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November 19, 2021

The Hon. Anne M. Carney, Senate Chair
The Hon. Thom Harnett, House Chair
Joint Standing Committee on Judiciary
100 State House Station
Augusta, ME 04333

Dear Sen. Carney, Rep. Harnett, and Members of the Committee on Judiciary:

The Deadly Force Review Panel completed its ninth examination of the use of deadly force by a law enforcement officer. Pursuant to Title 5, section 200(K)(7), “within 30 days of the conclusion of the examination of the use of deadly force by a law enforcement officer . . . the panel shall submit a report on the panel's activities, conclusions and recommendations with regard to the incident to the joint standing committee of the Legislature having jurisdiction over judiciary matters.” The report is enclosed.

The Panel examined the incident that occurred on may 21, 2019, in Auburn, the details of which are part of the Panel’s enclosed report.

For the Deadly Force Review Panel:

Vendean Vafiades, Esq., Co-Chair
Francine Garland Stark, Co-Chair

Enclosure

May 21, 2019 – Auburn Use of Deadly Force Incident

As required by 5 MRS § 200-K, the Maine Deadly Force Review Panel submits the following report of the May 21, 2019, use of deadly force incident involving Maine State Police Trooper Andrew Hardy. By statute, after the release of the report of the Attorney General, the Panel shall examine deaths or serious injuries resulting from the use of deadly force by a law enforcement officer. The purpose of such examination is to identify whether there was compliance with accepted and best practices under the particular circumstances or whether the practices require adjustment or improvement. The Panel is charged with recommending methods of improving standards, including changes to statutes, rules, training, and policies and procedures designed to ensure best practices that demonstrate increased public and officer safety.

Factual Synopsis

On May 21, 2019 at 5:30 a.m., Androscoggin County Sheriff's Office received a complaint of a "gas drive-off," i.e., theft of gasoline, from a convenience store in Poland. The vehicle was registered to an individual who lived at 185 Maine Street in Auburn. A deputy sheriff went to the residence, and the individual to whom the vehicle was registered said that her estranged husband had her car. Later, she contacted the deputy and said her husband had returned to the residence. While the deputy was questioning the husband, Auburn Communications received information that there was a man with firearms in the basement of the residence. Two officers went into the basement where they observed a large amount of ammunition. When one of the officers started to open a makeshift door in the basement, a man shouted that he had a gun and not to enter the room. It was soon learned that the man, later determined to be Steven E. Case Jr., was holding a woman companion against her will.

The Auburn Police Department requested the assistance of the State Police Tactical Team. Members of the team arrived at the residence and took control of the scene. A member of the State Police Crisis Negotiation Team (CNT) communicated with Mr. Case in an attempt to end the incident. Over several hours, the negotiator tried to persuade Mr. Case to release the hostage and surrender. He was provided with food, water, and cigarettes as requested, and he said he was ill from drug withdrawal. Eventually, Mr. Case moved to the second floor of the residence using the female hostage as a shield. State Trooper Andrew Hardy was in a vacant home across the driveway from the residence. He observed the movements of Mr. Case and determined that he had a rifle that resembled a "mini-14" assault rifle and was using the hostage as a human shield. At a point when Mr. Case and the hostage were momentarily slightly apart, Trooper Hardy shot Mr. Case through a screen and window. Mr. Case died from the gunshot wound.

Information the Panel Reviewed

Prior to its review on October 28, 2021, the Panel received a complete copy of the investigative materials compiled by the Attorney General's Office. They consisted of all of the original investigative materials, including interview recordings and reports, forensic reports, photographs, emergency communications transcripts, cruiser and body camera recordings, applicable State Police policies and other materials. The Panel also reviewed the report of the internal critical incident review that was conducted by the State Police dated October 6, 2021, and

the Attorney General's Report dated September 28, 2021.

