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January 3, 2022

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 tenth 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 April 25, 2020, in Hiram, 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

April 25, 2020, Hiram Use of Deadly Force Incident

As required by 5 MRS § 200-K, the Maine Deadly Force Review Panel submits the following report of the April 25, 2020, use of deadly force incident involving Corporals Paul Casey and George Neagle of the Maine State Police. 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 the examination is to identify independently 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. The Panel is not charged with undertaking a de novo review of the determination of the Attorney General regarding the legality of the use of deadly force by law enforcement; discussions and recommendations of the panel are independent from the Attorney General.

Factual Synopsis

On Thursday, April 23, 2020, Reed Rickabaugh's neighbor in Hiram reported that while he and his family were away, a bullet was fired from outside his residence into his son's bedroom and penetrated the mattress on his bed. It appeared that the bullet was fired from the direction of Mr. Rickabaugh's home, and the neighbor had previously heard gunshots and observed Mr. Rickabaugh holding a rifle.

On Friday, April 24, 2020, at 10 p.m., three Oxford County deputy sheriffs arrived at Mr. Rickabaugh's residence to serve a Protection from Harassment Order that the neighbor had obtained from the District Court. Finding outside lights on, deputies knocked three times and announced, "Sheriff's Office." Mr. Rickabaugh emerged from the house holding a revolver. A Deputy, who had taken cover behind Mr. Rickabaugh's truck, yelled "gun", and ordered Mr. Rickabaugh to drop the gun. Mr. Rickabaugh pointed the revolver in Deputy's direction and fired one round which struck a marked police cruiser. The deputies withdrew and established a perimeter around the house.

The State Police Tactical Team and the State Police Crisis Negotiation Team (CNT) were called for assistance and they arrived at the scene with an armored vehicle, robot, and explosive devices. For over ten hours, members of the CNT attempted unsuccessfully numerous times to engage with Mr. Rickabaugh by telephone and loud speaker. Mr. Rickabaugh fired at the Tactical Team, and at one point, rounds struck the armored vehicle (the LENCO) and disabled it. The Tactical Team contacted the Portland Police Tactical Team, which arrived with a second armored vehicle and an additional five officers.

At 9:03 a.m. on Saturday, April 25, Mr. Rickabaugh called 911 and reported that he was being attacked and requested police assistance. At approximately 10:32 a.m., the State Police Bomb Squad, using a robot, deployed an explosive breaching charge (EBC) on a door to the residence. A negotiator announced to Mr. Rickabaugh that if he continued to shoot at law enforcement, the police would be forced to respond with deadly force. This warning was repeated several times. The EBC was detonated and succeeded in removing the door from the house.

At 10:46 a.m., Mr. Rickabaugh fired a handgun at the robot from the doorway of his residence. He then moved the dislodged door out of the doorway. At 10:47 a.m., Cpl. Casey and

Cpl. Neagle each fired their rifles at Mr. Rickabaugh. Mr. Rickabaugh fell into the doorway where he was pronounced dead.

Information the Panel Reviewed

Prior to its review, 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, and other materials. The Panel also reviewed the report of the internal critical incident review that was initiated on May 20, 2020, and finalized on October 12, 2021 by the Maine State Police, as well as the October 7, 2021 Attorney General's report and determination of the legal justification of the use of deadly force.

Summary of Panel Discussion

On November 18, 2021, the Panel met via Zoom and conducted a review of the referenced incident and asked questions of Attorney General Detective Seth Blodgett, the primary investigator. The Panel discussion focused on 1) the mental health and disability status of Mr. Rickabaugh and whether he could understand his circumstances; 2) the various strategies used by the State Police to engage Mr. Rickabaugh, including the use of the armored vehicle; and 3) the circumstances of Tactical Team deployment and outcomes. The Panel discussed that Mr. Rickabaugh had untreated mental health issues; was physically disabled; lived alone; was a felon yet had firearms that were reportedly given to him by his father; and had a blood alcohol content of 0.14%.

