

**ATTORNEY GENERAL'S REPORT REGARDING**  
**SEPTEMBER 30, 2013, OFFICER-INVOLVED**  
**DEADLY FORCE INCIDENT IN MANCHESTER, NH**

October 15, 2013

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**I. INTRODUCTION**

The purpose of this report is to summarize the Attorney General's findings and conclusions with regard to the officer-involved deadly force incident that occurred in Manchester, New Hampshire, on September 30, 2013. The findings and conclusions contained in this report are based on information gathered during the investigation, including viewing the scene of the incident, reviewing photographs, reviewing a video of a portion of the pursuit, reviewing documents, reviewing witness interviews, speaking with investigators, and conducting witness interviews. Throughout the process, all law enforcement officers directly and indirectly involved in the incident were completely cooperative with the investigation.<sup>1</sup>

Based on the investigation's findings, and for the reasons detailed below, New Hampshire Attorney General Joseph A. Foster has determined that the deadly force which resulted in Wendy Lawrence's death was a justified use of force by New Hampshire State Police Trooper Chad Lavoie.

**II. FACTS**

**A. Summary of the facts**

At approximately 6:20 pm on Monday, September 30<sup>th</sup>, 2013, New Hampshire State Police Trooper Kevin Leblanc stopped a Chevrolet Monte Carlo that was being driven erratically on I-89 southbound. The Monte Carlo's driver was Wendy M. Lawrence (age 45), of Canterbury, New Hampshire.

During the stop, Ms. Lawrence produced a non-driver's ID and told Trooper Leblanc that she had a valid license. Trooper Leblanc went back to his cruiser to check on the status of Ms. Lawrence's license. When he ran her record, Trooper Leblanc learned that Ms. Lawrence was a

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<sup>1</sup> The law enforcement officers who were directly involved in the incident were interviewed separately from each other, by a team that included a prosecutor from the Attorney General's Office, a Manchester Police detective, and a State Police detective.

Habitual Offender and that her license was under suspension.<sup>2</sup> As the trooper was receiving those results, Ms. Lawrence suddenly drove off in her car speeding southbound toward Concord.

Trooper Leblanc briefly pursued Ms. Lawrence at speeds of up to ninety miles per hour, and then broke off the pursuit. A short time later, Trooper Leblanc came upon Ms. Lawrence's car at the end of I-89. She had been in an accident and her car was sideways in the road. Ms. Lawrence did not remain stopped and quickly drove away, almost hitting a person who was nearby. Ms. Lawrence proceeded onto the I-93 southbound ramp and drove off at a high rate of speed.

Several State Police troopers assisted in trying to apprehend Ms. Lawrence and were behind her as she turned off exit 9S from I-93 into Manchester. Three troopers in marked police cruisers followed Ms. Lawrence to the intersection of Dave Street and Kennard Road in Manchester, where a fourth trooper, Trooper Chad Lavoie, attempted to stop Ms. Lawrence, who instead of stopping rammed one cruiser and backed into a second. Trooper Chad Lavoie was in the cruiser that was rammed. He got out of his cruiser in an attempt to stop Ms. Lawrence and stepped in front of her car with his handgun out, ordering Ms. Lawrence repeatedly to stop her car. Instead of stopping, Ms. Lawrence drove directly toward Trooper Lavoie. Other troopers who witnessed the events said that they believed that Ms. Lawrence was going to run over Trooper Lavoie. Trooper Lavoie fired his handgun multiple times at Ms. Lawrence in an attempt to stop her from running him down. Ms. Lawrence was hit four times by gunfire and fatally wounded.

An ambulance was called and Ms. Lawrence was transported to the Elliot Hospital in Manchester, where she was later pronounced dead. The shooting scene and Trooper Lavoie's handgun were secured and in accordance with established protocol, a member of the New Hampshire Attorney General's Office, with the assistance of the Manchester Police Department and the New Hampshire State Police Major Crime Unit, conducted an investigation into the shooting incident. The results of that investigation are detailed in this report.

