

# MAINE STATE LEGISLATURE

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## **DEADLY FORCE REVIEW PANEL**

6 STATE HOUSE STATION · AUGUSTA, MAINE 04333

November 4, 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 36<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 March 8, 2021, incident in Livermore Falls, the details of which are included in the Panel's enclosed report.

For the Deadly Force Review Panel:

Fernand Larochelle, Chair  
Stephen Burlock, Vice Chair

Enclosure



## **March 8, 2021 – Livermore Falls 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 Livermore Falls on March 8, 2021, involving Sgt. James Macdonald of the State Police, which resulted in injury to Donald White, age 45. Mr. White died shortly after from a self-inflicted gunshot wound to the head. 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**

In the early morning of March 8, 2021, Donald White, 45, of Jay, surreptitiously entered a residence on Knapp Street in Livermore Falls, occupied by its owner, Kenneth Smith, age 64, and three other adults, all of whom were sleeping. Mr. White restrained two of the occupants with zip ties and handcuffs. Mr. White blocked another occupant, his former girlfriend, from communicating with 9-1-1, at one point threatening her with what she believed was a handgun. The 9-1-1 operator detected a struggle, and police were dispatched to the residence. The former girlfriend escaped to a neighbor's home and notified the police. She also reported that Mr. White was placing pipe bombs in the residence, one of which was thrown from the residence and detonated when the first officers arrived. The two other adults managed to escape the residence and told officers that there were several pipe bombs placed throughout the residence. A standoff ensued for the next 18 hours, during which time Mr. White held Mr. Smith hostage. It ended after Sergeant James Macdonald, a member of the State Police Tactical Team, shot and injured Mr. White, who then shot and killed himself.

### **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 audio footage, forensic reports, photographs, emergency communications, and other materials. The Panel also reviewed the Attorney General's September 1, 2023, report and the State Police Incident Review Team report of November 14, 2023.

### **Summary of Panel Discussion**

On September 26, 2024, the Panel met via Zoom and reviewed the referenced incident.

### Observations

1. The suspect involved in this incident was a 45-year-old single man with a long history of behavioral health issues. He had been diagnosed with bipolar disorder, depression, and ADHD. His siblings reported that he had received inpatient psychiatric care and had abused his prescription medications. The suspect's ex-girlfriend told police that he had been emotionally and mentally abusive during their relationship and, at times, that she had feared for her safety. The ex-girlfriend reported that the suspect was mistakenly obsessed with the notion that sexual abuse was occurring at the Smith residence.
2. From July 14, 2013, to March 6, 2021, the suspect had multiple interactions with law enforcement. Following two of these events on September 8, 2016, and November 22, 2019, he was transported to a local hospital for mental health evaluations. His criminal history included a conviction for criminal mischief for which he had received a split sentence.
3. The toxicology report associated with his postmortem exam revealed that the suspect had a supratherapeutic level of amphetamine in his system.
4. The bomb technicians determined that the suspect had assembled 11 pipe bombs (IEDs) that he had positioned near doorways and throughout the residence. Sgt. Chris Harriman, a certified bomb technician, reported that these IEDs were active explosive devices. The investigation did not reveal what prior training the suspect had received to assemble these devices nor where he had obtained the extensive bomb-making materials and detonators.
5. The suspect was armed with a Ruger LC9 pistol. He ultimately used this gun to shoot himself. An ATF firearms trace obtained in June of 2021 revealed that the Ruger had been purchased a few weeks before the incident from the Kittery Trading Post by a male individual residing in Winslow, Maine. The investigation does not identify how the suspect came to possess the Ruger and what relationship, if any, he may have had with the individual who had originally purchased the gun.
6. The State Police Crisis Negotiation Team was instrumental throughout this prolonged hostage situation. The team worked with Mr. White's doctor to provide background information for all involved and attempted to maintain contact with Mr. White by calling his cell phone 149 times. They also reached out via text and other forms of direct messaging. They worked extremely hard to resolve this situation peacefully.
7. This was an incredibly dynamic situation that at various times involved multiple hostages, threats against other locations, including a school, an IED that the suspect detonated, and clear behavioral health issues. The State Police did an excellent job coordinating internal specialty team resources, including the tactical team, crisis negotiators, and their explosive ordinance disposal team, in concert with external resources like an early activation of NESPAC (New

England State Police Administrators Compact) mutual aid for tactical resources and federal partnership options to assist with technology issues.

8. The tactical operator who used deadly force struck Donald White with one round from his department-issued firearm. Mr. White fell to the floor out of sight but was not immediately incapacitated by the round. The Office of Chief Medical Examiner described the gunshot wound as “non-lethal.” Mr. White was ultimately able to work his way back to the hostage in the living room, where he died from a self-inflicted gunshot wound to the head.

