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March 28, 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 eleventh 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 December 18, 2020, in Jefferson, the details of which are part of the Panel’s enclosed report.

For the Deadly Force Review Panel:

Francine Garland Stark, Chair

Enclosure

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December 18, 2020, Jefferson Use of Deadly Force Incident

As required by 5 MRS § 200-K, the Maine Deadly Force Review Panel submits the following report of the December 18, 2020, use of deadly force incident involving Deputy David Bellows of the Lincoln County Sheriff's Office. 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 of the Attorney General.

Factual Synopsis

On December 18, 2020, three Lincoln County deputy sheriffs responded to an “open 911 call” in Jefferson. One of the officers determined the call originated from 50 Rockland Road in Jefferson. That officer went to the location and observed through a sliding glass door Jacob McClure in an altercation with a woman. Deputy David Bellows and another deputy sheriff arrived at the location and the three officers entered the residence. Mr. McClure told the officers to leave, walked down a hallway, and locked himself in a room. The woman was frantic and indicated nonverbally that she was afraid. The officers decided to arrest Mr. McClure for domestic assault. Mr. McClure told the officers to leave and insisted on trying to communicate with the woman. The officers tried unsuccessfully to persuade Mr. McClure to come out of the locked room. One of the deputy sheriffs breached the locked door and was encountered by Mr. McClure pointing a rifle at him. The two officers yelled “gun” and retreated down the hallway. Deputy Bellows moved to the hallway, attempted to shield the woman, who was walking toward the hallway ignoring Deputy Bellows' commands, and drew his weapon. Ignoring commands to drop the gun, Mr. McClure pointed his rifle at Deputy Bellows, who shot Mr. McClure. Mr. McClure died at the scene.

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, Mr. McClure's medical records, body camera recordings, and other materials. The Panel also reviewed the report of the critical incident review dated March 10, 2021, by the Lincoln County Sheriff's Department, as well as the Attorney General's October 14, 2021 determination of the legal justification of the use of deadly force.

Summary of Panel Discussion

On February 24, 2022, the Panel met via Zoom, reviewed the referenced incident, and

asked questions of Attorney General Detective Seth Blodgett, the primary investigator. The Panel discussion focused on 1) the prior involvement of law enforcement with Mr. McClure in the two months previous to the incident, including an active conditions of release order; 2) Mr. McClure's mental health and criminal record; and 3) the actions of the officers, including when they breached the locked door.

Observations

1. During the month prior to the shooting, Mr. McClure engaged in erratic and escalating criminal behavior that was known to the Kennebec County Sheriff's Office and the Augusta Police Department. Mr. McClure was in possession of a knife and firearm when he was arrested for OUI on November 7, 2020. He had active bail conditions that included a prohibition of possessing dangerous weapons or firearms. It is noted that the Maine Intelligence & Analysis Center (MIAC) issued a statewide Officer Safety Bulletin regarding Mr. McClure's behavior and bail conditions, but it was not established if the Sheriff's Office received that information. The room in which Mr. McClure retreated when he was shot contained 35 firearms and boxes of ammunition.





2. Failure to remove the woman from the residence was not in keeping with standard practice in response to a domestic violence incident. In addition to removing the woman from the area, the officers should have considered other options before breaching the door.
3. When Mr. McClure locked himself off in the room, the officers should have safely removed the woman from the house before attempting to take him into custody.
4. Officers failed to control the movement of Mr. McClure, which ultimately allowed him to lock himself in the bedroom. The Panel was also concerned about the officers breaching the door without knowledge of Mr. McClure's access to weapons.
5. The Lincoln County Sheriff's Office internal review report contained very specific and relevant recommendations. They were noteworthy for their detail, for emphasizing their purpose to ensure best practices for operations at the Sheriff's Office, and for their comprehensiveness. The Panel continues to raise the question as to how these reports are used by the law enforcement agencies and what checks are in place to determine if the recommendations are implemented.

Recommendation

The Panel recommends that a mechanism be developed to determine if recommendations contained in the internal review reports are implemented.

Timeline and Detail

In the month prior to the shooting, Mr. McClure was involved in a number of contacts with law enforcement involving escalating criminal behavior. He was arrested by a Kennebec County deputy sheriff for OUI and threatening an officer. Augusta police officers responded twice to a Verizon store for reported disruptive behavior by Mr. McClure and once arrested, he tried to flee.