## **B. Law Enforcement Witnesses**

### **Trooper Kevin Leblanc**

At approximately 6:00 pm on Monday, September 30<sup>th</sup>, 2013, New Hampshire State Police Trooper Kevin Leblanc was on patrol on I-89 around mile marker 8. As he was parked, he spotted a Chevrolet Monte Carlo that drifted out of its travel lane on I-89 southbound and hit the rumble strips on the high speed median-side of the highway and go into the breakdown lane. Trooper Leblanc pursued that car and attempted to stop it. Trooper Leblanc noted that the driver was slow to react and drifted into the breakdown lane before finally coming to a stop.

Trooper Leblanc went up to the car and spoke to the driver. No one else was in the car. The driver was identified as Wendy M. Lawrence (age 45), of Canterbury, New Hampshire. She asked Trooper Leblanc why he stopped her and when he told her, she kind of chuckled in response. When asked for her driver's license, Ms. Lawrence said she had a valid license but it was not with her.

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<sup>2</sup> Ms. Lawrence had a lengthy criminal and motor vehicle record, which will be discussed later in this report.

Trooper Leblanc could see another ID in the car and asked Ms. Lawrence to show him that one. She handed over a non-driver's ID. Trooper Leblanc returned to his cruiser, ran Ms. Lawrence's record, and confirmed that she was a Habitual Offender and that her license was under suspension. As Trooper Leblanc was receiving those results, Ms. Lawrence suddenly drove off in her car speeding southbound toward Concord.

Trooper Leblanc pursued Ms. Lawrence southbound on I-89 at speeds that were between eighty and ninety miles per hour. Once he got to around exit 3 on I-89, Trooper Leblanc called in the plate number of Ms. Lawrence's car and broke off the pursuit. Ms. Lawrence continued heading southbound on I-89 at a high rate of speed.

A short time later, Trooper Leblanc came to the end of I-89, in the vicinity of Exit 1. He saw that Ms. Lawrence had been in an accident. Her car was blocking the left lane of the highway and its back end was up against a Jersey barrier. Trooper Leblanc called the accident in to dispatch and then saw a male person out on the highway. That male had to jump out of the way up onto the Jersey barrier in order to avoid being run over by Ms. Lawrence as she accelerated away from where she had been blocking the highway.<sup>3</sup> As Ms. Lawrence sped away heading for the I-93 southbound on-ramp, Trooper Leblanc saw her almost hit three or four other cars in the process.

After getting onto the on-ramp, Ms. Lawrence drove southbound on I-93 with Trooper Leblanc behind her. He radioed-in the fact that Ms. Lawrence had been in an accident and almost hit several cars and received permission to reinitiate the pursuit. As Trooper Leblanc followed Ms. Lawrence, she continued heading southbound traveling between eighty and ninety miles per hour. Other troopers attempted to use spike strips at the Hooksett toll booth to try to stop Ms. Lawrence, but were unsuccessful and so she continued southbound on I-93.

Ms. Lawrence eventually took Exit 9S and drove down the ramp into the Hooksett/Manchester area. Trooper Leblanc and the other troopers terminated their pursuit by shutting off their emergency lights and sirens. They continued to follow Ms. Lawrence at normal traffic speed as she passed cars on the off-ramp, drove down the ramp, and then drove through neighborhoods in the area while traveling at speeds of approximately twenty-five miles per hour.

Eventually, Trooper Leblanc came to the intersection of Dave Street and Kennard Road, where the shooting occurred. At that intersection, Trooper Chad Lavoie pulled up in front of Ms. Lawrence's car, which was stopped at that point. After a brief stop, she accelerated into the side of Trooper Lavoie's cruiser. Trooper Leblanc radioed-in that Ms. Lawrence had just rammed a cruiser and as he did that, she backed up into his cruiser. Ms. Lawrence drove forward a second time and Trooper Leblanc believed that she hit Trooper Lavoie's cruiser again. She backed up and then Trooper Leblanc also backed up. It was clear to him that Ms. Lawrence was trying to get away.

