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October 14, 2021

Sheriff Todd Brackett
Lincoln County Sheriff's Office
42 Bath Road
Wiscasset, ME 04578-0611

Dear Sheriff Brackett:

This Office has completed its investigation and legal review of the incident on December 18, 2020, involving the use of deadly force by Deputy Sheriff David Bellows that resulted in the death of Jacob McClure, then age 41, at his residence in Jefferson.

Factual Summary

On December 18, 2020, at 12:25 a.m., the Lincoln County Communications Center (LCCC) received an "open 9-1-1 call."¹ The dispatcher heard a man (later determined to be Jacob McClure) telling someone to get out of the bathtub. At 12:30 a.m., the dispatcher reported hearing Mr. McClure counting down after telling someone that he or she had 30 seconds to leave or be physically removed. The dispatcher reported hearing a verbal argument between Mr. McClure and a woman during which Mr. McClure told the woman that he would put her out the door. The woman was heard saying, "Stop pushing me around" to which Mr. McClure responded that it was his house. The dispatcher reported that Mr. McClure sounded aggressive. Mr. McClure was heard saying that "this will not end well." The dispatcher reported hearing yelling and what sounded like a physical assault taking place and someone being thrown into a piano.

Three Lincoln County deputy sheriffs responded to the call – Deputy David Bellows, Sgt. Matthew Day, and Deputy Jerold Winslow. LCCC identified the call as coming from the area of 37 Rockland Road (State Route 17) in Jefferson. At 12:58 a.m., the three deputies arrived at 37 Rockland Road and determined that there was no disturbance there. They learned of an individual who resided behind the 37 Rockland Road residence and awakened that person to confirm there was no one in need of help and that the 911 call did not originate from that residence. Sgt. Day saw a lighted "open" sign at Sensi Sensei, a cannabis boutique, across the road from 37 Rockland Road. He drove there and observed lights on in a house at 50 Rockland Road next to the business

¹ A call during which the caller does not speak or respond to the call taker.

and, through a window, he saw two persons inside the residence. It was at 1:08 a.m. when Sgt. Day checked the plate number on a vehicle in the driveway of the residence and learned the vehicle was registered to a woman from Oakland. Sgt. Day requested that Deputies Bellows and Winslow come to his location.

While intending to wait for the other two deputies, Sgt. Day saw, through a sliding glass door, a man later determined to be Mr. McClure and a woman in an altercation. (The woman was later identified as the owner of the vehicle in the driveway of the residence.) Sgt. Day entered the house and instructed Mr. McClure to get his hands off the woman. Mr. McClure said that he and the woman were engaged in "theater," and instructed Sgt. Day to leave. Sgt. Day told the couple that there was an open 911 call. The woman immediately responded that she did not call 911. Deputies Bellows and Winslow entered the residence. Mr. McClure told the deputies to leave. Mr. McClure then turned and walked down a hallway. Deputy Winslow went to the entrance of the hallway. After learning from the woman her cellular phone number, Deputy Bellows told her that she did in fact call 911. She became emotional and said that she did not mean to call 911. She said, "He's going to be really mad thinking I called 911 on him."

Now out of sight and in a locked room off the hallway, Mr. McClure told the woman to make the officers leave his residence. In response to attempts by Deputy Winslow to communicate with him, Mr. McClure told him that he and the deputies needed to leave. He said that he and the woman were "doing something called psychological theater." Mr. McClure said that he had PTSD. The woman repeatedly stated that she did not call the police. He yelled for the woman to turn the "cameras on." Deputy Bellows spoke with the woman in an attempt to learn more of what had occurred in the residence between Mr. McClure and her, but she indicated that she was afraid to speak with him. Deputy Bellows told the woman that they were there to help and invited her to go outside to talk. Referring to Mr. McClure, she responded that "he's dangerous" and she was afraid that he was going to kill her. When asked if Mr. McClure had any weapons in the room in which he was then situated, the woman did not answer and appeared to hyperventilate.

