

**ATTORNEY GENERAL'S REPORT REGARDING THE MAY 4, 2014 HOMICIDE IN  
ROCHESTER, NH**

**July 17, 2014**

**I. INTRODUCTION**

The Office of the Attorney General and the Rochester Police Department have concluded an investigation into a shooting incident that occurred in Rochester, New Hampshire on May 4, 2014. As a result of that investigation, New Hampshire Attorney General Joseph A. Foster has determined that the shooting death of Richard Dumont (age 37 of Rochester), on May 4, 2014, by Robert S. Crichton (age 39 of Rochester), was a justified use of deadly force under the law.

The purpose of this report is to summarize the Attorney General's findings and conclusions with regards to the incident, which resulted in the death of Richard Dumont.

**II. FACTS**

**A. Initial report of the incident.**

The incident was first reported at approximately 10:06 p.m. A caller reported that there was an altercation involving one person who was inside a vehicle and one person who was outside a vehicle. The caller said that there was yelling, something about a phone, and that there was a possible physical confrontation. At one point, he saw the man outside the car lean in, but never saw him make contact with the person inside the car. The caller also reported that he had heard a popping sound that could be a gunshot or fireworks. As that caller was on the phone, a second 911 call came in from Robert Crichton.

Crichton said that a guy had attacked him on Sylvain Street and Washington Street, that he needed an ambulance, and that he had shot the man in the stomach. Crichton confirmed that he knew the man, that he was in the middle of the street, and asked the operator to hurry. In further conversation with the operator, Crichton, who sounded upset, confirmed that he had a gun and that it was on the seat of his car. He told the operator that the man had been kicking his door and punched his windshield, and said, "I tried to make him go away. I tried to do everything." He then sounded more upset and said, "He's taking breaths still. Christ, hurry up and get an ambulance please!" The operator told Crichton to stay away from the gun and the car, and Crichton responded, "I will, but I just don't want him to die." Crichton sounds more upset and says, "Why would he do this?" The operator asks if the other man had a gun or if Crichton is hurt. Crichton says that he has been punched in the ear, head-butted in the face, and then says something unintelligible. He quickly follows that with, "I don't care about me, just save him!" After a few more seconds,

a police officer can be heard arriving and Crichton blurts out that the man attacked him, and starts explaining what happened. The call ends shortly afterwards.

When the police responded to the corner of Washington and Sylvain Street, they located a car, a man in the road later identified as Richard Dumont, and Robert Crichton. Crichton identified himself as the person who had shot Dumont, and said that the gun he had used was in the car.

Emergency medical personnel responded to the scene to assist Richard Dumont. He was taken to a local hospital where he was later pronounced dead.

## **B. Interviews with Robert Crichton.**

The police began their investigation by speaking to Robert Crichton. Mr. Crichton was cooperative with the police after the shooting and in the days that followed, and gave three separate interviews.

### **(1) Interview at the scene after the shooting.**

Almost immediately after the shooting incident, Robert Crichton began spontaneously talking about the shooting incident to arriving police officers. He mentioned that he had sustained a devastating injury to his neck in the past, showed officers the scars from the surgery for that injury, and told them that his doctor had said that damage to his neck/head area could cause him to suffer a devastating injury.<sup>1</sup> Crichton was emotional as he spoke to the officers and said that he hoped a year from now he and Richard would be able to laugh about the situation.

A short time later, one of the responding Rochester officers asked Crichton if he could record their conversation and Crichton agreed. As the officer started recording, Crichton told him that he had been in the basement of his parents' home in Rochester, paused and said, "I can't believe I shot my friend." EMS arrived, placed Dumont on a stretcher, and took him away. Crichton began to cry and said words to the effect that he hoped Dumont was okay. Crichton spoke briefly and then crouched down, put his head in his hands, and started crying. That lasted for a few minutes and then Crichton stood up and regained his composure.

Crichton explained that earlier he had been at his parents' house working on their furnace. At some point, Crichton needed to leave to get a part and as he did, his phone rang. The person calling Crichton was his long-time friend and co-worker, Richard Dumont. Crichton said that Dumont was two different people and was fine when he was not drinking or taking pills.

---

<sup>1</sup> Crichton later told the police that he had broken his neck when he was younger.

