

# MAINE STATE LEGISLATURE

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## **DEADLY FORCE REVIEW PANEL**

6 STATE HOUSE STATION · AUGUSTA, MAINE 04333

June 23, 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 25<sup>th</sup> 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 June 5, 2022, in Presque Isle, the details of which are part of the Panel’s enclosed report.

For the Deadly Force Review Panel:

Francine Garland Stark, Chair  
Fernand Larochelle, Vice Chair

Enclosure

## June 5, 2022 – Presque Isle 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 Presque Isle on June 5, 2022, involving Sgt. Tyler Cote of the Presque Isle Police Department, which resulted in the death of Jacob Poitraw, 25. 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 June 4, 2022, a motorist reported to the Presque Isle Police Department that Jacob Poitraw had brandished an AR-15 style rifle at him and his companion in an apparent road rage incident in Presque Isle. Sgt. Tyler Cote of the Presque Isle Police Department investigated the incident and attempts were made to locate and arrest Mr. Poitraw. More than 24 hours later, Sgt. Cote spotted Mr. Poitraw driving a different vehicle, a pickup truck, in Presque Isle and attempted to stop the vehicle. However, Mr. Poitraw refused to stop and a high-speed chase ensued during which Mr. Poitraw deliberately backed his vehicle into Sgt. Cote's cruiser at a high rate of speed three separate times. When Mr. Poitraw backed up into Sgt. Cote's police vehicle the third time and was pushing it backward, Sgt. Cote fired six rounds from his handgun through his cruiser's windshield. One round struck Mr. Poitraw. Mr. Poitraw died later that night at a local hospital. About three minutes elapsed from the initiation of the chase and the use of deadly force by Sgt. Cote.

### 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. Poitraw before, during, and after the use of deadly force by Sgt. Cote. The Panel also reviewed the Attorney General's report of December 1, 2022, as well as the August 8, 2022, report of the Incident Review Team convened by the Presque Isle Police Department.

### Summary of Panel Discussion

On May 25, 2023, the Panel met via Zoom, reviewed the referenced incident, and discussed aspects of the actions of Mr. Poitraw and Sgt. Cote, as well as the interplay of mental health crisis and substance use disorder.

### Observations

1. This incident included elements consistently present in the use of deadly force incidents: a person with mental illness, substance use disorder, known to be violent, and expressing suicidal intentions.
2. Jacob Poitraw's life was deeply impacted by substance use, mental illness, and trauma. His history included many suicide attempts, at least a dozen head traumas, drug use beginning at age 10, alcohol at 11, and intravenous heroin by 17. His extensive record of criminal conduct began in 2006 when he was 13 years old. While incarcerated in 2021, both his brother and father died from drug overdoses, and the use of deadly force incident coincided with his brother's death anniversary.
3. Though Mr. Poitraw was legally prohibited from possessing weapons and had demonstrated suicidal behavior, he had easy access to AR-15 style weapons.
4. The time from the beginning of the high-speed chase to the use of deadly force was just under three minutes. During that time, Mr. Poitraw backed his pickup truck into the front and side of Sgt. Cote's police cruiser three separate times, and he drove at speeds of up to 70 mph through traffic in a 25 mph zone.
5. While the Internal Review Team report from Presque Isle Police Department was extensive and included review and later amendment of several policies, there was nothing in the report regarding any review of the high-speed chase vis-à-vis the agency's policy. The Panel was unable to determine if the surveillance plan included access to other officers to assist or if there were other alternatives before a single officer attempted to stop the suspect vehicle. Additional officers may have provided an opportunity to terminate the chase with deflation devices, provide a tactical advantage when conducting a high-risk stop with more officers present, and allowed creating more distance between the cruiser and Mr. Poitraw after the cruiser was initially rammed to discourage or preclude additional ramming.
6. While the Internal Review Report noted that Sgt. Cote's firearm malfunctioned during the deadly force incident, there is no information to indicate whether the agency further investigated to determine the cause of the malfunction. It was noted that the firearm was 18 years old but there was no mention of whether other similar firearms were inspected to determine if the malfunction was a systemic problem.
7. A plan was devised to use less-lethal shotgun beanbag rounds to break out the rear window of the pickup truck to gain visibility to the inside of the cab of the truck. The Panel commends the officer who deployed the munition, Sgt. Forest Dudley of the Aroostook County Sheriff's

Office, in that Sgt. Dudley clearly communicated to everyone what the plan was and what to expect. Otherwise, the potential that other officers could perceive the window breaking out as the person in the vehicle shooting at the officers could result in unintended consequences.

<https://lasvegassun.com/news/2013/mar/01/answers-emerge-why-cop-shot-unarmed-veteran/>

8. Nearly an hour elapsed from the use of deadly force to the time Mr. Poitraw received medical attention. The thick smoke that immediately engulfed the pickup and cruiser from the spinning rear tires severely inhibited visibility, and when officers were able to see into the pickup, Mr. Poitraw was observed to be moving and officers had reason to believe that there was a weapon in the vehicle.

