

MAINE STATE LEGISLATURE

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November 19, 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 18th examination of a law enforcement officer's use of deadly force. Under 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 about 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 January 10, 2022, in Falmouth on the Maine Turnpike, the details of which are part of the Panel's enclosed report.

For the Deadly Force Review Panel:

Francine Garland Stark, Chair

Enclosure

January 10, 2022 - Falmouth 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 January 10, 2022, use of deadly force incident involving Corporal Ricci Cote of the State Police on the Maine Turnpike in Falmouth. 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 recommends 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.

Synopsis

A few minutes after midnight on January 10, 2022, a motorist on the Maine Turnpike called 9-1-1 to report an erratic driver in the northbound lane near Mile 48. Corporal Ricci Cote of the State Police located the vehicle near Mile 55 and attempted to stop it. The operator of the vehicle refused to stop and led Cpl. Cote on a chase, during which time the driver, later identified as Barry Coolbrith, 33, reached speeds of nearly 90 miles per hour and tried at least twice to engage a crash by suddenly braking while being pursued by Cpl. Cote. After a circuitous pursuit that ended up in the southbound lane of the turnpike and onto an exit ramp at Mile 53, Cpl. Cote shot at Mr. Coolbrith. Cpl. Cote had executed a Precision Immobilization Technique (PIT) and had exited his cruiser. At the moment of the shooting, Cpl. Cote perceived that Mr. Coolbrith was trying to run him over. Another trooper who was following Cpl. Cote remained in her cruiser and resumed the chase when Mr. Coolbrith drove away, ultimately catching and subduing him. Mr. Coolbrith suffered a flesh wound in his left upper arm from the gunshots. He was transported to a Portland hospital where he was treated and released.

Information the Panel Reviewed

Before its review, the Panel received a complete copy of the investigative materials compiled by the Attorney General's Office. The materials consisted of all the original investigative data, including interview recordings and reports, forensic reports, photographs, cruiser camera video footage, emergency communications, criminal history, medical reports, and other materials. The Panel also reviewed the July 25, 2022, report of a critical incident review convened by the State Police on January 13, 2022, as well as the Attorney General's report of July 8, 2022.

Summary of Panel Discussion

On October 27, 2022, the Panel met via Zoom, reviewed the referenced incident, and asked questions of now-retired Attorney General Detective Michael Pulire, who investigated Cpl. Cote's use of deadly force. The Panel discussed the risks of shooting at a motor vehicle, target

identification and firing zone, i.e., what is between the shooter and the target and the area beyond the target, as well as the efficacy of terminating vehicle pursuits with the use of the Precision Immobilization Technique (PIT) and spike strips (tire deflation devices). The Panel also discussed the combination of mental health episodes and substance use disorder in what has become a common theme in deadly force cases reviewed by the Panel.

Observations

The Panel observed that:

1. Cpl. Cote was methodical in his approach, communications, and processing options as the pursuit evolved, and the officers of the Falmouth Police Department performed remarkably in providing support during the pursuit and the subsequent apprehension of Mr. Coolbrith.
2. Mr. Coolbrith made statements after being apprehended that included suicidal ideation. While the law enforcement officers on the scene heard these, the EMS record did not include any reference to the statements. The hospital, apparently without the knowledge of these statements, conducted a cursory risk assessment but there was no psychiatric consult, which may have resulted in the possibility of mental health treatment options.
3. Mr. Coolbrith had not been able to obtain the mental health services he needed in Maine and had instead connected with an out-of-state, online service. The combination of being on a new medication, alcohol, and marijuana rendered him intoxicated and impaired, contributing to this outcome.
4. While the IRT appropriately included attention to officer wellness, as well as recommendations regarding refresher training in the PIT maneuver and the need for cameras in spare cruisers, Falmouth PD was not included in the IRT review of the incident.

Recommendations

1. Officers who have used deadly force should be removed from the scene as soon as possible. In this case, sufficient personnel were available to immediately escort Cpl. Cote to another location to attend to his needs while others completed the arrest and attended to Mr. Coolbrith's medical needs.
2. All departments whose officers were involved in an incident should participate in the IRT review, not just the department whose officer(s) used deadly force, a previous recommendation of this Panel when a deadly force incident involves more than one agency.
3. In instances where an individual makes suicidal or homicidal statements or is suspected of suffering from a mental illness, law enforcement officers should request that the treating medical professional engage a psychiatric evaluation and clearly document this request in the incident record.

Timeline and Detail

Shortly after midnight on January 10, 2022, a 9-1-1 caller reported that a driver was operating erratically in the northbound lane of the Maine Turnpike at Mile 48. The caller provided the plate number of the vehicle and, by the end of the call, the caller said that the vehicle was at Mile 52.