### **Recommendations**

1. The Panel recommends that the Maine Criminal Justice Academy consider using Panel reports when developing and debriefing scenario-based training.
2. The Panel believes that feedback from the departments whose incidents are reviewed is important, not only for that department but also for agencies statewide, since learning and improvement is a collaborative process. Therefore, the Panel requests that within 90 days of receipt of a Panel report, each involved department respond in writing to the Panel, detailing any questions, concerns, and/or corrective actions taken in response to the observations and recommendations noted in the Panel’s report.
3. Hostage situations are fast-moving and complicated scenarios that inevitably require split-second decision-making. Complicating a decision to use deadly force is the reality that if the force is not immediately incapacitating, any remaining hostage(s) may be put in imminent danger.
4. The panel recommends that future IRTs state whether or not a referral was made for follow-up support and services for victims.
5. The Panel recommends that investigators retrieve relevant behavioral health records in addition to medical records.

### **Factual Summary**

In the early morning hours of Monday, March 8, 2021, Donald White, 44, of Jay, broke into the home of 64-year-old Kenneth Smith in Livermore Falls. Mr. White was the former boyfriend of Mr. Smith’s daughter. When Mr. White entered the residence, the occupants inside included Kenneth Smith, who was asleep in his first-floor bedroom; Mr. Smith’s adult daughter and adult granddaughter; and his daughter’s boyfriend, all sleeping in the upstairs bedrooms. Mr. Smith awoke at approximately 2:30 a.m. to find Mr. White in his bedroom with two firearms, zip-tie wrist restraints, and handcuffs. Mr. Smith and Mr. White argued, and when Mr. White instructed him to put restraints on his own wrists, Mr. Smith resisted, and they grappled. Mr. Smith ended up on the floor with Mr. White placing a knee on his throat. Mr. White asked Mr. Smith if he missed his late

wife and if he wanted to be with her. Mr. Smith said that he stopped resisting, and once his wrists were restrained, Mr. White asked him what time his daughter got up.

The daughter's boyfriend awakened between 5:00 and 5:30 a.m. and went downstairs. When he entered the kitchen, he saw a man with a gun standing at the threshold between the porch and the kitchen. He did not know at the time that the man was Donald White. Mr. White instructed him to lie on the floor with his hands behind his back. Mr. White tried to place zip-tie restraints on his arms but had difficulty with them; he became frustrated and threatened to shoot the boyfriend in the leg. In the meantime, Mr. Smith's daughter awakened. She was still in bed when she heard a thud downstairs, and thinking that her boyfriend might have fallen, she went downstairs to investigate. When she entered the living room, she saw her boyfriend lying prone on the floor with his hands restrained behind his back. Her boyfriend told her that there was someone in the house. The daughter called Auburn Regional Communications 9-1-1 at 5:23 a.m. The call ended before she provided her name and address when Mr. White grabbed the phone and threw it. Mr. White told her that when the 9-1-1 operator called back, she was to say the first call was a mistake. Mr. White instructed her to place zip-tie restraints on her wrists; he tried to put one on her left wrist, but she resisted.

The boyfriend was still lying on the floor with his hands bound and told his girlfriend to do whatever Mr. White told her. When Mr. White's attention turned to the boyfriend, the girlfriend fled the house and ran to a neighbor's home. The neighbor called 9-1-1 and, on behalf of the girlfriend, reported that Donald White had broken into her father's house, that he was armed with a handgun, and that her father, Kenneth Smith, her boyfriend, and her daughter were still in the house. After the girlfriend escaped, Mr. White told the boyfriend to move to the living room and sit on the couch. The boyfriend later recounted that after a while, Mr. Smith entered the living room and joined him on the couch. Mr. Smith's arms were no longer restrained because he told Mr. White that his hands were numb, and Mr. White removed the restraints. While the boyfriend and Mr. Smith were sitting on the couch, Mr. White was also in the living room constructing pipe bombs. The boyfriend said that he saw 8-10 pipe bombs, battery sources, and remote detonators, and he saw Mr. White placing the pipe bombs around the house.

Officers from the Livermore Falls Police Department and the Androscoggin County Sheriff's Office were the first to respond and set up a perimeter around the house. Livermore Falls Police Officer Stephen Gould called to Mr. White using a public address system. Officer Gould instructed Mr. White to leave the residence and show his hands. Mr. White did not respond. After a second similar attempt to contact Mr. White, the officers heard an explosion outside the residence, which was later determined to be a pipe bomb thrown from the house into the driveway. Shortly after that, the State Police Tactical Team and Crisis Negotiation Team were activated.

