

THE PLAIN DEALER

Diabolical: A Gentleman's Guide to Love & Murder' arrives at Playhouse Square. **FRIDAY MAGAZINE**

Mary Kay Cabot: It's time to count out Johnny Manziel as the Browns' quarterback. **SPORTS, B1**

LeBron James: A look at the Cavs star's complex endorsement deals. **SPORTS, B1**



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TONIGHT

12-year-old's death

Religious leaders call for a Tammir special prosecutor

New report terms shooting 'reasonable'

CORY SHAFFER
cshaffer@cleveland.com

Cuyahoga County Prosecutor Timothy J. McGinty on Thursday made public another report in which a criminal justice expert found last year's fatal shooting of 12-year-old Tammir Rice by a Cleveland police officer to be tragic, but reasonable.

"This unquestionably was a tragic loss of life, but to compound the tragedy by labeling the officers' conduct as anything but objectively reasonable would also

be a tragedy, albeit not carrying with it the consequences of the loss of life, only the possibility of loss of career," wrote W. Ken Karsaris, a certified Florida law enforcement officer, instructor and consultant.

The report is the third commissioned by McGinty's office and made public as the investigation continues into the Nov. 22, 2014, shooting that thrust Cleveland into the national conversation about police use of force.

SEE REPORT | **A16**



Cleveland police officer Frank Garmbach has his gun drawn standing near the gazebo in the upper left of the screen in this newly released video of the Tammir Rice shooting. See the video at cleveland.com. Story, **A16**

McGinty is asked to step aside from case

CORY SHAFFER
cshaffer@cleveland.com

A group of pastors and rabbis demanded Thursday that Cuyahoga County Prosecutor Timothy J. McGinty step aside and allow a special prosecutor to take over the investigation into last year's police killing of 12-year-old Tammir Rice.

At a news conference, the group called on community activists to continue "nonviolent, direct action" in the event McGinty does not step aside, saying

the first-term prosecutor has lost the public's trust.

Recent public comments from McGinty "add to the growing sentiment that the manner in which the Rice case has proceeded is tainted with bias at the worst and poorly handled at the minimum," the Rev. Jwanza Colvin said, speaking at Oliver Institutional Baptist Church in Cleveland.

McGinty has repeatedly said he will not step aside, and his office affirmed that position on Thursday.

SEE TAMMIR | **A16**

slaying evidence

Prosecutor releases 2nd video of Tamir shooting

EVAN MACDONALD
emacdonald@cleveland.com

Cuyahoga County Prosecutor Timothy J. McGinty released a second video showing a Cleveland police officer shooting 12-year-old Tamir Rice.

The video comes as the prosecutor's office continues to present evidence to a grand jury that will decide whether to indict officers Timothy Loehmann, who shot Tamir, and his partner Frank Garmback in the Nov. 22, 2014, shooting that occurred outside a West Side recreation center.

The video was released in tandem with a third expert report that said that the shooting, while tragic, was "objectively reasonable." The Cuyahoga County prosecutor's office last month released two expert reports that reached the same conclusion.

The two-hour video is significantly less clear than the first video police released last year in the days following the shooting. It is taken from a security camera located outside the Cudell Recreation Center building, across the parking lot from the gazebo where the shooting happened.

The new video shows a mail carrier get into his truck and leave moments before Loehmann and Garmback arrived in their police cruiser.

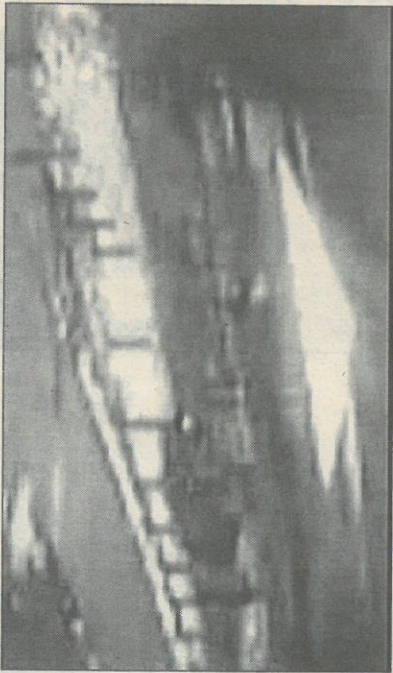
Garmback drove the car over the curb and between trees and a swing set directly beside the gazebo where Tamir sat. As the car skidded to a stop, Loehmann got out of the passenger seat and fired two shots, hitting Tamir once in the abdomen. Investigators said Loehmann fired after seeing Tamir move his hands toward his waistband and lift his shirt.

