



**APRIL 16, 2019 OFFICER INVOLVED SHOOTING
4989 GOLLY ROAD, TOWN OF LEE, NEW YORK**

REPORT OF THE OFFICE OF THE ONEIDA COUNTY DISTRICT ATTORNEY

DISTRICT ATTORNEY SCOTT D. MCNAMARA

Shooting Review: D.A. Case # 24069 / Investigation into the Death of Tyler Johnson

<u>POLICE AGENCY INVOLVED</u>	<u>DATE OF INCIDENT</u>	<u>ON (X) DUTY – OFF () DUTY</u>	<u>Uniform (Y)</u>
New York State Police	April 16, 2019	On-Duty / Officer Involved Shooting	

THE INVOLVED MEMBER OF SERVICE

New York State Police Trooper Robert Annarino is a member of the uniformed force of the New York State Police. He is assigned to Troop D, which includes the Town of Lee, County of Oneida.

Trooper Robert Annarino's date of entry with the New York State Police was October 24, 2016. Trooper Annarino successfully completed all required New York State Police training at the New York State Police Academy, in Albany, New York. Such training included instruction on defensive tactics. Trooper Annarino's training included instruction specific to "edged weapons." This training was designed to "provide New York State Police recruits with the basic knowledge and skills to demonstrate proficiency in defending against attacks from different angles with edged weapons."

Military Background – Trooper Robert Annarino served in the United States Armed Forces and was honorably discharged in March of 2015

REASON FOR POLICE AGENCY CONTACT

On April 16, 2019 at 19:10:44 hours, Oneida County 911 (OC 911) received a call from a reporting person (RP) at 4989 Golly Road in the Town of Lee regarding a 25 year old male, possible overdose. Subject was breathing and not responding. AmCare ambulance and the Lee Center Fire Company were dispatched to the residence at 19:12:33 and 19:13:25 hours and staged in the area for law enforcement per their protocol. Trooper Annarino (NYSP 1D45) was the first police officer to arrive on scene. At 19:15:26 OC 911 advised responding units that the RP was back on the line and stated that the male (Tyler Johnson) told the RP that he was going to kill himself.

NEW YORK STATE POLICE RESPONSE

The New York State Police assumed the lead on the shooting investigation and assigned numerous personnel to secure statements from all law enforcement, fire and EMS personnel involved with this incident as well as family members and friends of the deceased subject. Those documents were reviewed as a part of the preparation of this report. The involved public safety agencies and personnel were fully compliant with the investigation conducted by the Oneida County District Attorney's Office.

DISTRICT ATTORNEY RESPONSE ON APRIL 16, 2019

On April 16, 2019, the District Attorney's Office was advised that a member of the New York State Police was involved in an on-duty officer involved shooting that resulted in the death of an armed civilian at 4989 Golly Road in the Town of Lee, County of Oneida. Upon being notified of the officer-involved shooting incident, Oneida County District Attorney Scott D. McNamara and First Assistant District Attorney Dawn Catera- Lupi responded immediately to the scene at 4989 Golly Road in the Town of Lee. Upon their arrival on April 16, 2019, the scene was secured by a yellow crime scene tape and was guarded by the New York State Police. At the time District Attorney McNamara arrived on the scene, the New York State Police had not yet started their forensic investigation of the scene. After being briefed on the scene, and viewing the interior of the home, including the bedroom in which the shooting occurred, District Attorney Scott D. McNamara went to the New York State Police headquarters in the Town of Lee to be briefed on the investigation to date. Depositions were secured from witnesses and promptly supplied to members of the District Attorney's Office for review. The depositions from first responders and law enforcement personnel were consistent in description of their event, and in particular that Tyler Johnson was armed with a knife.

NOTIFICATION OF N.Y.S. ATTORNEY GENERAL PER GOVERNOR'S EXECUTIVE ORDER NO. 147

On April 16, 2019, District Attorney Scott McNamara, while enroute to the scene, called Deputy Attorney General Paul Clyne of the Office of New York State Attorney General (AG) and notified him of this shooting incident. In the early morning hours of April 17, 2019, members of the AG responded to Oneida County to initiate an investigation. After numerous days of investigating this incident, reviewing reports, body worn camera footage and conducting their own interviews, the AG notified District Attorney McNamara that they lacked jurisdiction in this matter due to the fact that the deceased, Tyler Johnson, was armed with a weapon and therefore turned the investigation over to the District Attorney of Oneida County for further action.

