

**ATTORNEY GENERAL'S REPORT OF OFFICER INVOLVED USE OF DEADLY  
FORCE IN WALPOLE, NH ON MARCH 29, 2013**

**April 17, 2013**

**I. INTRODUCTION AND SUMMARY OF CONCLUSIONS**

New Hampshire Attorney General Michael A. Delaney announces that the Attorney General's Office has made a determination that the officer-involved shooting in Walpole, New Hampshire on March 29, 2013, which resulted in the death of Larry A. Bohannon (age 51), was a justified use of deadly force by the police officer who shot and killed him.

The investigation has revealed that the officer's use of deadly force was precipitated by Mr. Bohannon's course of conduct on March 29, 2013, which created a situation where the police officer who fired his weapon reasonably believed that he and others were in danger of death or serious bodily injury from the imminent use of deadly force by Mr. Bohannon.

In addition, when Alstead Officer Cameron Prior and Walpole Sgt. Justin Sanctuary and Officer Noah Sanctuary encountered Mr. Bohannon, he was fleeing from committing an armed robbery in Bellows Falls, VT. During the police pursuit of him, Mr. Bohannon at times drove at a high rate of speed through Alstead and Walpole, operated his motor vehicle erratically, and nearly collided with other cars on the road. When finally stopped, Mr. Bohannon refused to comply with the officers' demands that he show his hands, and appeared to be reaching for something, after which he did have a black handgun in his hand. Therefore, the police officer who fired upon Mr. Bohannon was further justified by his reasonable belief that he was confronting a fleeing felon who was likely to endanger human life or inflict serious bodily injury unless apprehended.

**II. FACTS**

Nancy Staniszewski is an employee at the Snow & Lear/Newton Business in Bellows Falls, Vermont. The store primarily sells office supplies.

At approximately 4:00 pm on March 29, 2013, Ms. Staniszewski was working at her desk putting together the daily cash deposit when a man wearing a dark mask which covered his face appeared in the store and pointed a black handgun at her. The man told her, "Don't look at me, don't look at me," and grabbed the money from the desk. He then demanded her purse and took money from it while still yelling, "Don't look at me." Then, while still pointing the black handgun at her, the man demanded money from the cash register. At that time, a female customer came into the store. The man yelled at the customer, "Don't look at me," and ordered both women onto the floor. He then ran out of the store and the customer followed him. Ms. Staniszewski called 911 after the robber left the store. In total, she estimated that he took about \$250.00 from the store and \$100.00 from her purse.

At approximately 4:00 pm on March 29, 2013, Sarah Ovenden went to the Snow & Lear/Newton Business to follow up on an item she ordered. When she entered the store, she saw Ms. Staniszewski and a man who appeared to be wearing a dark stocking cap and another garment which concealed his face. Ms. Staniszewski said to Ms. Ovenden, "Hold on, I have to pay this man." The man started yelling at Ms. Ovenden to "Look away! Get on the floor!" The man then ran out of the store yelling, "Look away!" Ms. Ovenden followed the man outside. She saw him walking towards a black Chevy truck with silver trim, which had a New Hampshire license plate, which began with the numbers 322. Outside, the man turned around and pointed a black handgun at her, again yelling at her to "Look away!"

Officer Cameron Prior was on duty with the Alstead Police Department on March 29, 2013. Officer Prior has been a police officer since 2010. He works part-time with the Alstead Police Department, and is also a full time officer in Winchester. At about 4:15 pm., he heard the Cheshire County Dispatch broadcast a B.O.L. for a dark Chevy pick-up truck with a partial N.H. registration 322, operated by a male who was involved in an armed robbery with a firearm in Bellows Falls, VT. Officer Prior called Cheshire County Dispatch to request more information and was told that the male brandished a firearm in the robbery.

