

NEWS RELEASE

Released by: Michael A. Delaney, Attorney General

Subject: Officer Involved Use of Deadly Force in Hillsborough,
New Hampshire on May 19, 2011

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I. INTRODUCTION

New Hampshire Attorney General Michael A. Delaney announces that the Attorney General's Office has made a determination that the officer-involved shooting in Hillsborough, New Hampshire on May 19, 2011, which resulted in the death of Shelly Naroian, was a legally justified use of deadly force by the police officer who shot and killed her.

Shelly Naroian's course of conduct on Thursday, May 19, 2011 created a situation where police officers reasonably believed that they were in danger of death or serious bodily injury at the moment Shelly Naroian raised a gun up and pointed it at Hillsborough Police Sergeant Mark Philibert. That course of conduct included the fact that Shelly Naroian had threatened to kill herself, had armed herself with multiple handguns, had refused to surrender her guns and leave her home, had fired a gun inside her house, and then raised a handgun and pointed it at Sergeant Philibert's chest after he ordered her to drop the gun. Given the information known to Sergeant Philibert, it was reasonable for him to conclude that Shelly Naroian intended to shoot at him when she raised a gun up and pointed it at his chest. As a result, Sergeant Philibert responded by shooting Shelly Naroian.

The handgun that Shelly Naroian pointed at Sergeant Philibert's chest was later found to be unloaded. Under the circumstances, it was reasonable for Sergeant Philibert to believe that Shelly Naroian was pointing a loaded handgun at him. Shelly Naroian had fired off a gun inside the home minutes earlier and raised the gun up at Sergeant Philibert in spite of his orders to her to drop the gun.

Accordingly, Sergeant Philibert's actions in shooting Shelly Naroian when she did not obey his orders to drop the gun are justified under the law.

II. FACTS

A. Summary of the facts

On Wednesday, May 18, 2011, James Naroian called the Hillsborough Police Department out of concern for his wife, Shelly Naroian. He was concerned because Shelly had left their home located at 106 Sleeper Road in Hillsborough, New Hampshire and he believed that she had taken quite a few drugs. James was concerned that Shelly would hurt herself or someone else in her condition. Shelly was eventually located and returned home a short time later.

Later on that night at around 8:00 p.m., Hillsborough officers again responded to the Naroian residence. This time, Shelly complained to the police about her stepson, Kenneth Naroian. Her complaints were focused on some of his past behavior. After talking with Shelly, the police concluded that the dispute was a family matter and required no further police involvement. Shelly was very pleasant during this encounter with the police. She was polite, respectful and joked with them.

On Thursday, May 19, 2011, at approximately 12:19 a.m., James Naroian made a 911 call. During that call, he said that his wife had found the key to his gun safe, she had a handgun and was threatening to use it on herself.

Six police officers from the Hillsborough Police Department, the Henniker Police Department and the Antrim Police Department responded to the Naroian residence. They tried to convince Shelly to come out and talk to them, but she refused. Subsequently, Shelly fired a gun inside the house, and then went upstairs with two loaded guns in an apparent attempt to kill her stepson Ken. Ken managed to wrestle the guns away from Shelly and then run outside to the police with the guns.

After Ken got outside, Hillsborough Sergeant Mark Philibert and Henniker Officer Stephen Dennis started to enter the home. Sgt. Philibert and Officer Dennis saw Shelly pick up a gun near the living room couch and aim it at Sgt. Philibert. Sgt. Philibert yelled at

Shelly several times to show him her hands and to drop the gun. Shelly did not drop the gun and instead, held the gun with both hands, raised it up and pointed it at Sgt. Philibert's chest. Sgt. Philibert then fired one shot at Shelly, hitting her in the neck. Officer Dennis also fired one shot at Shelly but missed her. Emergency medical personnel were called to the scene to treat Shelly but she was already deceased. No one else involved in the incident was physically injured.

The scene was secured and in accordance with established protocol, a member of the New Hampshire Attorney General's Office, with the assistance of the New Hampshire State Police Major Crime Unit, led an investigation into the shooting incident. That investigation involved viewing the scene of the incident, reviewing photographs, examining physical evidence, reviewing police reports, reviewing witness interviews, and conducting witness interviews. Throughout the process, all police officers directly and indirectly involved in the incident were completely cooperative with the investigation and complied with all the investigators' requests.

