

**REPORT OF THE ATTORNEY GENERAL CONCERNING
THE USE OF DEADLY FORCE
BY OFFICER JOSHUA ENGLISH
ON TUESDAY, FEBRUARY 2, 2010 IN KEENE, NH**

I. INTRODUCTION

On February 2, 2010, at 9:42 p.m., Keene Police Officers T.J. Derendal and Joshua English were both dispatched to 48 Spruce Street in response to a 911 call. The eighteen-year-old daughter of the owner of the house, Hae Kyong Whitcomb made the call from the residence. She reported that her mother's ex-boyfriend, Charles Turcotte, had broken into the house and taken her mother to her bedroom on the second floor.

Officers Derendal and English arrived within two minutes and entered the home carrying their police department issued rifles. The teenage girl directed the officers upstairs to the master bedroom. Hae Kyong Whitcomb was sitting on the bed, and Turcotte was standing near her. Turcotte was armed with a fourteen inch folding knife. There was also a rifle leaning against a bureau immediately inside the bedroom door (this later turned out to be a BB gun owned by Turcotte, as explained further below). When Turcotte saw the officers, he went over to the bed, grabbed Ms. Whitcomb and held her from behind, while holding the knife near her side. At this point, and throughout the rest of the confrontation, Turcotte was on the bed behind Ms. Whitcomb, holding her in front of him and crouching down behind her.

Derendal and English, who had entered the bedroom and were positioned in front of the bed, facing Turcotte and Whitcomb, pointed their weapons at Turcotte and told him to drop the knife. Turcotte refused to do so, and ordered them to leave, saying repeatedly that he "wanted just five minutes alone with her." The officers responded that they could not leave, but that if he would drop the knife, they would handcuff him and he then could have five minutes to talk to Ms. Whitcomb. Turcotte refused this option.

Officer Derendal told dispatch that Turcotte was holding a knife to the female and that it was a hostage situation. Other officers quickly arrived on scene, including Sergeant Steve Tenney of the Keene Police Department, who went to the upstairs hallway of the house armed with a shotgun loaded with less-lethal ammunition. Lt. Steve Stewart also arrived at the house while the confrontation was ongoing and relieved Officer Derendal. Before he entered the bedroom, Lt. Stewart took the less-lethal shotgun from Sgt. Tenney. For the remainder of the confrontation with Turcotte, Officer English, armed with his rifle, and Lt. Stewart, armed with the less-lethal shotgun, were the only two officers within sight of Turcotte, until the arrival of the police department's hostage negotiator, Officer Corrigan.

Lt. Stewart and Officer English continued to plead with Turcotte to put down the knife. Turcotte continued to refuse. He continued to order the officers to leave. In between yelling at the officers and ordering them from the house, Turcotte would yell at Ms. Whitcomb. Turcotte's level of agitation continued to increase, and eventually he raised the knife and held it against Ms. Whitcomb's throat. The area within which this was occurring was very small; the two officers, standing just inside the bedroom, were no more than 8 feet away from Turcotte and Ms. Whitcomb on the bed. Due to the fact that they were standing in front of Turcotte and Ms. Whitcomb, and due to the fact that Turcotte was crouching behind Ms. Whitcomb, neither officer had the ability to safely take a shot, lethal or non-lethal, at Turcotte. Both Lt. Stewart and Officer English heard Turcotte make threatening remarks toward Ms. Whitcomb. Lt. Stewart thought he heard Turcotte say: "Didn't you say you wanted to die today?" Officer English remembered Turcotte saying: "What did I tell you? It was either going to be me or you tonight."

Officer Steve Corrigan, a trained hostage negotiator for the Keene Police Department, arrived at 48 Spruce Street and went upstairs. Before Officer Corrigan entered the bedroom, Lt. Stewart explained to Turcotte that an officer who was trained for this type of situation wanted to talk to him. As Officer Corrigan entered the room, Officer English and Lt. Stewart shifted to the left. At this point, Officer English, who was to the left of Lt. Stewart, for the first time was at an angle to allow him to shoot Turcotte without endangering Ms. Whitcomb.

Turcotte became more agitated when Officer Corrigan entered the bedroom, saying: "Another one of you guys?" When Corrigan tried to engage him in conversation by asking him how he was, Turcotte responded: "How the fuck do you think I am?" As he was directing these remarks to Officer Corrigan, Turcotte still had his left arm around Ms. Whitcomb and was holding the knife to her throat with his right hand. While Turcotte was turned towards Officer Corrigan, Officer English shot Turcotte once in the side of his head. The bullet was later found to have entered through Turcotte's right cheek.

The Office of the Attorney General investigated the shooting with the assistance of the New Hampshire State Police. The Attorney General's preliminary report, released on February 9, 2010, found that English was justified in his use of deadly force against Turcotte.

The purpose of this report is to provide more details about the investigative findings and to analyze Turcotte's actions in light of the completed investigation. In this case, there were numerous witnesses who saw and reported all or parts of the events surrounding the shooting.

For the reasons discussed in detail below, the Attorney General has concluded that the circumstances confronting English when he fired his weapon justified his use of deadly force.

II. RELATIONSHIP BETWEEN HAE KYONG WHITCOMB AND CHARLES E. TURCOTTE

Hae Kyong Whitcomb (DOB 12/11/70) and Charles E. Turcotte (DOB: 12/4/1970) (Turcotte) dated one another for approximately four years. Turcotte lived with Ms. Whitcomb and her two children, a daughter, eighteen years old at the time of shooting, and a son who was sixteen years old at the time, at 48 Spruce Street, Keene, for three years. Ms. Whitcomb was the sole owner of the residence. The relationship ended in early January 2010.

According to Ms. Whitcomb, the relationship ended for numerous reasons. First, her children did not like all the fighting and it made them nervous. Turcotte had a drinking problem that remained unchanged. She was tired of Turcotte living rent-free. Turcotte would always complain about paying child support to his ex-wife.

