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April 30, 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 twelfth 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 31, 2019, in Gorham, the details of which are part of the Panel’s enclosed report.

For the Deadly Force Review Panel:

Francine Garland Stark, Chair

Enclosure

May 31, 2019, Gorham Use of Deadly Force Incident

As required by 5 M.R.S. § 200-K, the Maine Deadly Force Review Panel submits the following report of the May 31, 2019, use of deadly force incident involving Officer Dean R. Hannon of the Gorham Police Department. 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 find independently whether there was compliance with accepted and best practices under the 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 prove 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

At approximately 4:00 p.m. on May 31, 2019, Officer Dean Hannon of the Gorham Police Department received a report that Kyle Needham, wanted on a felony arrest warrant for eluding an officer, was in the Main Street area of Gorham, accompanied by his girlfriend. Officer Hannon, along with other officers of the Gorham Police Department (GPD), went to the Main Street area in an effort to locate and arrest Mr. Needham.

A GPD officer told the other officers that she had spotted the vehicle reportedly being driven by Mr. Needham, a pickup truck with a wooden flatbed body, parked in the rear lot of the Burger King restaurant on Main Street. Several other GPD officers drove their cruisers to the parking lot area and set up a loose perimeter around the truck but out of view. When a man and woman ran from the Burger King and entered the suspect's vehicle officers drove to the scene and positioned their cruisers to the front and side of the vehicle in an attempt to box Mr. Needham in and keep him from fleeing the scene. Officers exited their vehicles and approached the vehicle. Another officer opened the passenger side door and tried to remove the woman while yelling commands to "get out of the truck!" Officer Hannon, at the driver's side door, was trying to arrest Mr. Needham, who had started the vehicle and tried to flee by crashing into the front end of a police cruiser. He rapidly backed up and the vehicle struck an officer on the passenger side, who fell out of Officer Hannon's view. Officer Hannon, believing that the other officer was in danger of being run over, fired a single round at Mr. Needham, which struck him in the upper left torso. After being shot, Mr. Needham accelerated forward, and was able to maneuver the truck around the police cruisers, striking a parked car as he tried to flee. The truck then came to a stop and the officers removed the woman from the vehicle. Officer Hannon removed Mr. Needham from the driver's seat and administered medical aid. EMS arrived on scene, but Mr. Needham died from the gunshot wound. The medical examiner's report noted that Mr. Needham had a high level of methamphetamine in his system.

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 the original investigative materials, including interview recordings and reports, forensic reports, photographs, emergency communications transcripts, criminal history, medical reports, police vehicle dashboard camera recordings, and other materials. The Panel also reviewed the report of the critical incident review conducted by the Gorham Police Department dated September 20, 2019, as well as the Attorney General's October 21, 2021 determination of the legal justification of the use of deadly force.

Summary of Panel Discussion

On March 24, 2022, the Panel met via Zoom, reviewed the referenced incident, and asked questions of Attorney General Detective Michael Pulire, the primary investigator. The Panel discussion focused on 1) the prior involvement of law enforcement with Mr. Needham, including a recent high-speed chase during which Mr. Needham eluded police officers and a later warrant for his arrest; 2) Mr. Needham's past criminal record; and 3) the actions of the officers including their surveillance efforts, their plan to contain and arrest Mr. Needham, and the use of WatchGuard cruiser cameras.

Observations

1. Prior to approaching Mr. Needham, the GPD officers knew he was a flight risk based on his recent actions and prior criminal history. Although Mr. Needham's vehicle was in a public heavily populated area, he had parked in a relatively isolated space in a rear parking area. The officers used the opportunity to block his vehicle and attempt to take him into custody before he could flee to a public roadway. The officers took care to minimize the potential for harm to persons and vehicles in their overall approach to this incident.
2. The internal review report by the Gorham Police Department was timely and thorough. While the Panel agrees with the report's observation that activating the cruiser emergency lights would have activated the audio recording system in the cruiser and provided an unmistakable warning to the suspect and public in the vicinity, activating the lights during the surveillance phase of the operation was not a reasonable action.
3. The GPD WatchGuard system was set to automatically start the audio recording when the cruiser emergency lights were activated. Accordingly, the audio could not be captured without compromising the officers' ability to maintain the necessary low profile in the surveillance phase of the operation. Panel members commented that there are alternate means of programming the WatchGuard system to ensure activation of the audio recording.

