement officers. Instead, the Attorney General's review of officer-involved use of force incidents consists of a criminal investigation, which is limited to determining whether officers complied with the applicable law. Thus, the Attorney General's review here focused on whether, under New Hampshire law, the use of non-deadly force was justified, and whether the arrest violated the Civil Rights Act.

#### **B. Events Prior to the Use of Force**

On May 20, 2020 at about 10:20 a.m., Trooper Hawley Rae, acting as a Field Training Officer, and Probationary Trooper Margaret Ready were on patrol in Carroll County. While driving Northbound in a marked State Police cruiser on Route 16 in Albany, a vehicle driving southbound passed them with New Hampshire license plates, but a Maine inspection sticker.

Trooper Ready activated the cruiser's emergency blue lights and immediately made a U-turn to stop the vehicle. Instead of pulling over, the vehicle continued driving and pulled off Route 16 into the Albany Town Hall parking lot, reversing into a parking spot behind a tree line. The Albany Town Hall was closed to the public at that time. Trooper Ready drove past the parking lot, but then spotted the vehicle, and turned the cruiser around to effectuate the motor vehicle stop.

1. **Trooper Ready's Account – Initial Contact with Mr. Saint Preux<sup>2</sup>**

Upon entry into the parking lot, Trooper Ready approached the driver's side window. Prior to Trooper Ready asking any questions, the driver, later identified as Jean Saint Preux, said, "What?" Trooper Ready identified herself as State Police, and explained that she stopped him because of his inspection sticker. Mr. Saint Preux said that his sticker was valid until 2020. Trooper Ready said that because the vehicle was registered in New Hampshire, it needed a New Hampshire inspection sticker. She then asked for his license and vehicle registration. Mr. Saint Preux retrieved his wallet and began pulling out credit cards, but failed to produce his license. Trooper Ready reminded him that she also needed the registration. At that point, Mr. Saint Preux said that he needed to call his girlfriend, who owned the vehicle. Trooper Ready again asked for his license and the registration. He did not provide either requested document. Trooper Ready observed Mr. Saint Preux behaving "erratically," in that he was "making fast jerky movements," so she asked him to step out of the vehicle. Mr. Saint Preux ignored Trooper Ready, and appeared "extremely stressed out." He failed to exit the vehicle, and instead, used his cell phone to FaceTime his girlfriend. He told his girlfriend to come to the town hall, and then hung up the phone.

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<sup>2</sup> Both Trooper Ready and Trooper Rae wrote reports in this case. The facts in this report that are attributed to them are taken from their individual reports.

At this point, Trooper Ready reported that Mr. Saint Preux's behavior and his failure to identify himself was uncommon during a routine traffic stop, which made her nervous. She again asked him to exit the vehicle, and instead of complying, he locked the vehicle's doors. She again asked for his license and registration, and he refused, stating, "I need my girl here." Trooper Ready repeatedly ordered him to exit the vehicle. She then attempted to reach inside the vehicle's window to unlock the door herself. In response, Mr. Saint Preux raised the window, preventing her from doing so. At that point, based on his failure to identify himself, Trooper Ready determined that Mr. Saint Preux was under arrest for disobeying a police officer.

Once Mr. Saint Preux raised his window, Trooper Rae approached the driver's side of the vehicle. She asked Trooper Ready if Mr. Saint Preux was under arrest, which Trooper Ready confirmed. Trooper Rae told Mr. Saint Preux that he was under arrest, and asked him to exit the vehicle. Trooper Ready repeated the same. Mr. Saint Preux ignored them, retrieved money, and began counting it.<sup>3</sup> Trooper Ready told Mr. Saint Preux that if he did not exit his vehicle, Trooper Rae would break his window. He ignored her warning, failed to exit the vehicle, and continued counting the money.

