

**ATTORNEY GENERAL'S REPORT REGARDING MAY 13, 2022, SHOOTING DEATH
IN KEENE, NEW HAMPSHIRE**

I. INTRODUCTION

The Office of the Attorney General, the New Hampshire State Police, and the Keene Police Department have concluded an investigation into a fatal shooting incident that occurred in Keene, New Hampshire on May 13, 2022. During that incident, Shane Frazier (age 35), fired one shot from his rifle, killing Kristopher Chagnon (age 27). After the incident, Mr. Frazier claimed that he had shot Mr. Chagnon in self-defense.

As a result of the investigation, New Hampshire Attorney General John M. Formella has determined that Mr. Frazier's claim of self-defense cannot be disproved. Accordingly, no criminal charges will be brought against Mr. Frazier in connection with the shooting.

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 Mr. Chagnon.

II. SUMMARY OF THE FACTS

Early in the evening on May 13, 2022, Shane Frazier left his home on Green Street in Keene to do errands and get his three children food from McDonald's. Mr. Frazier took his youngest child with him (age 1) and left his middle (age 7) and oldest child (age 12) behind when he went out to do errands. After Mr. Frazier left, his oldest child stayed inside the home while the middle child went outside and played.

Around 8:30 p.m., Mr. Frazier returned home with his youngest child and the food. His oldest child was in the home when he arrived, but not the middle child. Mr. Frazier went outside to look for his child, and located the child outside, next door. According to the people who were

next door, Mr. Frazier was upset at his child, and was yelling at the child, grabbing the child's hair, and started dragging the child home. Mr. Frazier and his child denied that occurred.

As Mr. Frazier and his child walked home, they were followed by a group of people that included Alicia Bickford, Avery Dobbins, and two minors (ages 16 and 15). Mr. Frazier said that the group of people following him were verbally hostile to him and were yelling and swearing at him about a variety of things, including that he was a bad parent. The people following Mr. Frazier and his child home said that they were yelling at Mr. Frazier to leave his child alone.

After walking a short distance home, Mr. Frazier went inside with his child and closed the door. The four people who had been following him gathered outside his home and some went up the stairs to the porch leading to the front door. Some of those people outside started knocking on the door. Mr. Frazier said that it sounded like they were trying to kick the door in.

Kristopher Chagnon, who had been nearby, joined the group of people outside Mr. Frazier's home. Mr. Frazier said that while he was in his bedroom, he heard a female enter his home. He became concerned about her presence and got his rifle from his bedroom and made it ready to fire. The woman Mr. Frazier heard inside his home walked back outside as Mr. Frazier went to the front door to close it. Once at the door, he told the people outside to never come into his house again. As that happened, Mr. Frazier said that a man (Mr. Chagnon) ran up the stairs to Mr. Frazier's porch, pushed the door open, and got in Mr. Frazier's "face."¹ Mr. Frazier said that he told Mr. Chagnon "to get the fuck back or I'm gonna shoot!" Mr. Chagnon grabbed the dumbbell that was on Mr. Frazier's porch and attempted to swing it at Mr. Frazier's face. Mr. Chagnon then used the dumbbell to push the door open and enter Mr. Frazier's home. Mr.

¹ Mr. Frazier said that he did not recognize Mr. Chagnon at the time. That is possible, given how quickly the events transpired that night even though other witnesses said that Mr. Frazier and Mr. Chagnon had met each other on at least two prior occasions.

Frazier said that he “warned him [Mr. Chagnon] several times as he’s like advancing on me.” That is when Mr. Frazier said that he tripped over someone (one of his children) and/or something in the kitchen and fired his rifle toward the front door or ceiling area of his home. Mr. Frazier said that “he [Mr. Chagnon] was in my kitchen, straight up in my house,” when the shot was fired. Mr. Chagnon “stumbled back” after the shot was fired and went outside.

The four people who were outside with Mr. Chagnon gave a different version of events surrounding the shooting. They denied going into Mr. Frazier’s home, opening the door, or using a dumbbell. Further, they claimed that Mr. Frazier just opened his door, threatened to shoot, and then shot Mr. Chagnon who was outside on the porch.

Mr. Chagnon collapsed on the stairs after he was shot. Numerous people, including Mr. Frazier called 911 to report the incident. Keene police officers and emergency medical personnel arrived shortly thereafter and treated Mr. Chagnon at the scene before he was taken to a hospital, where he later died from the gunshot.

