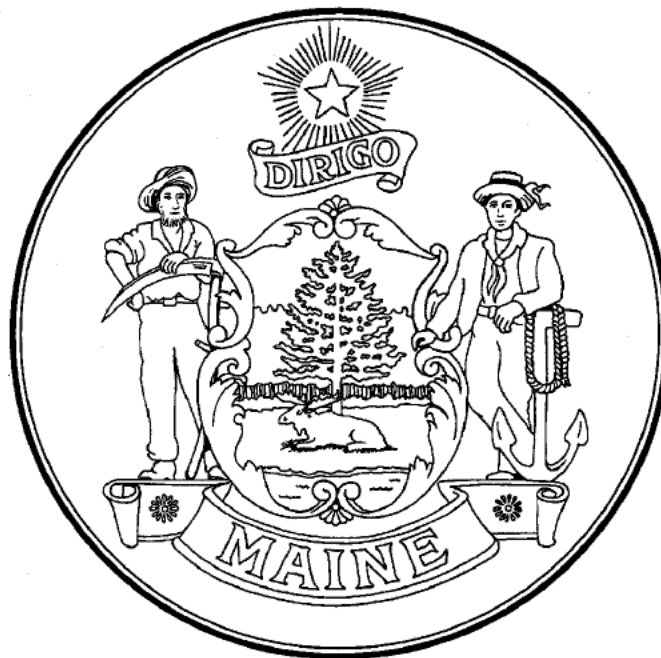


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December 28, 2022

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

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

The Deadly Force Review Panel completed its 20th 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 November 24, 2019, in Augusta, the details of which are part of the Panel's enclosed report.

For the Deadly Force Review Panel:

Francine Garland Stark, Chair

Enclosure

November 24, 2019 - Augusta 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 use of deadly force incident in Augusta on November 24, 2019, involving Officer Sabastian Guptil of the Augusta 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 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

On November 24, 2019, shortly after 12:30 a.m., three Augusta police officers, including Officer Sabastian Guptil, went to a residence on South Belfast Avenue in Augusta to locate and arrest Robert Farrington for an alleged felony-level domestic violence assault that occurred in Fairfield shortly before midnight. Unable to initially get the attention of anyone in the residence, the officers began to leave but returned when one of the officers saw a light come on in the house. Confronted by Mr. Farrington pointing a handgun at him while standing inside a sliding glass door at the side of the house, Officer Guptil shot at Mr. Farrington several times. Mr. Farrington was struck by a single round and survived the injury.

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 March 18, 2020, report of the Incident Review Team convened by the Augusta Police Department, as well as the Attorney General's report of August 12, 2022.

Summary of Panel Discussion

On November 17, 2022, the Panel met via Zoom, reviewed the referenced incident, and discussed aspects of the police response, including the "knock-and-talk" approach and whether Mr. Farrington knew that the persons outside his home knocking on the doors and windows were police officers.

Observations

1. The Panel discussed the overall context of the tactical approach for a knock-and-talk plan to engage Mr. Farrington at his residence and noted that the approach was appropriate for the totality of the circumstances. Three officers took a lowkey approach by knocking on the door and windows and calling out for upwards of seven minutes to see if they could engage Mr. Farrington. The Augusta PD officers were planning to hold Mr. Farrington for the Fairfield Police Department to arrive and take Mr. Farrington into custody for the earlier alleged domestic violence assault. The officers opted not to use escalating tactics, such as putting on the cruisers' blue lights or hailing with a bullhorn, as the appropriate choice, given the totality of the circumstances. Initially, having been unsuccessful in getting any response from inside the home, the officers were leaving the property when they observed a light come on inside the residence. At this point, knowing someone was awake, they renewed their attempts to connect with Mr. Farrington.
2. The Panel noted that there was ambiguity as to whether Mr. Farrington knew that the individuals knocking on the doors and windows were police officers, potentially setting up the possibility that Mr. Farrington may use force in defense of his residence. While the officers were in uniform and there were three clearly marked black-and-white cruisers illuminated by outdoor lighting and cruiser headlights, none of the officers announced their identity until seconds before Officer Guptil shot Mr. Farrington when he yelled, "Augusta Police, drop the gun!"
3. In its Internal Review Team report, the Augusta Police Department concluded that the use of blue lights or other alerts would not have changed the outcome. While the law enforcement members of the panel did not view the use of blue lights as warranted, it is inappropriate to draw the categorical conclusion that their use would not have changed the outcome.
4. There was a woman in the home at the time of this incident, and the responding officers appropriately ensured her safety by getting her out of the home and into a cruiser as quickly as possible.
5. Given the number of weapons subsequently found in the home, and that Mr. Farrington pointed a gun at the responding officers which resulted in him being shot in the thigh, this situation could have escalated to a much worse outcome.

