

PEOPLE'S



RETORT

TO THE PROSECUTOR'S REPORT

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AURA RAIN ROSSER was shot dead by Ann Arbor police early on November 10, 2014. The Michigan State Police conducted an investigation and on January 30, 2015, Washtenaw County Prosecutor Brian Mackie announced his decision not to indict Officer David Ried for homicide.

This report empowers the people to question and challenge Mackie's report, the **incomplete and biased investigation**, and the entire system of racism and injustice that resulted in the killing of Aura Rosser.

Ann Arbor Is America

Aura Rosser's killing and the official exoneration of Ried is part of a **national pattern of disregard for Black lives**. Though no reliable statistics are even kept on use of force by police,¹ conservative estimates are that a Black person is killed by police, security guards, or vigilantes every 28 hours, on average.² Blacks face force or threat of force from police at a rate at least 3.6 times higher than Whites.³ Ann Arbor, one of the 10 most economically segregated cities of any size in the nation,⁴ is not exempt from racism and patterns of police violence. Indeed, **Ann Arbor is America**.

Never before has the impunity of police received greater attention nationwide, but local "leaders" remain intent on keeping the status quo. Aura's killing proves that the liberal haven of Ann Arbor is no safer for Blacks than the rest of America. Mayor Christopher Taylor, Chief of Police

John Seto, the media, and city councilmembers all accepted Mackie's decision without question, even enthusiastically. Taking a cue from Mackie's report, with palpable relief they **blamed the killing on Aura Rosser herself**.⁵ We see victim-blaming in nearly every case of police homicide nationwide, most recently in the horrifying response of Cleveland to the killing of 12-year-old Tamir Rice, within seconds of police arriving at the scene. The city attorney claimed his death was "directly and proximately" caused by the child's own actions.⁶

This is not the first time Mackie exonerated a homicidal officer. In 2007, **LAWNET** (Livingston and Washtenaw Narcotics Enforcement Team) murdered a young Black man who was fleeing an alleged drug buy (staged by **LAWNET**).⁷ The national war on drugs, through which **LAWNET** receives its funding, has disproportionately targeted Black communities. Ried has worked undercover for **LAWNET**. Local and national politics are intertwined.

We reject the national narrative being regurgitated by the Ann Arbor authorities and corporate media. Scholar-activist Austin McCoy writes:

*The shooting of Aura Rosser confirms how Ann Arbor looks like the rest of America. Appraisals of Rosser's character in the local media and in the prosecutor's report reads more like the characterizations of Ezell Ford and Michael Brown. The crucial difference is that Rosser is black and female. Being black and female in America today means that black women not only die at the hands of the state like men, their suffering is obscured while making their physicality and psychological state hyper-visible. Black women's suffering is unseen by the authorities, but the state tries to highlight how they are "aggressive" and "hysterical."*⁸

The lack of accountability for police homicide of Blacks is a central issue that Aura Rosser's life and death raises for us as a community. We hope this

retort will catalyze the beginning of a community-wide conversation that will also address problems of unemployment, housing, violence against women, interclass exploitation and violence, chemical dependency treatment, mental health services, poverty, and the criminalization of poverty.

Police Investigating Police ≠ Independent Investigation

We turn now to the specific, most obvious discrepancies in the Michigan State Police (MSP) investigative materials and the subsequent prosecutor's memo.⁹ We have many questions, and surely you will have others.

At minimum, these concerns confirm that when state police investigate local police, the public is in no way reassured that the investigation is unbiased and complete. When the state's report is turned over to a county prosecuting attorney who, by the very nature of his role, relies on the local police, we see even greater bias and distortion. **Police investigating police can never mean an independent investigation.** The distortions we see in Aura Rosser's case are not a question of "bad apples"; they reveal, rather, a policing and legal system which is structurally racist.

► I. Ried and the other officer present, Mark Raab, **were never interviewed by the MSP.**

- I.1. The MSP report states: "Officers David Ried and Mark Raab elected to submit police reports as their statements in lieu of giving a formal interview."¹⁰
- I.2. Can anyone imagine a civilian suspect of homicide being permitted to submit a written statement instead of being questioned aggressively by a detective?
- I.3. In the ongoing investigation of the police killing of Antonio Zambrano-Montes, a migrant worker in Washington State, the public

was outraged that investigators waited over two weeks before interviewing the officers responsible.¹¹ In Ann Arbor, the officers have *never* been interviewed or questioned, much less **testified before a jury**. They only submitted written statements saying they “feared for their lives,” which is the **legal cover** for use of deadly force; it is a legal expression, not an emotional one.