## **2. Trooper Rae's Account – Initial Contact with Mr. Saint Preux**

As Trooper Rae approached the passenger's side door, Trooper Ready was already talking to Mr. Saint Preux, and as such, she did not hear their initial exchange. She also could not hear any of Mr. Saint Preux's responses to Trooper Ready, as the passenger's side window was closed. However, Trooper Rae heard Trooper Ready ask Mr. Saint Preux if he was the vehicle's registered owner, and ask twice for his license and registration. Trooper Rae observed Mr. Saint Preux waving his arms around with his wallet in his hands. Although she could not

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<sup>3</sup> Trooper Ready's report does not identify where the money was located when Mr. Saint Preux retrieved it.

hear his words, Trooper Rae described Mr. Saint Preux's voice as "agitated," and reported that he appeared to be arguing with Trooper Ready. Trooper Rae observed Mr. Saint Preux open and close his wallet without producing identification, and then use his cell phone. Trooper Ready "repeatedly" told Mr. Saint Preux to exit the vehicle, but Mr. Saint Preux did not comply. Trooper Rae observed him close his window and lock the door. Trooper Rae observed Trooper Ready knock on the window, and again tell Mr. Saint Preux to exit.

Trooper Rae estimated that after 3-4 minutes, she asked Trooper Ready if Mr. Saint Preux was under arrest. Trooper Ready said yes, and Trooper Rae joined her at the driver's side window. Trooper Rae also told him to exit the vehicle, and told him that he was under arrest for refusing to identify himself. Mr. Saint Preux shook his head, and continued using his phone. Trooper Rae told him to unlock the door, and he refused. She then warned him that if he did not exit the vehicle, she would break the window. Both Trooper Ready and Trooper Rae continued ordering Mr. Saint Preux out of the vehicle and told him that he was under arrest, but he failed to comply with any orders. Trooper Rae then decided to break the window.

**C. Use of Force to Remove Mr. Saint Preux from his Vehicle**

**1. Trooper Ready's Account**

Trooper Ready warned Mr. Saint Preux that if he did not exit the vehicle, Trooper Rae would break the window. He failed to comply, so Trooper Rae used her police baton, and attempted to break the driver's side window. While doing so, she repeatedly told Mr. Saint Preux that he was under arrest. She also told Mr. Saint Preux to stop moving his hands and to stop resisting arrest. While Trooper Rae attempted to break the window, Trooper Ready went to her cruiser and radioed dispatch, requesting additional law enforcement assistance. While

Trooper Rae attempted to break the window, Mr. Saint Preux began recording the incident with his cell phone.

After Trooper Rae broke a small hole through the corner of the window, she put her arm through it to try and unlock the door. She continued telling Mr. Saint Preux to stop moving his hands and exit the vehicle. At that point, Trooper Ready retrieved her window punch tool and repeatedly struck the window, cracking it. She then retrieved gloves and peeled the window down manually. Trooper Ready unlocked the door, and Trooper Rae opened it.

According to Trooper Ready's report, Mr. Saint Preux still would not exit the vehicle, and locked his left leg to prevent his removal from his seat as the troopers tried to physically remove him. Trooper Ready attempted to hold his leg and pull him out, but she could not dislodge his foot, which he had tucked under the dashboard. Trooper Ready then attempted to deploy her TASER to remove him from the vehicle, but Mr. Saint Preux pushed Trooper Ready's hands and TASER away, stating, "don't you tase me." At that point, without tasing him, Trooper Ready re-holstered the TASER. She continued trying to pull Mr. Saint Preux from the vehicle, but was unsuccessful. She then drew her TASER again, tased Mr. Saint Preux in his left thigh, causing him to jump from the vehicle. Trooper Ready then re-holstered her TASER.

## **2. Trooper Rae's Account**

Based on his failure to follow lawful orders to exit the vehicle, Trooper Rae decided to break the window to effect the arrest. Both she and Trooper Ready continued to tell Mr. Saint Preux that he was under arrest and to exit the vehicle.

While attempting to break the window, Trooper Rae observed Mr. Saint Preux's left hand reach down to the area by his left leg, between the door and the seat. She did not know if he was

armed. Trooper Rae reached through the window to secure his hand. She ordered him to stop moving and keep his hands visible.

