

**ATTORNEY GENERAL'S REPORT REGARDING THE MARCH 10, 2014  
OFFICER INVOLVED SHOOTING IN ROCHESTER, NH**

**July 23, 2014**

The purpose of this report is to summarize the Attorney General's findings and conclusions in regard to the officer involved shooting of Benjamin Shannon in Rochester, New Hampshire on March 10, 2014. The findings and conclusions contained in this report are based on information gathered during the investigation including the shooting scene investigation, medical observations of Benjamin Shannon's injuries, autopsy findings, and eye-witness interviews. Based on that information, and for the reasons detailed below, New Hampshire Attorney General Joseph A. Foster has determined that the shooting of Benjamin Shannon was a legally justified use of deadly force by the law enforcement officer who fired at and killed Benjamin Shannon.

**FACTUAL BACKGROUND**

New Hampshire Department of Corrections Probation/Parole Officers (PPO) Ian Stringer, Jason Wirth, and Benjamin Densmore along with Strafford County Sheriff Deputy Brian Hester conducted a home visit at 28 Periwinkle Drive in Rochester, New Hampshire at approximately 2:55 p.m. on March 10, 2014. They went to this residence to check on a parolee, Wayne Shannon, Jr. Wayne was Benjamin Shannon's brother. Supervising PPO Ian Stringer received two voicemail messages from Wayne during the weekend before the visit in which Wayne stated that he was off his medication and residing at a rehabilitation program. Wayne claimed that he was in Vermont at Brattleboro Retreat, a mental health and addiction treatment center. PPO Stringer suspected that he may be lying about his whereabouts since the last time Wayne was treated at that particular facility he was terminated from the program. PPO Stringer decided to perform a home visit on Wayne's last known address – 28 Periwinkle Drive.

PPO Stringer thought he had heard that a TASER or other similar electroshock device had been used on Wayne recently when he became assaultive and Wayne was not dissuaded or stopped despite being shocked. As a result, PPO Stringer believed additional personnel

should accompany him on the home visit. The Department of Corrections Field Services' Office in Dover and the Strafford County Sheriff's Department frequently work together on such home visits weekly. PPOs Stringer, Wirth, Densmore and Deputy Hester coordinated their efforts to conduct a home visit at Wayne's address. Pursuant to Wayne's parole conditions, there was a no contact order between Wayne and his brother Benjamin Shannon. PPO Wirth assisted PPO Stringer because he was familiar with the Shannon family having previously supervised Wayne and Benjamin's father, Wayne Shannon, Sr. Deputy Hester holds a cross-designation as a Special Deputy U.S. Marshall with the US Marshall's Fugitive Task Force, and was familiar with Wayne Shannon, Sr., from having searched for him as a fugitive from justice approximately a year-and a half ago. PPO Densmore had been on the job for approximately five to six months and assisted with the home visit to gain additional training and experience.

Although the primary purpose of the home visit was to locate Wayne, the officers were also aware that there was an active warrant for Benjamin Shannon's arrest. Shannon had been arrested for armed robbery in connection with a February 2014 robbery of a neighborhood convenience store in Rochester. Part of Shannon's bail conditions required him to participate in the Strafford County Community Corrections program (SCCC). In turn, the SCCC required him to refrain from consuming any alcohol and to report regularly to the SCCC while awaiting trial. On March 1<sup>st</sup> and March 2<sup>nd</sup>, Benjamin tested positive for the consumption of alcohol on multiple occasions with blood alcohol concentrations, some of which exceeded the legal limit to operate a motor vehicle. After he tested positive for intoxication, he failed to report to SCCC when asked. Based upon this behavior, on March 5, 2014, the Strafford County Attorney's Office asked for Benjamin's bail to be revoked and for a *capias* to be issued for his arrest. That request was granted the morning of March 10, 2014, and an arrest warrant for Benjamin was issued by the Court and sent to the Strafford County Sheriff's Office.

Wayne Shannon's reported home was 28 Periwinkle Drive in Rochester. The building is a single-story two bedroom trailer. The home has two entrances on opposite sides of the trailer staggered at approximately the mid-front and mid-back sections of the building. The trailer is located in an area called Saks Trailer Homes, a thickly settled neighborhood of

approximately 85 trailers that backs up against a sharp drop-off down to the Salmon Falls River. At the time of this incident, residents of the home included Wayne, Benjamin's mother Beverly Shannon, and a family friend, Michelle Lamantia.

Before proceeding to the home, PPOs Stringer, Wirth, Densmore, and Deputy Hester met down the road from the neighborhood. They entered the trailer park neighborhood in Deputy Hester's department issued black Chevy Tahoe equipped with emergency lights and PPO Stringer's department issued silver Chevrolet Impala. Each of the officers wore at least one indicia that he was a law enforcement officer: Deputy Hester wore a black sheriff jacket with his badge showing, PPO Wirth wore cargo pants and fleece jacket with his badge displayed on a chain around his neck, PPO Stringer wore a blue collared t-shirt and a bullet proof vest with his badge openly exposed next to his firearm on the front portion of his belt, and PPO Densmore wore a dress shirt and tie and a bullet proof vest with his badge displayed in front.

