

AARON M. FREY  
ATTORNEY GENERAL



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

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

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

125 PRESUMPCOT ST., SUITE 26  
PORTLAND, MAINE 04103  
TEL: (207) 822-0260  
FAX: (207) 822-0259

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

July 16, 2020

Colonel Jay Carroll  
Maine Marine Patrol  
32 Blossom Lane  
Augusta, ME 04333

Dear Colonel Carroll:

We have completed our investigation and legal review of the incident in Machiasport on December 9, 2017, involving the use of deadly force by then Marine Patrol Officer Matthew Carter, which resulted in gunshot injuries to Jason Jackson, 34, and Tiffany Smith, 32. As you know, Mr. Jackson and Ms. Smith were shot during an armed encounter between Mr. Jackson and Officer Carter in a confined area of a residence in Machiasport.

Factual Summary

At approximately 12:30 p.m. on December 9, 2017, Washington County deputy sheriffs and law enforcement from other agencies responded to a report of a robbery at a residence on Main Street in East Machias. Two residents reported that a man in a black jacket and with a red handkerchief over his face entered the residence, pointed a gun at one of the residents, and demanded money. One of the residents told law enforcement that she recognized the man as Jason Jackson when the handkerchief slipped from the man's face. When she told him that her money was upstairs, Mr. Jackson fled. Initial investigation determined that Mr. Jackson had been at his brother's house that was located nearby, and that he was driving a silver Hyundai with Maine license plate 3961VZ. During a search for Mr. Jackson, deputies learned that he sent text messages to a friend in which he said that "the cops" were looking for him, that he was headed for Route 9, and "catch me if you can." Deputies also learned the identity of Mr. Jackson's girlfriend in Machiasport.

At approximately 2:00 p.m., Matthew Carter, a Maine Marine Patrol officer and part-time deputy sheriff, learned from conversations with other law enforcement officers of the alleged robbery and that the suspect was Mr. Jackson, who was armed and driving a silver car with Maine plates. He also learned about the text messages sent by Mr. Jackson. Officer Carter knew Mr. Jackson from prior interactions and believed that he was prohibited from possessing a firearm. Officers were unsuccessful in locating Mr. Jackson or his vehicle until just after 8:00

p.m. when Sgt. Wade Walker of the Machias Police Department observed a vehicle in Machias matching the description of the one operated by Mr. Jackson. A single occupant in the vehicle matched the description of Mr. Jackson. Sgt. Walker followed the vehicle while confirming that it was the one involved in the earlier home invasion incident in East Machias. The car failed to stop when Sgt. Walker activated his cruiser's emergency signals. Nearly striking another vehicle, the car drove through a parking lot and reversed its direction back onto Route 1. With Sgt. Walker in pursuit, the car drove onto a sidewalk and onto the campus of the University of Maine at Machias. Leaving the campus, the car headed for Machiasport with Sgt. Walker still in pursuit. A Washington County deputy sheriff deployed a spike strip into the car's path in Machiasport that, while deflating a rear tire, did not disable operation of the vehicle. The pursuit continued to a residence in Machiasport where Mr. Jackson ran from his vehicle into the residence. Sgt. Walker was aware that Mr. Jackson was armed earlier in the day but could not determine if he had a gun as he ran into the house.

Sgt. Walker, familiar with the residence and knowing it to be a duplex separated by a garage, left his cruiser's emergency lights and siren on, and chased Mr. Jackson into one of the two residences, identified as the "A" side on the right side of the duplex.<sup>1</sup> Upon entering the residence, Sgt. Walker encountered Tiffany Smith and two children. He knew Ms. Smith and knew that Mr. Jackson and Ms. Smith had a relationship. Despite Sgt. Walker having just seen Mr. Jackson enter the home, Ms. Smith told him that Mr. Jackson was not there. Sgt. Walker, however, saw Mr. Jackson in the kitchen but was unable to get to him before he fled because Ms. Smith blocked Sgt. Walker's path. Having lost sight of Mr. Jackson, Sgt. Walker reported to other units that Mr. Jackson was somewhere in the residence.

