

May 26, 2023 – Alton 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 Alton on May 26, 2023, involving Corporal Blaine Silk of the State Police, which resulted in injury to Djvan A. Carter, age 46. 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

On May 26, 2023, a woman called 9-1-1. She identified herself as Djvan Carter's ex-girlfriend. She stated that Mr. Carter told his sister in a telephone conversation that he had hit his current girlfriend in the head with a hammer. Law enforcement officers looked for the girlfriend at her residence and discovered that her vehicle was missing. Her cellular telephone was determined to be in Alton. Within minutes, Trooper Jacob Ferland of the State Police located the girlfriend's car in Alton and was immediately joined by Corporal Blaine Silk of the State Police. The officers saw movement in the vehicle consistent with someone striking someone else. The occupants were instructed to get out of the vehicle but did not comply. As the troopers approached the car, they issued additional instructions for the occupants to get out. Trooper Ferland drove his cruiser toward the car while Corporal Silk walked beside it. The car sped directly at Corporal Silk; Corporal Silk fired several shots at the driver through the windshield of the car. The driver was later determined to be Djvan Carter. He was injured as a result of being struck by gunfire. The girlfriend suffered severe head trauma as a result of being hit in the head with a hammer by Mr. Carter.

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 footage, forensic reports, photographs, emergency communications, and other materials. The Panel also reviewed the Attorney General's November 22, 2023, report and the State Police Incident Review Team report of August 15, 2024.

Panel Discussion

On October 24, 2024, the Panel met via Zoom and reviewed the referenced incident.

Observations

1. The suspect involved in this incident was a 45-year-old male with a significant and violent criminal history in North Carolina and Maine. Prior convictions in North Carolina included assault on an officer and possession of a firearm by a felon. At the time of this incident, the suspect was on probation for a May 4, 2023, Maine conviction for domestic violence assault (different victim). The domestic victim in this earlier assault case also had a protection from abuse order in place.
2. The suspect's sister reported that the suspect had been suicidal in the past and that he had previously spent a week in a psychiatric hospital in North Carolina, where he had been prescribed medications.
3. A State Police trooper attempted to accelerate his cruiser, a 2020 Ford Explorer, to pin the suspect vehicle against a gate, but there was a significant delay between depressing the accelerator and the cruiser accelerating. The delay created a potential missed opportunity to contain the suspect vehicle. The Incident Review Team investigated and learned that the traction control system on the Ford Explorer likely caused the delay. This advanced system will limit power if it senses the tires are losing traction or the steering is turned before acceleration. This can be prevented by turning off the traction control.
4. Mr. Carter and his girlfriend both admitted to smoking methamphetamine the previous evening. Mr. Carter's toxicology information from his hospitalization was reviewed, but there was no ability to comment on its significance or effect.
5. The emergency communications officer acted promptly and professionally, which may have saved the victim's life, and appropriately responded to the initial caller.
6. The officers in this situation performed remarkably well in promptly locating in an isolated remote area the vehicle in which a person was being viciously assaulted. The officers quickly developed a plan, committed to it, and followed through.

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. The panel recommends that future IRTs state whether or not a referral was made for follow-up support and services for victims.
4. Officers should be fully briefed on the pros and cons of a traction control system if their cruisers are equipped with one and consider that information when making strategic driving decisions, as we saw in this case.
5. The two troopers who responded to this situation were aware that when firing into the glass, a bullet's trajectory will change when it impacts the glass at an angle. The Panel recommends that all law enforcement officers be similarly trained in such awareness.
6. The responding troopers struggled to see inside the suspect's vehicle due to glare from the windshield. The IRT team observed that binoculars may have been helpful and recommended that binoculars be issued to troopers. The Panel urges other law enforcement agencies to consider this recommendation and take similar action.

Factual Summary

On May 26, 2023, at approximately 8:53 a.m., a woman in North Carolina received a telephone call from Djvan Carter, her older brother, who resided in Milford, Maine. Mr. Carter told her that he had caught his girlfriend cheating on him and that he had hit her in the head with a hammer. When asked about his precise location, he said he was "off the grid." The sister could hear the girlfriend saying she had not cheated and begged him to let her go. The girlfriend shouted her name and asked the sister for help. When the sister told Mr. Carter to let the girlfriend go and turn himself into the police, Mr. Carter said that he was not going back to jail and that he was going to kill the girlfriend and then himself. The sister called Mr. Carter's ex-girlfriend, who had a protection from abuse order against him. The sister told the ex-girlfriend about the call from Mr. Carter and asked her to call the police, which she did. Law enforcement officers looked for the girlfriend at her residence and discovered that her vehicle was missing. Her cellular telephone was determined to be in Alton.

Shortly after, Trooper Jacob Ferland of the State Police located the girlfriend's car in Alton. Corporal Blaine Silk joined him and parked his cruiser behind Trooper Ferland's. The officers saw movement in the vehicle consistent with someone striking someone else. They shouted commands to "show me your hands" and "get out of the vehicle." The occupants did not comply. The officers quickly formulated a plan that involved Trooper Ferland slowly driving a cruiser toward the suspect vehicle while Corporal Silk walked alongside. Trooper Ferland continued to issue commands over the cruiser's public address system. As the officers neared the suspect vehicle, it accelerated in reverse and collided with a steel gate. Trooper Ferland decided to pin the suspect vehicle against the gate with his cruiser, but there was a significant delay between depressing the accelerator and the cruiser accelerating. This delay allowed the suspect vehicle, later determined to be operated by Mr. Carter, to accelerate forward directly at Corporal Silk. Trooper Ferland again attempted to accelerate but experienced the same hesitation.

Corporal Silk fired his service pistol at Mr. Carter as the vehicle accelerated directly at him. The vehicle came to a stop, partially in a ditch. Later investigation determined that Corporal Silk fired seven rounds, one of which struck Mr. Carter in the chest. Mr. Carter survived the injury. The girlfriend survived her injuries, which included skull fractures with skull shift and multiple head lacerations.

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 Alice J. Briones, D.O., 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, Vice President 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.