

JANET T. MILLS
ATTORNEY GENERAL



STATE OF MAINE
OFFICE OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006

REGIONAL OFFICES
84 HARLOW ST. 2ND FLOOR
BANGOR, MAINE 04401
TEL: (207) 941-3070
FAX: (207) 941-3075

415 CONGRESS ST., STE. 301
PORTLAND, MAINE 04101
TEL: (207) 822-0260
FAX: (207) 822-0259

14 ACCESS HIGHWAY, STE. 1
CARIBOU, MAINE 04736
TEL: (207) 496-3792
FAX: (207) 496-3291

TEL: (207) 626-8800
TTY USERS CALL MAINE RELAY 711

March 5, 2018

Chief Michael Sauschuck
Portland Police Department
109 Middle Street
Portland, ME 04101

Dear Chief Sauschuck:

We have completed our investigation and legal review of the incident on February 18, 2017, involving the use of deadly force by Sgt. Nicholas Goodman, which resulted in the death of Chance Baker. As you know, Sgt. Goodman shot Mr. Baker during an armed encounter.

Factual Summary

At 11:11 a.m. on Saturday, February 18, 2017, the Portland Police Department 911 Dispatch Center received the first of what would be several calls reporting a man, later identified as Chance Baker, 22, armed with a rifle or shotgun at the Union Station Plaza in Portland. The first caller reported that the man was waving the weapon about while yelling and screaming obscenities. The caller further reported that the man was pointing the weapon at various locations within the mall parking lot. Within the next few minutes, four additional similar calls were made to 911 reporting a man brandishing a long gun in a menacing or threatening fashion. One of the callers suggested that the weapon could be an air rifle or .22 caliber rifle, but could not be sure.

Sgt. Nicholas Goodman, along with several other Portland police officers, were on scene at the Union Station Plaza within minutes. In the meantime, Mr. Baker, still armed with the long gun, had moved to a location within a few feet of the entrance to a sandwich shop, which was open for business and serving several customers. Sgt. Goodman and Officer Andrew Knutson met up and moved in tandem to a location at the side of a parked pickup truck about a hundred feet from Mr. Baker, who remained in the immediate area of the entrance to the sandwich shop. Both officers were armed with police carbines. They attempted to communicate with Mr. Baker to persuade him to disarm. While at least four other officers and nine citizen witnesses heard the several commands to disarm, it remains unknown if Mr. Baker heard or had the capacity to understand the commands being made to him. At one point, Mr. Baker leaned the weapon against the wall of the sandwich store. He then removed a large bottle, later determined to be a 40-ounce container of Colt 45 malt liquor, from his coat and drank from it. Officers issued verbal commands to Mr. Baker to not pick up his weapon. He, however, ignored the commands and rearmed himself with the long gun.

Mr. Baker held the weapon at waist level and pointed it in the direction of Sgt. Goodman and Officer Knutson. He started manipulating the weapon in a fashion consistent with working a rifle bolt. A person whose identity remains unknown yelled that Mr. Baker was either pulling the trigger or trying to clear a jammed round. Sgt. Goodman fired a single round from his police carbine. The round struck Mr. Baker, who fell to the ground.

Several other officers advanced on the wounded Mr. Baker, followed by emergency medical technicians who treated Mr. Baker at the scene and transported him to a nearby hospital trauma unit where he died a short time later. A postmortem examination two days later by the Office of Chief Medical Examiner determined that Mr. Baker died from a single gunshot wound to the head. 1017At the time of his death, Mr. Baker's blood-alcohol concentration was 0.308%, nearly four times the amount that would constitute driving under the influence. The long gun brandished by Mr. Baker during the encounter was an air rifle equipped with a scope, and that resembled and appeared to Sgt. Goodman, as well as several officer and citizen witnesses, to be an actual firearm.

Discussion and Legal Analysis

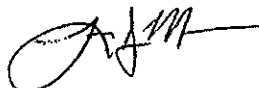
By law, the Attorney General's Office has exclusive responsibility for the direction and control of any criminal investigation of a law enforcement officer, who, while acting in the performance of the officer's duties, uses deadly force. The detectives who conduct the investigation of these incidents are independent of any other law enforcement agency. The purpose of the criminal investigation is to determine whether self-defense, including the defense of others, was reasonably generated by the facts so as to preclude criminal prosecution of an officer who used deadly force. Any such prosecution would require the State to disprove self-defense or the defense of others beyond a reasonable doubt. 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.

Under Maine law, for any person, including a law enforcement officer, to be justified in using deadly force in self-defense or the defense of others, two requirements must be met. First, the person must reasonably believe that deadly force is imminently threatened against the person or against someone else, and, second, the person must reasonably believe that deadly force is necessary to counter that imminent threat. Further, 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 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 our determination that when Sgt. Goodman shot Mr. Baker, he reasonably believed that unlawful deadly force against him or others was imminent. It was reasonable for Sgt. Goodman to believe it necessary to use deadly force to protect himself and others from serious bodily injury or death. All the facts and circumstances point to the conclusion that Sgt. Goodman acted in defense of himself and others.

Sincerely,



LISA J. MARCHESE
Deputy Attorney General
Chief, Criminal Division