

Posted 12/18/23

ARE CIVILIANS TOO EASY ON THE POLICE? (II)

Exonerated of murder, but not yet done



For Police Issues by Julius (Jay) Wachtel. On Wednesday evening, December 6, one week after opening arguments and “less than two hours” after getting the case, a Prince George’s County, Maryland criminal jury [acquitted suspended police officer Michael A. Owen, Jr. of all charges](#) over the January 27, 2020 shooting death of William Howard Green (right-side photo). Owen (left side photo) had been in custody since one day after the shooting. And [as the first Prince George’s officer](#) to ever be charged with an on-duty murder, he was denied bail and wound up spending *nearly four years* behind bars awaiting trial. (Shockingly, he may have another one coming. We’ll get to that later.)

Unlike the gnarly circumstances (i.e., pretextual traffic stops) that underlie many of our posts, the tragic encounter with Mr. Green [began as an episode of so-called “routine” policing](#). Owen was dispatched to the scene of a major traffic wreck. Mr. Green’s car had gone out of control, struck several other vehicles and “crashed into a tree”. Passers-by found him unconscious and called police. And when officers arrived they quickly observed that Mr. Green was deeply intoxicated. As Owen’s prosecutor conceded, Mr. Green “did cause several accidents and was high on PCP or at least had PCP in their system”.

After the officers searched and handcuffed Mr. Green (natch, behind his back) they placed him in the front passenger seat of Owen’s cruiser. Mr. Owen’s colleague stepped away to interact with witnesses and victims. Owen took a seat behind the wheel to watch over Mr. Green and await the arrival of a drug testing unit. Its arrival, though, was delayed. After about twenty minutes Mr. Green said he had to urinate, and the ex-officer’s response [supposedly agitated him](#). Mr. Green reportedly turned violent and a struggle ensued. According to the cop, his prisoner had somehow gotten hold of a gun,

and Owen grabbed it and fired in self-defense. Owen insists that he was startled to discover that the pistol was, in fact, his own duty gun. It was fired seven times. Its first shot apparently went astray. But the six bullets that followed struck Mr. Green and inflicted fatal wounds.

Alas, then-cop Owen wasn't assigned a bodycam. None of what happened was captured on video, so all we "know" is what he said. Instead of just relying on media accounts, let's turn to his courtroom testimony. It took place on Monday, December 4 (we paid the court reporter for the transcript).

DIRECT EXAMINATION BY OWEN'S LAWYER

Owen testified that he was dispatched to an accident with injuries. On arrival a witness pointed to the vehicle that caused the collision. As he and Corporal Villaflor approached the car they observed Mr. Green inside, "slumped against like the driver side window" and "nonresponsive." Mr. Green slowly awakened when his partner rubbed his sternum. They physically hauled Mr. Green out of his car and patted him down. It wasn't a "search"; they didn't reach into his pockets. That's when Owen told his partner "I smell PCP."

Owen feared that Mr. Green could turn violent, so he was handcuffed behind his back. Mr. Green noticeably reacted. "Mr. Green is not resisting per se but he's tensing up. He's pulling away. And so we kind of have to use like joint manipulation just to get him in handcuffs." Owen then fetched his car and his partner left. Owen placed Mr. Green in the front passenger seat. Policy required it for "single-officer" cars that lack a cage. He then backed the cruiser into a parking space to get it out of the way.

Owen spent the next twenty minutes "doing paperwork on my computer" while "keeping an eye on Mr. Green". He occasionally asked questions. At first Mr. Green was mostly unresponsive. He dozed on and off. But then things turned in a decidedly negative direction.

Owen: *"...as he began to become more lucid...his behavior deteriorates. He starts using vulgar language and begins to tell me he does what he wants, he wants to go to the bathroom, which my response is give me few minutes, sir, and I'll get you to a bathroom as soon as I can. But he becomes more and more agitated as time goes on..."*

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According to Owen, Mr. Green moved his hands from the side and placed them “behind his back.” He then “begins to reach into the small of his back and it looks like he’s manipulating something”.