Augusta Police also investigated a complaint that he was harassing patients and others in the parking lot of Maine General Medical Center.

On December 18, 2020, at 12:25 a.m., the Lincoln County Communications Center (LCCC) received an “open 911 call.” The dispatcher heard a man (later determined to be Mr. McClure) telling someone to get out of the bathtub. Lincoln County Deputy Sheriff David Bellows responded to the call with two other deputies. At 12:30 a.m., the dispatcher reported hearing Mr. McClure counting down and telling a person that the person had 30 seconds, or he would physically remove the person. A woman is heard saying, “Stop pushing me around.” The dispatcher reported that Mr. McClure sounded aggressive. Mr. McClure was heard saying that “it will not end well.” The officers attempted to establish the location of the 911 call.

One of the officers saw a lighted sign at a cannabis boutique. He observed two persons through a window in a house next to the business. The officer requested that the other two deputies come to his location, and he approached the sliding glass door of the residence. He saw Mr. McClure and a woman in an altercation; the officer entered the house and told Mr. McClure to get his hands off the woman. Mr. McClure stated that they were engaged in theater and told the officer to leave his house.

The officer told the woman and Mr. McClure that there was an open 911 call. The woman said that she did not call 911. The other two deputies entered the residence and Mr. McClure told them to leave. Mr. McClure then turned and walked to the hallway and one of the deputies went to the entrance of the hallway. Mr. McClure locked himself in a room. Deputy Bellows learned the woman’s phone number and told her that she did in fact call 911. She became emotional and said that she did not mean to call 911. She stated, “He is going to be really mad if he thinks that I called 911 on him.” From the locked room, Mr. McClure told the woman to make the officers leave his residence. The officers tried to talk with Mr. McClure, who remained behind the locked door of a room. Mr. McClure said that he had PTSD and to read the sign on the door. The sign read “PTSD Survivor [sic]. Please do not honk! Please do not yell! Please be peaceful.”

Deputy Bellows spoke with the woman in an attempt to learn what was going on, and she indicated that she was afraid to speak and stated, “He’s dangerous.” Deputy Bellows asked her if Mr. McClure had any weapons in the room. She appeared to hyperventilate and gestured with her hand that Mr. McClure was crazy. She was asked if Mr. McClure assaulted her, and she gave a nonverbal response by shaking her head yes. Deputy Bellows observed red marks on her face, nose, and mouth.

The other two deputies went to the locked door and told Mr. McClure to let them in. Mr. McClure told the deputies not to touch the door. Mr. McClure kept calling for the woman to come to the door. One of the deputies breached the locked door and was met by Mr. McClure pointing a gun at his face. He yelled “gun” and the two officers retreated down the hallway into the bathroom. Deputy Bellows moved to the entrance to the hallway and saw the other two officers retreating down the hall while removing their handguns from their holsters. Deputy Bellows removed his handgun from his holster. He saw that the door to the room Mr. McClure had earlier retreated was open. Deputy Bellows yelled to Mr. McClure to put the gun down or he would shoot him. Deputy Bellows could not see Mr. McClure. Mr. McClure told the woman, “Just come here.

I want to see your face.” The woman walked towards Deputy Bellows, and he yelled to her to stay back, but she continued to walk toward the hall and Deputy Bellows moved to the opposite side of the entrance to the hallway to prevent her from getting into Mr. McClure’s view. When Deputy Bellows repositioned, he saw Mr. McClure’s torso, left side, and head two feet inside the room’s doorway. Mr. McClure was standing slightly sideways with his left side forward. Mr. McClure was holding a rifle with his left hand at waist level with the gun’s barrel pointed at Deputy Bellows. Deputy Bellows shot Mr. McClure, who fell face down on the floor and died at the scene. Mr. McClure sustained five gunshot wounds, and his blood alcohol content at the time of autopsy was 0.19%. Later investigation found that Mr. McClure’s right index finger was in the trigger guard and on the trigger. An additional 35 firearms and an assortment of ammunition were observed in the room to which Mr. McClure retreated and was later shot.

Panel Members

Michael Alpert, President, Greater Bangor Area Branch NAACP
 Debra Baeder, Ph.D. Clinical Director of Office of Behavioral Health, DHHS
 David Bate, Esq.
 Stephen Burlock, Esq., Assistant District Attorney, District 5, Retired
 John Chapman, Esq.
 Jack Clements, Chief of Police, Saco
 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.