



October 18, 2023

Mr. Steve Mulroy
District Attorney General
Shelby County District Attorney's Office
201 Poplar Avenue, Third Floor
Memphis, TN 38103

Dear Mr. Mulroy:

I am writing on behalf of the Memphis Police Association concerning some recent actions taken by your office.

It has been brought to our attention that charges against the man who recently shot two Memphis police officers have been dismissed. Charles Hernando Williams shot Officers Chad Looney and Braydon Bryan on March 31, 2023. He was charged with two counts of Criminal Attempted Second Degree Murder and Aggravated Assault. On May 26, 2023, the charges were dismissed. The alleged reason for the dismissal was that one or more witnesses failed to appear. However, the two officers, who were clearly witnesses as well as victims, were never contacted. The records indicate that subpoenas were issued but never served. The victim officers have been kept in the dark and had to hear about the dismissal through the grapevine. This is not the first time that charges have been dismissed against the perpetrators of violence against our officers without their knowledge or consent. Is this how your office treats all victims?

We also listened to your press conference of September 26, 2023 regarding the decision not to prosecute the officers involved in the Jaylin McKenzie shooting. There was no reason to go into the details of your investigation. Any issues of violation of MPD policy or "better police practices" are the province of the MPD. It is traumatic enough for an officer to be shot at and then involved in having to use deadly force, only to then have their name and reputation dragged through the mud in front of the media.

In the past when the District Attorney's office reviewed an officer involved shooting and declined to prosecute, a letter simply advising the MPD has been sent. The District Attorney's office has never provided a detailed analysis of the officers' performance. If an officer is charged internally within the MPD with a violation of policy, he or she has a right to defend themselves. You gave the officers involved no right or opportunity to do so. You found them guilty in the media.

Your office's analysis of the performance of Officer Dorme and the other officers was conducted with the benefit of hindsight. Your comment that "We have seen instances in which the officer may have placed themselves in a dangerous situation, and then, as a result, were justified in using deadly force" is of particular concern. It is a police

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officer's duty to put themselves in dangerous situations every day – virtually every stop, every domestic violence call they make is a potentially dangerous situation. Would you have them stay in the car to avoid a potentially dangerous situation? Or fail to attempt to protect a victim of violence because it might place them in the position of having to use force? When making split-second decisions about the amount of force necessary in a particular situation, their conduct is to be judged based on the officer's perspective on the scene in circumstances that are tense, uncertain and rapidly evolving; not with the 20/20 vision of hindsight. *Graham v. M.S. Connor*, 490 U.S. 386, 109 S.Ct. 1865, (1989) As the Sixth Circuit Court of Appeals recently opined in *Cunningham v. Shelby County, Tennessee* 984 F. 3d 761 (6th Cir. 2021) the reasonableness of the deputies conduct depended on the totality of circumstances in the real-time situation they encountered, and they did not have the ability to leisurely look at the situation by stopping the action at select times before they made the decision to use lethal force. The Court of Appeals in that case found that the district court had erred in relying on selected screen shots from dashboard camera videotapes, exactly what your office has done here.

Your letter of September 25, 2023 to Chief Cerelyn Davis also cites alleged inconsistencies between officer statements and Body Worn Camera footage and implies that the officers are not being truthful. It is not unusual for an officer to not recall seeing something that may show on their video. Are you familiar with the concept of “Attentional Blindness” or “Selective Attention”? Humans can intensely focus on one thing to the exclusion of all other surrounding images and noises. An officer may be completely focused on the immediate source of danger (i.e., a suspect's weapon) and fail to see peripheral activities or bystanders whereas a camera records everything in the field of view. It has been proven that in situations where an officer discharges his firearm, the officer experiences “tunnel vision”, focusing on the immediate threat. Humans record only that which they perceive and process. Information must first be received for the brain to store it so it can be recalled. Once received, information is processed by the brain for later recall. Angles and perspective affect officer's perceptions, as well. You may be familiar with the book “The Invisible Gorilla: How Our Intuitions Deceive Us” by Christopher Chabris and Daniel Simons. If not, I would recommend it to you.

We believe that you have overstepped your authority and bounds in your letter declining to prosecute any of the officers involved in the Jaylin McKenzie incident. It is the job of the MPD to train, supervise and evaluate police performance, not yours. We believe you have exposed the City of Memphis and the individual police officers to unwarranted potential liability. Moreover, your letter is filled with hyperbole and speculation rather than facts.

The final comment you made in your press conference was also troubling. You indicated that your office was still looking into the Darius Stewart case involving Officer Connor Schilling. A grand jury declined to indict Officer Schilling. The U.S. Department of Justice reviewed the case as well. The related civil case has been dismissed. Connor Schilling retired on disability. It is patently unfair and unwarranted

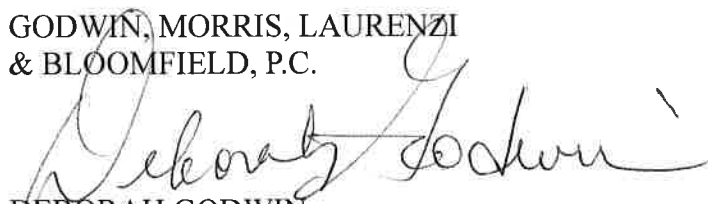
to continue to “hang” a threat of potential prosecution over this man’s head after all these years. (The event occurred in 2016).

We would ask to meet with you to further discuss our concerns. We would also ask you to please consider the rights and sensibilities of the Officers involved in these matters with the same zeal you show the criminal defendants while you strive for “transparency.” If law enforcement agencies are to be your partners in your mission, we need to reach a better understanding of each other’s positions.

Thank you for your attention to these important matters. I look forward to hearing from you.

Sincerely,

GODWIN, MORRIS, LAURENZI
& BLOOMFIELD, P.C.

A handwritten signature in cursive script, appearing to read "Deborah Godwin", written in dark ink over a light background.

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