Trooper Ready used her window punch to break the window, eventually succeeding. She then peeled down the window to unlock the door. Once the door was unlocked, the troopers continued directing Mr. Saint Preux to exit the vehicle, but he refused. Both troopers tried to physically remove him from the vehicle, but were unsuccessful. Trooper Rae tried to control his head, thinking that if she pulled his head towards her, the rest of his body would follow. When their physical efforts failed, Trooper Ready tased Mr. Saint Preux in his left leg, resulting in his exiting the vehicle. During this entire process, Mr. Saint Preux “continuously tried to hit [their] hands and arms away.”

**D. Use of Force to Arrest Mr. Saint Preux**

**1. Trooper Ready’s Account**

Mr. Saint Preux moved to the rear of his vehicle after exiting, and “squared to [the troopers] in preparation for a fight.” Both Trooper Rae and Trooper Ready ordered Mr. Saint Preux to the ground, but he ignored the orders. Trooper Rae drew her TASER. Trooper Ready observed that Mr. Saint Preux “appeared to rethink his strategy,” and turned away from them. The troopers tried to grab his arms, but Mr. Saint Preux began flailing, almost hitting Trooper Rae with his phone. Trooper Rae took his phone and threw it away, while Mr. Saint Preux continued “violently” waving his arms. Trooper Rae was able to grab his right arm while Trooper Ready grabbed his left, and they led him to a stone wall to assist in bringing him to the ground. Mr. Saint Preux pushed off the stone wall, unsuccessfully trying to pull his arms away.

The troopers were then able to bring Mr. Saint Preux to the ground, with Mr. Saint Preux landing on his back, Trooper Ready on top of him, and Trooper Rae to his side. He fought the



troopers' attempts to roll him over and failed to comply with orders to do so. Despite Mr. Saint Preux's continued efforts to pull away, they eventually placed Mr. Saint Preux in handcuffs. Trooper Ready was unable to immediately double lock the handcuffs, as Mr. Saint Preux continued fighting against the troopers.

Trooper Ready attempted to search Mr. Saint Preux, but he continually swung his head back toward her, almost hitting her. Trooper Rae and Trooper Ready held Mr. Saint Preux's neck, shoulders, and head to keep him on the ground and prevent him from head-butting them. Trooper Rae told Mr. Saint Preux that if he stopped swinging his head, he could sit, but he failed to comply and continued pushing against them. At that point, additional officers arrived and assisted in picking Mr. Saint Preux off the ground and escorting him to the cruiser. When asked by Trooper Rae if he sustained any injuries, Mr. Saint Preux stated that he was uninjured. Trooper Rae and Trooper Ready both suffered minor injuries as a result of their physical interactions with Mr. Saint Preux.

## **2. Trooper Rae's Account**

Outside the vehicle, Mr. Saint Preux turned to face the officers, "as if he was ready to fight [them]." Trooper Rae drew her TASER and ordered Mr. Saint Preux to the ground. He stopped moving, but did not comply with her order. Trooper Rae tried to gain control of his arms, and he hit her arms and hands away. Trooper Rae and Trooper Ready both tried to grab his arms while he continued pulling away. They were eventually able to bring him to the ground. Both troopers fell to the ground with him. The struggle continued, with Mr. Saint Preux continuing to pull his arms away, preventing the troopers from handcuffing him. The troopers eventually succeeded.

Trooper Rae told Mr. Saint Preux to stop moving and if he complied, she would assist him in standing. Mr. Saint Preux continued moving, preventing Trooper Ready from searching him. Trooper Rae continued holding him in place so that Trooper Ready could complete the search. At that point, additional law enforcement officers arrived and Mr. Saint Preux was placed in the cruiser.

Trooper Rae asked Mr. Saint Preux if he was injured, and he did not report any injuries. Trooper Rae suffered minor cuts and bruises. Mr. Saint Preux told Trooper Rae that she was “harassing” him, and that the troopers “were in trouble.” He also said that his handcuffs were too tight. Trooper Rae checked his handcuffs, which were not tight, and told him that she did not know who he was and the encounter would have ended if he had provided his license and registration.