III. INCIDENT ON JANUARY 8, 2010

On January 8, 2010, Officer Kyle L. Macie of the Keene Police Department was dispatched to 48 Spruce Street for a report of a suicidal subject with a gun. Macie met with Ms. Whitcomb and her daughter. Both appeared to be emotionally upset and afraid. Ms. Whitcomb took Macie to her bedroom on the second floor of the home. Macie's attention was immediately drawn to a large dagger sticking out of the floor. Ms. Whitcomb told Macie that when she returned home from work, Turcotte led her upstairs and showed her the dagger in the floor. He also said that if they could not be together, he was going to kill himself.¹

Ms. Whitcomb had ended her long-term relationship with Turcotte on Wednesday, January 6, 2010. Ms. Whitcomb said that Turcotte was acting extremely weird over the last month and she did not want that around her children. For example, on Monday, January 4, 2010, she discovered Turcotte sharpening his knife and talking about how he wanted to use it.

While at the residence on January 8, Officer Macie called Turcotte on Ms. Whitcomb's phone. Turcotte would pick the phone up and would just say, "wrong voice" (when he heard the officer) and hang up. Macie eventually had a short conversation with Turcotte, who said that they would never find him and he was not coming back to talk with them. Macie tried to contact Turcotte several more times to no avail. Macie seized two fairly large knives from the house.²

¹ Ms. Whitcomb's account of the January 8, 2010 incident with Turcotte differs from her daughter's recollection during her interview on February 3, 2010. According to Ms. Whitcomb, Turcotte showed her the dagger in the floor. According to Ms. Whitcomb's daughter, Turcotte left the dagger in the floor and Ms. Whitcomb found it.

² Macie seized a Winchester straight blade knife and a Frost Cutlery ten-inch knife.

Dispatcher Hackler put out a statewide BOLO (be on the look out) and a teletype to Vermont and Massachusetts. Turcotte was also placed in NCIC as a missing suicidal adult.

On January 16, 2010, Macie spoke with Turcotte over the phone. Turcotte said he was feeling better and no longer had suicidal thoughts. Turcotte further indicated that he had moved into a new place and was trying to get his life back together. Ms. Whitcomb told Macie that Turcotte had sent her several text messages indicating that he was feeling better and trying to get his life in order.

IV. THE FEBRUARY 2, 2010 SHOOTING AT 48 SPRUCE STREET

A. CIVILIAN WITNESSES

Hae Kyong Whitcomb's son (age 17)

Between 9:30-10:00 pm, this witness was in the bathroom and heard his dog barking and also heard a noise in the basement. He went to the basement to investigate. Upon entering the basement, he saw a person near the laundry machine. He thought it was Turcotte because he didn't think anyone else would break into the house.

He went back upstairs and told his sister, who told him not to go back downstairs. He then went into his bedroom and grabbed his decorative katana sword. According to the witness, it was not a real katana, but a replica. The katana had a broken handle that rattled. The katana did have a sharp edge.

He went upstairs to his mother's room on the second floor to get her. Ms. Whitcomb was sleeping and did not initially respond. The two of them went into the basement. The witness reluctantly entered the basement first, while Ms. Whitcomb remained at the top of the basement stairs. The witness saw Turcotte, but Turcotte did not initially say anything. The witness asked Turcotte what he was doing and Turcotte told him he was going to show him what he was doing there. Turcotte got up and lunged toward him. The witness was scared and went back upstairs, unlocked the side outside door, and ran out.³

³ Part of this witness' fear was the result of two prior significant incidents with Turcotte. In the first incident, between the end of November and early December 2009, Turcotte threatened him. Turcotte blamed this witness for his mother's break up with him. Turcotte went into his room while he was on the computer and started yelling at him. Turcotte said that everything was his fault. Turcotte told him to stand up and hit him in the face, but he would not do it. Turcotte told the witness that he was two seconds from knocking him out. After this, Ms. Whitcomb and Turcotte got back together. The witness did not talk with Turcotte. The relationship soured and Ms. Whitcomb kicked Turcotte out again. Turcotte came back to the house and knocked on the door for approximately twenty minutes (this is the January 8th incident outlined above). The witness had friends there and did not initially answer the door. After he eventually answered the door, Turcotte said that he came to get his stuff. While Turcotte was upstairs, the witness' mother and sister called him and told him to leave the house because Turcotte told Ms. Whitcomb that he was going to

After running from the house, the witness went to a friend's home, but she was not there. He went to the friend's neighbor's home and called the police. Dispatch informed him that the police were already at his residence. He then went back to his residence and spoke with an officer, who told him to go back to his friend's house. The witness called his sister, who told him that their mother was fine, Turcotte was dead, and she was going to the hospital.

Hae Kyong Whitcomb's daughter (age 18)

This witness was in her bedroom, which is on the first floor of the home, when her brother entered and said that someone was downstairs in the basement. She also heard noise in the basement that sounded like pots and pans banging. It appeared like someone/something was trying to be quiet and not succeeding. She thought it was her cat. She did not want her brother to go back downstairs. She did not go downstairs with her mother and brother.

The witness then saw Turcotte, who she thought had entered through an unlocked door, pushing her mother upstairs. Turcotte had one hand on her mother's back while pushing her up the stairs. Her mother would trip trying to get up the stairs and Turcotte would keep making her go up the stairs. Turcotte was also verbally ordering her mother to go upstairs. The witness noted something in Turcotte's hand, but she could not see what it was.

While upstairs, the witness heard Turcotte yelling at her mother. She heard Turcotte ask/tell her mother, "Why are you doing this to me?" She also heard Turcotte mention his ex-wife and previous girlfriend(s). Turcotte told her mother that she was doing the same thing to him that his ex-wife and previous girlfriend(s) had done.

The witness went into her bedroom and got her cell phone. Next, she went into her brother's room and used his computer, which was already turned on. She "Googled" the Keene Police Department for their telephone number. She called the police department and said that her mother's ex-boyfriend had broken into their house, her mother was upstairs with the ex-boyfriend, and she was concerned about her brother and his location. She waited outside for the police to arrive.

According to the witness, the police arrived approximately three minutes after the call. Two officers went inside the house. They were holding black rifles. She waited in the doorway. She overheard the officers tell Turcotte to drop the knife. Turcotte told them to go downstairs because it didn't concern the officers. She felt Turcotte was told, in a calm voice, approximately seven times to drop the knife.

kill himself. Turcotte sent the witness a text message telling him to come upstairs, but he had already left the house.

Turcotte was shouting that it did not concern them and he wanted the officers to leave.