After the incident, the New Hampshire Attorney General’s Office and the New Hampshire State Police were notified and joined with the Keene Police Department to investigate what had occurred.

III. THE INVESTIGATION

Since the incident on May 13, 2022, the Attorney General’s Office, the New Hampshire State Police, and the Keene Police Department have been investigating the circumstances that led to the shooting. That investigation has entailed witness interviews, an examination of the scene, physical evidence recovered from the scene, and the review of available digital evidence. Mr. Frazier has been cooperative with the investigation and agreed to be interviewed.

A. Shane Frazier's 911 Call

Numerous people called 911 on May 13, 2022, after the incident. Copies of those calls were obtained and reviewed, including one made by Shane Frazier at approximately 8:34 p.m.

Parts of Mr. Frazier's call were difficult to hear clearly as Mr. Frazier sounded out of breath, panicked, and spoke over the 911 operator at times. The 911 operator contacted the Keene Police Department and told them that someone was breaking into his [Shane Frazier's] home, and he shot them.

Some of what Mr. Frazier said during the 911 call includes:

That he needed an ambulance because he had shot "a guy" who [unintelligible] in his house.

"He just broke into my fucking house!"

"Yo, I got an ambulance coming bro. Are you okay?"

"I'm sorry, but you do not come in my house like that. Are you okay?"

"Holy shit dude, why would you do that to me?"

"Holy shit! Fuck!"

"Everything's okay."

"I got three kids."

"Is he okay?"

"You came into my fucking house!"

"He was throwing this at me! He was throwing it at me!"²

"Is he okay? Is he okay?"

"[unintelligible] broke into my house!"

"He came in my house, there was like five of them!"

² It appears that Mr. Frazier was talking to others at the scene when he made these statements. Others could be heard in the background saying things to him at times, but they were not discernable.

“Oh my God!”

Moments later Mr. Frazier went outside and could be heard surrendering to the police.

The call ended shortly after that occurred.

B. Shane Frazier’s statements and interview

Shane Frazier surrendered to the Keene police outside his apartment after the incident and told one of the officers that he had acted out of self-defense. Another person in the immediate area said that Mr. Frazier said that the people had broken into his home.

Mr. Frazier was subsequently transported to the Keene Police Department. During the ride there, he said that it was self-defense.

After he arrived at the Keene Police Department, Mr. Frazier was cooperative, waived his *Miranda* rights, and consented to a recorded interview. During his recorded interview, Mr. Frazier said that on May 13, 2022, he took his one-year-old child with him to get Happy Meals for his three children at McDonald’s. At the time he did that, he left his twelve and seven-year-old children back at home.

After Mr. Frazier picked up the food at McDonald’s, he returned home and learned that his seven-year-old child was at a neighbor’s home. Mr. Frazier went outside, saw his child nearby, and called to the child. Mr. Frazier said that he was “a little upset” at his child because he was supposed to be home. The two then started walking home. As they did that, a group of people followed and were yelling at Mr. Frazier and saying things about him being a bad parent because his child was outside. Mr. Frazier described the people who were following him and his child as a “mob of people” who were screaming at him. There was also a pit bull nearby “that was kind of circling around.”

The group of people followed Mr. Frazier to his home, where he tried to avoid them by going inside. Mr. Frazier said that he had closed his front entry door, but the people outside were constantly banging on his front door, which sounded to him like they were kicking it in. At that point, Mr. Frazier went to his bedroom to get his rifle.³ As he did that, he said that he heard a woman in his house, in the kitchen. The woman then walked back outside as Mr. Frazier went to the door to close it. Once at the door, he told the people outside to never come into his house again. As that happened, a man (Kristopher Chagnon), ran up the stairs to Mr. Frazier's porch, pushed the door open, and got in Mr. Frazier's "face." Mr. Frazier said that he told Mr. Chagnon "to get the fuck back or I'm gonna shoot!" Mr. Chagnon grabbed the dumbbell that was on Mr. Frazier's porch and attempted to swing it at Mr. Frazier's face as he (Mr. Chagnon) used the dumbbell to push the door open and enter Mr. Frazier's home. Mr. Frazier said that he "warned him [Mr. Chagnon] several times as he's like advancing on me." That is when Mr. Frazier said that he tripped over someone (one of his children) and/or something in the kitchen and fired his rifle toward the front door or ceiling area of his home. Mr. Frazier said that "he [Mr. Chagnon] was in my kitchen, straight up in my house," when the shot was fired. Mr. Chagnon "stumbled back" after the shot and went outside. Mr. Frazier said that he did not see "any blood." After that Mr. Frazier closed and locked the door and called 911. Mr. Frazier was unsure how the dumbbell ended up outside his house after the incident, saying he may have kicked it and moved it to close the door.

