

# MAINE STATE LEGISLATURE

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## **DEADLY FORCE REVIEW PANEL**

6 STATE HOUSE STATION · AUGUSTA, MAINE 04333

May 12, 2024

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 30<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 August 31, 2022, incident in Mexico, the details of which are part of the Panel's enclosed report.

For the Deadly Force Review Panel:

Fernand Larochelle, Chair  
Stephen Burlock, Vice Chair

Enclosure



## August 31, 2022 – Mexico 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 Mexico on August 31, 2022, involving Lt. Derek MacDonald of the Mexico Police Department and Officer Bradlee Gallant of the Rumford Police Department, which resulted in gunshot injury to Brandon Dearborn, 30. 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 may recommend 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 Attorney General's determination 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 Wednesday afternoon, August 31, 2022, several residents at an apartment complex in Mexico called 9-1-1 and reported a man outside the complex waving a handgun around. Lt. Derek MacDonald of the Mexico Police Department and two Rumford police officers, including Bradlee Gallant, responded to the calls. Shortly after their arrival, Lt. MacDonald and Officer Gallant encountered Brandon Dearborn behind one of the apartment buildings. Mr. Dearborn appeared very lethargic and uncoordinated in his movements. He was carrying a handgun in his right hand. Lt. MacDonald and Officer Gallant ordered him numerous times to drop the gun. Officer Gallant's two attempts to tase Mr. Dearborn were unsuccessful. Both officers shot at Mr. Dearborn, who was struck by gunfire but survived the injuries.

### 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, cruiser camera video footage and building surveillance videos, forensic reports, photographs, emergency communications, and other materials. The Panel also reviewed the Attorney General's February 27, 2023, report and the Rumford Police Department's Incident Review Team report dated January 13, 2023.

### Panel Discussion

On February 22, 2024, the Panel met via Zoom and reviewed the referenced incident.

### Observations

1. The suspect in this case was a 30-year-old white male armed with a loaded handgun, with which he threatened several people throughout the apartment complex. He was under the influence of drugs at the time of this incident and has a lengthy history of behavioral health issues, including a substance use disorder and several mental health diagnoses. He was also a

convicted felon who was on probation for unlawful furnishing of drugs in a case where he was also in possession of a handgun.

2. No officer appears to have assumed command or control after the suspect was located and contained. Designated leadership might have led to an acknowledgment that the occupied apartment building was acting as the backdrop for the use of deadly force. That acknowledgment may have also resulted in a plan to evacuate the building as additional resources arrived.
3. The period from the first command to “drop the weapon” to shooting the suspect was two minutes and 16 seconds.
4. One of the involved officers was part of the post-shooting law enforcement activities for at least an hour after that officer’s use of deadly force.
5. Letting the suspect “nod off” may have been preferable to keeping him awake at close range. The decision to approach a drugged, pistol-wielding, almost incoherent individual who was already reported to have pointed a pistol at civilians was tactically problematic.
6. One officer deployed a taser in one hand and a pistol in the other, an invitation to “weapons confusion,” particularly in fast-moving and tense situations. The internal review process by the Rumford Police Department mentioned this as a “training issue” but did not address or suggest measures to avoid or mitigate a recurrence. Neither did the internal review consider whether this was a situation in which the use of a less lethal weapon was advisable when considering the level of the threat presented by a non-compliant armed individual. Indeed, the attempted use of a taser to subdue an armed individual may increase the risk to officers.
7. One officer was using a rifle that malfunctioned, possibly from a magazine malfunction, inviting the question of whether weapons are inspected and function-checked before being placed in service.
8. One officer, when moving to handcuff the suspect, set his rifle, which was equipped with a sling, on the ground rather than slinging it or handing it off to another officer.
9. The situation presented to the officers was essentially an “open field barricade suspect,” calling for the officers to seek cover and attempt communication and de-escalation rather than approaching an armed individual. One officer’s attempt to verbally interact with the individual was noted, albeit within dangerous proximity to the individual.
10. The Rumford Police Department commissioned the mandatory Internal Review Team (IRT) with no apparent involvement of the Mexico Police Department. The IRT report notes that the team composition was out of compliance with the agency’s policy because the certified firearms instructor was not from an outside agency. The report also stated that language in

some relevant policies needed to be clarified so that the provisions were understandable. However, the report did not specify which policies or provisions needed such clarification or revision.

11. The IRT report does not mention the desirability of slowing things down in such situations and working the problem through means short of using deadly force once the suspect is located and contained. This situation was one where there was little or no need to rush a response.
12. The officer's use of the taser was out of compliance with policy and best practice because he failed to announce its intended use as a warning to other officers. As the department's policy notes, such an announcement may also provide the suspect with an additional opportunity to cease the conduct that gave rise to the intended use.

