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## **DEADLY FORCE REVIEW PANEL**

6 STATE HOUSE STATION · AUGUSTA, MAINE 04333

DATE: March 30, 2026

TO: Joint Standing Committee on Judiciary

FROM: Stephen Burlock, Chair, Deadly Force Review Panel

SUBJECT: Case #50 – Paris Incident

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Deadly Force Review Panel - Consideration of an incident on May 6, 2024, involving the use of deadly force by officers of the Paris, Norway, and Oxford Police Departments, the Oxford County Sheriff's Office, and the Maine State Police, which resulted in no serious injury to Gary Porter, Jr., the details of which are contained in the enclosed report and findings of the Attorney General.

The statute (Title 5, § 200-K) governing the Panel's authority states that the Panel "shall examine deaths or serious injuries resulting from the use of deadly force by a law enforcement officer." In this incident, although the law enforcement officers used deadly force, no death or serious injury resulted from their actions. Accordingly, the Panel declined to review this incident because it was not within its statutory authority.

Enclosure



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January 29, 2025

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Colonel William G. Ross  
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Dear Chief:

We have completed our investigation and legal review of the incident on May 6, 2024, involving the use of deadly force by Detective Lieutenant Justin Brown of the Oxford County Sheriff's Office, Corporal Robert Federico of the Norway Police Department, Deputy Jeffrey Howe of the Oxford County Sheriff's Office, Officer Michael Rioux of the Oxford Police Department, Detective Gary Hill of the Norway Police Department, Sergeant Daniel Hanson of the Maine State Police, Chief Rickie Jack of the Oxford Police Department, Detective Sergeant Alan Coffin of the Paris Police Department, Trooper Tyler Nadeau of the Maine State Police, Deputy Danielle Vienneau of the Oxford County Sheriff's Office, and Deputy William Nelson of the Oxford County Sheriff's Office which resulted in a non-fatal injury to Gary Porter Jr., age 37.

#### Factual Summary

On May 6, 2024, Gary Porter was found sleeping in a chicken coop in the town of Paris and removed by Det. Sgt. Alan Coffin of the Paris Police Department. Upon learning there was a warrant of arrest for failure to appear for a theft charge, Det. Sgt. Coffin placed Mr. Porter under

arrest. Mr. Porter requested to be taken to the hospital, where he was treated and medically cleared for incarceration. Paris Police Chief Michael Dailey transported him in the front seat of his black unmarked police pickup truck from the hospital to the jail<sup>1</sup>. Mr. Porter was handcuffed behind his back. When Chief Dailey arrived at the Oxford County Jail, he got out of his truck, left his truck running and stored his handgun under the rear seat. He then proceeded to walk around the truck to remove Mr. Porter and as he was doing so, observed Mr. Porter move the handcuffs from behind his back to the front of his body and get into the driver's seat. Chief Dailey tried to get back into the vehicle, but the doors were locked. Chief Dailey sustained minor injuries when he was thrown from the running boards of the pickup truck as Mr. Porter backed up and drove away. Chief Dailey's gun was still inside the pickup truck.

After hearing on the radio that Chief Dailey's cruiser had been stolen, Det. Sgt. Coffin went to the Oxford County Jail and picked up Chief Dailey. After doing so, Det. Sgt. Coffin radioed the Oxford County Regional Communications Center (OCRCC) that Mr. Porter had Chief Dailey's handgun. He also advised the OCRCC that there was an assault on an officer and that Chief Dailey sustained injuries. The OCRCC notified all area law enforcement of the information.

The OCRCC put out a general broadcast to all area law enforcement concerning Chief Dailey's stolen pickup truck. Norway Police Detective Gary Hill heard the radio traffic and stationed himself at the intersection of Rt. 117 and Oxford St. in South Paris. He observed Chief Dailey's pickup coming towards him and started pursuing the vehicle although the vehicle would not stop. Law enforcement continued chasing Mr. Porter and eventually deployed spike mats which Mr. Porter ran over. Mr. Porter lost control of the pickup and ran into the ditch on the left side of Buckfield Road, also known as Rt. 117 in South Paris.

