



January 5, 2017

Bryce Johnson, Chief of Police  
Juneau Police Department  
6255 Alaway Avenue  
Juneau, Alaska 99801

Re: Juneau Police Department Incident #161203-009

Dear Chief Johnson:

This letter summarizes my review of the use of deadly force by Juneau Police Sergeant Christopher Gifford against Jeremie Shaun Tinney on December 3, 2016.<sup>1</sup> The investigation revealed that Sgt. Gifford fired one bullet, after being threatened with what he believed to be a firearm. Tinney was treated for non-life-threatening injuries and was released from the hospital.

For the reasons explained below, I have concluded that Sgt. Gifford was legally justified in using deadly force. It is clear from the investigation that Tinney threatened the sergeant and others at the scene, and Sgt. Gifford fired his weapon, reasonably believing that he was acting in self-defense and defense of others. Criminal charges are inappropriate.

Please note that the purpose of my review was to determine if the sergeant was legally justified in using deadly force given the facts and circumstances of the shooting. Although my review has determined that Sgt. Gifford was justified in his actions and acted appropriately, I did not review the matter to determine if he, or any other officer, acted within any applicable use-of-force policy nor do I express an opinion as to the appropriateness of any applicable policy.

The reasons for my decision and the underlying rationale are set forth below. They are based on my review of your agency's and the Alaska State Troopers' (AST) investigative reports, along with the accompanying audios, videos, diagrams, photographs, and documentation as well as the medical reports of Tinney's treatment.

---

<sup>1</sup> Although initially two officers were thought to be involved, the investigation revealed that only Sgt. Gifford discharged his firearm; as a result, Officer Darin Schultz's actions are not a subject of this review.

### *Summary of Pertinent Facts*

Around 4:00 in the morning of December 3, 2016, the Juneau Police Department (JPD) received two 911 phone calls. The first call was from a wife, alerting JPD that her husband was on another phone with her and was saying that he needed assistance because he had been the passenger in a motor vehicle accident in which the driver was injured and needed help. He refused to tell his wife the name of the driver or to call JPD directly because they had been drinking. The wife reported that he had told her that he did not know where they were but he saw a house and he was going to climb the hill and try to contact the home owner.

While the dispatcher was speaking with the passenger's wife, a second 911 call came in from a female homeowner, reporting that there was a stranger outside her home. The female homeowner was frightened by someone appearing at their residence at that hour. She advised JPD that the intruder was seen by her husband climbing back down into the ditch across the street from their home.

Based on the juxtaposition of the two 911 calls, the dispatcher was able to determine that the calls were related, and officers were dispatched to the location of the residence, which was along Ocean View Drive. While officers were en route, the male homeowner went outside and contacted the passenger who said that he and a friend were in an accident and they drove into the ditch. In an effort to help, the homeowner went back inside to retrieve a flashlight, and he was then able to see a silver SUV down in the ditch across the street from his home. The vehicle was parallel to the street with the driver's side facing the roadway. The homeowner saw the passenger standing by the open driver's side door, shaking the driver, slapping him, shouting at him, and unsuccessfully trying to awaken him. The homeowner told the passenger that the ambulance was on the way, and the passenger reached inside and turned off the SUV's engine. The homeowner observed the driver to be laid out in the driver's seat, unmoving. The driver appeared to be unconscious.

Sergeant Gifford was the first officer on scene, arriving at the location at 04:13:54, with Officer Schultz arriving at 04:14:36. After the male homeowner explained his understanding of the situation, Sgt. Gifford climbed approximately 25 feet down the embankment to the SUV while Officer Schultz stayed on the roadway, directing the passenger to stay out of the way. The fire department/EMTs were dispatched to the location with information that there was a motor vehicle collision with possibly two potential patients.

As heard on an officer's on-scene audio recording, Officer Schultz told the dispatcher that the vehicle in the ditch appeared to be the same vehicle that had been involved in an earlier incident that evening in which a vehicle had been used to elude JPD officers. He also learned from the passenger that the driver's name was "Jeremie". Officer Schultz reported that he believed the driver was Jeremie Tinney. The dispatcher

announced that there was a 2012 advisement that Tinney had threatened to shoot officers and there were officer safety advisements in APSIN.

As shown on an officer's in-car video, Sgt. Gifford attempted to identify both the vehicle and the driver. He attempted to get a vehicle identification number (VIN) from the dashboard and then went around to the rear of the vehicle to get the license plate number, after which he returned to the driver's side door and opened it in an attempt to contact the driver. Up to this point the driver had not moved. It was now confirmed that this was the vehicle involved in the earlier eluding incident and the person in the driver's seat was Jeremie Tinney.

