



OFFICE OF THE ATTORNEY GENERAL

January 11, 2016

**Report of the Attorney General on the Use of Deadly Force
by Oxford County Deputy Sheriff on May 20, 2015**
Finding: Officer fired in defense of self and others

Synopsis

On May 20, 2015, Dennis Buffington, 31, of Lovell, was shot and seriously wounded by Oxford County Corporal George Cayer on the Nuthatch Road in Lovell.

Discussion

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.¹ Detectives in the Office of the Attorney General, who are independent of and unaffiliated with any other law enforcement agency, conduct the criminal investigation of all such incidents. The purpose of the criminal investigation of the incident in Lovell on May 20, 2015, that resulted in Mr. Buffington being shot was to determine whether self-defense, including the defense of others, was reasonably generated by the facts so as to preclude criminal prosecution of Corporal Cayer. 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.

In order for any person, including a law enforcement officer, to legally use deadly force in self-defense or in defense of a third party, two requirements must be met. First, the person must actually and reasonably believe that deadly force is imminently threatened against the person or against someone else; and, second, the person must actually and reasonably believe

¹ 5 M.R.S. § 200-A.

that deadly force is necessary to counter that imminent threat. Further, whether the use of force by a law enforcement officer is reasonable must be based on the totality of the particular circumstances and must be 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.

Facts

In the early morning hours of May 20, 2015, after a night of drinking and partying with friends and relatives, Dennis Buffington and his girlfriend went to a neighbor's home on the Nuthatch Road in Lovell. Although the pair lived with Mr. Buffington's grandmother next door, the girlfriend refused to go home with Mr. Buffington because he was intoxicated and had become verbally abusive. Because of his unruly and threatening behavior, Mr. Buffington was told to leave the neighbor's residence. He left, but returned a few minutes later with a shotgun. He was refused entry into the house. He told the neighbor that he was "sick" of the girlfriend's "crap," and he was going to "beat the crap out of her." He fired the shotgun into the ground in the direction of the neighbor, which resulted in the neighbor being struck by a spray of gravel. The neighbor retreated into his house. Mr. Buffington drove off in his girlfriend's pickup truck.

A person at the neighbor's house called the Oxford County Regional Communications Center a few minutes before 1 a.m. The caller reported that Mr. Buffington was intoxicated and had left the residence in his girlfriend's pickup truck. The caller told the dispatcher that there were four adults and two children in the residence and that all four adults were intoxicated. The information was relayed to an Oxford County deputy sheriff, who requested that notification also be made to Oxford County Corporal George Cayer and the State Police. While officers were responding to the Nuthatch Road residence, the dispatcher spoke to another person at the residence. This other person was the neighbor who had initially confronted Mr. Buffington and he told the dispatcher that Mr. Buffington had returned to the residence. It was at this time, about ten minutes after the initial call, that the dispatcher learned from the neighbor that Mr. Buffington had a shotgun and that during the initial confrontation with the neighbor, Mr. Buffington had discharged the shotgun in his direction. While speaking with the dispatcher, the neighbor reported that Mr. Buffington had been outside the residence and that he had just fired the gun again and left, possibly on foot. It was also reported by one of the other adults in the house that Mr. Buffington owned several firearms that were stored at his grandmother's residence next door.

About a half hour after the initial call to the police, several officers, including Corporal Cayer, were staged near the neighbor's residence. They did not know at that point the precise whereabouts of Mr. Buffington. They learned from dispatch that when a person in the neighbor's house called the grandmother at the Buffington residence next door that Mr. Buffington reportedly picked up the phone. At about the same time, Mr. Buffington's girlfriend told the dispatcher that a 13-year-old boy in the neighbor's house was having an asthma attack. At around 2 a.m., as officers and dispatch attempted to get more information concerning the whereabouts of Mr. Buffington, it was learned that Mr. Buffington had used his girlfriend's pickup truck to ram the neighbor's house and that he left the area, again possibly on foot.

Officers approached the neighbor's house and evacuated all the occupants while Corporal Cayer and State Police Trooper Adam Fillebrown moved through the woods to a position within about 125 feet of the Buffington residence where they intended to wait for the arrival of the State Policed Tactical Team.

Shortly after 3 a.m., officers were informed by dispatch that the grandmother had reported that Mr. Buffington was at the Buffington residence. At about the same time, Corporal Cayer and Trooper Fillebrown observed Mr. Buffington outside the residence. They heard him yelling "faggots" and repeating several times "I'm going to kill you," as well as "c'mon mother [expletive], I'm going to kill someone tonight." The officers understood these comments to be directed toward them. Mr. Buffington did not appear to be armed as he walked toward Corporal Cayer and Trooper Fillebrown. When the two officers started walking toward him, Mr. Buffington turned and disappeared from their view behind an abandoned camper trailer that was overgrown with brush. Mr. Buffington came back into view and the two officers saw him walk back into the Buffington residence. The officers heard banging noises and saw Mr. Buffington emerge from the residence. Mr. Buffington was shouting "I'm going to kill you" and "come out you pussies." As Mr. Buffington walked toward the officers, he picked up what the officers believed to be a long gun. Mr. Buffington continued to threaten the officers as he walked toward them swinging the long gun in his right hand. He then turned and walked back toward the residence where he sat down in a chair on the porch. Mr. Buffington was quiet as he sat with the firearm on his lap; the muzzle was pointed in the direction of the Corporal Cayer and Trooper Fillebrown.

A few minutes later, Mr. Buffington got up from the chair and started walking directly toward Corporal Cayer and Trooper Fillebrown, again swinging the long gun in his right hand and repeating, "I'm going to kill you." When Mr. Buffington was within 60-75 feet of the officers, Corporal Cayer fired one round at him. The round struck Mr. Buffington and he doubled over. Still armed, Mr. Buffington turned and ran toward his residence. Corporal Cayer, concerned that Mr. Buffington could harm persons in the residence or take up a barricaded position, fired an additional round, which also struck Mr. Buffington but did not stop him from entering the residence. At the same time, Mr. Buffington's grandmother, who was on the telephone with dispatch, reported that that Mr. Buffington was in the residence on the living room floor and that he had been shot in the chest. The dispatcher instructed Mrs. Buffington to leave the residence. She left and, shortly thereafter, Mr. Buffington came outside, was taken into custody and provided medical aid until transported by ambulance to a Lewiston hospital.

Mr. Buffington sustained two gunshot wounds, one entering and exiting his chest and the other entering his left thigh and traversing to his right thigh. He was later charged by the Oxford County District Attorney's Office with criminal threatening with a dangerous weapon, aggravated criminal mischief, driving to endanger, discharge of a firearm near a dwelling, and six counts of reckless conduct.

Conclusion

Attorney General Janet T. Mills has concluded that at the time Corporal Cayer shot Mr. Buffington, he reasonably believed that unlawful deadly force was imminently threatened against not only himself but Trooper Fillebrown and other officers within range of Mr. Buffington's

weapon, as well as other persons with whom Mr. Buffington would come in contact if permitted to reenter the residence. It was reasonable for Corporal Cayer to believe it necessary to use deadly. The Attorney General's conclusions are based on an extensive forensic investigation, on interviews with numerous individuals, and on a thorough review of all evidence made available from any source. All facts point to the conclusion that Corporal Cayer acted to defend himself and others from the unlawful use of deadly force by Mr. Buffington.

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