After the shooting, police learned that Tamir was 12 years old, and

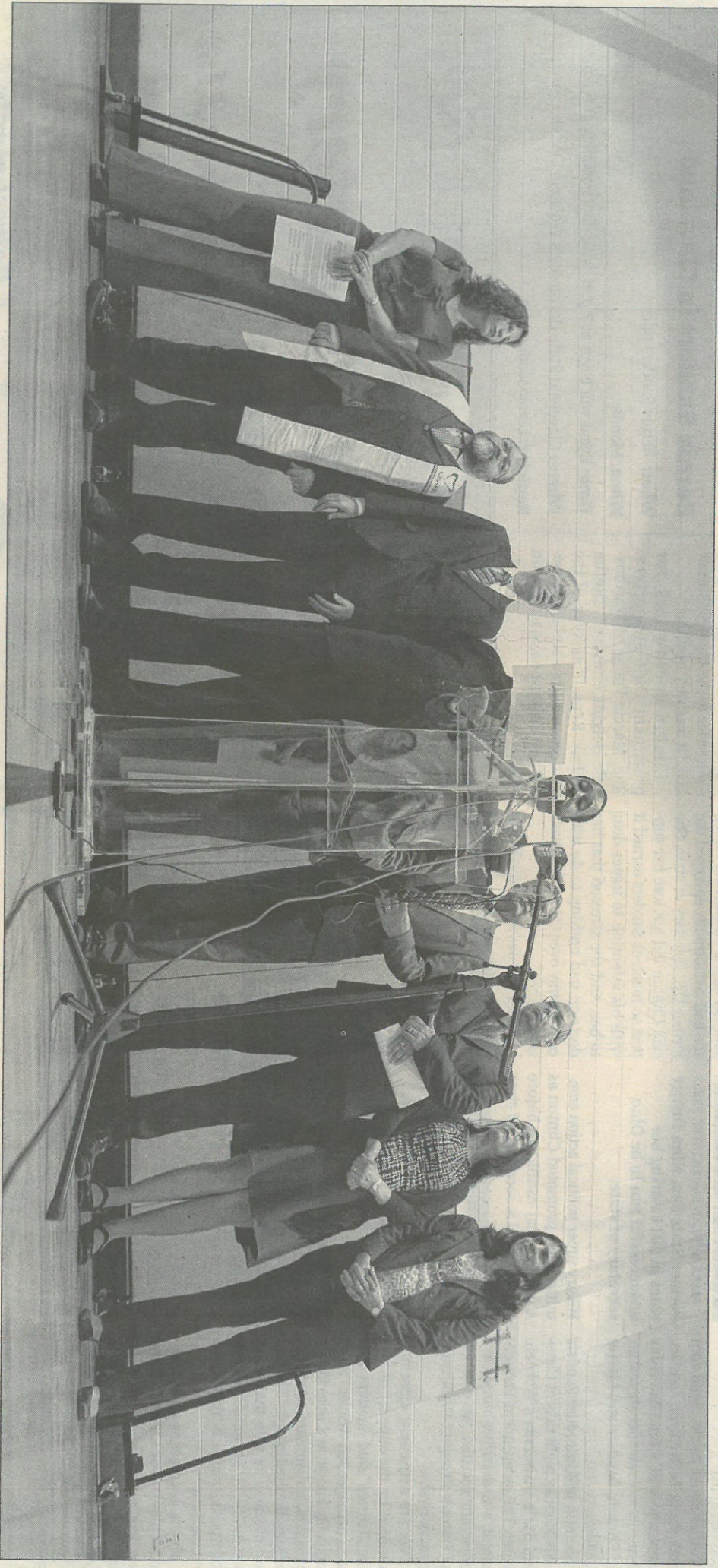
that the gun was actually a replica Colt 1911 airsoft gun that shot plastic pellets. The gun's orange safety tip had been removed.