1.4. Mackie fails to mention this critical shortcoming of the investigation in his 12-page memo.

► 2. **Ried already knew Aura Rosser.** This fact is never mentioned, much less investigated, by the MSP nor by the prosecutor.

2.1. A police report from an earlier incident indicates that Ried had interacted with both Aura and her ex-boyfriend Victor Stephens. In his written statement, Ried only mentions that he already knew Stephens, not Aura.¹²

2.2. The MSP report summarizes the “previous incidents involving Aura Rosser,” omitting the fact that Ried was the answering officer in at least one incident. **Why does the MSP report attempt to minimize or hide the fact** that Ried already knew Aura?

2.3. Previous incident reports indicate that the **police already knew** Aura was under mental health care.¹³ **Why did officers not contact CSTS** (community mental health) prior to entering the house? Why was a social worker not called to the scene to assist with de-escalation? Why has AAPD not been transparent about its policy for responding to potential mental health crises?

2.4. What is the **police protocol** for responding to a call with someone in a possible **mental health crisis**? Why is this question not being asked and answered by city and county officials?

► 3. The collaborating witness for the police is **on parole**,¹⁴ and has been helpful to the police in the past.¹⁵

3.1. This means that a **key witness** to the shooting was **already known to Ried** from multiple past interactions. His reliability as a witness to a police homicide is **compromised by his dependence on the police and prosecutor for his liberty**. In his report on a prior incident, Ried himself questioned the witness's credibility with respect to accusations against Aura.¹⁶

3.2. Is the public to believe that the MSP conducted a **thorough and independent** investigation, without noticing and reporting these facts?

3.3. Some members of the community who are privy to police involvement in drug trafficking theorize that the **police may have had a motive** to intervene and eliminate Aura. The point is that we will never know, because the sham investigation never explored possible alternative motives or relationships among the individuals.

► 4. In the MSP Lab Controlled Substances Report dated December 12, 2014 (seven weeks before Mackie's decision), the "nature of offense" is listed as "0900-4 Justifiable Homicide."¹⁷ It appears that the MSP's investigation was **biased from the start** and the outcome was a **foregone conclusion**.

► 5. The alleged **threat** posed by Aura to the police officers and/or to Stephens is **exaggerated** in every possible way.

5.1. As biased as the MSP investigation seems to have been, **Mackie's memo takes bias and distortion to new levels**. The MSP report estimates that Aura was 13 to 14 feet from the officers when they

shot her (based on the distance between the taser probes). Stephens estimated 15 feet.¹⁸ Mackie's memo instead reports the distance as 6 to 10 feet, based on the cops' claims and **disregarding MSP forensic evidence.**

- 5.2. While both police officers describe Aura as "**walking**" towards them, walking becomes "confronting" in the MSP report summary, "advancing" in Mackie's memo, "came at" in Mackie's press release, and "**charged**" in the sensationalized *Ann Arbor News* version, which proves that corporate media is not just a parrot, but an accomplice for local authorities.¹⁹
- 5.3. To make his self-defense claim plausible, Ried knows he must justify why he, a fully-armed and trained police officer with a partner by his side, was in fear for his life from a woman holding a knife with a 4-inch blade. He and Raab describe, and Mackie emphasizes, that Aura "opened her eyes very wide" and "appeared to be in a deranged state," with "a blank stare."²⁰ We hear in these perceptions the echo of the self-defense claims of Darren Wilson in Ferguson, who claimed that Michael Brown looked "like a demon."²¹ Mackie takes these **racist tropes** and runs with them in his report, seeking out support for his theory that Rosser was indeed "deranged," and therefore mortally threatening, not just in an angry dispute with her ex-boyfriend.
- 5.4. Stephens describes Aura as holding a filet knife forward with her thumb on top of the handle; the police officers claim she held it in a "threatening" position with the handle pointing towards the thumb side of the hand (i.e. thumb on the bottom of the handle) and with the knife held up near her head. The only fingerprint found on the knife by the MSP Lab was from Aura's left ring

finger.²² The main MSP report mentions “the possible presence of blood” on the knife, darkly hinting at violence committed; only in a separate MSP Lab report do we learn that the stain on the blade was from Aura’s own blood.²³

