

From: [Gregory Gelembiuk](#)
To: [Keith Findley](#); tbrown@ulgm.org; dokithia@gmail.com; [Myadze, Charles](#); [Veronica L](#); [Schieve, Luke](#)
Cc: [Kapusta-Pofahl, Karen](#)
Subject: Fw: The 2015 bodycam petition I created
Date: Wednesday, October 28, 2020 3:15:01 AM
Attachments: [image.png](#)

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This is intended as a one-way communication. Please do not reply all.

Fellow Committee Members,

Here's a bit of info I thought I'd pass along, relating to a petition I once wrote, concerning bodycams.

I sent it Tuesday late afternoon to Karen, to forward to you all, but it would have been shortly after working hours, so hasn't been sent out yet.

So I thought I'd just e-mail it to you all myself. To avoid quorum issues, please don't reply (this is just a one-way communication).

Greg

From: Gregory Gelembiuk <gwgelemb@wisc.edu>
Sent: Tuesday, October 27, 2020 4:42 PM
To: Kapusta-Pofahl, Karen <KKapusta-Pofahl@cityofmadison.com>
Subject: The 2015 bodycam petition I created

Karen,

If you could forward this to Bodycam Committee members, that would be appreciated.

Greg

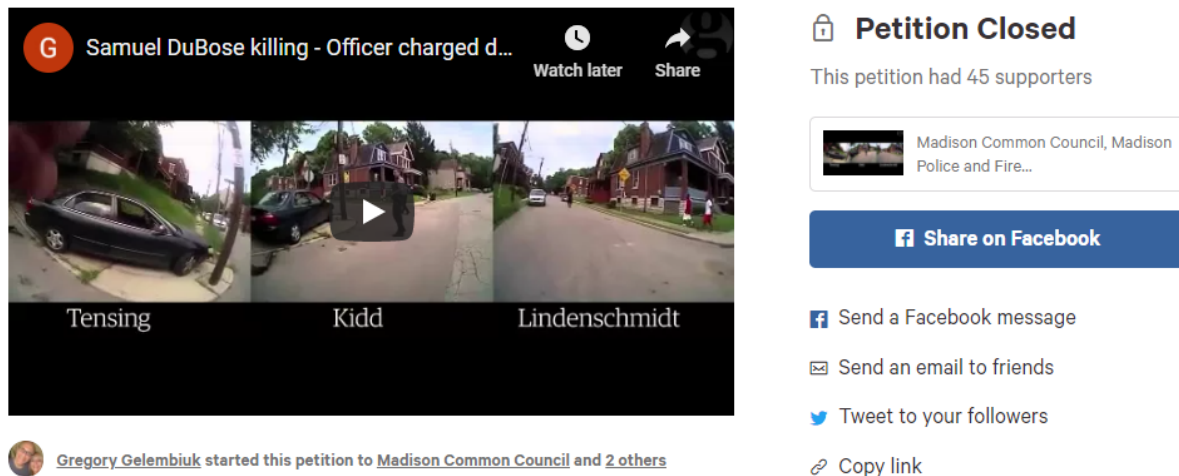
I thought I'd pass along the video I embedded in my 2015 petition, advocating for bodycam implementation in Madison, and the ultimate outcome of the case captured in that video. Since 2015 I've learned a lot. I can relate to something Harlan Yu said - in 2015, he was still somewhat hopeful about bodycams, and his views have shifted given what's been learned in the interim. In my own case, I wasn't just somewhat hopeful - I was a full-throated advocate for bodycams. But one of the most important qualities for a scientist is to be able to change one's mind in the face of sufficient evidence. Though I do have to say - I didn't let go of my

hope around bodycams easily. It took a mass of evidence to change my mind and it occurred very slowly (with much resistance).

Here's the bodycam video I included - of the shooting of Sam DuBose by University of Cincinnati Police Officer Ray Tensing:

https://www.youtube.com/watch?v=t3JhNlbW_Q4

Implement Police Body Cameras in Madison, WI



Samuel DuBose killing - Officer charged d... Watch later Share

Tensing Kidd Lindenschmidt

Petition Closed
This petition had 45 supporters

Madison Common Council, Madison Police and Fire...

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Gregory Gelembiuk started this petition to Madison Common Council and 2 others

I included that video in the petition since at the time, I was convinced that it would lead to accountability for the officer. It appeared to provide powerful evidence for the idea that bodycams would benefit community members. As a Vox article noted, "The video, from a body camera University of Cincinnati police officer Ray Tensing was wearing, gave a very clear picture: Tensing stopped Samuel DuBose because he didn't have a front license plate. Tensing then asked for a driver's license. DuBose didn't give Tensing his license. Tensing asked DuBose to take off his seat belt. DuBose's car then began moving forward, away from Tensing. The officer, even though DuBose and the car didn't pose a threat, shot DuBose, killing him." Moreover, the video captured the officers concocting a cover story after the shooting (Slate: "[New Body Cam Videos Show Cops Coalescing Around False Narrative of Sam DuBose Killing](#)"). Moreover, Officer Tensing was wearing a Confederate Flag t-shirt under his uniform.

