

December 9, 2017 Machiasport 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 December 9, 2017 Machiasport use of deadly force incident involving state Marine Patrol Officer Matthew Carter. 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 such examination is to identify whether there was compliance with accepted and best practices under the particular circumstances or whether the practices require adjustment or improvement. The Panel shall recommend methods of improving standards, including changes to statutes, rules, training, and policies and procedures designed to ensure incorporation of best practices that demonstrate increased public and officer safety.

Factual Summary

Shortly after noon on Saturday, December 9, 2017, Jason Jackson committed a home invasion in East Machias during which time he confronted a woman at the home with a gun and demanded money. When told she had no money, Mr. Jackson fled the residence, but not before the woman recognized him as Jason Jackson. She called 911 to report the robbery.¹ Law enforcement officers in the area were notified that there was probable cause to arrest Mr. Jackson and that he was suffering a mental health crisis. Throughout the day and into the evening, law enforcement officers from separate agencies in Washington County looked for and eventually pursued Mr. Jackson after he was seen driving a vehicle in Machias. Mr. Jackson refused to stop when signaled to do so by a sergeant of the Machias Police Department. Instead, Mr. Jackson, still pursued by the officer, drove to a duplex residence in Machiasport where his former domestic partner lived. When Mr. Jackson got out of his car and ran into the unit, the sergeant chased him, inadvertently dropping his cell phone at the onset of the foot pursuit. When three other officers arrived outside the duplex and heard a commotion inside the building, they ran into the unit in the belief that the sergeant was in peril. One officer, Marine Patrol Officer Matthew Carter, stopped on a stairwell landing below an attic where he could see Mr. Jackson situated with his former partner, who positioned herself generally between Mr. Jackson and the law enforcement officers. Over the course of the next 35 minutes, Mr. Jackson periodically picked up and put down his revolver, and, when Officer Carter perceived that Mr. Jackson was imminently prepared to use his firearm against him, he shot at Mr. Jackson, hitting him and his former partner numerous times. Both Mr. Jackson and the former partner survived their injuries.

Information the Panel Reviewed

Prior to its review on August 27, 2020, the Panel received a complete copy of the investigation of deadly force conducted by the Attorney General's Office. This Report included over 300 pages of original investigative materials, including original interview reports, forensic reports, photos, emergency communication transcripts, and other materials. In addition, the Panel contacted Probation and Parole to collect additional information regarding Mr. Jackson and his interaction with law enforcement. The Panel also reviewed the internal critical incident review report of the

¹ While this action was an attempt to commit theft while armed with a dangerous weapon, it constitutes the crime of Robbery under the Criminal Code in that the crime of Robbery includes the commission of theft or an attempt to commit theft. See 17-A M.R.S. § 651.

Bureau of Marine Patrol dated October 21, 2020. Attorney General Detective Seth Blodgett, the primary investigator assigned to the incident, attended the August 27th meeting and answered questions asked by Panel members.

Summary of Panel Discussion

On August 27, September 24 and October 22, 2020, the Panel met via Zoom and conducted a review of the referenced incident. The Panel noted that there were three primary law enforcement agencies involved: the Washington County Sheriff's Office, the Machias Police Department, and state Marine Patrol. The State Police were consulted but not involved in the incident. Law enforcement officers in the area and at the scene received information from several formal and informal sources. The Panel discussed at length that once Mr. Jackson was inside the duplex residence and other officers arrived at the scene, except for discussing the need to establish a perimeter, there was a lack of a command and control structure. The Panel discussed the actions of the officers and the lack of centralized, coordinated, uniform, and accurate information flow about the facts of the situation. Poor radio and other technical problems appear to have contributed to communication issues. The Panel considered the complicating issue of the presence of Mr. Jackson's former partner, who, initially thought to be in danger or to be a hostage, was later recognized to be actively protecting Mr. Jackson from apprehension. The Panel noted that officers knew that Mr. Jackson was having a mental health crisis and was self-described as suicidal, but the Panel could not determine if this information informed the officers' plan for pursuit and arrest.