There were five separate use of deadly force events (UDFE) that occurred during Mr. Porter's engagement with law enforcement. They are outlined below, and each incident will be described separately in the paragraphs to follow.

#### **Use of Deadly Force Event #1 – Det. Lt. Justin Brown, Oxford County Sheriff's Office.**

Oxford County Detective Lieutenant Justin Brown heard over the radio that Chief Dailey's pickup truck had been stolen, and that Officer Hill was in pursuit of it on Halls Pond Road. Lt. Brown responded to the area and as he crested the hill on Halls Pond Road, he saw that the stolen pickup truck driven by Mr. Porter was headed towards him. Lt. Brown almost collided with Mr. Porter head-on but was able to avoid a collision. He then turned around and became the primary pursuit vehicle<sup>2</sup>. While pursuing Mr. Porter, Lt. Brown learned that Chief Dailey had been involved in a physical altercation with Mr. Porter at the jail and that his firearm was in the pickup truck that had been stolen. Lt. Brown told investigators that while pursuing Mr. Porter he would at times drive in the opposite lane of travel and at high rates of speed that reached 90 mph.

Mr. Porter drove over spike mats and then turned onto Rt. 117. After a short distance, Mr. Porter lost control of the police vehicle and drove into a ditch on the left side of Buckfield road. Lt. Brown stopped his unmarked police vehicle in the oncoming travel lane, behind Chief Dailey's

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<sup>1</sup> Chief Dailey's pickup truck was not equipped with a cage that separated the front and back seats.

<sup>2</sup> This portion of the Halls Pond Road was described as a small dirt road that was only wide enough for one vehicle to be on with minimal clearance on either side of the vehicle.

truck and took cover behind his door. Lt. Brown, who was in civilian clothing did not have a body worn camera, and his police vehicle did not have a dash camera. Lt. Brown shouted commands at Mr. Porter to get out of the vehicle with his hands up. Lt. Brown reported that he was familiar with this type of police pickup truck and knew that police officers stored ballistic vests and weapons in the back seat area and that there were no cages in the vehicle. Lt. Brown saw Mr. Porter digging around in the back seat of the pickup truck and it appeared to Lt. Brown that Mr. Porter did not intend to surrender. Mr. Porter got out of the pickup truck and moved towards the bed of the truck, crouching down and then standing back up repeatedly as he did this. Lt. Brown said as he got to the bed of the truck, Mr. Porter stood up with his hands together and pointed what appeared to be a black gun over the bed of the pickup truck at him. Lt. Brown said he hollered “gun” and fired one (1) round from his handgun at Mr. Porter. Mr. Porter then retreated to the cab of the pickup truck. Lt. Brown said he fired his handgun at Mr. Porter because he thought Mr. Porter was going to shoot him.

### **Use of Deadly Force Event #2 – Det. Lt. Justin Brown, Oxford County Sheriff’s Office.**

After firing his handgun, Lt. Brown moved to the back of his vehicle and retrieved his ballistic vest. As Lt. Brown made his way to the back of his police vehicle, another law enforcement officer approached him and said that Mr. Porter had just fired at them (the police). Lt. Brown said that another officer fired PepperBalls<sup>3</sup> at the pickup in an effort to break a window, but they were ineffective. Lt. Brown said that he was by the back corner of his vehicle and observed Mr. Porter get out of the pickup a second time. Lt. Brown said he was moving in a similar way as before. When Mr. Porter got towards the back of the truck bed, he had both of his hands together and again pointed what appeared to be a gun over the bed of the truck in the direction of the officers on scene. Lt. Brown said the gun wasn’t pointed directly at him this time, but he knew there were other officers near him, and Mr. Porter was pointing the gun in their direction. Multiple officers were on scene yelling commands for Mr. Porter to show his hands and step away from the vehicle. Mr. Porter did not comply with those commands. Lt. Brown reported that he fired his handgun multiple times at Mr. Porter<sup>4</sup>. Mr. Porter again retreated to the cab of the truck. Lt. Brown said he fired at Mr. Porter this time because he was afraid Mr. Porter was going to shoot one of his fellow officers.