Observations

1. This is a worst-case scenario in which Mr. Rickabaugh had untreated mental illness (schizophrenia and bi-polar disorder); consumed a substantial amount of alcohol; used several weapons; reportedly shot into his neighbor's child's bedroom; shot at the police several times; and refused or was unable to engage in dialogue.
2. The responding officers did not know about Mr. Rickabaugh's mental health status at the time until after the Tactical Team was deployed at the scene, and no mental health experts subsequently were consulted.
3. The Panel noted that in calendar year 2020, of 122 requests for the assistance of the State Police Tactical Team, the team was activated 62 times (51%), and used deadly force twice (3.2%). From 01/10/2021 through 11/18/2021, the team was requested 130 times, activated 65 times (50%), and used deadly force once (1.5%).
4. During the course of this incident, a significant number of law enforcement officers and tactical equipment was deployed. Once Mr. Rickabaugh shot at the officers, the law enforcement response was a series of escalating tactical responses. Initially, three deputy sheriffs arrived to serve the temporary Protection from Harassment Order. The State Police Tactical, Crisis Negotiation, and Explosive Teams, involving over 20 state troopers, were involved in the incident over the next ten hours. A backup tactical team from Portland was called in with five

officers and an armored vehicle, and the Massachusetts State Police was dispatched with a smoke box. The officers used two armored vehicles, an unmanned aerial vehicle (UAV or drone), a robot, chemical munitions, explosives, precision rifles, and other standard tactical team equipment. The cost in personnel time, equipment, and the diversion of significant law enforcement resources was enormous for the state, community, and Maine citizens. An individual lost his life and law enforcement officers and the public were placed in danger.

5. The Panel noted that all the above occurred as a result of firearms in the hands of a mentally unstable, untreated intoxicated individual, who was legally prohibited from possessing weapons.
6. The intensity of services was inadequate to Mr. Rickabaugh's needs. He had medications that he was not taking as prescribed, but it did not appear that there were additional mental health and substance use disorder services in place.
7. Three Oxford County deputy sheriffs, each in his own cruiser, went to Mr. Rickabaugh's residence at ten o'clock at night to serve the protection from harassment order. The lead deputy informed the other two that Mr. Rickabaugh had mental health issues and that it was advisable to have two or three deputies respond given his recent behavior from the day before and the presence of firearms in the residence. The officers knew that Mr. Rickabaugh possessed firearms, including a high-powered rifle. They knew that he was uncooperative as he had refused the day before to talk to the lead deputy, swore at him, and told him to leave the residence. The officers knew or reasonably should have known that Mr. Rickabaugh was a convicted felon and, thus, prohibited from possessing firearms, and that he had been the subject of many previous encounters with the Sheriff's Office during which he demonstrated episodes of mental illness or instability. Given that the deputies knew that any contact with Mr. Rickabaugh could likely be risky and confrontational, the Panel questions why they attempted service of the order late at night rather than during daylight hours with a more careful strategy for their safety and the safety of third parties. The Panel also questions the advisability of visiting Mr. Rickabaugh to serve a civil order when further investigation following the lead deputy's first failed initial encounter with Mr. Rickabaugh may have reasonably resulted in the filing of a complaint and the issuance of an arrest warrant.

Recommendations

1. In circumstances such as this, a mental health co-response that is consultative in nature is advisable so that law enforcement might have assistance in understanding an individual's mental health history and employing de-escalating techniques that might be effective in reaching the particular individual. It may not be safe to bring such professionals to the scene, but the Panel recommends having protocols and relationships in place to connect law enforcement with these essential resources by phone as needed.
2. The Maine Criminal Justice Academy Board of Trustees sets minimum standards for a post-incident review by the applicable law enforcement agency. The governing law implies that an incident review team be convened by each law enforcement agency involved in the incident. No Oxford County deputy sheriff was directly involved in the shooting of Mr. Rickabaugh.

However, the deputy sheriffs were critical participants in the early stages of the incident and had direct contact with Mr. Rickabaugh. The panel recommends that the MCJA Board of Trustees amend its standards regarding deadly force incident review procedures to include the requirement that all law enforcement agencies critically involved in the outcome of the incident be included in the post-incident review process and reporting.