Observations

1. There was no central command and control over the course of the critical incident.
2. There was no central communication among the law enforcement officers and three agencies involved. Officers on the scene did not know each other's whereabouts, which enhanced the sense of urgency to enter the residence.
3. Mr. Jackson's initial action, an armed home invasion, occurred at 12:30 pm, about eight hours prior to the critical incident. Within the hour following the report of that crime, law enforcement had confirmation of the suspect's identity and knew he was a prohibited person in possession of a gun; he was on probation; he suffered from mental illness and was suicidal; he was in crisis due to this being the anniversary of the date that he had witnessed his father kill his mother and commit suicide; and he had been arguing with his former partner, the mother of his children. The Panel was unable to determine if law enforcement used this background information to inform its subsequent intervention.
4. The lack of an effective perimeter potentially compromised the safety of the others and allowed Mr. Jackson's former partner to re-enter the duplex which ultimately resulted in her being in harm's way. Mr. Jackson's former partner initially impeded the officers' ability to apprehend Mr. Jackson. She went outside at one point to take her children to the neighbor's residence on the other side of the duplex. She then re-entered the duplex and eventually positioned herself between Mr. Jackson and the officers, interfering with the officers' view of Mr. Jackson. While Mr. Jackson said that he would not shoot her, his refusal to turn over the gun to the officers posed a continued lethal threat to her, as well as the officers.

5. A co-occurring incident precluded the State Police Tactical Team from responding to the incident in Machiasport. A snowstorm that day and evening created treacherous driving conditions and contributed to insufficient law enforcement officers available to respond to the critical incident, as many were involved in traffic related crises due to the storm.
6. There did not appear to be a mutual aid arrangement to guide the actions and communications of the officers from multiple law enforcement departments.
7. The primary law enforcement agency, the Bureau of Marine Patrol, did not complete its formal internal review of the case until October 21, 2020.
8. The legal review of the case was not released by the Attorney General until July 16, 2020, two-and-a-half years after the incident, which may have impacted the timely ability of involved law enforcement personnel to know the outcome and possibly learn from the Attorney General's independent findings.

Recommendations

1. In rural areas, where mutual aid among various law enforcement agencies is often the rule rather than the exception, there should be consultation among agencies on a regular basis to create or discuss plans for the establishment of command and control in critical incidents, including how to mutually respond to an incident in which an individual is in a mental health crisis.
2. Pre-planning for incidents involving mutual aid should include plans for centralizing communications and dispatch. For example, a timely police radio announcement of "Signal 1000" shuts down all communications except those between the primary dispatch and officers involved in an incident.
3. When the suspect is on probation, the probation officer should be notified as early as possible, potentially bringing additional resources and perspective to help strategize next steps in resolving an incident safely.
4. Once third-party persons are in danger, even by his or her own actions, in this case the former domestic partner, law enforcement must prioritize safely removing that individual and others who may be impacted from harm. The Chief of Police's model "Hostage or Barricaded Subject Incidents" policy adopted on December 14, 2011 provides excellent guidance on how to handle these situations successfully.
5. An internal review by the law enforcement agency of the officer(s) who used deadly force is required by law and policy. Such a review should be conducted as soon as practical following the incident and the findings/observations used by the law enforcement agency for officer training. While completing this internal review prior to the officer(s) returning to full duty is ideal, it may not be possible given the amount of time necessary to convene a review panel, gather all necessary information, conduct the review, and prepare a report. Alternatively, an agency should conduct a less formal in-house preliminary "after action" review to identify potential deficiencies before an officer may return to work.
6. In circumstances where multiple agencies are involved in an incident involving the use of deadly force, there should be a review of the case that includes all agencies in addition to or as part of the statutorily required review by the agency that employs the officer(s) who used

deadly force. Such case review may be best facilitated by the Attorney General's Office or other outside facilitator.