- 5.5. Mackie’s determination that Ried “honestly and reasonably” believed that he or another person would be “killed or seriously injured” is based on the notion that an attacker could charge across a distance of 15 feet within two seconds. For this to be plausible, a woman walking towards officers with a 4-inch knife blade must be **rhetorically transformed** into a deranged, armed attacker.
- 5.6. Stephens said a) he heard the cops announce “police,” b) Aura took three steps towards them, c) cops said “freeze,” and d) he heard “pop pop” (taser and gun). Ried claimed in his statement that he yelled loudly for Aura to drop the knife several times *before* Aura even turned towards the officers. Raab claimed he yelled “Police, drop the knife!”, then Aura turned, and then he yelled similar orders at least three times. Mackie makes no attempt to **reconcile the discrepancies**.
- 5.7. Raab also writes: “The time from when officers first entered the house and yelled police to when she was shot and Tasered was approximately **5–10 seconds**.” Considering the conflicting claims about how much warning Aura was given, and even whether she was asked to drop the knife at all, it seems that she was given little to no opportunity in 5–10 seconds to save herself from police assault.
- 5.8. It is also evident that in the 5–10 seconds after entering the open door of the home, the police officers made no attempt to resolve the situation peacefully. They **entered, yelled aggressively, and fired**.

- ▶ 6. Taser and gun at the same time? It makes no sense!
 - 6.1. Nowhere in the investigation, Mackie's memo, or in responses from city officials does anyone address head-on the most obvious contradiction—that if Raab's decision was to draw a Taser, wasn't Ried's decision to draw and fire a gun into her heart excessive use of force by comparison? Less lethal force is routinely used by police to disable people like intoxicated football fans. Surely potential mental health crises deserve at least as much restraint.
 - 6.2. Instead of answering this question, Mackie further reveals his pro-police bias by arguing that Raab's firing of a Taser actually **supports** Ried's claim he killed out of fear of mortal danger. Because they are alleged to have shot at about the same time, they both felt fearful at the same time, his argument goes. No forensic evidence reported to date proves the precise timing and sequence of the shots. The MSP investigation does not even clarify whether Ried was carrying a Taser.
 - 6.3. The question on our minds is this: **If Aura Rosser was white, would Ried have used less lethal force?** Ried's decision to kill Aura must be seen within the context of national (and international) disregard for the lives of Black and Brown people. In 2012, at least 313 Black people were killed extrajudicially, or one every 28 hours. 136 (44%) of those killed that year had no weapon at all at the time they were executed.²⁴
 - 6.4. When the editor of the *Ann Arbor Independent* recently requested, under FOIA, citizen complaints against police, the AAPD **redacted all officers' names, contrary to state law**. We do know that Ried was a named defendant in a 2012 lawsuit alleging **incidents of explicit racism** on the part of the police, including Ried.²⁵

- ▶ 7. More unanswered questions:
 - 7.1. If Aura was shot in the heart, with an upward trajectory towards the right, why did she fall to her left into the kitchen? How did she then end up on her back? The wound to her heart was devastating, on top of the disabling Taser probes. It's unlikely she would have been able to move after the fatal wounding.
 - 7.2. What were the officers' predisposition and assumptions before they arrived on the scene? They were never questioned about this. Why, when answering a 911 call, did they stop at every red light and not run their emergency lights? We hear the dispatcher ask, "Where the heck was Baker 22 coming from?" Why did the dashboard camera record audio only **after the shooting** when Ried turned on the emergency lights?
 - 7.3. Why was the **crime scene not secured** until 4:05 a.m., almost four hours after Aura was pronounced dead? The MSP investigators arrived at 8:45 a.m.²⁶ Indeed, the main MSP report takes as truth the AAPD Report (140056140) and repeats most of its statements.
 - 7.4. The ambulance run report appears nowhere in the investigation. Why?
 - 7.5. The 13-minute 911 call recording includes periods when Stephens left the phone line open and voices can be heard in the background. MSP investigators **did not bother to closely examine or transcribe the recording**. After Stephens tells the 911 operator that Aura is "in my room with the door locked," he can be heard shouting "One more time, open up that door!" We hear another voice saying "What's up man, what the f*** you doing dog?" and what sounds like "Don't hit her, you can't hit her." Later we hear Aura's voice shouting, "Leave me alone!"²⁷ **Who was the aggressor?** Why does

the MSP investigation not bother to ask? It is not uncommon for abusers to call police and claim they are victims. Stephens had called 911 on multiple previous occasions, never resulting in serious injury or charges brought against Aura.