B. Police officers

Sergeant Mark Philibert

Sergeant Philibert is a Hillsborough Police Officer who began his full-time career in law enforcement police in 2002. Prior to that he was a part time dispatcher and spent ten years in the Army as a Military Police Officer.

Sergeant Philibert was on duty in Hillsborough on May 18, 2011. At around 8:00 p.m., he responded to the Naroian residence and spoke to Ken, James and Shelly Naroian. Shelly complained to Sergeant Philibert about past issues she had had with Ken, including the fact that he had been disrespectful to her. Shelly also told him that she wanted Ken out of the house. She did not tell the police about any threats or any violence amongst her family members and was polite and engaging to the officers during their time with her. Sergeant Philibert left shortly after that.

Several hours later, dispatch put out a call to the Naroian home again. This time, dispatch reported that a man had called and said that his wife had a gun. The man reported that he was in the bathroom and that his wife was walking around saying she was going to kill herself. Sergeant Philibert was also told that the husband was in the bathroom at the home and the stepson was upstairs.

Sergeant Philibert arrived at the Naroian home and was joined by other Hillsborough officers, an officer from Antrim, and an officer from Henniker as well. Dispatch told them that there were numerous firearms in the house, including rifles. The other officers moved around the house as Sergeant Philibert moved up to the house. He noticed that the TV was on very loud and he called out to Shelly several times. Shelly went up to the window, moved the curtain and looked out. She stepped away from the window and out of sight, and then the TV got louder. Eventually, Shelly turned the TV off or down and said some things to Sergeant Philibert, which he could not understand. He asked Shelly to talk to him and could see her moving around in the house. Sergeant Philibert asked Shelly to talk to him and she opened the door and yelled something which he could not understand. Shelly also waved at the officers and yelled at them, but they could not understand her.

As Sergeant Philibert continued to stand outside and try to get Shelly to come out, he could see her moving around in the kitchen and see the basement lights go on and off. Sergeant Philibert knew that there was a gun safe in the basement. Then, Shelly opened the door and yelled out, "I'm not going to shoot you!" She also said to Sergeant Philibert, "If you're going to be a cop, be a cop. I'm going to test the system." She then asked the police to come in and closed the door. After that, Sergeant Philibert heard a gunshot coming from the kitchen area of the home. He went up to the house but could not see Shelly inside. He could hear her yelling and screaming though.

At that point, Sergeant Philibert thought that Shelly was going to hurt or shoot her stepson Ken Naroian. The officers decided they needed to enter the home and went up on the front porch and approached the door. As they did that, the door opened and Ken Naroian appeared in the doorway holding two handguns pointed down. Ken was ordered to drop the handguns, which he did. He was moved out of the doorway and then Sergeant Philibert stepped into the home followed by Henniker Police Officer Dennis. As Sergeant Philibert stepped into the home, he looked behind the door and saw Shelly Naroian seated on the couch. She raised up a revolver from her lap with one hand, started to extend it, and aimed it at Sergeant Philibert. As she did that, Sergeant Philibert pointed his gun at Shelly and yelled at her to drop the gun. She did not drop the gun and instead, she put both hands on the gun, fully extended her arms and pointed the gun at Sergeant Philibert. Shelly did not say anything as she pointed the gun at Sergeant Philibert and did not respond to any of Sergeant Philibert's orders to drop the gun. At that point, Sergeant Philibert believed that Shelly was going to shoot him so he fired his gun once at her, striking her in the neck. Officer Dennis also fired at Shelly.

After the shooting, James Naroian was ushered out of the house and the scene was secured.

Sergeant Philibert said that Shelly Naroian's demeanor was very different during the second call at her home that night. During the earlier call, she had been polite and cooperative, even joking with one of the police officers. That was not her demeanor during the second time the police were called to her home when the shooting incident took place.

Officer Stephen Dennis

Officer Dennis has been a Henniker police officer since September of 2001. Prior to that he worked at YDSU and was in the Marine Corps. and in the National Guard.

At around 1:00 a.m. on May 19, 2011, Officer Dennis heard a call come in through dispatch for an incident involving a female with a gun who wanted to kill herself at a home at 106 Sleeper Road in Hillsborough. As he drove to Hillsborough, Officer Dennis received updates. He learned that a perimeter had been set up around the house and an Antrim officer was on the way as well. He also learned at some point that the woman in the house had access to guns and may have placed guns around the house.