According to the witness, the first three officers to arrive were from the Keene Police Department. The fourth officer was a New Hampshire State Trooper. A trooper escorted her to a cruiser. She then called a friend.

This witness also recounted previous incidents with Turcotte. On January 8, 2010, she and her mother were at a Toyota dealership when her mother got a call from Turcotte. Her mother did not answer the call and Turcotte left a message. Turcotte said that he wanted to pick something up at the house. In another text, Turcotte said that he was going to blow his brains out in the green recliner in her mother's room. Her mother was crying and afraid that Turcotte was going to do something in the house. She called her brother and told him to get out of the house. Ms. Whitcomb told Turcotte to leave the house. The witness called the police, and she and her mother went back to the house. Before the police arrived, Turcotte came out of the house and asked her mother why she wouldn't talk with him over the phone. After the brief conversation, Turcotte got in his truck and left. When the witness and her mother entered the house, they saw that Turcotte left a knife sticking out of the floor in mother's room. The knife was a serrated hunting knife. The witness had never seen it before. The police were given the knife. After this incident, they locked all the windows and doors. She was aware that Turcotte continued to text her mother.

The witness had also previously left the house for a week when she had a difficult time with Turcotte. During that incident, Turcotte accused her of treating him like a twelve year old. In another incident on her mother's birthday, Turcotte dismissed her during an argument he was having with her mother. She felt Turcotte liked to think of himself as the boss and her mother would try to accommodate him. Turcotte was also mean to her brother.

Hae Kyong Whitcomb (DOB: 12/11/1970)

On February 2nd, Ms. Whitcomb and Turcotte were texting one another. Turcotte told her how much he loved her and that he wanted to marry her. Turcotte also mentioned that he had medical issues. Turcotte sent her a picture of himself and a picture of a gun.

Later in the evening, while she was sleeping, her son woke her up because he thought someone was in the basement. Ms. Whitcomb and her son debated who would enter the basement first. Her son, who had his katana sword with him, entered the basement first. While in the basement, her son asked Turcotte what he was doing there. Ms. Whitcomb told Turcotte that he was not supposed to be there, as he was not invited. Turcotte pushed her up the two separate flights of stairs into her bedroom.

Turcotte had a BB gun (rifle) in her room. Turcotte said that he knew the cops were going to come and he was going to show the cops the gun. Turcotte also had a long knife in his right hand. Turcotte was pointing the knife in her face. Turcotte was complaining about his ex-wife and other ex-girlfriend(s). Turcotte told her that if he died, it was going to be her fault. Turcotte pushed her down on the bed. Turcotte was smoking and said he wanted to talk with her. Turcotte told her to get her phone. Turcotte grabbed her and put her in a headlock/choke hold, which she described as grabbing her in a police hold. At various times, Turcotte put the knife on her neck, and then would take it away.

The police came into the room with guns the witness described as “long guns.” Both Turcotte and Ms. Whitcomb were still on her bed. Turcotte continued to have the knife to her throat. The police told him to put the knife down. Turcotte told the police that he wanted five minutes. The knife was on and off her neck. At times, the point of the knife was on her neck. The more aggressive Turcotte got, the closer the knife got to her neck. During the conversation with the police, Turcotte was getting angrier because he was not getting what he wanted.

The police shot Turcotte. Her head was turned away when Turcotte was shot, but he was still holding her. According to Ms. Whitcomb, she heard the police say they shot Turcotte with a beanbag gun. During her interview, Ms. Whitcomb questioned why the police had to shoot Turcotte.

Katherine Ahlf (DOB: 1/25/65)

After the incident on February 2nd, New Hampshire State Police-Troop C received a call from Ms. Ahlf. Trooper Thomas Schutzius and Trooper First Class Phillip Gaiser interviewed her on February 3rd.

Ahlf had known Turcotte for the last three to four years. Turcotte stayed with Ahlf and Robert Kupiec at their home in Winchester, New Hampshire for several weeks prior to the incident. Turcotte had also been at Ahlf’s home on and off for the last year. Ahlf stated that Turcotte’s mind was not right lately. He was on “suicide watch.” Ahlf said that Turcotte was obsessed with “Helen” (which is what he called Hae Kyong Whitcomb). According to Ahlf, it was constant counseling concerning “Helen.” Turcotte would draft letters to “Helen” and Ahlf would type them. According to Ahlf, Turcotte loved “Helen” so much, that he couldn’t live with the fact that she did not want to be with him. Ahlf would tell Turcotte to leave it alone. Ahlf felt it was like an obsession. Turcotte was furious with Helen for not being with him. Turcotte said that Helen would get hers, but Turcotte was not specific about what that meant.

Ms. Ahlf said that on February 2nd at 5:50 pm, she was texting with Turcotte. She wanted to know where Turcotte was. Turcotte complained that his boss was a “dickhead.” Ahlf asked Turcotte if he was “cocked,” given the tone of his messages. She was upset because Turcotte was driving around drunk. When she returned home

around 7:30 p.m., Turcotte was at her house. Prior to leaving the house, Turcotte asked Ahlf and Kupiec if they had duct tape. They told Turcotte they did not have any. Turcotte left the residence intoxicated.

Turcotte sent her several text messages leading up to the incident at Ms. Whitcomb's house. At 8:37 p.m., Turcotte texted that he was "On a mission from God." According to Ahlf, Turcotte was not a religious person. Ahlf asked Turcotte if he was coming back. At 8:45 p.m., Turcotte responded that she would not see him again. At 8:50 p.m., Turcotte said, "I am sorry, I am done." Later, Ahlf texted Turcotte that she was going to call the police if he did not return to her house. At 9:03 p.m., Turcotte responded: "That is where you are wrong; I am not fucking around." At 9:14 p.m., Turcotte said that he had had enough. That was his last text message to Ahlf. Ahlf continued to send text messages to Turcotte, but got no further response. Despite her threats, she did not call the police.

Ahlf said that she had no idea that Turcotte was going to Ms. Whitcomb's house on February 2nd. She also denied any knowledge that Turcotte had any intentions of harming Ms. Whitcomb. She did not know Turcotte to have weapons. According to Ahlf, this event was out of character for him.