At 9:22 a.m., a search warrant and an arrest warrant for Mr. White were issued. The charges against Mr. White included kidnapping, aggravated reckless conduct, and burglary. By 10:47 a.m., a State Police crisis negotiator spoke with Mr. White, who repeatedly asked to talk with the person in charge. Mr. White told the negotiator that this was not an ordinary call. He said to tell the tactical people not to approach, that he had all entrances covered, and if they breached the house, it would end badly. Mr. White added that he knew that tactical would try to take him out, that there were timers on the pipe bombs, and he mentioned remote detonation.

At approximately 10:00 a.m., the boyfriend and Mr. Smith's granddaughter escaped the residence through a second-floor window while Mr. White was on the phone with negotiators. The boyfriend reported that he had been sitting on the couch with Mr. Smith for hours, and Mr. White allowed him to go upstairs and rest when he told Mr. White that he was becoming physically sick. He went upstairs, where he joined his girlfriend's daughter and removed an air conditioner from a window, allowing them to escape to the porch roof from which they jumped to the ground. They reported to officers that Mr. White had placed pipe bombs in the house and that he was armed with a handgun. The boyfriend said that he watched Mr. White drill holes in each of the metal pipes and fill them with a black/grey colored powder. He further described watching Mr. White strip and splice wires that he placed in some of the pipes. The boyfriend said that Mr. White constructed approximately eight metal pipe bombs. He watched Mr. White tape one of the metal pipe bombs to an interior door that led to the basement, and he saw Mr. White take several pipe bombs to the porch and return without them. He said that Mr. White had what appeared to be a wireless router with several antennae. Tactical Team operators on the perimeter also reported seeing through their scoped rifles improvised explosive devices (IED) attached to doors and windows and one IED with an antenna.

Over the day and into the evening, negotiators spoke with and texted Mr. White to persuade him to come out of the house and safely release Mr. Smith. Mr. White told the negotiator that he had information concerning a large pedophile ring involving hundreds of people and that he wanted to be treated seriously. He said that he did not want to hurt anyone and that he only wanted to expose the sexual abuse. During this time, Mr. White asked to speak with his doctor and then changed his mind. He told the negotiator that he did not want to hurt anyone and that he would disable the bombs when he could talk to the negotiator's boss. He also spoke of the explosives and a "dead man's switch." The negotiator asked Mr. White the location of the device with the dead man's switch, and Mr. White responded that such devices were scattered throughout the house. Mr. White added that other devices in the house detonated differently, either with timers or fuses. By 8:25 p.m., Mr. White allowed the negotiator to speak with Mr. Smith. Mr. Smith told the negotiator that Mr. White had a handgun in his waistband and that he had threatened him with the gun. Mr. Smith said that there were IEDs attached to the doors and windows. He described the IEDs as cast iron pipes with caps on each end. The negotiator was unsuccessful in persuading Mr. White to allow Mr. Smith to leave the residence. Mr. White ended the call, but it was later re-established, and Mr. White told the negotiator that there was a pipe bomb next to Mr. Smith's head. Mr. White thanked the negotiator for not shooting him and Mr. Smith, and he asked the negotiator for a few hours to be left alone. At one point, Mr. White told Mr. Smith that they were all going to die.

Sgt. James Macdonald, a member of the State Police Tactical Team, was assigned to a position in the second-floor bathroom of a residence behind the Smith residence. Sgt. Macdonald, armed with a rifle with a night vision scope, saw a man matching Mr. White's description come into view in the rear door window. The man held a cell phone to his ear with his left hand. Sgt. Macdonald saw the man reach up and adjust a device by the door using his right hand. At 11:02 p.m., Sgt. Macdonald fired one round from his rifle at the man's upper torso. Sgt. Macdonald said that the man screamed and disappeared from the window. Mr. Smith later reported that Mr. White told him that he had been shot in the armpit. He said that Mr. White sat on the couch next to him, started to pray for forgiveness, and put his arm around Mr. Smith while holding a handgun in his other hand.



Negotiators continued to try to call Mr. White, but the calls went unanswered. While preparing a plan to rescue Mr. Smith from the house, members of the Tactical Team heard a gunshot coming from Mr. Smith's residence and a bullet striking the exterior wall of the house across the street. Mr. Smith later told investigators that when he heard the shot from inside the house, Mr. White slumped towards him on the couch. Mr. Smith left the house and told officers that Mr. White was injured on the couch and that there were 15-20 bombs throughout the house. The State Police Bomb Team used a robot to enter the home and confirmed that Mr. White was deceased. The Bomb Team found 11 pipe bombs throughout the house, several of them with remote control receivers and fuses. Bomb-making components were located in the kitchen. The pipe bombs and bomb-making components were safely removed from the house. A postmortem examination by the Office of Chief Medical Examiner determined that, while Mr. White suffered a gunshot wound through the right arm and into his torso and out his back, he died from a self-inflicted gunshot wound to the head.

### **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.