As they arrived at 28 Periwinkle Drive, they noticed a minivan parked in front of the trailer. PPOs Stringer, Densmore, and Deputy Hester approached the front door to the trailer, while PPO Wirth stayed outside on the opposite side of the trailer to watch and cover the back entrance. As the officers approached the front door, all three reported hearing loud, fast, and scuffled footsteps from inside the trailer as if someone was running from the front of the trailer (near the front entrance where the three officers were) toward the back. PPO Densmore asked the others if they also heard the running, and Deputy Hester confirmed that he had heard it too. PPO Stringer knocked on the front door, and Beverly Shannon answered. PPO Stringer identified himself as Wayne's parole officer and asked if they could come in. Beverly told the officers that Wayne was not there, but gave them permission to enter the trailer. The front door opened into the living room with a kitchen area to the right and a hallway to the left leading to the back. Each of the officers had been inside similar trailers within the park before, and generally knew the layout they expected to find: a single hallway would lead to a side bedroom, a bathroom, and a main bedroom would be at the back of the trailer.

Besides Beverly, officers met family friend, Michelle Lamantia. Lamantia was Benjamin Shannon's former girlfriend, and had become Beverly's roommate. Lamantia was

asleep in a chair in the living room when the officers arrived. Beverly told the officers that Wayne was not there but was in a drug treatment program in Brattleboro, Vermont. However, concerned about the running footsteps and knowing Wayne's history, the officers asked whether there was anyone in the trailer besides Beverly and Lamantia. At first, Beverly responded no, but the officers' observations and Beverly's body language led them to believe she was not being truthful. Deputy Hester stepped forward to speak with Beverly in the kitchen. Deputy Hester later explained to investigators that in his experience, parents often do not want their children to know they told the police whether they were there or how the parents are in fear of their children. Based on this experience, Deputy Hester whispered to Beverly that they had a warrant for Benjamin Shannon's arrest. Based upon his observations, he then told her that he knew Benjamin was hiding in the trailer. Beverly did not respond verbally, but nodded her head "yes." Deputy Hester then asked her what room Benjamin was hiding in. Beverly did not respond verbally, but gestured by nodding her head and upper shoulders in what he interpreted as an "I don't know" motion. Deputy Hester then asked her for permission to search the trailer. Again, Beverly did not respond verbally, but nodded her head "yes."

The three officers proceeded down the hallway and searched the home. Upon reaching the back door, PPO Wirth was called inside the home to assist them. What follows is the description each officer and person in the trailer gave as to the events that day:

Deputy Brian Hester – Strafford County Sheriff's Office

Deputy Hester was interviewed on March 11, 2014, by investigators of the New Hampshire State Police. Deputy Hester had been with the Strafford County Sheriff's Department since 2005. He worked as an officer at the Nashua Police Department in 1976 for three years, and was then hired by the New Hampshire State Police in 1979. During his time with the State Police, Deputy Hester worked in patrol, the Narcotic Investigation Unit, and the Special Investigation Unit. He became a Deputy with the Strafford County Sheriff's Office in 2005. He has investigated numerous crimes, conducted internal investigations, and assisted in multiple fugitive apprehensions. Deputy Hester first began conducting home visits as part of the Sheriff's Department involvement in the SCCC program when defendants are sentenced to administrative home confinement. He was cross-designated as a

Special Deputy with the U.S. Marshall's Fugitive Task Force in 2007, and remained so-designated on March 10, 2014.

After Beverly gave permission to search the home, Deputy Hester, PPO Densmore, and PPO Stringer proceeded through the living room to the hallway. Deputy Hester was armed with a TASER electroshock device, as well as a semiautomatic handgun. As he proceeded down the hallway, Deputy Hester took his TASER out of his hip holster and held it pointed to the ground in a low-ready position. The three officers first cleared a washer/dryer closet and a side bedroom off the left side of the hallway. Deputy Hester yelled repeatedly, "Police! If you're here you need to come out!" He received no reply. They then proceeded toward the back bedroom. The bedroom door was closed. The rear entrance to the trailer was down the hallway on the right. Deputy Hester opened the rear entrance to the trailer, and called out to PPO Wirth with words to the effect of, "He's in here, come cover me." Deputy Hester saw PPO Wirth pulled out his Glock .40 caliber semiautomatic handgun, and together Deputy Hester and PPO Wirth proceeded down the hall to the back with PPO Densmore and Stringer behind them. After announcing their presence aloud yet again, Deputy Hester and PPO Wirth cleared the bathroom, which was toward the left side of the hallway just before the back bedroom. Upon clearing it, they discovered that in this trailer, there was a second entrance to the back bedroom directly from the bathroom. With PPOs Stringer and Densmore covering the bedroom door from the hallway, PPO Wirth and Deputy Hester prepared to open the second bedroom door from the bathroom. Lighting conditions were dark. PPO Wirth held a flashlight in one hand and his firearm in the other, and Deputy Hester activated the light on the front of his TASER device.