Mr. Frazier said that despite firing the shot from his rifle, he "didn't want to hit" Mr. Chagnon. He said that the incident "happened so fast," and that he did not aim the rifle and did not even have both hands on it. Mr. Frazier said that the shot he fired "was supposed to be like a warning shot in that direction 'cause he was coming after me." Mr. Frazier told the investigators

³ The investigators confirmed that the rifle had been lawfully purchased.

that he did not think he “did anything wrong” since he “was at home alone with three children” and Mr. Chagnon had a dumbbell, which he swung at Mr. Frazier’s face. Mr. Frazier said the incident was just him and his children “and a bunch of people trying to come into my fucking house and attack me.”

C. Information from Shane Frazier’s children

Three children were present in Shane Frazier’s home at the time of the incident. After the incident, Mr. Frazier’s three children were separated from him and placed in the custody of a relative. They remained there up to and including when they were formally interviewed. The information they provided will be summarized below:

One-year-old child: This child was not interviewed.

Seven-year-old child: This child told one of the first arriving detectives that people were screaming and banging on the door trying to break into their house with a weight. This child also said that their dad shot the gun by accident at the guy in their house.

At a later formal interview on May 15, 2022, at the Child Advocacy Center, this child said on the night of the incident the child’s father (Shane Frazier), left and went to McDonald’s. while the older brother was inside their home sleeping. The seven-year-old was outside playing in an area with other children and teenagers when Mr. Frazier came home and called to the child. The child described his father as “calm” as the teenagers loudly asked Mr. Frazier for money for watching his child while he was gone. Mr. Frazier refused to give them any money and ran home with his child, while being pursued by several people.

Once they were inside their house, the seven-year-old said that people started banging on the door, asking for money, and swearing. The seven-year-old said that the man who was

swearing was using a dumbbell to bang on the door.⁴ Mr. Frazier got his gun and one of the males who was outside opened the door, which caused Mr. Frazier to point his gun at him. The seven-year-old said that his father was in the kitchen when some of the people who were outside came into the home and went into the kitchen. They then left and went back outside. However, there was a “guy” with a “dumbbell,” who was pointing the dumbbell at Mr. Frazier’s face. That is when Mr. Frazier shot the man with the dumbbell.

According to the seven-year-old, Mr. Frazier was “half in the kitchen” when he shot the man with the dumbbell. The seven-year-old later said that none of the people who were outside came into the house and that the man with the dumbbell did not either; he was “at the porch,” “getting ready” to throw the dumbbell at Mr. Frazier when Mr. Frazier shot him.

Four days after the seven-year old’s formal interview, this child talked to a staff member at school about the May 13, 2022, incident. The child said that the child’s father (Shane Frazier) was suspected of hitting the child, but that was not true. The child also said that someone broke into their home and was waiving a weight around trying to hit Mr. Frazier with the weight. Mr. Frazier then shot the man even though he had meant to shoot the wall to scare the man with the weight.

Twelve-year-old child: At a later formal interview at the Child Advocacy Center on May 15, 2022, the child described being at home sleeping on Friday (May 13, 2022), when the child’s father, Shane Frazier returned and gave the child and their 1-year-old sibling Happy Meals. Then, Mr. Frazier left and came back with his 7-year-old child and mentioned calling “the cops,” because people were banging on the door.

The 12-year-old was in the kitchen and said that Mr. Frazier got his gun and was in the kitchen when “a dude” was banging at the door and busted in. This man who busted into the

⁴ The child said that it was a “15 [pound] dumbbell” that was usually left on the porch.

home “was holding a 15 pound fully metal dumbbell,” as if “he was getting ready to chuck it at” Mr. Frazier. The man with the dumbbell was partially inside the house and ready to “toss” the dumbbell when Mr. Frazier, who was “far away” from the man, shot him. The 12-year-old said that the man who got shot “vanished” after that.