Although unsure of the exact sequence of events, Lt. Brown believed that after firing at Mr. Porter for the second time, he then obtained his PR-24 (collapsable baton) to break out the back window of Chief Dailey’s pickup in an effort to be able to see Mr. Porter and deploy PepperBalls. While breaking out the window, he was provided cover by another officer and could see Mr. Porter still digging around in the truck. Lt. Brown then moved to the rear of his police vehicle and retrieved his rifle. He reported that he transitioned to his rifle because he felt his handgun was proving to be ineffective. While he was getting his rifle ready, he closed the rear hatch of his police vehicle. After closing the rear hatch, he heard a gunshot and the glass from the rear hatch broke out and exploded on him. At that time, Lt. Brown believed Mr. Porter was shooting

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<sup>3</sup> The PepperBall system is a semi-automatic, high-pressure launcher, which uses compressed air to propel .68-caliber plastic balls filled with PAVA (Capsaicin II) powder that is dispersed upon impact.

<sup>4</sup> Evidence Response Technicians (ERTs) examined Lt. Brown’s handgun and found that it was only missing two (2) rounds. In addition, video from a body worn camera from another officer on scene appeared to show that Lt. Brown was not at the back of his vehicle when he fired his handgun the second time.

at him. Lt. Brown did not see Mr. Porter shoot at him but assumed he must have come out again and fired at him because he believed that was the only way the glass could have shattered.<sup>5</sup>

**Use of Deadly Force Incident #3 – Det. Lt. Justin Brown of the Oxford County Sheriff's Office, Cpl. Robert Federico of the Norway Police Department, and Dep. Jeffrey Howe of the Oxford County Sheriff's Office.**

After the window from his rear hatch exploded on him, Lt. Brown moved up to the front passenger side of his police vehicle and fired his rifle at the pickup truck in the area he last saw Mr. Porter. Lt. Brown could not recall how many rounds he fired at Mr. Porter with his rifle. Lt. Brown reported that other officers fired at this time as well. Lt. Brown said he fired at Mr. Porter to stop the threat because he kept pointing the gun at them. Lt. Brown believed Mr. Porter was going to shoot them.

Norway Police Corporal Federico arrived on scene and retrieved a PepperBall launcher from his patrol vehicle. He attempted to break out some of the windows of the stolen pickup truck with it, but he was unsuccessful. While taking cover behind Lt. Brown's police vehicle, Cpl. Federico heard a gunshot (UDFE #2) and believed that the gunshot came from the area where Mr. Porter was located. Cpl. Federico heard repeated commands to Mr. Porter to show his hands however Mr. Porter remained non-compliant. A short time later, Cpl. Federico was positioned near Lt. Brown at the back of Lt. Brown's police vehicle and reported he heard a gunshot and then saw the back window of Lt. Brown's police vehicle shatter. Cpl. Federico reported that he believed Mr. Porter was shooting at them and he then moved to a better position of cover with Lt. Brown. Cpl. Federico said when he moved to the passenger side of the police vehicle with Lt. Brown, he heard other units firing at Mr. Porter and he also fired his handgun multiple times at him. Cpl. Federico said he fired at Mr. Porter because he believed Mr. Porter had fired at them (the officers) and that Mr. Porter had used deadly force against them. Cpl. Federico believed that when the cruiser window was shattered, Mr. Porter was trying to kill them.

When Oxford County Deputy Howe arrived on scene he took cover near the front passenger side of Lt. Brown's police vehicle. Deputy Howe heard the gunfire (UDFE #2) but was unable to determine the direction the shot had been fired from. After hearing the gunfire from UDFE #2, Deputy Howe heard an officer behind him say something like he (Mr. Porter) shot at us (the police). A short time later, Deputy Howe saw Mr. Porter standing by the bed of the stolen pickup truck, but he could not see Mr. Porter's hands. Deputy Howe heard another gunshot and believed Mr. Porter had fired at the police because he believed that he heard the shot coming from Mr. Porter's direction. Deputy Howe fired his rifle at Mr. Porter multiple times. Deputy Howe said that he fired at Mr. Porter because Mr. Porter was firing at them. Deputy Howe said that if the round Mr. Porter fired wasn't directed at him, it was directed at one of the other officers standing at the back of Lt. Brown's police vehicle. Deputy Howe believed that they were going to get hurt or killed.