Ms. Lawrence pulled forward and Trooper Lavoie came around the back side of his cruiser, giving her commands to stop. She then turned her car and accelerated directly at Trooper Lavoie.

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<sup>3</sup> The most likely explanation for this person being out on the highway is that he was another motorist who had witnessed Ms. Lawrence's accident. That person has not been identified.

Trooper Leblanc said that there was nothing in between Trooper Lavoie and the car driving toward him. At that point, Trooper Lavoie started shooting at Ms. Lawrence's car. Trooper Leblanc estimated that Trooper Lavoie was less than ten yards from Ms. Lawrence's car when he fired his gun and was clearly in danger of being run over at that point.

After the shooting, Trooper Leblanc put Ms. Lawrence's car in "park," and called for an ambulance.

### **Trooper William Tibbits**

On September 30, 2013, New Hampshire State Police Trooper William Tibbits was on duty and situated on I-93 at Exit 10. He heard about a pursuit over the radio and headed out onto the highway to assist. Trooper Tibbits was told to try and use spike strips to stop the car being pursued. However, due to the amount of time it took Trooper Tibbits to get to a proper location on the highway, he was unable to get the spike strips deployed in time.

Trooper Tibbits joined the pursuit of Ms. Lawrence's car as it went south down the highway in the high-eighty mile per hour range. Trooper Tibbits passed Ms. Lawrence at one point in an effort to get in front of her to try to slow her down. As he did that, Ms. Lawrence got so close to the rear of his cruiser that he was concerned she would hit the rear of his cruiser, so he speeded up. As they approached Exit 9S in Manchester, Ms. Lawrence exited down the off ramp. As the troopers followed her down the ramp, a supervisor radioed the troopers to stop the pursuit. Trooper Tibbits shut off his lights and continued to follow Ms. Lawrence to the next intersection.

Ms. Lawrence took a left at the intersection and he and the other troopers followed her as she drove down side streets at about twenty to thirty miles per hour. None of the troopers had their blue lights or sirens on at that time.

Eventually, as the troopers came down onto Kennard Road, Trooper Tibbits saw another State Police cruiser drive up with its lights on and then stop in front of Ms. Lawrence's car.<sup>4</sup> Trooper Tibbits saw Ms. Lawrence's car ram into Trooper Lavoie's cruiser and then start backing up. Trooper Tibbits could see that Trooper Lavoie was out of his cruiser at that point. Trooper Tibbits said that he was pretty certain that Ms. Lawrence hit Trooper Leblanc's cruiser, which was parked in front of Trooper Tibbits' cruiser. Then he saw that Trooper Lavoie was out of his cruiser in front of Ms. Lawrence's car with his gun drawn, yelling at her. Ms. Lawrence maneuvered back and forth with her car and then drove forward, straight at Trooper Lavoie. Trooper Tibbits estimated that Ms. Lawrence was going about ten miles per hour and was about ten to fifteen feet from Trooper Lavoie when he started firing at her multiple times. He believed that Trooper Lavoie was in danger of being run over by Ms. Lawrence at the time Trooper Lavoie started firing his gun.

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<sup>4</sup> This was Trooper Chad Lavoie's cruiser.

### **Trooper Doug Schack**

On September 30, 2013, New Hampshire State Police Trooper Doug Schack was on Rte. 28. He heard a pursuit was going on and headed towards the highway from Rte. 28 to assist.

Trooper Schack first saw Ms. Lawrence's car near Exit 10 on I-93, headed southbound at a high rate of speed. He joined the other troopers pursuing Ms. Lawrence. The pursuit was discontinued as Ms. Lawrence took Exit 9S toward Manchester. Trooper Schack and the other troopers continued following her at normal traffic speed.

Ms. Lawrence drove through neighborhoods with the troopers still behind her. Eventually, they all got to an intersection where the shooting occurred. Trooper Schack saw Trooper Lavoie come across from Mammoth Road in his cruiser and then stop. Ms. Lawrence rammed Trooper Lavoie's cruiser and then backed into Trooper Leblanc's cruiser.