Crichton said that Dumont gave him a hard time on the phone about not answering his calls earlier. They apparently spoke briefly and then Crichton hung up and walked outside. When he got outside, he encountered Dumont there at the house. Dumont proceeded to give Crichton a hard time and grabbed him. Crichton said that he and Dumont had never had any issues before.

The two then got into Crichton's car and Crichton asked Dumont where he wanted to go. Dumont responded and said that Crichton was a "shitty friend" because he refused to go out drinking with him that night. Crichton drove away and asked Dumont where he wanted to be dropped off. Dumont said "right here," and Crichton pulled over. Dumont jumped out of the car and kicked and punched the car. He called Crichton a liar for not answering his earlier calls and told Crichton he was crazy if he (Crichton) thought he was getting out of there without "getting the shit kicked out" of him.<sup>2</sup>

Crichton kept a gun in the back of his car, something that he said Dumont knew. Crichton said that Dumont dared him to get his gun and told him that if he did, he was going to lose.

As Dumont stood outside Crichton's car, he grabbed Crichton's collar and hit him in the ear. Crichton was getting choked at that point and pulled out of the car. He said that it was getting harder and harder to breathe.

Crichton reached back for the gun and retrieved it. He said that Dumont saw him reaching for the gun. Crichton fired one shot because he said he wanted Dumont to know how bad it was and that he wasn't "fucking around" and was sick of it. After that, Dumont said, "That's it, you're gonna lose now. Now it's on."

Dumont started pulling hard and it got tough for Crichton to breathe. Crichton aimed his gun at the door and fired it at Dumont's body on the other side. Dumont took a step back and collapsed. Crichton called 911 and left the gun in the car.

At the conclusion of the interview, Crichton, who did not know that Dumont was dead, said, "I just want him to be all right."<sup>3</sup>

(2) **Interview at the police department after the shooting.**

The night of the shooting, Robert Crichton agreed to be interviewed at the Rochester Police Department. An audio and video-recorded interview was conducted.

---

<sup>2</sup> Crichton also mentioned that Dumont had a drink with him, which he spilled all over Crichton. An empty container was found in Crichton's car that smelled of alcohol and Crichton also had a large wet spill mark on the front of his shirt when the police interviewed him that night.

<sup>3</sup> Crichton also allowed the officer to take some pictures of him to document his injuries.

At the start of the interview, Crichton told the police that he did not “have anything to hide,” and that Richard Dumont was one of his “best friends.” Crichton explained that Dumont called him and was upset because he would not go out with him and have drinks. Crichton said that when Dumont called, it was “the Ritchie I don’t know – he’s out of his mind.”

The two got into a scuffle outside Crichton’s parents’ house. Crichton said that Dumont liked to fight. There was some back and forth between the two, with Dumont telling Crichton “we’re not friends.” The two got into Crichton’s car and drove away. Once in the car, Dumont kicked stuff in the car. He eventually got out of the car and punched the windows and kicked the car. Dumont then ran in front of the car as Crichton drove off.

Crichton stopped the car. At some point, Dumont told him that if he goes up against him, he will lose. Dumont then attacked Crichton by going after him through the driver’s side window, hitting Crichton in the ear. Crichton’s arms became pinned and he had a hard time breathing. Crichton managed to reach back where he kept a gun. He said that Dumont knew he kept a gun in the car. Dumont responded by saying, “Oh, you’re gonna grab that? Oh, you think you can grab that and take me? Now you’re gonna lose.” Crichton managed to get his gun and fired one shot, hoping Dumont would back off. Dumont did not back off and Crichton said that things began to get hazy and he did not know if was going to come out of it. He said he pointed his gun low and fired another shot.

After the second shot, Dumont took a couple of steps back and fell. Crichton then called 911.

Crichton told the police during this interview that he could not believe that it had all happened to his friend, that he (Crichton) did it, that there was no way he could have taken Dumont, and that he did not want to hurt Dumont. Crichton also asked the police at one point, “Am I facing a lot of trouble here?”