Recommendations

1. To avoid any ambiguity regarding the presence or authority of law enforcement officers, whenever possible, a clearly identifiable officer should knock and notify persons in a loud enough manner to be heard inside the premises, or through other means, that the officer is a police officer.

Timeline and Detail

On November 23, 2019, shortly after 11 p.m., Robert Farrington's ex-girlfriend reported to the Fairfield Police Department that Mr. Farrington assaulted her earlier in the evening. An investigation determined that there was probable cause to arrest Mr. Farrington for domestic violence assault. It was believed that Mr. Farrington was living in Augusta. Officer Sabastian Guptill of the Augusta Police Department was notified at about 12:30 a.m. on November 24th that Mr. Farrington was wanted for domestic violence assault. Officer Guptill received information that Mr. Farrington was residing on South Belfast Avenue in Augusta. He teamed with other Augusta officers in an attempt to locate and arrest Mr. Farrington.

Upon arriving at the residence on South Belfast Avenue, the officers observed no lights on inside or outside the house until their movements activated a motion light on a garage and, less than a couple of minutes later, a motion light on the front of the house. One officer kept his cruiser headlights on to illuminate the front of the house. Officer Guptill observed Mr. Farrington's parked vehicle as he approached the house on foot. Two officers, also on foot, approached an enclosed porch at the front of the house while Officer Guptill went to the left side of the house should Mr. Farrington try to abscond. Officer Guptill went onto a deck to a sliding glass door on the side of the residence and knocked on it loudly with his flashlight for approximately one minute while another officer was doing the same at the front of the house. The other officer described his knocking as normal at first, progressing to a hard knock, and eventually pounding on the door.

Cruiser camera footage of the incident shows the attempts by the officers to contact Mr. Farrington lasted for about seven minutes before the officers decided to leave. An officer saw a light turn on inside the residence. Officer Guptill had already driven a short distance away from the residence when he heard a second officer report that a light was turned on inside the residence. Officer Guptill returned to the side of the house where he had previously been while the second officer went again to the front of the house and a third officer covered the right side of the residence. Officer Guptill observed an outside light next to the sliding glass door come on momentarily and then go off. He proceeded to the back of the residence. He shined his flashlight at the glass door and observed the curtain move back. He saw a person he identified as Mr. Farrington standing at the closed glass door with a handgun in his hand pointed downward. Officer Guptill, who was on a walkway near the deck, observed Mr. Farrington raise the gun in his direction to the point he could see the barrel of the gun pointed at him. Officer Guptill called out that Mr. Farrington had a gun, yelled "Augusta Police", and "drop the gun!". Believing that Mr. Farrington was going to shoot him, Officer Guptill shot at Mr. Farrington while simultaneously moving from the potential line of fire. Officer Guptill believed that he was about 15 yards from Mr. Farrington when he fired what he believed was five to seven rounds. Using his flashlight, Officer Guptill could see that Mr. Farrington was no longer standing. Only a few seconds had elapsed from the time that the outside light was turned on and off.

The three officers entered the residence and rendered aid to Mr. Farrington until emergency medical technicians arrived shortly after. Mr. Farrington was transported to a hospital and treated for a gunshot wound to his left hip area. Later interviewed, Mr. Farrington told investigators that he was awakened by his girlfriend and told there was knocking at the bedroom window. Mr. Farrington retrieved a firearm and proceeded to investigate. He reported looking out his front bay window and seeing vehicles that were dark with no lights on. He then went to the sliding glass

door, gun in hand, because he believed there were people on his property trying to rob him and he was going to deal with it. He claimed he did not realize the people were the police. Video from one of the police vehicles, however, shows that there were two lights on outside the residence – one on the front of the residence and one on the garage – providing illumination of the driveway in which the police vehicles were parked. Additionally, the second police vehicle in the yard had its headlights on, which illuminated the marked police vehicle in front of it and was in view of the bay window from which Mr. Farrington reported looking out.

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.