Timeline and Details

On April 24, 2020, at approximately 10:26 p.m., the Oxford County Sheriff's Office requested assistance from the State Police Tactical Team in response to an incident involving Reed Rickabaugh in Hiram. On the previous day, Mr. Rickabaugh's neighbor reported that while he and his family were away, a bullet fired from outside his residence entered his son's bedroom and penetrated the boy's mattress. According to the neighbor, the trajectory appeared to have originated from Mr. Rickabaugh's home. The neighbor further related that he previously heard Mr. Rickabaugh discharging firearms and saw him on one occasion holding a rifle style firearm. An Oxford County deputy sheriff responded to the complaint and went to Mr. Rickabaugh's home to speak with him. However, Mr. Rickabaugh refused to come to the door. While on Mr. Rickabaugh's front porch, the deputy observed two 30.06 rifle cartridges, one fired and one unfired. When he attempted to retrieve them, a man yelled, "Get the f**k off my property."

Concerned for his family's safety, the neighbor obtained a protection from harassment order from the District Court against Mr. Rickabaugh. At 10:00 p.m. on April 24, 2020, three Oxford County deputy sheriffs went to Mr. Rickabaugh's home to serve the order. When the deputies announced themselves two or three times as being from the Sheriff's Office with something to serve upon him, Mr. Rickabaugh emerged from the house holding a revolver. A deputy ordered Mr. Rickabaugh to drop the gun and Mr. Rickabaugh pointed the revolver in the deputy's direction and fired one round. Mr. Rickabaugh then rapidly returned inside the house. The deputies established a perimeter around the house until the State Police Tactical Team arrived and took over.

The State Police Crisis Negotiating Team (CNT) responded to the scene along with the Tactical Team. A negotiator contacted Mr. Rickabaugh's mother, who lived out-of-state. The negotiator learned from her that Mr. Rickabaugh suffered from schizophrenia and bi-polar disorders and was physically disabled, he likely was not taking medication, he had two or three hunting rifles and a significant amount of ammunition at the house, he lived alone and had no pets, and he had not spoken to his mother since October 2019.

The Tactical Team commander briefed the members of the team on the information gathered about Mr. Rickabaugh. At about 12:25 a.m. on April 25, 2020, team members heard a shot fired from Mr. Rickabaugh's house. The team was also informed that a warrant had been issued for Mr. Rickabaugh's arrest for attempted murder, along with a search warrant for his house.

At approximately 2:30 a.m., the commander directed that the team's armored vehicle (LENCO), occupied by the reaction/arrest team and members of the CNT, drive into Mr. Rickabaugh's driveway to attempt to contact Mr. Rickabaugh through the public address ("PA") system. The vehicle moved in with its blue lights activated. A negotiator identified himself as a member of the State Police and repeatedly requested that Mr. Rickabaugh come out of the house with nothing in his hands so they could speak with him. The siren on the vehicle was activated to wake Mr. Rickabaugh in the event he was asleep. At the same time, the negotiator repeatedly called Mr. Rickabaugh's cell phone and left messages requesting contact. At 3:30 a.m., an officer

informed Mr. Rickabaugh through the PA system that there was a search warrant for his house. At approximately 4:00 a.m., an officer informed Mr. Rickabaugh that there was a warrant for his arrest for attempted murder. By that time, the negotiator had called Mr. Rickabaugh and left 28 messages, without a response.

At 4:30 a.m., members of the Tactical Team, using a device on the armored vehicle, breached a window of Mr. Rickabaugh's home for the purpose of increasing the volume of the PA system and permitting the team members to get a view inside the residence. Mr. Rickabaugh shot at the armored vehicle, striking it in the grill and penetrating the radiator, and disabling the vehicle. The vehicle backed out of the driveway. The crisis negotiator told Mr. Rickabaugh over the PA system to stop shooting at them. The Tactical Team commander contacted the Portland Police Department's Special Response Team to request that that agency's armored vehicle respond to the scene as the State Police vehicle was disabled by the gunfire damage.