Sergeant Gifford reached into the SUV in an effort to arouse the driver, who began to move. Based on the driver's sudden movements, which Sgt. Gifford described as Tinney's lunging toward the center console in an effort to seize something, the sergeant backed up the hill with his gun drawn, and Officer Schultz also drew his gun and moved further away from the embankment. As seen on the in-car video and heard on the on-scene audio, Tinney sat up in the front seat and moved his arm around in a motion that the officers described as making a "finger gun"—meaning pointing his index finger straight ahead while using his thumb to simulate the hammer. The officers ordered Tinney to get out of the car, but he refused to obey their directions.

As documented in both on-scene audio and video, in an effort to better illuminate the scene, Sgt. Gifford repositioned his vehicle so that the lights pointed down the slope of the embankment, and Officer Schultz requested that the fire truck be pulled forward so that the truck's flood-lighting system could provide additional illumination. At that point Tinney moved around inside the vehicle, going from the front seat to the middle seat and then to the rear. The rear windows of the SUV were darkly tinted, so even with the increased illumination it was difficult to see into the middle and rear of the vehicle. The male homeowner, who was back on the roadway, thought that Tinney was "busy stashing drugs" in the vehicle. The female homeowner who was watching from an upper-story window noted that Tinney made quick movements between the front and back seats, while the officers were ordering Tinney to get his hands up and get out of the vehicle.

Both officers armed themselves with their patrol rifles and positioned themselves defensively behind Officer Schultz's patrol vehicle, which was parallel to the SUV but facing in the opposite direction. Officer Schultz was at the rear of the patrol vehicle, and Sgt. Gifford was at the front. Tinney continued to move around inside the vehicle, and the officers repeatedly told him to get out of the car and to show his hands. Because of concerns for others at the scene, they directed the firemen/EMTs to stage back from the area and for the fire chief to take cover behind Officer Schultz's patrol vehicle. The firemen/EMTs were advised that the person in the vehicle possibly had a weapon; as a result they waited further down the road and put on body armor. Officer Schultz detained the passenger in Sgt. Gifford's patrol vehicle because he refused to follow

directions and kept insinuating himself into the scene. While both officers focused on Tinney, Officer Schultz asked, "What the hell's he have?" The officer then shouted to Tinney, "Put it down." Officer Schultz stated to Sgt. Gifford, "It looks like a barrel." Both of Schultz's statements were recorded on his digital audio recorder and were confirmed by the male homeowner who was standing nearby. Nine seconds after these statements Sgt. Gifford fired one round from his patrol rifle through the middle window of the SUV on the driver's side, splintering the window.

Both officers directed Tinney, "Put your hands up. Put them up. Put your hands up. Get them up. Put your hands up. Come out from around the door. Come up the hill slowly." Tinney responded that he was shot in the neck, and the officers continued to direct him to come up the embankment, which he did. They asked Tinney where the gun was, and he responded, "There's no gun."

Immediately after the shot was fired, as documented in the on-scene audio, Officer Schultz stated to Sgt. Gifford that he had seen Tinney swinging something around. Sergeant Gifford noted, "It had a hole in the end of it." And Officer Schultz confirmed, "Yes it definitely had a hole in the end of it."

Once Tinney came up the embankment, he was turned over to the fire department/EMTs for medical intervention. The EMTs observed Tinney to have multiple small wounds to the left side of his head with limited, controlled bleeding and one small wound to his chest near his left nipple. He was able to walk to the gurney and was responsive to questions. [REDACTED]

[REDACTED]

[REDACTED] Tinney then became combative with hospital personnel, "demonstrated good strength in all his extremities", and had to be held down by three people. [REDACTED]

[REDACTED] His blood alcohol level was determined by the hospital laboratory to be 319 mg/dL [equating to .319 g/100mL], well over three times the legal limit for driving.

Tinney was medivaced to a hospital in Seattle where it was determined that there was a possible concussion that should resolve itself and required no treatment. The cause of the concussion was not determined. Tinney was cleared for discharge the same day he was admitted, but because flights were unavailable back to Alaska, he was transferred from acute care to general care to await transport.

While awaiting his return to Alaska, Tinney was interviewed at the hospital by officers from the Seattle Police Department (SPD), who digitally recorded the conversation. Tinney told the SPD officers that he remembered leaving the Viking Bar in Juneau and remembered nothing after that until he was shot. After being shot, he “kind of blacked out”, and he remembered a little bit at the Juneau hospital and a little bit of the flight to Seattle but he said that was all he remembered. He told the officers that he did not remember whether he was indoors or outdoors when he was shot. He explained that he did not remember what happened because “it was a traumatic situation and he lost some blood...not because he was intoxicated.” Tinney also stated that he did not know if he was actually shot or whether he was just hit by shrapnel. He did state that he had not been armed.