Officer Prior, in his fully marked Alstead police cruiser, headed for an intersection in the village of Drewsville. Shortly thereafter, he saw a two tone Chevy pick-up truck with a N.H. registration that began with 322 pass him on river Street. Officer Prior advised Cheshire County Dispatch that he had spotted the vehicle, and he turned his cruiser around and pulled out onto the roadway to follow the Chevy truck. As he did so, he initiated his blue lights and siren and began to pursue the truck. Upon rounding a corner, Officer Prior lost sight of the truck, but saw a cloud of dirt in the air. Officer Prior immediately surmised that the truck had pulled off the road. Officer Prior then saw that the truck had pulled off the road behind an oil company on River Street and was still running. Inside the truck, Officer Prior observed a single male occupant. Officer Prior pulled in behind the oil company and positioned his cruiser approximately 50- 60 feet behind the truck. The lights and siren of Officer Prior's cruiser were still engaged. Officer Prior saw the single male occupant reaching around the cab of the truck and then raising his hand up, holding a black handgun. At this time, fearing that the male was about to engage him in a shootout, Officer Prior backed his vehicle up and the truck pulled back onto the roadway. Officer Prior advised Cheshire County Dispatch that the male subject had brandished a firearm.

Officer Prior continued his pursuit of the truck down Route 123, locally known as River Street, heading towards Walpole. During the pursuit, the driver of the truck would speed up and slow down sporadically. Officer Prior concluded that the driver was debating whether to continue to flee or to stop and engage him in a shootout. During the pursuit, the truck at times reached speeds of about 80 miles per hour in 35 and 40 miles per hour zones, illegally passed numerous vehicles on the right or over yellow lines, and drove over the center line, nearly colliding with on-coming traffic. Officer Prior observed that the driver of the truck threw a black

object, which he thought was a hood, out of the window of the truck in the vicinity of the Drewsville General Store. Officer Prior radioed these observations to the Cheshire County Dispatch, from which source he learned that two Walpole police officers were positioned up ahead on Route 123, near Upper Walpole Road, to try to intercept the fleeing suspect.

As the pursuit approached Upper Walpole Road, the suspect passed the two Walpole cruisers and turned left onto Upper Walpole Road, into a residential neighborhood. At that point the two Walpole officers took the lead in the pursuit. Officer Prior observed that the suspect's truck had entered a yard on the left side of the road, and the suspect appeared to be attempting to turn around in the yard in order to reverse direction. Officer Prior positioned his cruiser so as to block the intersection and prevent the suspect from exiting Upper Walpole Road. As the suspect's truck headed towards Officer Prior's cruiser, one of the Walpole officers used his cruiser to ram into the suspect's truck, causing the truck to overturn and land on its passenger side. As it landed, the suspect's truck slid into the driver's side of Officer Prior's cruiser.

Officer Prior got out of his cruiser with his weapon drawn. He could see the male suspect inside the cab of the truck. The suspect had slid into the passenger side of the truck, and was in a semi-standing position, reaching down for something that appeared to be under a blanket or jacket. Officer Prior, who was only a few feet away from the suspect and looking at him through the windshield of his truck, shouted repeatedly at the suspect to "Show me your hands!" The suspect did not respond, but continued to reach down and eventually pulled up a black handgun and began to manipulate it with both hands as if he was readying it to fire. At this point, Officer Prior began to shout at the suspect to "Drop the gun!" The suspect did not respond, nor did he cease the movements he was making with the gun. Officer Prior then fired two or three rounds at the suspect. He believed that the suspect had been hit, however, the suspect still did not drop the gun, or cease the movements he had been making with respect to it. Officer Prior therefore fired three more shots, this time specifically aiming for the suspect's head and center body mass. As he fired these last shots, Officer Prior noticed that Sgt. Sanctuary had climbed up on to the driver's side of the suspect's truck.

Sgt. Justin Sanctuary has been a police officer since 2003. He has been employed with the Walpole Police for the duration of his law enforcement career. On March 29, 2013, Sgt. Sanctuary was on duty for the Walpole Police Department. His shift was scheduled to end at 4:00 p.m. that day, however, he stayed late to brief incoming Officer Noah Sanctuary. Sometime after 4:00 p.m., he heard Cheshire County Dispatch put out a B.O.L. advising that there had been an armed robbery in Bellows Falls, VT. Sgt. Sanctuary contacted Cheshire County Dispatch and was transferred to Bellows Falls Dispatch who informed him that there was an armed robbery in which a gun was brandished and the male suspect fled in a black Chevy pick-up truck with partial N.H. registration 322.