- 7.6. While Mackie leads his memo with a caricature of Aura as a psychotic drug abuser off her meds, the autopsy report indicates that levels of recent-use cocaine and THC in her blood were **very minimal** and could have resulted from consumption days prior to the incident.²⁸ There is no serious evidence that Aura was delirious due to not taking her medicines and recently consuming high levels of cocaine—this is only speculation.

Is this what passes for “outside investigation?” The MSP investigation and Mackie’s responding memo are full of **gaps, inconsistencies, and blatant bias** towards the defendants. We **contest the legitimacy** of the investigation and the decision, and we **condemn the mishandling** of this case.

Legality ≠ Moral Legitimacy

Mackie declined to indict Ried based on statutes that give broad latitude to officers to commit assault and homicide—a primary reason for the low rates of prosecution of police officers. It is exceedingly difficult to prove that a cop has broken the law in a confrontation because all they need to do is claim they *believe* they were in mortal danger—the danger does not even have to be proven true. By this means, cops can and do **manipulate racist assumptions** to claim they feared Black victims simply because of their **appearance**.

In the legal system, the police have been given excessive leeway to **get away with assault and homicide**. But **legal cover** does not equal **moral le-**

gitimacy. Mackie refused to indict, but this does not mean Ried's behavior was within **policy**, much less within **reason and common sense**.

Chief of Police John Seto, Mayor Christopher Taylor, the city, and the county still have a **responsibility to transparently scrutinize** Ried's behavior against not only police policy and training, but also in light of the broad societal discourse that is **calling into question the legitimacy of police authority**. We need to have this dialogue in this community, especially among those most affected by extrajudicial policing and institutional racism.

► 8. Consider this:

- 8.1. In Washtenaw County's budget, our single largest expense is law enforcement, matched only by the Washtenaw jail budget. Ann Arbor and Ypsilanti police are also the single largest expenses in these cities.²⁹
- 8.2. In the county jail, African American inmates (whether sentenced, unsentenced, or felon) outnumber White inmates,³⁰ even though Whites account for an almost six times larger percentage of the general population.³¹
- 8.3. The complaint process is currently **non-transparent**, and the public is not privy to the policies and standards of procedure that supposedly guide AAPD operations.
- 8.4. Killedbypolice.net reports that in 2014, at least 1004 people were killed by police across the U.S.—nearly **3 per day**.
- 8.5. When statutes give police too much leniency to commit assault and homicide, those statutes can be changed. The power police are given under the law can and should be **taken away when systematically abused**. When the entire law enforcement and judicial system reflects systematic abuse, then **we condemn the entire system**.
- 8.6. When police officers violate policy and protocol, they can be dis-

ciplined and fired. Raab responded with drawing a Taser while Ried committed homicide without reasonable cause. **We reject his dubious claim that he feared for his life.** The legal process has been corrupted by a biased and incomplete investigatory process, but disciplinary action can still be taken. Ried has by now returned to regular duty. We call on Seto and Taylor to **fire Ried now.**

- 8.7. Mayor Taylor expressed sympathy for “everyone” affected by the killing, but the city, county, and AAPD have yet to apologize, formally or informally, for the killing. No doubt they fear litigation from Aura’s family. We call on Seto and Taylor to **apologize now, and pay Aura’s family immediately for costs associated with the funeral.**
- 8.8. To begin to do right by Aura’s family and her memory, authorities can and should meet these demands immediately. **To truly restore justice** will require the entire community to confront the truth of racism, economic injustice, and police violence, in Ann Arbor as in America. Only from a place of truth can we imagine a new, more just world where Aura Rosser would still be alive.

Aura Rosser’s Life Matters

This report only begins to outline the problems with the investigation. It puts to rest the mayor’s unconvincing claim that “Officer Ried’s actions were justified. He and his partner acted professionally and properly in defense of Mr. Stephens and in defense of themselves. The plain facts show this to be true.”³² We remind the mayor that there has been no trial to establish “facts,” and that in the entire investigatory process, no one has been an advocate for Aura Rosser.

We stand up for Aura Rain Rosser. By accounts of those who knew her and love her still, she was a beautiful, creative, and soulful woman. She was the mother of three children. Like many creative people, she had mental health struggles. According to her records, she was also a survivor of domestic violence and an abusive childhood. She was smart and strong, and defended herself against the exploitative men in her life.

We need to commemorate her artistry, her poetry, her motherhood, her being in this world. She had friends and family. She had spirit. She loved. She stood up for herself. **She did not need to die. We demand justice for Aura Rosser.**

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