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<sup>5</sup> Video from a body worn camera from another officer on scene appeared to show that Lt. Brown shot out his own window. An investigator with the Attorney General's Office conducted a follow-up interview with Lt. Brown concerning the number of times he fired his handgun, his location and his shattered back window. After watching the video and learning that Chief Dailey's handgun was recovered fully loaded, Lt. Brown understood he had not cleared the back window of his police vehicle when he fired at Mr. Porter resulting in him shooting his back window with his rifle.

**Use of Deadly Force Event #4 - Cpl. Robert Federico of the Norway Police Department, Dep. Jeffrey Howe of the Oxford County Sheriff's Office, Officer Michael Rioux of the Oxford Police Department, Det. Gary Hill of the Norway Police Department, Sgt. Daniel Hanson of the Maine State Police, Chief Rickie Jack of the Oxford Police Department, and Det. Sgt. Alan Coffin of the Paris Police Department.**

Cpl. Federico had taken cover near his police vehicle that was further away from the stolen pickup truck. While there, he heard other officers say that Mr. Porter had stolen another police vehicle and was driving away. Cpl. Federico saw the stolen police vehicle driving away from him and fired his handgun one (1) time at it. Cpl. Federico said he fired at Mr. Porter as he drove away because he believed that Mr. Porter had already used deadly force against the police, and he was concerned about what Mr. Porter would do to the general public. He believed that Mr. Porter was armed, and he was concerned that he may hurt somebody else if he was allowed to escape.

Dep. Howe also moved to a position of cover near a different police vehicle further away from the stolen pickup truck. Dep. Howe saw Mr. Porter get into Lt. Brown's police vehicle and drive off. Dep. Howe could see another police vehicle further up the road that was blocking traffic, and he could see civilian traffic stopped behind that police vehicle. Dep. Howe fired his rifle multiple times at the rear of Lt. Brown's stolen police vehicle as it drove away. Dep. Howe said that he fired at the vehicle because he was trying to stop Mr. Porter from getting to the police vehicle on the other side of the scene. Dep. Howe was concerned about Mr. Porter using the stolen police vehicle to ram the police vehicle that was blocking the road or the civilians that were behind it. Believing that Mr. Porter was armed, Dep. Howe was also concerned that Mr. Porter would fire more rounds at the police.

Oxford Officer Michael Rioux arrived on scene and heard a gunshot (UDFE #2), but he was unsure where the gunshot came from. Officer Rioux heard other officers holler that shots had been fired. He ran back to his police vehicle to retrieve his less lethal shotgun<sup>6</sup>. While taking cover behind a police vehicle, Officer Rioux saw Mr. Porter step out of the stolen pickup truck and it appeared as though Mr. Porter had something dark in his hand. Officer Rioux fired one (1) bean bag round that was loaded into the shotgun at Mr. Porter but missed. Officer Rioux transitioned to his handgun and saw Mr. Porter getting into another police vehicle. Officer Rioux saw the reverse lights illuminate on the police vehicle and he believed that Mr. Porter was going to back up into him and the other officers that were standing behind the police vehicle that he had just stolen. Officer Rioux fired his handgun multiple times at the back of the second stolen police vehicle. Officer Rioux said that he fired at Mr. Porter because he had previously heard a gunshot (UDFE #2) and heard officers holler that shots had been fired. When Officer Rioux saw the reverse lights of the second stolen vehicle come on, he believed that Mr. Porter was going to drive towards him and that he potentially had firearms in the vehicle. Officer Rioux said that he thought that Mr. Porter was going to try to kill him and the other officers.

Norway Police Det. Hill was taking a position of cover near a guardrail and next to another officer's cruiser when he heard a gunshot, but he did not know where it came from (UDFE #2). A short time later, he heard more gunfire (UDFE #3) but did not fire his handgun. When the gunfire

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<sup>6</sup> Impact Projectiles, often referred to generically as bean bag or baton rounds, are designed to incapacitate a subject with a minimal potential for causing death or serious physical injury when compared to conventional projectiles.

stopped, he heard shouting that Mr. Porter was getting out of the stolen pickup truck and into an unmarked Oxford County police vehicle. Det. Hill fired his handgun at Mr. Porter multiple times. Det. Hill said that he fired his gun at Mr. Porter because he was afraid Mr. Porter was going to back over the officers taking cover near that police vehicle or Mr. Porter was going to pin him (Det. Hill) up against the guardrail. Det. Hill thought Mr. Porter was going to kill him or seriously hurt him.