D. Interviews with the four people who were with Kristopher Chagnon during the incident

Four people were with Kristopher Chagnon at the time he was shot. Two were adults and two were juveniles. The police interviewed all four. The information they provided is summarized below:

Alicia Bickford: Ms. Bickford lived near the scene of the incident on May 13, 2022. She told the investigators that earlier in the evening that day, a young child (later determined to be Mr. Frazier’s 7-year-old child), was outside and in her driveway alone. After about two hours, Mr. Frazier showed up and “grabbed” and swore at the child, including grabbing the child “by the hair.” Ms. Bickford’s juvenile daughter (D.G.), tried to verbally intervene and there was a verbal back and forth between her and Mr. Frazier as he and his child left Ms. Bickford’s yard and headed back to their home.

As Mr. Frazier walked back to his home with his child, Ms. Bickford, her daughter, and two others, followed Mr. Frazier and his child. Mr. Frazier got to his home and went inside with his child and closed the door. A short time later, the door opened and there was some verbal back and forth between Mr. Frazier and the people with Ms. Bickford outside Mr. Frazier’s door. At one point when the door was open, Ms. Bickford said that her daughter “peeked her head in” and said something to Mr. Frazier, who was inside. The door then closed and when it opened again, Mr. Frazier was there in his home, holding a gun. Around this time, Kristopher Chagnon, who was Ms. Bickford’s boyfriend, arrived and went up the stairs to Mr. Frazier’s porch. According

to Ms. Bickford, Mr. Chagnon was on the top stair and then, without warning, Mr. Frazier shot Mr. Chagnon. After that, Mr. Frazier opened the door again and asked if Mr. Chagnon was okay. Ms. Bickford tried to help Mr. Chagnon and stop his bleeding.

Ms. Bickford said that the whole incident was quick and “happened in like three minutes.” She denied that her daughter or Mr. Chagnon ever went into Mr. Frazier’s home.⁵

Avery Dobbins and his sibling, M.D. (age 15):

Mr. Dobbins and M.D. were jointly interviewed by the investigators. They were at Alicia Bickford’s home on the night of the incident. Mr. Dobbins said that earlier in the evening, a young child (Mr. Frazier’s 7-year-old child), showed up in the yard alone. The child said that their father was out running errands. Mr. Dobbins and D.G. walked the child back to Mr. Frazier’s home. They went inside and found the child’s older sibling asleep. At that time, the child left with Mr. Dobbins and D.G. and went back to Ms. Bickford’s home.

After Mr. Frazier got home, he went to Ms. Bickford’s area and “started screaming” and asked why his child was not at home. He then grabbed his child by the “hair and neck and started hitting” the child as he dragged the child home. Mr. Dobbins, Ms. Bickford, M.D. and D.G. followed Mr. Frazier. Mr. Dobbins yelled at Mr. Frazier, telling him that he could not “handle” his child like that. Mr. Frazier responded and said that he could do whatever “the fuck” he wanted to.

Mr. Dobbins, D.G., and M.D. followed Mr. Frazier to his home, where Mr. Frazier went inside with his child and closed the door. Mr. Dobbins said after that, they were “knocking on the door,” telling Mr. Frazier not to hurt his kid. Mr. Frazier’s door then opened, and he was standing there with a gun. M.D. said that she was “pretty sure the guy threatened to shoot us,”

⁵ However, Ms. Bickford said that her daughter had peeked her head into Mr. Frazier’s home moments before Mr. Chagnon was shot.

and Mr. Dobbins said that Mr. Frazier told them that he would shoot. Kristopher Chagnon appeared and ran up the stairs to Mr. Frazier's porch while pushing the others out of the way. M.D said that Mr. Chagnon pushed D.G. out of the way and told Mr. Frazier that they could "talk about this." Then, Mr. Dobbins heard "one crack," and he and the others "just took off running." Mr. Dobbins said that he believed he heard five shots in all, and M.D. said that she heard maybe seven or eight in all.⁶

Mr. Dobbins said that he and the others never went inside Mr. Frazier's home during the confrontation on the porch.

D.G. (age 16):

D.G. said that a child came over to her house on the May 13, 2022, and said that the child's father was not home and was out doing errands. She then brought the child to their house and went into the house with the child. D.G. said he told the child's older sibling who was in the house that the younger sibling would be outside "hanging out" with them.