When Officer Dennis arrived at the scene, he saw that other officers were there as well. Hillsborough Police Sgt. Mark Philibert was there as well and was trying to talk to a woman who was inside the house. Sgt. Philibert was telling the woman to come out and talk to them and that the police were not there to hurt her. The woman appeared at the door and told Sgt. Philibert that she was not coming out and that the police could come in. She also said something about them killing her and Sgt. Philibert told her that they were not there to kill her. The woman slammed the door and then afterwards he heard a gunshot coming from within the house. At that point, Officer Dennis was concerned that the woman had or would kill someone inside the house.

Officer Dennis also heard banging around upstairs in the house. He was concerned because he knew that there were two other people in the house and so he and the other officers collectively decided to go up to the house. As they went up to the side of the house, the front door opened and a man later identified as Ken Naroian was in the doorway. He had his hands up and said he had weapons. He put the weapons down at the door's entrance and then Sgt. Philibert and Officer Dennis moved up and went just inside the front entrance. As they did that, Officer Dennis saw Shelly Naroian move very quickly down the stairs towards the couch. She ran towards the couch and without saying anything, turned with a revolver in

her hand and pointed it at him and Sgt. Philibert. Sgt. Philibert backed up and fired one shot at Shelly. Officer Dennis was behind Sgt. Philibert and fired his gun one time at Shelly Naroian through the space between the door and the door frame. When Officer Dennis fired at Shelly, he was concerned that Sgt. Philibert had no cover as Shelly was pointing the gun at him.

After he and Sergeant Philibert fired at Shelly Naroian, she was on the couch and no longer moving. Officer Dennis went up to Shelly, removed the gun from her hand and stepped outside the house. An ambulance was summonsed to the scene and other officers as well.

Officer Derek Brown

Officer Brown is a Hillsborough police officer. He was on duty on the night of the incident and had a police trainee with him, Hillsborough Officer Nathan Glowacki.

Officer Brown went on duty on the evening of May 18, 2011. As he did, he heard some information put out regarding Shelly Naroian. That information concerned a call from Shelly's husband that she was out driving and may have misused some medications. A short time later, he heard that Officer Parsons located Shelly at McDonald's and that there was no issue with Shelly misusing medications.

Later on that night, another call came in from dispatch that Shelly Naroian wanted her adult son removed from the house. Officer Brown and his trainee responded to the Naroian home and saw Hillsborough Sergeant Mark Philibert talking to Shelly and Officer Chris Parsons in the house. Shelly was talking to Sergeant Philibert about complaints she had dealing with past issues about her stepson Ken and her husband James. She also made an allegation about past domestic violence from her husband James. Officer Brown spoke to her about her options if she felt she was in danger, including having the officers escort her to get things out of the house and leave the home. He also explained the process for her to get a restraining order but she turned down all those options. Officer Brown described Shelly's demeanor as joking and a little bit snide at times. The officers left the Naroian home shortly after that.

Several hours later, a call went out to return to the Naroian residence because a male caller is reporting that the female in the house has two handguns. Sgt. Philibert arrived at the scene first, followed by him and Officer Glowacki. Officer Chris Parson arrived next followed by Henniker Officer Stephen Dennis and Antrim Officer Brian Lord.

The officers believed that the female inside was suicidal and set up a perimeter around the house. Sgt. Philibert was tasked with making contact with the female inside the house. He yelled at Shelly Naroian that they needed to talk to her, but she did not respond. Then the TV was turned down inside and some muffled yelling could be heard from Shelly inside. Lights went on in the basement as the officers stood outside and they learned from dispatch that Shelly was going up and down the basement stairs where there were eight to ten long guns in a gun safe in the basement.

The lights from the basement went off and then the front door of the house opened. Officer Brown could hear Sgt. Philibert talking to Shelly. She was asking him to come into the house and Sgt. Philibert said he couldn't because she had guns. Then, Officer Brown heard Shelly say something about "testing the system" and the front door closed. According to Officer Brown, Shelly's demeanor had changed from when he encountered her earlier that night. She seemed "off a bit" from earlier that night.