Deputy Hester was behind PPO Wirth's right shoulder when they tried to open the second door into the back bedroom. The door only opened a small amount; not enough for a person to pass through. Deputy Hester described the bedroom as pitch black with heavy window shades drawn. The only illumination came from the light on his TASER and the flashlight held by PPO Wirth. Aiming his light down and standing on his tiptoes behind PPO Wirth's shoulder, Deputy Hester saw a pile of objects on the floor blocking the door from opening anymore. Deputy Hester then heard PPO Wirth yell, "Police! Show me your hands, show me your hands!" He also heard PPO Wirth say to everyone words to the effect

of, "He's on the other side of the door (bedroom door from the hallway) - open the door, open the door!" Unable to do anything behind PPO Wirth at the blocked door, Deputy Hester turned back toward the bedroom door in the hallway to assist PPO's Stringer and Densmore in making entry from that door.

As he proceeded, Deputy Hester heard a person, later identified as Benjamin Shannon, yell words to the effect of, "I've got a gun! You're gonna have to kill me, or I'm gonna kill you!" Upon hearing Shannon yell, Deputy Hester transitioned from his TASER to his semiautomatic handgun. He then went to assist PPOs Stringer and Densmore, and intended to keep the bedroom door shut rather than open it. He again heard Shannon yell, "I got a gun! You're gonna have to shoot me, I'm gonna shoot you!" As he helped PPO Stringer, who was pulling the bedroom door to the hallway shut, Deputy Hester began to say, "Let's back out of here," when he heard gunshots ring out before he could finish the sentence. Believing that the gunshots were coming from the bedroom into the hallway where he was standing and knowing that the walls of the trailer were thin, Deputy Hester ducked down and began to "duck-run" up the hallway toward the front of the trailer. Seeing Beverly at the end of the hallway, and believing that shots were being fired from behind him toward Beverly's direction, he grabbed her and pushed her aside.

After hearing what he believed were a total of four shots, Deputy Hester low-crawled back down the hallway and approached the back bedroom. Not seeing PPOs Stringer or Densmore, Deputy Hester found PPO Wirth in the bathroom still at the second bathroom door. PPO Wirth said, "I shot him. He's down," or words to that effect. Deputy Hester advised that they should back out because the door was still blocked. On his way out, Deputy Hester saw a bullet hole in the back bedroom hallway door that led him to continue to believe that Shannon had shot out from the bedroom. Deputy Hester saw a pool of blood on the floor by that door. The blood appeared to be coming from the bedroom where PPO Wirth said he initially saw Shannon standing.

After the officers escorted Beverly and Lamantia out of the house, Rochester Police Officers Randy Smith and Jamey Balint arrived on scene. Together, Officers Smith, Balint and Deputy Hester entered the trailer and were able to force open the door from the bathroom to the back bedroom. In the process, furniture and other items that were blocking the

doorway were cast aside. The officers saw Shannon lying against the back bedroom door to the hallway, and ordered Shannon to show his hands. Shannon refused to show his hands and kept his hands tucked underneath him. The officers approached and rolled Shannon over, managing to handcuff one of his hands. Shannon still refused to show his other hand, which was still tucked underneath him. As a result, Deputy Hester had to force Shannon's hand forward to place it in the other handcuff. Based on the limited space in the bedroom, the officers needed to move Shannon into the living room for treatment. As they went to move him to the living room, Deputy Hester saw a black flip-style cell phone open underneath the side of Shannon's leg right.

Deputy Hester saw officers assess Shannon's condition in the living room, and noted that he appeared to have wounds on his left side and back. Deputy Hester went outside while officers tended to Shannon's wounds. Medical personnel arrived just a few minutes later. A subsequent search of Deputy Hester's weapons and ammunition showed that his firearm had not been fired during the event, none of his ammunition was used, and his TASER was never discharged.

Probation Parole Officer Ian Stringer – New Hampshire Department of Corrections

PPO Stringer was interviewed on March 17, 2014. PPO Ian Stringer had been a probation parole officer with the Department of Corrections since 2009. He was trained at the New Hampshire Police Standards and Training Full-Time Police Academy in 2008. PPO Stringer stated in his interview that on March 10, 2014, he, PPO Densmore and Deputy Hester, approached the front door to 28 Periwinkle Drive in Rochester, while PPO Wirth covered the back entrance. PPO Stringer confirmed that while approaching the front entrance, he heard footsteps "scuffling or shuffling" down the length of the trailer. PPO Stringer believed that someone was inside the trailer given the footsteps he had heard.