Trooper Lavoie got out of his cruiser with his gun out and yelled several times at Ms. Lawrence to stop the car. As Ms. Lawrence turned her car in Trooper Lavoie's direction and then accelerated toward him, Trooper Lavoie fired his gun at her. Trooper Schack estimated that Trooper Lavoie was about ten feet from Ms. Lawrence's car when he started firing at her. Trooper Schack thought for certain that Ms. Lawrence was going to run Trooper Lavoie over and that Trooper Lavoie's life was in danger. Trooper Schack also had his gun out, but did not fire at Ms. Lawrence because he did not believe that he had a safe shot due to Trooper Lavoie's position at the time.

### **Trooper Chad Lavoie**

New Hampshire State Police Trooper Chad Lavoie was on duty on September 30, 2013, on the interstate in the Manchester area. He was in full uniform and driving a marked State Police cruiser.

At about 6:30 pm, Trooper Lavoie heard a radio transmission about a pursuit that was heading southbound on I-93, approaching the Hooksett toll. Trooper Lavoie headed north to assist and as he did, he heard over the radio that they were looking for someone to spike the tires of the vehicle. He also heard that the vehicle had a female driver, that her license was suspended, that the vehicle was a red or maroon Monte Carlo, and that it was driving at ninety miles per hour. As Trooper Lavoie headed north on the highway, he heard two other troopers say that they were going to deploy spike strips and then heard someone say that the attempt had been unsuccessful.

Trooper Lavoie continued north on the highway, intending to set up his spike strips in the area around Exit 7. However, as he was approaching that area, he heard that the Monte Carlo had taken Exit 9S. The troopers were then told to break off the pursuit. Trooper Lavoie turned off his emergency lights and continued heading north on the highway. He heard his sergeant direct them to "play the area," which meant to canvas the area looking for the Monte Carlo.

Trooper Lavoie took Exit 8 in Manchester and headed toward the intersection with Mammoth Road. As he did that, he heard that other troopers were still following the Monte Carlo in

traffic and heard the name of a road called out. Trooper Lavoie punched in the road's name into his GPS and realized that it was close by. He drove down Mammoth Road to the intersection with Kennard Road. As he did that, he saw a red 2-door car coming down Dave Street toward the intersection with Kennard Road. Trooper Lavoie recognized the car as the one being pursued and saw it slow down as it approached the end of Dave Street. Trooper Lavoie also noticed that there was a cruiser behind that car as well. He tried to think of the safest way to stop the Monte Carlo and decided to try to box the car in. Trooper Lavoie turned on his blue lights and pulled up in front of the Monte Carlo. As he did so, he made eye contact with the female driver. He estimated that his cruiser was just a couple of feet away from the Monte Carlo as he stopped his cruiser and put it into park.

Trooper Lavoie decided to get out of his cruiser to take the driver of the Monte Carlo into custody. As he started to get out, the Monte Carlo drove forward and rammed into the side of his cruiser. Trooper Lavoie, who was in his State Police uniform, ran around the back of his cruiser towards the front of the Monte Carlo, taking his handgun out of its holster along the way. As he got around the back side of his cruiser, Trooper Lavoie stood facing the front of the Monte Carlo, yelling at the driver over and over again, "Stop the car!" Trooper Lavoie said that he could see the female driver through the windshield and that she looked "determined," not afraid.

After hitting Trooper Lavoie's cruiser, the Monte Carlo backed up and hit the cruiser in back of it. Trooper Lavoie continued to yell at the driver to stop, but she did not. Instead, she put the Monte Carlo in drive, turned the wheel to the left in the direction of Trooper Lavoie, and started to move forward. Trooper Lavoie believed that the Monte Carlo hit the side of his cruiser as it moved forward toward him. He was in the direct path of the Monte Carlo as it moved forward. Trooper Lavoie believed that the driver was not going to hold back when she hit his cruiser and would do whatever it took to avoid being taken into custody. He was about four feet in front of the Monte Carlo and thought that the driver was going to run him over and kill him. At that point, Trooper Lavoie started firing his gun, aiming at the driver. He continued shooting until the car stopped moving forward and the threat of being run over ended.