## **E. Video Footage**

### **1. Mr. Saint Preux’s Facebook Video**

Mr. Saint Preux began recording his interaction with the troopers after Trooper Rae started breaking the driver’s side window with her baton. He “livestreamed” the video through Facebook, which also maintained a recording. The video was shared by the public through other internet platforms.

The Facebook version of the video is 12 minutes and 39 seconds long.<sup>4</sup> The video, consistent with the troopers’ accounts, depicts Mr. Saint Preux recording the interaction but failing to comply with their continued orders to exit the vehicle. The video begins with Mr. Saint Preux holding the phone, filming himself while Trooper Rae attempted to open the driver’s

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<sup>4</sup> The Facebook version is the complete video taken by Mr. Saint Preux, although shortened versions exist and were obtained from different internet platforms.

side window with her baton. The first audio captured is Trooper Rae stating, “[k]eep your hands where I can see them. You’re under arrest.” Trooper Rae is seen putting her arm through a crack in the window, attempting to open the door. She is also seen pulling Mr. Saint Preux’s arm while telling him to keep his hands visible and unlock the vehicle’s door.

Trooper Ready is then seen using her window punch, and peeling down the window. Once the window is sufficiently broken, Trooper Rae unlocked the door and Trooper Ready opened it. Trooper Rae then put her arm around Mr. Saint Preux’s head and arm, attempting to pull him from the vehicle. Trooper Ready is seen pulling Mr. Saint Preux’s leg. Mr. Saint Preux did not make any effort to exit, and continued sitting in his vehicle. In fact, he appears to be bracing himself against the troopers’ efforts to remove him.

Trooper Ready then displayed her TASER. Mr. Saint Preux hit her hand away. Although the TASER is heard deploying, Mr. Saint Preux was not tased at that time. Trooper Ready holstered her TASER, and again tried to assist Trooper Rae with physically removing him from the vehicle. Mr. Saint Preux continued to hit their arms away. Trooper Ready pulled her TASER out again. Mr. Saint Preux told Trooper Ready not to tase him, stating that he had a heart problem, and was getting out of the vehicle. Despite that statement, he continued sitting, without any effort to exit the vehicle. Trooper Ready’s TASER is then heard deploying, and Mr. Saint Preux exits the vehicle.

At that point, Trooper Rae is seen displaying her TASER, ordering Mr. Saint Preux to the ground. He did not comply. His cell phone then went dark, but Mr. Saint Preux can still be heard arguing with the troopers as they ordered him to turn over and stop moving. Mr. Saint Preux then became visible on the phone’s screen, still without his arms behind his back. The

video continued recording Mr. Saint Preux arguing with the troopers, but no additional footage was captured.

Throughout the video, Mr. Saint Preux urged viewers to share the video, stated that he did nothing wrong, and was being harassed. He told the troopers not to touch him, and asked what he did wrong. The troopers responded by ordering him out of the vehicle and telling him that he was under arrest. During the course of the video, Mr. Saint Preux was told that he was under arrest 17 times, to exit the vehicle 27 times, and to keep his hands visible 7 times. Mr. Saint Preux never complied with any of the orders.

## **2. Witness Cell Phone Video**

Albany Town Administrator Kelley Collins was working at the town hall at the time of Mr. Saint Preux's arrest. She began recording the interaction after the troopers opened the vehicle's door. In the video, the troopers are clearly struggling to pull Mr. Saint Preux from the vehicle. Mr. Saint Preux's arm is visibly swatting away their attempts to remove him. The video depicts Trooper Ready reaching toward Mr. Saint Preux, with what is presumably her TASER, and Mr. Saint Preux jumping from the vehicle. Mr. Saint Preux then moved toward the rear of the vehicle, with the troopers behind him. All three individuals move toward a short stone barrier, and then to the ground, out of view.