B. POLICE WITNESSES

Officer Thaddeus J. "TJ" Derendal (Keene Police Department)

Officer Derendal (Derendal) has been with the Keene Police Department for ten years. Prior to his employment with the Keene Police Department, he was with the Hinsdale Police Department for one year. He also served in the Army as a military police officer for five years. Derendal completed the 119th police academy class. He is a member of the Keene Police Department SWAT team.

On February 2nd, at approximately 9:30 pm, there was a report of a domestic at Spruce Street. Derendal knew that Turcotte had recently threatened suicide. At that time, there was a BOLO, which informed the officers that Turcotte was suicidal and could have a weapon. It was reported to Derendal that Turcotte had kicked in a door to enter the residence on February 2nd.

Derendal went to Spruce Street with Officer Joshua English (English), also with the Keene Police Department. They arrived within approximately two to three minutes after the initial call. Each had their duty patrol rifle, which is their primary firearm, and their handgun. Derendal informed English that Turcotte had access to weapons.

Upon entering the residence through the side door, Derendal and English were met by a young girl. The young girl said that they were upstairs and there was yelling

and screaming. Derendal and English went upstairs and started going down the hallway/corridor to the entryway of the bedroom. Turcotte was yelling at Ms. Whitcomb. It appeared that Turcotte was surprised/startled to see the police.

According to Derendal, Turcotte grabbed a foot long Bowie knife from his boot area. Turcotte took a side step towards Derendal. Next, Turcotte moved to the bed and got into a position behind Ms. Whitcomb. Turcotte put the blade of the knife to her throat. Turcotte kept ducking and moving his head, which would not allow a shot to be taken at him. Derendal radioed dispatch that they had a hostage situation.

The two officers tried to negotiate with Turcotte, but he was acting frustrated and perturbed. Turcotte stated that he wanted five minutes with her and wanted the cops to leave. Turcotte kept yelling and his demeanor would change from not talking, to total rage. Turcotte demanded that the officers leave. Turcotte stated that he did not like the rifles being pointed at him.

Sergeant Tenney (Tenney) arrived on scene with the 40-millimeter shotgun with less lethal rounds. English and Derendal kept talking to Turcotte. The conversation lasted approximately ten minutes. Turcotte was breathing heavily, appearing to “psych himself up.” Derendal started to experience muscle fatigue. Derendal told English to take primary cover. Derendal retreated to the access way/hallway.

Lieutenant Steven Stewart arrived and took Derendal’s place. The conversation with Turcotte continued for ten more minutes. Turcotte asked for five minutes with Ms. Whitcomb. English and Stewart told Turcotte that they would give him five minutes, but he had to put the knife down and let them put him in cuffs first. Turcotte refused, and kept yelling.

Officer Steve Corrigan (Corrigan) came upstairs to see if he could talk with Turcotte. English was positioned on Stewart’s left, facing Turcotte and Ms. Whitcomb, and Corrigan was to Stewart’s right. Stewart was pleading with Turcotte to stop. Derendal, who was still in the hallway, assumed from the talk that it had gone downhill and something bad was going to happen. A second or two later, he heard a single gunshot. Derendal entered the room and saw the gunshot wound to Turcotte’s head. Corrigan grabbed Ms. Whitcomb and took her out of the room. Tenney and Stewart grabbed Turcotte and took him to the ground.

Derendal took the rifle from English and took English out of the room. Derendal contacted dispatch and told them call the fire department. The ambulance crew was staged around the corner.

Derendal felt that Turcotte was going to kill himself or Whitcomb. According to Derendal, he felt it became a deadly force situation when Turcotte pulled the knife, and continued to be such when he took Ms. Whitcomb hostage. Derendal was going

to take a shot at Turcotte when Turcotte grabbed the knife and went towards him, but did not get the chance.

Sergeant Steven Tenney, Jr. (Keene Police Department)

Sergeant Steven Tenney (Tenney) is a field supervisor at the Keene Police Department. On February 2nd, Tenney started his shift early to interview a young child. His shift started at 9:00 pm. While at the police department, a call came in from Ms. Whitcomb's daughter, who said that her mother's ex-boyfriend had broken into the house and she heard yelling. Derendal and English were the first to respond. Derendal called into the police department and said the subject had a knife to victim's throat. Tenney was familiar with Turcotte and the recent BOLO.

Tenney called Derendal on the radio and asked if he had the 40-millimeter, less lethal shotgun. Derendal did not have it, so Tenney took it with him to the scene.

Tenney was the third officer to arrive on scene. Tenney could not initially find Derendal and English. Ms. Whitcomb's daughter met Tenney when he entered the house. She told Tenney that they were upstairs. He told her to stay in the kitchen.

Tenney went up the stairs. He noted the following: immediately to the left of the stairs was the computer room; immediately to the right was the bedroom; there was a corridor/hallway leading into the bedroom. Tenney saw English and Derendal pointing their rifles. Tenney pointed the 40-millimeter at Turcotte from the hallway leading to the bedroom. Turcotte had a knife to Whitcomb's throat. English was talking with Turcotte and trying to build a rapport since they had previously worked together. Turcotte repeatedly asked for five minutes alone with Whitcomb. Tenney could not take a safe shot with the less lethal weapon. According to Tenney, Turcotte appeared to be conscious of this since Turcotte had Whitcomb blocking him.

Tenney heard other officers enter the house. The next to arrive was Officer Michael Goodchild. Tenney told Goodchild to wait downstairs because it was a tight space upstairs. Also, the number of officers upstairs was already agitating Turcotte. Tenney told Goodchild to tell any other officers to remain in the kitchen.

Lieutenant Steven Stewart (Stewart) was the next officer to come upstairs, and he entered the bedroom to relieve Derendal. English and Stewart were the only officers directly inside the bedroom (Tenney and Derendal remained in hallway, near the bedroom entrance). Stewart took the 40-millimeter less lethal shotgun from Tenney before he entered the bedroom.

Turcotte was angry with the number of police in the area of the bedroom. English continued trying to talk to Turcotte, who would seem to calm down for a second, but then would again become agitated. Turcotte was talking about having cancer and how Ms. Whitcomb had left him after finding out about it. Ms. Whitcomb

did not talk much. Turcotte also said that he was “screwed.” Turcotte discussed having to go to prison for this and asked how long he would have to go for. Turcotte appeared to be breathing heavily to fire himself up. Turcotte’s agitation continued and he talked about who was going to die, he or Ms. Whitcomb.

