

# MAINE STATE LEGISLATURE

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**DEADLY FORCE REVIEW PANEL**  
6 STATE HOUSE STATION · AUGUSTA, MAINE 04333

April 27, 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 23<sup>rd</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 February 28, 2022, in Topsham, the details of which are part of the Panel’s enclosed report.

For the Deadly Force Review Panel:

Francine Garland Stark, Chair

Enclosure



## February 28, 2022 - Topsham 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 Topsham on February 28, 2022, involving Officer Mathew Bowers of the Topsham Police Department, which resulted in the death of Kourtney Sherwood, 37, of Bath. 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

In the mid-afternoon of Monday, February 28, 2022, a 9-1-1 caller reported that Kourtney Sherwood was in a white GMC pickup in Topsham parked on the Brunswick-Topsham Bypass and that she was possibly armed with a gun and wanted to harm herself or others. Topsham police officers, Sagadahoc County Sheriff deputy sheriffs, and State Police troopers responded to the scene where they saw Ms. Sherwood in the driver's seat of the pickup truck parked in the breakdown lane in Topsham near the Brunswick town line. A deputy sheriff tried to communicate with Ms. Sherwood using a public address system. However, Ms. Sherwood would not engage in communication or follow commands. The deputy sheriff told Ms. Sherwood they wanted to get help for her. He asked Ms. Sherwood to throw her gun out the window and to put her hands out the window. In response, Ms. Sherwood pointed a handgun out the window in the direction of the deputy and Topsham police officers. Topsham Officer Mathew Bowers fired a single shot from a rifle, striking Ms. Sherwood in the head. Ms. Sherwood died the next day.

### 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 Ms. Sherwood before and after the use of deadly force by Officer Bowers. The Panel also reviewed the Attorney General's report of August 24, 2022, as well as the June 16, 2022, report of the Incident Review Team convened by the Topsham Police Department.

### Summary of Panel Discussion

On March 23, 2023, the Panel met in Augusta, reviewed the referenced incident, asked questions of the primary investigating Attorney General detective, Michael Durham, and

discussed aspects of the actions of Ms. Sherwood and the responding officers, and the interplay of mental health crisis, substance use, and firearms.

### Observations

1. As in nearly all cases reviewed by the Panel, this incident involved the combination of mental health crisis, substance use, and firearms.
2. While often the strategy of law enforcement in certain situations to create distance and the possibility of more time, the fact that Ms. Sherwood was in her vehicle and able to drive off at any moment limited the viability of that strategy.
3. Ms. Sherwood threatened “suicide by cop,” which she had threatened in past incidents. The Panel observed that such situations are extremely challenging for law enforcement to de-escalate, particularly when the person is armed and in a position to harm others. <https://leb.fbi.gov/articles/featured-articles/suicide-by-cop-broadening-our-understanding->
4. Ms. Sherwood was profoundly ill, having demonstrated extreme self-injurious behaviors in the past, and she was frequently subject to intervention by the criminal justice system. However, charges against her frequently resulted in deferred dispositions and insufficient mental health interventions. The Panel observed that there are times when an individual’s level of mental illness is such that hospitalization is necessary, and that the level of care Ms. Sherwood needed is not available in Maine.
5. Ms. Sherwood was prohibited by law from possessing firearms and she had a history of severe behavioral health issues. The firearm she had in her vehicle and pointed at law enforcement belonged to her wife, who had kept it unloaded and locked up in the house.
6. The Panel recognizes and commends the dispatch team for its excellent work in coordinating information flow and supporting the multi-agency response to this incident, as well as the decision to remove Officer Bowers from the scene as soon as possible for his own wellness.
7. The Panel observed that a responding backup officer, armed with a scoped rifle, took alternating positions at the front and rear of his cruiser to provide additional cover for the officers at the deputy sheriff’s vehicle. The actions taken by the officer, while well-intentioned, created a potential line of fire perilously close to the officers in front of him.
8. While officers rendered first aid to Ms. Sherwood, 14 minutes elapsed before the arrival of emergency medical services.
9. The Internal Review Report recommendations, while including important recommendations regarding attention to post-incident care for the officers affected by the incident, did not include any discussion of how the response aligned with policies regarding the response to persons in a mental health crisis.

10. The internal review did not include all the agencies involved in the response, only the agency whose officer used deadly force.

### Recommendations

1. All mental health professionals should routinely inquire whether there are firearms in the homes of people they are treating, provide education regarding the risks, and assist in the acquisition of gun locks and safes.
2. Individuals in a mental health crisis may respond more favorably to questions than to declarative statements or demands, an approach incorporated in de-escalation practices when time and safety considerations permit.
3. As the Panel has previously observed, when a family member, friend, or third party has close contact with a person who suffers periodic mental health crises and particularly, as in this case, whose behavior has resulted in the person being prohibited from possessing firearms, securing firearms or, ideally, removing firearms from the home is critically important.
4. In situations where there is a probable risk of injury to citizens or officers, emergency medical services should be staged nearby.
5. The Panel again recommends that all departments whose officers were materially involved in an incident take part in the internal review, not just the department whose officer(s) used deadly force.

### Timeline and Detail

At about 1:55 p.m. on Monday, February 28, 2022, a State Police trooper stopped a white GMC pickup truck operated by Kourtney Sherwood on the Brunswick-Topsham Bypass (Route 196) in Topsham after he saw the vehicle run a red light. The trooper learned that Ms. Sherwood's operator's license was revoked, and she was on bail conditions that prohibited her from driving a motor vehicle. The trooper later reported that Ms. Sherwood did not indicate that she was thinking of hurting herself or anyone else. She did not appear upset, distraught, or despondent, but she exhibited an angry attitude toward him. He issued Ms. Sherwood summonses for Operating After Revocation and Violating Conditions of Release and allowed Ms. Sherwood to call someone to come pick her up. Ms. Sherwood told him that her ride would be there in about 45 minutes. He left the scene and Ms. Sherwood remained parked on the southbound shoulder of the road to await her ride.

