

November 23, 2020

Honorable William P. Barr (via U.S. mail)
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Honorable Eric S. Dreiband (via email)
Assistant Attorney General – Civil Rights
Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Re: Investigation of Cleveland Police Officers Timothy Loehmann and Frank Garmback for the November 2014 killing of 12-year-old Tamir Rice and potential obstruction of justice

Dear Attorney General Barr and Assistant Attorney General Dreiband:

Our office, along with FirmEquity LLC in Chicago and Emery Celli Brinkerhoff Abady Ward & Maazel LLP in New York represent Samaria Rice, the mother of the late Tamir Rice, the 12-year-old child slain by Cleveland police officers Timothy Loehmann and Frank Garmback in November 2014.

On October 29, 2020, [The New York Times reported](#) that the [federal criminal investigation we requested](#) into the shooting effectively ended when supervisors denied two written requests by career prosecutors to convene a grand jury to investigate the matter. [The Washington Post published its own report](#) on October 30 corroborating the *Times's* account and adding additional details.

Both stories raised the specter that this administration unduly delayed decision-making and politically interfered with the reasoned judgment of career, line prosecutors.

Both stories reported that Department of Justice prosecutors never informed the Rice family and their counsel of these developments, which is true. We had to learn about this from the media. The line prosecutors reportedly resigned from Department of Justice service—understandable if this administration did not allow them to render civil-rights justice in such an important case.

As a former federal prosecutor myself at an institution I'm proud to have served, these accounts appalled me. Our dismay has been underscored by the fact that even after the *Times* and *Post* published these stories, no Department of Justice official has had the courtesy or decency to contact us to explain what happened, thus further torturing the Rice family in their despair and grief. It appears the Department will allow the federal statute of limitations for obstruction of justice to lapse on or about December 1, 2020, despite multiple efforts from career prosecutors to convene a grand jury.

This is no way to treat victims of crime. Indeed, under [42 U.S.C. § 10607\(c\)\(3\)\(A\) and \(e\)\(2\)\(B\)\(3\)](#) and the [Attorney General's Guidelines for Victim and Witness Assistance](#), Ms. Rice had the right to “notice of the status of the investigation of the crime.” And under [Ohio's Constitution](#), crime victims like the Rice family are entitled to better treatment by prosecutors, with among others: (1) the right to be treated with respect, fairness and dignity throughout the

criminal-justice process, and (2) the right to be notified in a timely manner of major proceedings and developments in the case. While this behavior is at least consistent with this administration's other open efforts to undermine the rule of law in America, it is doubly devastating to this grieving family.

We respectfully demand that you immediately do the following:

- (1) Confirm that the Department of Justice has no intention to provide the Rice family with justice, and provide a full account of what internal recommendations about investigation and prosecution of the officers were made by whom, why internal review took so long, and who was responsible for the delay and any decisions not to convene a grand jury or prosecute;
- (2) Explain why the Department of Justice did not communicate these decisions to Ms. Rice through her counsel, despite her right under 42 U.S.C. § 10607(c)(3)(A) and (e)(2)(B)(3) to notice of the status of the investigation, and her right under Ohio law to be treated with dignity and respect;
- (3) Provided unredacted copies of the internal memoranda recommendations to supervisors and attachments from the career prosecutors (the newspaper articles referenced two memoranda);
- (4) Provide a copy of the whistleblower complaint referenced in the articles, and any attachments, with the whistleblower's name redacted;
- (5) Explain why the Department's Office of Inspector General refused to investigate this incident, when the jurisdiction of the Office of Professional Ethics is more limited to violations of the Rules of Professional Conduct rather than the broader decision-making integrity issues that are a part of the Inspector General's purview.

If you claim attorney-work-product protection over the requested records, you can waive any such claim in the interests of transparency. If you won't, it will speak volumes, and we will renew our request with the next administration. There is still one year left for the statute of limitations in Ohio on potential obstruction-of-justice charges, which the career prosecutors reportedly contemplated for the officers. If you won't secure justice for the Rice family, please give them the benefit of the career federal prosecutors' investigation and thinking, so they can seek justice from the State of Ohio.

As you know, it is extremely unusual for political supervisors at the Department of Justice to overrule career prosecutors' recommendations about prosecution. I cannot think of a single time it happened in my own career as a prosecutor, or in doing internal investigations and defense work.

The overarching injustice and cruelty of this situation is that the statute of limitations is going to run about two months before the seating of a new administration that would allow the career prosecutors to do their jobs. Whether the Department of Justice pursues or denies justice should not depend on the whimsical, capricious, and political grounds apparent here.

We expect the scandal of a legal outcome rigged by political forces to occur in an autocratic country. Most Americans are sick of the infiltration of politics into every aspect of our society and our lives. The Department of Justice exists as a bulwark to uphold the rule of law, without yielding to the bruising tides of politics. To allow politics to dominate the Justice Department's decision-making is to undermine its essential reason for existing. The Rice family demands nothing more than fairness. We are dismayed that—in the analysis of career prosecutors—sufficient evidence exists to pursue a grand-jury investigation, but that politics trumps the law.

In testimony to the House Judiciary Committee, Attorney General Barr stated:

The Attorney General has a unique obligation, he holds in trust the fair and impartial administration of justice. He must ensure that there is one standard of justice that applies to everyone equally. And that criminal cases are handled even-handedly based on the law and the facts and without regard to political or personal considerations.

The decision by your Department of Justice to prevent career prosecutors from pursuing the officers who murdered Tamir Rice contradicts your own stated ideals. Hiding that decision from the Rice family defied the Rice family's statutory rights as crime victims. Your handling of this case proves the hypocrisy of your claimed admiration for the rule of law.

Please respond by December 4, 2020. By copy of this letter, we are requesting that United States Attorney for the Northern District of Ohio Justin Herdman assist us in securing cooperation with our requests.

Sincerely,



Subodh Chandra

Signed along with co-counsel



Zoe Salzman
Emery Celli Brinkerhoff Abady Ward & Maazel LLP



Billy Joe Mills
FirmEquity LLC

Cc: Justin Herdman, United States Attorney for the Northern District of Ohio (via email)