

JUSTICE FOR OSCAR GRANT

A Badge is Not a License to Kill * Keep Mehserle in Jail and Throw Away the Key * Build the New Civil Rights Movement to Stop Police Brutality * Massive Federal Funding to Oakland for Education and Jobs

Below is a statement from the Coalition to Defend Affirmative Action, Integration, and Immigrant Rights and Fight for Equality By Any Means Necessary (BAMN) that was published in June 2009, after Oscar Grant's murderer, Johannes Mehserle, was told that he would stand trial for murder. That fact and his later conviction and jail time was a victory for the movement that won it, and it was won only because of the mass, militant, integrated, and youth-led movement that fought for justice for Oscar Grant, particularly the actions of Oakland's black and Latina/o youth.

At the same time, though the movement won a conviction and jail-time, we were not strong enough to win justice, which would have meant that Mehserle be found guilty for murdering Oscar Grant and that he get maximum jail-time for his crime. The release of Johannes Mehserle from jail is a slap in the face to justice – not only for Oscar Grant, but to black, Latina/o. and young people throughout Oakland

On the eve of Mehserle's release from jail, we need to draw the lessons of why our movement won some victories, but why we needed to maintain its mass, militant character to succeed in winning justice for Oscar Grant, and how we need to apply those lessons to ensure justice for other victims of racism, brutality, and murder by the police and strengthen our fight to assert that a badge is not a license to kill.

(The statement below is a reprint from 2009. The lessons are still applicable today.)

VICTORY! Ex-BART Officer Johannes Mehserle Ordered to Stand Trial for MURDER: Lessons from the Struggle for Justice for Oscar Grant

Jail the Killer Police Mehserle, Pirone, and Domenici
Build the New Civil Rights Movement to Stop Police Brutality

*"There's no doubt in my mind that Mr. Mehserle intended to shoot Oscar Grant with a gun and not a Taser."
Alameda County Superior Judge C. Don Clay, June 4, 2009*

This extraordinarily honest statement from a judge serves as a marker of what a youth-led mass civil rights movement pursuing a correct political method can achieve.

June 18, 2009 will be the first time a California police officer will be arraigned for murder for an on-duty killing in nearly 15 years. This stunning reversal in political policy is a victory for the black, Latina/o, and progressive anti-racist communities of Oakland and the Bay Area who have been fighting for justice for Oscar Grant—the 22-year-old black man who was murdered while lying face-down by ex-BART Officer Johannes Mehserle on New Year's night.

This is wholly remarkable—police normally are never even charged with murder, even when they commit murders that are obvious and egregious.¹ For months, the political establishment of the Bay Area and California was committed to covering-up Mehserle's murder in order to protect the prerogative of police to harass, brutalize, and murder black and Latina/o youth in the future. Superior Judge C. Don Clay's decision on June 4th to order Mehserle to stand trial for murder marks a reversal of this political policy.

It is crucial for the new civil rights movement to understand how we achieved this victory, if we are to get a murder conviction of Mehserle and win justice for Oscar Grant. Absorbing the political lessons from our struggle will enable us to replicate our victories, stop police murders in other communities, and strengthen and expand the new civil rights movement for equality.

A Conspiracy for Injustice

On New Year's night, Oscar Grant and his friends, who were riding a BART train home after celebrating the New Year, were ordered off the train, brutalized, and forced to sit against a wall at Fruitvale BART station in Oakland. In response to this police abuse, several passengers on the BART train began to record the incident on their cell phones. As BART Officers Mehserle and Pirone pinned Grant face down on the ground and Pirone pressed his knee into Grant's neck, Officer Mehserle stood up, struggled several seconds to get his gun out of his holster, and shot Grant in the back.

¹ In the United States, more than 350 people are killed by the police every year. In the last 15 years, only six police officers were charged of murder, and none were convicted. ("Ex-BART cop accused of murder in rare group," *San Francisco Chronicle*, Feb. 15, 2009)

Mehserle, Pirone, and the other BART officers did not prioritize Grant's health following the shooting. Officer Domenici and other police confiscated cell phones from whomever they could. They alerted other BART officers to stand at stations along the train's route to confiscate cell phones from passengers leaving the train. The police cared so little for Grant's health that the news media arrived before an ambulance did. Grant died hours later.

