

JANET T. MILLS
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

415 CONGRESS ST., STE. 301
PORTLAND, MAINE 04101
TEL: (207) 822-0260
FAX: (207) 822-0259

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

September 12, 2018

Ephrem Paraschak
Town Manager
Gorham Municipal Center
75 South Street, Suite 1
Gorham, Maine 04038

Dear Mr. Paraschak:

We have completed our investigation and legal review of the incident on May 24, 2017, involving the use of deadly force by Police Chief Daniel Jones. As you know, Chief Jones shot at Aaron Bouchard during an armed encounter. Mr. Bouchard was unharmed and ultimately taken into custody. By law, this office is charged with investigating any use of deadly force by a law enforcement officer who, while acting in performance of his or her duties, uses deadly force. See 5 M.R.S. § 200-A.

Factual Summary

On May 24, 2017, shortly after 11 a.m., a 911 caller reported that Aaron Bouchard of Saco left his residence following a domestic dispute and after making statements that led the caller to believe that he was going to harm himself. Saco Police investigated and learned that a close friend reported having received unintelligible text messages from Mr. Bouchard throughout the morning. Mr. Bouchard's wife and the friend both expressed concerns that Mr. Bouchard intended to harm himself, and that he would likely drive to Gorham where he once lived. Saco Police issued a statewide alert and notified nearby surrounding police agencies, including the Gorham Police Department. It was unknown at that time if Mr. Bouchard was armed.

Within minutes of the 911 call, Mr. Bouchard's father located Mr. Bouchard's vehicle at the entrance of a logging road off the Narragansett Road in Gorham in a largely wooded area. The father was unable to find Mr. Bouchard. He returned to Mr. Bouchard's vehicle and met with Gorham police officers, including Chief Daniel Jones. Less than a half hour had transpired since the initial 911 call. From outside the vehicle, officers observed a suicide note on the dashboard, as well as a handgun case and several boxes of ammunition on the front passenger seat. At the same time, officers became aware that Mr.

Bouchard sent a text message to a family member in which he said he wanted the police to end his life. Sgt. Dana Thompson of the Gorham Police Department received several text messages from Mr. Bouchard after attempts to persuade Mr. Bouchard to call him were unsuccessful. One message instructed Sgt. Thompson to “send in one officer with a clean conscious to do what needed to be done.” Another message warned that if the police tried to “play games” with him, he would harm innocent people. Another text message stated that Mr. Bouchard was getting angry and warned that the police had “two minutes to respond and then one minute”.

Just before 1:00 p.m., Chief Jones was standing next to his cruiser parked on the side of the road near Mr. Bouchard’s vehicle. There were several other officers nearby. Chief Jones spotted Mr. Bouchard in an open area of the woods some distance away. (The distance was later determined to be 672 feet.) Mr. Bouchard fired four or five rounds from a handgun in the direction of Chief Jones and the other officers. Officers could hear the rounds striking leaves and vegetation near them. In response, Chief Jones fired two rounds at Mr. Bouchard from a rifle. Mr. Bouchard, later determined to be uninjured, ran off. A few minutes later, however, an officer located Mr. Bouchard and took him into custody. When Mr. Bouchard was taken into custody, he was not in possession of a firearm. Later investigation determined that Mr. Bouchard fired at least four rounds from a Diamondback semi-automatic 9 mm pistol. This firearm was later located under a log loaded and ready to be fired.

Mr. Bouchard was charged with the felony crime of criminal threatening with a dangerous weapon, and two misdemeanor counts of terrorizing and reckless conduct. He later pled guilty to terrorizing and domestic violence terrorizing and was sentenced to 364 days in jail with all but 25 days suspended and probation for one year.

Discussion and Legal Analysis

By law, 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. The purpose of the criminal investigation of the incident in Gorham on May 24, 2017, was to determine whether Chief Jones was justified in using self-defense when he shot at Aaron Bouchard. 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.

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 deadly force is imminently threatened against the officer or against someone else, and, second, the officer must reasonably believe 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 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 Chief Jones shot at Aaron Bouchard, he reasonably believed that Aaron Bouchard had used and was imminently threatening to continue using unlawful deadly force against Chief Jones and other law enforcement officers in the area. It was reasonable for Chief Jones to believe it necessary to use deadly force to protect himself and the other officers on scene from serious bodily injury or death. All the facts and circumstances point to the conclusion that Chief Jones acted in self-defense and in defense of third parties.

Sincerely,



LISA J. MARCHESE
Deputy Attorney General
Chief, Criminal Division