Tenney directed Officer Corrigan, a trained hostage negotiator with the Keene Police Department, to come upstairs. Corrigan slid into the bedroom next to Stewart and English. During the interaction with Turcotte, he had changed from asking for five minutes; to telling the police they had five minutes to leave. Tenney’s safety concerns grew when Turcotte got angrier and didn’t want to listen to Corrigan. According to Tenney, it was clear that Turcotte was not going to change his mind. In Tenney’s opinion, it was imminent that Turcotte was going to do something. It was clear that Turcotte was worked up and they were not going to be able to talk him down.

Tenney heard the gunshot, but didn’t see it. The shot occurred soon after the introduction of Corrigan into the room. English was the only one who had a clear shot at Turcotte. After the shot was fired, Tenney and Derendal moved into the room. Tenney and Stewart handcuffed Turcotte. Corrigan took Whitcomb out of the room. Derendal took English out. Stewart and Tenney stayed with Turcotte until ambulance personnel arrived.

Tenney initially brought the 40-millimeter to disable Turcotte, but upon seeing the situation, he started thinking of taking a lethal shot with the 40-millimeter. The Keene Police Department did not have tasers, and given Turcotte’s actions and level of agitation, there was not enough time or room to have any of the State Troopers (who were equipped with tasers) enter the bedroom.

Lieutenant Steven Stewart (Keene Police Department)

Lieutenant Steven Stewart (Stewart) has been in law enforcement since 2000. He started with the Keene Police Department in 2004. He had recently been promoted to Lieutenant. He is a member of the SWAT team.

On February 2nd, there was a report of a domestic at Spruce Street. Stewart was aware that Turcotte had previously threatened suicide. The report came in that Turcotte had a knife to the throat of Ms. Whitcomb. Stewart went to Spruce Street. He had his patrol rifle with him.

Officers English and Derendel were already in the upstairs bedroom. Stewart switched places with Derendel. Before doing this, Stewart switched weapons with Tenney and thus had the 40-millimeter shotgun. Stewart slid into position in the room. Turcotte had Ms. Whitcomb almost on his lap on the bed. Turcotte had a foot long knife. Turcotte had his arm around Whitcomb’s neck. Initially, the knife was at her chest area.

English talked with Turcotte. Turcotte was agitated with the number of police in the room. He wanted all of the police out of the room. Turcotte discussed the type of guns the police had. Turcotte knew about the “beanbag” (less lethal) gun. Turcotte was repeatedly told to put his knife down. Turcotte said he wanted five minutes with Whitcomb. They told him to put the knife down, so they could put him in cuffs, and he could then talk with Ms. Whitcomb for five minutes. Turcotte would not do this because he feared that Whitcomb would run out of the room.

English continued to talk with Turcotte, who seemed to begin to de-escalate. However, Turcotte then became even more agitated and said that he was “fucked” and “was going to prison.” Turcotte had his left arm around Whitcomb’s throat, with the knife in his right hand. The knife was initially touching Turcotte’s left hand. Turcotte continued yelling at Whitcomb and the situation continued to escalate. Turcotte was saying to Whitcomb: “Why did you do this to me?” Turcotte then put the knife directly on Whitcomb’s neck. Stewart thought he was going to cut her. Turcotte tightened his grip on Whitcomb and said, “Didn’t you say you wanted to die today?”

Officer Corrigan came upstairs. Corrigan came into the bedroom, and attempted to start talking with Turcotte. At this point, Stewart and English moved to the left, and Stewart told English to be ready to take a shot at Turcotte. Two to three seconds later, English shot Turcotte. Corrigan grabbed Whitcomb. Stewart and Tenney handcuffed Turcotte. English’s rifle was placed on the bed.

Stewart did not know if Turcotte was intoxicated, but he did not smell alcohol. Stewart noted that Whitcomb was terrified looking and appeared to have been crying.

During the hostage situation, Stewart was extremely concerned about Turcotte. He thought Turcotte was going to harm Whitcomb. It was clear to him that Whitcomb was in danger. The knife looked very menacing. The knife covered the width of Whitcomb’s neck.

Officer Steve Corrigan (Keene Police Department)

On February 2nd, there was a report of a burglary on Kennedy Drive. Officer Corrigan (Corrigan) and Officer Byrne (Byrne) (trainee) went to the residence on Kennedy Drive. While en route to Kennedy Drive they heard a report of a domestic at Spruce Street. There was a report that someone had a knife to another person’s throat. Corrigan is a hostage negotiator.

After clearing the scene at Kennedy Drive, Corrigan and Byrne went to Spruce Street. Officer Byrne stayed outside with Sergeant Cemorelis. Corrigan entered the residence. Inside the residence were Sergeant Oxford, Trooper Gillis, and Officer Goodchild. The number of police upstairs agitated Turcotte, so Corrigan initially stayed at the bottom of the stairs.

Corrigan could hear English talking with Turcotte, but could not hear the content of the conversation. Corrigan did hear Turcotte ask for five minutes and Tenney say that they could not do that. Turcotte was asking Ms. Whitcomb “Why are you doing this?” Corrigan felt Turcotte was agitated throughout the interaction.

After being on the bottom of the stairs for five minutes, Corrigan went to the top of stairs and entered the room. Sergeant Tenney and Officer Derendal were in the hallway to the bedroom. Lt. Stewart and Officer English had their weapons drawn on Turcotte in the bedroom. Turcotte had Ms. Whitcomb on his lap and the knife on her throat. Lt. Stewart told Turcotte that someone wanted to talk with him. Turcotte asked who the “fuck” Corrigan was. Corrigan started to talk with Turcotte. Corrigan asked if Turcotte was ok. Turcotte said, “How the fuck do you think I am, do I look ok?” At this point, English shot Turcotte. Corrigan grabbed Ms. Whitcomb and took her out of the room and brought her to the ambulance. Corrigan went back into the residence. Corrigan had Byrne set up a crime scene log.

Corrigan was concerned about Whitcomb’s safety throughout the incident. He felt that the large knife Turcotte had, and his actions presented a credible threat to her safety.