At the scene, JPD officers seized both Sgt. Gifford’s and Officer Schultz’s weapons, in compliance with their agency’s protocols. The officers also identified several items at the scene: (1) approximately 10 feet from where Sgt. Gifford had been standing, there was one spent shell casing which matched those from Sgt. Gifford’s firearm; (2) a Jameson Irish Whiskey bottle on the ground outside the passenger’s side front door of the SUV; and (3) a baseball cap at the top of the embankment that Tinney was wearing at the time he was seized by Officer Schultz and turned over to medical personnel.

During the later search of the SUV pursuant to a search warrant, officers and troopers found the axle that Tinney was brandishing and various items with blood spatter. Additionally, the officers seized Tinney’s clothing from the Juneau hospital and located an approximately ¼-inch bullet that was lodged in the collar of a t-shirt and a part of a bullet jacket on the sleeve of a sweatshirt.

### *Analysis*

Under Alaska law, a peace officer, as any citizen, has the right to use deadly force to defend himself and others against a threat of imminent serious physical injury or death.<sup>2</sup> A peace officer need not retreat to a place of safety prior to using deadly force if the peace officer is acting within the scope of his authority.<sup>3</sup> At the time that Sgt. Gifford made the decision to fire his weapon, Tinney had already pointed what the sergeant and Officer Schultz both believed was a firearm at them and others at the scene. The sergeant was legally justified in using deadly force against Tinney.

When interviewed by investigators with the AST Alaska Bureau of Investigations (ABI), Sgt. Gifford advised that, upon arrival at the scene, he spoke with the male homeowner who directed him to the vehicle down the embankment. When Officer Schultz arrived on scene, Sgt. Gifford went down the embankment and observed a male in the driver’s seat. The sergeant also looked into the car to see if there was anyone else

---

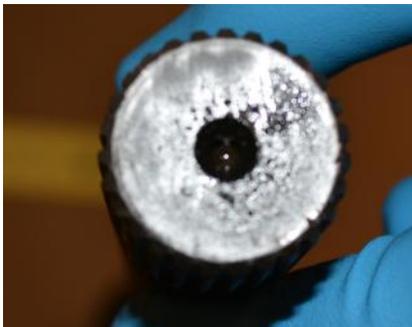
<sup>2</sup> AS 11.81.335(a); AS 11.81.340.

<sup>3</sup> AS 11.81.335(b)(2).

inside; but there was only the driver, who was draped over the steering wheel. He opened the driver's door and tried to talk to the driver but he was not responding. Sergeant Gifford called for an ambulance with the intention of them helping the driver because of possible injuries.

After checking the vehicle and the scene, Sgt. Gifford returned to Tinney and touched him on the arm to awaken him. Tinney immediately made a move to reach for something in the center console, which frightened Sgt. Gifford, causing him to draw his gun and back up the embankment. Back on the roadway, he reholstered his gun and watched Tinney moving around in the vehicle to the rear where the windows were tinted, making viewing harder. The way Tinney was moving around made Sgt. Gifford think that he was not injured from the accident after all. These circumstances along with Tinney's history raised the sergeant's level of concern. It was not just Tinney's history; it was his erratic behavior in deliberately lunging for the console, his refusal to take direction, and his lack of injury from the accident that heightened the sergeant's awareness because he could not think of any reason for Tinney to make that move except to reach for a weapon.

At one point Sgt. Gifford saw a long object being moved around in the front. He could see Tinney holding it to his shoulder and moving it back and forth. Tinney pointed it in different directions and then swung it around so it was pointing at the sergeant. He could see the tip of the object and it definitely looked like the barrel of a sniper rifle. It



was very thick like a Remington .308. And when it was pointing in his direction, he believed that he was looking down the barrel of a gun. The barrel was pointed at him for more than 2 seconds but less than 10 seconds. When he saw the barrel, he thought that he was going to take a shot to the head.

Sergeant Gifford described, "I was looking at the way he was holding the weapon and pointing the weapon." The sergeant thought that the way he was going to find out that this was a rifle was by taking a bullet in the head. He was in fear for his life and for the others who were present. He thought that he was going to get shot right between the eyes. When he first saw Tinney



holding the weapon, he yelled for Tinney to put it down, but he did not put it down; instead, Tinney moved the barrel to the sergeant's location. "So I fired one shot where I believed Tinney was." He could not see where Tinney was because of the tinting but he fired where he believed him to be based on the position of the barrel.