As part of the investigation, information was gathered regarding Trooper Lavoie's training and experience. Trooper Lavoie has been employed with the State Police since 2005 and has received training regarding the use of force. He has also been a member of the State Police SWAT Team for approximately seven years, where he receives training twice per month. Trooper Lavoie has also served as a Field Training Officer for the past three years. Prior to joining the New Hampshire State Police, Trooper Lavoie was a soldier in the United States Marine Corps.

Trooper Lavoie had been involved in two other officer involved deadly force incidents before the September 30, 2013 incident. One incident was on May 7, 2011, and involved a stand-off in Manchester between numerous law enforcement officers and James Breton. Trooper Lavoie did not discharge his weapon during that fatal incident. The second incident occurred on October 22, 2011. Trooper Lavoie was one of several law enforcement officers who shot and fatally wounded an armed suspect during a confrontation in Pelham. Both of those incidents were found to be justified uses of deadly force by the officers involved.

C. **Other sources of information**

**Neighbors in the area of the shooting**

Detectives canvassed the neighborhood where the shooting occurred looking for witnesses to the shooting. None were located.

**Charles Peter**

Investigators learned that Ms. Lawrence had a boyfriend named Charles Peter at the time of the incident. An attempt was made to interview Mr. Peter to see what background he could provide about Ms. Lawrence's activities on the night of the incident. Her cell phone showed a very brief call to Mr. Peter's phone during the incident. Mr. Peter declined the request for an interview.

**Donald Brown**

On October 2, 2013, Charles Peter called the Attorney General's Office. He wanted the investigators to know that he had spoken to a person named Donald Brown, who he claimed was an eyewitness to the shooting. According to Mr. Peter, Donald Brown saw Wendy Lawrence with her hands up, surrendering to the police when she was shot.

Even though Mr. Brown had already been interviewed earlier as part of the neighborhood canvas and never mentioned any of the information Mr. Peter attributed to him, Mr. Peter's allegations were immediately conveyed to detectives who reached out and spoke to Mr. Brown that day.

Mr. Brown advised that Chuck Peter and a female had been at the shooting scene and were asking him questions. They asked Mr. Brown if Ms. Lawrence's hands had been up in the air like she was giving up. Mr. Brown said that he never told Mr. Peter that he saw that occur. Instead, Mr. Brown confirmed that he did not see the shooting and only heard the shots being fired. After hearing the shots, he looked outside and saw Ms. Lawrence in the car with both her hands on the steering wheel. Next, he saw her hands come off the steering wheel and fall down toward her lap. He never saw her hands up in the air like she was trying to give up nor did he make any observations of the incident or Ms. Lawrence's actions before the shooting.

**John Hugron**

John Hugron met Ms. Lawrence through Charles Peter. Mr. Hugron owns the property in Canterbury where Wendy Lawrence had been staying at the time of the incident. Mr. Hugron said that Ms. Lawrence had been living in her camper on his property since the spring.

Mr. Hugron saw Ms. Lawrence on the morning of September 30, 2013. She had come into the house and then left, saying she was going to lie down. Mr. Hugron left to go shopping and when he returned, Ms. Lawrence was gone.

Mr. Hugron said he spoke to Mr. Peter after the incident and Mr. Peter said that Ms. Lawrence had been with him on September 30, 2013.

**Mark Green**

Mr. Green lives on John Hugron's property in Canterbury in an RV. His RV was parked next to Wendy Lawrence's camper.

Mr. Green said that he saw Ms. Lawrence on September 30, 2013, and also spoke to her by phone at around 3 pm that day. She told him that she was going to see Charles Peter and would not be home that night.

Mr. Green said that Ms. Lawrence had "demons," drank heavily when she was with Mr. Peter, and that Mr. Peter and Ms. Lawrence fought.