Around this time, the husband relayed to dispatch that he believed Shelly was cycling the cylinder of a gun. Shortly after that, a gunshot went off inside the house. Then, the lights went on inside the house on the second floor where the stepson was located. Some officers then saw Shelly at the door speaking to Sgt. Philibert again, asking him to come inside. The conversation ended and Shelly closed the door. After that, they heard the sound of someone going upstairs and then a struggle. The husband inside confirmed to dispatch that a struggle was going on inside, which Officer Brown believed was Shelly struggling with her stepson. It was at that point that the officers made the decision that they needed to go inside the house.

Sergeant Philibert approached the house first, followed by Henniker Officer Stephen Dennis and Officer Brown. As they reached the front porch area of the house, they were met by the stepson Ken at the door. Ken had two firearms, which he placed on the doormat as ordered by Sergeant Philibert. Officer Brown told Ken to sit down on a chair on the porch. Then, Ken told them that Shelly was lying on the stairs inside. The officers moved forward into the home and as Sergeant Philibert crossed the threshold into the home, Officer Brown heard someone say, "There she is." Next, he heard someone telling Shelly to show him her hands and he heard someone say something about a gun. Officer Brown saw Sergeant Philibert turn with his gun drawn and face the corner of the home. Officer Brown stepped back and looked into the home through two windows on the porch with shades drawn. There

was a light on inside the house, which allowed Officer Brown to make out shadows inside. He heard verbal commands including the word “gun” and “show me your hands.” Then, Officer Brown heard a “pop,” which he believed to be a gunshot coming from Sergeant Philibert. Then, Officer Dennis fired a shot and Officer Brown stepped into the house. He saw a female on the love seat with a large black revolver in her right hand with her finger in the trigger guard. Officer Brown also saw what he believed to be a gunshot wound to the woman’s neck, which was actively bleeding. Sergeant Philibert moved down past the chimney in the house and escorted James Naroian out of the house. While that happened, Officer Brown provided cover for Officer Dennis who approached Shelly and removed the gun from her hand. That handgun is put with the other two handguns that the stepson Ken had brought out earlier. Officer Brown checked Shelly Naroian and confirmed that she was dead.

Officer Brown secured the three handguns at the scene and then took some pictures to document some of the evidence.

Officer Nathan Glowacki

Officer Glowacki is a Hillsborough police officer. He was on duty on the night of the incident as a police trainee with his field training officer, Hillsborough Officer Derek Brown.

Officer Glowacki went on duty on the evening of May 18, 2011, at 8:00 p.m. As he did, he heard some information put out regarding Shelly Naroian. That information concerned a call from Shelly’s husband that she was out driving and may have misused some medications. Officer Glowacki heard over the radio that Officer Parsons located Shelly and she was okay.

At around 10:00 p.m., he and Officer Brown went to the Naroian residence because Shelly Naroian had called about her stepson. Shelly wanted her stepson out of the house but her husband did not. She also said that things had been physical in the past and so Officer Brown talked to her about her options. Shelly did not think she needed to leave and stayed at the house. Shortly after that, Officer Glowacki and Officer Brown left the Naroian home and resumed patrol.

At about 12:10 a.m., a call came in over the radio that Shelly Naroian had found the key to the gun safe and was in possession of two handguns. They were also told that the stepson was upstairs sleeping. When Officers Glowacki and Brown got to the Naroian house, they were met by Sergeant Philibert and Officer Parsons. Sergeant Philibert went up to the house to try and talk to Shelly. The other officers moved around the house and set up a perimeter. As they were around the house, dispatch said that the homeowner inside was reporting that Shelly was going down into the basement where the gun safe was located. Officer Glowacki could see the lights go on in the basement and learned that there were rifles down in the basement.

Sgt. Philibert tried to talk to Shelly and asked her to come out and talk to him. Shelly responded to Sgt. Philibert but Officer Glowacki could not hear what she said. Shortly after that, he heard a gunshot from inside the house. Dispatch told them that the man inside on the phone could hear a struggle going on in the home. The officers decided to try and enter the house at that time. Officer Glowacki went to the side of the house while other officers went to the front. Shortly after the other officers entered the house, he heard two gunshots. Then he saw Ken Naroian run out of the house. Officer Glowacki and Officer Parsons went up to Ken and checked on him and then put him and James Naroian in a police cruiser. He did not see what happened in the house or any of the shooting.

