

## September 7, 2022 – Waterboro 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 Waterboro on September 7, 2022, involving Deputy Levi Johnson of the York County Sheriff's Office, which resulted in the death of Tyler Woodburn, age 30. 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*

During the evening of September 7, 2022, a Waterboro woman called 911. She reported that her daughter's boyfriend, Tyler Woodburn, was driving while intoxicated on his way to buy more liquor and that her daughter was with him in his vehicle. The caller said that Mr. Woodburn would be violent or run if confronted by law enforcement and that he may have a firearm in the vehicle. York County Deputy Sheriff Levi Johnson was dispatched to this call. He spoke with the 911 caller on the phone and learned that Mr. Woodburn had previously threatened to shoot a York County Deputy Sheriff in the head. Deputy Johnson ultimately located Mr. Woodburn's truck parked at the Waterboro residence of the caller. He attempted to speak with Mr. Woodburn inside the residence, but Mr. Woodburn was uncooperative and attacked Deputy Johnson once outside the residence. Deputy Johnson tried to use his TASER, but it was ineffective, and he and Mr. Woodburn fought for control of the TASER. Mr. Woodburn tackled Deputy Johnson to the ground and got on top of him. He ultimately pinned Deputy Johnson and attempted to take his service weapon out of his holster. The girlfriend and her sister intervened and tried to help Deputy Johnson. When Deputy Johnson managed to get to his feet, Mr. Woodburn broke free and lunged at Deputy Johnson's holstered service weapon again. Dep. Johnson drew his service weapon and shot Mr. Woodburn twice in the chest. Mr. Woodburn died at the scene.

### *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 March 3, 2023, report and the York County Sheriff's Office Incident Review Team report of March 10, 2023.

### **Summary of Panel Discussion**

On May 23, 2024, the Panel met via Zoom and reviewed the referenced incident.

#### **Observations**

1. Tyler Woodburn had self-reported as bipolar in the past, and he was intoxicated at the time of this incident. He had a history of domestic violence-related arrests in New Hampshire that involved firearms or the threat of using a firearm.
2. Deputy Johnson was told that Mr. Woodburn was drinking and driving with his girlfriend with whom he had had a domestic dispute, would likely be violent if confronted by law enforcement, and possibly was armed.
3. Deputy Johnson did not request backup, and no other units were dispatched to assist. Deputy Johnson may have focused on the OUI aspect of the situation.
4. Two minutes elapsed from when Deputy Johnson signed off to when he radioed “shots fired.”
5. The need for immediate intervention was questionable without evidence of imminent harm to anyone.
6. Use of the TASER seems to have been a tool to which Deputy Johnson resorted only after he was in peril and was not appropriately deployed in that there was not the necessary space or distance between Deputy Johnson and Mr. Woodburn to use the tool effectively.
7. Deputy Johnson was likely saved by family members who intervened during the physical struggle that occurred when Mr. Woodburn tried to take Deputy Johnson’s firearm from its holster.
8. The Internal Review Teams found that Deputy Johnson’s decision to enter the residence alone may have been misguided, and perhaps he should have sought additional information before acting and waited for backup. Nevertheless, the IRT found that nothing in these circumstances prompted the need for training or other changes.

#### **Recommendations**

1. Whenever possible, e.g., when there is no imminent danger or harm to anyone, an officer should request backup in situations like this since the presence of several officers usually discourages a suspect who may be prone to struggle with a single officer.
2. Depending on the particular circumstances of a deadly force event, agency heads may wish to consider adding representatives of other disciplines to the Internal Review Team, e.g., in this

case, persons certified as defensive tactics instructors and emergency communications specialists.

3. 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.
4. Dispatch Centers should consider creating call types that automatically trigger a two-officer response, such as domestic violence calls.
5. The Maine Criminal Justice Academy Board of Trustees is encouraged to require continuing training beyond the basic school on the Mechanics of Arrest, Restraint, and Control (MARC) and situational use of force continuing training.
6. Additional training on the TASER is also encouraged. This less lethal tool is ineffective at close range in probe deployment mode unless the officer can complete a three-point contact. When officers immediately resort to the TASER near a suspect, they are at an immediate disadvantage when a suspect grabs onto them.