Maine State Police Sgt. Hanson arrived on scene and heard a volley of gunfire as he retrieved his rifle from his police vehicle (UDFE #3). Sgt. Hanson believed that the police were being shot at. While walking up toward the north side of the scene, he heard officers yelling that Mr. Porter was coming out of the stolen pickup truck. Sgt. Hanson saw Mr. Porter get into an Oxford County police vehicle and accelerate in the direction of another officer. Sgt. Hanson could only see the left side of Mr. Porter's body and he did not see a gun in his left hand. Sgt. Hanson hollered for the other officer to get out of the road and fired his rifle multiple times at Mr. Porter as he drove by. Sgt. Hanson said that he fired his rifle at Mr. Porter because he was concerned for his safety and the safety of the other officers because Mr. Porter had already put the police at risk, and Sgt. Hanson believed he was trying to escape with a weapon.

Oxford Police Chief Jack arrived on scene and heard gunfire coming from what he believed to be the area of the cab of the stolen pickup truck (UDFE #2). When he heard the gunfire, he initially believed that another officer on scene had been shot because he saw him fall to the ground. Chief Jack then saw officers firing toward the stolen pickup truck (UDFE #3) but he did not fire because he was too far away. Chief Jack walked toward the north side of the scene with Sgt. Hanson in an effort to see the stolen vehicle from the front. Chief Jack saw Mr. Porter run from the stolen pickup truck to an undercover Sheriff's vehicle. Mr. Porter jumped into the second police vehicle and began driving up the road towards him and another officer who had civilian traffic stopped behind him. Chief Jack fired his handgun at the second stolen vehicle as the vehicle was driving toward him. Chief Jack said that he fired multiple rounds from his handgun at Mr. Porter because he was driving at him and Sgt. Hanson, who were on the roadway with no protection. Chief Jack also said he was fearful for the deputy that he knew was in the roadway stopping civilian traffic as Mr. Porter drove at him. Thinking that Mr. Porter was armed, Chief Jack believed Mr. Porter would either shoot the deputy or try to ram him. Chief Jack then observed Mr. Porter veer off the road and strike a tree. Chief Jack observed Mr. Porter attempt to move the vehicle off of the tree in an effort to flee. Chief Jack then observed Mr. Porter in the passenger seat with a Taser in his hand. Chief Jack gave multiple commands to show his hands and drop the Taser.

Paris Police Department Det. Sgt. Coffin, who had been involved in the earlier arrest of Mr. Porter, arrived at the scene and parked approximately 60 -70 yards north of the stolen pickup truck to block any traffic heading south. He was standing near his police vehicle and heard officers firing at Mr. Porter, but he could not see what Mr. Porter was doing (UDFE #3). A short time later, Sgt. Coffin saw Mr. Porter run to an unmarked county police vehicle and accelerate towards him. As Mr. Porter drove at Sgt. Coffin, Sgt. Coffin fired his handgun at Mr. Porter. Sgt. Coffin observed Mr. Porter drive past his vehicle, crash into a ditch and hit a tree. Sgt. Coffin said that he fired his handgun at Mr. Porter because he thought Mr. Porter was going to ram his cruiser causing death or injury to him and the civilians stopped behind him.

**Use of Deadly Force Event #5- - Trooper Tyler Nadeau of the Maine State Police, Deputy Danielle Vienneau of the Oxford County Sheriff's Office and Deputy William Nelson of the Oxford County Sheriff's Office.**

When Oxford County Deputy Vienneau arrived on scene, she took up a position of cover on the north side of where Mr. Porter had crashed the second stolen police vehicle. Deputy Vienneau was taking cover behind a large rock on the opposite side of the road from where the crashed police vehicle was. She saw Mr. Porter exit the second police vehicle that he crashed. Deputy Vienneau said she observed Mr. Porter duck down and stand back up and she then saw him start to raise his arm and she heard a shot. When Deputy Vienneau saw the raised arm and heard a shot, she thought Mr. Porter was shooting at other officers, so she fired her rifle multiple times at Mr. Porter. Deputy Vienneau said that she fired her rifle at Mr. Porter because she thought Mr. Porter was shooting at officers and she feared for their lives.