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Sgt. Sanctuary got into his cruiser and headed towards the New Arch Bridge. While en route, he heard Officer Prior of the Alstead Police on the radio advising that he had the suspect vehicle in sight. Sgt. Sanctuary activated his blue lights and headed towards Alstead to assist Officer Prior. Shortly thereafter, Officer Prior indicated that he was in a pursuit of the vehicle heading east away from Walpole. Sgt. Sanctuary and his brother, Officer Noah Sanctuary, in separate cruisers, headed towards Alstead. Officer Prior then advised that the truck had changed directions and was now headed towards Walpole at speeds in excess of 60 miles per hour. Officer Prior told dispatch that the vehicle was operating very erratically and that a firearm had been displayed. Officer Prior provided dispatch with a N.H. registration beginning with 322 and indicated that the male subject threw a mask out the window in the vicinity of the Drewsville General Store.

Sgt. Sanctuary and Officer Sanctuary parked their cruisers near the intersection of Route 123 and Abenaki Lane in Walpole with their lights engaged and waited for the truck to approach. Sgt. Sanctuary saw a light colored Chevy pick-up truck with dark paneling approach from behind him. The truck swerved across the yellow center line and was being operated erratically. Officer Prior was several hundred feet behind the vehicle and was operating an Alstead cruiser with its lights activated. As the truck passed Sgt. Sanctuary, the truck accelerated to about 50 miles per hour and Sgt. Sanctuary saw one occupant in the vehicle. Sgt. Sanctuary activated his siren and pulled out behind Officer Sanctuary as they both joined the pursuit of the fleeing truck. Officer Prior was now behind Sgt. Sanctuary's vehicle.

The three officers followed the pick-up truck for less than a half a mile, and the truck made an abrupt left turn onto Upper Walpole Road into a residential neighborhood. In the process of turning onto Upper Walpole Road, the truck swerved over the center yellow line and almost hit an oncoming car head on. After a few hundred feet, the truck turned left onto the lawn of a residence and began trying to turn around. At that time, Sgt. Sanctuary deliberately collided with the pick-truck in a "T-bone" fashion, and the truck rolled over on its passenger side. Sgt. Sanctuary decided to ram the truck to prevent it from getting back onto Rt. 123, and from there, possibly to Rt. 12 and/or back into the State of Vermont. After the truck flipped onto its side, Officer Prior stopped his vehicle directly in front of the truck and exited his cruiser with his weapon drawn.

Sgt. Sanctuary exited his cruiser and drew his weapon. Officer Prior was standing in front of the pick-up truck facing the male subject and yelling, "Let me see your hands!" Officer Sanctuary was behind Officer Prior to the left with his weapon drawn as well. At that time, Sgt. Sanctuary climbed onto the hood of Officer Prior's Alstead cruiser and saw the male subject moving around in the cab of the truck. Officer Prior continued yelling, "Let me see your hands," but the male subject was not complying, and was making quick jerking type movements. The male subject was standing up on the passenger side window. Sgt. Sanctuary heard someone say something about the male subject having a gun. He heard Officer Prior yell to the male subject,

ordering him to "Put the gun down!" Instead, the male subject continued to "fish around" inside the truck's cab.

Sgt. Sanctuary jumped onto the front left fender of the Chevy pick-up truck so he could look into the open driver's side window. At this time, Sgt. Sanctuary heard at least two shots being fired from Officer Prior's handgun. Sgt. Sanctuary saw some blood in the cab but the male subject did not act as if he had been shot. Instead, while hunched over, the male continued to move both of his hands around the cabin as if he was looking for something. Sgt. Sanctuary was positioned so he could only see the male's back and head. Sgt. Sanctuary began repeatedly yelling at the male to show him his hands, but the male turned and looked at Sgt. Sanctuary and then resumed moving around the cabin of the truck. Sgt. Sanctuary heard Officer Prior yelling "Put it down, put it down." Sgt. Sanctuary did not see a handgun but saw the male subject's elbows moving back and forth. The male subject reached down between his feet then the man stood up. Officer Prior yelled again, "Drop it, drop it" and then Sgt. Sanctuary heard a couple more gun shots. After this, the man continued reaching around the cabin and Officer Prior shot one more time into the male subject's head. At no time was the male subject compliant with any of the verbal commands from any of the officers.