Owen: *“I grabbed his hands and pulled them back out from behind him and told him don’t do that, leave your hands to the side.”*

Q: *“And did he comply with that request?”*

Owen: *“For about like five seconds... and then he goes back and continues to look like he's manipulating something. At this point he actually raises up off his seat, kind of presses feet against the floor board.”*

Owen said he reached for the in-car microphone to call for help. But Mr. Green used his left leg to knock it out of his hands.

Owen: *“...immediately after that he began thrashing about. I’m still trying to control his hands. And he’s throwing his body weight around, trying to kind of head-butt me and stuff. I’m trying to control him as best I can, but it’s very obvious that he has like superhuman strength.”*

Owen said he tried to apply “pain compliance” by twisting the handcuffs, but it didn’t work.

Owen: *“...So he's twisting the upper part of his body. His legs are flailing. He's moving from one side to the other. He's generally trying to get away from me...He was calling me all types of names, bitches, pussy ass nigger was one of them...”*

And when Owen tried to use his personal radio, Mr. Green “escapes my grasp”.

Owen: *“...he hits me very forcefully with all of his body weight pressing me, really slamming me into the B pillar driver’s side of the car... causing me excruciating pain in my torso section.”*

Owen then heard “a hollow metallic thud”.

Owen: *“I recognized -- I know it’s a gun hitting the center console. No doubt about that in my mind. I fight through the pain and look down in the center console and there is a gun... Mr. Green had his hands on the gun, saw that the gun was pointed at me...”*

Owen said that he didn’t run off because he could have been shot in the back. So he grabbed at the gun.

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Owen: *"We're struggling over it. He's extremely strong...I reached down, grabbed the gun, struggling over it with Mr. Green, trying to, one, you know, turn the muzzle away from me, and, two, get it from him in general..."*

Q: *"Okay. And what happens next?"*

Owen: *"As we're fighting over the gun, a shot is fired...At that point I was able to retrieve the gun and I fired a quick succession of rounds, stopped, re-accessed Mr. Green's behavior at this point, and then was able to safely exit the car based off of his behavior..."*

Q: *"Okay. And what observations did you make to lead you to the conclusion that he was no longer a threat to you?"*

Owen: *"He wasn't moving anymore."*

According to Owen, he didn't realize that it was his own gun.

Owen: *"I knew that it was a black handgun. During that entire interaction I don't -- I'm not processing these very minute details. And so I look at the gun -- and again this happens extremely quickly -- but I look at the gun, recognize that it is a Smith and Wesson. And when and I look down at my holster, and my jaw just dropped."*

Owen said that Mr. Green's hands on the gun eliminated less-lethal alternatives, such as a Taser.

Q: *"So what I'm talking to you about is when saw the gun, when you looked at it and saw Mr. Green's hand on the gun, was anything in the continuum use of force a possibility aside from deadly force?"*

Owen: *"No, sir."*

Q: *"And is that why you exercised deadly force in this case?"*

Owen: *"Yes."*

CROSS-EXAMINATION BY STATE'S ATTORNEY

Owen agreed that the original pat-down should have detected a concealed weapon. He said that he again patted down Mr. Green before placing him in his car, but said it wasn't as thorough. Owen also testified that he did not feel his gun leave its holster. And he insisted that while Mr. Green was handcuffed behind his back, that's not where his hands wound up:

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Owen: *"I hear [the gun] hit the center console. When I looked back toward Mr. Green he is no longer making contact with me. He's got his hand on the gun."*

Q: *"With his hands still behind his back?"*

Owen: *"His hands are not behind his back, they're off to the side, he's handcuffed behind his back, but his hands are off to the side and kind of turning a little bit away from me...He's got the gun pointed at me with his hands."*

Owen rejected the prosecutor's implied criticism of his gunfire.