At this point, Crichton took a break from speaking to the police to talk to his father on the phone, and the following exchange occurred:

**Robert Crichton:** I shot Ritchie.

**Father:** Why?

**Robert Crichton:** Because he was trying to kill me.

Crichton continued to talk to his father and summarized what occurred that night. He said that Dumont was pulling him [out of the car] and as that happened he started to lose consciousness. Crichton got his gun and fired a shot into the floor. Dumont said, “You’re definitely gonna lose.” Crichton fired another shot into the door to try to get Dumont off of him. Crichton told his father that Dumont “was out of his mind.” He also said, “I don’t even know if Ritchie if okay or not. That’s the worse part.” After that, Crichton ended the

conversation with his father and told the detectives he would talk to them in the morning. Regardless, he continued to talk to them about the shooting.

Crichton said he had not had any alcohol that day and had not taken any drugs. He explained that he has known Dumont since Junior High and that Dumont knew that Crichton had broken his neck when he was younger. Dumont also knew that as a result, “a good shot in the head” would dislocate Crichton’s spine.

At that point, the detectives told Crichton that Dumont had passed away. Crichton cried and swore. He made the following comments as well:

Why didn’t I ... oh Jesus. Oh my God.

It will never be the same.

I don’t ever want to shoot a gun again.

Oh . . . fuck me.

I don’t care, it doesn’t matter.

I know I didn’t kill him on purpose. I know I did not try to shoot him except to get him away from me.

I’m responsible for his death. Cause why? He had to show me how tough he was.

Crichton’s interview ended shortly after and he was held so that a search warrant could be executed on him. After that, the police gave Crichton a ride home.<sup>4</sup>

**(3) Interview at the police department on May 8, 2014.**

On May 8, 2014, Robert Crichton agreed to go to the Rochester Police Department for an interview. That interview was audio and video-recorded.

At the May 8 interview, Crichton brought notes with him. Those notes memorialized his recollection of the events on the night of the shooting. In addition, he spoke to the detectives about the shooting and his relationship with Richard Dumont.

Crichton said he missed Dumont and cried at times during the interview. He told the detectives that he wished it had been him instead of Dumont and that it wasn’t Dumont that night.<sup>5</sup> However, Crichton also said that Dumont told him that he would be lucky if he,

---

<sup>4</sup> Crichton needed a ride because his car was still being held at the shooting scene.

<sup>5</sup> By this, Crichton meant that Dumont was acting very different than he normally did.

meaning Dumont, did not kill him. Dumont saw Crichton reaching for his pistol and told Crichton that he would lose and asked him how it would feel to be shot with his own gun.

Crichton described the events that led to the shooting on Sunday. He said that he was at his parents' home and walked out the door and Dumont was there. Dumont got in Crichton's face and even though Crichton wanted to leave, Dumont grabbed him. Crichton described Dumont as a "tough guy," someone he would not be able to overcome. Crichton also said that Dumont knew that due to his neck injury, Crichton could not be hit in the head. Despite that, Dumont head-butted him and hit him in the side of the ear.

Crichton walked away from Dumont and got into his car. Dumont followed, punched the windshield, and got into the car. Crichton asked Dumont where he wanted to go and he said, "Wherever." They drove away and then as the car slowed to make a turn, Dumont jumped out and ran in front of the car. Crichton stopped the car, put it in park, and put down the window. He asked Dumont when the situation would end. Dumont, who was screaming at Crichton, walked around to the driver's side window and started throwing punches at Crichton, but not connecting. Dumont told Crichton to go fuck himself, that he would lose, and that he would be lucky if he (Dumont) did not kill him. At some point Dumont also kicked the car's door. Dumont head-butted Crichton and then reached into the car and tried to pull Crichton out by the throat. Crichton stepped on the gas to try and get away, but the car was in park and did not move.

Crichton remembered that he had his gun in the car, a gun Dumont knew Crichton kept in the car. Crichton grabbed his gun from the map pocket behind the passenger seat and that is when Dumont said words to the effect of, how is it going to feel getting shot with your own gun? He also said, "You pushed me too far this time. This is gonna be it." Crichton said he thought that meant that Dumont was going to shoot him. Crichton tried to fire his gun but nothing happened. He said that he had to use his seat to push against the gun to chamber a round, and then pointed the gun at the door and fired one shot, thinking that would be enough to get Dumont to stop.<sup>6</sup> Instead though, things seemed to get worse. Dumont was not going to stop. Crichton said he started to lose feeling in his limbs and was not sure how long he would stay conscious. Crichton said it was like he was falling asleep and it was getting worse. As he was getting choked, things were getting darker and darker. He tried to get away from Dumont and slide out the passenger side but could not since Dumont had a hold of his sweatshirt and his hand around Crichton's throat. Crichton said he was scared and wanted it to stop.