Officer Christopher Parsons

Officer Parsons is a Hillsborough police officer. He went on duty on the evening of May 18, 2011, at 4:00 p.m. Later on during his shift, James Naroian called the police department to report that Shelly Naroian was out driving and may have had taken too much medication. Officer Parsons drove to the Naroian home and got more information along the way. After speaking to James, Officer Parsons resumed patrol and looked for Shelly as well.

Officer Parsons found Shelly Naroian's car at the McDonald's Restaurant in Hillsborough. He went inside the restaurant and saw Shelly's son Peter. Officer Parsons spoke to Peter and then spoke to Shelly. He asked Shelly if she was okay and Shelly said she was okay. Officer Parsons told her that her husband had called about her and again confirmed that she was okay and did not seem impaired. Officer Parsons left the restaurant

and told another officer that if he saw Shelly driving on the road he might want to check on her.

Later on that evening at around 10:00 p.m., Officer Parsons was dispatched to the Naroian home for an “unwanted subject.” Once there, they learned that Shelly Naroian wanted her stepson Ken out of the house because of things in the past, not involving violence but disrespect. Shelly said that she did not feel threatened but she may later on. Officer Brown told Shelly about her options, including leaving the house and a restraining order. However, Shelly said she did not want to do those things and the police left the home.

The police were called to the Naroian home again that night because a female with handguns was threatening to kill herself. Officer Parsons, Sgt. Philibert and Officer Glowacki all arrived at the Naroian home at about the same time. The officers set up a perimeter around the Naroian home as officers from Antrim and Henniker also arrived.

Sgt. Philibert called out to Shelly Naroian in the house to come out and that the police were there to help her. At one point Shelly opened the door and yelled out that Sgt. Philibert needed to come into the home and he told her he could not do that since there were guns in the home. Sgt. Philibert asked her to come out without the guns and she said that she would be at a disadvantage and would not shoot him. Shelly continued to try and convince Sgt. Philibert to come into the house and he tried to convince her to come out. Then, Shelly said something like she had to test something and a gunshot was heard. A struggle could be heard in the house and a woman’s voice could be heard yelling.

Shortly thereafter, Ken Naroian appeared at the front door and said that he had the guns. Ken was ordered to drop the guns and then moved to the right on the porch. Three other officers went up on the porch to the front door and asked where Shelly was, and Ken said she was inside. Then the three officers, Sgt. Philibert, Officer Dennis and Officer Brown, entered the house. Officer Parsons heard two gunshots and then someone call for an ambulance over the radio. He did not see what happened in the house or any of the shooting.

Officer Brian Lord

Antrim Police Officer Brian Lord was on duty on May 19, 2011. He heard call on the radio regarding female subject who had access to weapons at a home in Hillsborough and went to the Naroian home to provide assistance to the other officers there.

Officer Lord arrived at the Naroian home at about the same time as Henniker Officer Stephen Dennis. There were four Hillsborough officers already there when he arrived. Officer Lord took cover with another officer while Sgt. Philibert spoke to Shelly Naroian trying to get her to come out of the house.

While there, Officer Lord learned that James Naroian was in the house in the bathroom and Ken Naroian was upstairs. He saw Shelly Naroian walking in the house and Sgt. Philibert continued to try to convince Shelly to come outside. She refused to come out of the house and wanted Sgt. Philibert to come in. He refused to go in and Shelly said she was not going to hurt them and then something about needing to “test it” and went back in the house. A short time later, Officer Lord heard a single gunshot in the house. There was some movement in the house including in the basement area. Officer Lord heard yelling and screaming in the house and then Ken Naroian opened the front door and announced that he had the guns. Ken was ordered to put the guns down and come outside, which he did. Then, Sgt. Philibert, Officer Dennis and Officer Brown approached the house and went into the house. Officer Lord heard someone say “oh shit, no,” and then two gunshots. He entered the house and saw Shelly Naroian seated on the couch with a gun on her lap and a wound to her neck. Shelly’s weapon was secured and Sgt. Philibert escorted James Naroian out of the house.

C. Naroian family members present during the incident

James Naroian

The State Police interviewed James Naroian on May 19, 2011.