PPO Stringer told investigators that as the three officers proceeded down the hallway of the trailer, he announced in a loud voice, "Parole, come out!" At that point, PPO Stringer unholstered his .40 caliber Glock semiautomatic handgun. He helped clear the first bedroom off the left side of the hallway and a closet. PPO Stringer saw Deputy Hester open the back entrance and called out to PPO Wirth to assist inside. PPOs Wirth, Densmore and Deputy Hester then headed toward the bathroom while PPO Stringer went back to check the

bedroom closet again. After checking the closet, PPO Stringer moved back into the hallway and proceeded toward the back bedroom door. PPO Stringer heard PPO Wirth yell, "Police, come on out!" from a bathroom on his left. PPO Stringer started to push open the bedroom door from the hallway when he heard someone yell, "Close the door! He's behind the door!" PPO Stringer closed the door and heard a man right behind the door, later identified as Benjamin Shannon, say, "Please shoot me," and "I have a gun." Standing in front of the closed bedroom door, PPO Stringer heard another exchange of words between Shannon and the officers by the bathroom door to the bedroom, and then gunshots rang out. Believing the shots were coming from behind the door toward him, and hearing one of the other officers yell, "Get Out!", PPO Stringer ducked to his right and stepped out the back door onto the porch. He jumped over the porch railing into the snow and headed toward the front of the trailer. He re-entered the trailer from the front entrance, and helped get Beverly and Lamantia out of the trailer. PPO Stringer heard Deputy Hester yell for an ambulance, so PPO Stringer contacted the Rochester Police Department dispatch for immediate assistance.

PPO Stringer re-entered the trailer and was covering the hallway from the living room when he saw two Rochester officers arrive on scene, one of which had a long-gun. The Rochester officers proceeded to the back bedroom with Deputy Hester. PPO Stringer followed the Rochester officers down the hall and observed blood coming out from under the back bedroom hallway door. Once in the back bedroom, PPO Stringer noted that Shannon was crouched down, hand cuffed and in pain. He observed what appeared to be wounds to Shannon's abdomen and back. There was a flip-style cell phone next to the back bedroom hallway door, along with what he described to be a grabber or "trash picker tool." PPO Stringer observed a bullet hole in the back bedroom door leading into the hallway about midway up the door, and assumed that Shannon must have shot out toward him when the shooting began. Shannon was carried into the living room to allow emergency medical technicians to provide treatment.

A subsequent search of PPO Stringer's weapon and ammunition showed that his sidearm had not been fired, and no ammunition was used. PPO Stringer was not carrying any other firearm or a TASER device.

Probation Parole Officer Jason Wirth – New Hampshire Department of Corrections

PPO Wirth was interviewed on March 17, 2014. PPO Wirth had been with New Hampshire Department of Correction's Field Services Division in Dover since 2008. Prior that, he worked as a probation officer in Massachusetts for eight years in the Dorchester and Mattapan area. In 1990, PPO Wirth spent three years as a Corrections Officer with the Massachusetts Department of Corrections. He later took New Hampshire specific training at the New Hampshire Police Standards and Training Police Academy, and tested to become a certified full-time law enforcement officer. PPO Wirth also teaches Use of Force classes for the Department of Corrections, and is certified as a firearms instructor.

PPO Wirth stated that he initially teamed up with Deputy Hester earlier in the day to check on multiple probationers/parolees whom they both supervised. During the morning, they heard from at least one supervised person that Benjamin Shannon may be hiding somewhere in Saks Trailer Homes. They called and spoke with PPOs Stringer and Densmore, knowing that PPO Stringer was supervising Wayne Shannon. The purpose in calling was twofold: (1) finding Wayne and ensuring whether he was in compliance with his supervision, and (2) while at the trailer, inquiring about Benjamin Shannon's whereabouts. PPO Wirth was also aware of Wayne's probation condition prohibiting him from having any contact with Benjamin Shannon. PPO Wirth explained that it was common to conduct home visits with two or more officers to ensure officer safety, and that his office had a good working relationship with the Strafford County Sheriff's Department. PPO Wirth also explained that he was familiar with Wayne's past arrests for resisting arrest and felony-level assault.

When the officers arrived at the home, PPO Wirth noticed the back entrance to the trailer. He took a cover position outside behind a neighboring shed to keep an eye on the back door should Wayne attempt to flee when the other three officers proceeded inside. After a few minutes, Deputy Hester opened the back entrance and waived PPO Wirth over. He told PPO Wirth that he and the officers had heard footsteps running to the back of the trailer and that "the mother" (Beverly Shannon) had indicated that Benjamin Shannon was in the back of the trailer somewhere. Upon stepping onto the porch, PPO Wirth drew his .40 caliber Glock semiautomatic handgun. He assisted Deputy Hester, PPO Stringer, and PPO

Densmore in clearing a closet, and then proceeded to the bathroom on the left side of the hallway. The bathroom door was open. Even though PPO Wirth had been to this particular trailer a few years before, he did not remember the interior layout of the trailer.

PPO Wirth yelled “Police, come on out!” and then searched the bathroom with Deputy Hester. Deputy Hester pulled the shower curtain open to be sure no one was hiding in the bath tub. PPO Wirth noted that there was a small door from the bathroom connected directly to the back bedroom. At that time, PPOs Stringer and Densmore were located in the hallway approximately six to seven feet from the main back bedroom door. PPO Wirth pushed open the small door from the bathroom into the back bedroom to check behind the main door before PPO’s Stringer and Densmore entered. When he pushed, he found he could only open the door one third of the way as there was debris behind the door that prevented it from opening any further.