## **3. Surveillance Video**

The Albany Town Hall surveillance camera captured the troopers' interaction with Mr. Saint Preux. At 10:26 a.m., Mr. Saint Preux's vehicle is seen backing into the Albany Town Hall parking lot. At 10:27 a.m., a fully marked New Hampshire State Police cruiser drove into the parking lot and parked about 20 feet from Mr. Saint Preux. Seconds later, Trooper Ready approached Mr. Saint Preux's window. At 10:30 a.m., Trooper Rae moved from the passenger's

side to the driver's side window. Approximately 38 seconds later, Trooper Rae is alone at Mr. Saint Preux's window, while Trooper Ready returned to her cruiser.<sup>5</sup> At 10:32 a.m., both troopers are at Mr. Saint Preux's window, and Trooper Ready is seen pounding on the window. About 20 seconds later, Trooper Ready returned to her cruiser, then went back to the window and appears to be pulling it down. At 10:33 a.m., the troopers opened the car door. Approximately 50 seconds later, it appears that the operator exited the vehicle.<sup>6</sup> The parties then go to the back of the vehicle, but their interaction at that point is not visible.

The time between when Trooper Ready first approached Mr. Saint Preux's window to the time that Trooper Rae presumably began breaking it was approximately 3 minutes and 28 seconds. The time between when Trooper Ready approached Mr. Saint Preux's window and when the driver's side door opened was approximately 5 minutes and 38 seconds. It took over 6 minutes from Trooper Ready's initial approach to the time that Mr. Saint Preux was tased and removed from the vehicle. The entire interaction, from the troopers' initial approach until Mr. Saint Preux is escorted to the cruiser, is approximately 14 minutes.

#### **F. Kelley Collins's Statement**

As previously stated, Ms. Collins observed the arrest of Mr. Saint Preux and recorded a portion of the interaction. She was also interviewed and provided a written statement. She stated that she watched the incident from the town hall window. She saw both a grey sedan and the New Hampshire State Police cruiser drive into the parking lot. Initially, she could not hear what was being said. She eventually heard the troopers, in escalating voices, repeatedly order the

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<sup>5</sup> The troopers' actions are difficult to see in the surveillance video due to shading, angles, distance, and intermittent video static. Although not visible in the footage at this juncture, this is presumably the time when Trooper Rae used her baton to try and break Mr. Saint Preux's window.

<sup>6</sup> Although not visible in the footage, this is presumably the time when Trooper Ready tased Mr. Saint Preux's thigh.

occupant out of the vehicle, keep his hands visible, and tell him that he was under arrest. She then observed the troopers trying to break the driver's side window. She estimated that the orders to exit the vehicle lasted about 10-15 minutes. Ms. Collins called the Sheriff's office for assistance.

Ms. Collins said that the troopers struggled to remove the occupant. She said that the troopers continued telling the occupant to get out of the vehicle and that he was under arrest, but he was being "fully uncooperative." Ms. Collins described the operator as a "big guy," that was "a head taller than both [of the troopers]." She said that the man and the troopers then went to the back of the vehicle, and were "scuffling behind it." They then went to the ground, out of sight.

**G. Mr. Saint Preux**

Mr. Saint Preux was represented by counsel for his criminal charges stemming from this incident. On October 6, 2020, Mr. Saint Preux pled guilty to an uninspected vehicle violation, and was ordered to pay the standard fine. He also pled guilty to class A misdemeanor disobeying a police officer and was sentenced to 180 days in the house of corrections and a \$500 fine plus penalty assessment, both fully suspended for 1 year conditioned on good behavior. A charge of simple assault for his actions against Trooper Ready was placed on file without a finding for one year, also conditioned on good behavior. The resisting arrest charge and remaining simple assault charge for his actions against Trooper Rae were *nolle prossed* as a term of the plea.