Officer Michael Goodchild (Keene Police Department)

Officer Michael Goodchild (Goodchild) is a patrol officer with the Keene Police Department. He started his shift at 4:30 pm on February 2nd. While typing a search warrant, he heard that there was a domestic on Spruce Street. In the next radio communication, Goodchild heard that a male had a knife to a female’s throat and Derendal had the subject at gunpoint.

Goodchild went to Spruce Street and made entry into the house. When he arrived there were a number of officers at house. Goodchild was instructed by Tenney to remain downstairs on the first floor. He remained in the corner of the living room and kitchen. Sergeant Oxford and Trooper Gillis arrived at the residence and remained with him.

While he could only hear parts of the conversation, he heard the male subject telling the officers to leave. The officers were pleading with him to put the knife down. Approximately ten minutes later, he heard a bang. It was a muffled sound, so he thought it was the less-lethal weapon. Goodchild later learned that English had used his weapon. Goodchild started to run upstairs, but was told to go back down. Goodchild saw Ms. Whitcomb come down the stairs and she looked frightened and scared. Goodchild took Whitcomb’s daughter out of the house to Sergeant Cemorelis.

Lieutenant Shane Maxfield (Keene Police Department)

There was a report of a domestic at Spruce Street. Lt. Shane Maxfield (Maxfield) heard that a subject had a knife to a woman's throat. Further, he heard that the police had Turcotte at gunpoint. As the sniper team leader, Maxfield grabbed his sniper rifle and other equipment in the event that it became necessary.

Maxfield went to Spruce Street. There were other officers already there. Maxfield went into the house and initially thought the incident was in the basement because he had seen the open window there. In the kitchen were Sergeant Oxford and Officer Goodchild, who told him the incident was occurring upstairs. Maxfield went back outside, and called for an ambulance to respond to the scene. Trooper Gillis arrived. Trooper Gillis knew Turcotte prior to this incident. Maxfield spoke with Lt. Stewart on the radio and had Gillis follow him inside the house. After they entered the house, he heard a muffled pop. It didn't sound like a gunshot. Goodchild said that Turcotte was shot with a beanbag round, which is what it sounded like to Maxfield. It was later clarified that a beanbag round was not fired. Maxfield saw Whitcomb being taken to an ambulance. She was holding her head. He also saw Officer English leaving the house. English looked like he was in shock.

Officer Thomas Byrne (Keene Police Department)

Officer Byrne (Byrne) was a probationary officer and had only been with the Keene Police Department for three weeks. His field-training officer (FTO) was Corrigan. Byrne started the night with cruiser inspection. There was a report of a burglary and he went to residence with Corrigan. They heard a report that a person had a knife to another person's throat. They got to Spruce Street at approximately 10:00 pm. Corrigan went inside to negotiate. Byrne stayed outside with Cemorelis to monitor the perimeter. Byrne heard the gunshot. Byrne set up a crime scene log. Byrne did not hear any voices from inside the residence.

Sergeant Kevin Oxford (New Hampshire State Police-Troop C)

Sergeant Kevin Oxford (Oxford) was the patrol supervisor of the night shift at Troop C. On February 2nd, he overheard on the radio that someone broke into a residence on Spruce Street. Oxford continued to monitor the situation when he heard someone say that the subject had a knife to the victim's throat.

Oxford went to Spruce Street. Trooper Skahan arrived just before he did. They both met up with Sergeant Cemorelis of the Keene Police Department. Oxford was asked to enter the residence in case they needed a taser. Oxford was in the residence with Goodchild. Oxford could hear an agitated male, but not the specific conversation. Trooper Gillis entered the residence because he had worked with Turcotte and was going to try to talk with him. Corrigan entered and less than a minute later, Oxford heard a shot. There was a quick rush down the stairs and

someone was yelling “beanbag round.” Ms Whitcomb came down the stairs and Oxford escorted her to the side door. Ms. Whitcomb looked as if she was in shock.

Trooper Aaron Gillis (New Hampshire State Police-Troop C)

Trooper Gillis (Gillis) graduated from the police academy in November 2004. He joined the New Hampshire State Police in March of 2007. Prior to that he worked for the Cheshire County Sheriff’s Department.

Gillis started his shift that night at 8:00 pm. At approximately 9:30 pm, he was in the Winchester/Swanzey area when he heard of an incident in Keene. He heard Derendal say that a subject had a knife to a woman’s throat. Gillis headed north and informed his patrol partner, Trooper First Class Shawn Skahan. When he got to the scene, he spoke with Sergeant Cemorelis. Also outside at the scene were Sergeant DiRusso (NHSP), Trooper Wardner, TFC Skahan, and Lieutenant Maxfield.

Gillis was familiar with Turcotte. While in high school, college, and a couple years after, Gillis worked for Bergeron Construction with Turcotte. They worked together for about five or six years.

Due to the relationship between the two, Lt. Maxfield brought Gillis into the residence to speak with Turcotte. Gillis got to the stairwell going upstairs and he heard a bang. Gillis heard a Keene officer say that it was a beanbag round. Gillis exited the residence.

Gillis was not surprised that this happened with Turcotte. While Gillis did not have any problems with Turcotte, he was known to drink a lot and smoke marijuana. Gillis stated that Turcotte had a temper and described him as a bit of a loose cannon.

Sergeant Joseph DiRusso (New Hampshire State Police-Troop C)

Sergeant DiRusso (DiRusso) was the patrol supervisor sergeant at Troop C, Keene.

On February 2nd, the Keene Police Department dispatch called over to Troop C seeking assistance with a male subject that had a knife to a female subject’s throat on Spruce Street. DiRusso went to the residence.

In speaking with Trooper Gillis, he learned that Gillis might have a rapport with Turcotte. DiRusso told Maxfield about the connection. Gillis and Maxfield entered the residence. Within two minutes, DiRusso heard what sounded like a gunshot. DiRusso entered the house to make sure that no officers were in need of any assistance. TFC Skahan was directed to take Ms. Whitcomb to the hospital.

Trooper First Class Shawn M. Skahan (New Hampshire State Police-Troop C)

On February 2nd at approximately 9:30 pm, he overheard radio transmission from the Keene Police Department dispatching two officers to 48 Spruce Street. It was initially reported as an unwanted subject. Further transmissions advised that the subject possibly had access to weapons. The subject was identified as Turcotte. Derendal then reported that Turcotte had a knife to a female's throat inside the residence.

