

No federal charges in Cleveland police shooting of Tamir Rice

Kevin Reed**30 December 2020**

In a politically motivated decision, the US Department of Justice (DoJ) announced on Tuesday that no charges would be brought against the Cleveland police officers who fatally shot 12-year-old Tamir Rice six years ago and that the federal investigation was being shut down.

In a press release, the DoJ justified the decision on the grounds that prosecutors reviewing the five-year investigation, “found insufficient evidence to support federal criminal charges against Cleveland Division of Police (CDP) Officers Timothy Loehmann and Frank Garmback.”

Loehmann, a rookie officer, shot Tamir Rice on November 22, 2014, within two seconds of arriving at Cudell Park Recreation Center, following a 911 call from a neighbor who said that someone who was “probably a juvenile” was pointing a gun that was “probably fake” at people in the neighborhood. The weapon turned out to be a toy black Airsoft pistol with a removable magazine.

Although the DoJ claimed they had notified lawyers representing the Rice family of their decision to close the investigation, Tamir’s mother, Samaria Rice, said in a statement, “It was blatantly disrespectful that I had to learn from the media that the Department of Justice had shut down the investigation, after career prosecutors recommended a grand jury be convened.”

The DoJ announcement concludes the cover-up by the federal government of the brutal police shooting of Tamir Rice, who would have turned 18 years old on June 25 of this year. In 2019, after stalling the investigation for nearly three years under both the Obama and Trump administrations, the DoJ blocked prosecutors from the department’s civil rights division from convening a grand jury to subpoena documents and witnesses in the case.

New York Times reported on October 29 this year, the DoJ had decided “more than a year ago to effectively shut down its civil-rights investigation into the high-profile killing of Tamir Rice,” according to people familiar with the matter. The *Times* also reported that the Obama administration essentially made a deal to drop criminal charges against the CPD officers in exchange for a consent decree to “overhaul the Cleveland Police Department on matters like training...”

The DoJ statement goes to great lengths to explain that the applicable federal criminal statute—Title 18, US Code, Section 242, Deprivation of Rights Under Color of Law—requires prosecutors “to establish beyond a reasonable doubt that a law enforcement officer acted willfully to deprive an individual of a federally protected right.”

The statute also stipulates that the government must prove, “beyond a reasonable doubt that the use of force was objectively unreasonable based on all of the surrounding circumstances.” The DoJ then proceeds to give a “Factual Overview” that entirely justify the reckless and blatantly violent behavior of the CDP officers before, during and after Loehmann fatally shot the youth.

Among the facts in the DoJ press release are that Tamir Rice’s toy gun was “visually virtually indistinguishable from a real .45 Colt semi-automatic pistol” and that the 12-year-old “stood 5’7” and 195 lbs.,” in order to bolster the claim that the officers “believed that they were responding to a playground where a grown man was brandishing a real gun at individuals, presumably including children.”

Along with its press release, the DoJ also published two photographs, one of the toy pistol and the other of the gun clip that were recovered by investigators at the

scene of the shooting.

Most of the balance of the DoJ release is devoted to a review of surveillance video captured of the incident. The statement argues “this video is a time lapse video, has no audio, is grainy, shot from a significant distance, does not show detail or perspective, and portions of the incident are not visible because the incident occurred on the passenger side of the patrol car, and the camera is shooting from the driver’s side of the patrol car; thus, the patrol car blocks the camera’s view of parts of the activity during the relevant time. Tamir’s hands are not visible in the video during the relevant time.”

However, as anyone who has seen the video knows, Officer Garmback pulled the squad car onto the grass of Cudell Park Recreation Center in an entirely reckless manner and a few feet from where the youth was standing. Officer Loehmann then leaped from the passenger side of the squad car, while the vehicle was still moving, and fired his weapon at Tamir Rice immediately, hitting the youth in the abdomen.

Meanwhile, there is no mention in the DoJ document that both Officers Loehmann and Garmback left the youth on the ground and refused to provide first aid to him for at least four minutes after the shooting, as he bled to death. Additionally, the DoJ statement says nothing of the surveillance video that shows the officers proceeded to handcuff Tamir’s 14-year-old sister and throw her into the backseat of the squad car when she attempted to come to her brother’s aid.

The refusal of the DoJ to bring the charge of obstruction of justice is based on the assertion that the officers “repeatedly and consistently stated that Tamir was reaching for his gun before Officer Loehmann shot” and that they “repeatedly and consistently stated that Officer Loehmann gave Tamir multiple commands to show his hands before shooting and both officers repeatedly and consistently said that they saw Tamir reaching for his gun.”

However, the DoJ press release contains two sentences about the eyewitnesses who were reported to be 315 feet away from the shooting with an emphasis on the fact that “neither of them stated that they saw Tamir’s movements immediately preceding the shooting.”

The decision of the DoJ is an extension of the previous determination by a Cuyahoga County grand jury which cleared the CDP officers of wrongdoing five

years ago. Loehmann was fired by the police department for lying on his employment application and Garmback was suspended. The Cleveland city government agreed in January 2019 to pay the family of Tamir Rice \$6 million in a civil settlement.



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