

LAW OFFICE OF
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Via email: jack.mckenna@alaska.gov

Jack R. McKenna, Esq.
Chief Assistant Attorney General
Office of Special Prosecutions

Re: Use of Deadly Force Review in relation to JPD Incident No. 191229-001,
Shooting death of Kelly Stephens

Dear Mr. McKenna:

Our office, in association with attorneys John Sweeney and Steven Glickman, represents Kevin and Virginia Stephens, the parents of decedent Kelly M. Stephens

We have reviewed your letter to Chief Mercer dated March 6, 2020, declining to criminal prosecute Juneau Police Officer James Esbenshade. Since then, we have been provided with some of the investigation materials by the Juneau City Attorney, Robert Palmer (cc'd on this request).

In reviewing these materials and your letter summarizing your review for the shooting incident, we are requesting that you re-open your investigation. Specifically, your analysis left out a troubling part of the events leading to Kelly's death.

Your "Factual Summary" includes a section titled "Incident at the Super Baer involving Mr. Stephens on the night of December 28" followed by another section titled "Shooting Incident at the Chinook Apartments on the morning on December 29".

Missing are the events we have now uncovered between those two "incidents". The JPD report – at page 58 (attached) -- describes in bone- chilling detail Officer Esbenshade talking to himself and formulating his premediated plan to shoot Kelly if he found him. We were able to review the video and have made a clip of the two segments where Officer Esbenshade is talking to himself about his plan.

Here is a link to the augmented video with the transcription of Officer Esbenshade's comments added:

<https://www.dropbox.com/sh/n3ogoi459ak6hgo/AADoLbdVKiW9BkblvhLbm8sBa?dl=0>

This pre-planning by Officer Esbenshade clearly changes the whole series of events and how they fit together. Your conclusion needs to be re-evaluated.

I am sure you have seen the report in the Anchorage Daily News "When Alaska police use deadly force, who holds them accountable" documenting that all the killings by police and troopers since 2015 have been ruled justifiable homicide.

On behalf of Kelly's family, we are requesting that you re-open your investigation and review based on this explosive evidence missed on the initial review. We trust that with this information, this killing will be put in its proper context, and this homicide will be ruled not justifiable.

Thank you for giving this request the immediate attention it deserves.

Sincerely,

LAW OFFICE OF
BEN CRITTENDEN, P.C.



Ben Crittenden

cc: Robert Palmer, Esq. [via email Robert.Palmer@juneau.org]

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