Sgt. Sanctuary saw that the male subject was still "twitching" and radioed for an ambulance. After emergency medical responders arrived, Officer Sanctuary secured the black handgun from the pick-up truck. Sgt. Sanctuary noted that the handgun looked like a Berretta Storm. Sgt. Sanctuary noted that when Officer Sanctuary picked up the hand gun, it appeared light and Sgt. Sanctuary at this point thought it may have been a pellet gun.

Officer Noah Sanctuary has been a police officer since 2008. He has been an officer in Walpole since 2012. Officer Sanctuary was on duty with the Walpole Police Department on March 29, 2013 beginning at 4:00pm. Shortly after 4:00 pm, while he was at the Walpole Police Department, he received a call from Cheshire County Dispatch for a B.O.L. indicating that an armed robbery suspect fled the scene in Bellows Falls, VT in a dark color Chevy pick-up truck, with partial N.H. registration 322. He was informed that the vehicle may have been headed towards the New Arch Bridge which connects Walpole with Bellows Falls, VT. Officer Sanctuary drove his cruiser to a location where he could monitor the New Arch Bridge.

Officer Sanctuary was having difficulties with his radio at that time, and was receiving only intermittent transmissions. He saw Sgt. Justin Sanctuary's cruiser, with lights and sirens engaged, and he therefore followed him. Shortly thereafter, he heard on the radio that Officer Prior of the Alstead Police was in a pursuit with a pick-up truck on Route 123 heading towards Walpole. Officer Sanctuary believed that the pursuit involved the vehicle which was the subject of the B.O.L. involved in the armed robbery. He continued to follow Sgt. Sanctuary's cruiser and they positioned themselves on Route 123 so as to be able to intercept the suspect truck. At that time, he heard Officer Prior indicate on the radio that the truck was going "real fast,"

traveling at speeds “around 80 miles per hour” and that the operator “threw something out the window.” Officer Sanctuary heard Sgt. Sanctuary ask Officer Prior if he had seen a gun, but he never heard Officer Prior’s response due to his radio difficulties.

Within moments, Officer Sanctuary saw an older model two tone gray and silver colored Chevy pick-up truck approaching and then drive by him. Officer Sanctuary took the lead in the pursuit of the truck because his vehicle was best suited for this, and Sgt. Sanctuary and Officer Prior fell in behind him. Officer Sanctuary observed the Chevy pick-up truck take a left turn at a fairly high rate of speed from Route 123 onto Upper Walpole Rd. When the truck made the turn, it almost struck another vehicle coming towards it; this vehicle was forced off the road. After turning onto Upper Walpole Road, a residential neighborhood, the Chevy pick-up truck turned left onto the lawn of a residence and appeared to try to turn around in an effort to go back onto Route 123. While the truck was turning, Officer Sanctuary saw the Chevy pick-up truck roll over onto its passenger side. Because Officer Sanctuary was right behind the suspect truck, he was unable to see what caused the truck to roll over.

Officer Sanctuary parked and exited his cruiser. Officer Prior and Sgt. Sanctuary were also out of their cruisers, on the lawn. Officer Sanctuary positioned himself to the left of Officer Prior, who was directly in front of the vehicle with his weapon drawn. Officer Sanctuary also drew his weapon and pointed it at the male subject in the truck. Officer Sanctuary heard Officer Prior repeatedly yelling, “Let me see your hands!” to the male subject in the vehicle. The man was crouched down on the front passenger side window with his hands underneath him. Officer Sanctuary heard Officer Prior yell, “Drop the gun!” At that point, Officer Sanctuary saw the male suspect sit up with a black handgun in his right hand near the area of his lap. Officer Prior continued to yell “Drop the gun, drop the gun!” The male subject did not comply with Officer Prior’s commands. Officer Sanctuary saw the male subject look at Officer Prior and raise the black hand gun in his right hand above his waist to his stomach and aim it from his midsection towards Officers Prior and Sanctuary.

