

Cleveland cop who killed twelve-year-old exonerated

By Tom Hall
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A grand jury in Ohio on Monday declined to indict Cleveland police officer Timothy Loehmann for last year's shooting death of twelve-year-old Tamir Rice, in the latest instance of a police officer being let off the hook for murder.

The African American youth was playing with a friend's toy pellet gun in a park on November 22, 2014. A neighbor called the police and told dispatchers that Rice was probably a juvenile and that his "gun" was probably a toy. Officers Loehmann and Frank Garmback, upon arriving at the scene, ran their squad car onto the sidewalk and pulled up only a few feet from Rice. Loehmann then exited his vehicle and almost immediately fired at Rice, fatally injuring him. The entire incident lasted a few seconds.

The officers refused to provide first aid for the next four minutes as Rice lay bleeding on the ground. His older sister was arrested as she attempted to come to her brother's aid. The youngster died in the hospital the following day.

The entire incident was captured by surveillance footage from multiple angles, all of which is publicly available on Youtube, where the videos have been viewed well over 1 million times.

The Ohio grand jury decision comes as the wave of police brutality and murder continues unabated across the United States. As of this writing, 1,190 people have been killed by police in 2015, according to the web site killedbypolice.net, a 7 percent increase over 2014.

There are no signs of let-up as the year draws to a close. In the Detroit suburb of Dearborn last Wednesday, a police officer shot and killed unarmed Kevin Matthews, a 36-year-old black man, who was wanted for violating his probation and was suspected of misdemeanor theft.

On Saturday, Chicago police shot three people, killing two, within twenty-four hours, including yet another fatal shooting by police during a "welfare check" on a mentally ill person.

On Sunday, sheriff's deputies shot and killed an unarmed man near Biloxi, Mississippi when the individual, whose name was not immediately released, failed to pull his vehicle over as demanded by the officers.

These shootings follow by one month the court-ordered release of dashboard camera footage showing Chicago police gunning down 17-year-old Laquan McDonald last year, exposing a cover-up by local and federal authorities.

Monday's ruling in the Tamir Rice case is a travesty of justice, but it will not come as a surprise to those who have followed the case. It is the result of a systematic, months-long whitewash of the murder by Cuyahoga County Prosecutor Timothy McGinty. From the start, the grand jury proceedings were rigged to exonerate Loehmann and his partner.

McGinty scoured the country to obtain reports from three "expert" witnesses, all of whom are longtime members or associates of law enforcement agencies, which determined that Loehmann's actions were "objectively reasonable." These reports were released on the county prosecutor's web site, part of a policy by McGinty's office to selectively release information from the secret grand jury proceedings that favored Loehmann in order to prepare public opinion for a whitewash.

One of the "experts," Denver, Colorado prosecutor S. Lamar Sims, was involved in the district attorney's report that cleared Denver police in the shooting of 17-year-old Jessica Hernandez earlier this year, and he spoke in favor of Loehmann on Denver public television months before being contracted by McGinty. Another, Kimberly Crawford, is a retired FBI agent whose views on the use of force are so extreme that they were rejected by the federal Department of Justice for going "too far to exonerate the use of force."

The grand jury also received unsworn written statements by officers Garmback and Loehmann that flatly contradict the widely available video evidence. In his statement, for example, Loehmann claimed that he told Tamir Rice to put his hands up three times, a physical impossibility within the seconds it took for him to shoot Rice, and also unsupported by eyewitness testimony. Loehmann also claimed that he thought Rice "appeared to be over 18 years old and about 185 pounds."

At a press conference Monday, McGinty called the events

leading to the murder of Tamir Rice a “perfect storm of human error” and not “criminal conduct by police.” McGinty said a lab analysis of the surveillance video claiming to find that Rice was pulling his toy gun out of his waistband was a “critical piece of evidence” leading to Loehmann’s exoneration, before contradicting himself by admitting that it was “likely” that the child intended to hand over the toy or show that it wasn’t a real gun. “But there was no way for the officers to know that because they saw the events rapidly unfolding in front of them from a very different perspective,” McGinty said, as though that was legal justification for taking the boy’s life.

“The Supreme Court prohibits second-guessing police tactics with 20/20 hindsight,” McGinty continued. “And the law gives the benefit of the doubt to the officers, who must make split-second decisions when they reasonably believe their lives or those of innocent bystanders are in danger.”

McGinty’s argument amounts to sanctioning a policy of “shoot first, ask questions later,” as long as the police can claim after the fact that they feared for their safety.

Attorneys for Tamir Rice’s family denounced the decision, saying they were “saddened... but not surprised.” Attorney Jonathan S. Abady read a statement that declared: “It has been clear for months now that Cuyahoga County Prosecutor Timothy McGinty was abusing and manipulating the grand jury process to orchestrate a vote against indictment. Even though video shows the police shooting Tamir in less than one second, Prosecutor McGinty hired so-called expert witnesses to try to exonerate the officers and tell the grand jury their conduct was reasonable and justified.”

The US Department of Justice, which is conducting its own civil rights investigation of the shooting, issued a tersely worded statement saying that its local office would “continue [their] independent review of this matter.” Given the Obama administration’s Department of Justice’s refusal to press charges in any of the major police murder cases over the past year, and its collaboration in a cover-up of the murder of Laquan McDonald, no confidence can be placed in its investigation.

The nominal function of a grand jury is not to decide guilt or innocence, but only to determine whether the prosecutors have sufficient evidence to go to a jury trial. Grand juries so routinely side with prosecutors seeking indictments that the process has given rise to the adage among lawyers that a grand jury “will indict a ham sandwich.”

However, the Tamir Rice case follows a pattern repeated across the country, in which grand juries are converted into de facto secret trials, with no cross-examination and no representation for the victims, in order to whitewash police killings. It follows by less than a week a grand jury ruling

not to press charges against jailers in southeast Texas in the unexplained death of Sandra Bland, who was jailed on trumped-up charges and then found dead in her cell, supposedly a suicide.

Other cases in which police were exonerated by grand juries include the choking death of Eric Garner in New York City, whose cries of “I can’t breathe!” were caught on bystander video, and the shooting of Michael Brown in Ferguson, Missouri, where the local prosecutor knowingly presented perjured testimony that favored officer Darren Wilson.

Killer cops are allowed to operate with virtual impunity by the American judicial system. The *Washington Post* recently found that officers have been charged in only eight shootings that occurred in 2015. The case in one of those, the Freddie Gray murder in Baltimore, was placed in serious doubt earlier this month when a mistrial was declared in the court case against the first of six officers charged in the slaying.

Earlier this year, a judge acquitted another Cleveland officer, Michael Brelo, who used his “marine training” to fire dozens of rounds at two unarmed motorists through their windshield in 2012.

Almost daily police killings are the result of the massive growth of the repressive apparatus of the American state, a response not only to unprecedented social inequality and poverty, but to the growing political restiveness of the American working class. Under the Obama administration, the Pentagon has transferred hundreds of millions of dollars in military equipment, including assault rifles, bayonets and armored vehicles, to local police departments, some of which have already been deployed against peaceful protesters against police violence in Ferguson and Baltimore. Incapable of addressing the mounting social crisis in the United States, the ruling elite is compelled to defend the use of deadly and arbitrary violence in order to prop up its rule.

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