Crichton decided to fire another shot since the first shot did not work. He said he fired the next shot higher because the first shot did nothing. After the second shot, he got out of the car and called 911. He did not go near Dumont or help him afterwards.

---

<sup>6</sup> A live round was found in Crichton's car, which was consistent with his claim that he tried to fire the gun and it did not go off and he had to chamber another round before it would fire.

Crichton summed up the way Dumont behaved that night by saying, “It was like it wasn’t the same guy I knew.” He described Dumont as a “brawler” who had been in “a million fights.” Crichton said the whole situation was like “chaos” and he was more reacting than thinking.

**(4) Robert Crichton’s notes.**

When Robert Crichton was interviewed on May 8, 2014, he brought with him a notepad containing three pages of handwritten notes. Those notes reflected his thoughts about the shooting, including the fact that he missed Richard Dumont, the details about the shooting, and that what he had done had been in self-defense. The notes were largely consistent with what Crichton had told the police in his prior interviews about the shooting incident.

**C. Information from other witnesses.**

**(1) 911 callers.**

The first caller reported that there was an altercation involving one person who was inside a vehicle and one person who was outside a vehicle. He said that there was yelling, something about a phone, and that there was a possible physical confrontation. At one point, he saw the man outside the car lean-in, but never saw him make contact with the person inside the car. The caller also reported that he had heard a popping sound that could be a gunshot or fireworks. He did not see the actual shooting.

The second 911 caller was Robert Crichton.<sup>7</sup>

A third 911 caller reported that there was “something going on” at the end of her street. She stated that there was someone lying on the ground but was not going over to look. She said that the scene was on Sylvain Street by the intersection with 202/Washington Street. She also reported hearing something that sounded like a gun and said that she was calling from inside her car.

**(2) Residents in the area at the time of the shooting incident.**

The police did a canvas in the area of the shooting looking for potential witnesses.

A female resident on Sylvain Street reported that she was at her home reading a book when she heard yelling outside. The yelling sounded like an argument between two males. The yelling escalated and then she heard two loud noises about 3-5 seconds apart that sounded like gunshots. She looked outside and saw a car with its headlights on facing in her direction. She went downstairs and then saw her neighbors and the police approaching the vehicle.

---

<sup>7</sup> His statement to the 911 operator has already been detailed in this report and will not be repeated.

A female who lived across from the intersection where the shooting occurred reported being awoken by loud voices. She could not make out what was being said, but noted that the voices seemed loud. She then heard a loud bang and then a second bang, which seemed quieter than the first. After that she looked out her window but was not able to see anything.

A young male who lives in the area reported that he was in his room trying to go to sleep when he heard some arguing outside. He got up and looked out the window and saw a man outside of a car and another inside of a car. The man outside the car was “very angry” and upset with the man inside the car, and was yelling, screaming, and swearing at him. The man outside the car could be heard saying, “Why don’t you answer your fucking phone?” The man said that over and over again.

The resident got back into bed and heard two gunshots. He got out of bed and looked out and saw one of the men on the ground and the man who had previously been in the car was outside the car now.

Other neighbors in the area were interviewed. Some reported hearing noises and what sounded like gunshots. None reported seeing the actual incident.

### **(3) Robert Crichton’s family members.**

Robert’s mother was interviewed and confirmed that Robert had been over at her house on Sunday, May 4, 2014. Robert arrived at her home around 5:00 p.m., and then left at around 10:45 p.m. to get a tool.<sup>8</sup> When she did not hear from him, she tried to reach him with no success. She also confirmed that Crichton worked with Richard Dumont and had been over her house before, including earlier in the week. The two seemed to get along. She said that Crichton would try to help Dumont out since Dumont drank too much.

