

**ATTORNEY GENERAL'S REPORT ON OFFICER INVOLVED SHOOTING IN MONT
VERNON, N.H. ON JANUARY 6, 2013**

April 25, 2013

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 Mont Vernon on January 6, 2013, of Geoffrey Bidwell of Mont Vernon, New Hampshire, was a legally justified use of deadly force by Sergeant Aaron Daigneault of the Mont Vernon Police Department.

This report summarizes the Attorney General's findings and conclusions with regard to this officer-involved shooting in Mont Vernon, New Hampshire. The findings and conclusions contained in this report are based on information gathered during the investigation, including crime scene examination, photographs and diagrams, information provided from investigators, police investigation reports, and the recordings and transcripts of witness interviews. All of the witnesses, including the police officers, were cooperative with the investigation.

The investigation has revealed that Geoffrey Bidwell's actions and course of conduct on January 6, 2013, created a situation where Sergeant Aaron Daigneault reasonably believed that he was in danger of death or serious bodily injury when Geoffrey Bidwell took a large firewood log and advanced towards Sergeant Daigneault in a threatening manner. Accordingly, based on the investigation's findings and for the reasons detailed below, the Attorney General has determined that Sergeant Daigneault's shooting of Geoffrey Bidwell was a justified use of deadly force.

II. FACTUAL BACKGROUND & INVESTIGATION

Portions of the facts of this case have been withheld from this report in order to limit any potential prejudice to a possible criminal prosecution against Geoffrey Bidwell. The file has been referred by the Mont Vernon Police Department to the Hillsborough County Attorney's Office for review.

On January 6, 2013, at 4:13 p.m., the Milford Area Communication dispatch received a 911 call from Augustus "Gus" Bidwell of 15 Pond Road, Mont Vernon, who stated that his son, Geoffrey Bidwell, had attempted suicide. Gus Bidwell was unsure if Geoffrey had in fact committed suicide, but Geoffrey was upstairs in his bedroom, armed with a knife.

A. Interview of Augustus "Gus" Bidwell

Gus Bidwell was interviewed on January 6, 2013. He stated that prior to calling 911, he learned that Geoffrey had been drinking earlier in the day. Gus said that Geoffrey, who was 42 years old, had been in and out of rehabilitation numerous times for alcohol and drug dependence issues. On January 6, 2013, Gus was unaware that Geoffrey was drinking. However, that changed when Gus went to get a drink in a locked closet at half-time during a football game he

was watching on TV. When he did that, Gus noticed that a large amount of wine that was kept in the closet was missing. Gus went to Geoffrey's bedroom and found an empty bottle of vodka and a bottle of wine, which was almost empty. Geoffrey, who had initially been watching the football game with Gus, was asleep.

After speaking with his wife, Pamela, Gus went back upstairs and told Geoffrey that they were going to take him to the psychiatric unit in Bedford or at the Southern New Hampshire Hospital. As Gus spoke to Geoffrey, it appeared to Gus that Geoffrey had been drinking. Geoffrey said that he would not go, so Gus told Geoffrey that if he was not willing to go, he would have to contact the police because he could not stay at the house. After that discussion, Gus called 911. When he did that, Geoffrey jumped up from his bed, grabbed Gus, bear-hugged him from behind, and shut off Gus' phone.¹ Dispatch immediately called back and Gus told them that he needed a police officer and an ambulance right away. Geoffrey told Gus to call 911 back and tell them that the police were not needed. At this juncture, Geoffrey, who was lying on his bed, displayed a large hunting knife that had an approximately eight-inch blade and gestured as if he was driving the knife into his chest. That prompted Gus to tell dispatch that he thought Geoffrey might have committed suicide.

Sergeant Daigneault responded to the 911 call and arrived at the home just minutes later. Once there, Sergeant Daigneault had a brief discussion with Gus in the garage. After their conversation, Gus and Sergeant Daigneault went into the home where Gus told Geoffrey that the Mont Vernon police were there to see him. Geoffrey quickly came down the stairs from his bedroom and then into the kitchen by bouncing down the steps. As he did that, he was carrying a small black folding jackknife (Swiss army style knife). According to Gus, Sergeant Daigneault, who was fixated on the knife, told Geoffrey to drop the "fucking" knife, which made Geoffrey angrier. Gus continued to tell Geoffrey to calm down, but Geoffrey did not calm down.

Sergeant Daigneault followed Geoffrey into Gus' office. Gus heard Sergeant Daigneault tell Geoffrey that he did not want to have to shoot or hurt him, but Geoffrey kept telling Sergeant Daigneault that he wanted the Sergeant to shoot him. Geoffrey continued to ignore Sergeant Daigneault's commands, so Sergeant Daigneault fired his Taser at Geoffrey, which failed to immobilize him. Gus heard Geoffrey tell Sergeant Daigneault to put down the Taser because he was not going to hurt him (meaning Geoffrey) with that "fucking" thing.

Geoffrey and Sergeant Daigneault moved back into the kitchen. Gus was approximately eight feet from Geoffrey, but around the corner and out of view of Sergeant Daigneault. Sergeant Daigneault was approximately twelve feet from Geoffrey. Geoffrey asked Sergeant Daigneault what type of firearm he carried. Gus stated that Geoffrey grabbed a piece of split firewood that was too large to fit in the wood stove. According to Gus, Geoffrey held the wood like a stick to poke someone with. Gus saw Geoffrey take a step towards Sergeant Daigneault

¹ It should be noted that Gus Bidwell recently had surgery.

and then Daigneault fired his gun two times. Geoffrey fell to the ground and then Gus ran outside the house.