### **Recommendations**

1. Recognizing that all high-speed vehicle pursuits are inherently dangerous, the Panel recommends that the Presque Isle Police Department further its internal review by reviewing and updating, if necessary, its policy on vehicle pursuits.
2. The Panel recommends that the Presque Isle Police Department determine the cause of the malfunction of Sgt. Cote's firearm and whether it resulted from a systemic issue that could result in the malfunction of similar firearms.
3. The Panel recommends that the Presque Isle Police Department determine how Mr. Poitraw, a person prohibited from possessing a firearm, was able to acquire the AR-15 style rifle.
4. The Panel recommends that the Presque Isle Police Department issue an amended internal review report that includes its consideration of 1, 2, and 3 above and provide a copy of the amended report to the Attorney General's Office.

### **Timeline and Detail**

At about 6:27 p.m. on Saturday, June 4, 2022, Presque Isle Police Department Sgt. Tyler Cote was assigned to investigate a road rage complaint. Sgt. Cote spoke with a motorist who reported that he and a companion were traveling on Main Street in Presque Isle when a Toyota Camry drove up behind them at a high rate of speed. The motorist drove into another lane to allow the vehicle to pass. The Camry passed and, a short distance ahead, the motorist pulled up alongside the Camry in traffic; the driver, whom the companion recognized as Jacob Poitraw, opened the passenger side window, swore at them and told the motorist to pull over. Both vehicles pulled into a parking lot, and Mr. Poitraw got out of the Camry with an AR-15 style rifle and pointed it at the motorist. The motorist was himself carrying a firearm, which he pulled out and pointed at Mr. Poitraw. Mr. Poitraw got back into his vehicle and drove off at a high rate of speed. Sgt. Cote checked State of Maine Bureau of Motor Vehicles records, but there was no record of either license plate. Sgt. Cote learned that the Camry was registered to Mr. Poitraw and also learned that Mr. Poitraw was a convicted felon and thus prohibited from possessing firearms.

Sgt. Cote and other officers were unable to locate Mr. Poitraw. Sgt. Cote alerted area law enforcement agencies that Mr. Poitraw was wanted on charges of criminal threatening with a dangerous weapon, aggravated reckless conduct with a dangerous weapon, and possession of a firearm by a prohibited person. Sgt. Cote and other officers were unable to locate Mr. Poitraw or his vehicle. At 6 a.m. the next day, Sgt. Cote's patrol shift ended, and he went off duty. Other officers continued to look for Mr. Poitraw and his vehicle.

At noontime on June 5, 2022, officers located Mr. Poitraw's Toyota Camry, but no one was in or around it. Officers noticed that one of the windows was broken out and they also saw that the vehicle matched the description of a vehicle that was reportedly involved in a commercial burglary about a week prior. The officers saw tools in the car that they believed were fruits of the burglary. Sgt. Cote and another officer were called back into work to assist in the search for Mr. Poitraw. Sgt. Cote was driving a fully marked police cruiser and wore his regular patrol uniform. At about 1:30 p.m., officers learned that Mr. Poitraw was just at a local pharmacy and had left in a red pick-up truck that was registered to Mr. Poitraw's deceased father.

Just before 4 p.m., Mr. Poitraw called the Presque Isle Police Department and asked the dispatcher why the police were looking for him. The dispatcher told Mr. Poitraw that the police wanted to talk with him, and Mr. Poitraw asked when he could call back and talk to an officer. The dispatcher told him that he would need to talk to the officer in person, and Mr. Poitraw said that was not going to happen and that if the officer wanted to talk, they could talk over the phone. The dispatcher put Mr. Poitraw on hold to transfer him to an officer, but Mr. Poitraw hung up before the call could be transferred. At about the same time, Sgt. Cote arranged to have Mr. Poitraw's Toyota Camry towed to the police department in anticipation of applying for a search warrant for the vehicle related to the earlier commercial burglary. As the Camry was being delivered to the police department, Sgt. Cote heard on the police radio that a forest ranger had attempted to stop the pick-up truck reported being operated by Mr. Poitraw but was unsuccessful and had lost sight of the truck. Sgt. Cote and other officers went to Mapleton, but they were unable to locate the vehicle and returned to Presque Isle.

At 6:25 p.m., Mr. Poitraw called the Presque Isle Police Department and spoke with an officer. Mr. Poitraw was upset about his car being towed and the officer attempted to convince Mr. Poitraw to come to the police department to talk to them, but he refused. Mr. Poitraw told the officer to "Come find me mother [expletive]." The officer continued to try to persuade Mr. Poitraw to come to the police department; Mr. Poitraw ended the conversation with "I'll be in, trust me. Might want to have [expletive] SWAT there. Be ready mother [expletive]." Based on the background noise during the conversation, the officer believed that Mr. Poitraw was in a vehicle while they were talking.