Robert’s father was interviewed and confirmed that his son Robert had been at his parents’ house since around 5:00 p.m., working on the furnace. He had last seen his son Robert at about 9:30 p.m. that night, and then went to bed. Robert’s father said that he knew Richard Dumont and that he did not know of any issues between him and his son. He did say that Crichton had mentioned being at his parents’ home without Dumont that night because he did not want to deal with Dumont being drunk or on drugs, something to that effect. Robert’s father said that in the past, his son had told him about Dumont going “off the deep end” and getting “kind of crazy,” but that those incidents occurred a long time ago.

Robert’s brother Ian was also interviewed. He arrived at his parents’ home at about 10:00 p.m., on May 4, 2014. His mother told him that Robert Crichton had left to go get a tool. When Robert did not return, they tried to find out where he was, with no success.

---

<sup>8</sup> This time estimate is off by about one hour. All the other evidence shows that Robert Crichton actually left his parents’ house at around 9:45 p.m.

Ian said that Robert had introduced him to Richard Dumont years ago and Ian had become friends with Dumont. According to Ian, Richard had “another side,” could get angry very easily, and has “anger issues.” Ian said he had never seen Robert get angry like Richard did.

On the day of the shooting, Richard Dumont called Ian at about 6:10 p.m. Richard was with a friend and was looking for a ride. Richard said that he had been arguing with his girlfriend or not getting along and did not want to go home that night. After that call, Ian left and picked up Richard and his friend and dropped them off near Subway in Rochester. Ian said that Richard seemed normal when he saw him and had an open 12-pack of beer with him.

**(4) Employer.**

Thomas Soley is a plumber who employed both Richard Dumont and Robert Crichton. He told the police that Dumont and Crichton got along fine and hung out after work. He did not know of any arguing between the two and said they only joked around.

**(5) Robert Crichton’s girlfriend.**

Robert’s girlfriend Lindsey was interviewed. She said that as far as she knew, Robert had gone to his parents’ home on May 4, 2014, to work on their boiler. Nothing seemed out of the ordinary that day.

She did confirm that later on after Robert left, Richard Dumont stopped by her home at about 9:30 p.m. Richard asked her where Robert was and she told him that Robert was at his parents’ home working on the boiler. Richard told her that he was supposed to go out with Robert that night and that he had tried to call him but he was not answering his phone.

Lindsey told the police that Richard was “heavily intoxicated” when he stopped by that night and made her feel a little uncomfortable. Richard was only there a short period of time and then left.

**(6) Richard Dumont’s girlfriend (Tarsha) and his friend Corey.**

Richard Dumont’s girlfriend Tarsha was interviewed. She gave the police some background and together with Richard’s friend Corey, gave the police a timeline of Richard’s activities on the day of the shooting incident.

Both Tarsha and Corey told the police that Richard and Robert were friends and co-workers who argued regularly. However, neither Tarsha nor Corey had any indication that this type of thing (the shooting), would happen. Corey did say that Robert was very careless

with firearms. Both Tarsha and Corey also claimed that Richard had obtained Methadone from Robert in the past.<sup>9</sup>

As for Richard's activities on the day of the shooting, Tarsha said she gave Richard and Corey a ride to a friend's house. The two had a 12-pack of beer with them. Corey confirmed that they called Ian Crichton for a ride and that he picked them up and dropped them off on Jackson Street, where they stayed a while and drank more beer. At around 7:45 p.m., Richard and Corey walked to Washington Street to play some pool. They each had another beer there and then left between 9-9:30 p.m. to go to Cumberland Farms to get some food for the next day. As they walked toward Cumberland Farms, Richard announced he was going to walk to Robert Crichton's house and the two went their separate ways.

**(7) People who knew both men.**

The police interviewed people who knew Richard Dumont and Robert Crichton. Crichton was described as "mellow," but also as someone who was careless with guns.

As for Dumont, he was described as a "hothead" and "bipolar."

No one provided any information about animosity between the two men that could account for Dumont's assault on Crichton or Crichton's motive for shooting Dumont, other than in self-defense.

**D. Autopsy results and physical evidence.**

**(1) Autopsy results.**

An autopsy was conducted on Richard Dumont's body on May 6, 2014. The autopsy revealed that Dumont died as a result of a single, close-range gunshot wound to the chest that perforated his heart. The trajectory of the bullet through his body was consistent with the events described at the scene: that he was bent over at the car window when he was shot.