**Shawn Healey**

Mr. Healey owns the Chevrolet Monte Carlo that Wendy Lawrence was driving on September 30, 2013. He said that he kept the car in Canterbury at John Hugron's home because he had no place to park it. He also told the investigators that he knew that Ms. Lawrence drove the car from time to time.

**D. Cruiser audio/video recording**

New Hampshire State Police Trooper Doug Schack's cruiser was equipped with a camera that was making an audio and video recording at the time he became involved in the incident.<sup>5</sup> That recording was reviewed as part of the investigation. Trooper Schack's video camera captured images to the front and rear of the cruiser. The angle of view was limited however, and was not a wide angle view in either direction.

The relevant portion of the video showed the time period from when Trooper Schack joined the pursuit of Ms. Lawrence on I-93, just north of Exit 9S. He and other State Police cruisers pursued Ms. Lawrence with lights and sirens on as she drove down I-93 at approximately ninety miles per hour. As she turned off the highway onto Exit 9S in Manchester, the pursuing troopers were directed to break off the pursuit. They immediately shut off their lights and sirens and assumed a passive mode; just following Ms. Lawrence at a slow rate of speed without their lights and sirens on.

The video depicts Ms. Lawrence driving south on Rte. 3 and then making a left turn at the first intersection. Four State Police cruisers followed her at about twenty five miles per hour as she drove through Manchester neighborhoods, heading east. At one point, one of the cruisers left the group and headed in a different direction, leaving three cruisers following Ms. Lawrence.

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<sup>5</sup> The audio that was captured was from inside Trooper Schack's cruiser, not outside.

The three cruisers followed Ms. Lawrence onto Dave Street to the intersection with Kennard Road. As she approached the stop sign at the end of Dave Street, Trooper Lavoie's cruiser appeared from the left, in the area of Mammoth Road. His cruiser had its emergency lights activated and was heading in the direction of the front of Ms. Lawrence's car. As Trooper Schack's cruiser came to a stop, the camera could not capture a view of Ms. Lawrence's car and Trooper Lavoie's cruiser, which were both too far off to the right. Trooper Tibbits, who was stopped in front of Trooper Scheck, could be seen quickly getting out of his cruiser and reaching for his gun as he ran forward, in the direction where Ms. Lawrence's car was last seen. Then, a voice over the radio said, "She just rammed the cruiser." Next, Trooper Schack could be seen running with his gun drawn, moving forward toward where Ms. Lawrence's car was last seen. As Trooper Schack raised his gun, multiple gun shots could be heard. A voice came over the radio saying, "Shots fired! Shots fired!" Less than a minute later, a trooper called for an ambulance to be sent to the scene and stated that, "All troopers are okay." A few second later, the location was again confirmed and a request was made to "start a 27 (code for an ambulance) ASAP."

Nothing else of significance was captured on the video.

#### **E. Physical evidence**

Trooper Lavoie's handgun was examined. It is a Smith & Wesson, .45 caliber semi-automatic pistol with a magazine capable of holding ten rounds of ammunition, plus one in the chamber for a total of eleven rounds. That is consistent with the eleven discharged cartridge casings found at the scene and the eleven bullet holes in the windshield of Ms. Lawrence's car.

Ms. Lawrence's car was examined, as was Trooper Lavoie and Trooper Leblanc's cruisers. Ms. Lawrence's car had come to rest with its right front corner positioned just in front of the right rear wheel of Trooper Lavoie's cruiser. Ms. Lawrence's front tires were both turned sharply to the left, which would have allowed her a clear path to escape Trooper Lavoie's attempt to box her in with his cruiser. Her car had evidence of impact damage, as did Trooper Lavoie's cruiser and Trooper Leblanc's cruiser. Some of the impact damage to Ms. Lawrence's car appeared to be consistent with the earlier accident she had near the end of I-89, where Trooper Leblanc had come upon her car sideways in the highway up against a Jersey barrier.