Mr. Saint Preux's attorney was contacted to provide Mr. Saint Preux with an opportunity to speak with the criminal investigator about the incident involving Trooper Rae and Trooper Ready, with the assurance that his statements would not be used against him in his then-pending criminal matter. Mr. Saint Preux declined to be interviewed. On October 6, 2020, Mr. Saint

Preux's attorney advised that Mr. Saint Preux also declined to be interviewed in regard to the civil rights investigation.

**H. Trooper Rae and Trooper Ready**

Trooper Rae and Trooper Ready declined to be interviewed. Their attorneys submitted letters on their behalf stating that they had no additional information to provide.

**IV. THE APPLICABLE LAW AND LEGAL STANDARDS**

Under RSA 265:4, I (e), a person is guilty of disobeying a police officer if “while driving or in charge of a vehicle . . . [r]efuse[s], on demand of such officer, to produce his license to drive such vehicle or his certificate of registration or to permit such officer to take the license or certificate in hand for the purpose of examination.” Under RSA 594:5, “if a person has reasonable ground to believe that he is being arrested and that the arrest is being made by a peace officer, it is his duty to submit to arrest and refrain from using force or any weapon in resisting it, regardless of whether there is a reasonable basis for the arrest.” Should an individual fail to submit to arrest, law enforcement is permitted to use force; however, “no unnecessary or unreasonable force or means of restraint may be used in detaining or arresting any person.” RSA 594:4, I.

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, I:

A law enforcement officer is justified in using non-deadly force upon another person when and to the extent that he reasonably believes it necessary to effect an arrest or detention or to prevent the escape from custody of an arrested or detained person, unless he knows that the arrest or detention is illegal, or to defend himself or a third person from what he reasonably believes to be the imminent

use of non-deadly force encountered while attempting to effect such an arrest or detention or while seeking to prevent such an escape.

Under RSA 627:9, IV, “non-deadly force” is defined as “any assault or confinement which does not constitute deadly force. The act of producing or displaying a weapon shall constitute non-deadly force.” No deadly force was employed in this case.<sup>7</sup>

The New Hampshire Civil Rights Act provides that

All persons have the right to engage in lawful activities and to exercise and enjoy the rights secured by the United States and New Hampshire Constitutions and the laws of the United States and New Hampshire without being subject to actual or threatened physical force or violence against them or any other person or by actual or threatened damage to or trespass on property when such actual or threatened conduct is motivated by race, color, religion, national origin, ancestry, sexual orientation, sex, gender identity, or disability.

RSA 354-B:1, I (Supp. 2019). To prove that a violation of the Civil Rights Act has occurred, the Attorney General must prove: (1) that an actual or threatened use of force, trespass, or property damage occurred; (2) that the actual or threatened use of force, trespass, or property damage intended to prevent or intended to terrorize and coerce the target from engaging in otherwise lawful activity; and (3) that the actual or threatened use of force, trespass, or property damage was motivated by animus toward a protected class. RSA 354-B:1. The Attorney General must prove these elements by “clear and convincing evidence.” RSA 354-B:2, IV.

## **V. ANALYSIS AND CONCLUSION**

As described above, Mr. Saint Preux failed to comply with lawful orders to exit the vehicle he was driving and submit to an arrest. By pleading guilty on October 6, 2020, to disobeying a police officer, Mr. Saint Preux admitted that he unlawfully failed to comply with

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<sup>7</sup> The troopers’ tactical decisions were not subject to review for this report.



the troopers' orders. As a result of his refusal to comply with their orders, Trooper Rae and Trooper Ready employed non-deadly force to break Mr. Saint Preux's car window and place him under arrest. The troopers' use of non-deadly force occurred after they made repeated attempts to convince Mr. Saint Preux to comply, and he ignored those attempts and physically resisted the troopers' efforts to place him under arrest.