So of course this would lead to accountability - right?

So what actually happened after this?

The officer was prosecuted. There were two trials - they each resulted in hung juries, and a decision not to prosecute further. Then the University of Cincinnati paid the officer \$344,000 in back pay and legal fees.

Here's a NYTimes article: <https://www.nytimes.com/2017/07/18/us/police-shooting-ray-tensing-cincinnati.html>

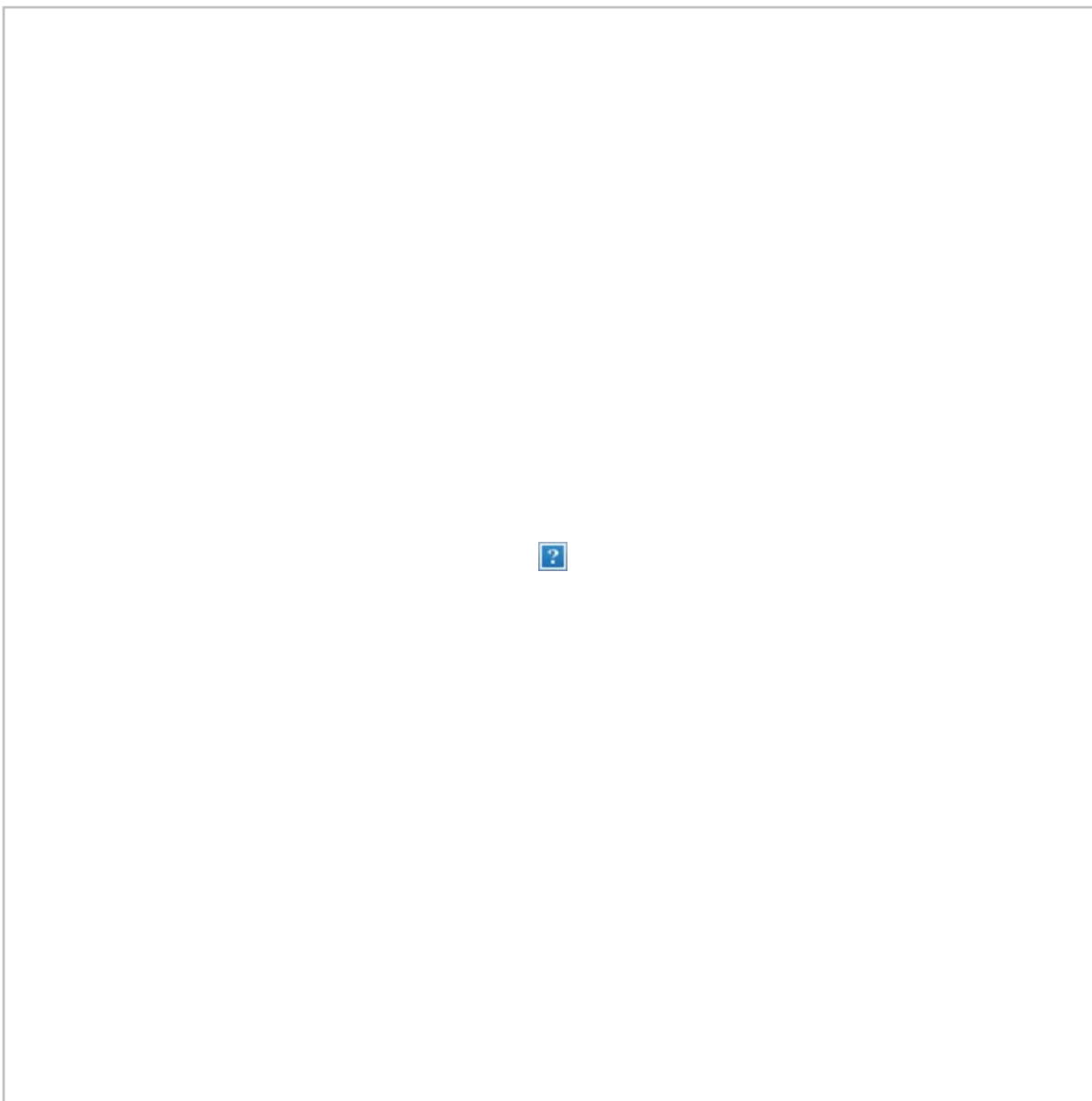


No Third Trial for Ex-Officer Who Killed Cincinnati Driver - The New York Times

After a second jury deadlocked, a prosecutor said he would be dropping charges against Raymond M. Tensing, who killed Samuel DuBose, an unarmed black motorist, in 2015.

