

Department of Law

Office of Special Prosecutions CRIMINAL DIVISION

> 310 K Street, Suite 701 Anchorage, AK 99501 Main: 907.269.6250

July 30, 2024

Colonel Maurice Hughes Director, Alaska State Troopers 5700 E. Tudor Road Anchorage, Alaska 99507

RE: Use of Deadly Force Review—AST Case No. 24-046699

Colonel Hughes:

This letter summarizes the Office of Special Prosecutions' review of the incident involving Alaska State Trooper² Christopher Green's use of deadly force against A.P. on May 18, 2024 in Marshall. This analysis is based on my review of the investigative reports related to this incident, along with the accompanying interviews, audio and video recordings, photographs, and other evidence submitted to date. The purpose of the evaluation in this matter is to determine whether Trooper Green should face criminal charges for his use of deadly force during this incident.

After applying the governing law to the facts and circumstances surrounding this incident, OSP will not file criminal charges against Trooper Green. For the reasons explained below, I have concluded that Trooper Green was legally justified in using deadly force to defend himself and others and therefore, criminal charges are not appropriate.

¹ The Office of Special Prosecutions is hereafter referred to as OSP.

² The Alaska State Troopers are hereafter referred to as AST.

³ This review is based on the information provided up to the date this letter was written. Additional information not previously provided to OSP for review could change the analysis in this matter.

⁴ The purpose of OSP's review is solely to determine whether criminal charges against the officer are warranted given his use of deadly force. OSP does not review these cases for policy violations or to determine whether an officer's conduct is appropriate under any applicable use-of-force policies. OSP also expresses no opinion as to the general appropriateness of any AST policies, including use-of-force policies.

Summary of Pertinent Facts⁵

On May 18, 2024, Troopers responded to Marshall after receiving reports of multiple ongoing incidents, including several calls related to A.P. Thes calls included information that A.P. had made suicidal statements, was walking around with a handgun, had pointed the gun at someone, had possibly been assaulted earlier in the day, and may have been injured.⁶ A family member of A.P.'s reported to a Bethel Trooper that she was told A.P. had been shot and was bleeding. AST additionally received reports that there were other individuals in Marshall who were intoxicated and firing guns and threatening people.

AST Sgt. Yancey and Trooper Green began to investigate the incidents prior to traveling to Marshall. Trooper Green called the Marshall VPO, John Tikiun, to get more information. VPO Tikiun had not heard gunshots or heard anything about a shooting. VPO Tikiun reported he had seen A.P. around 9:00 in the morning and saw she had a "scrape" on her head; he said that at that time, she did not report having been shot or assaulted. The VPO told Trooper Green the health aid had bandaged A.P.'s head. VPO Tikiun told Trooper Green that when he contacted her, A.P. made a statement that she wanted to harm herself but said she did not need help. The VPO said that at that time, he did not see her with a gun. Trooper Green attempted to get more information about A.P.'s situation, including talking to A.P.'s sister, who said that she believed A.P. had been assaulted earlier but was scared to report the incident. He also received a report that A.P. had pointed the gun at a family member. Sgt. Yancey and Trooper Green arrived at Marshall at approximately 2:00 p.m. to investigate these incidents.

Sgt. Yancey reported that after they arrived in Marshall, he and Trooper Green met with VPO Tikiun. He said the three of them went to the residence where A.P. was believed to be, in order to check on her due to the concerns about her well-being. Sgt. Yancey said they knocked on the door and contacted the woman who owned the residence, B.O. He said B.O. told the officers that A.P. was in the house, waved the officers towards the back of the house, and then he saw her leave the residence quickly and walk away from the area as she made a ducking motion. Sgt. Yancey said that Trooper Green and VPO Tikiun entered the residence while he stayed outside; he said soon after, VPO Tikiun came running out of the house. Sgt. Yancey said he then heard two "bangs." Sgt. Yancey said Trooper Green was standing at the front door when he heard the bangs. Sgt. Yancey reported he was able to look past Trooper Green and saw A.P. lying on the floor, with a gun nearby. Sgt. Yance said

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⁵ This factual summary is based upon the investigative materials provided to OSP in the above-referenced case, including written reports, audios from the incident, audio and video recorded interviews, and photographs. This summary is limited to information necessary to explain my decision and describe the extent of my review but does not represent the entirety of the investigation or the materials I reviewed.