When Trooper Ready initially approached Mr. Saint Preux, she informed him of the reason for the motor vehicle stop. It is clear from the videos of the incident that it was light out and the weather was clear. Therefore, it was obvious to Mr. Saint Preux that the two troopers in uniforms who had stepped out of a fully marked police cruiser and were speaking to him, were police officers. Trooper Ready then asked for Mr. Saint Preux's license and registration twice. He failed to comply with her request. She then asked a third time, and asked him to exit the vehicle. He again failed to comply. Trooper Ready continued giving him verbal orders to exit the vehicle, and instead of doing so, he called his girlfriend, locked his car door, and rolled up his window. Because he was in charge of a vehicle and refused to produce his license and registration when repeatedly demanded by a law enforcement officer, Trooper Ready's decision to arrest Mr. Saint Preux for disobeying a police officer complied with the law. *See* RSA 265:4, I(e).

Both Trooper Ready and Trooper Rae told Mr. Saint Preux that he was under arrest, and ordered him out of the vehicle. He failed to comply. As Ms. Collins stated, the officers repeatedly, in escalating voices, told Mr. Saint Preux that he was under arrest, should keep his hands visible, and had to exit the vehicle, but he failed to comply. The officers used only verbal commands for more than 3 minutes as they attempted to arrest Mr. Saint Preux.

The troopers warned Mr. Saint Preux that should he fail to exit the vehicle, they would break his window to remove him. He failed to comply with their commands. The troopers used their baton and window punch to break the window and open the door. Almost 6 minutes passed from the time the troopers initially encountered Mr. Saint Preux to the time they began using force to open Mr. Saint Preux's door. Therefore, the troopers provided Mr. Saint Preux a reasonable amount of time to cooperate, but he chose not to do so. The troopers' belief that this use of non-deadly force was necessary to effect the arrest or detention of Mr. Saint Preux was reasonable under these circumstances.

After breaking the window, despite their repeated directives, Mr. Saint Preux did not exit the vehicle. The troopers then attempted to physically pull him from the vehicle. That was unsuccessful since Mr. Saint Preux physically resisted the troopers' efforts. It was only then that Trooper Ready displayed her TASER, which Mr. Saint Preux recognized by telling her not to tase him. However, he still failed to exit the vehicle, and the troopers continued trying to pull him out while he swatted their hands away. When their attempts again failed, Trooper Ready used her TASER on Mr. Saint Preux's leg, which caused him to exit his vehicle.

Once out of the vehicle, Mr. Saint Preux still failed to comply with the troopers' orders to get on the ground and turn around to be handcuffed. After failing to obey their lawful orders, Trooper Rae displayed her TASER. This action was unsuccessful in getting Mr. Saint Preux to comply with the lawful orders. The troopers then had to push Mr. Saint Preux to the ground and hold him there in order to complete the arrest. All the while, he continued swinging his head back at them and moving around, despite repeated, continued commands to stop.

The videos and witness statements demonstrate that the troopers repeatedly tried to use loud, verbal commands, in order to convince Mr. Saint Preux to peacefully submit to an arrest.

Mr. Saint Preux never complied and instead, physically resisted the troopers' attempts to arrest him. In light of Mr. Saint Preux's continued course of conduct, it was reasonable for Trooper Ready and Trooper Rae to believe that non-deadly force was necessary to effect Mr. Saint Preux's arrest and detention. Additionally, the troopers' use of non-deadly force was not employed until after they had made repeated efforts to effectuate the arrest without using any force. Thus, the use of non-deadly force during the removal of Mr. Saint Preux from the vehicle and during the evolving altercation was legally justified.

Trooper Ready and Trooper Rae also did not violate the New Hampshire Civil Rights Act during the course of their interactions and arrest of Mr. Saint Preux. From the outset of the traffic stop, Mr. Saint Preux refused to comply with the Troopers' instructions, locked his car door and windows to prevent them from effectuating an arrest, and resisted the Troopers' efforts to effectuate an arrest. Neither state nor federal law protect a person's right to refuse to comply with a police officer's lawful instructions or to physically resist efforts to effectuate an arrest. Thus, Trooper Ready and Trooper Rae did not interfere with Mr. Saint Preux's constitutional or statutory rights when they employed force to effectuate their arrest in this case.

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