Tamir's then-14-year-old sister ran toward the gazebo after hearing the gunshots. When she arrived, Garmback forced her to the ground, and Loehmann helped handcuff her and place in the back of the police car.

Officers then stood around Tamir as he lay wounded. An FBI agent, who was in the neighborhood, arrived four minutes after the shooting and began to administer first aid.



A closeup look at a screen grab of a newly released video that shows Cleveland police officer Frank Garmback with his gun drawn near the Cudell gazebo. See the video at cleveland.com.



PHOTOGRAPHS BY GUS CHAN | THE PLAIN DEALER
Timothy J. McGinty to step aside and allow a special prosecutor to take over the Tamir Rice shooting case.

The Rev. Jawanza Colvin, pastor of Olivet Institutional Baptist Church, speaks at a news conference Thursday as part of an interfaith group of local clergy calling on Cuyahoga County Prosecutor Timothy J. McGinty to step aside and allow a special prosecutor to take over the Tamir Rice shooting case.

TAMIR

FROM A1

The call comes amid heightened tensions between McGinty and activists who have called for Cleveland police officers Timothy Loehmann and Frank Garmback to face charges for Tamir's Nov. 22 shooting outside Cudell Recreation Center.

Loehmann shot Tamir less than two seconds after Garmback drove a police cruiser beside the boy. The officers were responding to a report of a man with a gun. Tamir had a replica airsoft gun in his waistband.

McGinty's office has begun presenting evidence to a grand jury as the one-year anniversary of the killing approaches.

Joining Colvin at the news conference were the Rev. Joseph Cherry of the Unitarian Universalist Society of Cleveland; the Rev. Kenneth Chalker of the University Circle United Methodist Church; the Rev. William Myers of the New Mount Zion Baptist Church; Rabbi Stacy Schlein of the Temple Tifereth-Israel; Rabbi Stephen Weiss of the B'nai Jeshuran Congregation; and Rabbi Jordana Chernow-Reader, Rabbi Melinda Mersack and Rabbi Robert Nosanchuk, all of the Anshe Chesed Fairmount Temple.

The group criticized several aspects of the way McGinty has handled the investigation. They

Recent public comments from Cuyahoga County Prosecutor Timothy J. McGinty "add to the growing sentiment that the manner in which the Rice case has proceeded is tainted with bias at the worst and poorly handled at the minimum."

The Rev. Jawanza Colvin, speaking at Olivet Institutional Baptist Church in Cleveland.

objected to his public release of two reports from criminal justice experts who found the shooting was reasonable under the U.S. Constitution, contending the experts were biased in favor of police. They also objected to McGinty not saying publicly whether he will ask the grand jury to charge the officers.

But in a letter addressed to McGinty and provided at the news conference, the group said it was most upset at comments McGinty made to a local TV reporter at a Democratic club meeting last week.

When asked about calls from the boy's mother, Samaria Rice, and her attorneys that he step aside, McGinty said, "They are very interesting people, I'll leave it at that. I think their motivations

are economic," according to WKYC Channel 3.

On Thursday, McGinty said his comments to WKYC were not directed toward Samaria Rice, and said she has every right to demand justice for Tamir.

"As a parent, her loss is unimaginable. We have the utmost respect for Ms. Rice and will continue to work with her," McGinty said.

"My comments were not about Ms. Rice, but instead responded to a civil attorney's inflammatory attacks on the grand jury process. Any efforts to suggest otherwise are simply not true."

But Colvin said he organized Thursday's news conference because of the remarks.

"I was shocked, I was floored, that a public official would make those egregious comments," Colvin

said. The group also criticized comments attributed to McGinty in a sworn affidavit filed Tuesday. Rick Nagin, a member of a the Tamir Rice Justice Committee, said that when he asked McGinty if he was going to show the grand jury Cleveland Municipal Judge Ronald Adrine's opinion that there was probable cause to arrest Loehmann and Garmback, McGinty said "they read newspapers."

Adrine's opinion was not legally binding and was in response to a motion Colvin and other activists filed under Ohio's citizens-arrest law.

McGinty's spokesman, Joseph Frolli, said the prosecutor's office could not comment on what has or has not been shown to a grand jury, but he pointed to the office's policy of presenting all evidence collected during an investigation into a police killing.

In the letter, the group made its case for McGinty to remove himself from the investigation.