The back bedroom was extremely dark. PPO Wirth held his handgun in his right hand and a flash light in his left hand. He first saw a bed and assumed a person was hiding under or behind the bed. As he brought the beam of his flashlight back toward the main bedroom door, he saw a man (later identified as Benjamin Shannon) standing with his hands at his sides against the wall immediately behind the main door from the bedroom to the hallway. PPO Wirth said, “Police, don’t move!” He kept the light shined in Shannon’s face and yelled to the other officers, “He’s against the wall behind the door!” PPO Wirth was aware that PPO Stringer was at the hallway bedroom door and believed PPO Densmore was a bit further back. PPO Wirth was unclear which officer began to open the main bedroom door, but believed it was likely PPO Stringer. When PPO Stringer opened the door, the door began to block PPO Wirth’s view of Shannon until he could no longer see Shannon. PPO Wirth was familiar with Shannon’s history of fighting, and having then lost sight of him, PPO Wirth yelled twice, “Shut the door! Get out!”

Once the door was closed, PPO Wirth could see Shannon again. Shannon said, “I have a gun,” and began reaching into his pocket. Shannon then said, “Shoot me, I’m going to kill you,” as his hands started coming up. PPO Wirth could see Shannon was holding something in one of his hands as they came up toward PPO Wirth. PPO Wirth could not tell if the object in Shannon’s hand was pointed outwards or inwards. PPO Wirth began yelling

commands to Shannon. Shannon continued to raise his hands toward PPO Wirth. PPO Wirth saw Shannon holding what appeared to be a black object. Upon seeing Shannon point this black object directly at him, PPO Wirth fired his handgun. PPO Wirth was initially uncertain how many times he fired, until he later checked his magazine. After he fired, Shannon initially twisted away from him toward the corner of the room, and then turned again to slump down with his back to the exterior wall or the bedroom door. At this point, PPO Wirth could only see Shannon's head as his body was blocked by furniture. PPO Wirth also observed another flash somewhere toward his right and heard someone yell, "Get out, get back!" PPO Wirth yelled that he had Shannon covered, but there was no reply. He remembered saying something to Shannon, but was not sure of what he said. Shannon replied with words to the effect of, "cell" or "cell phone." From where he stood, PPO Wirth could not see what Shannon was holding; whether it was a gun or a cell phone. Regardless, PPO Wirth still believed that in all likelihood, Shannon had a gun. A few minutes later, PPO Wirth retreated from his position with Deputy Hester back to the living room. Upon exiting the bathroom past the main bedroom door, he saw a bullet hole in the door and concluded that Shannon did have a weapon as he must have made the hole by shooting out the door toward one of the other officers. Unsure how many times he fired, PPO Wirth checked his gun's magazine and discovered that he had fired four times. He waited there until Rochester Police Officers arrived. He told them that he had shot Shannon, and told them where he had last seen Shannon in the back bedroom.

PPO Wirth estimated that the entire encounter inside the home lasted about two to three minutes. He also estimated that the time period between when he first saw Shannon to when he fired his weapon was very fast; a matter of a few seconds. PPO Wirth stated that he was in fear of his life and those of the other people in the home at the time he fired his weapon.

A subsequent search of PPO Wirth's weapon and ammunition showed that his firearm had been fired four times. PPO Wirth was not carrying any other firearm or other non-lethal weapon such as pepper spray or a TASER device.

Probation Parole Officer Benjamin Densmore – New Hampshire Department of Corrections

PPO Densmore was interviewed on March 24, 2014. PPO Benjamin Densmore had been with New Hampshire Department of Correction Field Services Division for approximately six months. He successfully completed the Department of Corrections Academy in 2006. He was in the process of completing his last portion of testing at the time of the incident to become a full-time officer and graduate from the full-time Police Academy.

PPO Densmore confirmed that Deputy Hester, PPO Stringer and he heard running inside the trailer while they were approaching the front entrance of the trailer upon their arrival. PPO Densmore told investigators that as they initially proceeded down the hallway, Deputy Hester was in the lead, followed by him with PPO Stringer in the rear. PPO Densmore unholstered his .40 caliber Glock semiautomatic handgun. The officers cleared a closet off the hallway, and then proceeded toward the bathroom. PPO Densmore stated that Deputy Hester waived in PPO Wirth from the back entrance for assistance and that they then proceeded to clear the bathroom, checking behind a yellow shower curtain. PPO Densmore could not recall whether it was PPO Wirth or PPO Stringer, but clearly recalled one of them yelling, "Police, come out!" with no response. PPO Densmore backed out of the bathroom and faced the back bedroom door to the hallway with PPO Stringer. PPO Wirth was to PPO Densmore's left at the back bedroom door in the bathroom with Deputy Hester. PPO Densmore recalled PPO Wirth pushing open the bedroom door with his firearm at a low ready position. He also recalled that PPO Wirth was not able to open the door all the way. He saw PPO Wirth's attention was focused on a position behind the main bedroom door to the hallway, so that his line of sight ran parallel to the shared wall between the bathroom and the back bedroom. PPO Stringer then started to open the main door between the back bedroom and the hallway.

