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DEADLY FORCE REVIEW PANEL

6 STATE HOUSE STATION · AUGUSTA, MAINE 04333

September 30, 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 33rd, 34th, and 35th examinations of a law enforcement officers' 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 reports are enclosed.

The Panel examined incidents in Mexico (10/13/2022), Waterboro (09/07/2022), and Augusta (10/13/2021), the details of which are part of the Panel's enclosed reports.

For the Deadly Force Review Panel:

Fernand Larochelle, Chair
Stephen Burlock, Vice Chair

Enclosures

October 13, 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 October 13, 2022, involving Officer Dustin Broughton of the Mexico Police Department, which resulted in serious bodily injury to Daniel Tibbetts, age 22. 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 the evening of October 13, 2022, Officer Dustin Broughton of the Mexico Police Department was in uniform and on patrol in a marked cruiser. The Oxford County Regional Communications Center notified him of a reported incident on Roxbury Road in Mexico involving a man, later identified as Daniel Tibbetts, who was threatening a family member or girlfriend with a machete in an apartment. While on his way, Officer Broughton received an update that Mr. Tibbetts was outside the apartment with the machete and was saying that he was going to hurt law enforcement and make law enforcement hurt him, and he was not going to go alive.

Information the Panel Reviewed

Before its meeting, Panel members received the investigative material compiled by the Attorney General. The material consisted of all the original investigative data, including interview recordings and reports, cruiser camera video footage and forensic reports, photographs, emergency communications, and other materials. The Panel also reviewed the Attorney General's April 10, 2023, report and the Mexico Police Department's Incident Review Team report dated February 8, 2024.

Summary of Panel Discussion

On April 25, 2024, the Panel met via Zoom and reviewed the referenced incident.

Observations

1. The suspect in this case was a 22-year-old white male armed with a machete who had reportedly threatened several people in an apartment and was behaving very erratically. This

person had a diagnosis of dissociative identity disorder (DID), borderline personality disorder (BPD), anxiety, depression, and post-traumatic stress disorder (PTSD), who dissociates when angry, as he was at the time of this incident. He had been without medication and treatment for two years.

2. Officer Broughton waited for some of the backup officers but proceeded to the scene before they all arrived, given that there was urgency because of a reported threat to others.
3. While the officers met briefly before proceeding to the scene, there appears to have been no discussion about a coordinated response.
4. There was no plan to position the cruisers to maximize officer safety during the encounter, i.e., to enable the officers to use them as cover.
5. When the officers arrived, they immediately directed Mr. Tibbetts multiple times to drop his weapon, and he was shot almost immediately thereafter.
6. Body-worn cameras (BWC) were either not worn, not operable, or not turned on until after the shooting.
7. There is a discrepancy between the estimates of the witnesses and that of the investigators as to the distance between Mr. Tibbetts and the officers at the time of the shooting.
8. There were no less lethal weapons available to the officers.

Recommendations

1. Obtain non-lethal options as noted in the IRT report and train officers on their use.
2. Whenever possible, even in evolving and pressing situations, some *ad hoc* response planning should occur before arrival on the scene.
3. Consideration should be given to using police vehicles as cover for responding officers and other first responders.
4. Responding officers should have the audio pack for the Watch Guard camera on their person when responding.
5. Once the officer arrives at the scene of a potentially serious incident of this nature, body-worn cameras should be turned on as soon as possible.
6. The panel believes that feedback from the departments whose incidents are reviewed is important for the department and agencies statewide since learning and improvement is a

collaborative process. Therefore, the Panel recommends that within 90 days of receipt of a Panel report, each involved department respond in writing to the Panel, detailing any questions, concerns, and remedial actions taken in response to the observations and recommendations noted in the report.

Factual Summary

On the evening of October 13, 2022, Mexico Police Officer Dustin Broughton was in uniform and on patrol in a marked cruiser. The Oxford County Regional Communications Center notified him of a reported incident on Roxbury Road in Mexico involving a man, later identified as Daniel Tibbetts, age 22. Mr. Tibbetts was allegedly threatening a family member or girlfriend with a machete in an apartment. While on his way to the residence, Officer Broughton received an update that Mr. Tibbetts was outside the apartment building with the machete and had made statements that he was going to hurt law enforcement or make law enforcement hurt him and that he was not going to go alive. Officer Broughton also learned that another caller reported that Mr. Tibbetts was outside and armed with a machete.

Officer Broughton was the only officer from the Mexico Police Department on duty, so he initially parked about a quarter of a mile away from the scene to wait for backup from officers of other departments. Corporal Lawrence Winson and Officer Seth Pond of the Rumford Police Department arrived together in a marked cruiser. The officers parked the Rumford and the Mexico cruisers across the street from the residence on Roxbury Road from which the 911 call had been made. Mr. Tibbetts was outside and turned towards the officers when Officer Broughton directed a spotlight in Mr. Tibbetts' direction. As the officers got out of their cruisers, Mr. Tibbetts, armed with the machete, started walking towards them. Officer Broughton and Corporal Winson pointed their firearms at Mr. Tibbetts and directed him to drop the weapon.

According to Officer Broughton, instead of complying with the commands, Mr. Tibbetts stepped off the curb into the roadway, walking and looking toward him. Officer Broughton, fearing that Mr. Tibbetts would attack him with the machete, shot at Mr. Tibbetts. Mr. Tibbetts turned slightly while looking at Officer Broughton and started to walk towards Officer Broughton in a manner that Officer Broughton perceived as an imminent attack with the machete. Officer Broughton fired two more shots, and Mr. Tibbetts fell to the ground. Video footage from a device at a private residence recorded the officers yelling at Mr. Tibbetts to "drop the machete, put it down, drop the machete now, put it down!" before the sound of gunfire.

Corporal Winson reported that upon arrival at the scene, Mr. Tibbetts held a large machete down at his side. When Mr. Tibbetts saw the officers, he started walking in their direction. The officers told him to drop the weapon, but Mr. Tibbetts held the machete up near his waist with the blade pointed toward the officers. Corporal Winson said that he was prepared to shoot Mr. Tibbetts because Mr. Tibbetts was armed with a machete and could quickly close the distance between him and the officers. Corporal Winson was aware that Mr. Tibbetts had made comments that he was not going to leave there alive, and he had already threatened someone with a machete.

The officers rendered aid to Mr. Tibbetts, who had been struck by Officer Broughton's gunfire until an ambulance arrived and transported Mr. Tibbetts to a hospital where he was treated for

multiple gunshot wounds. The machete, which measured nearly two feet long, was recovered by evidence technicians at the scene. Mr. Tibbetts' family acknowledged at the hospital that Mr. Tibbetts had been depressed and suicidal before the incident. Mr. Tibbetts later told investigators that he did not remember details of the incident but held no animosity toward Officer Broughton for shooting him.

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.