Dumont also had injuries to his right hand, which were consistent with Robert Crichton's claim that Dumont had been punching him and his car before the shooting.

Toxicology testing revealed the presence of alcohol in Richard Dumont's blood at an intoxicating level (blood alcohol concentration of .115), as well as the following other substances in varying amounts: Amphetamine (stimulant); Klonopin (used to treat various seizure disorders); Marijuana (active and inactive components); Methadone (narcotic analgesic depressant); Methamphetamine (stimulant capable of causing hallucinations, aggressive behavior and irrational reactions); Nordiazepam (active component of drugs such

---

<sup>9</sup> Robert Crichton told the police that he has a prescription for Methadone for pain.

as Valium); Wellbutrin (antidepressant); Xanax (used to treat anxiety and other conditions); and Zoloft (used to treat depression and other conditions).<sup>10</sup>

**(2) Physical evidence.**

A single discharged bullet was recovered from Richard Dumont's body at autopsy.

A Walther .380 caliber semi-automatic handgun was recovered in Robert Crichton's car. Crichton had a valid permit to carry that weapon concealed.

Photographs taken on the night of the shooting showed a large red area on the right side of Crichton's neck, which was consistent with his claim that Dumont was choking him before the shooting. Later photos showed bruising on Crichton's neck in that area as well. Photos of Crichton also depicted a large scar down the back of his neck, which was consistent with his claim that he had had major surgery on his spine in the past.

Robert Crichton's car had damage on the driver's side door, including a boot print consistent with Richard Dumont's footwear. That corroborated Crichton's claim that Dumont had been kicking at the side of his car before the shooting incident.

One live bullet was found in the car as well as two discharged cartridge casings. In addition, a bullet hole and bullet were found in the driver's side door. The bullet that entered the inside of the door did not pass all the way through. That evidence is consistent with Crichton's statement to the police that he fired a warning shot into the car door and then fired a second shot that killed Dumont. However, the trajectory of the bullet into the door did not match up with Crichton's claim that he fired the first shot into the floor.<sup>11</sup>

**E. Prior criminal records.**

Robert Crichton said that he had never had any physical altercations with Richard Dumont in the past. However, Crichton did say that when Dumont was impaired, he could be "out of his mind," and liked to fight. Richard Dumont's criminal record provides evidence to support those claims.

Richard Dumont's criminal record consists of numerous arrests and convictions, including seven convictions for simple assault, three convictions for resisting arrest or detention, one conviction for harassment, four convictions for criminal mischief, one conviction for obstructing report of a crime or injury, one conviction for theft, one conviction for habitual offender, one conviction for driving under the influence, and one conviction for driving after revocation.

---

<sup>10</sup> Some of these drug levels were very low and may have had no effect on Dumont's behavior at the time. The investigators were also told that Dumont was prescribed Xanax, Wellbutrin, and Zoloft.

<sup>11</sup> One possible explanation for this discrepancy is that Crichton initially aimed at the floor but his gun was pulled upward as Dumont yanked on his body while choking him.

Robert Crichton had two prior convictions, one for driving after revocation or suspension and one for carrying a weapon without a license. He did not have any prior convictions for violent offenses.

**F. Cell phone records.**

Robert Crichton told the police that when he had been at his mother's home before the shooting incident, he had several missed calls from Richard Dumont. A review of Crichton's cell phone and cell phone records confirmed that he had four calls from Richard Dumont prior to the shooting. The last call from Dumont was at 9:44 p.m. Those records also confirm that the next call Crichton made was to 911 at 10:06 p.m.

**III. THE APPLICABLE LAW AND ANALYSIS**

**A. The applicable law.**

New Hampshire's laws regarding self-defense are contained in RSA Chapter 627. In this case, RSA 627:4, II(a), is the most applicable section and states that:

A person is justified in using deadly force upon another person when he reasonably believes that such other person is about to use unlawful, deadly force against the actor or a third person.

"Deadly force" includes 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." RSA 627:9, II.

