



U.S. Department of Justice

Civil Rights Division

*Assistant Attorney General
950 Pennsylvania Ave, NW - RFK
Washington, DC 20530*

January 28, 2022

Mr. Jonathan S. Abady
Emery Celli Brinckerhoff & Abady, LLP
600 5th Avenue at Rockefeller Center
10th Floor
New York, NY 10020

Dear Mr. Abady:

We appreciated the opportunity to meet with Ms. Samaria Rice on October 27, 2021. Separately, we also appreciated her participation on December 9, 2021, in our training of officials from State Attorneys General's Offices across the country, many of whom have been empowered with newly conferred authority to investigate and remedy patterns and practices of police misconduct, *Police Misconduct Pattern-or-Practice Cases: Federal and State Experiences and Opportunities*. I am writing to respond to your request, made during our meeting with you and Ms. Rice during our October 27 meeting, and in your letters, dated April 16, April 29, and June 1, 2021, that the Department of Justice reopen its civil rights investigation into the tragic November 22, 2014, shooting death of your client's son, Tamir Rice, by former Cleveland Police Department Officer Timothy Loehmann. We have reviewed the information that you provided during our meeting and in your letters, as well as the information contained in the letter you provided on January 3, 2022, from a distinguished group of legal scholars. After thorough consideration of this information and the available evidence, the Justice Department's career prosecutors have concluded that this information does not change its earlier 2020 decision.

As we discussed in our meeting, and as detailed in the Department's December 29, 2020, letter to your client explaining this decision, an extensive and thorough review was conducted by career prosecutors from the Criminal Section of the Civil Rights Division and the United States Attorney's Office for the Northern District of Ohio, as well as career Special Agents with the Federal Bureau of Investigation. The 2020 decision to close the matter was made by those career prosecutors, guided by the Department's Principles of Federal Prosecution (JM 9-27.000), and based solely upon the applicable facts and law, without political input or influence. The decision not to reopen the matter is also based solely on the applicable facts and law.

As we discussed, to establish a violation of 18 U.S.C. § 242, the government must prove, beyond a reasonable doubt, that an officer, acting under color of law, willfully deprived Tamir Rice of a right protected by the Constitution or laws of the United States. In order to prove a violation of the applicable federal criminal civil rights law, prosecutors would have to prove, beyond a reasonable doubt, that the law enforcement officer acted willfully. The United States Supreme Court has made clear that in prosecuting a Section 242 case, an officer acted "willfully" if he did so with a bad purpose – that is, with the specific intent to do something the law forbids – to deprive a person of their constitutional rights. After reviewing, and exhaustively evaluating

the available evidence in this matter, in 2020, career prosecutors determined that the federal government could not meet this high standard. By no means should you view the Department's 2020 decision as an exoneration of Timothy Loehmann's actions.

We know that Tamir Rice's death was a tragic loss, and we continue to hold Ms. Rice, her family and the community at large in our thoughts. Please know that we remain committed to doing all that we can to promote policing accountability and reform.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Clarke". The signature is fluid and cursive, with the first name "Kristen" and last name "Clarke" clearly distinguishable.

Kristen Clarke
Assistant Attorney General