What has occurred since has been a political struggle to determine whether the police will have the right and ability to target, harass, and brutalize the black, Latina/o, and other minority communities in Oakland and other cities, particularly youth. After Grant's murder, the police, prosecutor's office, and the powers that be in the Bay Area pursued a concerted policy of cover-up.

In spite of videos clearly showing the murder that were seen by millions on television and on YouTube, the BART Police and Alameda County District Attorney Tom Orloff—who normally works on behalf of the police—foot-dragged with a bogus "investigation." Neither of them interrogated Mehserle, who soon resigned. Only after two weeks of angry protest by the people of Oakland demanding justice, including an uprising in downtown Oakland on January 7, did Orloff arrest Mehserle and charge him with murder.

Orloff's office proceeded to conduct a minimal prosecution, committed in reality to doing everything it could to assure Mehserle's acquittal. At a January 30 hearing to determine whether Mehserle would be released from jail, Orloff's lawyer did not give a word of opposition in court. Orloff's office filed a brief describing the events of New Year's night that was virtually a mirror image of the defense's brief, relying only on police testimony. Orloff did not charge Pirone, Domenici, and the other police who clearly were accomplices to Grant's murder.

Oakland Mayor Ron Dellums did not criticize the conduct of the investigation or the prosecution. He did not even make the ordinary, decent gesture of attending Grant's funeral. California Attorney General Jerry Brown, after making some initial statements, has not pursued any investigation. In March 2009, BART itself denied any wrongdoing, claiming that Grant resisted and that Mehserle shot him in the back out of fear for his life.

Because police almost always had been acquitted for the most egregious acts in the past, these political forces were confident that they had a decent chance to get Mehserle's acquittal. But the people of Oakland and the Bay Area interfered.

The Anatomy of a Victory

Only the independent, mass mobilization of Oakland and the Bay Area's black, Latina/o, and progressive anti-racist communities could possibly reverse this position of cover-up by the powers that be. The community's response to Oscar Grant's murder has set this struggle apart from those that have followed countless other cases of racist police brutality that resulted in acquittal.

Beginning with the January 7 uprising in downtown Oakland, the movement for justice for Oscar Grant has been marked by a proud spirit of fighting to win. Too many other movements—on a wide variety of other issues—do not start from this basic premise of fighting to win and end up amounting to only a registering of general criticism. After Mehserle's January 14 arrest, BAMN and many others in the community put forward concrete demands—ending the official cover-up, convicting Mehserle for murder and arresting the other killer BART officers, disarming the BART police, barring BART police from Oakland, and dropping all charges against protesters—and pressed these upon the BART Board of Directors, Oakland City Council, Oakland Mayor Ron Dellums, and others. Many in the community organized around these demands, circulating petitions to express mass support and raise consciousness about the nature of the cover-up and the necessity of holding the legal system on notice to produce justice.

From the beginning, BAMN understood that a key tactic for the movement was to hold a series of independent public tribunals to investigate Oscar Grant's killing. To organize the people of Oakland, it was necessary to get out the truth about what happened on New Year's night and expose exactly how the prosecution was deliberately failing to make the case to convict Mehserle. Through the tribunals, BAMN succeeded at uniting together the vanguard of the community—students and youth, community leaders, religious leaders, and others—around a clear political perspective. Instead of limiting itself to a general exposure of police brutality and legal injustice, the movement adopted the tactic of weakening the prosecutor's cover-up by educating the people of Oakland about the prosecutor's plans, the need to act, and the kind of action we needed to take to win justice.

A coalition of progressive forces formed, with the explicit understanding that only its independent community organizing could possibly win justice in this case. In countless other situations of police brutality and outbreaks of protest similar to what occurred on January 7, churches and mainstream civil rights organizations place themselves at the front of the movement and, even as they organize protests, in reality *demobilize* the community by counseling "calm" and letting justice "take its course." In these other cases, this policy would determine the character of the movement, and the judicial system—having seen the threat of social explosion averted—would invariably engineer an acquittal of the police. In contrast, the black and Latina/o religious organizations of Oakland have stood with the militant youth and have themselves assumed important, vital leadership roles. Churches opened their doors to movement meetings. Religious leaders from Allen Temple Baptist Church to the Nation of Islam and other groups spoke from the pulpit and the news

media, openly and consistently demanding justice and criticizing the official conduct of the county prosecutor, Mayor Dellums, and the BART Police.