James told the investigators that he has a son, Kenneth Naroian with a prior wife,. He also has two children with his current wife, Shelly Naroian. James said that Shelly took an

overdose of pills in the past and was placed in a hospital for 11 days. He also said that Shelly was hospitalized for 11 days last year for mental health issues, including bipolar and dissociative disorders.¹

On May 18, 2011, James and Ken commuted together to work and then got home after work at around 5-5:30 p.m. Shelly got home after them and was agitated at her step-son Ken. James said that Ken has been the focus of Shelly's anger for a few weeks because of a misunderstanding which caused the two to "have words."

Shelly left after that argument and James called the police because he was worried she would hurt herself or others because she had taken too much medication. A police officer called James later on after he found Shelly. She returned home after that and in James's words, was "ready to do battle" because he had called the police. An argument ensued and all three (James, Shelly and Ken), said "mean things" to each other.

Shelly called the police and some officers showed up. After the officers left, Ken went to bed and left James and Shelly alone. James told Shelly that he was sick of Shelly constantly creating turmoil in their life. Shelly asked if that meant they would get divorced and James told her that it might come to that. They talked some more and then James went to bed and went to sleep. Shelly woke him up and James noticed that she was holding a .357 magnum handgun to her head, which he knew was kept unloaded. Shelly asked James if this (meaning the gun) was a good one to use. James told Shelly to give him the gun and she said no. He then went to the bathroom while Shelly said something about the gun. James told her that it was unloaded and Shelly said that she had another one and it was close enough. He asked her where she found the key (to the gun safe) and Shelly said she had her ways.

James called the police and told them that his wife had a gun. He went into the bathroom on the advice of the dispatcher and stayed on the phone. At one point, Shelly came to the bathroom door and asked James if he was afraid to come out and if he thought she would shoot him. James told her he was not afraid of that but he had been told to stay in the bathroom. At that time, he did not know that Shelly got two more guns out of the gun safe. All the guns had been locked up in the safe except for two muzzle loaders.

¹ James Naroian said that he tried to get help for Shelly a couple of years ago to try and get Shelly institutionalized but was unsuccessful.

As James was in the bathroom, he heard the police yelling at Shelly to come out of the house and drop the gun. James heard Shelly respond by saying no and that she wanted some answers from Jim first. Later on, James heard a loud bang which he thought was a gun shot and then “tussling” upstairs in his son’s bedroom. His son later told him that Shelly had come into his room with two guns and he had to fight with her to get the guns away from her. James heard his son’s voice outside and decided to leave the bathroom. He stepped out and saw Shelly running downstairs from Ken’s bedroom. Shelly went over to the corner of the couch and as she did that, the police officers stepped into the house. Shelly used both hands picked up the .357 magnum handgun and using both hands pointed it at the police officers coming in through the door. After that, James saw Shelly get shot in the neck and he thought she got shot in the chest as well.² James was rushed out of the house and went over to check on his son Ken. Ken told him that he got two guns away from Shelly and did not know she had a third gun.

Kenneth Naroian

The State Police interviewed Ken Naroian on May 19, 2011. He said that on May 19, 2011, he was living with his father James Naroian and his step-mother Shelly Naroian. He and his father commute together and got home at around 5-5:30 p.m. About 15 minutes later, Shelly Naroian came home. She initially ignored Ken because the two had not been getting along. Shelly talked to James about issues she had with Ken in the past, which he ignored.

Ken went up to his bedroom on the second floor as Shelly continued to talk to James about Ken. At some point, Shelly’s son Peter stopped by briefly and then left. Ken went back downstairs and said that Shelly had demanded the keys to one of the cars and then took off. James was concerned that Shelly may have taken too much medication and he called the police to report she was out driving around and may not be in her right mind.³

² Shelly was shot one time in the neck. James Naroian likely mistook blood from that neck wound, which landed on Shelly’s chest as blood from another gunshot wound.

³ By way of background, Ken told the police during his interview that it appeared to him that Shelly had been abusing the prescription medication she had been taking and behaved irrationally at times. Ken also said that Shelly had been diagnosed with a dissociative disorder and had attempted suicide in the past. She had also been

The police eventually located Shelly at a McDonald's restaurant and she returned home. When she got home, she was very upset at James for calling the police about her. Ken went upstairs but heard Shelly yelling at James. One of the things he heard was Shelly telling James that since he called the cops on her she would call the cops on Ken. Ken went downstairs eventually and both said some "pretty mean things" to each other. Shelly called the police and the police arrived. An officer spoke to him and his father James while another one spoke to Shelly. Eventually, the officers left.

