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CHARLES J. OGLETREE, JR.  
DIANE L. HOUK

November 27, 2015

*Via Electronic Mail and Federal Express*

Timothy McGinty  
Cuyahoga County Prosecutor's Office  
The Justice Center, Courts Tower  
1200 Ontario Street, 9th Floor  
Cleveland, Ohio 44113

*Re: Continued Subversion of the Grand Jury Process*

Dear Mr. McGinty:

We have made clear in numerous written communications and in a number of in-person meetings with your office our vehement objection to your intention to use expert reports in the grand jury proceedings in this case. We have emphasized that the damage this unorthodox approach has caused to the grand jury proceedings has been exacerbated by your selection of alleged "experts" and reports that are utterly biased and deeply flawed. The view expressed in those reports that the killing of Tamir Rice was reasonable and justified is nothing short of preposterous. So severe has been the damage caused by your office's presentation, that we have been compelled to demand your recusal from this case in favor of an independent prosecutor. Notwithstanding those objections and that request, you have refused to step aside and have presented this highly prejudicial and inappropriate material to the grand jury.

You have invited Ms. Rice to submit her own expert reports for consideration by the grand jury, ostensibly to counter your biased and improper presentation. But under ordinary circumstances, no crime victim's family is called upon to assume responsibility to provide information to the grand jury. That is the prosecutor's obligation.

Under these circumstances, however, and given the clear default of your office in this regard, we have decided to provide you the attached expert reports for presentation to the grand jury. The first report is by Jeffrey Noble, who was a police officer for 28 years, including serving as Deputy Chief of Police of Irvine and Westminster, in California. Mr. Noble has extensive experience as an expert on police use of force and has been retained as an expert by many police departments across the country, including Chicago, San Francisco, and Austin. The

second report is by Roger Clark, who is a 27-year veteran of the Los Angeles County Sheriff's Department. Mr. Clark has been recognized as an expert in the police use of force in courts across the country and his work has been heavily relied on by courts, including the Fifth and Ninth Circuits Courts of Appeals. Both Mr. Clark and Mr. Noble strenuously disagree with the conclusions of your so-called experts who concluded the shooting of Tamir Rice was reasonable and justified. Based on the available evidence, both Mr. Clark and Mr. Noble conclude that this shooting was unreasonable. Both experts are available to testify before the grand jury.

We understand that the presentation of these reports, making clear that the shooting of this 12-year-old boy was completely unjustified and unreasonable, will likely not undo the damage already done to the grand jury process, but we think it important that the grand jury be given the opportunity to consider the testimony and findings of true experts to explain why this killing was unjustified.

If you persist in the refusal to step aside, we fully expect you to recommend criminal charges to the grand jury in this case, notwithstanding the confused and improper presentation to the grand jury you have made thus far. Hopefully, the receipt of this information will help you to change course.

Please let us know when Mr. Noble and Mr. Clark can expect to appear before the grand jury.

Sincerely,

A handwritten signature in black ink that reads "Jonathan S. Abady / ZS". The signature is written in a cursive style.

Jonathan S. Abady  
Earl S. Ward  
Zoe Salzman

c: Subodh Chandra (*via email*)  
William Mills (*via email*)  
Matthew Meyer, Assistant Prosecuting Attorney  
James Gutierrez, Assistant Prosecuting Attorney