By 7:00 a.m., officers of the Portland Police Department arrived with their armored vehicle. Both armored vehicles approached the house. A member of the CNT called to Mr. Rickabaugh and directed him to come out of the house with nothing in his hands. When Mr. Rickabaugh did not respond, officers placed chemical munition grenades in the house through a window. At 7:04 a.m., after the chemicals had been introduced into the house, Mr. Rickabaugh fired another shot at the armored vehicle. Approximately one-and-a-half hours later, Mr. Rickabaugh was seen pushing the device that had held the chemicals out the window. At about the same time, the lights on Mr. Rickabaugh's truck flashed as if activated remotely, which caused officers to conjecture if he was coming out of the house with intent to flee.

CNT members continued to call to Mr. Rickabaugh over the PA system with no response. They also continued to call Mr. Rickabaugh's cell phone. By 7:20 a.m., the CNT had left 55 voicemails on his phone. In the meantime, the Tactical Team commander contacted the Massachusetts State Police with a request for assistance and another armored vehicle and chemical munitions. The plan was to use a robot to deploy an explosive device to remove a door to the home and reduce the risk of Mr. Rickabaugh's shooting one of the team members.

At 9:03 a.m., Mr. Rickabaugh called 911 claiming that he was being attacked, and asking the dispatcher to send help. He then abruptly terminated the call. For approximately nine minutes, the CNT negotiator called out to Mr. Rickabaugh over the PA system, acknowledging that officers knew he had called for help, stating that they were the State Police, and they were there to help him. They later announced that Mr. Rickabaugh was under arrest and he should come out unarmed and surrender and, if he continued to use deadly force against the police, the police would use deadly force against him.

By 10:30 a.m., the CNT had called Mr. Rickabaugh's cell phone 72 times and left 72 voicemail messages. The robot set an explosive charge on a door to the home. When activated, the charge removed the door from its frame. Mr. Rickabaugh came to the doorway with a handgun and shot at the robot, went back into the house, and returned to remove the door.

Corporal George Neagle was facing the side of the house where the explosive was detonated. Corporal Casey and another officer were positioned to the right of Corporal Neagle. Corporal Neagle saw a figure moving in front of the house in the direction of the armored vehicle and heard another shot from the house. Corporal Neagle shot at Mr. Rickabaugh. When he shot, he believed Mr. Rickabaugh was shooting straight across the road at him and Corporal Casey, as well as in the direction of the team members in the armored vehicle occupied by other officers.

Corporal Casey also heard the shots fired toward his position. He observed Mr. Rickabaugh in the doorway holding the gun and removing debris from the doorway. Corporal

Casey fired at Mr. Rickabaugh. Corporal Casey feared that Mr. Rickabaugh would shoot the officers if he did not shoot him. Mr. Rickabaugh fell into the doorway where he was pronounced dead by the team medic. While the medic evaluated Mr. Rickabaugh, members of the reaction/arrest team entered the house and observed a silver revolver at the foot of a bed and several long guns, including a scoped rifle, on a dresser to the right of the bed.

A post-mortem examination by the Office of Chief Medical Examiner found that Mr. Rickabaugh died from a single perforating gunshot wound of the neck and chest. His blood alcohol content was 0.143% and contained detectable levels of marijuana consumption.

Panel Members

Michael Alpert, President, Greater Bangor NAACP

Debra Baeder, Ph.D. Clinical Director of Office of Behavioral Health

David Bate, Esq.

Stephen Burlock, Esq., Assistant District Attorney, District 5, Retired

John Chapman, Esq.

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Rick Desjardins, Director, Maine Criminal Justice Academy

Sandra Slemmer, designee of Mark Flomenbaum, M.D., Ph.D., State Chief Medical Examiner

Fernand Larochelle, Panel Vice Chair and Secretary

Brian MacMaster, Chief, Attorney General Investigations

Joel Merry, Sheriff, Sagadahoc County

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 determines he or she has a conflict of interest, the Panel member is recused from voting on the Panel's observations and recommendations regarding that case.