### **Recommendations**

1. The Panel again recommends that the Board of Trustees of the Maine Criminal Justice Academy review and enhance the standards for compliance with existing statutorily required internal incident reviews by law enforcement agencies whose officers are involved in deadly force incidents, including the scope of the review, the time between an incident and its review, and composition of the review team, and that the currently required elements of the internal incident review be evaluated for adequacy and relevancy to assist officers to learn from and to train for such incidents in the future. The Panel again recommends that all agencies involved in a deadly force incident participate in the internal review process.
2. When dealing with armed individuals, people in nearby buildings vulnerable to risk should be evacuated as resources and time allow. Shooting with a residential building as a backdrop is undesirable and should be avoided whenever possible. Evacuation should occur after the threat has been contained within an established perimeter.
3. An armed, passive, and stationary individual should not be approached without cover but should be surrounded and contained, and de-escalation attempts should be initiated.
4. All firearms should be inspected and function-tested before being issued to officers to ensure they feed or fire as designed, will not fire if jostled or subjected to routine handling, and will stay assembled if jostled or dropped. They should also be inspected and tested periodically after that.
5. Unless a tactical team is on the scene, the ranking officer from the jurisdiction where an incident occurs should assume command and control unless the responsibility is expressly transferred to another officer.
6. Training should stress the undesirability and the inherent risks of "weapons confusion" in simultaneously wielding a firearm and a less lethal weapon.

7. As noted by the Panel in past reviews, officers who use deadly force in any incident should be removed from the scene as soon as possible for their well-being.
8. The Panel believes that feedback from the departments whose incidents are reviewed is essential for that department and agencies statewide since learning and improvement are collaborative. Therefore, the Panel requests that within 90 days of receipt of a Panel report, each department will respond in writing to the Panel, detailing any questions, concerns, and corrective actions taken in response to the observations and recommendations noted in the report.

### *Timeline and Details*

On Wednesday afternoon, August 31, 2022, residents of an apartment complex in Mexico called 9-1-1 and reported that a man with a handgun was walking around outside the complex, pointing it at people. They said the man, later identified as Brandon Dearborn, was acting weirdly and “tweaking.” They did not recognize him as a resident. He was described as a tall, white male wearing a fluorescent yellow hoodie. When a resident encountered Mr. Dearborn near the entrance to her apartment building, she told him to leave, and he responded by pointing the gun at her and obscenely telling her to shut up. Another resident observed Mr. Dearborn outside her sliding glass door, asking to be let in, and when she ignored him, he pointed the gun at her. A male resident reported Mr. Dearborn pointing the gun at him, and still, another resident reported that Mr. Dearborn walked by her and her children, saying, “I’m gonna get you guys.” Another resident reported seeing Mr. Dearborn “tripping all over himself” and making strange grunting noises. A man outside a nearby residence reported seeing Mr. Dearborn walking toward the apartment complex; Mr. Dearborn told the man he was in pain and asked if the man had any drugs.

Mexico Lt. MacDonald arrived at 3:44 p.m., followed by a Rumford officer at 3:46 p.m. and Rumford Officer Gallant at 3:47 p.m. Lt. MacDonald observed a man, later identified as Brandon Dearborn, with yellow clothing about 100 yards away “just kind of moping around.” He could see that the man had a gun in his hand. Lt. MacDonald saw the man walk out of sight to the rear of the apartment building. Lt. MacDonald and Officer Gallant approached the area from one side while the other Rumford officer came from the opposite side. All the officers were armed with rifles in addition to their handguns. Officer Gallant was the first to see Mr. Dearborn behind the apartment building. Mr. Dearborn was leaning against the building with a gun in his right hand down by his side. At gunpoint, Officer Gallant ordered him to drop the gun. Officer Gallant also tried to engage Mr. Dearborn in conversation. Mr. Dearborn appeared to go “on the nod.” He slumped forward while leaning against the building. He told Officer Gallant to shoot him. Officer Gallant put his rifle down and transitioned to a taser in his left hand and his handgun in his right hand. After several more commands to drop the gun went unheeded, Officer Gallant tased Mr. Dearborn from 15-18 feet away. Mr. Dearborn stood up straight, walked away, and raised the gun in his hand. Officer Gallant again tased him, but with no effect. Officer Gallant and Lt. MacDonald then fired their weapons at Mr. Dearborn, who was struck by the gunfire, fell to the ground, and put his hands under his body. Mr. Dearborn again ignored a command from Officer

Gallant to drop the gun, and Officer Gallant shot again. Mr. Dearborn rolled onto his back, his gun came into view, and Officer Gallant put his foot on it to prevent Mr. Dearborn from retrieving it.

Mr. Dearborn was hospitalized, treated for gunshot wounds, and transferred to the Oxford County Jail, facing criminal charges of terrorizing, reckless conduct, burglary, theft, and possession of a firearm by a felon. Interviewed at the jail two days after being shot, Mr. Dearborn denied any memory of the events of August 31st. He said he could not remember if he consumed drugs before the incident, nor did he remember having a gun, telling an officer to shoot him, or being shot. Interviewed again four days later, Mr. Dearborn said that he did not know why the police shot him, and he did not remember the presence of any police officers.

### *Panel Members*

Fernand LaRochelle, Chair

Stephen Burlock, Esq., Assistant District Attorney (Retired), Vice Chair/Secretary

Michael Alpert, President, Greater Bangor Area Branch NAACP

John Chapman, Esq.

Jack Clements, Chief of Police, Saco

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

Anna Love, Chief, Attorney General Investigations

Joel Merry, Sheriff, Sagadahoc County

Joshua Daley, designee of Jack Peck, Director, Maine Criminal Justice Academy

Michael Sauschuck, Commissioner, Department of Public Safety

Benjamin Strick, Director of Adult Behavioral Health, Spurwink

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 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 excused from voting on the panel's observations and recommendations regarding that case.