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DEADLY FORCE REVIEW PANEL
6 STATE HOUSE STATION · AUGUSTA, MAINE 04333

March 27, 2023

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 22nd 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 3, 2021, in Lewiston, the details of which are part of the Panel’s enclosed report.

For the Deadly Force Review Panel:

Francine Garland Stark, Chair

Enclosure

January 3, 2021 - Lewiston 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 Lewiston on January 3, 2021, involving Sgt. David Levesque of the Lewiston Police Department, which resulted in a gunshot injury to Kyle Edwards, 26, of Auburn. 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

Around noon time on Sunday, January 3, 2021, the owner of a stolen pickup truck saw a person later identified as Kyle Edwards driving the truck in Lewiston. The owner called the police and followed the truck until a police officer arrived. Mr. Edwards thereafter refused to stop, resulting in chases by Lewiston police officers. Sgt. David Levesque found the truck partially concealed behind a high snowbank behind a local church. Sgt. Levesque approached the parked vehicle on foot issuing commands for Mr. Edwards to show his hands. When Sgt. Levesque was 10-12 feet from the rear of the truck, Mr. Edwards quickly accelerated in reverse. Sgt. Levesque, fearful that Mr. Edwards was going to run over him, fired a single round at Mr. Edwards. The round struck Mr. Edwards in the head after penetrating the rear window and driver's headrest. Mr. Edwards survived the gunshot wound and later plead guilty to criminal charges.

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 reviewed video recordings of the activities of the police and Mr. Edwards before and after the use of deadly force by Sgt. Levesque. The Panel also reviewed the Attorney General's report of August 23, 2022, as well as the April 15, 2021, report of the Incident Review Team convened by the Lewiston Police Department.

Summary of Panel Discussion

On February 23, 2023, the Panel met via Zoom, reviewed the referenced incident, asked questions of the primary investigating Attorney General detective, Patrick Gagnon, and discussed aspects of the actions of several Lewiston police officers involved in the search for Mr. Edwards and the several attempts to take him into custody.

Observations

1. The Internal Review Team report did not sufficiently address several factors, including:
 - a. The spike mat deployment.
 - b. The various stages of the case as it progressed from pursuit to engagement in the church parking lot.
 - c. The tactical options available to Sgt. Levesque before conducting a solo approach on the suspect vehicle.
 - d. The efficiency of ammunition in that the round fired by Sgt. Levesque traveled through the window and headrest, subsequently grazing Mr. Edwards, which could have escalated rather than neutralized the threat.
2. The responding officers made appropriate choices to disengage from the vehicle pursuit, prioritizing public safety over continuing a dangerous pursuit through traffic in a densely populated area of Lewiston.
3. The Panel was unable to determine with any degree of certainty, from the available information, Sgt. Levesque's mindset or decision-making process when he approached the suspect vehicle alone and on foot, although the circumstances were suggestive of a concern of escape by the suspect coupled with no confirmation that Sgt. Levesque's radio broadcast was received by the dispatcher or other police units.
4. Mr. Edwards admitted to hospital emergency room personnel that he had ingested both methamphetamine and suboxone that day.

Recommendations

1. Whenever possible, officers should wait for additional officers and resources before approaching a dangerous person.
2. The panel recommends that future IRTs attempt to determine an involved officer's mindset and decision-making process so that IRT is better suited to answer two of its fundamental questions as listed in this IRT report.
 - a. Whether changes are necessary to incorporate improved procedures or practices demonstrated to increase public safety or officer safety.
 - b. Whether training protocols should be reviewed or revised.
3. The Panel reiterates its recommendation that the Maine Criminal Justice Academy prioritize reviewing and enhancing standards relating to internal review team composition, the scope of the review, as well as required content components and format.

Timeline and Detail

On Sunday, January 3, 2021, at around noon time, the owner of a stolen pickup truck saw a person later identified as Kyle Edwards driving the truck at a business place in Lewiston and called 9-1-1. The owner said that the truck now displayed dealer plates. It was later determined that the plates were stolen from a dealership in Auburn. Before officers could respond, the truck left the parking lot and the caller followed while informing the dispatcher of his route of travel.