#### **F. Autopsy results**

The State's Chief Medical Examiner, Dr. Thomas A. Andrew, conducted an autopsy on Wendy Lawrence. He determined that she had been struck by gunfire four times. Her cause of death was a single gunshot wound to the chest. Her manner of death was homicide, meaning that her death was caused by another person.

Samples have been sent out for toxicology testing to determine whether there were any substances in Ms. Lawrence's blood at the time of the incident. Those results are still pending.<sup>6</sup>

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<sup>6</sup> It typically takes four to six weeks from the time of the autopsy to get toxicology results.

### **G. Wendy Lawrence's Prior Criminal and Motor Vehicle History**

Wendy Lawrence was forty-five years old at the time of the incident and had been living on a friend's property in Canterbury, New Hampshire. Court records show that as of September 30, 2013, Ms. Lawrence was certified as a Habitual Offender, and did not have a valid license at the time Trooper Leblanc stopped her on I-89. Ms. Lawrence's Habitual Offender certification was based in part on her three prior DWI convictions. Therefore, at the time Trooper Leblanc stopped her on the highway, Ms. Lawrence was committing a felony level offense that subjected her to the possibility of one to five years in prison on that charge alone. In addition, Ms. Lawrence faced even more prison time, given her most recent criminal convictions and her past record.

In July of 2013, Ms. Lawrence was convicted of Resisting Arrest or Detention and Simple Assault and given two, concurrent twelve month deferred jail sentences. She also had a ninety-day deferred jail sentence on a drug charge. Since all those deferred jail sentences were in effect when Trooper Leblanc stopped Ms. Lawrence on I-89, she was facing the possibility of up to fifteen months of additional jail time on three prior convictions, as well one to five years in prison for driving as a habitual offender.

The certainty of going to prison must have been apparent to Ms. Lawrence given her prior convictions, which would have been considered as aggravating factors in sentencing her. Those included three convictions for Resisting Arrest or Detention, a simple Assault Conviction, a conviction for Theft by Deception, a conviction for Welfare Fraud, multiple DWI convictions, a conviction for Dealing in or Possessing Prescription Drugs, two instances of Violating the Terms of Probation, and one conviction for Possession of a Controlled Drug.

Ms. Lawrence had also been arrested for Obstructing the Report of a Crime and Possession of a Controlled Drug. On July 15, 2013, both of those charges were placed on file without a finding for one year on specific conditions, including her good behavior. In light of her conduct on September 30, 2013, Ms. Lawrence would have known that the Obstructing the Report of a Crime and Possession of a Controlled Drug charges would likely be brought forward for trial and she would face additional jail time on those charges if caught by the troopers that night.

Based on Ms. Lawrence's record, it appears likely that her decision to flee from Trooper Leblanc, her decision to leave the scene of the accident she was in at the bottom of I-89, her decision to drive into the troopers' cruisers at the intersection of Dave Street and Kennard Road, and her attempt to run over Trooper Lavoie, was motivated by her prior criminal and motor vehicle record due to the near certainty that she would be going to prison if the troopers successfully apprehended her.

### III. THE APPLICABLE LAW, LEGAL STANDARDS AND ANALYSIS

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 a person "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). Thus, a person may be justified in using deadly force if he reasonably believed that he or another person was in imminent danger of the use of deadly force, even if in fact, he or the other person were not. See RSA 627:9, II ("Deadly force" means any assault or confinement which the actor commits with the purpose of causing or which the actor knows will create a substantial risk of causing death or serious bodily injury).

What is "reasonable" under the circumstances "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 reaching this decision. See id. at 99. When considering those circumstances and examining a person's conduct who uses deadly force, that conduct should be viewed "under the circumstances as they were presented to him at the time, and not necessarily as they appear upon detached reflection." N.H. Criminal Jury Instructions, 3.10. In other words, the inquiry must focus on the situation from a reasonable law enforcement officer's standpoint who was in the same situation as the officer and who had the same knowledge of the situation that he had at the time. That examination is not made with hindsight, which is afforded by one viewing the circumstances after the fact. Two cases illustrate this standard of review.