Ken went upstairs and could still hear James and Shelly arguing. He could hear Shelly stomping around and moving things. Eventually, Ken fell asleep and was awoken by what he thought was a gunshot. He fell back asleep and was awoken again by some noise. He heard male voices outside which were not his father James's. He heard them saying things like "put the gun down." Then Ken heard Shelly's footsteps coming upstairs towards his bedroom. He got behind the bedroom door and stood there as Shelly unlatched the door and opened it. She stood there and called his name and did not move. Ken could see the tips of the two guns Shelly was holding. Ken pushed the door as hard as he could and got on top of Shelly and fought with her to get the two guns out of her hands. Eventually, after a significant struggle Ken managed to get the guns out of Shelly's hands. During the struggle, Shelly said she was going to kill Ken and then asked Ken to kill her when he got the guns away from her. Ken pushed Shelly as hard as he could back into the bedroom and then ran downstairs with the two guns.

When Ken got downstairs, the police ordered him to drop the two guns, which he did. He told the police to hurry up because Shelly was coming. Ken went outside on the porch as the police entered. Ken saw Shelly pick up another gun from the couch and point it in the direction of the door where the police officers were. He heard voices and then he heard a gunshot and saw Shelly get shot in the neck. Ken then jumped off the porch and heard a second shot.

hospitalized for mental health issues on two prior occasions. The most recent hospitalization was in December 2010.

D. Physical evidence and autopsy results

The evidence recovered from inside the Naroian home was consistent with the statements from the police and civilian witnesses. For example, police found a spent cartridge casing in the .22 caliber handgun, which was consistent with Shelly Naroian firing that gun inside the home.

The handguns used by Shelly Naroian during the incident were recovered and examined. The two handguns she had used during her apparent attempt to kill Ken Naroian in his bedroom were identified as a .45 caliber handgun and a .22 magnum handgun. Both of those handguns were loaded and the .22 showed signs of being fired.⁴ The third handgun was a .357 magnum revolver and was the handgun which Shelly pointed at Sergeant Philibert. That hand gun was found to be unloaded.

The State's Chief Medical Examiner, Dr. Thomas A. Andrew, conducted an autopsy on Shelly Naroian and determined that her cause of death was a single gunshot wound to the neck and her manner of death was homicide.

E. 911 call

A 911 recording between police dispatch and James Naroian was also reviewed and found to be substantially consistent with the other evidence in the case. This recording was made from the time James called for help until just after the shooting and is about 59 minutes long. Significant content from that recording is summarized below:

James says his wife has found the key to his gun safe, she has a handgun and is threatening to use it on herself;

James says his eldest son is sleeping upstairs;

Shelly has 2 guns, one is loaded and one is not;

Shelly tells James "he might want to document this;"

⁴ The .22 handgun appears to be the one Shelly Naroian fired in the house.

James moved into the bathroom and locked the door;

James said he told the officers before that she was “unstable;”

James tells the dispatcher that his wife is on three medications, including an anti-depressant;

There is ammunition in the gun safe;

James says he does not know what she’s going to do;

Shelly has turned up the TV very loud;

James is afraid Shelly is going to hurt herself;

The gun safe is in the basement;

Shelly has had mental problems for a while;

Shelly has been in the hospital in the past;

Shelly has seen multiple psychiatrists;

Shelly was hospitalized last year;

When Shelly came home that day she was “on attack” and saying “mean things” to James and her step-son;

Shelly demanded the car keys and then left with his car earlier in the day and James called the police because he believed she had taken quite a few drugs and didn’t want her to hurt herself or someone else;

James reported he heard Shelly going up and down from the basement where the gun safe is located. The gun safe has a lot of rifles and shotguns in it along with ammunition;

Shelly went to the bathroom door and asked James if he was coming out and if he was afraid she was going to shoot him;

James could hear clicking like Shelly was rotating the barrel of the gun;

James asked if the officers have bullet proof vests;

James can hear Shelly telling the officers that she wants answers and they don't have the answers;

James said that Shelly seemed very "delusional" that night;
James hears Shelly say she's not coming out and she has multiple guns surrounding her;

James hopes Shelly goes outside unarmed;

A gunshot can be heard and James announces that a shot just went off;

James hears Shelly say she wants to talk to him and wants to know where she stands; she does not want to talk to the officers;

James hears Shelly tell the officers she shot at the wall;

Shelly can be heard screaming in the background [this appears to be when she attacked her step-son Kenneth upstairs];

A male voice can be heard saying: "Show me your hands, show me your hands, show me your hands!"