Sometime later, a man (Shane Frazier) showed up and started "screaming" at the young child and grabbed the child "by the hair" and started yanking/dragging the child. D.G. and others, including Kristopher Chagnon, followed Mr. Frazier to his home.⁷ D.G. said that the door to Mr. Frazier's house was open and she did not knock on the door.⁸ D.G. and Mr. Chagnon were on the steps at Mr. Frazier's house and that is when Mr. Frazier said that he was "gonna shoot" her. Mr. Frazier then brought out a gun, aimed it at D.G., "and went to pull the trigger." D.G.

⁶ There is no evidence that Mr. Frazier fired more than one shot that night.

⁷ D.G. said that Mr. Chagnon was her mother's boyfriend.

⁸ It seems unlikely that Mr. Frazier would have left the front door to his home open with his three children inside after being followed back to his home by a group of people he considered hostile toward him. In fact, Alicia Bickford and Avery Dobbins said that Mr. Frazier did close the door to his home and later opened it after they were "knocking on the door." D.G. also denied any knowledge about a dumbbell being involved.

said that “Kris threw me out of the way and took the bullet for me.” After that, Mr. Frazier slammed the door and kept asking if Mr. Chagnon was okay.

In her second interview with the police, D.G. contradicted aspects of what she had told the police in her first interview. For example, D.G. said that Mr. Chagnon “entered” and “went in” Mr. Frazier’s home, but in the same interview made other conflicting statements about where Mr. Chagnon was located when he was shot. D.G. also said that Mr. Frazier was out of his house, just past the threshold of his door on the porch when he shot Mr. Chagnon, who was on the steps near the top of the stairs leading to the porch. D.G. said that Mr. Chagnon was just asking Mr. Frazier if they could talk when he was shot. D.G. denied that she or Mr. Chagnon had anything in their hands before Mr. Frazier fired his rifle.

D.G. described the incident by saying that everything “happened so fast,” and that afterward she “fainted a couple of times.”

E. Interviews with neighbors

No neighbor saw the actual incident. However, some heard portions of the incident, including what sounded like arguing and a gunshot.

A juvenile-aged neighbor reported that he saw Shane Frazier just before the incident when Mr. Frazier collected his child and returned home. This neighbor did not see Mr. Frazier do anything to his child. A short time later this neighbor heard a “big bang,” and saw Kristopher Chagnon running from Mr. Frazier’s porch.

Another neighbor reported hearing arguing, a male voice yelling, and pounding on a door. Then, that neighbor heard a door opening, which he described as sounding like the door was pulled open before fully turning the doorknob. After that, he heard a second male voice say words to the effect of, “What are you going to do with that?” A child’s voice was then heard

saying, “Why do you have a gun?” Right about then, the neighbor reported hearing a single loud bang.

A third neighbor reported that she was inside her home not far from the incident when she heard “some kind of commotion,” meaning loud arguing outside. A short time later she heard a gunshot.

F. Autopsy results

Deputy Chief Medical Examiner Dr. Mitchell L. Weinberg conducted an autopsy on Kristopher Chagnon on May 15, 2022. He determined that Mr. Chagnon was five feet, seven inches tall, and weighed two hundred and twenty-two pounds.

During the autopsy, Dr. Weinberg discovered that Mr. Chagnon had sustained one through and through gunshot wound to the left side of his chest. There was no indication that the gunshot wound was sustained at close range. Tests conducted on a sample of Mr. Chagnon’s blood revealed that he had used alcohol (blood alcohol concentration of .057 - about $\frac{3}{4}$ the legal limit to drive), cannabis (marijuana), and the medication clonazepam (Klonopin), prior to his death.⁹

Dr. Weinberg ruled the cause of Mr. Chagnon’s death as a gunshot wound to the chest, and the manner of death as homicide. As used by the Office of the Chief Medical Examiner, the term “homicide” is defined as the killing of one person by another.

G. Physical evidence

The area in and around the scene of the incident in Keene was searched. During that search, the rifle Mr. Frazier used during the incident was seized. A discharged rifle casing was found inside the apartment’s kitchen area, which was consistent with one shot being fired, and

⁹ Klonopin is a benzodiazepine hypnotic and when prescribed it may be used in the treatment of insomnia and in the prevention and treatment of various seizure disorders. It also possesses anti-anxiety and muscle relaxant properties.

the one gunshot wound Mr. Chagnon sustained. No obvious bullet damage was located in Mr. Frazier's home.