⁶ Due to the allegations of a potential sexual assault and the reports of suicidal ideations, A.P.'s initials are being used instead of her full name to protect her privacy.

Trooper Green told him he fired at A.P. Sgt. Yancey said A.P. was detained and was uninjured. The officers secured the gun and the scene.

AST's Alaska Bureau of Investigations⁷ traveled to Marshall to document and photograph the scene, collect FARO images, and collect evidence. The responding investigators obtained a search warrant for the house where the shooting had occurred. They saw that the front door of the house opened into the house; immediately to the right of the front door was a bathroom, in front of the door was an open living room/kitchen area, with two bedrooms at the back of the residence and a hallway in between. Investigators observed that the bedroom to the right had a door that opened into the hall, and the other room did not have a door. Investigators searched and found two 9mm spent shell casings on the floor in the bathroom.⁸ The two casings found at the scene were the same brand and caliber as the ammunition later observed loaded in Trooper Green's magazines.

Investigators noted and documented defects in the residence that appeared to have been caused by two bullets. One set of defects appeared to have been caused by a bullet that traveled through the door to the bedroom on the right before hitting the wall at the end of the hallway and exiting the house. Investigators observed a hole at the top corner of the inside side of the door, a hole in the same location but on the outside of the door, another hole in the inside wall at the end of the hallway, directly opposite the front door, and a fourth hole exiting the external wall. These four holes were at approximately the same height and all appeared to be in line with one another. All appeared consistent in size with a 9mm bullet. The location of the apparent bullet holes was consistent with a bullet having been fired from the front door, then travelling through the open bedroom door, first striking the inside of the door before traveling through the door and exiting the outside of the door, then exiting and striking the inside wall of the house and exiting the exterior wall. Investigators found a corresponding hole that exited the house on the north-facing wall. The second hole was observed in the floor near the doorway of the back right bedroom, outside of the door to the bedroom. Investigators found a bullet in the floor near that hole. The bullet was removed and appeared to be a 9mm bullet.

Investigators collected Trooper Green's body-worn camera and his audio recording and downloaded both. Trooper Green's body-worn camera did not have any recordings from this incident. His audio recording device did record the incident. Trooper Green's audio depicts him speaking to the homeowner of the residence, who reports that A.P. is inside the house, in the bedroom by herself. Trooper Green asks the homeowner if A.P. has a gun; there is not an audible response. As Trooper Green and VPO Tikiun enter the residence,

⁷ The Alaska Bureau of Investigations is hereafter referred to as ABI.

⁸ The investigator noted that the floor of the residence was slanted; therefore, it is very likely that the location where the shell casings were found is not the same location where they originally fell.

there is a sound heard that appears to be from Trooper Green attempting to turn on his body-worn camera. About 30 seconds after the Trooper first contacted the homeowner, the audio depicts VPO Tikiun repeatedly saying "please" and "don't." Trooper Green is heard asking VPO Tikiun multiple times whether she has a gun. About eight seconds later, the audio picks up what sounds to be VPO Tikiun moving past Trooper Green. Immediately afterwards, Trooper Green is heard saying, "she's got a gun." Two seconds later, two shots are heard on the recording.

Shortly thereafter, Trooper Green is heard asking A.P. if she is hurt, telling her not to touch the gun, telling her to back away from the gun, and directing A.P. to leave the house. Sgt. Yancey is heard asking Trooper Green whether Trooper Green fired or A.P. did. Trooper Green responded that he did, and added, "she pointed a gun at me." After the shooting, Trooper Green is heard on his recording saying that he is having trouble getting his body camera to work. Trooper Green also is heard asking VPO Tikiun whether A.P. pointed the gun at him too; VPO Tikiun responded that she was about to. Trooper Green can be heard saying "I heard her rack the gun." Trooper Green is also heard telling VPO Tikiun that he assumed she did not have a gun because VPO Tikiun had not told him about it, but then realized that she had one when he heard it being racked.