Summary of Panel Discussion

On October 28, 2021, the Panel met via Zoom and conducted a review of the referenced incident. Detective Seth Blodgett from the Attorney General's Office was available to answer questions asked by the Panel. The Panel discussion focused on 1) the circumstances that brought Steven Case to the attention of the officers, 2) how the hostage situation unfolded, and 3) the role that drugs and mental health issues impacted the outcome of the incident. The Panel discussed tactics used by crisis negotiators, as well as the lack of available information regarding critical incidents that are resolved without the use of deadly force by police, the details of which may provide guidance to the Panel in reviewing deadly force incidents. The Panel again discussed the importance of early intervention for individuals with substance use disorder and how the mental health community may successfully support law enforcement.

Observations

1. The woman who was the hostage, and who it was later learned had earlier been in the car with Mr. Case and another individual at a suspected theft, while provided medical attention, was not offered assistance following the incident to attend to the trauma she experienced.
2. The officers' descent into the basement was a dangerous necessity and that strategizing prior to investigating the report of a man and a cache of weapons in the basement may have been safer.
3. The Tactical Team secured the premises, safely evacuated neighbors and other persons in the vicinity, and was successful in protecting the hostage and obtaining her release.
4. The initial reason for Androscoggin County deputy and Auburn Police officer being at the 185 Main Street location was to investigate a reported gasoline theft. When the officers interviewed the woman with whom the suspect had been living, they appropriately explored her safety concerns and talked with her about options to address those concerns, including referring her to the local domestic violence resource center for assistance.

Recommendations

None

Timeline and Details

On May 21, 2019, a little after 9:00 a.m., an Auburn police officer and an Androscoggin County deputy sheriff were at 185 Main Street in Auburn to question a suspect about an alleged theft of gasoline from a convenience store in Poland. Auburn Dispatch advised the officers of a report that there was an unidentified male in the basement of the residence with firearms planning a shootout. The officers obtained permission from the property owner to search the basement. The two officers descended a stairwell that turned sharply to the left once through the door. Once in the basement, the officers observed a large duffle bag that, upon being kicked, sounded as though it contained ammunition. The officers approached a makeshift wooden door separating the main portion of the basement from a smaller room. As an officer began to pull the door open, an unseen

male, later determined to be Steven E. Case, Jr., shouted: “Don’t come in here, I have a gun; do not come in here.” The officers retreated up the basement stairs and took a position just outside the door to the basement. Additional officers from the Auburn Police Department were called to secure the building, and the State Police Tactical Team was activated. From their position at the top of the stairs, officers heard Mr. Case shouting to not come down the stairs and that he had a hostage. They also heard what sounded like guns being charged or “racked.”

Officers established a perimeter around the building. One of the building’s residents, who was also the prime suspect in the alleged gasoline theft, identified the man in the basement as Mr. Case. He said that he had helped Mr. Case store a number of guns and lots of ammunition at the 185 Main Street residence. A detective with the Auburn Police Department who knew Mr. Case asked him to come upstairs with his hands up. Mr. Case responded by repeating that he had a gun and a hostage and that he wanted a negotiator.

State Police Tactical Team members arrived around 11:00 a.m. and were briefed by the Auburn officers. State Trooper Hardy, a member of the Tactical Team, was aware that a member of the State Police Crisis Negotiation Team (CNT) had contacted Mr. Case by telephone, and was discussing getting him food, water, and cigarettes. Trooper Hardy learned that Mr. Case had a criminal history that included being prohibited from possessing firearms, that he had been arrested for domestic violence in the past, and that he was the subject of an arrest warrant for possession of a firearm by a prohibited person. Trooper Hardy was shown a photograph of Mr. Case and the hostage.

Six members of the Tactical Team replaced the Auburn officers on the first floor of the house at approximately 11:40 a.m. They took a position at the top of the basement stairs. Mr. Case made demands for food and drugs, became increasingly agitated during the calls, and frequently disconnected the calls. The negotiator told him that she could guarantee Mr. Case’s safety if he came out of the house with nothing in his hands. Mr. Case repeatedly made it clear that he was not going to do that.