PPO Densmore described how the yelling started as soon as PPO Stringer began to open the door from the hallway to the back bedroom. PPO Densmore heard PPO Wirth start shouting and PPO Stringer slammed the door shut. PPO Densmore did not see the man, later identified as Benjamin Shannon, in the back bedroom. However, PPO Densmore did hear Shannon say, "I have a gun! I'm going to kill you!" or words to that effect. PPO Wirth responded by yelling either, "Drop it!" or "Don't do it!" Seconds later, PPO Densmore

heard multiple shots and believed that Shannon was firing a gun at PPO Wirth. Turning to his left, PPO Densmore saw fire coming from the ejection port of PPO Wirth's sidearm, indicating that PPO Wirth was returning fire at someone behind the main bedroom door to the hallway. PPO Densmore believed that the person behind the door who was shooting at PPO Wirth would likely kill him, and then come out of the bedroom to shoot PPO Densmore and the other officers. Believing that Shannon was shooting at PPO Wirth, and fearing for both PPO Wirth's life and his own, PPO Densmore fired one shot through the main bedroom door to the hallway.

After the shots were fired, PPO Densmore saw PPO Wirth remain in the bathroom at the back bedroom door. PPO Densmore heard Deputy Hester telling them to get back. PPO Densmore then went out the back entrance of the trailer and around to the front entrance. He stayed outside as Deputy Hester escorted Beverly and Lamantia out through the front door. PPO Densmore remained with the two women and did not re-enter the trailer. He saw Rochester Police Officer Randy Smith arrive shortly thereafter with a long gun and enter the home. PPO Densmore described both Beverly and Lamantia as hysterical and asking if Shannon was alright or if he was dead. PPO Densmore tried to help calm them down and stayed with them. He heard PPO Stringer radio to Rochester Police dispatch that shots had been fired.

PPO Densmore estimated that the entire encounter occurred inside the home within a matter of minutes. PPO Densmore stated that he was in fear of PPO Wirth's life at the time he fired his weapon because he believed PPO Wirth was being shot at by the person on the other side of the door. A subsequent search of PPO Densmore's weapon and ammunition showed that his firearm had been discharged one time. PPO Densmore was not carrying any other firearm or other non-lethal weapon such as pepper spray or a TASER device

#### Beverly Shannon

In addition to the four officers, both Beverly Shannon and Michelle Lamantia were in the living room at the time the officers entered the trailer, and remained there after the shooting concluded.

Beverly Shannon was interviewed on March 10, 2014. Beverly confirmed that three officers came and knocked on her front door earlier that day. At the time, her roommate

Michelle Lamantia was asleep in a chair in the living room and she believed her son Benjamin Shannon had gone to the bathroom. PPO Stringer identified himself as Wayne's parole officer and asked for permission to come inside. Beverly told PPO Stringer that Wayne was not there, but gave the officers permission to step inside the trailer. Beverly told the officers that Wayne was in drug treatment at the Brattleboro Retreat in Vermont. Deputy Hester asked Beverly to step into the kitchen to speak about her son Benjamin Shannon. Beverly stated Deputy Hester told her that they had a warrant for Benjamin's arrest, but she did not see the warrant. She told investigators that she gave the officers permission to search the trailer. She saw the officers proceeded down the hallway toward the bathroom drawing their weapons. Beverly initially told investigators that she knew Benjamin had gone down to the bathroom just before the officers knocked on the door. She later said she knew he had gone to that side of the trailer, but was ultimately unsure where he was. She remembered hearing one of the officers say, "Drop the gun!" or words to that effect, and then hearing what she believed to be three shots fired. Immediately afterwards, Beverly and her roommate were rushed out of the trailer and made to wait in their van parked in the driveway. She saw Benjamin carried out by stretcher to an ambulance a few minutes later.

Beverly told investigators that Benjamin was living by himself at an apartment at 2 Jackson Street in Rochester, and that he had showed up unannounced for a visit to her that day. She believed that he was on an ankle monitoring bracelet ordered by the court that permitted him to leave his home during the day. Beverly told investigators that her son had brought some beer with him and he had consumed a couple of beers before officers arrived. She had spoken with him about getting into the AdCare detox program in Worcester Massachusetts. Beverly described Benjamin as having had mental issues for a while, and having been to detox programs multiple times. She stated he was prescribed Klonopin and Celexia for depression, and was unsure if his diagnosis was for something similar to bipolar disorder.

#### Michelle Lamantia

Michelle Lamantia, Benjamin Shannon's former girlfriend and Beverly's roommate, was also interviewed on March 10, 2014. Lamantia confirmed that she was sleeping in the living room when either three or four officers knocked at the front door. She believed that

Benjamin Shannon had just stated he was going to the bathroom when the officers knocked. Lamantia said she was unsure whether Shannon would have heard the officers knock on the door before he went down to the bathroom. Lamantia heard PPO Stringer say he was looking for Wayne, and Beverly give the officers permission to come inside and search the trailer. She heard Beverly tell the officers that Wayne was in Vermont at a substance abuse treatment facility. Lamantia was under the impression the officers were still looking for Wayne and did not hear the officers ask about Benjamin. Sometime after the officers proceeded down the hallway toward the bathroom she heard one of the officers yell, “You don’t have to do that!” twice, and then remembered hearing what she believed to be three shots fired. She was rushed out of the house by the officers and into the household van outside. She saw Shannon later on the stretcher coming out. Lamantia then heard Shannon apologizing, saying, “I’m sorry, I’m sorry, I’m sorry” and yelling in pain.<sup>1</sup>