Oxford County Deputy Nelson was in Rumford when he heard over the radio that someone had stolen Chief Dailey's cruiser, and he also heard that the person had a gun. When he arrived on scene, he took up a position of cover on the north side of where Mr. Porter had crashed the second stolen police vehicle. Deputy Nelson was aware that there had been shots fired before he arrived. Upon his arrival, he learned that Mr. Porter was still in the vehicle and multiple officers were yelling commands to get out of the vehicle. Deputy Nelson observed Mr. Porter exit the vehicle and move up and down and pointing with something in his hands. Deputy Nelson heard a gunshot and observed Mr. Porter kneeling over and get back up and point again. Deputy Nelson, believing that Mr. Porter had a gun, fired multiple times at Mr. Porter. Deputy Nelson said Mr. Porter then fell to the ground. Deputy Nelson said that he fired his rifle at Mr. Porter because he thought Mr. Porter was using deadly force against the officers who were yelling commands.

State Police Trooper Nadeau arrived on scene and took up a position of cover on the north side of where Mr. Porter had crashed the second stolen police vehicle. Trooper Nadeau was aware that other law enforcement officers had taken up a position of cover close to where he was but across the road behind a large rock. He was also aware that Mr. Porter had stolen and crashed two cruisers, had access to a firearm and believed he had fired at law enforcement. Trooper Nadeau watched Mr. Porter exit the police vehicle with something in his hands. He could not see what it was but believed he had a weapon and had previously fired at the police. Trooper Nadeau heard gunfire and did not know who was shooting but believed Mr. Porter was shooting at officers. Fearing for the other police officer's safety that were in Mr. Porter's line of sight, he fired one (1) shot from his rifle at Mr. Porter. Trooper Nadeau said that he fired at Mr. Porter because he believed that he had a gun, and he was a threat to the other law enforcement officers south of his position. The officers behind the rock appeared to be in Mr. Porter's direct line of gunfire and he believed that Mr. Porter also posed a threat to people who may have been in the nearby houses.

After Mr. Porter crashed the second stolen vehicle, officers were able to fly a drone to monitor Mr. Porter's movements and could see him moving around in the cruiser. Mr. Porter was observed locating a handcuff key and unlocking one of his handcuffs. After some period of talking, Mr. Porter eventually opened the passenger side door and got out of the vehicle with a Taser in his hands. Officer Rioux fired multiple less-lethal bean bag rounds at Mr. Porter as he exited the vehicle with the Taser in his hand. Law enforcement approached Mr. Porter, and he was taken into custody and transported to receive medical treatment. He was diagnosed with a gunshot wound to the left arm. Mr. Porter has been indicted on charges of assault on an officer, reckless conduct

with a dangerous weapon, escape, 2 counts of theft, eluding an officer and violation of conditions of release. His case has not yet been resolved.

An investigator with the Attorney General's Office interviewed Mr. Porter following the incident. Mr. Porter told the investigator that when he got out of the truck, he had a cell phone in his right hand. Mr. Porter demonstrated to the investigator the manner in which he was holding the cell phone which was similar to the way in which someone would hold a handgun. Mr. Porter denied taking Chief Dailey's firearm and said he never fired a gun<sup>7</sup>.

### Discussion and Legal Analysis

The Office of the Attorney General has exclusive responsibility for the direction and control of any criminal investigation of a law enforcement officer who uses deadly force while acting in the performance of the officer's duties.<sup>8</sup> The detectives who conduct these investigations are independent of any other law enforcement agency. The sole purpose of the investigation in this matter was to determine if a criminal prosecution was warranted or if self-defense or the defense of others was reasonably generated by the facts.<sup>9</sup> Any such prosecution would require the State to disprove self-defense or the defense of others beyond a reasonable doubt. The investigation did not include an analysis of whether any personnel action might be warranted, whether the use of deadly force could have been averted, or whether there might be civil liability. Indeed, state law provides that the fact that conduct may be justifiable under law does not abolish or impair any other available legal remedy.