Skahan was on duty with Gillis. Skahan asked Keene dispatch if they needed assistance and they said they did. Skahan and Gillis responded to the scene. After several minutes at the scene, Skahan heard what sounded like a muffled gunshot coming from inside the residence. Goodchild exited the residence and said that the subject had been struck with a "beanbag." Ms. Whitcomb exited the residence and was taken to an ambulance. Derendal informed Skahan that English shot Turcotte.

Skahan transported Ms. Whitcomb to Cheshire Medical Center. Whitcomb had blood and what appeared to be brain matter on the back of her shirt and pants. Ms. Whitcomb's daughter accompanied her mother to the hospital. Skahan obtained consent to take Whitcomb's clothing, including her shirt and gym pants. Trooper Michael Kokoski was later given the clothing.

Sergeant DiRusso instructed Skahan to transport Ms. Whitcomb and her two children to Troop C to be interviewed. Ms. Whitcomb consented to having her cellular phone taken. She also consented to a search of her residence.

Officer Joshua English (Keene Police Department)

Officer Joshua English was interviewed on February 5, 2010 at the Keene Police Department. This interview was conducted by Sergeant James Geraghty of the New Hampshire State Police Major Crimes Unit.

Officer English was hired by the Keene Police Department in November of 2001. Prior to being employed by the Keene Police Department, English worked for the Cheshire County Sheriff's Office. English also served in the Marine Corps Reserves as an infantryman. English completed the New Hampshire Police Academy in 2002.

On February 2, 2010, English began his shift at 9:00 pm. English generally worked from 9:00 pm until 7:00 a.m.; however, he was planning to work a partial shift on February 2nd to offset some training time.

After clearing a call at Margarita's Restaurant, English and Derendal were dispatched to 48 Spruce Street in response to a 911 call. The 911 call was for an ex-boyfriend who had broken into a residence at 48 Spruce Street. English arrived on

scene and entered the residence. English had his police issued Colt AR-15 semi-automatic rifle with him.

Upon entering the residence, English spoke with a young female resident who stated that Charles Turcotte had forced her mother upstairs into her mother's bedroom. English was familiar with Turcotte because they had once worked construction with one another. Derendal and English responded upstairs.

Once upstairs, English noted a rifle in the bedroom near Turcotte. English did not know that this rifle was a BB gun. Turcotte immediately grabbed Whitcomb and used her as a shield. Turcotte was at the head of the bed and was crouching behind Whitcomb. Turcotte had a knife in his right hand and a lit cigarette in his left. Turcotte's left arm was around Whitcomb's neck and the cigarette was near her face. Turcotte told the officers to leave. Initially, Turcotte had been waving the knife at his side, but then brought it up to Whitcomb's throat. The tip of the knife was now resting against his left wrist. Turcotte again told the officers to leave. Turcotte said he would allow "Josh" (Officer English) to stay because he knew him.

English heard Turcotte say to Whitcomb: "What did I tell you? It was either going to be me or you tonight." Turcotte then moved the knifepoint off of his wrist and placed it directly to Whitcomb's throat. Shortly after this, English moved to his left to make room for Corrigan, the department's hostage negotiator. At this point, for the first time, English had a clear shot at Turcotte without endangering Whitcomb. When he and Stewart moved to the left, Stewart told English to be ready to take the shot at Turcotte. English felt he needed to take the shot at Turcotte to save Whitcomb's life. He felt no doubt that Turcotte was going to kill her. During the confrontation, English had tried to get Whitcomb to come to him, but she appeared too terrified to move. Shortly after Corrigan entered the bedroom, English shot one round into the side of Turcotte's head. Turcotte immediately released Whitcomb and fell. English put his rifle down and left the residence. English was taken to the Cheshire County Medical Center.

A review of Officer English's training records showed that he completed and performed satisfactorily all training requirements for the Keene Police Department.

C. MEDICAL WITNESSES

John Bates (City of Keene Fire Department)

The Keene Fire Department was dispatched to the scene by the Keene Police Department. They arrived at the staging area and waited for the police to secure the scene. Once the scene was secure, they went in. Bates noted a distraught female outside who was being assisted to an ambulance. Bates learned that Turcotte had been shot in the head. He was directed to the second floor of the home. Turcotte was

treated and transported to Cheshire Medical Center. Bates noted a large knife next to Turcotte.

Christopher Cram (City of Keene Fire Department)

The Keene Fire Department was notified by dispatch that they had a possible hostage situation. Cram responded to 48 Spruce Street. Cram stayed at the staging area until the scene was cleared. Cram went to the residence three to four minutes after arriving at the staging. The ambulance crew assisted the distraught female victim. Inside the residence, the crew tended to Turcotte.

D. PHYSICAL EVIDENCE

Hae Kyong Whitcomb's Residence/Turcotte Knife

Ms. Whitcomb gave consent to search her residence. Trooper First Class Frederick J. Lulka (Lulka) was assigned as officer in charge of the search.

A search of the basement revealed that a casement window screen was removed and there were pry marks on the outside of this window, which had been opened. The other five basement windows were locked. Under the open window were two wooden chairs. Dust on the chairs was disturbed. There was a package of zip ties on the floor near the basement window. There were also loose zip ties on the floor.

Trooper First Class William J. Cantwell, III (Cantwell) collected evidence in the upstairs bedroom. Cantwell located English's AR-15 rifle with one Hornady shell in the chamber and twenty-six in the clip. The rifle was found lying on the master bed. One empty Hornady .223 shell casing was found on the carpet. There was a Crossman .177 caliber BB gun rifle located at the foot of the master bed. Turcotte's fourteen-inch folding knife was on the carpet.

After the incident, Ms. Whitcomb found one note and two poems from Turcotte in her room. The note from Turcotte detailed his love for Ms. Whitcomb as well as the mistakes he had made. One of the poems is titled "Happiness" and the other is "You Don't Know What You Got Til It's Gone." It is unknown if Turcotte wrote the poems himself. There is no reference to either Turcotte or Whitcomb in them.

The Katana sword

Ms. Whitcomb's son left the katana sword at his friend's house. On February 3, 2010, Trooper John LaPointe went to that residence, and was shown into the bathroom where the sword was observed laying in a black case on the floor.

