

Texas police face possible charges over failure to stop school shooter

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A special grand jury has been convened in Uvalde, Texas, to determine if law enforcement officers will be charged with crimes in connection with their response to the mass shooting at Robb Elementary School on May 24, 2022.

The convening of the grand jury was reported by the *Uvalde Leader-News* one day after the US Department of Justice (DOJ) released its Critical Incident Review of the school shooting in which 19 students and two adults were killed and 17 others were injured.

The DOJ report said there were “cascading failures of leadership, decision-making, tactics, policy and training” by law enforcement after 18-year-old Salvador Ramos was permitted by local and state police to fire an assault rifle in two adjoining classrooms for 77 minutes before an ad hoc Border Patrol squad intervened and killed the shooter.

The *Leader-News* reported, “On Friday, Jan. 19, a dozen people were selected to serve on a special grand jury that is expected to spend at least six months studying the May 24, 2022, Robb school shooting investigation.”

Christine Mitchell, district attorney for the 38th judicial district of Texas, claimed her office “continues to methodically and systematically dissect the Texas Rangers investigation of which I have possessed for less than a year,” adding that she needs to “ensure that our efforts in this process are careful, deliberate and fair,” and she is “continuously mindful of my responsibility to the victims, their families, to those under a cloud of accusation and to our community.”

However, as reported by the *Texas Tribune*, DA Mitchell began the criminal investigation shortly after the school shooting and “initially indicated it would be completed by the end of November 2022.” She later told the Associated Press that the investigation would

continue into 2024.

During the massacre itself, police mostly ignored the shooter and were far more focused on restraining parents from going inside the school to rescue their children. Following the heinous murder of nine-, 10- and 11-year-old children and schoolteachers, parents and other members of the working class community have been steadfast in their demands that law enforcement be held accountable.

Kimberly Mata-Rubio, whose 10-year-old daughter Lexi was killed at Robb Elementary School, told the *Tribune* on Friday, “We’ve been calling for accountability, so hearing news of a grand jury convening, especially following the release of the DOJ’s report, feels like a step in the right direction.”

Other parents were far less diplomatic. In a press conference following the release of the DOJ review, one parent said, “Maybe y’all will start taking us seriously now, instead of telling us to move on, telling us to sweep it under the rug and not doing a damn thing about it.” He then said, “I also hope this lights a fire under the District Attorney’s ass because we know that she has not done a damn thing and we refuse to accept that. Do your job.”

The investigations by the state of Texas and the DOJ both determined that the law enforcement leadership evaluated the school shooting as a “barricaded gunman” situation instead of an “active shooter” and proceeded to evacuate the school and wait for resources such as rifle-rated shields, body armor, SWAT teams and door keys before entering the classroom and killing the shooter.

This excuse ignores the fact that children, sheltering under the bodies of their deceased classmates, repeatedly called emergency services throughout the rampage, pleading for police assistance. These calls

were, apparently, ignored.

In security footage released nearly two months after the shooting, police are seen fleeing from the classrooms. After running away, dozens of cops are observed loitering in the hallway and fidgeting with their body armor, M-16s and ballistic shields even as Ramos continued to fire inside the classrooms.

The convening of the special grand jury—which will meet twice a month for six months to hear testimony from witnesses and study the facts of the case presented by the DA—does not guarantee that charges will be brought against any of the 400 law enforcement officers who were on site or their commanding officers.

There has already been an exchange of finger-pointing by the various agencies who were all involved in the failed response. For example, Steven McCraw, the director of the Texas Department of Public Safety, immediately blamed the crisis on local school Police Chief Pete Arredondo. However, it later emerged that state police officers were also among those who stood around and did not confront the gunman.

In the DOJ review, McCraw's narrative is largely accepted, with the decisions by Chief Arredondo—who is repeatedly identified as the “de facto on-scene commander”—being pointed to as the source of the delayed police response. Arredondo was fired by the Uvalde school board in August 2022.

US Attorney General Merrick Garland would not answer questions about whether officers responding to the shooting should face criminal charges. He said he would leave it up to the local district attorney because the DOJ has jurisdiction only over federal crimes.

Kirk Burkhalter, professor of law at New York Law School, told the *Tribune* that law enforcement officers could face charges of manslaughter, criminally negligent homicide and abandoning or endangering a child. Burkhalter said that Arredondo will be the “primary target” of the grand jury's investigation.

Burkhalter said, “You can't have this report that points the finger so harshly at the Chief of Police and all the multiple failures of law enforcement where deaths occurred, and not impanel a grand jury to further investigate this and see if criminal charges are warranted.”

Prosecuting police officers for inaction is extremely rare. In a 2005 decision in *Town of Castle Rock v. Gonzales*, the Supreme Court ruled that police officers

do not have a constitutional duty to protect others from harm.

Most cases which have been brought against officers for a failure to act have ended in failure. Scot Peterson, a school resource officer and former Broward County Sheriff's Office deputy, was found not guilty of child neglect charges for failing to protect students at Marjory Stoneman Douglas High School in Parkland, Florida, on February 14, 2018. When he arrived at the scene, Peterson, a decorated deputy who was armed, stayed in an alcove outside for over half an hour while 17 people were killed in the attack, and another 17 were injured.



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