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August 16, 2019

Col. Joel T. Wilkinson
Maine Warden Service
41 State House Station
Augusta, ME 04333

Dear Col. Wilkinson:

We have completed our investigation and legal review of the incident on June 27, 2017, involving the use of deadly force by Game Warden Christopher Sargent. As you know, Warden Sargent shot at Alan Walton, 32, during an armed encounter at a residence in Gouldsboro. Mr. Walton was unharmed 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. See 5 M.R.S. § 200-A.

Factual Summary

On June 27, 2017, at approximately 9 a.m., Warden Christopher Sargent was in Ellsworth when he became aware through radio traffic that a person later identified to him as Alan Walton was the subject of a search by multiple law enforcement agencies in and around the Mount Desert Island area. Warden Sargent learned that the individual was involved in a domestic violence incident the previous day and had allegedly stolen a truck and successfully eluded the police during a high-speed pursuit. In the early afternoon, Warden Sargent heard radio traffic indicating that Mr. Walton was at a residence in Gouldsboro and armed with a knife. Warden Sargent, about 40 minutes away, joined several other law enforcement officers in Gouldsboro at a command post where ranking officers provided a briefing and a plan to extricate the man identified as AJ Walton from the home. The officers viewed a photograph of Mr. Walton and learned that Mr. Walton was by himself inside the residence and there were firearms in the house. Warden Sargent was told during the briefing that there was probable cause for Mr. Walton's arrest and that he had mentioned "suicide by cop." The goal was to contain the individual in the house, so he could be arrested for the crimes he had allegedly committed. Taking up positions around the residence, officers hoped to persuade Mr. Walton to leave the residence and surrender.

Warden Sargent and other officers arrived at the residence in Gouldsboro and took up their assigned positions. Warden Sargent and MDEA Agent Jacob Day positioned themselves about 12-15 feet apart. Warden Sargent was assigned along with MDEA Agent Jacob Day to an outside perimeter at one side of the residence, approximately 25-30 yards from the house. Once all the

assigned officers were in place around the residence in a configuration to prevent Mr. Walton from eluding them, a State Police trooper used a loud speaker and instructed Mr. Walton to come out of the residence. After several minutes, Mr. Walton, apparently unarmed at that point, appeared in a doorway. When a second trooper commanded Mr. Walton to come outside the residence, Mr. Walton backed away from the doorway into the residence. Warden Sargent could see three windows on the second floor of the residence and saw someone in one of the windows later determined to be Alan Walton yelling: "I can see you!", "Send my brother in here!", "I fucking see you!", "Fuck you guys", and "If you come in here, you will all be leaving in body bags." Warden Sargent yelled, "Come out, it's the police!" Momentarily out of sight, Mr. Walton reappeared in the window with a long gun¹, and yelled, "I'll kill you." He repeated several times a movement of backing away from the window, then reappearing at the window, and yelling, "I'll kill you."

A few minutes later, Warden Sargent saw Mr. Walton appear in another of the three windows with a rifle in his hands. Mr. Walton yelled, "I can see you motherfucker!" Warden Sargent and Agent Day moved to an area of better concealment and cover. Mr. Walton reappeared in the window with the rifle, looked at Warden Sargent and Agent Day and yelled, "Send my fucking brother in!" When Warden Sargent observed the rifle in the window, he recognized that the rifle had a scope on it. Neither Warden Sargent nor Agent Day responded to Mr. Walton's command concerning his brother. Mr. Walton then said "alright" as he backed up and pointed the rifle directly at the two officers. In response, Warden Sargent, armed with a rifle, fired three rounds at Mr. Walton, who disappeared from the window. Simultaneously and independent of Warden Sargent's actions, Agent Day, also armed with a rifle, took aim at Mr. Walton to fire at him. Hearing Warden Sargent's gunshots, however, he did not fire his weapon. About 40 minutes later, Mr. Walton shouted that he was not hurt, and said he wanted to be shot and killed by the police. A short time later, persuaded by his mother, Mr. Walton walked out of the house and surrendered to officers. Mr. Walton was not shot during the encounter.

Members of the evidence response team found three shell casings approximately 80 feet from the house that were determined to have been fired from Warden Sargent's semi-automatic rifle. A Browning 30.06 bolt action rifle with a cartridge in the chamber was found in the upstairs bedroom, along with other cartridges. Attached to the rifle was a wide-angle scope. Also found in the house in an adjoining upstairs bedroom was a Browning 12-gauge pump shotgun.

Walton was arrested and subsequently faced 17 criminal charges related to the confrontation in Gouldsboro and other prior criminal episodes. Mr. Walton pled guilty on June 8, 2018, to eluding a police officer, reckless conduct, criminal threatening with a dangerous weapon, illegal possession of a firearm and several misdemeanor level crimes. He was sentenced to 24 months incarceration with all but 17 months suspended and probation for two years.

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

¹ Warden Sargent was unable at that time to distinguish whether the "long gun" was a rifle or shotgun.

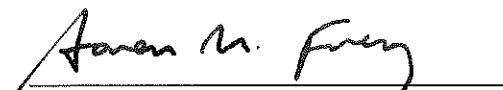
the officer's duties, uses deadly force.² The detectives who conduct the investigation of these incidents are independent of any other law enforcement agency. The purpose of the criminal investigation of the incident in Gouldsboro on June 27, 2017, was to determine if the use of deadly force by Warden Sargent when he shot at Alan Walton was legally justified. 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 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 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. The legal analysis requires careful attention to the facts and circumstances of the particular case. 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 Warden Sargent shot at Alan Walton, he reasonably believed that Mr. Walton was imminently threatening to use unlawful deadly force against Warden Sargent and other law enforcement officials in the area. Warden Sargent had been advised at the outset that Mr. Walton had previously made statements about suicide by police. While positioned outside of the residence where Mr. Walton had sequestered himself, Warden Sargent heard Mr. Walton state that he could see the law enforcement officers outside, that he would harm the officers if they tried to enter the residence, and that he would kill the officers. After Warden Sargent and Agent Day failed to meet the request shouted by Mr. Walton, Mr. Walton declared "alright" and pointed the scoped rifle directly at Warden Sargent and Agent Day. It was in response to this escalation of threats and pointing of the scoped rifle that Warden Sargent shot at Mr. Walton. It was reasonable for Warden Sargent 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 Warden Sargent acted in self-defense and in defense of third parties.

Sincerely,



AARON M. FREY
Attorney General

² 5 M.R.S. § 200-A