At about 2:33 p.m., a 9-1-1 caller reported that a state trooper had just stopped Ms. Sherwood on the Brunswick-Topsham Bypass and was waiting for the caller to pick her up. According to the caller, Ms. Sherwood wanted to harm herself or others and the caller believed Ms. Sherwood needed to go to the hospital. The caller reported that Ms. Sherwood was extremely violent, off her

medications, claimed to have a gun in the vehicle, and told the caller that when the trooper stopped her, she thought of “putting a bullet between his eyes.” Ms. Sherwood was reportedly in a white GMC pickup.

At about 2:37 p.m., a Sagadahoc County Communications Center dispatcher notified Topsham Police units of the 9-1-1 call relaying that Ms. Sherwood was in a white GMC pickup on the bypass, was suicidal and threatening to harm others, possibly desired “suicide by cop,” reportedly had a firearm in the vehicle, and had recently been stopped by a State Police trooper. Topsham Officers Mathew Bowers and Nikolai Ruiz initially responded, as did Sagadahoc County Deputy Sheriff Steven Thibeault. At about 2:40 p.m., the dispatcher notified officers that Ms. Sherwood had indicated that she wanted to harm the trooper who had earlier stopped her.

At about 2:43 p.m., Deputy Thibeault arrived at the location of the pickup truck parked in the southbound breakdown lane, followed by Officer Ruiz. Deputy Thibeault parked his fully marked cruiser behind the pickup truck in the southbound travel lane with the emergency lights flashing. Vehicle traffic was constant and continued to pass the scene in both directions. Deputy Thibeault saw that the driver was a woman wearing a baseball cap. He used his cruiser’s public address (PA) system to try to communicate with Ms. Sherwood. Ms. Sherwood did not engage in communication with him and did not follow his commands to show her hands. The windows of her truck remained closed. Ms. Sherwood lowered the driver’s side window and said, “Leave me the fuck alone.” She then put the window back up and made lewd gestures to the officers.

Officer Bowers arrived shortly after the first two officers. He joined Deputy Thibeault and Officer Ruiz behind Dep. Thibeault’s cruiser. All three officers were in full uniform. Deputy Thibeault continued addressing Ms. Sherwood by name over his PA system. He asked her to roll her window down and show her hands and to throw her gun out the window if she had one. He assured her that she was not in trouble and they wanted to help her. Ms. Sherwood did not comply, nor did she engage in any dialogue. Other officers converged on the area and stopped traffic in both directions.

At about 2:46 p.m., Ms. Sherwood revved the engine of her truck and, thereafter, turned the radio in the truck up so loud that officers behind the truck and across the bridge of the bypass could hear the lyrics of the music. Deputy Thibeault, still behind his cruiser with Officers Ruiz and Bowers, continually tried to communicate with Ms. Sherwood, repeating his statements and ensuring her that they wanted to get her help and that she was not in trouble. They saw Ms. Sherwood moving around in the truck. At about 2:52 p.m., they saw Ms. Sherwood holding a crowbar and a baseball bat. They then saw her holding a handgun, which she pointed at them from the back window of the truck. Officer Bowers moved to the right rear of Deputy Thibeault’s cruiser while Deputy Thibeault and Officer Ruiz positioned themselves near the driver’s door. Chief Marc Hagan and Lt. William Collins of the Topsham Police Department began moving cruisers back, further away from Ms. Sherwood’s vehicle, to create more distance and a larger “reactionary gap.” Chief Hagan later said that they planned to have Deputy Thibeault and the other officers move back, as well.

At about 2:55 p.m., A Topsham police detective contacted the 9-1-1 caller and learned that Ms. Sherwood was either off her medications or they had stopped working, that she was “crazy” and “losing her mind.” While the detective was still on the phone, Officer Bowers and other



officers saw Ms. Sherwood roll her window down a few inches and reach out the window holding a handgun, which she pointed directly at the officers behind her. Officer Bowers fired one shot from his rifle, which went through the rear window of the truck and struck Ms. Sherwood in the head. It was later determined that the distance from the cab of Ms. Sherwood's truck to the location of the shell casing from the round fired by Officer Bowers was about 72 feet. Ms. Sherwood did not fire any shots. About 14 minutes had elapsed from the arrival of officers to Ms. Sherwood being shot.

Deputy Thibeault tried to open the vehicle's driver's door but found it locked. He broke the window, reached in, and grabbed a .22 caliber handgun. The gun was unloaded. Officers rendered medical aid until relieved by EMS personnel. After treatment at a local hospital, Ms. Sherwood was transferred to a Portland hospital where she died the next day. On March 2, 2022, the Office of Chief Medical Examiner determined Ms. Sherwood's cause of death to be a single perforating gunshot wound of the head. There was also a perforating gunshot wound on the right arm, which the pathologist attributed to a reentry of the same bullet. Toxicological testing indicated that Ms. Sherwood's blood alcohol concentration at the time of hospital admission was 0.122%. The toxicology results also indicated the presence of buprenorphine and norbuprenorphine in Ms. Sherwood's blood. According to the laboratory report, buprenorphine is a synthetic opioid that has both analgesic and opioid antagonist effects that is used as a pharmacotherapy for opioid dependence. Norbuprenorphine is a semi-synthetic opiate also known as Suboxone and/or Subutex.

### 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  
 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  
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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.