



## **OFFICE OF THE ATTORNEY GENERAL**

**July 24, 2017**

### **Report of the Attorney General on the Use of Deadly Force by Lewiston Police Officer on September 12, 2016 in New Gloucester**

#### **Synopsis**

In the early morning of September 12, 2016, on the Maine Turnpike in New Gloucester, Lewiston Police Sergeant Derrick St. Laurent shot at a large construction vehicle, known as a wheel loader or front-end loader, in an attempt to disable the stolen vehicle. No one was injured.

#### **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.<sup>1</sup> As a matter of law, deadly force includes discharging a firearm at a moving vehicle. 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 on the Maine Turnpike in New Gloucester on September 12, 2016, was to determine whether self-defense, including the defense of others, or the necessity to terminate a dangerous situation, was reasonably generated by the facts so as to preclude criminal prosecution of Sgt. St. Laurent. Any such prosecution would require the State to disprove beyond a reasonable doubt self-defense or

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<sup>1</sup> 5 M.R.S. § 200-A.

the defense of others or that it was unnecessary to engage deadly force to terminate a dangerous situation. 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.

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 that deadly force is necessary to counter that imminent threat. Further, whether the use of deadly 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**

On Sunday, September 11, 2016, late in the evening, two 14-year-old male residents absconded from a juvenile group home in Litchfield. State Police troopers searched the area until shortly after midnight. A statewide police broadcast reported the boys as runaways.

Shortly after midnight, a Maine Turnpike tollbooth attendant at Mile 102 in Auburn reported that two boys, later determined to be the runaways, placed construction barrels across the turnpike in an apparent attempt to stop traffic to solicit a ride. A trucker who stopped declined a request from the boys for a ride. A State Police trooper searched the area to no avail. While checking a construction site at a former turnpike service plaza at Mile 98 in West Gardiner, the trooper's cruiser camera recorded the presence of a

parked Volvo wheel loader<sup>2</sup> at 1:39 a.m. The two boys later stole the loader and, for the next several hours, eluded the police and caused thousands of dollars in damage to vehicles, including police cruisers, and other property.

Approximately two hours later, several residents complained to police that a wheel loader was running over and scooping up mailboxes on the Plains Road and the Upper Pond Road in Litchfield. A trooper searched the area to no avail. An Androscoggin County deputy sheriff, aware of the complaints of mailbox damage, saw a wheel loader traveling erratically on Sabattus Street in Lewiston towards downtown Lewiston. The loader was operating left of center and at times was fully in the opposing traffic lane. The deputy attempted to stop the loader by activating his cruiser's emergency lights and signals, but the driver refused to stop. Other deputies joined in a pursuit.

Sergeant Derrick St. Laurent of the Lewiston Police Department, supervisor of the night shift, became aware of the pursuit and the damage the wheel loader had wrought. He and another officer left the Lewiston police station in separate vehicles to respond to the pursuit on Sabattus Street. The two officers drove up behind the loader on Sabattus Street. The loader was traveling erratically and against oncoming traffic. Sgt. St. Laurent passed the loader and assumed a moving position in front of it in an attempt to slow it down and to alert oncoming traffic. The other Lewiston officer followed directly behind the loader with his cruiser's emergency lights and signals activated. The officer observed the loader swerve in an apparent attempt to sideswipe Sgt. St. Laurent's cruiser as the cruiser passed the loader to acquire a position in front of it. The other officer observed the loader traveling very close to the rear of Sgt. St. Laurent's cruiser.

The loader turned from Sabattus Street onto Russell Street. The pursuit continued through several residential neighborhoods. Other officers went to upcoming intersections to warn motorists. Two officers at the intersection of Mollison Way and Main Street took evasive steps to avoid collisions with the loader when it drove directly at their cruisers. As the loader continued on Main Street towards downtown Lewiston, Sgt. St. Laurent again passed it and

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<sup>2</sup> The construction machinery is a 28,000-pound vehicle equipped with an 8-foot wide bucket, a 10-foot high operator's cab, and tires that are approximately 6 feet high. The loader was left parked at the site earlier in the week with the keys in the ignition.

assumed a moving position in front of it. It was now a few minutes after 5 a.m. with commuter traffic increasing.

The loader turned from Main Street onto one-way Lisbon Street traveling in the wrong direction. It then made several more turns onto various intersecting streets and, at one point, the operator appeared to intentionally swerve towards a Lewiston police cruiser. The loader collided with the cruiser, causing significant damage. By this time, as the loader headed toward Lisbon, there were seven police cruisers involved in the pursuit. The loader turned onto the Maine Turnpike and headed south. The operator swerved alternately from travel lane to passing lane, which prevented the police cruisers from passing it. The loader and cruisers continued south on the turnpike for about ten miles until the loader crossed over to the northbound lane and drove south into oncoming traffic.

The operator of the loader intentionally rammed a northbound car, which had pulled as far off the travel lane as possible. The collision ripped open the left side of the car; the driver had to move to the passenger's side in order to get out of the car. By this time, the pursuit had progressed to the area of Mile 71 of the turnpike in New Gloucester. Sgt. St. Laurent, viewing the erratic operation of the loader and the intentional collision, believed that the circumstances presented an imminent threat of serious bodily injury or death. He drove his vehicle alongside the loader and fired three shots at the rear right tire in an attempt to disable the vehicle. Although none of the rounds penetrated the tire, the loader stopped, and the two juveniles surrendered without further incident. Neither boy was injured.

Both boys admitted to operating the stolen loader at different times. They destroyed 17 mailboxes in Litchfield, heavily damaged a parked car in Wales, damaged a business sign and a car and a fire hydrant in Sabattus, a police cruiser in Lewiston, and the northbound car on the Maine Turnpike. There were also several attempts to collide with other police cruisers. Each boy, charged with and adjudicated of various crimes, was remanded to the Long Creek Youth Development Center until the age of 16.

### **Conclusion**

Attorney General Janet T. Mills concludes that at the time Sgt. St. Laurent fired his weapon at the loader, it was reasonable for him to believe

that deadly force was imminently threatened against motorists northbound on the Maine Turnpike, and it was reasonable for him to believe it necessary to use deadly force – shooting at the vehicle in an attempt to disable it – to protect others from the imminent threat of deadly force and to attempt to end a situation dangerous to human life. The Attorney General’s conclusions are based on numerous interviews, a forensic investigation, and a review of all the evidence available from all sources. All facts lead to the conclusion that Sgt. St. Laurent acted to defend innocent motorists in the path of the loader.

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