Corporal Ricci Cote was at Mile 55 northbound when he heard the call. He saw two vehicles pass him, one of which was operating erratically. He drove up behind the vehicle and confirmed that the plate number was the same as the one reported by the 9-1-1 caller. He could not see the operator, later identified as Barry Coolbrith. Cpl. Cote activated his cruiser's blue lights, but Mr. Coolbrith did not stop. Cpl. Cote's cruiser camera showed Mr. Coolbrith's SUV weaving to the right as it signaled left, straddling the fog line at the right of the travel lane before moving back into the travel lane. Cpl. Cote activated his siren. Mr. Coolbrith initially signaled left and moved right as if it was stopping in the breakdown lane. He then turned off the signal, drifted back to the travel lane, and increased his speed to 70 and 80 miles per hour. Mr. Coolbrith continued to weave back and forth between the travel and passing lanes and attained a speed of 89 miles an hour. About four minutes into the pursuit, Mr. Coolbrith abruptly braked in the passing lane; Cpl. Cote nearly rear-ended the vehicle. Cpl. Cote requested the Cumberland Police Department to set up spike mats on the turnpike. However, Mr. Coolbrith left the turnpike at Exit 63 and continued toward Gray on Route 202. He stopped at a red light in the left lane and reversed direction by making a U-turn. He re-entered the turnpike into the southbound lane.

Another State Police trooper was driving southbound and joined the pursuit, following Cpl. Cote's cruiser. As Cpl. Cote was requesting assistance from the Falmouth Police Department, Mr. Coolbrith again slammed on his brakes, causing Cpl. Cote to swerve to the left to avoid hitting the vehicle. As the pursuit continued southbound, Mr. Coolbrith increased his speed. At approximately 11 minutes into the pursuit, Mr. Coolbrith drove into the Cumberland Service Plaza, traveled the building, and then re-entered the southbound lanes of the turnpike. At approximately 14 minutes into the pursuit, Mr. Coolbrith was reaching speeds of 95 miles an hour. At about 16 minutes into the pursuit, Mr. Coolbrith approached Exit 53 at 80 miles an hour. He slowed down around when he came up behind a tractor-trailer truck toward the exit ramp. Mr. Coolbrith passed the truck when it moved into the breakdown lane. Cpl. Cote estimated that Mr. Coolbrith had slowed to 45 miles per hour. Cpl. Cote engaged a PIT maneuver to force the vehicle to stop, and Mr. Coolbrith's vehicle came to rest briefly on the guardrail of the passing lane.¹ As the second trooper drove up, Mr. Coolbrith drove north around her cruiser and then across the two lanes, coming to rest at an angle with the front end of his vehicle against the guardrail of the breakdown lane.

Cpl. Cote observed that Mr. Coolbrith's vehicle appeared to be immobilized but that the vehicle's engine was still operating. Cpl. Cote quickly got out of his cruiser to take Mr. Coolbrith into custody. As Cpl. Cote moved toward the vehicle, Mr. Coolbrith backed away from the guardrail and accelerated directly at Cpl. Cole. Cpl. Cote shot at Mr. Coolbrith once and fired two

¹ The PIT maneuver (Pursuit Intervention Technique) is a tactic by which a pursuing vehicle causes a fleeing vehicle to turn sideways abruptly, resulting in the fleeing vehicle stalling and stopping.

more rounds as Mr. Coolbrith swerved to the left of Cpl. Cote's cruiser and drove around him and his cruiser. The second trooper pursued Mr. Coolbrith off the turnpike at Exit 53 as Cpl. Cote returned to his cruiser to follow her onto the ramp.²

Officers of the Falmouth Police Department had just set up spike mats at Exit 53 near the toll booth. Mr. Coolbrith's vehicle crossed over the spike mats. As Mr. Coolbrith slowed at the entrance to the Hannaford Store beyond the toll booth, the second trooper engaged a PIT maneuver. One of the vehicle's tires dislodged, and the vehicle came to a stop. The second trooper and Falmouth officers took Mr. Coolbrith into custody. They observed what appeared to be a graze wound on his upper left arm, which was later determined to have been caused by one of the rounds fired by Cpl. Cote. Toxicology results showed that Mr. Coolbrith's blood-alcohol level was 0.14% and there was THC, the active ingredient of marijuana, in his blood. Mr. Coolbrith was treated at a Portland hospital and released. He was later indicted for multiple offenses including the felony crimes of eluding an officer and reckless conduct with a dangerous weapon and a misdemeanor charge of operating under the influence.

Panel Members

Michael Alpert, President, Greater Bangor Area Branch NAACP
 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
 Anna Love, Chief, Attorney General Investigations
 Joel Merry, Sheriff, Sagadahoc County
 Michael Sauschuck, Commissioner, Department of Public Safety
 Benjamin Strick, Senior Director of Adult Behavioral Health, Spurwink
 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 to bring 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 that 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.

² The incident, from Cpl. Cote's PIT maneuver to Mr. Coolbrith's driving onto Exit 53 with the second trooper and Cpl. Cote in pursuit, was captured on the camera of the tractor-trailer and is consistent with the description provided by Cpl. Cote.