OFFICE OF THE DISTRICT ATTORNEY REVIEW

District Attorney Scott McNamara assigned Assistant District Attorney Grant J. Garramone, Bureau Chief of Narcotics, to review this incident and issue the appropriate report based upon the findings. This report is an abridged summary provided for the purpose of enumerating salient points regarding this On Duty Discharge of the Firearm incident by the New York State Police. This report does not reflect the entirety of the extensive investigation conducted by the Oneida County District Attorney's Office and New York State Police. Police and other governmental reports, supporting depositions, medical documentation, photographs, body camera footage, telephone records, OC 911 calls, social media postings, news media reports, etc., were reviewed as part of the preparation of this report by the District Attorney's Office.

bedroom. Together, the men attempted to roll Tyler Johnson over and it was observed by Trooper Annarino that Tyler Johnson was clutching a knife with the blade pointing up towards Tyler Johnson's neck. Immediately upon making this observation of a weapon, Trooper Annarino announced "HE'S GOT A KNIFE" to alert the EMS member Paul Taylor of that fact. Trooper Annarino noted that the room was light and that Tyler Johnson had his eyes open and would have seen him. Trooper Annarino was wearing Kevlar gloves, and with both hands he grabbed the blade of the knife. Trooper Annarino believed Tyler Johnson's intention was to stab himself in the neck and the trooper's intention was to prevent him from doing so. Trooper Annarino was screaming over and over "DROP THE KNIFE, DROP THE KNIFE, DROP THE KNIFE," but Tyler Johnson continued to clutch it. Tyler Johnson was trying to get up off of the bed. Tyler Johnson had gotten himself on his knees with his left elbow on the bed. Tyler Johnson kept his left hand on his knife and with his right hand he reached up towards Trooper Annarino's duty belt and grabbed a hold of his Taser handle. His hand quickly swept across Trooper Annarino's duty belt trying to grab items and he unsnapped Trooper Annarino's pepper spray case. As his hand touched Trooper Annarino's gun holster, Trooper Annarino let go of the knife with his right hand and with his right hand he swept at his arm to get it away from his gun and duty belt. Tyler Johnson still had the knife in his left hand and Trooper Annarino lost control of it. Tyler Johnson began to stand up on the bed and advance towards the Trooper. Trooper Annarino took action to prevent Tyler Johnson from coming towards him by grabbing his right shoulder with his left hand. Tyler Johnson had the knife in his left hand near his left ribs and was advancing towards the Trooper in a manner that the Trooper believed constituted an unprecedented level of threat to his life and that of Paul Taylor who had taken a position of cover behind the Trooper. Believing his life to be in jeopardy, as well as the life of EMT Taylor, Trooper Annarino removed his duty weapon from his holster with his right hand and, as Tyler Johnson continued to advance, fired his weapon at Tyler Johnson until such time as the trooper determined that Tyler Johnson was no longer a threat to his safety or the safety of any of the other persons present. Tyler Johnson was so close to Trooper Annarino that the trooper's tie had a bullet hole in it from the close quarters shooting incident. When Tyler Johnson fell to the floor, Trooper Annarino handcuffed him for officer safety and Deputy Latic, who was present in the room during the shooting, retrieved a knife from underneath Tyler Johnson and placed it on top of the bed. This action is documented on the body worn camera. Immediately after the situation was rendered safe, Trooper Annarino and Deputy Latic called for EMS and Fire to respond into the residence as Trooper Annarino and Paul Taylor applied pressure to Tyler Johnson's injuries. EMS and Fire personnel eventually took over the treatment of Tyler Johnson who was removed from the scene by AmCare ambulance and later transported to Rome Memorial Hospital where he was pronounced dead at 20:02 hours on April 16, 2019 by Dr. Orlando Cruz. While on-scene, family members of the subject were heard to be yelling that they were going to sue the trooper. Trooper Annarino has been compliant with this investigation and was interviewed by District Attorney McNamara regarding this matter with his PBA Attorney present. He was also interviewed in a separate interview by members of the New York State Police.