In countless other instances, the devastated families of the victims, grieving over their loss, are further disheartened by the betrayal of a legal system committed to acquitting the police. Their own attorneys, informed by self-interest and pessimism, advise the families to accept a financial settlement, saying this is all they can realistically expect from a corrupt legal system. However, Oscar Grant's family has refused to accept a financial settlement until justice is won. They have stood with the movement and extended praise and encouragement to the movement, with the understanding that only the movement can win justice for Oscar. They have spoken at the tribunals and protests and to the media. Their courageous example meant that the movement could maintain its optimism and determination.

The determination and militant leadership of youth have been critical to sustaining the family and Oakland's traditional community leadership in their readiness to fight. Thousands of black and Latina/o young people, who daily stand in the line of fire of police violence and refuse to accept a future in which police have a license to kill anyone they choose, have decided to make Oscar Grant their test case for justice. Young people courageously played the leadership role on the night of January 7 and have walked out of their schools. BAMN sustained and spread the movement among college, high school, and middle school students, marching through the rain in Oakland and Berkeley, and on college campuses as far away as UC-Santa Barbara, UCLA, and UC-Riverside. On February 27, Hayward youth marched with Oscar Grant's family to honor his birthday and demand justice. Youth crowded together with the family and community members outside the courtroom, chanting "I am Oscar Grant!"

Key to the continued growth of the movement has been a continuous process of analysis and mass education about the nature of the struggle and our political tasks. BAMN spoke in high schools, colleges, and community meetings about the need to organize independent action. BAMN has put the *county prosecutor* on trial for his deliberate bungling of the case: organizing a series of independent public tribunals with the support of churches and other community groups, at which the community scrutinized the videos, presented testimony, and analyzed in detail the District Attorney's cover-up. Attendees walked away with stacks of petitions and legal motions filed by both attorneys to spread the findings of the tribunal and organize more community members. Community members held regular protests at every court hearing, putting the government on notice to conduct a vigilant prosecution. BAMN distributed flyers detailing the nature of the prosecutor's cover-up. BAMN organizers conducted regular presentations and brought forward young leaders in Oakland's high schools. Students grew increasingly silent and serious in the classrooms, comprehending and agreeing with BAMN's proposition of the kind of action that will be needed to actually win a conviction of Mehserle.

The community alliance, the leadership position of youth in the movement, and BAMN's political and practical leadership combined to give the movement the strength and momentum it needed to win.

The Government Shifts Its Policy

The turning point came with the community's reaction to the March 21st shooting of four white Oakland police officers. Police officers seeking information on the killings encountered indignant black and Latina/o community members in the streets of East Oakland who countering with: "What about justice for Oscar Grant?" Some refused to give over information. Youth raised their fists and chanted "I am Oscar Grant!" The pre-trial of Johannes Mehserle, originally scheduled for March 23rd, could not conclude with anything less than a murder charge in the context of such a volatile situation, without the risk of a social explosion. As a result, Judge Clay and Orloff's deputy D.A. handed a gift to Mehserle by granting him an uncalled-for two month delay.

Still, this move also discredited the prosecutor's office, signaling to Oakland and the Bay Area that if justice were to occur, people would have to act on their own. As the movement continued to grow, the official political establishment realized that—as badly as they wanted to get an acquittal—anything less than a murder conviction of Mehserle would risk a social explosion in Oakland, an explosion that would decisively shift the balance of power and clear the way for a new phase of mass struggle for justice in the region.

From the government's standpoint, it was wiser to cut their losses than to take such a risk. Entering the pre-trial hearing on May 18th, the prosecution—who earlier had sat silently and participated in the cover-up—actually pursued a substantive case.

The pre-trial hearing only further confirmed to Judge Clay the readiness of the Bay Area to fight for justice for Oscar Grant. Young people who had taken cell phone footage testified in detail about the brutality of the police and the young men's readiness to comply fully with the officers. The witnesses, when asked why they did not turn over their phones to the police, replied that they "want[ed] justice." The defense's own first witness, a young white male, was placed on the stand in an effort to establish that Grant was in a fight on the train. The witness asserted that he was never in a fight with Grant and that Grant gave him a "Peace" sign earlier that night. Men and women, black, Latina/o, Asian, and white alike—community members from different walks of life—took the stand and expressed their deep, human desire for justice, making clear that the Bay Area's diversity of communities stood as one demanding justice for Oscar Grant.

