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April 7, 2021

Chief Scott Wilcox
Old Town Police Department
150 Brunswick Street
Old Town, ME 04468

Dear Chief Wilcox:

We have completed our investigation and legal review of the incident on November 29, 2018, involving the use of deadly force by Officer Joseph Decoteau, which resulted in the death of Adrian Bunker, then age 37, of Merrimack, New Hampshire.

Factual Summary

On Wednesday, November 28, 2018, at 7:30 p.m., Adrian Bunker left his home in Merrimack, New Hampshire, after an argument with his wife over money. By 3:25 a.m. on November 29, 2018, he was driving his Chevrolet Silverado pick-up truck into Old Town on Stillwater Avenue where Officer Joseph Decoteau was operating speed radar from his marked cruiser. Officer Decoteau recorded Mr. Bunker's speed at 45 miles per hour in a 25 mile per hour zone and observed Mr. Bunker reduce his speed and then accelerate to 40 miles per hour as he passed Officer Decoteau's cruiser. Officer Decoteau pulled in behind Mr. Bunker's pickup truck and followed him across the Stillwater Avenue Bridge and through the intersection of College Avenue and Stillwater Avenue, where he activated his cruiser's emergency lights. Mr. Bunker stopped on Stillwater Avenue just before the Governor's Restaurant.

Officer Decoteau approached Mr. Bunker to request his license, registration, and proof of insurance. Officer Decoteau observed that Mr. Bunker appeared distraught and that he did not make sense in responding to Officer Decoteau's questions about where he was heading, explaining that he was coming from Old Town and heading to Cambridge, Maine, when he was in fact travelling in the opposite direction. Officer Decoteau asked how much Mr. Bunker had had to drink, and Mr. Bunker did not respond. Officer Decoteau then asked, "You all right?" and Mr. Bunker responded with an emphatic "No!" Officer Decoteau asked, "What's the problem? Is there a problem?" Mr. Bunker responded in the affirmative. Officer Decoteau called for a second

officer, Daniel Davis, to assist him in the stop. Officer Decoteau asked Mr. Bunker, "What's going on?" Mr. Bunker stated three times, "I'm gonna run." When asked why he was going to run, Mr. Bunker responded, "I don't want to live" and "I'm not going to live." Officer Decoteau repeatedly asked Mr. Bunker to put his vehicle in park, and he refused. Officer Decoteau then directed Mr. Bunker to step out of the truck, and he refused.

Officer Davis arrived at the stop and reiterated the request that Mr. Bunker step out of the truck. Officer Davis asked if Mr. Bunker would talk with them and Mr. Bunker refused, saying, "I'd rather not live." Mr. Bunker was asked how much he had had to drink, and he responded, "That's irrelevant." Officer Davis put his hand inside the vehicle's window to open the door and repeated the request that Mr. Bunker step out of the truck. With Officer Davis's arm still in the window, Mr. Bunker drove off, causing Officer Davis to quickly retract his arm to avoid injury.

Officers Decoteau and Davis, in separate cruisers, pursued Mr. Bunker. Mr. Bunker accelerated to about 50 to 55 miles per hour before he abruptly stopped next to an apartment building at 840 Stillwater Avenue, only one quarter of a mile from the initial stop. Officer Davis pulled his cruiser in front of Mr. Bunker's vehicle to block it. Officer Decoteau stopped behind Mr. Bunker's vehicle, his cruiser camera activated. Officer Davis drew his weapon as he rounded the rear of his cruiser. He made eye contact with Mr. Bunker and saw that he held a handgun in his right hand pointed to the right side of his head. Officer Davis notified Officer Decoteau that Mr. Bunker had a firearm and repeatedly yelled for Mr. Bunker to drop the gun. Officer Decoteau could clearly see inside the rear cargo window of the truck, which was partially open, and saw the back of Mr. Bunker's head and his right hand holding a handgun to his right temple. He joined in Officer Davis's demands that Mr. Bunker drop the weapon. The officers yelled numerous times for Mr. Bunker to "drop the gun, drop the weapon" or "just put the weapon down." They repeatedly offered him help.