A metal dumbbell was found on elevated porch floor just outside the front entry door to Mr. Frazier's apartment. The front entry door had numerous marks on it, some that could be consistent with impact damage from the dumbbell. Mr. Chagnon's flip flops were also found outside the apartment (one was a few feet from the entry door and the other was on the top step) as was his baseball cap (second stair from the bottom).

No blood was found inside Mr. Frazier's apartment; all the blood was found outside on the elevated porch and on the stairs leading from the porch to the ground level. The location of that blood is consistent with Mr. Chagnon bleeding on the porch and on the stairs after he was shot. No other significant physical evidence was recovered at the scene.

H. Digital evidence

The investigators recovered video surveillance footage from cameras around the location of the shooting. However, none of them captured the area where the shooting occurred or the shooting itself.

III. THE APPLICABLE LAW AND ANALYSIS

New Hampshire's laws regarding self-defense are contained in RSA Chapter 627. RSA 627:4 states that a person may be justified in using deadly force to protect herself or others in certain circumstances. Three of those circumstances are potentially relevant here:

RSA 627:4, II(a), permits the use of deadly force by an actor against another when he reasonably believes that the other person "[i]s about to use unlawful, deadly force against the actor or a third person";

RSA 627:4, II(b) permits the use of deadly force by an actor against another when he reasonably believes that such other person “[i]s likely to use any unlawful force against a person present while committing or attempting to commit a burglary” [RSA 635:1, I, defines “burglary” as entering a building with the purpose to commit a crime therein]; and

RSA 627:4, II(d) permits the use of deadly force by an actor against another when he reasonably believes that such other person “[i]s likely to use any unlawful force in the commission of a felony against the actor within such actor’s dwelling or its curtilage.”¹⁰

Some discussion of the terms used in each of the above sections is appropriate. The phrase “reasonably believes” means that the actor, i.e., the person using deadly force, “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 the actor had a reasonable belief that deadly force was necessary to defend himself or another. When reviewing a deadly force incident, the actor’s conduct should be viewed considering “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, when analyzing the reasonableness of an actor’s use of deadly force, the inquiry must focus on the situation from the standpoint of a reasonable person facing the same situation. That examination cannot be made with the benefit of hindsight, which is afforded by one viewing the circumstances after the fact. The amount of deadly 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).

¹⁰ For purposes of this provision, the term “curtilage” is defined as “those outbuildings which are proximately, directly, and intimately connected with a dwelling, together with all the land or grounds surrounding the dwelling such as are necessary, convenient, and habitually used for domestic purposes.” RSA 627:9, I. The area outside Mr. Frazier’s front door, including his porch and stairs, would be considered his home’s “curtilage” in this case.

The law also provides that people in their dwellings, or people who are anywhere they have a right to be, have no duty to retreat from the encounter before resorting to deadly force to protect themselves or others, if they were not the initial aggressor. *See* RSA 627:4, III(a). And finally, in any case where a person uses deadly force and later claims self-defense, the State has the burden to disprove that self-defense claim beyond a reasonable doubt to secure a conviction. *See State v. McMinn*, 141 N.H. 636, 644-45 (1997). These are the principles of law that guide the analysis in this case.

The witnesses in this case agree on some of what occurred but diverge on other aspects. Depending on which witness's version of events is true, it may have been reasonable for Mr. Frazier to believe that Mr. Chagnon was about to use deadly force against him in the form of a dumbbell, or that Mr. Chagnon was likely to use any unlawful force against him in the commission of a burglary, or that Mr. Chagnon was likely to use any unlawful force against him in the commission of a felony (like first or second degree assault), inside his home or within his home's curtilage.

All the witnesses agree that several people followed Mr. Frazier and his young child as Mr. Frazier walked his child home. The witnesses differ in their description of what occurred as Mr. Frazier walked home. The four people with Mr. Chagnon told the police that as Mr. Frazier and his child walked home, Mr. Frazier was dragging his child, hitting the child, and calling the child names. Mr. Frazier and the child denied that happened, as did a neighbor.

Most of the witnesses agreed that there was a contentious verbal back and forth between the parties as Mr. Frazier walked his child home. After Mr. Frazier and his child arrived home, the two went inside. The witnesses differ as to what happened next.