In Graham v. Connor, 490 U.S. 386 (1989), the United States Supreme Court discussed the standards by which a police officer's conduct would be judged when excessive force claims were brought against him. The Court confirmed that "[t]he 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." Id. at 396. The Court went on to explain how to determine what is "reasonable" in situations where police officers use force:

The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - - in circumstances that are tense, uncertain, and rapidly evolving - - about the amount of force that is necessary in a particular situation.

Id. at 396-97.

As another Court put it, determining what is “reasonable” in situations faced by police officers requires the following analysis:

[U]nder Graham, we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes “reasonable” action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.

Smith v. Freeland, 954 F.2d 343, 347 (6<sup>th</sup> Cir. 1992)

Finally, when the State analyzes a person’s use of deadly force, the State bears the burden of disproving a claim of self defense, 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 and was reasonable.

Based on all the facts and circumstances in this incident, and looking at the situation from the perspective of a reasonable law enforcement officer in Trooper Chad Lavoie’s position at the time, it was reasonable for him to believe that when he fired his handgun at Ms. Lawrence, she was about to use deadly force against him by running him over with her car. At the time she drove toward Trooper Lavoie, Ms. Lawrence had already demonstrated that she was willing to take great risks and potentially inflict great harm in order to evade the troopers. That was apparent when she fled from the initial stop by Trooper Leblanc, traveled at a high rate of speed on I-89, got into an accident at the end of I-89, almost hit a person on I-89, almost hit several cars at the end of I-89, drove at a high rate of speed on I-93, and then purposely drove into two State Police cruisers in Manchester. All those acts occurred before Ms. Lawrence then tried to run Trooper Lavoie over, and were likely driven by her extensive criminal and motor vehicle record, her status as a Habitual Offender, her deferred jail sentences, and the certainty of going to prison if the troopers apprehended her.

At the time Trooper Lavoie drove his cruiser in front of Ms. Lawrence’s car to try to stop her, she could have simply given up and ended the pursuit. Instead, she purposely drove forward, ramming into Trooper Lavoie’s cruiser. She then backed up and hit Trooper Leblanc’s cruiser, in an apparent attempt to push the cruisers out of the way so that she could escape. Even though Trooper Lavoie was in full uniform and out in front of her car with his gun drawn yelling at her to stop the car, Ms. Lawrence continued to try to use her car to escape. She turned her front wheels in Trooper Lavoie’s direction and then accelerated toward him, ignoring his repeated commands at gunpoint to stop her car. Those events happened very quickly, in a matter of seconds.

Under the circumstances, Ms. Lawrence’s vehicle was a deadly weapon in the manner in which it was used. That is apparent, since by driving at Trooper Lavoie she created a substantial risk of causing his death or serious bodily injury. See RSA 625:11, V (“Deadly weapon” includes any “thing, which, in the manner it is used, intended to be used, or threatened to be used, is known

to be capable of producing death or serious bodily injury”); State v. Hull, 149 N.H. 706, 715 (1997) (a motor vehicle can be a deadly weapon).

Based on Trooper Lavoie’s knowledge and observations of Ms. Lawrence’s conduct on September 30, 2013, it was reasonable for Trooper Lavoie to conclude that she was not going to surrender and was willing to use any means, including deadly force, to escape apprehension. The reasonableness of Trooper Lavoie’s belief is confirmed by the fact that the other three troopers who were present also believed that Ms. Lawrence was going to run Trooper Lavoie down.

#### **IV. CONCLUSION**

Based on all the facts and circumstances known to New Hampshire State Police Trooper Chad Lavoie at the time he tried to take Wendy Lawrence into custody, and examining the situation from the standpoint of an objective police officer in Trooper Lavoie’s position, it was reasonable for him to conclude that Ms. Lawrence was about to use deadly force against him when she drove her car at him. Accordingly, Trooper Lavoie was legally justified in using deadly force against Ms. Lawrence to defend himself from what he reasonably believed was the imminent use of deadly force by her.

[953846]