

AARON M. FREY  
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

125 PRESUMPCOT ST., SUITE 26  
PORTLAND, MAINE 04103  
TEL: (207) 822-0260  
FAX: (207) 822-0259

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

December 17, 2024

City Manager Eric Glidden  
80 North Main Street  
Brewer, Maine 04412

Dear Mr. Glidden:

We have completed our investigation and legal review of the March 22, 2024, incident in Brewer involving the use of deadly force by Brewer Police Chief Jason Moffit, which resulted in the death of Barry Chick Jr., age 39, of Bangor, Maine.

#### Factual Summary

On March 22, 2024, shortly before 10:30 am, a Brewer Walmart store security employee called the Penobscot Regional Communications Center (PRCC) and reported that a male subject who had been detained for shoplifting had pulled out a gun and fled from the store. The caller described the male as wearing a black jacket, green pants, and a red bandana under a winter hat. Initially, there was confusion about whether the male subject got into a red vehicle or left on foot. Ultimately, it was determined that the man ran into the woods toward Dirigo Drive, which runs behind Walmart.

Brewer Police Chief Jason Moffit was at the police station and heard the radio traffic indicating that units were responding to an armed robbery at Walmart. He responded to the area to assist in the search for the male, later identified as Barry Chick, Jr. He understood from the radio traffic that the Mr. Chick had a firearm and was on foot. Chief Moffitt also understood from radio traffic that Mr. Chick crossed Dirigo Drive along with Interstate 395. Believing that the suspect would end up on Green Point Road, which runs perpendicular to Interstate 395, Chief Moffit went to Green Point Road and parked at the Brewer Public Works across from 208 Green Point Road, the former location of Green Point Auto. From that position, Chief Moffit was able to observe Green Point Road in both directions, including the interstate overpass. He heard additional traffic indicating that Mr. Chick was headed toward "Green Point," which could refer to Green Point Auto or Green Point Road.

Chief Moffit observed Mr. Chick appear from around the back of a building at 208 Green Point Road. Chief Moffit noted that the Mr. Chick's pants were wet indicating that he had come through the woods. Mr. Chick was moving quickly, almost jogging, but not running. Chief Moffit noted that there were several people outside in the area where he was parked. Chief Moffit did not think he could safely follow the individual, given the civilians in the area and his belief that Mr. Chick was armed. Chief Moffit drove to 208 Green Point Road in his unmarked vehicle. Mr. Chick was wearing green pants and a gray jacket, which appeared to match the description provided by PRCC.<sup>1</sup> Mr. Chick did not have anything in his hand. Chief Moffit radioed that he was out at Green Point with the suspect and exited his vehicle, wearing a police raid jacket.

Chief Moffit identified himself as Brewer Police and told Mr. Chick to stop. Chief Moffit believed Mr. Chick to be armed and was aware that he had previously drawn his weapon at Walmart. Chief Moffit drew his own weapon, keeping the barrel pointed down, because at this point Mr. Chick's hands were visible and appeared to be empty. Chief Moffit repeatedly told him to get on ground. Mr. Chick moved to his hands and knees and looked up at him. Mr. Chick then moved his arm up behind his waistband. Chief Moffitt could not see Mr. Chick's right hand and believed he was reaching for his gun and that Mr. Chick was going to shoot him. Chief Moffit raised his gun and yelled at Mr. Chick repeatedly, words to the effect of "Don't do it, don't do it, don't do it." Chief Moffit saw Mr. Chick start to come up with a flat black object that he believed to be the slide of a gun (a firearm) and fired one shot, which stopped Mr. Chick. Chief Moffit went to Mr. Chick and began to render first aid. He saw a black wallet on the ground near Mr. Chick. Other officers arrived and assisted with first aid until emergency medical services arrived. Chief Moffitt later reported that he confronted Mr. Chick because of the civilian workers outside the Public Works facility and the report that Mr. Chick had previously drawn a firearm at Walmart.

Mr. Chick died at the scene. The Office of the Chief Medical Examiner conducted the autopsy on Mr. Chick on March 25, 2024. The Medical Examiner concluded that Mr. Chick died from a gunshot wound to the neck. Toxicology results showed he had amphetamines, methamphetamines and fentanyl in his system.

### Discussion and Legal Analysis

The Office of the Attorney General has exclusive responsibility for the direction and control of any criminal investigation of a law enforcement officer who uses deadly force while acting in the performance of the officer's duties.<sup>2</sup> The detectives who conduct these investigations are independent of any other law enforcement agency. The sole purpose of the investigation in this matter is to determine if a criminal prosecution is warranted or if self-defense or the defense of others is reasonably generated by the facts.<sup>3</sup> Any such prosecution would require the State to disprove self-defense or the defense of others beyond a reasonable doubt. The investigation does

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<sup>1</sup> The Walmart employee that detained Mr. Chick described him as wearing a black jacket. Other witnesses who observed Mr. Chick fleeing described the jacket as Gray. Chief Moffitt described the jacket as Gray.

<sup>2</sup> 5 M.R.S. § 200-A.

<sup>3</sup> The applicable Maine statute requires the following for a law enforcement officer to lawfully use deadly force in self-defense or the defense of others. The officer must reasonably believe the use of deadly force is necessary to defend himself or others from the imminent use of unlawful deadly force. 17-A M.R.S. § 107(2)(A).

not include an analysis of whether any personnel action might be warranted, whether the use of deadly force could have been averted, or whether there might be civil liability. Indeed, Maine law provides that the fact that conduct may be justifiable under the criminal law does not abolish or impair any other available legal remedy.

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

When Chief Moffit fired at Mr. Chick, the evidence supports that it would have been reasonable for him to believe that Mr. Chick posed an imminent threat of serious bodily injury or death to himself and others. Chief Moffit had information that a male had pulled a gun on Brewer Walmart employees and fled into the community. Based on the reports coming into dispatch from third-party callers that were being relayed to law enforcement in pursuit, Chief Moffit had reason to believe the person he confronted was the male being sought. Mr. Chick did not respond to repeated exhortations of "don't do it," and continued to reach for what Chief Moffit believed was a firearm. Chief Moffit reported that he thought Mr. Chick was going to shoot him and that he was concerned for the civilians in the vicinity. Based on all these facts, it would have been reasonable to believe that it was necessary to use deadly force to defend himself and others from the imminent use of unlawful deadly force by Mr. Chick. All the facts and circumstances point to the conclusion that Chief Moffit reasonably believed he was acting in defense of himself and others at the time he used deadly force.

Sincerely,



Aaron M. Frey  
Attorney General