### **Factual Summary**

During the evening of September 7, 2022, a 911 caller reported that an intoxicated Tyler Woodburn left a residence in Waterboro, driving a white Ford pickup accompanied by his girlfriend. The caller believed the couple was headed to a store in Waterboro to buy alcoholic beverages. The caller said Mr. Woodburn and his girlfriend were just involved in a domestic dispute and said that Mr. Woodburn would act violently or try to flee if confronted by police. The caller said that Mr. Woodburn possibly had a gun in the vehicle. Dispatch relayed the information to Deputy Sheriff Levi Johnson of the York County Sheriff's Office.

Deputy Johnson was unable to find the pickup truck. He telephoned the 911 caller and learned that a few days earlier, Mr. Woodburn had threatened to shoot a neighbor, Deputy Sheriff Shawn Sanborn, if Deputy Sanborn intervened when Mr. Woodburn was being abusive. While on the phone, a vehicle matching the description passed Deputy Johnson. Unable to catch up to the vehicle, Deputy Johnson drove to the caller's Waterboro residence, where he saw the vehicle parked in the driveway. He spoke with a resident who wanted Mr. Woodburn removed from the residence. Two women were outside the residence, and Deputy Johnson saw Mr. Woodburn in the kitchen. Mr. Woodburn came out of the house, and Deputy Johnson informed him that he was investigating a call about him operating under the influence. When Mr. Woodburn returned to the house, Deputy Johnson opened the door, grabbed his arm, and escorted him outside onto a deck and down the steps to the ground. Mr. Woodburn pulled away from Deputy Johnson.

Mr. Woodburn and Deputy Johnson began to struggle. Mr. Woodburn pushed Deputy Johnson's head down by grabbing the back of his neck. Deputy Johnson tried unsuccessfully to deploy his TASER multiple times. Mr. Woodburn attempted to take the TASER away from Deputy Johnson.

Deputy Johnson described the TASER as so close to his face that he could smell its burning odor. The pair went to the ground and continued to struggle. Mr. Woodburn was on top of Deputy Johnson, trying to get Deputy Johnson's gun out of its holster. The two women who were outside the residence when Deputy Johnson arrived intervened and tried to restrain Mr. Woodburn. One of the women pulled Mr. Woodburn's shirt over his head, and the other woman pinned Mr. Woodburn's arm using the weight of her body to prevent him from getting Deputy Johnson's gun. Both women were screaming at Mr. Woodburn to stop. At one point, Deputy Johnson believed that Mr. Woodburn had successfully obtained his gun. As a result of the women's intervention, Deputy Johnson was able to get to his feet. Deputy Johnson picked up the TASER in hopes of reloading it to avoid using deadly force and implored Mr. Woodburn to stop. Mr. Woodburn ran at Deputy Johnson and tried to grab the TASER, and the TASER fell to the ground. Mr. Woodburn lunged at Deputy Johnson's right side in what Deputy Johnson believed to be another attempt at getting his gun. Deputy Johnson drew his gun and shot Mr. Woodburn. Deputy Johnson estimated Mr. Woodburn was one or two feet from him when he shot him. Mr. Woodburn was struck twice in the chest and died at the scene.

Several eyewitness accounts were consistent with Deputy Johnson's description of the event. Deputy Johnson was later treated at a local hospital for multiple abrasions and contusions that included trauma to both sides of his neck. A post-mortem examination and autopsy the next day by the Office of Chief Medical Examiner determined Mr. Woodburn's cause of death was two gunshot wounds to the chest. Toxicological testing revealed a blood alcohol concentration (BAC) of 0.138%. One TASER probe was recovered from the T-shirt worn by Mr. Woodburn.

### *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.