It was Gus' opinion that it was suicide by cop because Geoffrey wanted to be killed. Gus stated that Geoffrey was "very aggressive" towards the police officer and was "asking for it." Moreover, Gus indicated that anybody could have interpreted that Geoffrey was coming at them with the wood, which was something that could "do damage" because it weighed approximately six or seven pounds.

B. Relevant Dispatch Log Records-Milford Area Communications

- a. 1/06/2013-1613 (4:13 p.m.)-Gus Bidwell reported that his 42-year-old son, Geoffrey, attempted suicide by taking a knife and driving it into his chest. According to Gus, Geoffrey still had the knife. Gus did not know if Geoffrey was successful in driving the knife into his chest. Gus stated that Geoffrey could be violent towards police and was really drunk.
- b. 1/06/2013-1615 (4:15 p.m.)-Sergeant Daigneault was notified and responded.
- c. 1/06/2013-1617 (4:17 p.m.)-Gus indicated that there were firearms at the residence, but they were all locked up. Sergeant Daigneault arrived at the residence.
- d. 1/06/2013-1623-(4:23 p.m.)-Sergeant Daigneault reported that shots were fired.

C. Physical Evidence

The New Hampshire Major Crime Unit conducted a search of the Bidwell residence. Even though the Bidwell's consented to the search, a search warrant was also obtained. During the search, two knives were collected; the pocketknife in the kitchen and the large knife in Geoffrey's bedroom. Two bottles of vodka were also collected from Geoffrey's bedroom. The firewood log Geoffrey had wielded at Sergeant Daigneault was collected from the kitchen. Sergeant Daigneault's Taser and Taser cartridge were recovered from the office. A discharged .40 caliber cartridge casing was collected from the floor in the formal dining room and a discharged .40 caliber cartridge casing was collected from the rug in the living room. One of the bullets was recovered from a laundry basket in the laundry room. Finally, the second bullet was surgically removed from Geoffrey's body.

D. Sergeant Daigneault's Relevant Training

Sergeant Daigneault was certified as a full time police officer on November 19, 2004. Since his certification, he has worked full time for the Mont Vernon Police Department. Sergeant Daigneault has completed and passed all required training, including Oleoresin

Capsicum (pepper spray) Training and instruction, Taser certification and recertification, and firearm training.

III. LEGAL 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. Under RSA 627:9, II, "deadly force" means any assault which the actor commits with the purpose of causing or which he knows to create a substantial risk of causing death or serious bodily injury. Purposely firing a firearm capable of causing serious bodily injury or death in the direction of another person constitutes 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).

When analyzing the reasonableness of an actor's use of deadly force, the State must consider that it would bear the burden at trial to disprove a claim of self-defense or defense of another beyond a reasonable doubt. See State v. McMinn, 141 N.H. 636, 645 (1997). The person who uses deadly force has no obligation to show that his conduct was reasonable or met the requirements of the law, the burden to disprove remains with the State.

IV. ANALYSIS & CONCLUSIONS

The evidence demonstrates that throughout his interaction with Sergeant Daigneault, Geoffrey Bidwell created a dangerous situation, which escalated when Bidwell threatened Sergeant Daigneault with deadly force. First, it was reported that Geoffrey was drunk, suicidal, potentially violent, and had a large knife. After Sergeant Daigneault arrived and called out to Geoffrey, Bidwell came down the stairs from his bedroom. When Sergeant Daigneault asked Geoffrey if he had a knife, Geoffrey pulled a folding knife out of his pants and opened it. Sergeant Daigneault told Geoffrey to drop the knife, and after hesitating, Geoffrey complied and put the knife down. However, when Sergeant Daigneault told Geoffrey to put his hands on his head, Geoffrey told Sergeant Daigneault was not going to tell him what to do, and did not comply. At this time, as he was throughout the entire interaction, Geoffrey appeared very upset, agitated, and angry. Instead of complying with Sergeant Daigneault's requests, Geoffrey continued to advance toward Sergeant Daigneault.

As the incident continued, Geoffrey requested that Sergeant Daigneault shoot him, and said something to the effect of, "Shoot me, what are going to do, shoot me?" Sergeant Daigneault backpedaled from the kitchen into the office. As Geoffrey continued to advance toward Sergeant Daigneault, Sergeant Daigneault removed his Taser. Geoffrey responded that he did not care about being Tasered and after Sergeant Daigneault fired his Taser, it did not connect and have any effect on Geoffrey. After that, Geoffrey screamed, "I want you to kill me," at Sergeant Daigneault. Finally, Geoffrey hunched over and picked up a large block of cut firewood and advanced towards Sergeant Daigneault. At that point, based on all of his interactions with Geoffrey and his observations of his behavior, Sergeant Daigneault concluded that Geoffrey was going to use the piece of wood as a weapon and assault him. It was only after that action by Geoffrey Bidwell, that Sergeant Daigneault used deadly force and fired his gun at Bidwell.

Based on all the facts and circumstances known to Sergeant Daigneault at the time he fired his weapon, and examining the situation from the standpoint of an objective police officer in his position, it was reasonable for Sergeant Daigneault to conclude that Geoffrey Bidwell was about to use deadly force against him. Therefore, Sergeant Daigneault was legally justified in using deadly force against Geoffrey Bidwell to defend himself from what he reasonably believed was the imminent use of deadly force by Geoffrey Bidwell.