The final result of the pre-trial hearing—like every other development that had occurred in the court this year—was wholly determined by this contest of political forces. Contrary to official myth, the law—and the legal system that administers it—do not operate independently from the society that creates it. Legal outcomes, and often the laws themselves, are reflections of the balance of political power.

On June 4th, Judge Clay ordered Mehserle to stand trial for murder, and stated that Mehserle intended to shoot Oscar Grant with his gun. Out of the miasma of corruption, cover-up, and dishonesty, finally came a statement of the truth. The government's unity had broken. The movement won.

What Next? How We Win at Trial

It is unheard of to get a murder conviction of a police officer in America. One factor that we face is that it is much harder to persuade a jury to unanimously convict a police officer for murder, than to convince a judge to pass on that decision to a jury in the form of a trial. The other big difference is that Johannes Mehserle himself will most certainly testify at the trial in order to cry on the stand and play for sympathy and racism from the jury.

This is standard procedure for police misconduct cases, and often very effective. Mehserle's trial jury will include a disproportionate number of older, more conservative, law-and-order people who normally fear black and Latina/o youth more than they fear the police, who time after time in other cases have disregarded the obvious truth (as the jury did with Rodney King). Those conservative members of the jury will want to acquit Mehserle or convict him for a far lesser charge than murder.

Our movement must do everything we can to strengthen the progressive, honest members of that jury to fight for and win a murder conviction. First, we must continue the independent public investigation. Because Mehserle's state of mind is the main issue at trial, we must get more information that can establish that Mehserle had a racist motive. If it is true that Mehserle has been part of a white-supremacist group in the community or within the BART Police, and/or if we can establish previous incidents of racism and police brutality on Mehserle's part, this will do a great deal to round out the narrative for New Year's night.

Second, just as we succeeded at putting District Attorney Tom Orloff on trial for his cover-up, we must put the BART Police on trial. Now that Mehserle has been bound over for murder, it is time to charge Pirone, Domenici, and the other BART officers—who assisted in brutalizing Grant and his friends, helped cover up the evidence, and denied Grant prompt medical care—for being accomplices to Grant's murder.

Winning this would extend and deepen the victory of the movement, and send a stronger warning to police that racist police violence has consequences. Fighting to win this demand in itself will advance our struggle—part of what we want to win as a movement is the broad understanding that the police act as a unit, that they are asserting their right to continue a *political policy* to repress and intimidate black and Latina/o youth. The prosecutor himself and the news media will try to limit responsibility to this murder to Mehserle alone, and characterize the murder as the action of "one bad apple," an "isolated tragedy." The extent to which they succeed, is the extent to which we fail to consolidate our community's power to limit the police's ability to brutalize young people.

We must continue the independent public tribunal, to investigate not only Mehserle, but also his partners in crime.

From Protest, to Power

The greatest victory that we have achieved has been the building of the new civil rights movement in this community. The task before us is not only to finish the struggle we have begun, but also to strike a victory against racism that can inspire millions far and wide.

People across the country and from as far away as Singapore, Egypt, Mexico City, and London have been following the Oscar Grant case. The murder of Oscar Grant was raised at the United Nations' conference on racism. Across the nation and the world, Oscar Grant has become the test case to measure whether it is possible to win a modicum of justice against racism. Their political framing of this case as a question of racism is a direct challenge to the pervasive belief among liberal politicians today that it is impossible to speak the plain truth about racism and achieve victory.

We can change that. Like the youth of Birmingham in 1963, like Berkeley students in 1964, we can provide a model of how to fight and win. It is easy for an emerging new mass movement to vastly underestimate its power and influence. We can win a concrete victory and demonstrate lessons that can be applied in other communities that face racist police violence or ICE anti-immigrant raids. For the young generation that succeeded at getting this nation's first black president, that has experienced a taste of collective power and the power of the struggle against racism, we can help open a new historical chapter. We can make sure that Oscar Grant—like Emmitt Till, like Medgar Evers—is a man whose death is remembered as the occasion when our movement decided to fight and learned how to win.