Deputy Bellows and Sgt. Day spoke further with the woman in the kitchen/living room area of the house as she sat near a piano. She said that she was sorry, but she was afraid to say anything. She gestured with her hand to indicate that Mr. McClure was unstable. Sgt. Day asked her if Mr. McClure assaulted her and she responded by shaking her head yes. Deputy Bellows observed red marks on the woman's face, nose, and mouth. Deputy Bellows asked her to go outside with him. The woman told Deputy Bellows that she was not pressing charges. Sgt. Day told Deputy Bellows that he witnessed the assault. Sgt. Day told Deputy Winslow that Mr. McClure was going to be arrested. Sgt. Day and Deputy Winslow went to the locked door and told Mr. McClure to let them in. Mr. McClure told the deputies not to touch the door. Sgt. Day requested Mr. McClure to let them in the room, so they could talk with him. Mr. McClure kept calling for the woman to come to the door of the room.

Deputy Winslow breached the locked door and was encountered by Mr. McClure pointing a gun at Deputy Winslow's face. Deputy Winslow yelled, "Gun!" Deputy Winslow later described the gun as a short-barreled AR-15 style rifle. Deputy Winslow said that Mr. McClure was shouldering the weapon using both hands. He and Sgt. Day retreated down the hall into a bathroom. Deputy Bellows, who was in the kitchen area with the woman, heard someone yell,

“Gun!” He moved to the entrance of the hallway. He saw Deputy Winslow and Sgt. Day retreating down the hall, while removing their handguns from their holsters. Deputy Bellows removed his handgun from his holster. He saw that the door to the room Mr. McClure had earlier retreated was open. Deputy Bellows yelled to Mr. McClure to put the gun down, or he would shoot him. The woman beseeched the deputies not to shoot him. She repeatedly stated, “Jake, put your arms up! Jake, put your arms up!” and “Jake, I don’t want you to get hurt! Drop it! drop it!”

Mr. McClure called to the woman, “I want to see your face...come to where I can see you.” The woman walked towards Deputy Bellows and the entrance to the hallway. Deputy Bellows yelled to her multiple times to stay back, but she continued to walk towards the hallway. Deputy Bellows believed that if Mr. McClure saw the woman that he would shoot her. Deputy Bellows moved to the opposite side of the entrance to the hallway to prevent the woman from getting into Mr. McClure’s view. When Deputy Bellows repositioned, he saw Mr. McClure in the room’s doorway holding a rifle with his left hand at waist level and the barrel of the gun pointed at him. Deputy Bellows fired his handgun at Mr. McClure who, struck by the gunfire, fell face down on the floor, fatally injured. It was later discovered that the rifle was loaded with 27 rounds in the magazine and one in the chamber and Mr. McClure’s right index finger was on the trigger when he was shot by Deputy Bellows. Mr. McClure was naked from the waist down. Thirty-five other firearms and a large assortment of ammunition were discovered in the room in which Mr. McClure had retreated.

A postmortem examination and autopsy later in the day by the Office of Chief Medical Examiner disclosed that Mr. McClure sustained five gunshot wounds. Mr. McClure’s blood alcohol content at the time of the examination was 0.198%.

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, while acting in the performance of the officer's duties, uses deadly force.² The detectives who conduct these investigations are independent of any other law enforcement agency. The limited purpose of the criminal investigation of the incident in Jefferson on December 18, 2020, was to determine whether Deputy Bellows was legally justified in using deadly force when he shot at Mr. McClure. 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 that may be legally justified does not abolish or impair any other remedy available under the law.

Under Maine law, a person, including a law enforcement officer, is authorized to use deadly force when the person reasonably believes that the use of deadly force is necessary for self-defense or the defense of others against the imminent use of unlawful deadly force.³ 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

² 5 M.R.S. § 200-A

³ 17-A M.R.S. § 107(2)(A)

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.

Conclusion

It is the determination of this Office that when Deputy Bellows shot Mr. McClure, he observed that Mr. McClure had a rifle at waist level pointed at him. Deputy Bellows reasonably believed that Mr. McClure was about to use unlawful deadly force against him and the woman in the residence. Additionally, there were other officers in close proximity to Mr. McClure. Deputy Bellows knew that Mr. McClure had earlier assaulted the woman in the residence with him. The deputy sheriffs had clearly identified themselves as law enforcement and had directed him repeatedly to drop his gun. Instead, he aimed the rifle at Deputy Winslow and then Deputy Bellows. All the facts and circumstances point to the conclusion that Deputy Bellows acted in self-defense and the defense of the other deputy sheriffs and the woman in the residence when he shot Mr. McClure.

Sincerely,



AARON M. FREY
Attorney General