Officer Decoteau, positioned about eight feet behind the pickup truck, was speaking to Mr. Bunker, "Sir, you can go home tonight. Every..." when he abruptly ceased talking because he saw Mr. Bunker turn the barrel of the gun in his direction. He quickly crouched to the right to avoid the line of fire. The audio and the avoidance maneuver were recorded on the cruiser camera. As Officer Decoteau rose, he saw the gun still aimed in his direction and shot once. The bullet struck Mr. Bunker in the back of the head. Immediately after the shooting, Officer Decoteau uttered to Officer Davis, "He was pointing the gun right at me. He was pointing it back." Officers Decoteau and Davis approached the vehicle and observed some movement inside. Officer Davis broke the driver's side window to secure the firearm that was in Mr. Bunker's hand on his lap and to provide access to emergency medical personnel. Mr. Bunker died at the scene.

Officer Decoteau later told investigators that he shot Mr. Bunker because he believed Mr. Bunker was about to shoot him. Officer Davis told them that Mr. Bunker's conduct put Officer Davis in fear of his and Officer Decoteau's safety, as well as the safety of residents in the nearby homes, and persons in the vehicles driving on Stillwater Avenue.

A postmortem examination conducted by the Office of Chief Medical Examiner determined that Mr. Bunker died of a single gunshot wound to the head. The bullet entered at the back of the right side of the head and traveled forward to the left and slightly downward to exit on the left side of the forehead. The postmortem findings were consistent with Officer Decoteau's account.

Investigators later learned that Mr. Bunker had been drinking heavily and had had difficulty sleeping since his brother's suicide in June of 2018. Toxicology findings revealed that he had a 0.17% blood alcohol concentration¹, along with nortriptyline and amitriptyline² in his blood, at the time of the postmortem examination.

Discussion and Legal Analysis

The Office of the Attorney General 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 detectives who conduct these investigations are independent of any other law enforcement agency. The limited purpose of the criminal investigation of the incident in Old Town on November 29, 2018 was to determine whether Officer Decoteau was legally justified in using deadly force when he shot Mr. Bunker. 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 the fact that conduct may be justifiable under the Maine law does not abolish or impair any other remedy available under the law.

Under Maine law, a law enforcement officer is authorized to use deadly force when the officer reasonably believes that the use of deadly force is necessary for self-defense or the defense of others against the imminent use of deadly force, or when the officer is attempting to make an arrest and the officer reasonably believes that the person has committed a crime involving the use or threatened use of deadly force and the officer has made reasonable efforts to advise the person that he is a law enforcement officer attempting to make an arrest and the officer has reasonable grounds to believe that the person is aware of this advice.⁴ 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 Officer Decoteau shot Mr. Bunker, he reasonably believed that Mr. Bunker was about to use deadly force against him and that he would be shot if he did not shoot Mr. Bunker. Mr. Bunker had already exhibited suicidal thoughts in the initial traffic stop. By the time of the second stop, Mr. Bunker was brandishing a firearm while parked on a major artery in a residential area. He refused the officers' repeated demands to put the gun down and

¹ More than twice the concentration as would constitute the crime of operating under the influence.

² These drugs belong to a class of medications called tricyclic antidepressants, which are used to treat depression.

³ 5 M.R.S. § 200-A

⁴ 17-A M.R.S. § 107(2)(A) & (B)(1)

turned the firearm in the direction of Officer Decoteau. All the facts and circumstances point to the conclusion that Officer Decoteau acted in self-defense and the defense of others at the time he used deadly force.

Sincerely,

A handwritten signature in blue ink that reads "Aaron M. Frey". The signature is written in a cursive style with a large, sweeping "F" at the end.

AARON M. FREY
Attorney General