



**TIMOTHY J. MCGINTY**  
CUYAHOGA COUNTY PROSECUTOR

**Statement by Cuyahoga County Prosecutor Timothy J. McGinty on  
the indictment of Cleveland Police Officers**

FOR IMMEDIATE RELEASE  
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The Cuyahoga County Grand Jury today voted to indict Cleveland Police Patrol Officer Michael Brelo on two counts of Manslaughter for the killing of Timothy Russell and Malissa Williams on November 29, 2012.

Under Ohio Revised Code Section 2903.03, Manslaughter is a felony of the first degree, carrying a mandatory prison sentence of from three to 11 years.

Officer Brelo fired 49 shots at driver Timothy Russell and his front-seat passenger, Malissa Williams. This shooting took place in the parking lot of Heritage Middle School in East Cleveland at 10:53 p.m., following a lengthy, high-speed police chase that began in downtown Cleveland.

Evidence shows that a total of 137 shots were fired by Cleveland Police officers in the schoolyard. Investigators established that the victims were unarmed.

After more than 100 shots were fired at Mr. Russell's car, it was trapped by police cruisers in a narrow lane and came to a full stop.

All officers at the scene saw fit to cease fire.

Then Officer Brelo started shooting again and fired at least 15 shots, including fatal shots, downward through the windshield into the victims at close range as he stood on the hood of Mr. Russell's car.

This was now a stop-and-shoot – no longer a chase-and-shoot.

The law does not allow for a stop-and-shoot.

This week, the Supreme Court of the United States reiterated prior case law in *Plumhoff v. Rickard*, ruling that “if police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended.”

However, in its 9-0 decision written by Justice Samuel Alito, the Supreme Court of the United States went on to conclude that it “would be a different case if [the police officers] initiated a second round of shots after an initial round had clearly incapacitated [the suspect] and ended any threat of continued flight.”

Let's be clear what happened here:

The driver was fully stopped. Escape was no longer even a remote possibility. The flight was over. The public was no longer in danger because the car was surrounded by police cars and 23 police officers in a schoolyard safely removed from pedestrians and traffic.

The primary danger facing the police at this time was from themselves, if they continued to shoot at each other in the circular firing squad they had inadvertently formed.

After the ceasefire, Officer Brelo unleashed an unlawful, second barrage of shots.

The ultimate legal issue is whether the police officer was justified when he stood on the hood of Mr. Russell's car and emptied his clip into the occupants after the chance of flight was completely eliminated and they no longer presented a threat to the public's safety.

He was not.

In addition to the charges against Officer Brelo, the Grand Jury also indicted Lt. Paul Wilson, Sgt. Patricia Coleman, Sgt. Randolph Dailey, Sgt. Michael Donegan and Sgt. Jason Edens each on two misdemeanor counts of Dereliction of Duty.

These five supervisors abdicated their leadership responsibilities during the 20-mile, 22-minute high-speed chase that involved 62 police cars and more than 100 officers.

The supervisors failed to do their duty to control and manage the chase, and thereby endangered both the public and the police officers they were supposed to be leading.

These supervisors allowed a disturbed, petty criminal to take charge and lead a large portion of the Cleveland Police force that was on duty that evening – and to unnecessarily endanger motorists and citizens in two cities.

Mr. Russell led a long parade of police cars through 76 traffic lights and stop signs, 141 three-way intersections and 71 four-way intersections, with speeds up to 110 miles an hour.

Only through the grace of God were no police officers, motorists, or pedestrians injured or killed – in the chase or by crossfire at the school.

The supervisors charged today ignored the policies of the department to conduct chases in a manner that shows “due regard for the safety” of the public. They ignored their own training. They put the public at risk. They put the officers under their command at risk.

The Grand Jury no-billed murder charges on Officer Brelo.

Based on the law, we did not recommend and the Grand Jury did not seek charges against any of the other 12 officers who were at the school that night and who took part in the initial barrage of shots.

The task of reconstructing the events of November 29 was made far more difficult because Cleveland Police cars are not equipped with video cameras.

Dash cams would have made the facts far easier to discern. They were of great assistance with last year’s justifiable Solon police shooting and the Memphis police case that the U.S. Supreme Court addressed this week.

The cost of investigating this shooting by the Attorney General, the Cleveland Police Department and the Grand Jury will exceed the cost of purchasing dash cams.

Let me emphasize that today’s indictment is not an indictment of the more than 1,500 Cleveland Police Officers who serve and protect our community. That department has a long and distinguished history of service and bravery to our community.

These men and women have a dangerous job and every time they report for duty they are required to put their lives on the line.

No one respects or admires the work of a dedicated professional police officer more than a prosecutor.

They are heroes, but they too must answer to the law.

The city of Cleveland has already taken initial steps to assure this kind of tragedy does not reoccur.

We hope this prosecution serves the same purpose.

In closing, I want to thank the men and women of the Ohio Attorney General's Office, the Bureau of Criminal Investigation, the Cuyahoga County Sheriff's Department, the Cuyahoga County Medical Examiner's Office and the East Cleveland Police Department as well as the outside scientific and legal experts who helped us understand the events of November 29 and gather and test the evidence.

Their work has been invaluable to this investigation and to this community.

Today's indictments are not the end of this process. Under the Constitution, those charged enjoy a presumption of innocence. They have a right to vigorous defense and a trial by a jury of their peers that will make the final decision on guilt or innocence.