Whether the use of force by a law enforcement officer is reasonable is based on the totality of the particular circumstances and judged from the perspective of a reasonable officer on the scene, allowing for the fact that police officers are often forced to make split second decisions about the amount of force necessary in a given situation. The legal analysis requires careful attention to the facts and circumstances of each case, including the severity of the crime threatened or committed and whether the suspect poses an immediate threat to the safety of others.

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<sup>7</sup> ERTs recovered Chief Dailey's handgun from under the back seat of his stolen pickup truck in the same location where Chief Dailey had placed the handgun. An examination of the handgun revealed that it was still fully loaded.

<sup>8</sup> 5 M.R.S. § 200-A

<sup>9</sup> Under Maine law, for a law enforcement officer to lawfully use deadly force in self-defense or the defense of others, two requirements must be met. First, the officer must reasonably believe that unlawful deadly force is imminently threatened against the officer or another person and, second, the officer must reasonably believe that the use of deadly force is necessary to defend the officer or other person. 17-A M.R.S. § 107(2)(A). Under 17-A M.R.S. § 107(2)(B), a law enforcement officer is justified in using deadly force when the officer reasonably believes such force is necessary to effect an arrest or prevent the escape from arrest when the officer reasonably believes that the person has committed a crime involving the use or threatened use of deadly force, is using a dangerous weapon in attempting to escape or otherwise indicates that the person is likely to endanger human life or to inflict bodily injury unless apprehended without delay; and (1) The law enforcement officer has made reasonable efforts to advise the person that the officer is a law enforcement officer attempting to effect an arrest or prevent the escape from arrest and the officer has reasonable grounds to believe that the person is aware of this advice; or (2) The law enforcement officer reasonably believes that the person to be arrested otherwise knows that the officer is a law enforcement officer attempting to effect an arrest or prevent the escape from arrest.

### Conclusion

When Mr. Porter stole Chief Dailey's law enforcement pickup truck with his firearm inside and failed to surrender to police after crashing the vehicle, he set into motion a series of events that resulted in 5 separate incidences of the use of deadly force by law enforcement officers. Lt. Brown fired the first shot when Mr. Porter got out of the stolen vehicle with a cell phone in his hand, which appeared to Lt. Brown to be a firearm pointed at him. Mr. Porter retreated to the cab of the pickup truck yet emerged again with what appeared to be a gun in his hands, which was pointed at several officers. Lt. Brown fired a second shot believing Mr. Porter was going to shoot these officers. Based on the information that Chief Dailey's firearm was in the pickup truck and Mr. Porter's refusal to comply with commands to surrender while holding what appeared to be a firearm in his hands, it was reasonable for Lt. Brown to believe that the use of deadly force was necessary to defend himself and other officers.

When Lt. Brown accidentally shot out the rear window of his own police vehicle, it created the false impression to the law enforcement personnel at the scene that Mr. Porter was in possession of a firearm, and they were being shot at by Mr. Porter. This impression was reinforced by Mr. Porter's refusal to cooperate with law enforcement. Lt. Brown, Cpl. Federico and Deputy Howe all fired at Mr. Porter believing he was firing at them. Although Mr. Porter was not actually shooting at the officers, their belief that he was shooting at them based on all the facts known to them at the time was not unreasonable.

Following UDFE #3, Mr. Porter was able to steal Lt. Brown's unmarked SUV. When Mr. Porter got into the second stolen vehicle, Officer Rioux noticed the rear lights came on indicating to him that Mr. Porter was shifting the SUV into gear, causing the rear light to illuminate and leading Officer Rioux to believe he was going to back up and run he and other officers over. Officer Rioux fired multiple times at the SUV in an effort to stop the vehicle. Based on the information known to Officer Rioux, he reasonably believed that Mr. Porter may have had firearms in the vehicle and would run officers over while trying to escape.