Then, the male voice yells: "Drop it, drop the gun, drop it, drop it!"

A gunshot can be heard [this was Sgt, Philibert shooting] and a male voice says, "Fuck, shit!" Then a second gunshot is heard [this is Officer Dennis shooting];

James is upset and says that the police shot Shelly in the neck and that she had a gun;

James can be heard crying and is upset. He is asking if his son is okay; and

Someone can be heard saying that no officers were injured.

James hangs up the phone and the call ends.

III. THE APPLICABLE LAW AND LEGAL STANDARDS

New Hampshire's laws regarding self defense, defense of others and the use of physical force by law enforcement are set forth in RSA Chapter 627. Under RSA 627:5, II (a), a law enforcement officer is justified in using deadly force when he reasonably believes that such force is necessary to defend himself or a third person from what he reasonably believes is the imminent use of deadly force. The phrase "reasonably believes" means that the actor "need not have been confronted with actual deadly peril, as long as he could reasonably believe the danger to be real." State v. Gorham, 120 N.H. 162, 163-64 (1980). The term "reasonable" "is determined by an objective standard." State v. Leaf, 137 N.H. 97, 99 (1993). All the circumstances surrounding the incident should be considered. See id. at 99; Aldrich v. Wright, 53 N.H. 398 (1873). Therefore, the use of deadly force may be justified even if the actor was not confronted with actual deadly force as long as the actor's belief was still "reasonable" under all the facts and circumstances.

Finally, when the State analyzes a police officer's use of deadly force, the State bears the burden of disproving a claim of self defense or defense of another, beyond a reasonable doubt. See State v. McMinn, 141 N.H. 636, 645 (1997). The burden is not on the person who used deadly force to prove that their conduct met the requirements of the law or was reasonable.

IV. CONCLUSION

The evidence suggests that Shelly Naroian had mental health issues which apparently overwhelmed her after an argument with her family. As a result, she threatened to kill herself and then went up to her step-son's bedroom in an apparent attempt to kill him as well. Her step-son Kenneth Naroian managed to disarm Shelly and run out of the house with the two guns he had taken from her.

As Sergeant Philibert and Officer Dennis entered the Naroian home, Sergeant Philibert looked around the door and saw Shelly seated on the couch with a handgun. Sergeant Philibert yelled at Shelly to show him her hands several times and then yelled at Shelly several times to drop the gun. Shelly did not comply with any of Sergeant Philibert's commands and instead, raised the gun she was holding up with one hand and then put her other hand on the gun and aimed it at Sergeant Philibert's chest. Sergeant Philibert fired one shot at Shelly, hitting her in the neck and killing her. Officer Dennis also fired at Shelly Naroian, but his shot missed her.

When Shelly Naroian raised her gun and pointed it at Sergeant Philibert, he reasonably believed that he was faced with the imminent use of deadly force. That reasonable belief was based on all the statements that Shelly Naroian had made to the police officers at the scene, the fact that she had fired a gunshot in the house, her failure to drop the gun when ordered by Sergeant Philibert, and her actions in placing both hands on the gun and pointing it at Sergeant Philibert's chest. Even though the gun was later found to be unloaded, Sergeant Philibert did not know that at the time. It was reasonable, based on the totality of the circumstances, for Sergeant Philibert to assume that the gun was loaded when Shelly pointed it at him.

Based on all the facts and circumstances known to Sergeant Philibert at the time, and examining the situation from the standpoint of an objective police officer in Sergeant Philibert's position, it was reasonable for him to conclude that Shelly Naroian was about to use deadly force against him when she pointed a gun at him. Therefore, Sergeant Philibert was legally justified in using deadly force against Shelly Naroian to defend himself from what he reasonably believed was the imminent use of deadly force by her.