Paul W. Taylor **Paramedic AmCare Ambulance, Inc.** **28 YOS**

LCFD and AmCare were dispatched to 4989 Golly Road in the Town of Lee on April 16, 2019 for an unresponsive male – possible overdose. Taylor responded directly to the scene. NYS 1D45 was on scene upon his arrival. Taylor waited in his vehicle until being advised by dispatch that he was clear to enter the scene. Taylor observed a state trooper attempting to make contact with the subject whom Taylor observed to be laying on the bed in a prone position with his hands under his chest. The trooper advised Taylor that he thought that the subject may be having a seizure. Taylor observed that the subject was tensed up and that he was holding his hands under chest. Taylor tried to arouse the subject by grabbing his right leg and the trooper assisted Taylor in attempting to roll the subject over to assess his airway. A Deputy Sheriff also arrived on scene. Taylor was able to get the subject to half roll over and noticed that he was still clenching his hands to his chest and he was not verbally responding. While attempting to roll him over the subject became extremely combative and attempted to kick Taylor and the trooper. Taylor grabbed the subject's knees to restrain him and he heard the trooper announce that "HE HAS A KNIFE." Taylor observed the subject HOLDING A SILVER IN COLOR KNIFE IN HIS HANDS BY HIS CHEST. Taylor heard the trooper yell REPEATEDLY to the subject to DROP THE KNIFE. The trooper attempted to gain control of the subject's hands. Taylor continued to hold the defendant's legs until the male attempted to roll off of the bed and get on his feet. The trooper yelled for Taylor to get out of the room but was blocked. Taylor got behind the trooper and held onto the trooper's vest and moved backwards with him. Taylor could not see the subject and heard four (4) or five (5) loud pops and smelled a heavy smell of gunpowder. The Trooper was yelling DROP THE KNIFE. Taylor was able to look around the trooper and observed the subject on the ground. Taylor was able to observe the KNIFE which a police officer placed on the bed. Medical attention was being administered. Taylor FELT LIKE HIS LIFE WAS IN GRAVE DANGER and that the subject was OUT OF CONTROL ACTING RECKLESSLY AND AGGRESSIVELY. The subject was SO STRONG that Taylor was UNABLE TO HOLD DOWN HIS LEGS. Taylor BELIEVES THE TROOPER SAVED HIS LIFE and that he WOULD NOT HAVE BEEN ABLE TO DEFEND HIMSELF HAD HE BEEN ALONE. The trooper attempted to render aid to the subject after the shooting and WAS EXTREMELY PROFESSIONAL.

Deputy Emrah Latic **Oneida County Sheriff's Office**

Deputy Latic was working as a uniformed member of the Oneida County Sheriff's Office on April 16, 2019 and was assigned to the 6 PM to 6 AM shift. At approximately 19:05 hours, the Deputy was responding to an alarm call at 8086 Turin Road in the outer district of Rome. Trooper Annarino was also initially responding to the alarm but diverted to an overdose call at 4989 Golly Road in the Town of Lee that was occurring around that same time frame. Deputy Latic arrived on scene first at 8086 Turin Road and Trooper Annarino diverted to assist EMS at the medical call. Once Deputy Latic cleared the alarm at 8086 Turin Road he responded to the overdose call at 4989 Golly Road. Upon arrival Latic observed fire and EMS personnel on-scene and he entered the residence. Upon entry, an AmCare employee told the Deputy that "THE GUY IN THE ROOM HAD A KNIFE AND WAS FIGHTING" and Deputy Latic went to the bedroom to assist while the AmCare employee exited the residence. Deputy Latic noted that there were several people in the hallway as he made his way to the bedroom. Upon entering the bedroom Deputy Latic observed a male subject, later identified as Tyler Johnson, on the bed. Latic observed that the subject was struggling with Trooper Annarino and the AmCare member. Latic described the scene as violent and stated that Tyler Johnson was screaming at Trooper Annarino and the AmCare member (Paul Taylor) to get off of him. Latic was attempting to gain control of Johnson's legs and heard what he