www.nytimes.com

No Third Trial for Ex-Officer Who Killed Cincinnati Driver



Raymond M. Tensing, a former University of Cincinnati police officer, left, during his retrial in June. Credit...Pool photo by Cara Owsley/The Enquirer, via Reuters

By [Jess Bidgood](#)

July 18, 2017

Two years ago, Cincinnati's top prosecutor stood in front of a blue curtain in his office building, denounced the shooting of an unarmed black man and said the white university police officer who killed him had been indicted on a murder charge. "I've been doing this for over 30 years," the prosecutor, Joseph T. Deters, said, by turns sighing and shaking his head, before distributing a video in which Officer Raymond M. Tensing killed Samuel DuBose with a shot to the head. "This is the most asinine act I've ever seen a police officer make." On Tuesday, two mistrials later, Mr. Deters returned to the lectern and announced,

with frustration evident in his low voice, that he would be dropping charges against Mr. Tensing. He had spoken to jurors, he said, and they told him a unanimous conviction was not possible.

“I don’t like it,” Mr. Deters said. “My opinion of this case has not changed.” Federal prosecutors will now review the evidence to consider whether a civil rights investigation is warranted, but legal experts said such a prosecution would carry an even steeper burden of proof.

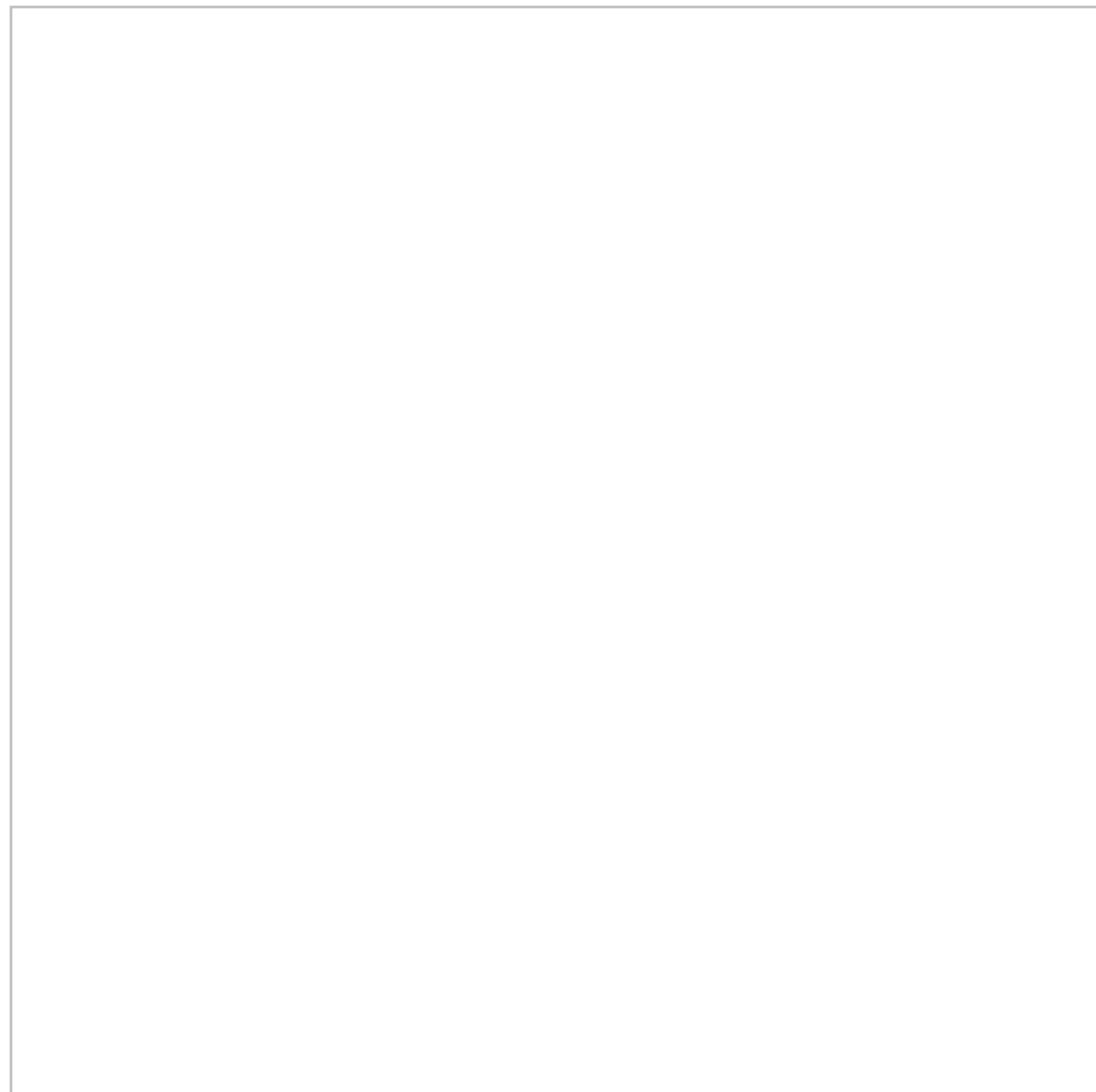
The decision not to again retry Mr. Tensing, who killed Mr. DuBose during a traffic stop in 2015, is a setback for activists seeking greater accountability in police shooting cases.