Charles Turcotte's 2002 Ford Ranger

On February 3, 2010, Officer William K. Sargent, Jr., of the Keene Police Department located Turcotte's truck on 142 Howard Street. 142 Howard Street abuts the rear of the first two south side properties on Spruce Street. The truck was 320 feet from Ms. Whitcomb's residence. There is a small field/woods leading from Turcotte's truck to Whitcomb's residence. There were footprints in the field/woods leading from the truck towards the residence. A search warrant was obtained for the search of Turcotte's truck. Two knives and a handcuff key were found in the truck. There were no other items of evidentiary value found.

Officer Joshua English's Clothing and Equipment

The New Hampshire State Police obtained the all of the clothing that Officer Joshua English had been wearing during the incident, as well as his duty belt, vest, weapons and ammunition. Upon examination at the New Hampshire State Police Forensic Lab, English's rifle was found to be functioning properly. One round had been discharged from this rifle. English's handgun had not been fired. Nothing else of evidentiary value was discovered.

Keene Police Department Weapons

All firearms in possession of Keene Police officers who responded to the Spruce Street scene were examined. None of the other firearms in possession of police during this incident had been fired.

Autopsy Report

Chief Medical Examiner Thomas Andrew performed the autopsy on Charles Turcotte on February 3, 2010. Turcotte was 6 feet tall and weighed 159 pounds. Dr. Andrew determined that the cause of death was a single gunshot wound to the head. The path of the bullet was right to left and slightly front to back with minimal vertical deviation. Blood tests were done in connection with the autopsy. Turcotte's blood alcohol concentration (BAC) was 0.142, almost twice the legal limit to drive.

State Police Sergeant Steve Rowland attended the autopsy, collected evidence, and took photographs. Turcotte was found to have a six and half inch folding knife, which was in the open position and facing upward in his right leg side pocket.⁴

E. DISPATCH RECORDS

Investigators obtained Keene Police Department dispatch records. Transcripts were generated to show the content of all related calls.

⁴ This knife is in addition to the fourteen-inch knife recovered from Whitcomb's residence (see above).

Some of the relevant times recorded on the various logs are as follows:

9:42 pm—Hae Kyong Whitcomb’s daughter called the Keene police department. She reported that Chuck Turcotte had broken in and was yelling at her mother.

9:42 pm—Officers Derendal and English were dispatched to 48 Spruce Street.

9:44 pm—Officers Derendal and English arrived at 48 Spruce Street.

9:46 pm—Sergeant Tenney was dispatched to 48 Spruce Street.

9:47 pm—Officer Derendal notified the dispatcher that a male had a knife to a woman’s throat.

9:47 pm—Sergeant Tenney arrived at 48 Spruce Street

9:47 pm—Lieutenant Stewart was dispatched to 48 Spruce Street

9:48 pm—Officer Corrigan was dispatched to 48 Spruce Street

9:50 pm—Lieutenant Stewart arrived at 48 Spruce Street

9:52 pm—Officer Corrigan arrived at 48 Spruce Street

9:56 pm—The police requested Keene fire department.

10:00 pm- Keene fire department went to staging area.

10:05 pm—The ambulance was sent in to the scene.

11:52/3 pm—Keene police cleared the scene.

V. LEGAL ANALYSIS REGARDING THE USE OF DEADLY FORCE

New Hampshire law allows a law enforcement officer to use deadly force if 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. See RSA 627:5, II(a). “Deadly force” means any assault which the person commits with the purpose of causing or which he knows creates a substantial risk of causing death or serious bodily injury. RSA 627:9, II.

RSA 627:5, II(b), provides that a law enforcement officer is likewise justified in using deadly force when he reasonably believes such force is necessary to effect an

arrest of a person whom he reasonably believes has committed or is committing a felony involving the use of force or violence, or who otherwise indicates that he is likely to seriously endanger human life or inflict serious bodily injury unless apprehended without delay, and the officer has made reasonable efforts to advise the person that he is a law enforcement officer attempting to effect an arrest and has reasonable grounds to believe that the person is aware of this.

In this case, the law enforcement officers who encountered Charles Turcotte were faced with circumstances sufficient to establish a reasonable belief that Turcotte was about to use deadly force against Hae Kyong Whitcomb. The officers also reasonably believed that Turcotte was committing a felony in their presence (reckless conduct and/or criminal threatening and/or kidnapping) involving the use of force or violence and/or had indicated by his conduct that he was likely to seriously endanger Whitcomb's life or inflict serious bodily injury to her unless apprehended without delay.

The facts are clear that during the officers' encounter with Turcotte, they repeatedly urged him to drop his knife, but to no avail. Instead, the evidence shows that Turcotte's level of agitation continued to increase as the incident continued. That became clear to the officers when, despite their efforts at placating Turcotte, his threats towards Ms. Whitcomb, both verbal and physical, became more menacing. Turcotte even positioned himself behind Whitcomb so as to put himself in the best position to injure or kill her as he held a large knife to her throat. Turcotte also used Whitcomb as a shield to try and prevent the officers from being able to get to him without harming Whitcomb in the process. These facts confirm that Turcotte's motive was to kill or inflict serious bodily injury to Whitcomb.

Evidence gathered after the fact supports this conclusion. That evidence includes: the text message (picture of a gun) Turcotte sent to Whitcomb earlier on the day of the incident; the statements Turcotte made to Ms. Ahlfs via text-messaging; the fact that Turcotte broke into Whitcomb's home armed with two knives and secreted himself in the basement; Turcotte's menacing behavior towards Ms. Whitcomb's son; the fact that Turcotte was evidently preparing zip-ties to use when he was discovered in the basement; the fact that Turcotte forced Ms. Whitcomb into her bedroom and told her he intended to display the rifle if police arrived; and the fact that, during the confrontation, Turcotte stated that Ms. Whitcomb was going to die and that he was going to die. These facts confirm that Turcotte's intent was to kill or inflict serious bodily injury to Whitcomb that night.

Based on a careful examination of the circumstances surrounding this incident, the Attorney General has concluded that Officer English reasonably responded to the threat posed by Charles Turcotte directed at Ms. Whitcomb by using deadly force in response. Accordingly, the Attorney General has concluded that the officer's use of deadly force was justified under RSA 627:5.