James E. Fisher 1st Lieutenant LCFC/EMT

On 04/16/2019 at 19:20 LCFC was dispatched to a report of an overdose, seizure, unresponsive person on Golly Road in Lee. He responded with three (3) other LCFC members and staged in the area and awaited law enforcement to clear the residence. OCFC advised that the scene was clear and they proceeded with AmCare to the residence. Upon entering Fisher observed PAUL TAYLOR from AmCare entering the room where the subject was located. There was a trooper in the room. Fisher heard someone say "HE'S GOT A KNIFE." AT LEAST TWICE. Someone else yelled that there was a KNIFE and FISHER ALSO REPEATED THAT THERE WAS A KNIFE because a Sheriff's Deputy was behind him and the Deputy then ran past him to the room and Fisher observed that there was a struggle going on with the patient in the room. Fisher observed the subject swing his arm towards someone in the room but could not tell who. Fisher then heard at least four (4) gunshots and turned to get away from the room. Fisher exited until he was advised it was safe to re-enter and when he re-entered AmCare was rendering aid to the subject.

Haley J. Gawarecki EMT LCFD

On 04/16/2019 at 19:12 LCFC was dispatched to 4989 Golly Road in the Town of Lee for a possible overdose of a 25 year old male who was breathing bot not responsive. EMS 1 was manned with Matt Chrysler, James Fisher, Rebecca Rouillier and Gawarecki who responded and staged at the corner of Lee Valley Road and Golly Road awaiting law enforcement to say it was safe to proceed per LCFC protocol. OCFC advised that it was safe to proceed and they proceeded to the residence and saw a trooper's vehicle on scene. When she got on the porch she heard gunfire from within the house and she RAN OFF THE PORCH AND DUCKED BEHIND THE TROOPER'S CAR. When it was safe to enter, Gawarecki entered with others to render aid.

INJURIES SUSTAINED BY TYLER JOHNSON (FATAL)

Johnson arrived to Rome Memorial Hospital at 19:54 hours with AmCare ambulance. He was unresponsive and in full cardiac arrest with CPR in progress. At Rome Memorial Hospital, Johnson was treated by hospital personnel for wounds in his chest that were actively bleeding. Johnson received advanced cardiac life support until resuscitation was stopped due to the extent of the injuries. He was pronounced dead by Doctor Orlando Cortez at 20:02 hrs.

TOXICOLOGY RESULT

The toxicology report completed by the Onondaga County Medical Examiner's Office indicated Cocaine/metabolites by GC/MS Benzoyllecgonine 160 ng/mL; Acid Neutral Drug Screen by GC/MS Levetiracetam (Positive); Cannabinoids by LC/MS/MS Delta-9 THC 10 ng/mL, Delta-9 carboxy-THC 36 ng/mL, 11-hydroxy delta-9 THC 2.7 ng/mL.

AUTOPSY FINDINGS

Proximate cause of the death of Tyler Johnson were the gunshot injuries sustained during Tyler Johnson's attack upon Trooper Annarino and the first responders. Per your writer's July 9, 2019 conversation with Dr. Catanese, nothing in his physical examination indicated that Tyler Johnson had a seizure at the time of the contact with Trooper Annarino (i.e., no bite marks on tongue) located during post-mortem examination of the deceased. Further, no witnesses from law enforcement, Fire/EMS reported Tyler Johnson as having an epileptic seizure.

EXAMINATION OF TYLER JOHNSON'S SOCIAL MEDIA AND PRIOR POLICE CONTACTS

An examination of Johnson's internet searches and social media and prior police contacts was conducted as a part of this investigation and establish that Tyler Johnson had contemplated suicide and appeared to have committed to ending his life in the time period immediately preceding his contact with Trooper Annarino on April 16, 2019.

Tyler Johnson Internet Search History (Google Chrome)

March 5, 2019 5:39:48 PM (UTC-5) - "quick and easy way to kill yourself."

March 5, 2019 5:39:05 PM (UTC-5) - "Is there a fast and easy way to kill myself"

March 5, 2019 5:38:59 PM (UTC-5) - "Is there a fast and easy way to kill myself"

March 5, 2019 5:38:35 PM (UTC-5) - "Is there a fast and easy way to kill myself"

March 5, 2019 5:38:27 PM (UTC-5) - "quick and easy ways to kill yourself."

March 5, 2019 5:37:56 PM (UTC-5) - "painless way to kill yourself?."