Where deadly force is involved, what is "reasonable" under the circumstances "is determined by an objective standard." *State v. Leaf*, 137 N.H. 97, 99 (1993); *see also State v. Cunningham*, 159 N.H. 103, 107 (2009). All the circumstances surrounding the incident should be considered in reaching the decision as to what was reasonable. *See Leaf*, 137 N.H. at 99. In addition, the actor's 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 the standpoint of a person facing the same situation, with the same knowledge as the person who used the deadly force. That examination cannot be made with the benefit of hindsight, which is afforded by one viewing the circumstances after the fact. Thus, even a mistaken belief that deadly force was necessary could still be justified under the law if that belief was reasonable, since the law does not require the person using deadly force to "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).

In a situation where deadly force is used, the amount of force used by the actor to protect himself or others must also be reasonable, and not excessive. See State v. Etienne, 163 N.H. 57, 70 (2011).

And finally, in any case where a person has used deadly force and later claims self-defense, the State would have the burden to disprove that self-defense claim beyond a reasonable doubt in order to secure a conviction. See State v. McMinn, 141 N.H. 636, 644-45 (1997). There is no burden on the actor to prove that his/her actions were lawful.

## **B. Analysis.**

In spite of the fact that Richard Dumont and Robert Crichton were friends and co-workers, Dumont was erratic, assaultive and threatening towards Crichton on the evening of May 4, 2014. The erratic and assaultive behavior started at Crichton's parents' home and continued in Crichton's car and then afterwards, where it escalated on Sylvain Street.

On Sylvain Street, Richard Dumont was out of the car and threatening Robert Crichton. The situation got worse for Crichton when Dumont began physically assaulting him. The assault became potentially deadly when Dumont began choking Crichton and would not stop. Dumont's assault on Crichton was made even more dangerous in Crichton's mind because of his prior neck injury, which he claimed Dumont knew about. Dumont's threats increased and shifted to killing Crichton. As a result, Crichton reached for his gun and instead of backing off, Dumont continued his assault on Crichton. Dumont choked Crichton to the point that Crichton started to lose feeling and was drifting towards unconsciousness. Fearful that Dumont would kill him, Crichton fired a shot into the car to try to get Dumont to stop. Instead of stopping though, Dumont continued with his assault on Crichton, leading Crichton to fire a second shot into Dumont's chest. That shot stopped the assault and killed Dumont.

While Dumont was not armed with a deadly weapon that night, his actions constituted deadly force since they created a substantial risk of causing death or serious bodily injury. Clearly choking another person could result in that other person's death or serious bodily injury. No weapon was necessary besides Dumont's hands.

Crichton also did not use excessive force under the circumstances. He only resorted to deadly force after trying to use other means to save himself, including trying to get away from Dumont and firing a warning shot.

As for what caused the shooting to take place, several factors likely contributed to Richard Dumont's state of mind. First, he had an extensive history of assault convictions, indicating a propensity to behave violently at times. Second, Dumont was impaired by alcohol consumption, which likely affected his judgment. And last, Dumont had nine other different drugs in his system in varying levels. All those factors likely played some role in the way Dumont behaved on May 4, 2014.

Last, even if Robert Crichton was mistaken as to Richard Dumont's true intentions that night, i.e., whether Dumont really intended to kill him, Crichton's belief that deadly force was necessary was still objectively reasonable under the circumstances. Crichton could see that Dumont was not himself that night and knew that Dumont had a significant prior history of assaultive behavior. Crichton also had a serious prior neck injury that he claimed Dumont knew about and would make Crichton more susceptible to injury. Dumont's repeated threats and assaults on Crichton had not let up and had intensified to the point where he was choking Crichton, leading Crichton to reasonably conclude that Dumont intended to cause his death or serious bodily injury. Accordingly, it was objectively reasonable for Crichton to conclude that Richard Dumont was using unlawful, deadly force against him and that deadly force was necessary in response.

#### **IV. CONCLUSION**

Based on the applicable law and all the facts and circumstances of this case, the Attorney General has determined that it was reasonable for Robert S. Crichton to conclude that Richard Dumont was using deadly force against him on May 4, 2014. Therefore, Robert Crichton's subsequent use of deadly force was legally justified pursuant to RSA 627:4, II (b). Accordingly, no criminal charges will be brought against Robert Crichton in connection with the shooting death of Richard Dumont.