



OFFICE OF THE ATTORNEY GENERAL

November 22, 2016

Report of the Attorney General on the Use of Deadly Force by Westbrook Police Officer on April 2, 2016 in Westbrook

Synopsis

In the early morning of Saturday, April 2, 2016, Westbrook police officer Benjamin Hall shot and wounded Sean Grossman, 26, outside Mr. Grossman's residence in Westbrook.

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 The detectives in the Office of the Attorney General who investigate these incidents are independent of and unaffiliated with any other law enforcement agency. The purpose of the criminal investigation of the incident in Westbrook on April 2, 2016, which resulted in Officer Hall shooting Mr. Grossman, was to determine whether the facts reasonably generated a case of self-defense, including the defense of others, so as to preclude criminal prosecution of Officer Hall. 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 conduct determined to be permissible under the Criminal Code does not abolish or impair any other remedy available under the law.

There are two requirements with which any person, including a law enforcement officer, must comply in order to legally use deadly force in self-defense or in defense of a third party. 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 that deadly force is necessary to counter that imminent threat. Whether the use of deadly force by a law enforcement officer is reasonable must be based on the totality of the particular

¹ 5 M.R.S. § 200-A.

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 and Circumstances

Shortly before 6 a.m. on Saturday, April 2, 2016, a woman in Westbrook called 911 and reported that her son – later identified as Sean Grossman, 26 – had a gun², was threatening to kill himself, and had left the residence in his car looking for his girlfriend. Sometime earlier, the girlfriend fled from him on foot.³ Detective Daniel Violette⁴ went to the residence while other officers searched the area for Mr. Grossman. Mr. Grossman's mother told Detective Violette that she thought that Mr. Grossman had discharged two or three rounds from his gun within the residence while she was outside.⁵ Contemporaneous with Detective Violette's arrival at the residence, Westbrook police officers Benjamin Hall and Julian Kingsley observed Mr. Grossman's vehicle and pursued it back to the residence.

Arriving back at the residence, Mr. Grossman ran from his vehicle, gun in hand, and encountered Detective Violette on an outside deck leading to the mother's residence. His own gun drawn, Detective Violette ordered Mr. Grossman to drop his gun as Mr. Grossman rushed at him. Mr. Grossman told Detective Violette to shoot him while he pointed his gun at his own head. Detective Violette grabbed the wrist of Mr. Grossman's gun hand in an attempt to direct the gun away from Mr. Grossman's head and disarm him. Detective Violette still had his own weapon in his right hand. Although he was unable to disarm Mr. Grossman, Detective Violette managed to turn him away so that he was leaning over a deck railing. Detective Violette kept his left arm around Mr. Grossman and maintained his grip on the wrist of Mr. Grossman's gun hand, keeping the gun pointed away from them both. Mr. Grossman aggressively resisted Detective Violette's attempts to contain his movements and continued to scream for the police to shoot him.

Officers Hall and Kingsley were about 25 feet from Mr. Grossman and Detective Violette. They, like Detective Violette, repeatedly told Mr. Grossman to drop his gun. At one point in the struggle, Mr. Grossman said that he would not go to jail, and Detective Violette told him he could go to a hospital, not jail, if he dropped his gun. In response, Mr. Grossman continued to struggle and scream for the police to shoot him "in the head." After several minutes, Detective Violette tired and started to lose his grip on Mr. Grossman's wrist. Mr. Grossman was able to manipulate his pistol and direct it toward Officers Hall and Kingsley.

² Later investigation determined that Mr. Grossman's gun was a 9mm semi-automatic pistol loaded with 12 rounds.

³ Later investigation disclosed that Mr. Grossman allegedly argued with and assaulted his girlfriend in the hours before this event.

⁴ Detective Violette was working an extra shift and was in uniform.

⁵ Later investigation revealed no evidence that Mr. Grossman in fact discharged the pistol inside the residence.

Officer Hall fired a single round at Mr. Grossman. The bullet struck Mr. Grossman at the bridge of the nose, passed through the brim of a baseball cap Mr. Grossman was wearing, and exited at his left eyebrow. Mr. Grossman's injury was not fatal. He dropped his gun and remained conscious. Police officers and emergency medical personnel from the Westbrook Fire Department rendered immediate medical aid. Shortly after, a Portland hospital provided treatment for Mr. Grossman's injury.

In June, the Cumberland County Grand Jury indicted Mr. Grossman on eight counts related to the encounter with the police in Westbrook on April 2, as well as the earlier alleged criminal offenses directed at his girlfriend. The indictment charged Mr. Grossman with criminal threatening with a dangerous weapon, reckless conduct with a dangerous weapon, domestic violence reckless conduct with a dangerous weapon, domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, refusing to submit to arrest, and violation of conditions of release. The charges are pending.

Conclusion

Attorney General Janet T. Mills concludes that at the time Officer Hall shot Mr. Grossman, he reasonably believed that there was an imminent threat of unlawful deadly force against him, Detective Violette, and others. It was reasonable for Officer Hall to believe it necessary to use deadly force to protect Detective Violette, himself and any other officers or persons within range of Mr. Grossman and his firearm. The Attorney General's conclusions are based on interviews with numerous individuals, an extensive forensic investigation, and a review of all the evidence available from all sources. All facts lead to the conclusion that Officer Hall acted to defend himself and others from the imminent threat of unlawful use of deadly force by Mr. Grossman.

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