It comes amid a series of acquittals of police officers in Minnesota, Wisconsin and Oklahoma who, like Mr. Tensing, were captured on video firing fatal shots at black men, and it underscores a challenge for supporters of criminal convictions against the police: Even as such video becomes more common, and as some prosecutors appear willing to mount cases against police officers for use of force, persuading a jury to convict them may be the highest hurdle of all.

“Sam was judged by the jurors who didn’t want to convict because they valued Tensing’s life more,” Terina Allen, Mr. DuBose’s sister, said after the announcement. “I don’t care if you’re white or black,” she said. “This fight, to me, is about law enforcement having a free rein to shoot and kill people.”

Mr. DuBose’s death at the hands of the police — like that of Walter Scott in South Carolina, Philando Castile in Minnesota and 12-year-old Tamir Rice in Ohio — became part of the nation’s painful debate over race and policing.

Just 10 days after the shooting on July 19, 2015, Mr. Deters [charged Mr. Tensing](#) with murder and voluntary manslaughter, and released body camera footage that showed a routine traffic stop devolve into violence in a matter of seconds. In the footage, Mr. Tensing is seen pulling over a green Honda Accord because, the officer says, of a missing front license plate. Despite requests from Mr. Tensing, Mr. DuBose does not produce a driver's license. Mr. Tensing asks Mr. DuBose to remove his seatbelt and places his hand on the car door, to open it. Then, as the footage turns shaky, Mr. DuBose closes the door with one hand and starts the car with his other hand. Mr. Tensing reaches into the car and yells "Stop!" twice, the video shows, at which point the officer fires his gun once, striking Mr. DuBose in the head. Prosecutors said that Mr. Tensing shot to kill and that Mr. DuBose was not a threat. Mr. Tensing, who took the stand in his own defense during both of his trials, said he believed his arm was caught in the steering wheel — an assertion prosecutors used the video to challenge — and that he shot "to stop the threat" because he thought he was going to be dragged by Mr. DuBose in his car. Mr. Tensing's first trial [ended in a mistrial](#). After Mr. Deters said his office would prosecute the case a second time, more complications emerged. Some evidence from the first trial, including the T-shirt showing the Confederate battle flag that Mr. Tensing was wearing underneath his uniform, was not admitted at the second trial. Halfway through, prosecutors tried to add a lesser charge of reckless homicide, but Judge Leslie Ghiz concluded that it was too late. That trial [ended last month](#), with a jury that said it was almost evenly split. On Tuesday, when asked about the role race played in the jurors' deliberations, Mr. Deters seemed to suggest that his jury pools were not immune to the sharp differences in the way people view the use of force by the police.



The Hamilton County prosecutor, Joseph T. Deters, after a news conference where he announced his decision not to pursue a third murder trial of Raymond M.

Tensing. Credit...John Minchillo/Associated Press

“There are two visions of what’s going on in the country — and it’s not just Hamilton County, it’s the country,” Mr. Deters said. “It’s heartbreaking.”

Use-of-force cases against police officers are notoriously difficult to win, and Mr. Deters is part of a small group of prosecutors who have had to decide how many times to try a case. Prosecutors in Baltimore last year dropped cases against some of the police officers charged in connection with the death of Freddie Gray after four trials yielded three acquittals and a mistrial. And state prosecutors planned to retry Michael Slager, the police officer whose trial for shooting Mr. Scott ended in another hung jury, before he pleaded guilty to a federal charge.

Cynthia Lee, a law professor at George Washington University, said it would have been deeply unusual for prosecutors to try Mr. Tensing’s case yet again.

“It’s a huge investment of resources to try a case,” she said, which can be a deterrent,

along with the risk that the prosecutor could be called overzealous — and could lose a third time.

This month, members of the office of Benjamin C. Glassman, the United States attorney for the Southern District of Ohio, met with members of Mr. Deters's staff, and are reviewing evidence and assessing whether to investigate Mr. Tensing for violating Mr. DuBose's civil rights.

But legal experts — and Mr. Glassman himself — said the burden of proof was exceedingly steep. “It's one of the highest standards of intent imposed by law,” Mr. Glassman said.

Richard Pérez-Peña and Rebecca Ruiz contributed reporting.