Ms. Smith resisted several instructions from Sgt. Walker to leave the house with her children, but finally agreed to retreat to her neighbor's house, the "B" residence of the duplex. As Ms. Smith was leaving the residence, a deputy sheriff arrived. Sgt. Walker started searching the Smith residence for Mr. Jackson. In the meantime, Ms. Smith, having taken her children to her neighbor's home, returned to her residence, and refused to leave. She followed Sgt. Walker as he continued to search the residence for Mr. Jackson. When Sgt. Walker opened a door leading to the "B" residence of the duplex on the second floor of the garage separating the homes, he saw Mr. Jackson pointing a revolver at him. Mr. Jackson closed the door. Because of clutter near the door and because Ms. Smith was in his way, Sgt. Walker was unable to open it again. He decided against opening the door because of what he described as Ms. Smith's interference and because opening the door again would place Ms. Smith and him at risk. Sgt. Walker persuaded Ms. Smith to leave the area and he maintained his position outside the door.

While officers were preparing to evacuate occupants of the "B" residence, the male resident of that home went upstairs to investigate noises. Upon opening an upstairs door, Mr. Jackson confronted him with a handgun pointed at his face. Mr. Jackson said he wanted a cigarette. The resident ran downstairs, gathered his family and Ms. Smith's children, and fled the house.

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<sup>1</sup> The "B" residence, located on the left side of the duplex was that of a family with young children. The second floor of a connected garage afforded mutual access to each residence.

Meanwhile, the Washington County Regional Communications Center informed Marine Patrol Officer Carter of the police pursuit that had ended at the residence in East Machias and of the search for Mr. Jackson at that residence. At about the same time, the Sheriff's Office requested the assistance of the State Police Tactical Team. In the meantime, Ms. Smith's cousin called the Communications Center to report that he was speaking with Ms. Smith on a different phone, and she told him that she was with Mr. Jackson in her residence in East Machias. She requested that the siren on Sgt. Walker's cruiser be silenced to calm Mr. Jackson down. The dispatcher confirmed that Mr. Jackson was brandishing a gun to his head and that he would not permit Ms. Smith to leave the residence. The dispatcher was able to hear Ms. Smith speaking to Mr. Jackson. While much of the conversation was unintelligible, it appeared to the dispatcher that Ms. Smith was trying to persuade Mr. Jackson to relinquish the gun and not harm himself.

Officer Carter arrived at the residence, dressed in his uniform pants, a black sweat shirt, and a tactical vest with "Sheriff" embossed on the front and back. He retrieved his patrol rifle and learned from two deputies outside the residence that Sgt. Walker was somewhere inside the residence. He also learned that the State Police Tactical Team was apparently not readily available because of another call. When Officer Carter and two deputies heard yelling inside the "B" residence, Officer Carter, thinking that Sgt. Walker was in a confrontation with Mr. Jackson, followed by the two deputies, ran into the residence. Drawn by noises upstairs in a loft area, Officer Carter, still believing that Sgt. Walker was in a confrontation with Mr. Jackson, ascended a dark stairwell illuminated only by a light on his rifle.

Upon arriving on a small landing in the stairwell, Officer Carter saw Mr. Jackson and Ms. Smith, both of whom he knew from previous encounters, about 15 feet away. Mr. Jackson was lying on the floor on his right side facing Officer Carter, and Ms. Smith was sitting on the floor next to Mr. Jackson in a position that substantially blocked Officer Carter's view of Mr. Jackson. Whenever Officer Carter moved the light on his rifle to get a better view of Mr. Jackson, Ms. Smith moved to block Officer Carter's view. Officer Carter told Ms. Smith to get out of the way. Mr. Jackson screamed at Officer Carter to "get the fuck out" or he would shoot him. Officer Carter identified himself to Mr. Jackson, telling Mr. Jackson that he knew him and wanted to help him. Mr. Jackson waved a revolver he was holding in his hand, and Officer Carter saw his finger inside the trigger well. At times, Mr. Jackson set the gun on the floor next to him. At other times, Mr. Jackson told Officer Carter he was going to shoot him. Indeed, during this standoff, Officer Carter believed there were moments he may be shot by Mr. Jackson. The two deputies who accompanied Officer Carter inside the residence remained on the first floor where they could not see Mr. Jackson or Ms. Smith but could hear what was being said.

