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March 30, 2021

Chief Mark Hathaway  
Bangor Police Department  
240 Main Street  
Bangor, ME 04401

Dear Chief Hathaway:

We have completed our investigation and legal review of the incident on October 16, 2018 involving the use of deadly force by Officer Dylan Hall. As you know, Officer Hall shot Brian Barker, at the time 40 years old, during an armed encounter on Grove Street in Bangor, a compact residential area. Mr. Barker was injured and ultimately taken into custody. By law, this office investigates any use of deadly force by a law enforcement officer who, while acting in performance of his or her duties, uses deadly force.

Factual Summary

At approximately 11:14 a.m. on Tuesday, October 16, 2018, a woman called the Bangor Police Department to report that she was "having an issue at my apartment with my boyfriend, who is, I'm assuming, high on drugs and won't leave, and he has a knife and he's threatening to cut his throat." She identified her boyfriend as Brian Barker and told the dispatcher that she had left him in her apartment and locked herself with her dog in her car in the driveway. While speaking with the dispatcher, the caller reported that she could see Mr. Barker walking to her car. The woman could be heard on the audio recording saying "no," "go," and "go, Brian, just go." While the dispatcher continued to converse with the woman, Bangor police officers were dispatched to the residence.

The first two officers to arrive on Grove Street were Jenna Anzenruber and Eric Lund. They observed Mr. Barker walking on the sidewalk carrying a backpack, which he threw into the street as the officers emerged from their cruisers. Both officers saw that Mr. Barker was armed with a knife later determined to be 8 inches long with a 3½ inch blade. In an agitated state, he challenged the officers to "go ahead and smoke me." The officers issued commands for Mr. Barker to drop the knife. Mr. Barker, however, ignored the commands and began approaching the two officers while wildly swinging his arms and yelling "fucking do it."

Officer Dylan Hall arrived seconds after Officers Anzengruber and Lund. He saw Mr. Barker in the street walking toward the two officers with the knife in his left hand. Mr. Barker continued to yell and refuse repeated commands to drop the knife. The officers backed away as Mr. Barker, in a highly agitated and animated state, continued to approach them. Officer Hall shouted commands to Mr. Barker to drop the knife. As Mr. Barker continued to approach the officers while refusing to drop his knife and challenging them to “fucking do it,” Officer Hall fired his service weapon at Mr. Barker four times. Mr. Barker, struck by three bullets, fell to the ground. When Officer Hall shot Mr. Barker, they were about 15 feet apart. Mr. Barker was in closer proximity to the other two officers. Cruiser camera video from all three cruisers supports Officer Hall’s description of the incident.

Despite having been shot, Mr. Barker was not immediately compliant while being taken into custody by the three officers. The officers were able to secure Mr. Barker while they performed first aid until the arrival about a minute later of paramedics, who continued to treat Mr. Barker and transport him to a hospital. Mr. Barker suffered three gunshot wounds to the pelvis, knee, and ankle.

Less than one minute elapsed between the time the officers got out of their cruisers and Officer Hall shot Mr. Barker. During this span, Mr. Barker was ordered to drop the knife more than 20 times. The knife was one that would be generally described as a tactical folding knife.

### 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>1</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 Bangor on October 16, 2018 was to determine if the use of deadly force by Officer Hall when he shot Mr. Barker was legally justified. The investigation did not include an analysis of whether any personnel action might be warranted, whether the use of deadly force could have been averted, or whether there might be civil liability. Indeed, state law provides that justifiable conduct under the Criminal Code does not abolish or impair any other remedy available under 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 officer must reasonably believe that the use of deadly force by another person is imminent against the officer or someone else and second, the officer must reasonably believe that deadly force is necessary to counter that imminent use of deadly force. The legal analysis requires careful attention to the facts and circumstances of each case. Further, whether the use of force by a law enforcement officer is reasonable is based on the totality of the 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

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<sup>1</sup> 5 M.R.S. § 200-A.

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 Hall shot Mr. Barker, he reasonably believed that Mr. Barker was about to use unlawful deadly force against him and two other officers. Although less than a minute elapsed between Officer Hall's arrival on scene and the shooting, the officers demanded at least 20 times that Mr. Barker drop the knife. Instead, he aggressively closed the distance between himself and the officers while armed with a knife and challenged them to shoot him. It was reasonable for Officer Hall to believe it necessary to use deadly force to protect himself and the other officers from serious bodily injury or death. All the facts and circumstances point to the conclusion that Officer Hall acted in self-defense and in the defense of others.

Sincerely,



AARON M. FREY  
Attorney General