March 5, 2019 5:37:43 PM (UTC-5) - "quick and easy ways to kill yourself."

Facebook Posting 04/16/2019

"God please take my life now, I can't deal with it anymore I just want to be with my loved ones in heaven."

Tyler Johnson SMS Messages

Outgoing text message to contact Ashley Johnson (315-240-XXXX) 04/16/2019 6:50:17 PM (UTC-4)

Ya, wants nothing to do with me and what I just posted on FB is going to happen now, Love you until we meet again.

Outgoing text message to contact Ashley Russell (315-225-XXXX) 04/16/2019 6:46:22 PM (UTC-4)

I'd never do what I did to you ever Ashley I know you don't believe me but that's the truth and seeing how you are never going to be in my life again my life isn't worth living so give Halie the life she deserves living."

Incoming text message from contact Ashley Russell (315-225-XXXX) 04/16/2019 6:42:49 PM (UTC-4)

Tyler, I can't. There's no trust whatsoever. You can't build a relationship on that or try to fix one even. I still do love you but that's only bc you're Halie's father other than that I don't want to be with you. You've done way too much to me for me to ever consider being with you again. I just can't put myself through that again.

Outgoing text message to contact Ashley Russell (315-225-XXXX) 04/16/2019 6:29:42 PM (UTC-4)

I'd even let you delete everything on my phone and go through it whenever also cut whoever out of my life just to have you two back in my life...Anything Ashley please let me show you the guy you once knew and want me to be I really can't live without you two.

Incoming text message from contact Ashley Russell (315-225-XXXX) 04/16/2019 6:18:43 PM (UTC-4)

You say all this stuff but you never showed me you would do it. You treated me like complete shit throughout our whole relationship and cheated on me basically our entire relationship. Our family is broken and cannot be repaired. You have lied to me so much that I trust you as far as I can throw you. I'm not trying to sound mean but you did this to yourself. I can't be with someone the way you treated me. I don't deserve it. I put up with so fucking much when it came to you. I can't do it anymore. I was constantly depressed when I was with you. I'm actually happy now. I'm not going to give up my happiness for something I know will just be the same until the end of time.

Outgoing text message to contact Ashley Russell (315-225-XXXX) 04/16/2019 6:02:36 PM (UTC-4)

My last words are you are the only female I'd ever marry but I'd never hear the words "I do" come out ur mouth so I'm going to be with my grandparents now love you too girls see y'all when it's ur time bc mines now goodbye.

Outgoing text message to contact Ashley Russell (315-225-XXXX) 04/16/2019 5:39:14 PM (UTC-4)

That's all I want is "our family" back together. I'll do anything to get my girls back were they belong. I honestly can't live without you two. Everyday I cry and have bad thoughts bc all that runs through my mind is you two and you saying that I'd never have what I once did have and that sunked in and you are right I'd never have a beautiful lady and daughter, you two are the only girls I want in my life right now and forever. What I want is just a dream that won't come true bc of myself. So my last words are I love you both and I will never stop loving you both please be the mother that I know you can be and was when we were a family love you both I guess it's goodbye until we meet again.

Previous Suicidal Statements to Law Enforcement

Trooper T. Dienhoffer was dispatched by OC911 to 4989 Golly Road in the Town of Lee on May 23, 2009 for a "hang up/possible dispute." At that location, Dienhoffer made contact with Robbie C. Johnson (father) and Tyler Johnson (Son). While on-scene Tyler Johnson told the trooper that he "did not want to live anymore" and that "[h]e wants NYSP to use his gun and end his life" (NYSP incident report 5/23/2009). Johnson was MHL 9.41 and taken to Rome Memorial Hospital for an evaluation.

Prior Police Contacts With Tyler Johnson

Tyler Johnson had previous contacts with law enforcement officers prior to April 16, 2019. A brief summary of some of those events are included as background information for this instant report.

On January 11, 2019, the OCSO responded to 4989 Golly Road in the Town of Lee for a domestic dispute. It was documented that Tyler Johnson aggressively charged Ashley Russell and twice slammed her head off of a door causing injury to the left side of Ashley Russell's head. Tyler Johnson punched the kitchen door with a closed fist causing damage to the door.