Recommendations

None

Timeline and Detail

On Friday, May 31, 2019, shortly after 4:00 p.m., the Gorham Police Department learned that Kyle Needham was wanted on arrest warrants for eluding an officer and probation violations. Mr. Needham had allegedly eluded the State Police during a high-speed vehicle pursuit that was terminated because of Mr. Needham's reckless operation. Mr. Needham's Maine criminal history reflects that he was on probation in May 2019 for two earlier eluding convictions in 2018. The Gorham Police Department learned that Mr. Needham was seen at the Hannaford Supermarket on Main Street in Gorham. It was reported that he was driving a tan Chevy S-10 truck with a wooden trailer bed. Gorham PD Sgt. Sears Edwards formulated a plan with Gorham officers Sgt. Nathan Therriault, Officer Dean Hannon II, and Officer Todd Gagnon to go to Hannaford and block off the exits to apprehend Mr. Needham. Officer Alisha Smith, who was on patrol in a marked cruiser, was requested to join the other officers at Hannaford.

No truck matching the description was found at the Hannaford parking lot. Officer Alisha Smith drove across Main Street to the Gorham Village Shopping Center and saw a truck that was consistent with the description parked near the Burger King Restaurant. The truck was parked facing out in front of a retaining wall with a curb and strip of grass separating the wall from the line of parking spaces. Officer Smith reported to other officers that she ran the plate, and the owner of the vehicle was Mr. Needham. The other officers drove to the mall in their marked cruisers with Sgt. Therriault, Officer Hannon, and Officer Gagnon driving to the Burger King parking lot, and Sgt. Edwards parking in the Rite Aid (now Walgreen's Pharmacy) parking lot located at the top of the retaining wall, where he could look down directly at the truck.

Officer Hannon drove by the truck and notified the other officers that it was unoccupied. He and Sgt. Therriault then saw a man and woman running from Burger King to the truck. Sgt. Therriault positioned his cruiser at near contact to the front of the truck. Officer Gagnon parked behind him. Officer Smith parked at an angle facing the driver's side of the truck and Officer Hannon pulled in and parked to the right of Officer Smith's cruiser, effectively blocking any means of escape on the driver's side. All the officers were dressed in police uniforms and operating marked police cruisers.

Mr. Needham was in the driver's seat and his companion was seated on the passenger side. The officers emerged, guns drawn, and directed Mr. Needham to get out of the truck while yelling, "Shut the vehicle off. Shut the vehicle off. You're under arrest. Show us your hands." Instead of complying with the commands, Mr. Needham accelerated his truck and rammed the front of Sgt. Therriault's cruiser. With the front of the truck still in contact with Sgt. Therriault's cruiser, Sgt. Therriault moved to the passenger side of the truck, opened the door, and tried to remove the passenger, who physically resisted. Officer Hannon moved on foot to the driver's side door and struck the window with the butt of his firearm and his elbow in an unsuccessful attempt to shatter the window. With the passenger door open and Sgt. Therriault reaching into the cab, Mr. Needham accelerated and rammed Sgt. Therriault's cruiser in an apparent effort to push Sgt. Therriault's cruiser out of the way. Mr. Needham then revved the truck in reverse and the open door hit Sgt. Therriault, propelling him backwards and causing him to lose his footing. Mr. Needham accelerated the truck forward to the right of Sgt. Therriault's cruiser into the path that Sgt. Therriault had been standing, nearly striking Sgt. Therriault.

Officer Hannon lost sight of Sgt. Therriault when Sgt. Therriault was knocked back by the truck door. Officer Hannon feared that Sgt. Therriault might have fallen under the truck and was at immediate risk of being run over by a driver intent on fleeing the scene. Officer Hannon fired once at Mr. Needham through the driver's side window. The truck then traveled 241 feet, continuing forward erratically, losing speed, striking a parked car, and gradually rolling to a stop. Sgt. Therriault recovered his footing and both he and Officer Hannon ran after the truck. Officer Hannon, a certified emergency medical technician, removed Mr. Needham, who was unresponsive, from the truck and began administering first aid until emergency medical technicians arrived and took over. Mr. Needham died at the scene.

Although the audio on the cruiser cameras was not activated at the time of the shooting, the videos corroborated the officers' description of the events. The rear tires on Mr. Needham's vehicle left pronounced acceleration marks on the pavement and furrow ruts about four inches deep in the grass strip behind the curb. Mr. Needham's operation of the vehicle tore up the grass and spun dirt against the retaining wall, some of which struck Sgt. Therriault in the face. There was damage to Mr. Needham's truck and Sgt. Therriault's cruiser consistent with Mr. Needham accelerating and ramming Sgt. Therriault's cruiser.

A post-mortem examination later determined Mr. Needham's cause of death to be a single gunshot wound to the chest and abdomen. Toxicology findings at the time of the examination found that Mr. Needham's blood had high levels of methamphetamine, a stimulant capable of causing hallucinations, aggressive behavior, and irrational reactions.

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 (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., Chief Medical Examiner
Fernand Larochelle, 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, Chair
Dan Tourtelotte, Maine State Law Enforcement Association
Vendean Vafiades, Esq., Vice 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.