Timeline and Details

On December 9, 2017, at approximately 12:30 p.m., the Washington County Sheriff's Office (WCSO) responded to a robbery call at a private residence in East Machias. An individual reported that a man who she identified as Jason Jackson, entered her residence, threatened her with a gun, and demanded money.

Deputy sheriffs learned that Mr. Jackson was operating a silver Hyundai and the Washington County Regional Communications Center (WCRCC) received information that Mr. Jackson knew the "cops were looking for him." They also knew that Mr. Jackson was on probation, had a mental illness, was suicidal, and that he was in crisis because the date was the anniversary of his witnessing his father kill his mother and then commit suicide. The WCSO issued a broadcast that authorized law enforcement to stop and hold Mr. Jackson.

At approximately 2:00 p.m., Marine Patrol Officer Matthew Carter received information concerning the robbery complaint and to be on the lookout for Mr. Jackson, whom he knew.

Attempts during the afternoon to find Mr. Jackson and his vehicle were unsuccessful. At approximately 8:00 p.m., a Machias police sergeant spotted Mr. Jackson driving his car in Machias. The sergeant reported to the WCRCC that he was following the vehicle but the vehicle was not stopping, and the WCRCC dispatcher responded that other units would assist.

At 8:14 p.m., the Machias sergeant reported that the vehicle was traveling towards Machiasport. WCRCC told the sergeant that a deputy sheriff was going to intercept the vehicle with a spike mat. As the suspect vehicle passed over the spike mat, the deputy saw that the spikes deflated the rear left tire; however, this did not disable the suspect vehicle. The deputy joined the pursuit but lost sight of the suspect vehicle due to snow covered roads.

By 8:21, the sergeant had followed the suspect vehicle to a residence in Machiasport that he knew was a duplex separated by a garage. The sergeant saw Mr. Jackson run into the residence. Leaving his cruiser's emergency lights and siren on, the sergeant chased Mr. Jackson into the residence. He knew that Mr. Jackson might have a firearm. At the front door, he encountered Mr. Jackson's former partner and two children. She was uncooperative and said that Mr. Jackson was not in the house, but the officer could see Mr. Jackson in the kitchen. The officer then lost sight of Mr. Jackson and reported to WCRCC that he could not find Mr. Jackson but Mr. Jackson was somewhere in the residence. The sergeant told the former partner to leave, and she and her children went outside. The sergeant searched the residence for Mr. Jackson. Unable to find him, the sergeant searched the garage.

At 8:22 p.m., the deputy who had previously deployed the spike mat told WCRCC that he found the sergeant's cruiser; however, he did not see the sergeant. He went into the residence and encountered the former partner, who told the deputy that Mr. Jackson did not live there. He met up with the sergeant and they discussed setting up a perimeter to contain Mr. Jackson to the house. Mr. Jackson's former partner followed the sergeant as he continued to search the house. He opened a door on the second floor and saw Mr. Jackson pointing a handgun at him. Mr. Jackson pulled the door shut and blocked it.

At 8:23 p.m., WCRCC called the Bangor Regional Communication Center (BRCC) and asked for assistance. BRCC told WCRCC that State Police units that were not available, and they would call the "tact team." Meanwhile, Marine Patrol Officer Carter received a call to help from his sister, a dispatcher at WCRCC. The deputy on scene at Machiasport told WCRCC that people evacuated the residence, but he could hear yelling inside.

At 8:40 p.m., WCRCC told the Machias police sergeant that the deputy was concerned about his location and being in the line of fire. The sergeant told WCRCC that he was above the garage.

At 8:41 p.m., BRCC called WCRCC to report that the State Police Tactical Team Commander was on the phone and asking to speak with someone at the scene. The commander talked with the deputy and asked that someone write a search warrant.

At 8:43 p.m., WCRCC received a call from a man at the Cutler Naval Fire Department who reported that he was speaking with Mr. Jackson's former partner on the phone and that she was with Mr. Jackson in the residence. She confirmed he had a gun and said that she was trying to convince Jackson not to hurt himself.