On May 28, 2017, the OCSO responded 4989 Golly Road in the Town of Lee for a domestic dispute. The OCSO documented a complaint of Ashley Russell that Tyler Johnson had slapped her on the right side of her face and left arm. Johnson admitted to this conduct but no charges were desired by Ashley Russell.

On January 10, 2017, the Oneida County Sheriff's Office arrested Tyler Johnson for forcible touching after receiving a complaint from a female Wal-Mart employee that Tyler Johnson, a customer, approached her from behind and touched her in an inappropriate manner. It was reported by Wal-Mart that Johnson was recognized as a customer who had victimized another female employee in the store in the past weeks. Tyler Johnson admitted to grabbing two female Wal-Mart employees on the backside when he was interviewed by the Oneida County Sheriff's Office on January 10, 2017.

On August 13, 2015, Tyler Johnson was arrested by New York State Police after a dispute at 4989 Golly Road in the Town of Lee. During that dispute, Tyler Johnson punched his sister's girlfriend in the face, broke and interior door in the residence and used a baseball bat to make dents in the hood of his sister's vehicle and struck his sister's dog with a baseball bat.

On March 16, 2013, The OCSO responded to 4989 Golly Road for a domestic dispute wherein Tyler Johnson's father reported that Tyler had been kicking and punching his 1999 Chevy Silverado. The OCSO documented that upon making contact with Tyler Johnson, a knife was removed from Tyler's front belt loop by the Deputy. A butterfly knife was also secured along with a quantity of marijuana and associated paraphernalia from wooden boxes belonging to Tyler Johnson.

On March 15, 2013, the OCSO responded to 5165 Lee Valley Road, Lot # 38 in the Town of Lee for a verbal domestic. The RP was Tyler Johnson who complained that his father Robbie Johnson arrived at that location and started an argument. It was documented in the dispatcher's comments at 22:50:52 hours that the RP has a jack knife in his pocket and that he will put it away.

On December 15, 2012, New York State Police responded to a disorderly conduct complaint. Tyler Johnson and a Michael Coniglio were engaged in a fight in the roadway on Lee Valley Road in the Town of Lee.

On March 28, 2011, Rome Police charged Tyler Johnson with Harassment in the Second Degree for pushing Patrolman Robert Galluppi during an investigation that he was conducting in the 100 block of North Madison Street. Tyler Johnson was also charged with Resisting Arrest after refusing several directives by Patrolman Galluppi to place his hands behind his back.

Family Information

Tyler Johnson was the biological father to two children by two different women. Tyler Johnson revoked his paternity rights to his oldest child in an effort to avoid paying two years of unpaid child support.

CONCLUSION – SHOOTING JUSTIFIED UNDER NEW YORK STATE PENAL LAW ARTICLE 35

The Oneida County District Attorney's Office finds that the shooting in this instance was justified pursuant to Article 35 of the Penal Law and was not conducted in a manner that violates the laws of the State of New York.

“Under our law, a person may use deadly physical force upon another individual when, and to the extent that, he/she reasonably believes it to be necessary to defend himself/herself [or someone else] from what he/she reasonably believes to be the use or imminent use of [unlawful] deadly physical force by such individual.”

Based upon all of the information that was obtained from the investigation, Tyler Johnson was armed with a weapon and acted in an aggressive manner toward Trooper Annarino and AmCare medic Paul Taylor causing them to fear for their lives. In response, and per his New York State Police training, Trooper Annarino took action that was necessary to protect his life and the lives of Paul Taylor, Deputy Latic and other first responders on the scene.

Tyler Johnson brandished the knife and swung that knife at Trooper Annarino as he turned toward the end of the bed. Johnson also grabbed at Trooper Annarino's Taser, pepper spray and holstered duty weapon. For these reasons Office Trooper Annarino's belief that his life, as well as the life of EMT Taylor, was in jeopardy, was reasonably justified pursuant to **Article 35 of the New York State Penal Law**.

RECOMMENDATION

It is recommended that no referral to the Grand Jury be made in this matter. It is the conclusion of this Office that Trooper Robert C. Annarino acted lawfully and in conformity with the policies and procedures of the New York State Troopers and the Laws of the State of New York.

Respectfully Submitted,

Date: July 22, 2019

Grant J. Garramone, Esq.

Bureau Chief ADA

END OF REPORT