Q: *"After firing shot number two, did you reassess the threat?"*

Owen: *"Sir, these shots are happening extremely quickly. I think we heard witnesses testimony say sound like a machine gun. So --"*

Q: *"You have to pull the trigger intentionally each time, correct?"*

Owen: *"Yes, but all of these happened together. There is not -- extremely quickly. There is not a lot of time for -- I think like I'm going to die, sir..."*

But when pressed about why he didn't get out of the car after the first shot, Owen said that Mr. Green might have had another gun and shot him in the back.

Q: *"So, when after -- once you got control of the gun, you fired the other six shots because you believed that he still was in possession of a gun, correct?"*

Owen: *"Yes."*

Q: *"And ultimately you realized that he didn't -- there was no other gun in the vehicle, other than your gun, correct?"*

Owen: *"I believe that if I turned to exit the vehicle that it was possible that Mr. Green, because of his movements, had another weapon and might use it, and might use it against me."*

RE-DIRECT EXAMINATION BY OWEN'S LAWYER

Owen's lawyer promptly honed in on the basics:

Q: *"When you looked and saw the gun on the center console with Mr. Green's hand on it, pointing at you, what did you think?"*

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Owen: “*I thought I was going to die.*”

Q: “*Is that why you reacted the way you reacted?*”

Owen: “*Yes.*”

STATE’S ATTORNEY: “*I have no officer questions.*”

JUDGE: “*You may step down.*”

Prince George’s County State’s Attorney Aisha Braveboy disparaged the suspended officer’s testimony as “outrageous” and “certainly implausible”. Naturally, [she was gravely disappointed by the verdict](#):

We believe that Cpl. Owen committed a crime that night, and he did in fact murder William Green. However, the burden is on the state, and it is a very high burden. There were only two people in the vehicle that night that could tell us what happened, and unfortunately one of them is no longer with us.

Throughout the trial, she battled the notion that Owen had faced a *real* threat. So what drove him to kill? In her closing remarks, she suggested that the cop got mad because Mr. Green urinated in his patrol car. That’s admittedly a big leap. Still, she needed *something*. Local residents (even some judges) had long displayed a reluctance to sanction cops who tangled with misbehaving souls. For example, in 2005 [jurors acquitted a Prince George’s cop](#) of assaulting a suspect who had stolen a van “at gunpoint,” then crashed it when pursued. Video depicts the officer (like Owen, a corporal) repeatedly kneeling and whacking the man even after he’s handcuffed and on the ground. State’s attorney Glenn Ivey, who had two years on the job, was disappointed in the outcome. Still, as he well knew, his predecessor had prosecuted *eleven officers* for misconduct in eight years but failed to gain a *single* conviction.



Natch, it’s not just Prince George’s. In an unforgettable 2015 episode, Baltimore police arrested [Freddie Gray](#). His behavior had drawn the attention of bicycle cops, and in the ensuing struggle they found a switchblade in his pockets. Mr. Gray was arrested, hog-tied and shoved into a paddy wagon. Alas, no one had belted him into a seat, and he suffered fatal injuries while bouncing around during transport. Six officers (including a Lieutenant) were

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charged with murder and manslaughter. Each was acquitted, and the Feds [refused to bring charges](#).

Indeed, as we reported in [Part I](#) and its updates, citizens are reluctant to convict cops who tangle with palpably naughty characters. That's frustrated the progressive, reform-minded prosecutors who came aboard post-George Floyd. Last year, the office of then-San Francisco [D.A. Chesa Boudin](#) (he's since been recalled for being too soft on crime) prosecuted "[the first excessive-force trial for an on-duty officer in the city's history](#)." And as usual, jurors returned a "not guilty" verdict. In your writer's own stomping grounds, [a jury recently acquitted](#) two former Long Beach, Calif. police officers of perjury for accusing the wrong parolee (two were detained) of possessing a gun. In 2018, when the stop occurred, the then-D.A. chalked the cops' faux-pas as an honest (if unfortunate) mistake. But when [reformist D.A. George Gascon](#) took the helm in 2020, things changed.