Later in the recording, after A.P. has been handcuffed, A.P. is heard repeatedly saying to Trooper Green, "you should have fucking killed me!" and "you wanted to earlier, hurry up, do it now!" Trooper Green is heard responding, "when you're pointing a gun at me, I'm going to respond." A.P. is heard on the recording repeatedly telling people that Trooper Green "wanted to kill her." She tells Trooper Green "I wanted to die so bad" and then immediately afterwards says to Trooper Green that he should have used a taser instead of a gun. Trooper Green is heard responding, "that's not the way it works. You point a gun, you're gonna get a gun pointed back at you." A.P. responds "I didn't know you were there, I thought this bitch was there," apparently in reference to VPO Tikiun. A.P. is also heard saying "I didn't know you were there," to which Trooper Green responds, "you saw me." A.P. then tells Trooper Green, "I didn't see you," as Trooper Green continued, "and you continued advancing with your gun towards me and you raised up the gun." A.P. then yelled at Trooper Green that her barrel was aimed at the floor.

Trooper Green provided a brief "public safety" statement to investigators at the scene; this interview was recorded. Trooper Green said they responded to Marshall because VPO Tikiun had told him that A.P. had a handgun and was suicidal. He said VPO Tikiun told him he had contact with A.P. earlier in the day because she had an injury the VPO described as a "scrape" that he helped her get medical treatment for. Trooper Green said VPO Tikiun told him A.P. then made a comment about wanting to hurt herself; he said they also received information that A.P. had pointed a gun at a family member. Trooper Green said the Troopers had additionally received reports about an incident happening nearby; he said he

did not believe there was any connection between that incident and A.P. when they arrived. However, he said they were told after the shooting incident that A.P. had been a victim earlier in the day, which was connected to the other reported ongoing incident. Trooper Green said he contacted B.O., the owner of the house where A.P. was reported to be. Trooper Green said B.O. told them that A.P. was in the back room of the house, and that she did not know if A.P. had a firearm. Trooper Green told the investigator that in response, VPO Tikiun went into the house, and he followed the VPO. Trooper Green told the investigator he fired two times from the front doorway, into the hallway of the house.

As part of the investigation, Trooper Green was interviewed by an ABI investigator more thoroughly on May 21, 2024; this interview was recorded. Trooper Green said he had not reviewed any of his audio or other materials related to the incident. Trooper Green told the investigator that he and Sgt. Yancey responded to Marshall because they received reports that A.P. was suicidal and was walking around with a handgun and had pointed it at a relative. He said they had also received calls about ongoing problems at another residence. Trooper Green said he and Sgt. Yancey arrived at Marshall at 2:00 p.m. He unsuccessfully attempted to contact A.P. by phone two times after they arrived. He said they found out from a relative where A.P. was and went to that residence. Trooper Green said he, Sgt. Yancey, VPO Tikiun, and another VPO all arrived at the residence and contacted the homeowner, B.O. He said they were not contacting A.P. as a suspect, but because they wanted to figure out what was going on and to get her some help based on the reported suicidal statements she had made. Trooper Green said that he did not believe that he had ever had in person contact with A.P. before, but said he might have previously talked to her at some point over the phone.

Trooper Green said when they knocked on the door, the homeowner, B.O., came out of the house and closed the door behind her. He said B.O. was whispering to them and said A.P. was at the house, in the bedroom. Trooper Green said when he asked her if A.P. had a firearm, B.O. responded that she did not know. Trooper Green said that B.O. then made a motion to "go in" to the house, and demonstrated it as a waving motion. Trooper Green said VPO Tikiun entered the house first, with Trooper Green behind him.

Trooper Green told the investigator that VPO Tikiun walked down the hallway to the bedroom to speak to A.P. He said Sgt. Yancey stayed outside of the residence. Trooper Green said it was kind of dark inside, but he could see pretty well. Trooper Green told the investigator he heard VPO Tikiun repeatedly saying "don't do that" as VPO Tikiun was at the doorway to the bedroom. Trooper Green said he asked the VPO if A.P. had a gun. Trooper Green said he then heard a slide rack from a firearm and at that point he knew she had a gun because of the distinct sound that the racking of the slide made. Trooper Green told investigators he saw VPO Tikiun get a little more excited while still saying "don't do that." Trooper Green said he continued to ask VPO Tikiun whether she had a gun, and said

he saw VPO Tikiun's eyes get big and saw a look on his face, and then VPO Tikiun spun and ran past Trooper Green to the door. Trooper Green said that based on VPO Tikiun's response, he believed A.P. had pointed the gun at VPO Tikiun.