Marine Patrol Officer Carter arrived at the scene, retrieved his rifle, and joined two deputy sheriffs in the driveway. As the officers were talking, they heard yelling coming from inside the residence. They ran inside in the belief that the Machias police sergeant was in peril. Officer Carter was the first to enter and went up the stairs to the second floor/loft area where there was a commotion. When Officer Carter got to the landing, he saw Mr. Jackson and his former partner.

Officer Carter saw that Mr. Jackson was lying on the floor on his right side, facing him, and that his former partner was sitting on the floor next to Mr. Jackson. She partially blocked Officer Carter's view of Mr. Jackson, and he realized she was there willingly. Officer Carter believed that he was at risk of being shot if he tried to back down the stairs because he had no cover

At 9:13 p.m., Deputy Parker called WCRCC, reported that they had Mr. Jackson contained and at gunpoint, and that they were "trying to talk him down." The former partner was trying to protect Mr. Jackson. Mr. Jackson told Officer Carter to get back or he would shoot. Officer Carter saw Mr. Jackson waving a revolver around with his right hand and, at times, Mr. Jackson would set the gun on the floor.

Officer Carter tried to build a rapport with Mr. Jackson by telling him that he was there to help him. Mr. Jackson told Officer Carter that he wanted help from "Crisis." Officer Carter kept telling Mr. Jackson that he would personally take him to Crisis if he put the gun down.

The former partner told the officers to let her talk to Mr. Jackson and she could get Mr. Jackson to calm down. Officer Carter told Mr. Jackson to put the gun down, let the former partner leave, and they would leave the residence. However, Mr. Jackson would not agree. Mr. Jackson said that he would not harm her but talked about killing himself. Mr. Jackson's level of agitation increased, and Mr. Jackson pointed the gun at Officer Carter more frequently.

When Mr. Jackson set the gun on the floor and then reached for the gun, Officer Carter told Mr. Jackson, "Don't, don't." Observing Mr. Jackson with a finger in the trigger well of his gun, Officer Carter thought that Mr. Jackson was going to shoot him. Officer Carter aimed his rifle at Mr. Jackson's chest and fired. Officer Carter said when he fired, Mr. Jackson's former partner moved towards Mr. Jackson to shield Mr. Jackson.

At 9:33 p.m., a deputy sheriff called WCRRC to report the scene was secure and requested an ambulance. After firing his rifle, Officer Carter went to Mr. Jackson and restrained him from reaching his gun. Officer Carter then saw that Mr. Jackson's former partner was shot and rendered medical aid to her until emergency medical services arrived on-scene. She suffered gunshot wounds (GSW) to her right breast, right axilla, right thigh, right leg, and right femur; she recovered from her injuries. Mr. Jackson arrived at Downeast Hospital with a significant gunshot wound (GSW) to an elbow, a superficial GSW to the chest, and a significant GSW to his left heel. An above-the-elbow amputation was eventually performed.

The Maine State Police Evidence Response Team processed the scene and determined that Mr. Jackson's revolver was unloaded at the time of the incident.

Panel Members

Michael Alpert, President, Greater Bangor NAACP

Debra Baeder, Ph.D., Chief Forensic Psychologist

David Bate, Esq.

Stephen Burlock, Esq., Assistant District Attorney, District 5

John Chapman, Esq.

Rick Desjardins, Director, Maine Criminal Justice Academy

Mark Flomenbaum, M.D., Chief Medical Examiner

Fernand Larochelle, Panel Vice Chair and Secretary

Brian MacMaster, Director, Attorney General Investigations

Joel Merry, Sheriff, Sagadahoc County

Janine Roberts, Chief of Police, Westbrook Police Department

Michael Sauschuck, Commissioner, Department of Public Safety

Francine Garland Stark, Executive Director, Maine Coalition to End Domestic Violence, Panel Co-chair

Dan Tourtelotte, Maine State Law Enforcement Association

Vendean Vafiades, Esq., Panel Co-chair