"This, we believe, will serve the public's interest best and send a significant message from your office that justice, and justice alone, is what is being sought in the case of the death of Tamir Rice," the letter states.

The Rev. William Myers, pastor at the New Mount Zion Baptist Church, took it one step further and called for McGinty's defeat when he is up for re-election next year.



A woman in the audience wipes away tears at the news conference about the Tamir Rice shooting case on Thursday.

REPORT

FROM A1

Officer Timothy Loehmann fatally shot Tamir outside a West Side recreation center after Loehmann and his partner, Frank Garmback, received a report of a person with a gun.

At the time, Tamir had an air-soft pellet gun tucked into his waistband.

Last month, McGinly released two reports in which experts stated that Loehmann acted reasonably by firing as Tamir appeared to reach toward his waistband because Loehmann didn't know Tamir was 12 and the weapon was only a pellet gun.

He noted the 40-foot skid marks the cruiser left in the grass as evidence that Garmback slammed on the brakes when he saw Tamir stand up and walk toward the cruiser.

All of this is evidence that Garmback's approach toward Tamir was "not by necessity, but by choice," Katsaris wrote. And Garmback would have put himself and his partner in danger by attempting to then move the cruiser.

"With the identified subject [Rice] approaching the police vehicle, and appearing to lift his jacket and reach for the waist area of his pants, the potential threat from possible gunfire at the officers, while making any attempt to move the vehicle, would place them at significant risk of injury or death," Katsaris wrote.

Katsaris also concluded that Loehmann acted reasonably in response to what he felt was a threat of gunfire from an armed suspect.

When Garmback drove over a curb and into the park outside the recreation center looking for Tamir, he likely didn't expect Tamir to be sitting at the gazebo, Katsaris wrote.

at the time, reached toward his waistband just as Loehmann jumped from the cruiser.

"This decision, in my opinion, was clearly objectively reasonable, given the totality of the circumstances," Katsaris wrote.

One issue left unsettled in the reports is whether Loehmann gave Tamir a warning. Police said in a news conference days after the shooting that Loehmann told Tamir to raise his hands three times in the seconds before shooting.

But Katsaris said the issue is irrelevant.

"I realize there is some question yet to be answered, if it even could be conclusively determined, that a warning, or more warning should be given of the potential before the use of deadly force," he wrote. "However, the immediacy of the threat, the amount of definitive description of the armed subject, and the hand movement toward the already identified location of 'the gun,' makes any, or further warning notice, against the backdrop of the obvious uniformed police presence, and information known, totally irrelevant and surely not 'feasible.'"

The latest release came hours after a group of ministers and rabbis publicly called for McGinly to remove himself from the investigation and appoint a special prosecutor. The clergy said at a news conference that McGinly had lost the public's trust.

Subodh Chandra, part of the legal team representing Samaria Rice, continued his criticism of McGinly's handling of the investigation after Thursday's release of the report by Katsaris.

"With this report's release, the prosecutor continues blindsiding the Rice family to deflect from his recent insult of Ms. Rice and from [his] own odd conduct of the matter," Chandra wrote. "He failed to share with the family the report from this longtime police-affiliated individual, or seek constructive comment."

Chandra also rejected the report's conclusion, saying it was as flawed as the first two McGinly released.

"It assumes non-existent facts — like what the officers were thinking when the officers have not testified, and ignores other critical facts — including the fact the officers rushed up and Officer

Loehmann fired immediately, the fact that Ohio is an open-carry state, and that the officers left a 12-year-old boy bleeding and dying on the ground without administering first aid," Chandra said.

In a two-page statement accompanying the report's release, McGinly reiterated his pledge to be transparent as the investigation continues.

"Once again, as we stated last month, we are not reaching any conclusions from these or other isolated bits of evidence. Individually they are simply pieces of a complex puzzle," McGinly said. "The gathering of evidence continues and the grand jury will evaluate it all."

Katsaris also testified during the trial of Cleveland police officer Michael Brelo, who was charged and ultimately acquitted of manslaughter in the Nov. 29, 2012, killing of an unarmed couple at the end of a car chase.

During the trial, Katsaris said Brelo acted "foolishly" when he fired a volley of shots into the car while standing on the hood of the couple's car and concluded the force was "objectively unreasonable."