Trooper Green said that when VPO Tikiun ran towards the door, Trooper Green began to also head towards the door, to find cover because there was no cover in the residence. Trooper Green said he backed up to the front door and was trying to get out of the house, but there was a blanket draped over the inside of the door. Trooper Green said that as he got to the door, A.P. stepped out of the bedroom and he saw a "gun in her right hand, plain as day." He said there was "no mistaking" that she was holding a gun. He estimated that A.P. was about 16 feet away from where he was standing.

Trooper Green said he had unholstered his gun by this point; he said he did not remember exactly when he did so, but believed it was when he heard A.P. rack the slide on her gun. Trooper Green said he had not announced to A.P. that he was a State Trooper, but said he was wearing a full Trooper uniform. He said A.P. made eye contact with him and said there was "no mistaking" he was a Trooper. Trooper Green said he had a full view of A.P. and saw her coming out of the room while immediately raising her arm, which was holding the gun, and pointing it towards him. Trooper Green said that he believes that if someone points a gun at him, they are going to shoot him. He explained that when A.P. raised the gun at him, he was "scared" and "frightened" and described it as an "intense moment." Trooper Green said he thought "for sure" A.P. was intending to shoot him, based on how she walked out of the room towards him while raising the gun as if she was going to shoot him.

Trooper Green said when he saw A.P. pointing the gun at him, he fired two shots in quick succession. Trooper Green said that he shot at her to protect his and VPO Tikiun's lives. He said the incident occurred very quickly and he did not have time to exit the residence or issue commands before he fired, without putting himself in danger of getting shot. Trooper Green said that as he was firing, the blanket fell down in front of him, partially blocking his view of A.P., so that he could only see her from the waist down. He said he never fully lost sight of A.P. Trooper Green said he did not recall A.P. saying anything during the incident. Trooper Green told the investigator that his Taser was not an option because he knew she had a firearm once he heard the sound of the slide rack.

Trooper Green said that when he fired, A.P. dropped to the ground on all fours. He said her gun was on the ground by her right hand about a foot away from her. He said he stopped firing because she no longer posed an immediate threat. Trooper Green said he got out of the house, then gave A.P. commands not to touch the gun and to exit the house. When she was out of the house, he and Sgt. Yancey detained A.P. Trooper Green said that when A.P. was secured, she told Trooper Green words to the effect of he should have just killed

her. Trooper Green said that he secured A.P.'s firearm, a 1911-style, silver .45 caliber. He said there was a .45 caliber round in the chamber; he ejected the round and removed the magazine but did not count how many rounds were in the magazine. He collected the round from the chamber and secured it, the removed magazine, and the gun. Trooper Green said that he tried to activate his body-worn camera during the incident but had been hitting the wrong button. He said his audio recorder was activated.

An investigator also interviewed VPO John "JB" Tikiun. VPO Tikiun said that they got a call letting them know where A.P. was, so he and the Troopers went to B.O.'s residence. VPO Tikiun was unarmed. VPO Tikiun said they were looking for A.P. because they had received a call earlier from A.P.'s father that she was armed with a gun and there was a concern she would harm herself. VPO Tikiun said he knocked at the door and B.O. came out and they asked her where A.P. was. He demonstrated that B.O. pointed or waved them into the house and walked out of the house. VPO Tikiun said he asked the Trooper if they should go in and he said yes, so they entered the house. VPO Tikiun said that A.P. was in the room on the left, standing up and facing the doorway as if she was waiting for them to come in. He said he walked into the residence first and stood by the door to the bedroom and asked A.P. what was going on.

VPO Tikiun said A.P. had a pistol. He demonstrated she was holding it close to her body with the muzzle pointed diagonally up and to the right. VPO Tikiun told the investigator he told A.P. multiple times "you don't need to do this." VPO Tikiun said A.P. said she was tired of living and told him to leave her alone, then she "loaded the gun" and then moved the gun "down." While talking to the investigator, VPO Tikiun demonstrated with hand movements what he saw A.P. do. As VPO Tikiun said A.P. loaded the gun, he made a movement as if he was running the slide to chamber a round; when he said she moved the gun down, he appeared to be demonstrating that she was lowering the gun with the muzzle pointed at someone. VPO Tikiun clarified that she lowered the gun so that she was pointing the barrel towards him. He said he then took off and ran from the house. VPO Tikiun said that when she pointed the gun, a silver and black or brown pistol, he did not know what she intended to do, but thought it might be to "try and scare us away, or..." VPO Tikiun said he was outside when he heard the shots. He said Trooper Green was by the door and Sgt. Yancey was outside when VPO Tikiun heard htem. VPO Tikiun said that after the shots were fired, Trooper Green was by the door, instructing A.P. to come out.