Attempts to deescalate the situation proved to be unsuccessful. While Officer Carter tried to attend to demands being made by Mr. Jackson, including having cigarettes provided, Mr. Jackson's agitation only continued to increase. Mr. Jackson continued to exercise control over his gun and refused to give it up. This culminated to a point at which, having placed his gun on the floor, Mr. Jackson went to retrieve it and made a move with the gun that Officer Carter believed signaled he was going to be shot. Mr. Jackson pointed the gun at Officer Carter, his movement was described to be "more violent" than when Mr. Jackson had previously handled his gun, and Officer Carter observed Mr. Jackson's finger to be "inside the trigger". Believing

he was about to be shot and fearing for his life, Officer Carter shot at Mr. Jackson. At that same moment, Ms. Smith moved closer to Mr. Jackson in an effort to shield him.

Officer Carter was also concerned about the safety of the other officers. A deputy sheriff, who was nearby and participating in the negotiations described Mr. Jackson as “ramping up and down.” The deputy heard Officer Carter tell Mr. Jackson “don’t grab it, don’t grab it,” “drop it, drop it,” and “don’t do it, don’t do it.” When shot, Mr. Jackson dropped his gun, but was crawling trying to retrieve it when Officer Carter restrained him and moved the gun away from him. The standoff had gone on for an hour-and-a-half. Officer Carter’s gunshots struck both Mr. Jackson and Ms. Smith. Both survived their injuries. Later investigation disclosed that Officer Carter fired seven rounds from his patrol rifle, that Mr. Jackson’s gun was a .32 caliber six-shot revolver, and it was discovered to be unloaded.

On July 10, 2018, the Washington County Grand Jury indicted Mr. Jackson for robbery, burglary, two counts of criminal threatening with a dangerous weapon, reckless conduct with a dangerous weapon, refusal to submit to an arrest and failing to stop for a law enforcement officer. On January 24, 2020, Mr. Jackson was sentenced on convictions for two counts of criminal threatening with a dangerous weapon, reckless conduct with a dangerous weapon, refusal to submit to an arrest and failing to stop for a police officer, following *nolo contendere*<sup>2</sup> pleas on those charges. The remaining charges were dismissed by the District Attorney’s office. The sentences imposed on these charges were all suspended and run consecutive to unrelated robbery and criminal threatening convictions imposed in November of 2019.

#### 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.<sup>3</sup> The detectives who conduct the investigation of these incidents are independent of any other law enforcement agency. The purpose of the criminal investigation of the incident in Machiasport on December 9, 2017, was to determine if the use of deadly force by Officer Carter when he shot Mr. Jackson and Ms. Smith was legally justified. 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 justifiable conduct under the Criminal Code does not abolish or impair any other remedy available under law.

Under Maine law, a person is authorized to use deadly force in self-defense or in the defense of others if the person reasonably believes that deadly force is imminently threatened against the person or against someone else, and the person reasonably believes 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

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<sup>2</sup> A plea by which a defendant in a criminal prosecution does not accept or deny responsibility but agrees to accept punishment.

<sup>3</sup> See 5 M.R.S. § 200-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 Officer Carter shot Mr. Jackson and Ms. Smith, he reasonably believed that Mr. Jackson was imminently threatening to use unlawful deadly force against him. It was in response to an escalation of threats and pointing of the revolver by Mr. Jackson at Officer Carter that Officer Carter shot Mr. Jackson. It was reasonable for Officer Carter to believe it necessary to use deadly force to protect himself and others present at the residence from serious bodily injury or death. All the facts and circumstances point to the conclusion that Officer Carter acted in self-defense and in defense of third parties. The unintended gunshot injuries suffered by Ms. Smith does not affect the legal analysis of whether Officer Carter acted reasonably by firing at Mr. Jackson.

Sincerely,



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AARON M. FREY  
Attorney General