Cops know that citizens are likely to grant them a "pass". That's why LAPD's rank-and-file championed the 2019 city ordinance that currently [lets officers choose all-civilian panels](#) to rule over the Chief's decisions to fire. Naturally, Chief Michel Moore [thinks that was a very bad move](#). Here's an extract from his December 7, 2022 memorandum to the Police Commission:

The Department has observed that all-civilian Boards are resulting in an increased frequency in which sworn employees who have committed serious misconduct are not being removed from their positions. Similarly, all-civilian Boards are proving substantially more lenient reducing every recommended penalty in each Board completed this year.

Would it have helped Owen's prosecutor if she could have brought up his prior disciplinary record? [According to the Washington Post](#), his ten years on the job were sprinkled with controversy. Here's a summary:

- **[November 11, 2010](#)**: Shortly after graduating from the academy, Owen exchanged gunfire with a would-be mugger while off-duty. No one was struck.
- **[December 17, 2011](#)**: Owen shot and killed an apparently intoxicated man who was lying on the grass and allegedly pointed a gun. A loaded gun was found, and the man's past included firearms charges. Owen applied for and received State compensation for a "permanent partial disability" supposedly brought on by this encounter. He apparently continued receiving treatment for PTSD throughout his career.

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- **2013:** Owen didn't appear in court for the arraignment of a "suspicious" man with whom he tangled. Charges against the suspect were dismissed in exchange for dropping a lawsuit that claimed Owen assaulted him.
- **2016:** Charges in two traffic-related cases were dismissed because Owen failed to show for court. In the first, a woman accused him of grabbing her neck during an argument. In the other, an off-duty college cop disputed that he became combative. These no-shows led Owen to be flagged in the agency's "early warning" system.
- **July 13, 2019:** Owen's alleged use of brute force on an uncooperative suspect apparently led prosecutors to drop charges against the man.
- **July 31, 2019:** Owen accidentally discharged his gun while struggling with a motorcycle thief (no one was struck.) Owen had to take "judgment enhancing shooting training" and meet with the department psychologist. He was again flagged in the early warning system.

[And there was that lawsuit.](#) On Monday, September 28, 2020, eight months after Mr. Green's death and nearly three years before Owen was tried, Prince George's County settled with the victim's family for \$20 million. They had been represented by the same Baltimore law firm ([Murphy Falcon & Murphy](#)) that had obtained a \$6-million-plus payout for the death of Freddie Gray.

No dice there either. As far as the trial judge was concerned, it was all about what happened on that Monday night in 2020. *Everything* else was off-limits. Still, prosecutor Braveboy *did* get a break. While neither the officer's disciplinary history nor the survivor lawsuit could come in, neither would his alleged victim's criminal record.

Docket Information	
↕ Date	Docket Text
06/16/2003	JUDGE: RETCHIN , JUDITH DEFENSE ATTY: BARON CONTINUED: 2 BOND STATUS: PERSONAL RECOGNIZANCE BO
07/11/2003	JUDGE: RETCHIN , JUDITH DEFENSE ATTY: BARON CONTINUED: 2 BOND STATUS: PERSONAL RECOGNIZANCE BO
09/17/2003	JUDGE: RETCHIN , JUDITH DEFENSE ATTY: BARON PLEA GUILTY: 2 JUDGMENT: 2 SENTENCED: 2 BOND STATUS: PERSONAL RECOGNIZANCE BO COUNT: 2 TYPE:ESS ENTIRELY COMMENT:COMMUNITY SERVICE CONFINEMENT: 180 D / CONF. SUSP: 180 D / PROBATION: 001 TYPE: SUPERVISED
08/03/2004	JUDGE: RETCHIN , JUDITH DEFENSE ATTY: BARON CONTINUED: 2 BOND STATUS: PERSONAL RECOGNIZANCE BO
08/06/2004	JUDGE: RETCHIN , JUDITH DEFENSE ATTY: BARON SENTENCED: 2 BOND STATUS: PERSONAL RECOGNIZANCE BO COUNT: 2 TYPE:ESS ENTIRELY COMMENT:COMMUNITY SERVICE CONFINEMENT: 180 D / CONF. SUSP: 180 D / PROBATION: 001 TYPE: NO CHANGE IN SENTENCE
08/15/2004	Notice of Filing:
01/15/2006	**CONVERTED RECEIPT HISTORY AS OF 2006-01-15** 2004-02-09: RECEIPT #: 20619325 AMOUNT: \$50.00 CAN NUM: 4668 TENDER: Cash CHECK #: 0 FROM: GREEN, WILLIAM