Investigators also contacted A.P. An investigator noted that while he did not observe the smell of alcohol on A.P., she appeared to him to be under the influence of drugs or alcohol. A.P. declined to speak to investigators. She was seen by medical providers, who noted she had a flat affect. Medical providers noted that A.P. provided contradictory information about the incident, including that she initially told medical providers she did not have a gun, but later said her "finger was not even on the trigger" when the incident was discussed. She also indicated to medical providers that the incident was a "misunderstanding." She told medical providers the officers were the ones who "started shooting" and said there was nothing that prompted them to shoot, such as a conversation or argument. A.P. also told medical providers at a later time that the incident started when she was walking down the street. A.P. told medical providers at one point that she was high on alcohol and gabapentin and had a gun during the incident. She also acknowledged daily marijuana and gabapentin use. Toxicology testing conducted several hours after the incident did not confirm the presence of alcohol or marijuana in her system.

The homeowner, B.O., approached Troopers at the scene. She was asked why she ducked and ran from the house as she left after the VPO and Trooper began to go into her house, and whether she expected there was going to be a shooting. B.O. said she ran because another VPO was running away and it made her anxious. Trooper Green is heard at the scene telling B.O. that he came to provide help to A.P. He also is heard telling B.O. that while he was in the residence, A.P. clearly saw that he was a Trooper. He also told B.O. that A.P. had the gun in her hand and was "coming up" with the gun.

When investigators arrived on scene, they conducted a follow-up interview with B.O. She said A.P. arrived at her residence and was bloody from an earlier incident. B.O. said she tried to comfort A.P. and asked A.P. what happened, and A.P. said she had fallen and hit her head. B.O. told the investigator did not think that was what had actually happened, based on other things B.O. heard. B.O. said she believed A.P. had actually been assaulted earlier in the day. B.O. said when the VPO and Troopers arrived and knocked on the door, she went outside to talk to them. She said they asked if A.P. was okay, and she told them A.P. was "good" and was inside and told them "please don't hurt her." B.O. told the investigator she did not know A.P. had a gun; she said she was sorry about that. She said she stayed outside as VPO Tikiun and the Troopers went into the house. She said when she saw a different VPO who was standing outside run away from the house, she ran away as well. She said she was outside when she heard the shots. B.O. said that as she heard the shots, she saw VPO Tikiun running from the house but did not see the other Troopers.

A.P.'s father told investigators that he later learned that A.P. took the gun for protection based on events that had occurred earlier in the day, and not to hurt herself, as he originally reported.

ABI Investigators collected Trooper Green's duty-issued firearm, a Glock Model 17, 9mm. Investigators also collected two spare magazines. The investigators counted the remaining rounds in the magazine that was seated in Trooper Green's firearm and found two missing rounds. Investigators also collected the .45 caliber Smith & Wesson handgun A.P. had at the time of the shooting; they observed it had a seated magazine and a chambered round. These items were submitted to the Alaska Crime Detection Laboratory

Legal Analysis

Under Alaska law, a person may use deadly force against another person when and to the extent the person reasonably believes the use of deadly force is necessary to defend oneself or others against a threat of imminent serious physical injury or death. Alaska law authorizes a police officer to use deadly force against another person to the same extent as any other person; however, an officer, if acting within the scope of authority of his or her employment, is not required to retreat. Alaska statutes define deadly force as force that the person uses with the intent of causing, or uses under circumstances that the person knows create a substantial risk of causing, death or serious physical injury. Deadly weapon is defined by Alaska law as any firearm, or anything designed for and capable of causing death or serious physical injury, including a knife...

