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January 5, 2018

Chief William Labombarde
Waldoboro Police Department
1600 Atlantic Highway, PO Box J
Waldoboro, ME 04572

Dear Chief Labombarde:

We have completed our investigation and legal review of the incident on January 22, 2017, involving the use of deadly force by Officer John Lash that resulted in the death of Jon Alspaugh. As you know, Officer Lash shot Mr. Alspaugh during an encounter in which Officer Lash himself was first shot by Mr. Alspaugh. Officer Lash survived the encounter, largely due to his wearing a ballistic vest at the time.

The salient facts may be summarized as follows:

Shortly before 1 a.m. on January 22, 2017, a 911 caller reported a domestic disturbance at the Alspaugh residence in Waldoboro. The caller said that Mr. Alspaugh was assaulting his wife. The caller said that, even though Mr. and Mrs. Alspaugh were in the process of divorcing, they were both still living together in the home. She reported she could hear sounds consistent with a physical altercation, including Mrs. Alspaugh yelling, "Please stop, please stop." Questioned by the dispatcher whether a firearm was involved, the caller said she did not know, but she knew that Mr. Alspaugh had several firearms in the home.

Officer Lash responded to the call. He was in uniform and driving a marked Waldoboro police cruiser. Mrs. Alspaugh met Officer Lash outside the home and told him her husband assaulted her and threatened to kill her. Officer Lash entered the house and heard movement at the top of a stairwell. He spoke Mr. Alspaugh's name and Mr. Alspaugh acknowledged the greeting as he started down the stairs. At the foot of the stairwell, Mr. Alspaugh, within arm's length of Officer Lash, pulled a small handgun from a rear pocket. As Officer Lash moved away from Mr. Alspaugh, Mr. Alspaugh shot at him, discharging what was later determined to be three rounds. Officer Lash returned fire. Mr. Alspaugh fell to the floor, fatally wounded. Officer Lash suffered a single non-

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penetrating gunshot wound to his right lateral chest area, the impact of which was largely absorbed by the ballistic vest he was wearing. Mr. Alspaugh suffered six gunshot wounds.

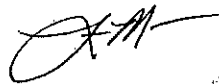
Our office has exclusive responsibility for the direction and control of any criminal investigation of a law enforcement officer, who, while acting in the performance of the officer's duties, uses deadly force.¹ The detectives in our office who conduct the investigation of these incidents are independent of and unaffiliated with any other law enforcement agency. The purpose of the criminal investigation of the incident in Waldoboro on January 22, 2017, was to determine whether self-defense, including the defense of others, was reasonably generated by the facts so as to preclude criminal prosecution of Officer Lash. Any such prosecution would require the State to disprove self-defense or the defense of others beyond a reasonable doubt.

It is our determination that when Officer Lash shot Mr. Alspaugh, he reasonably believed that unlawful deadly force against him was not only imminent but had in fact already been used against him. It was reasonable for Officer Lash to believe it necessary to use deadly force to protect himself from further injury or death. These conclusions are based on an extensive investigation. All the facts and circumstances point to the conclusion that Officer Lash acted in self-defense.

The investigation did not include an analysis of whether any personnel action might be warranted, of whether the use of deadly force could have been averted, or of whether there might be civil liability. Indeed, state law provides that the fact that conduct may be justifiable under the Criminal Code does not abolish or impair any other remedy available under the law.

We have closed our file on this matter and anticipate no further action.

Sincerely,



Lisa J. Marchese
Deputy Attorney General
Chief, Criminal Division

¹ 5 M.R.S. § 200-A.