At the top of the stairs, the officers could hear the racking of a shotgun and Mr. Case yelling that attempts to get him would not be good and that he had a significant amount of ammunition. The officers learned from the negotiator that Mr. Case was demanding food, water, and cigarettes, and complained of being “drug sick.” The negotiator could also hear the woman crying and Mr. Case saying, “She’s not going anywhere.”

A Tactical Team member left a bin of pretzels, bottles of water, and a package of cigarettes at the door at the top of the basement stairs believing Mr. Case would then be vulnerable to apprehension or the hostage could be rescued when one of them came up to retrieve the items. Instead, Mr. Case yelled, “Get the f**k out,” followed by the sound of a shotgun being racked and shells hitting the wooden steps. Concerned about their safety and that of the hostage, the officers left the building.

At 12:29 p.m., a Kennebec County deputy sheriff contacted the negotiation team and reported he had received text messages and photographs from the hostage. The photographs displayed several rifles and a large quantity of ammunition in the basement. The hostage texted that “Steven has locked us in a basement with tons of guns and ammo. I’m scared and shaking. Cops tried coming in he said don’t come down have a gun and hostage. He’s doing suicide by cop. Steven won’t let me go up. He won’t surrender. He has 12 guns and thousands of ammo.”

With officers now outside, Mr. Case had the ability to move freely throughout the building. By 1:00 p.m., Mr. Case had emerged from the basement and was moving about on the first and second floors, always keeping the hostage close to him. Trooper Andrew Hardy and another

Tactical Team member assumed positions on the second floor of an adjacent apartment building, about 37 feet from 185 Main Street. They observed Mr. Case moving through the house while he controlled the movements of the hostage.

By 2:30 p.m., Mr. Case was on the second floor with the hostage, but the interior lighting made it difficult to clearly make out their relative positions. Mr. Case was becoming increasingly agitated with the negotiator, making additional demands, including that an Auburn police cruiser be moved. Trooper Hardy observed what appeared to be a heated exchange between Mr. Case and the hostage. Mr. Case pointed his finger at the troopers' location, became upset, and told the negotiator he could see the "cops in the house next door."

Trooper Hardy observed Mr. Case to be armed with a rifle that resembled a "mini-14" assault rifle, and Mr. Case appeared to be using the hostage as a human shield by positioning her in front of him. The Tactical Team commander concluded that Mr. Case posed an imminent threat to the hostage, as well as the officers on the perimeter and civilians in the area, and he informed team members that if they had an opportunity to incapacitate Mr. Case without risking injury to the hostage, they should do so.

After learning that Mr. Case could see the troopers in the residence next door, they blocked off windows to better conceal their position. They continued to observe the movements of Mr. Case and the hostage. Mr. Case was not exposing himself for very long, but when he did, he kept the hostage in close proximity to him. At 2:46 p.m., the hostage was observed by Trooper Hardy to move away from Mr. Case just enough for Trooper Hardy to take a safe shot. Trooper Hardy fired a shot through a window and screen, incapacitating Mr. Case. Mr. Case died as a result of a single perforating gunshot wound to his neck.

Panel Members

Michael Alpert, President, Greater Bangor NAACP

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David Bate, Esq.

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Brian MacMaster, Chief, Attorney General Investigations

Joel Merry, Sheriff, Sagadahoc County

Jack Clements, Chief of Police, Saco

Michael Sauschuck, Commissioner, Department of Public Safety

Francine Garland Stark, Executive Director, Maine Coalition to End Domestic Violence, Panel Co-chair

Dan Tourtelotte, Maine State Law Enforcement Association

Vendean Vafiades, Esq., Panel Co-chair

Note: The individuals who serve on the Panel are appointed for the purpose of bringing their professional expertise to bear on discussions of these complex cases. Thus, a member of the Panel

may know or have had contact with individuals who were involved in the case under review. In such situations, the member reports such affiliations to the Panel and that information is recorded in the meeting minutes. If the Panel member has a conflict of interest, the Panel member is recused from voting on the Panel's observations and recommendations regarding that case.