Det. Hill fired his handgun at Mr. Porter multiple times. Det. Hill said that he fired his gun at Mr. Porter because he was afraid Mr. Porter was going to back over the officers taking cover behind Lt. Brown's police vehicle or that Mr. Porter was going to pin him (Det. Hill) against the guardrail he was standing next to. Det. Hill's decision to fire at the second stolen cruiser was reasonable under the circumstances known to him.

When Deputy Howe observed Mr. Porter in the second stolen vehicle, he believed that Mr. Porter was armed and trying to escape again in the police vehicle and shot multiple times at Mr. Porter. It was reasonable for Deputy Howe to shoot at the vehicle because he believed that Porter could use the stolen vehicle to ram the police vehicle that was blocking the road with civilians in the vicinity or fire additional rounds at police.

Sgt. Hanson fired at the second stolen cruiser because he believed that Porter was armed and fleeing the scene which created a significant risk to him and the other officers at the scene. Sgt. Hanson's decision to fire at the cruiser was reasonable based on the information known to him at the time the second cruiser was stolen.

When Chief Jack fired at the second stolen vehicle, the vehicle was driving towards him as well as the deputy who was stopped with civilian traffic behind him. It was reasonable for Chief Jack to use deadly force believing Mr. Porter may shoot or ram the deputy who was blocking traffic because the vehicle was headed in his direction.

Sgt. Coffin fired at Mr. Porter because he was driving at him and the citizens behind him. Ultimately, Mr. Porter drove past him and crashed into the ditch. However, Sgt. Coffin reasonably believed it was necessary to fire at the vehicle because he believed Mr. Porter was going to kill him or the citizens behind him by driving into them.

When Deputy Vienneau observed Mr. Porter exit the second stolen vehicle, she observed that Mr. Porter did not surrender despite commands to do so. She saw Mr. Porter raise his arm and heard a shot causing her to believe that Mr. Porter was shooting at the officers, so she shot her rifle reasonably believing that Mr. Porter was shooting at the officers.

When Deputy Nelson observed something in Mr. Porter's hand, he believed it was a gun although he could not identify it as a gun. He observed Mr. Porter yelling and pointing with something in his hand. After hearing a shot, he observed Mr. Porter getting up and start pointing again. When Deputy Nelson fired his weapon, he reasonably believed that Mr. Porter was going to shoot the officers in the vicinity who were yelling commands for Mr. Porter to come out of the truck.

When Trooper Nadeau shot at Mr. Porter, he believed that Mr. Porter had stolen two cruisers, had access to firearms and had fired at law enforcement. When Mr. Porter exited the vehicle, Trooper Nadeau fired at Mr. Porter because he heard gunfire and reasonably believed that Mr. Porter had a gun and was a threat to other officers and to the people in nearby houses.

In assessing the reasonableness of the officers' beliefs that Mr. Porter was shooting at them, it is significant that after engaging in a high-speed pursuit with law enforcement in a stolen cruiser, rather than surrendering after crashing, he exited the cruiser with something in his hand that appeared to be a firearm. Mr. Porter then held the item, which he later claimed to be a cell phone, in such a manner that officers thought he was pointing a firearm at them. His actions created the incorrect impression that he was shooting at law enforcement. Rather than following commands, Mr. Porter stole a second vehicle and drove in such an erratic manner that officers reasonably believed he was going to run over them. Mr. Porter's theft of the second cruiser to escape custody only served to create a further impression that he was willing to endanger human life or inflict bodily injury unless arrested without delay. After stealing and crashing the second cruiser, he still refused to surrender as requested by law enforcement, leading to another series of shots fired based on observations that Mr. Porter had something in his hand and his refusal to be arrested. While the use of deadly force events were based on a series of inaccurate beliefs, namely that Mr. Porter was in possession of Chief's Dailey's firearm or was otherwise armed, the mistaken beliefs of law

enforcement were created by the actions of Mr. Porter. All the facts and circumstances point to the conclusion that the law enforcement officers who used deadly force in attempting to arrest Mr. Porter reasonably believed that they were acting in self-defense or the defense of others as described above, at the time deadly force was used.

Sincerely,

A handwritten signature in blue ink, appearing to read 'L. Marchese', with a stylized flourish at the end.

Lisa Marchese  
Deputy Attorney General