Officer Prior fired approximately three shots and the male subject fell back in the cab of the truck. Officer Sanctuary and Officer Prior continued yelling commands to the male subject to “Drop the gun!” The male subject still did not comply, and Officer Sanctuary saw him continuing to move around the cab and again raising the black handgun. At that time, Sgt. Sanctuary was standing on the truck’s driver side door, looking into the cab. Officer Prior fired an additional shot and the male subject slumped over face down in the cab of the truck.

At this point, Officer Prior returned to his cruiser to notify dispatch that shots had been fired. Sgt. Sanctuary kept cover of the male while Officer Sanctuary approached the front passenger side door of the truck. Officer Sanctuary saw that there was jacket underneath the suspect, in the area of his lap. He pulled this jacket out, and a black handgun came out with it. This gun looked to Officer Sanctuary like a Sig Sauer, and he seized it in order to secure it as

evidence. When he picked the gun up, Officer Sanctuary noticed how light the gun was, and after inspection, determined that the gun was a pellet or "B.B." gun.

In Officer Sanctuary's opinion, the male subject definitely posed a threat to the safety of the officers and the community and appeared to be prepared to fire his weapon had Officer Prior not fired at him. Had Officer Prior not fired on the suspect when he did, Officer Sanctuary would have done so.

### **III. PHYSICAL EVIDENCE AND AUTOPSY RESULTS**

The driver of the pick-up truck was identified as Larry Albert Bohannon, who was born in June of 1961, through a driver's license found on his person. Mr. Bohannon resided in Grafton, New Hampshire. Five cartridge casings and one expended bullet, which were consistent with the type of ammunition used by Officer Prior, were found in the vicinity of the pick-up truck. Mr. Bohannon was found to have \$407.00 in his pants pocket.

The weapons of all three officers present at the scene of the shooting were examined by New Hampshire State Troopers involved in the investigation. The weapons of the two Walpole officers, Sgt. Justin Sanctuary and Officer Noah Sanctuary, had not been discharged. The weapon of Alstead Officer Prior was also examined, and was found to have discharged five rounds, which was consistent with the five cartridge casings found at the scene.

The State Trooper who was the assigned evidence technician for the scene of the shooting examined the pellet gun that had been in the possession of Larry Bohannon. He found it to be a Phantom 83 caliber BB gun, with a magazine that was loaded with BBs. The gun was all black, and had no markings on it that would have indicated that it was not a real firearm. It did in fact look like a real firearm, its weight upon lifting it being the first clue that it was not.

While State Police were securing and beginning to process the scene of the shooting, a civilian witness who had recovered the item Bohannon threw from his truck in the area of the Drewsville General Store brought it to the scene and turned it over to police. Upon inspection, it proved to be a dark-colored fleece hat, with a lining that can be pulled down from inside the hat to cover the nose, mouth and chin. This is consistent with what the victims of the armed robbery described.

The State's Chief Medical Examiner, Dr. Thomas A. Andrew, conducted an autopsy on the body of Larry Bohannon on March 30, 2013. Dr. Andrew found that Mr. Bohannon had been shot twice in the right chest, once in the right rib cage, and once in the left side of his abdomen, with an exit wound in the same location, and a possible re-entry wound in the left groin. He was also found to have sustained one gunshot wound to his head. Four bullets associated with Mr. Bohannon's wounds were recovered during autopsy, and one was recovered

at the scene. Thus, although there were a total of six entry wounds, they were consistent with there being five shots fired. Dr. Andrew concluded that the cause of Mr. Bohannon's death was the above-described gunshot wounds. The manner of his death was homicide.