Lamantia told investigators that Benjamin appeared calm that day, but described him as suicidal and stated that he had attempted suicide in the past. She also said that he had cut his arm as a possible suicide attempt. Lamantia recounted one episode from the previous October when he told her he was “going to go out with a bang,” or words to that effect. She also recounted an incident years ago when he told a doctor at Community Action that he was going to kill himself and then pulled out a box cutter. Finally, Lamantia recalled another incident where Benjamin tried to kill himself by taking the drug triazadone. Lamantia told investigators that it was, “almost like [Benjamin] wanted to die,” and that he felt like there was nothing to live for. She stated that he had never been diagnosed with any mental illness but said that he should have been. Lamantia explained to investigators that Benjamin had, “a big heart,” and that she was not sure, “when he lost it.”

#### Events Post-Shooting

At approximately 3:09 p.m., Rochester Police Department dispatch received the report of shots fired at 28 Periwinkle Drive in Rochester. Rochester officers arrived within a few minutes, followed by emergency medical personnel, officers of the Strafford County

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<sup>1</sup> Several other witnesses, including paramedics and Rochester Police officers assigned to guard Benjamin Shannon, reported hearing him apologize multiple times by saying, “I’m sorry, I’m sorry,” during his transport to Frisbee Memorial Hospital, and while he was receiving treatment at the hospital. At no time did he clarify to anyone exactly what behavior he was apologizing for.

Sheriff's Office, and officers of the New Hampshire State Police. In keeping with protocol, the New Hampshire Attorney General's Office and Detectives with the New Hampshire State Police Major Crime Unit investigated the use of deadly force against Benjamin Shannon. Major Crime investigators interviewed the four officers involved in the incident, the officers and medical personnel that responded following the shooting, Beverly Shannon, Michelle Lamantia, Wayne Shannon, Jr., and neighbors in the area. Investigators also immediately secured the officers' weapons for examination and testing.

#### Medical Treatment and Autopsy Results

Benjamin Shannon was taken by ambulance to Frisbee Memorial Hospital. From there, he was immediately transported by helicopter to Maine Medical Center in Portland Maine. Shannon died at Maine Medical Center in Portland Maine late in the evening on March 10, 2014. An autopsy was performed by the Maine Office of the Chief Medical Examiner. During that autopsy, three separate gunshot wounds were located. One bullet entered the mid back area and exited out the right lower flank area. A second bullet entered the upper back and exited out of the upper right arm/shoulder area. The third bullet entered the left upper arm, and traveled from the arm into the chest where it was recovered. Shannon had multiple cuts up and down one arm which appeared to be self-inflicted. Several of those cuts appeared to be deep and recently inflicted. Consistent with these cuts, a single trimmed razor blade was found in Shannon's clothing. It is unclear whether the pattern of cuts indicated multiple incidents of specific suicidal ideation, or non-suicidal self-injury.

The Office of the Chief Medical Examiner of Maine determined that the cause of death was three gunshot wounds to the arms and torso, and the medical manner of death was homicide. A final autopsy report has not yet been issued by that office, however, they have released a toxicology report which shows that Shannon's blood alcohol concentration upon his admission to Maine Medical Center was 0.173 at the time of his admission, well over the legal limit to drive.

None of the officers suffered any physical injuries as a result of the shooting.

#### Wayne Shannon, Jr.

Wayne Shannon, Jr., was interviewed by investigators on March 27, 2014. Wayne told investigators that the last time he saw Benjamin, Benjamin was more anxious. Benjamin

said he knew he was going to be incarcerated again and told Wayne that he was trying to figure out how to detox as best as he could before that happened. Wayne told a supervising probation parole officer that his brother was “out of control” and that he thought this (i.e. the shooting) was what his brother wanted.

### Physical Evidence

Investigators with the New Hampshire State Police Major Crime Unit processed the trailer at 28 Periwinkle Drive for evidence. Inside they found evidence that five gunshots had been fired. Four discharged cartridge casings were recovered from the area where PPO Wirth was reportedly standing during the shooting, and one was recovered from the area where PPO Densmore was reportedly standing. Three of the four bullets (or fragments there from) fired from PPO Wirth’s position were found to have exited through the trailer wall immediately behind the back bedroom door that opened into the hallway. The fourth bullet fired from that position is accounted for in the .40 caliber bullet recovered from inside Benjamin’s chest. The bullet fired from PPO Densmore’s position was found lodged in this same wall having passed from the bathroom/hallway area outside the back bedroom door, through the bedroom door itself, and then into the wall without any deviation. Based on the trajectory of the bullet and lack of deviation, the bullet fired from PPO Densmore’s position did not strike Shannon before it came to rest in the wall.