The movement inside the vehicle stopped and then started again, and Sgt. Gifford heard banging on one of the car windows. Officer Schultz said that Tinney was trying to break the window out. Sergeant Gifford started down the embankment to help Tinney but Officer Schultz yelled for him to get back. Officer Schultz directed Tinney out of the SUV and up the embankment. Once Tinney was secured and getting medical attention, Sgt. Gifford went down the embankment one last time to clear the SUV. He saw something inside the vehicle that had not been visible before when he had looked inside the SUV. It was an axle that had a hole in the end, and it did look to him like a rifle.



When interviewed by ABI investigators, Officer Schultz advised that when he arrived at the scene on Ocean View Drive, he saw a silver Jeep Grand Cherokee about 20-30 feet down an embankment. Sergeant Gifford was down the embankment by the vehicle, and a person who identified himself as the passenger spoke with Officer Schultz. When the passenger said that the driver was named "Jeremie", the officer immediately thought of Jeremie Tinney, and Sgt. Gifford confirmed that it was. Tinney, who was in the driver's seat, then dove toward the center console, and both officers unholstered their guns. Officer Schultz's thought was that he "wanted to make sure that he and Sgt. Gifford both made it home that night."

Officer Schultz got out his long gun, as did Sgt. Gifford; and they stationed themselves behind a police vehicle. As Officer Schultz was looking through the front of the jeep, he could see that Tinney had moved around. The officer saw what he thought was a .22-caliber rifle with a hole at the end. He either told Sgt. Gifford, "He has a gun" or "I think he has a gun." Officer Schultz saw that when it was coming around the front windshield, it was pointed in his direction and the direction of the fire chief [Capt. Johnson]. "I was afraid that I was going to get shot or Captain Johnson was going to get shot or any of the firemen." He lost his view of the vehicle while he focused on moving the fire chief to a better-protected location. Once he refocused on Tinney, he pointed his weapon to where he believed Tinney should be based on the position of the barrel.

He heard a shot and asked, "Who shot?" Sergeant Gifford said that he had. Officer Schultz then stayed in position, and he heard thumping and banging in the back of the SUV. He saw Tinney come through the two seats and grab the steering wheel to pull himself through, and Officer Schultz ordered Tinney to show his hands.

Officer Schultz concluded by saying, "If the fireman not been where he was, I would probably at that point have shot....I was scared shitless that one of us was going to be shot."

*Juneau Police Department's History with Tinney*

At the time of their contact with Tinney both officers were aware of Tinney's history with the Juneau Police Department. Officer Schultz noted that he had dealt with Tinney "too many times to count". Tinney has made threats to commit suicide and threats to commit "suicide by officer" and had domestic violence issues. Between 2009 and the current incident, JPD had investigated 26 incidents in which Tinney was associated with guns, suicide, threats, and/or domestic violence. Further, Sgt. Gifford knew that Tinney was a hunter and was known to wear hunting clothes. Officer Schultz knew that Tinney had guns, based on his experience with Tinney, information from Tinney's ex-wife, and a Facebook posting.

The following incidents were specifically referred to by Sgt. Gifford or Officer Schultz during their interviews.

[REDACTED]

[REDACTED]

) 10/18/2014: There was information about a Facebook post of Tinney with a six-shooter gun pointing at the camera and words saying "Wrong House". (Case #2014-043667)

[REDACTED]

) 11/20/16: Officer Schultz went to Tinney's house because of a Facebook posting of Tinney with a gun to his head; Tinney was not present. There were multiple calls to JPD because of the Facebook posting. (Cases #2016-047120/119/091)

) 11/25/16: Tinney was served with a domestic violence restraining order. (Case #2016-047699)

This history was the background through which the officers viewed the situation and as such it is relevant to the reasonableness of the officers' perceptions.

### *Conclusion*

I will not institute criminal charges against Sgt. Gifford in regard to the wounding of Jeremie Shaun Tinney on December 3, 2016. Under the circumstances in this case, Sgt. Gifford was entitled to use deadly force to protect himself, his fellow officer, firefighters, and civilians at the scene. The sergeant acted within the law when he shot at Tinney.

Please advise the sergeant of my decision. If you, he, or other members of your department have any questions, please encourage them to contact me. I can be reached at 269-6250 or [june.stein@alaska.gov](mailto:june.stein@alaska.gov).

Sincerely,

JAHNA LINDEMUTH  
ATTORNEY GENERAL



June Stein  
Assistant Attorney General  
Office of Special Prosecutions

cc: Investigations Lt. Scott Erickson, Juneau Police Department  
Lt. Chris Thompson, AST/ABI  
DA James Scott, Juneau District Attorney's Office  
Julie Willoughby, 227 Seventh Street, Juneau, AK 99801