#### **IV. THE APPLICABLE LAW AND LEGAL STANDARD**

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. Under RSA 627:5, II(b), a law enforcement officer is also justified in using deadly force in order to arrest a person he reasonably believes has committed a felony involving the use of force or violence, and who is using a deadly weapon to escape, or otherwise indicates that he is likely to endanger human life or inflict serious bodily injury unless apprehended without delay. This provision applies only where the officer has made reasonable efforts to arrest the person and has reason to believe that the person is aware of those efforts.

The phrase "reasonably believes" as used in these statutes does not require a showing that the actor was "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). Whether the belief is a reasonable one "is determined by an objective standard." State v. Leaf, 137 N.H. 97, 99 (1993). All the circumstances surrounding the incident should be considered in determining the reasonableness of the actor's belief. Id. at 99; see also Aldrich v. Wright, 53 N.H. 398 (1873).

In this case, Larry Bohannon had just committed an armed robbery. Although the weapon he used to commit the robbery turned out to be a pellet gun, the victim of the robbery and the witness to it believed it to be a real gun. Thus, under New Hampshire statutes, he would have been chargeable with the Class A felony of armed robbery, pursuant to RSA 636:1, I(b), and III(b), which provide that a person who "threatens another with or purposely puts [another] in fear of immediate use of physical force . . . [while he] reasonably appeared to the victim to be actually armed with a deadly weapon" is guilty of that crime. In another section of the New Hampshire Criminal Code, robbery, as defined in RSA 636:1, is classified as a "violent crime." See RSA 651:5, XIII(f).

Mr. Bohannon knew that police were pursuing him and trying to apprehend and arrest him for that crime, as evidenced by his attempts to elude Officer Prior, despite his pursuit in a marked police cruiser with lights and siren activated, and by his disposal of the mask he had worn during the robbery by throwing it out the window of his truck during the pursuit. Mr. Bohannon's driving during the police pursuit endangered the lives of other citizens who were on the road in that area at the time. Mr. Bohannon's display of the handgun to Officer Prior when they were both stopped behind a business on River Street indicated his unwillingness to be taken

into custody and his apparent willingness to use deadly force to prevent it. Even when caused to crash his truck and surrounded by three uniformed police officers in marked cruisers, Mr. Bohannon refused to comply with their commands that he show his hands and drop his weapon, thereby further indicating his unwillingness to be taken into custody and his apparent willingness to use deadly force against the officers to prevent them from doing so. The fact that this confrontation took place in a residential area, indeed, on the front lawn of one of the homes situated there, also gave rise to a potential danger to the public at large should Mr. Bohannon not be stopped before he had the chance to get out of his vehicle or begin shooting from within it. Although his weapon proved to be a pellet gun upon close inspection, the officers reasonably believed it to be an actual firearm during the pursuit and the confrontation with Bohannon.

Subsequent investigation into Mr. Bohannon's background and current circumstances strengthens the conclusion that he did not intend to be taken into custody and would have taken extreme measures to avoid it. Mr. Bohannon was a convicted felon who was on parole at the time of this incident. Mr. Bohannon had committed several parole violations, and had absconded from parole as of July 21, 2011. There was an active warrant for his arrest as a parole violator on the date of the incident described in this report. In addition, several police departments in the western New Hampshire/eastern Vermont area are currently investigating whether Mr. Bohannon was responsible for unsolved robberies in their communities.

## **V. CONCLUSION**

Based upon all of the facts and circumstances set forth above, it was objectively reasonable for Officer Prior to conclude that either he or the Walpole officers were in danger of the imminent use of deadly force by Mr. Bohannon. Further, it was objectively reasonable for Officer Prior to conclude that Mr. Bohannon was a violent felon who was using a deadly weapon to escape, or who otherwise would pose a danger of death or serious bodily injury unless he was stopped, after efforts to effectuate his arrest peacefully had failed. Therefore, Officer Prior's use of deadly force against Larry Bohannon was justified pursuant to both RSA 627:5, II(a) and II(b) as set forth above.