A Lewiston police officer in a marked cruiser spotted the truck near the intersection of Russell Street and Main Street in Lewiston. The officer signaled the driver, later determined to be Mr. Edwards, to stop. Mr. Edwards turned on the right turn signal but, instead of pulling over and stopping, Mr. Edwards accelerated to speeds more than 60 miles per hour in a 25-mph zone, drove down Main Street, and made a left turn onto Union Street where he drove onto the sidewalk negotiating the turn. The truck continued through a densely populated residential and commercial area. The truck passed through a series of stop signs without stopping and turned onto College Street, driving away from downtown Lewiston. Between Union Street and Russell Street, the officer reported that the truck continued to reach speeds of more than 60 miles per hour. Sgt. David Levesque of the Lewiston Police Department joined the pursuit, which was then reaching speeds of 80 mph in a 25-mph zone. As the pursuit continued, the pickup truck passed several vehicles at a high rate of speed, crossed over the double yellow line, and traveled in the direction of oncoming traffic before swerving back into the travel lane. At the intersection of College Street and Montello Street, the truck was behind two vehicles in the travel lane, while two other cars approached in the opposite lane of travel. The truck passed the first vehicle on the right shoulder and then swerved back into the travel lane, nearly colliding with the second vehicle. The truck then passed the second vehicle on the left, almost striking an oncoming vehicle in the opposite lane. Sgt. Levesque ended the pursuit, considering the risk to other drivers and the officers.

Another Lewiston officer was in his marked cruiser on Merrill Road when he saw the truck driving directly at him. As the truck approached his cruiser, it stopped, and backed out of Merrill Road at a high rate of speed into the traffic on Main Street, nearly colliding with two other vehicles. The officer followed the truck on Main Street toward downtown Lewiston at speeds over 60 mph. Alerted that the truck was heading in his direction, another officer deployed a spike mat on Main Street. Mr. Edwards avoided the spike mat by driving to the right and hitting a snowbank before continuing down Main Street at a high rate of speed. Another cruiser took over the pursuit before officers lost sight of the truck.

Continuing the search for the truck, Sgt. Levesque drove into the parking lot of a church at the corner of Hogan and Stetson Roads. He saw the roof of the truck behind a high snowbank at the back of the parking lot. He also saw tire tracks leading from the plowed parking lot into a snow-covered area behind the snowbank. He notified the other units by radio of his discovery but was unsure whether the other officers heard the broadcast. He walked behind the snowbank with his pistol drawn to a location he estimated to be 10 to 12 feet behind the parked truck, and repeatedly yelled at Mr. Edwards, "Police. Show me your hands!" Sgt. Levesque saw that a stand of trees in front and to the left of the truck and the high snowbank to the right left Mr. Edwards no direction to maneuver the truck but in reverse. Ignoring Sgt. Levesque's commands, Mr. Edwards tried to drive the truck in reverse. Sgt. Levesque saw the tires of the truck spinning, emitting snow

and debris. With the high snowbank to his right and trees and brush to his left, Sgt. Levesque said that had no exit or avenue of retreat. Fearing that the truck was about to run him over, Sgt. Levesque fired one shot at Mr. Edwards, and the truck stopped. He reported over the radio, “Shots fired, shots fired,” followed seconds later by “he tried to run me over.” Later investigation found that the single round fired by Sgt. Levesque traveled through the rear window of the truck, through the driver’s headrest, and struck Mr. Edwards in the head. Evidence technicians found the bullet in the truck’s driver’s seat and a corresponding spent cartridge in the snow behind the truck.

Mr. Edwards survived his injury. At a local hospital for treatment of the gunshot wound, he said he had used methamphetamine and Suboxone earlier that day. On July 1, 2021, Mr. Edwards pled guilty to the Class C crimes of Eluding an Officer, Reckless Conduct with a Dangerous Weapon, and Theft by Unauthorized Taking or Transfer and was sentenced to four years’ incarceration, all but nine months and one day suspended.

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
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 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.

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.