

JANET T. MILLS
ATTORNEY GENERAL



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

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

November 28, 2018

Sheriff William L. King Jr.
York County Sheriff
1 Layman Way
Alfred, Maine 04002

Dear Sheriff King:

We have completed our investigation and legal review of the incident on May 29, 2017, involving the use of deadly force by Sgt. Steven Thistlewood and Deputy Heath Mains of the York County Sheriff's Office. As you know, Sgt. Thistlewood and Deputy Mains shot and killed Chad Dionne during an armed encounter.

Factual Summary

In the early morning hours of May 29, 2017, Biddeford Police Department met with Michelle Dionne, who reported that her husband, Chad Dionne, assaulted her at their residence located at 267 Old Alfred Road in Arundel earlier that night. The Biddeford Officer observed injuries to Ms. Dionne's right eye. Biddeford PD notified York County Dispatch who in turn notified York County Deputy Eric Trainque of the assault. Sgt. Steven Thistlewood and Deputy Heath Mains also responded to the call. The deputies were made aware that Ms. Dionne went to her mother's home in Biddeford after the alleged assault and reported the incident to a Biddeford police officer. Based on the information from the Biddeford Police Department, the deputies had probable cause to arrest Mr. Dionne for domestic violence assault. Several witnesses to the assault were interviewed. These witnesses reported that Mr. Dionne was highly intoxicated. These witnesses also reported that at some point in the evening Mr. Dionne removed a firearm from his vehicle. There were conflicting reports as to whether Mr. Dionne threatened to kill a cat or did in fact discharge a firearm, killing a cat.

After conferring with one another at a location near the Old Alfred Road home, Sgt. Thistlewood, the ranking officer, instructed the other deputies that they would cautiously approach the Dionne residence on foot. The three deputies approached the residence and, with the aid of flashlights, saw Mr. Dionne through a living room window, sitting in a chair and apparently asleep. The deputies did not see any firearms. The deputies tapped on the window glass and announced their presence but received no response from Mr. Dionne. Not until Deputy Mains rapped loudly with his flashlight on the metal part of a door to the

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residence did Mr. Dionne wake up. Initially appearing disoriented, Mr. Dionne looked at Sgt. Thistlewood through the window. Sgt. Thistlewood used his flashlight to illuminate his police uniform, and he announced again that he was a deputy sheriff and wanted to talk with him. Mr. Dionne walked toward a side door of the residence. Sgt. Thistlewood, believing that Mr. Dionne was going outside to speak with the deputies, instructed Deputies Mains and Trainque to meet Mr. Dionne at the door.

Instead of going to the door, Sgt. Thistlewood observed Mr. Dionne walk to a refrigerator inside the residence where he appeared to be searching for something on top of the refrigerator. Sgt. Thistlewood reported this observation to the other deputies. Deputy Mains, who could also see inside the residence from his vantage point, confirmed the observation. Mr. Dionne momentarily disappeared from Sgt. Thistlewood's view but returned, at which time Sgt. Thistlewood saw him with a handgun headed to an exterior door. While moving to the side of the house near the exterior door, Sgt. Thistlewood reported to the other deputies that Mr. Dionne had a gun. Deputies Mains and Trainque moved to positions between a garage and a parked van. Mr. Dionne opened the door and, standing in the threshold of the door, he extended his arm and pointed his handgun at Sgt. Thistlewood. The deputies gave verbal commands of "drop the gun, drop the gun, do it now!" and "hold it, hold it!" Sgt. Thistlewood fired at Mr. Dionne before moving around the corner of the residence. Sgt. Thistlewood then saw Mr. Dionne coming out the door again; he moved to his first firing position and fired again. When Mr. Dionne immediately turned and focused his attention on Deputy Mains, Deputy Mains fired at Mr. Dionne. Mr. Dionne retreated into the house, apparently injured, and began shouting for the deputies to kill him.¹

Both Sgt. Thistlewood and Deputy Mains could see from outside the residence that Mr. Dionne was on the floor of the house, appeared injured, and his handgun was visible under his lower back and buttocks. Sgt. Thistlewood instructed Mr. Dionne several times to show his hands so they could come in to help him. Mr. Dionne, instead of complying, shouted for the deputies to kill him. Efforts to force open the door to assist Mr. Dionne were unsuccessful until more officers arrived with a battering ram and breached the door. Sgt. Thistlewood and Deputy Mains entered the home, rendered medical aid to Mr. Dionne,

¹ Later investigation determined that Sgt. Thistlewood fired four rounds at Mr. Dionne and Deputy Mains fired five rounds from their issued .40 caliber pistols. A nearby outdoor surveillance camera recorded audio of the nine shots, as well as the verbal commands of the deputies, all of which occurred within 14 seconds.

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and secured his firearm.² Taken by ambulance to a Biddeford hospital, Mr. Dionne died a short while later.

A post mortem examination conducted by the Office of Chief Medical Examiner determined that Mr. Dionne sustained five gunshot wounds. At the time of his death, Mr. Dionne's blood alcohol level was 0.242%.

Discussion and Legal Analysis

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.³ The purpose of the criminal investigation of the incident in Arundel on May 29, 2017, was to determine whether Sgt. Thistlewood and Deputy Mains were acting in self-defense when they shot Chad Dionne. The detectives who conduct the investigation of these incidents are independent of any other law enforcement agency.

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. Thistlewood and Deputy Mains shot at Chad Dionne, they reasonably believed that Mr. Dionne was imminently threatening to use unlawful deadly force first against Sgt. Thistlewood and then Deputy Mains. It was

² The weapon was a 9mm pistol that, when retrieved from Mr. Dionne, was loaded and cocked with a round in the chamber. The investigation disclosed no evidence that Mr. Dionne fired the weapon.

³ 5 M.R.S. § 200-A.

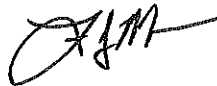
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reasonable for Sgt. Thistlewood and Deputy Mains to believe it necessary to use deadly force to protect themselves from serious bodily injury or death. All the facts and circumstances point to the conclusion that Sgt. Thistlewood and Deputy Mains acted in self-defense.

The investigation did not include an analysis of whether any personnel action by the York County Sheriff's Office 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,

A handwritten signature in black ink, appearing to read 'LJM', with a long horizontal flourish extending to the right.

LISA J. MARCHESE
Deputy Attorney General
Chief, Criminal Division