The potential criminal liability of Trooper Green is governed by the above-referenced law. That is, if Trooper Green reasonably believed his use of deadly force was necessary to prevent imminent serious physical injury or death to himself or others, he was legally justified in using deadly force. In other words, in order to overcome a claim of self-defense and secure a conviction against Trooper Green, the State would be required to prove beyond a reasonable doubt that Trooper Green did not reasonably believe his action in shooting at A.P. was necessary to defend either himself or VPO Tikiun against serious physical injury or death.

When analyzing Trooper Green's conduct, the law requires an analysis based on the totality of the events. In this case, the Trooper was responding to a residence to look for a person he had been informed was armed with a gun, had expressed self-harm ideations, and had pointed a gun at a relative. When he and VPO Tikiun arrived at the scene, Trooper Green reported that based on VPO Tikiun's words and conduct, he was worried that A.P. had a gun. Trooper Green reported he then heard the "distinct" sound of a gun racking, and knew that A.P. did in fact have a gun. Although Trooper Green unsuccessfully attempted to get verbal confirmation from VPO Tikiun that A.P. had a gun, he described that based on VPO Tikiun's words, facial expressions, and actions, to include running from the residence, he believed that A.P. had pointed the gun at VPO Tikiun. Although as a law enforcement Trooper Green did not have a duty to retreat, he nevertheless attempted to leave the

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⁹ The analysis of these items has not been completed. However, due to the witness reports of the incident, there is no indication that Trooper Green's firearm did not work as intended, nor is there indication that A.P. fired her weapon. In light of the specifics of the case, the ballistics report does not appear to be critical to the review of this matter. When the report is received, I will review it and will reissue a letter if the ballistics report impacts my analysis in any way.

¹⁰ AS 11.81.335(a); AS 11.81.340.

¹¹ AS 11.81.335(b)(2).

 $^{^{12}}$ AS 11.81.900(b)(16). "Force" is further defined (AS 11.81.900(b)(28)) as is "serious physical injury" (AS 11.81.900(b)(59)).

¹³ AS 11.81.900(b)(17).

residence. However, Trooper Green was unable to get out of the residence before A.P. exited the room and pointed a gun at him. Trooper Green described his belief and fear that based on A.P.'s actions, she was moving in a way that demonstrated an intent to shoot him. He explained that he fired at A.P. in order to protect his and VPO Tikiun's lives. Trooper Green also explained that due to the fast-moving nature of the events, he did not have time to issue commands to A.P., nor did he believe the use of less-than-lethal force was appropriate, given the danger A.P. presented while pointing a gun at him.

Based on the circumstances that confronted Trooper Green, to include that he heard VPO Tikiun tell A.P. "don't" multiple times, heard a slide rack as if a gun was being prepared to be fired, saw VPO Tikiun's reaction, then saw VPO Tikiun run out of the residence, that he saw A.P. with a gun, and that he saw A.P. point the gun at him, Trooper Green's belief that his action in shooting at A.P. was necessary to defend himself and/or VPO Tikiun was reasonable. In light of the circumstances at play, Trooper Green was similarly reasonable in his belief that the use of alternate less lethal options was not feasible given that A.P. was holding a deadly weapon and pointing it at Trooper Green. A.P.'s action in pointing the gun at Trooper Green, and Trooper Green's reasonable belief that A.P. had pointed a gun at VPO Tikiun based on what he witnessed and heard, provided a reasonable basis for his belief that A.P. presented a threat of imminent serious physical injury and/or death to him and/or VPO Tikiun. It was not unreasonable for him to shoot at her given these circumstances.

Trooper Green was therefore legally justified in using deadly force against A.P. based on his belief that A.P. posed a threat of imminent serious physical injury and/or death towards him and criminal charges against Trooper Green are not appropriate.

Conclusion

The State will not file criminal charges against AST Trooper Christopher Green relating to the May 18, 2024 use of deadly force against A.P. in Marshall, Alaska. Should it be necessary, you may advise Trooper Green of this decision. Please contact me if you have any questions. I can be reached at 907.269.6250 or jenna.gruenstein@alaska.gov.

Sincerely,

TREG TAYLOR

ATTORNEY GENERAL
Jenna gruenstein

Jenna L. Gruenstein

Chief Assistant Attorney General

Office of Special Prosecutions

CC: Clinton Campion, Attorney for Trooper Green