No firearms were recovered from inside the back bedroom or anywhere else in the home, and there is no evidence that Benjamin fired at the officers. Investigators located Shannon’s black cell phone next to the main back bedroom door. The phone was flipped open. Investigators also found a gripper tool that was black with a silver pull trigger lying next to the wall at the same location

### **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. Under RSA 627:9, II, “deadly force” is defined as 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). Further, all the circumstances surrounding the incident should be considered in determining whether there was a reasonable belief that deadly force was necessary to defend oneself or another. See id. at 99; Aldrich v. Wright, 53 N.H. 398 (1873). The reasonableness standard also applies in a situation where a police officer or private citizen who uses deadly force is mistaken about the situation or the necessity of using deadly force. Thus, either a private citizen or police officer 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, they were not, and his belief is objectively reasonable.

Moreover, 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 used deadly force would have no obligation to show that his conduct was reasonable or met the requirements of the law. The burden is on the State to disprove a claim of self-defense beyond a reasonable doubt. Applying the self-defense law and the applicable legal standards to all of the circumstances surrounding this incident, the Attorney General concludes that PPO Jason Wirth was justified in using deadly force against Benjamin Shannon when he shot and killed Shannon on March 10, 2014.

### **ANALYSIS AND CONCLUSION**

PPOs Wirth, Stringer, Densmore, Deputy Hester, Beverly Shannon, and Michelle Lamantia’s accounts of what happened during the incident are all largely consistent.

During the incident, Benjamin Shannon refused to respond to multiple orders to come out from where he was hiding as the officers proceeded from the front to the back of the trailer. In addition, multiple officers described hearing what sounded to them like “running”

toward the back of the trailer when they first walked up to the trailer. This indicated to the officers that Shannon had no intention of making his presence known or surrendering to the officers.

Instead of complying with the officer's orders, Shannon hid in the back bedroom. When he was finally located in the bedroom and confronted by the officers, Shannon was ordered to show his hands and come out. Instead, he told the officers that he had a gun and told PPO Wirth to shoot him. All four officers heard Shannon utter words to the effect of, "Shoot me, I'm going to kill you." Officers indicated they heard PPO Wirth tell Shannon to, "Drop it!" or "Don't do it!" at the same time that PPO Wirth described seeing Shannon reach into his pocket, pull out his hand and point an object at PPO Wirth. When PPO Wirth described Shannon retrieving and holding out a small black object in his hands, due to the darkness of the room, he could not tell what the object was. However, Shannon's raising of the black object and pointing it at PPO Wirth was conduct that was indicative of possession a firearm from PPO Wirth's belief. PPO Wirth thus fired at Shannon four times in rapid succession. Even though it was later revealed that Shannon never fired at the officers and did not have a gun, it was reasonable for PPO Wirth to have concluded that, based on all of the circumstances, Benjamin Shannon presented a danger to himself and each other officer and in fact did have a gun.<sup>2</sup>

From the beginning of this rapidly unfolding incident, Shannon escalated the situation. Instead of surrendering to the officers when they first arrived, Shannon tried to elude the officers by hiding in the darkened back bedroom of the trailer. He ignored the officers' repeated commands to surrender. Instead, he told the officers he had a gun and threatened to kill them. When the officers tried to enter the bedroom, they discovered that the door was blocked. When the officers were able to partially open the blocked door, Shannon did the thing most likely to provoke the officers to fire at him: he reached into his

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<sup>2</sup> PPO Benjamin Densmore heard gunshots and saw fire coming from the ejection port of PPO Wirth's gun. Since this occurred just after he heard Shannon say, "I have a gun. I'm going to kill you," or words to that effect, and since he heard PPO Wirth yell at Shannon to, "Drop it!", PPO Densmore reasonably concluded that Shannon had begun firing a gun at PPO Wirth and PPO Wirth was returning fire in defense. Thus, even though PPO Densmore did not injure Shannon, PPO Densmore's discharge of his firearm was a justified use of force in defense of PPO Wirth as he believed he was shooting at a location where an individual was located who was actively shooting at another, specifically, at PPO Jason Wirth.

pocket to retrieve a dark object, which he raised and pointed at PPO Wirth. He did this as he was stating that he was going to kill the officers. Based on all these circumstances, PPO Wirth's mistaken belief that Shannon was pointing and about to fire a gun was certainly reasonable under the circumstances. Likewise, PPO Densmore's mistaken belief that Shannon was firing a gun was reasonable under the circumstances.

As to why Shannon acted as he did, recent events in his life perhaps shed light on his state of mind. Before the shooting, Shannon had an active warrant out for his arrest. He had been arrested for a February 2014 armed robbery of a local convenience store. Shannon was out on bail and had violated bail condition by repeatedly drinking alcohol, including by drinking and bringing beer to the trailer on the day of the shooting. Finally, Shannon had made suicidal threats in the past including one where he had said he was "going to go out with a bang," or words to that effect. He had several deep and recently self-inflicted cuts on his arm. All of this is evidence leads to the possibility that Shannon wanted to provoke the officers to kill him. Shannon's repeated apologies to others around him as he lay wounded after the shooting bolsters that possibility.

Accordingly, based on all the facts and circumstances known to PPO Jason Wirth 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 him to conclude that Benjamin Shannon was about to use deadly force against him or other officers. Therefore, PPO Wirth was legally justified in using deadly force against Benjamin Shannon.