Mr. Frazier told the police that while inside his home, he heard a woman inside who then left. Moments later, Mr. Frazier said that Mr. Chagnon ran up the stairs to Mr. Frazier's porch, pushed the door open, and got in Mr. Frazier's face. Mr. Frazier said that he told Mr. Chagnon to get back or he would shoot. Mr. Chagnon grabbed the dumbbell that was on Mr. Frazier's porch and attempted to swing it at Mr. Frazier's face as he (Mr. Chagnon) used the dumbbell to push the door open and enter Mr. Frazier's home. Mr. Frazier said that he warned Mr. Chagnon several times as he was advancing on him. That is when Mr. Frazier said that he tripped over someone (one of his children) and/or something in the kitchen and fired his rifle toward the front door or ceiling area of his home. Mr. Frazier said that Mr. Chagnon was in his kitchen when the shot was fired, and then stumbled back and went outside.

Mr. Frazier's two children corroborated aspects of his version of events, including his self-defense claim. They said that a man broke into their home with a dumbbell and appeared to be going after Mr. Frazier with it, when Mr. Frazier shot him.

The four witnesses with Mr. Chagnon placed themselves and Mr. Chagnon outside of Mr. Frazier's home on the porch or stairs and denied that they or Mr. Chagnon had a dumbbell or entered Mr. Frazier's home. However, D.G.s' mother said that at one point, D.G. peeked her head inside Mr. Frazier's home through the open front door.

In her second interview with the police, D.G. contradicted the other witnesses who were with her and her own prior interview when she said that Mr. Chagnon "entered" and "went in" Mr. Frazier's home. D.G.'s statement to the police that they were not banging on Mr. Frazier's door was also contradicted by other people with her that night who said that they were knocking on Mr. Frazier's front door, and a neighbor who said they heard pounding on the door before the gunshot.

The differences in the witness statements are not unusual given the stress of the situation and rapidity of the events leading up to Mr. Chagnon's death. Therefore, the differences could be due to misperceptions as opposed to attempts to distort the truth of what occurred. Those differences cannot be resolved by the physical evidence in this case, which is also mixed and is, therefore, not dispositive on the issue of self-defense.

Some of the physical evidence recovered at the scene and the surrounding area supports Mr. Frazier's version of events and his self-defense claim, such as the presence of a metal dumbbell outside his door (consistent with his and the children's statements that Mr. Chagnon had a dumbbell), damage to the front entry door to Mr. Frazier's home (consistent with the dumbbell or something else being used to bang on the door to gain entry), the location of the shell casing from Mr. Frazier's rifle inside his home (consistent with where he said he was when he fired the shot), and the lack of evidence that Mr. Chagnon's wound was inflicted at close range (refutes the claim that Mr. Frazier and Mr. Chagnon were close to each other in the doorway of the home).

However, there is some physical evidence such as the location of Mr. Chagnon's footwear outside the Frazier home and blood on the porch that arguably contradicts Mr. Frazier and his children's version of events.¹¹ There was also no bullet damage located in Mr. Frazier's home that would have been consistent with Mr. Chagnon's wound.¹²

In sum, the physical evidence appears to support aspects of the two primary opposing versions of what occurred at Mr. Frazier's home.

¹¹ The location of blood outside Mr. Frazier's home is consistent with Mr. Chagnon bleeding outside the home but does not mean that he was not wounded inside the home and made it outside before he started bleeding enough to leave blood on the floor.

¹² Since the precise positions of Mr. Frazier and Mr. Chagnon cannot be known with certainty, the lack of bullet damage in the home is not dispositive on the issue of Mr. Chagnon's exact location when he was shot, i.e., in the home or outside the home.

IV. CONCLUSION

There is some evidence in this case supporting Mr. Frazier's self-defense claim, regardless of whether Mr. Chagnon was inside Mr. Frazier's home or within the home's curtilage, such as just outside the front door, on the porch, or on the top of the stairs, when he was shot. However, given the conflicting witness statements, the evidence is not sufficiently certain to permit a finding of justification by this Office for Mr. Frazier's actions under the law. Regardless, the totality of the evidence is sufficient to make Mr. Frazier's self-defense claim a legitimate issue in the event Mr. Frazier was charged with causing Mr. Chagnon's death.

In light of the differing witness statements, and the lack of sufficient objective evidence as to the issue of self-defense, the State would be unable to meet its burden of disproving Mr. Frazier's self-defense claim at trial. Therefore, the Attorney General has concluded that no criminal charges will be brought against Shane Frazier in connection with the shooting death of Kristopher Chagnon.

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