



## 'Indict, convict, send killer cops to jail'

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A grand jury indictment of six police officers accused in connection with the death of Freddie Gray took the city another step toward justice and perhaps gives prosecutors a clear example of what is possible when Blacks are abused or die in police custody—or after encounters with cops.

When State's Attorney Marilyn J. Mosby announced the indictments it brought cheers from Black Baltimore, cheers across Black America and it raised questions: If officers in Baltimore could be charged and indicted following the death of 25-year-old Freddie Gray, shouldn't the same thing be possible in other places?

The Baltimore state's attorney announced the grand jury indictments May 21, saying, "On May 1 our investigation revealed that we had enough probable cause to bring charges against the six officers."

Additional information was discovered and as is often the case, during an investigation charges can and should be revised based on the evidence, she said. "The grand jury, who also concluded there is sufficient evidence for probable cause, returned indictments on all counts presented to them," State's Attorney Mosby said. Charges in the indictment differed slightly from initial charges filed and did not question the legality of the Gray arrest.

Arraignment is scheduled for July 2. Charges were filed against:

Officer Caesar R. Goodson, Jr.—second degree depraved heart murder, involuntary manslaughter, second degree assault, manslaughter by vehicle (gross negligence), manslaughter by vehicle (criminal negligence), misconduct in office and reckless endangerment.

Officer William G. Porter—involuntary manslaughter, second degree assault, reckless endangerment.

Lt. Brian W. Rice—involuntary manslaughter, second degree assault, misconduct in office, misconduct in office, reckless endangerment.

Officer Edward M. Nero—second degree assault, misconduct in office (two counts), reckless endangerment.

Officer Garrett E. Miller—second degree assault, misconduct in office (two counts), reckless endangerment.

Sgt. Alicia D. White—involuntary manslaughter, second degree assault, misconduct in office, reckless endangerment.

“We’re cautiously optimistic,” said activist Cortly “C.D.” Witherspoon, responding to news of the indictments. It’s a step in the right direction because there is no history of indictments of officers in these cases, said the head of the Baltimore Chapter of the Southern Christian Leadership Conference. He lives near where the incident with Freddie Gray happened. He has been working on police brutality for several years. He was arrested at city hall trying to get attention to the problem from the mayor and city council president.

The officers still have to go to trial and the Fraternal Order of Police will seek a change of venue, hoping officers will have a jury of their peers but not Mr. Gray’s peers, the activist said.

The backlash against the state’s attorney, led by the FOP, is not only because a Black woman is pressing charges but also because the victim was Black, he argued. The FOP is rooted in racism, said Mr. Witherspoon. His group has yet to find a Black FOP head around the country.

While the FOP may have struck a strategic alliance with the city’s Black police organization, which issued a statement supporting all indicted officers, the Vanguard Justice Society should be careful, Mr. Witherspoon continued. The FOP has never backed Black officers and their advancement, he said. His group is holding a Peoples Tribunal on police abuse and police murder June 6 in Baltimore.

State’s Attorney Mosby “has taken a lot of heat for enforcing accountability on the police murder on African Americans,” said Mr. Witherspoon. She is highlighting a systemic problem in departments around the country, “where African Americans find themselves hunted by police.”

“She has definitely shown what is possible and I think is really going to be able to hold her colleagues accountable in terms of if they see wrongdoing, they need to do the same thing as well,” said Nkechi Taifi, a veteran social justice attorney of the Baltimore City state’s attorney.

Such a rare indictment was only possible because a young, Black, female—someone fresh who could identify with the victim and police officers—was holding office, said Ms. Taifi.

Deaths of Black and Brown people at the hands of police aren’t new, noted the former Howard University law professor. Usually either the Blue Wall of Silence, where officers refuse to tell on one another, or “testilying” take place, she pointed out. Besides the rarely sought indictment of cops, jurors, depending on the racial makeup, have tended to believe officers, said Ms. Taifi.

“It’s a wonderful type of rare” in the Gray case, she added.

And while Ms. Mosby has been hammered by the media, asked by the FOP to step down and the officers' point of view often presented, that didn't happen in the Mike Brown case in Ferguson, Mo., where the Black community called for a special prosecutor and the county state's attorney refused to resign, she said.

The White prosecutor went before a St. Louis County grand jury but there was controversy over wrong instructions to jurors and other failures showing a lack of desire to indict police officer Darren Wilson for shooting the unarmed teenager last summer, said activists and attorneys.

Ms. Mosby comes from a long line of law enforcement and is able to see both sides, said Ms Taifi.

Last fall the Wall Street reported, "research by a Bowling Green State University criminologist shows that 41 officers in the U.S. were charged with either murder or manslaughter in connection with on-duty shootings over a seven-year period ending in 2011. Over that same period, the Federal Bureau of Investigation reported 2,718 justified homicides by law enforcement, an incomplete count, according to experts."

Bowling Green University assistant professor Philip Stinson, who received a federal grant to study arrests of police officers told the Journal, "It's very rare that an officer gets charged with a homicide offense resulting from their on-duty conduct even though people are killed on a fairly regular basis," said.

"When police officers are charged, they are convicted at a lower rate than people in the general populace, according to a study by the Cato Institute," the Journal noted.

"The FBI reported 410 justifiable homicides by law enforcement in 2012. The number of indictments appear to be minimal after a TPM review of available press reports. A 1979 study found three convictions out of the 1,500 police killings it studied over a five-year period," added the Talking Points Memo website in an article last year.

The Mosby decision to take evidence before a grand jury was smart, it upheld probable cause for the charges and opens the way for a trial, commented Atty. Abdul Arif Muhammad. It may have also been a way to respond to efforts to publicly defame her and respond to FOP pressure, said the general counsel for the Nation of Islam.

The grand jury is the prosecutor's tool, it's not an objective process and prosecutors usually get indictments, said the attorney. The difference is prosecutors in New York with the Eric Garner case, a Black man whose choking death during an encounter with police was videotaped, and in the Ferguson case did not have a mind to obtain indictments, said Atty. Muhammad.

The grand jury decision vindicated Ms. Mosby's decisions and eliminates the need for a preliminary hearing, he said. It also avoids a political circus and allows time to prepare for a trial, the Muslim attorney added.

Atty. Taifi sees important lessons in Mosby's actions to obtain justice. Law students should consider working as prosecutors, in the mould of the "courageous" prosecutor, she said. Prosecutors are extremely powerful and usually get chosen as judges, she said. Law students should be principled prosecutors and not slaves to police departments, she said.

One of the "unspoken reasons" for the attacks on State's Attorney Mosby is that she sets a new standard and is bucking the historical pattern of going along with police departments, said Atty. Taifa. "She is changing the narrative in terms of the prosecutorial culture as to what is possible, what can be done, what should be done," the D.C.-based lawyer observed.

The grand jury decision also begins possible fulfillment of part of a popular chant by demonstrators against police abuses and misconduct: "Indict, convict, send killer cops to jail." It may foretell a possible change to the last part of the chant: "The whole damn system is guilty as hell."