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And one *did* exist. According to [D.C.'s WUSA9](#), Mr. Green had been arrested by D.C. police in 2003 for “buying a single PCP-laced cigarette”. Our [online examination of court files](#) (see above image) revealed that “William Green” was charged with felony possession of PCP on May 30, 2003 (case no. “2003 FEL 003162”). Mr. Green pled guilty that September and drew probation. Apparently things didn't work out: there was a re-do in 2004, but probation was re-imposed. D.C.'s criminal case website has many other entries for a “William Green”. However, there are no birthdates or other means to readily determine whether any are about our Mr. Green. As for Prince George's County, only civil cases are accessible online. So our tools for probing the victim's record were limited.

Still, the suspended cop remains suspended. And it's over allegations that seem unlikely to draw nearly as much sympathy. In August 2021 [the Feds indicted Owen and five other D.C.-area cops on conspiracy charges](#). According to DOJ, they participated in an elaborate scheme to defraud insurance companies and financial institutions by

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND	
UNITED STATES OF AMERICA	*
v.	*
	* CRIMINAL NO. <i>Px21CR5</i>
	*
CONRAD DARWIN D'HAITI,	*
PHILIP JAMES DUPREE,	*
MARK ROSS JOHNSON, JR.,	*
MICHAEL ANTHONY OWEN, JR.,	*
JARON EARL TAYLOR, and	*
CANDACE DANIELLE TYLER,	*
Defendants	*
	(Conspiracy to Commit Bank Fraud, 18 U.S.C. § 1349; Conspiracy to Commit Mail and Wire Fraud, 18 U.S.C. § 1349; Conspiracy to Commit Wire Fraud, 18 U.S.C. § 1349; Forfeiture, 18 U.S.C. §§ 981(a)(1)(C) and 982(a)(2), 21 U.S.C. § 853, 28 U.S.C. § 2461(c))

falsely reporting the theft of vehicles, debit cards and funds from bank accounts. [Owen recently pled not guilty](#) and was released pending trial. This case, though, was *also* off-limits for prosecutor

Braveboy. After all, imagine how it might have biased the jury's opinion of the accused's integrity and truthfulness.

Just imagine.

Whether civilians really *do* “go too easy” on police promises to be a never-ending debate. As we “go to press” Washington state jurors are deliberating the fate of three Tacoma police officers who were charged with murder and manslaughter in the death of [Manuel Ellis](#). During a nine-week trial, officers Christopher Burbank, Matthew Collins and Timothy Rankine were accused of needlessly pummeling, choking and Taser-ing Manuel Ellis during a seemingly minor encounter and [ignoring his protests that he couldn't breathe](#). Indeed, the Coroner attributed his demise to oxygen

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deprivation caused by forcible restraint. But the defense insisted that Ellis, a meth user, [“created his own death”](#):

This is a situation where [Ellis] created his own death. It was his behavior that forced the officers to use force against him.”

That was, in effect, Owen’s defense. Will it work for Tacoma’s cops? Check the update!