Sgt. Cote spoke with Mr. Poitraw's mother concerning Mr. Poitraw's possible whereabouts. The mother said she had not heard directly from Mr. Poitraw but told Sgt. Cote she was afraid that if the firearm was not in the Camry, he might have it with him in the pick-up truck. Sgt. Cote learned that Mr. Poitraw had attempted suicide by overdosing on drugs either late in the night on June 4<sup>th</sup> or early in the morning on June 5<sup>th</sup>, but Mr. Poitraw's girlfriend had found him, administered naloxone, and revived him. Sgt. Cote also learned that it was the first anniversary of Mr. Poitraw's brother's death.



Sgt. Cote parked his cruiser near Mr. Poitraw's apartment believing that Mr. Poitraw might return to that area. At about 7:16 p.m., Sgt. Cote saw a red Nissan Frontier pick-up truck and pulled out behind the truck with his lights and siren activated and noticed that the vehicle was now traveling at a high rate of speed. Sgt. Cote radioed that he had located Mr. Poitraw's vehicle and that he was involved in a high-speed pursuit. The truck traveled a short distance and turned onto a side street and then into a parking lot and back out onto State Street, now traveling in the opposite direction. As the truck went through the parking lot, Sgt. Cote could see the driver and confirmed that it was Mr. Poitraw. Sgt. Cote pursued the truck back onto State Street and continued following it through the Main Street and State Street intersections. Mr. Poitraw attempted to turn left onto Third Street but lost control on the turn and went off the road. Mr. Poitraw was able to get his vehicle back onto the road in front of Sgt. Cote when he braked and came to a complete stop. Sgt. Cote, believing that Mr. Poitraw was going to get out of the truck with the rifle and start firing at him, unbuckled his seatbelt and started to open his door. He saw the backup lights illuminate on the pick-up truck and the truck started coming at his patrol car in reverse. Sgt. Cote got back into his cruiser, put it in reverse, and tried to back up as fast as he could, but Mr. Poitraw struck the front of his cruiser at a speed great enough to push the cruiser backward. Mr. Poitraw then drove away on Third Street.

Sgt. Cote, with emergency lights and sirens still activated, followed Mr. Poitraw as he turned left onto Church Street and then onto Main Street. Mr. Poitraw was driving erratically over 70 miles per hour in a 25 mph zone. Sgt. Cote continued to pursue Mr. Poitraw northbound on Main Street when Mr. Poitraw came to a sudden stop. Sgt. Cote swerved to avoid colliding with the pick-up truck. Mr. Poitraw put the truck in reverse, turned his steering wheel, and was backing up at a high rate of speed toward Sgt. Cote's driver's door. Sgt. Cote accelerated to avoid a collision at his door. However, Mr. Poitraw's vehicle struck the cruiser just behind the driver's door, which caused the patrol car to spin in the roadway. Sgt. Cote was able to break his cruiser free from Mr. Poitraw's truck and drove northbound on Main Street with Mr. Poitraw driving behind his cruiser. After a short distance, Sgt. Cote noticed that Mr. Poitraw had turned around and was now southbound on Main Street, so he turned around and continued following Mr. Poitraw.

Sgt. Cote saw Mr. Poitraw make a very sharp left turn onto Davis Street. The truck went a short distance, came to a sudden stop, and started driving in reverse at Sgt. Cote's cruiser. Sgt. Cote drew his sidearm and fired through the cruiser's windshield at Mr. Poitraw. Sgt. Cote stopped firing when he could no longer see Mr. Poitraw moving. It was about 7:19 p.m., about three minutes from the start of the pursuit, that Sgt. Cote called "shots fired" over the police radio. Sgt. Cote got out of his cruiser and transitioned to his patrol rifle. A game warden arrived and the two of them moved to positions of cover. The back of Mr. Poitraw's truck was pinned to the front of Sgt. Cote's cruiser and the tires were spinning, which caused a large cloud of heavy smoke that blocked any visibility of the inside of the truck. When the smoke started to clear, Sgt. Cote could see that Mr. Poitraw was still moving inside the truck but nearly an hour elapsed before officers were able to determine that Mr. Poitraw had in fact been shot and posed no further danger. Officers noted what appeared to be a single gunshot wound to the back of Mr. Poitraw's head and medical attention was immediately rendered. Mr. Poitraw died at a local hospital about three-and-a-half hours later. A postmortem and autopsy conducted the next day by the Office of Chief Medical Examiner determined the cause of death to be a penetrating gunshot wound of the head.

### 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

Sandra Slemmer, designee of Mark Flomenbaum, M.D., Ph.D., Chief Medical Examiner

Fernand Larochelle, Vice Chair/Secretary

Anna Love, Chief, Attorney General Investigations

Joel Merry, Sheriff, Sagadahoc County

Jack Peck, Assistant Director, Maine Criminal Justice Academy

Michael Sauschuck, Commissioner, Department of Public Safety

Benjamin Strick, 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, members of the Panel may know or have had contact with individuals who were involved in the case under review. In such situations, members report such affiliations to the Panel, and that information is recorded in the meeting minutes. If Panel members determine that they have a conflict of interest, they are recused from voting on the Panel's observations and recommendations regarding that case.