“These aren’t my Warrants, These are Our Warrants”: Police Culpability in Breonna Taylor’s Death

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In the early morning hours of Friday, March 13, 2020, a group of plainclothes officers serving a no-knock warrant in search of provably nonexistent narcotics mail packages shot Breonna Taylor eight times, killing her in her own apartment. While there is still much debate about the particulars of what actually happened that night, upon a close reading of the warrant and the Louisville Metro Police Department (LMPD) Public Integrity Unit's (PIU) investigative file, it is clear that justice was not served for Breonna Taylor. More broadly, justice was not served for any individual who believes that the law should be applied equally to police officers and average citizens alike. The killing of Breonna Taylor was a preventable tragedy that should have been prosecuted more thoroughly.

As the Attorney General, using Kentucky's penal code, I would charge the following officers with the following crimes:

Name	Charge	Number of counts	Statute (KY Penal Code)	Classification
Joshua Jaynes	Perjury in the second degree	1	KRS 520.030	Class A Misdemeanor
	Official misconduct in the first degree	3	KRS 522.020	Class A Misdemeanor
Brett Hankison	Wanton endangerment in the first degree	5	KRS 508.060	Class D Felony
Jonathan Mattingly	Wanton endangerment in the first degree	2	KRS 508.060	Class D Felony
Myles Cosgrove	Wanton endangerment in the first degree	2	KRS 508.060	Class D Felony
All other police directly involved	Official misconduct in the first degree	1	KRS 522.020	Class A Misdemeanor

Joshua Jaynes: Jaynes is the officer who requested a search warrant for Breonna Taylor's apartment in connection to Jamarcus Glover, one of the real targets of the multi-residence warrant execution in which officers took Breonna Taylor's life. Jaynes began compiling evidence for the warrant as early as December 2019. In the process of doing so, he spoke to several officers and through them, indirectly to postal inspectors about packages Breonna Taylor may have been receiving on behalf of Glover. He was told multiple times by multiple different officers throughout the process of gathering evidence for the warrant that there was no record of suspicious packages addressed to Jamarcus Glover at Breonna Taylor's apartment. In fact, according to postal inspectors, there was no record of packages for Glover at Breonna's apartment at all (Sgt. Amanda Seelye, *Interview with Detective Mike Kuzma*, 5/22/2020; Sgt. Amanda Seelye, *Interview with Sgt. Timothy Salyer*, 5/22/2020). Jaynes completely disregarded these facts, as he swore in the affidavit that resulted in the search warrant for Breonna Taylor's apartment: "Affiant verified through a US Postal Inspector that Jamarcus Glover has been receiving packages at 3003 Springfield Drive #4" (Jaynes Aff. ¶ 9.). Not only did Jaynes never personally speak with a postal inspector, as he implies, but the information in the affidavit is simply not true. According to the Kentucky

penal code, a person is guilty of second-degree perjury “when he makes a material false statement which he does not believe in a subscribed written instrument for which an oath is required or authorized by law with the intent to mislead a public servant in the performance of his official functions” (KRS 520.030). After learning from multiple sources that there were no packages for Jamarcus Glover at Breonna Taylor’s apartment, Jaynes cannot argue he truly believed the statement he made in the affidavit that led to the search warrant. Because the affidavit contained a materially false statement without which the judge may have decided not to grant a search warrant, Jaynes misled the judge in the performance of his official duties, and therefore should be charged with perjury in the second degree.

Additionally, Jaynes should be charged with three counts of official misconduct in the first degree. The Kentucky Penal Code states:

> “A public servant is guilty of official misconduct in the first degree when, with intent to obtain or confer a benefit or to injure another person or to deprive another person of a benefit, he knowingly:
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> (a) Commits an act relating to his office which constitutes an unauthorized exercise of his official functions; or
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> (b) Refrains from performing a duty imposed upon him by law or clearly inherent in the nature of his office; or

(c) Violates any statute or lawfully adopted rule or regulation relating to his office" (KRS 522.020).

Jaynes violated (a) of this statute by requesting yet another check by postal workers of Breonna Taylor's apartment in April 2020, almost a full month after she was killed (Sgt. Amanda Seelye, *Interview with Sgt. Timothy Salyer*, 5/22/2020). This check was purposeless, confusing for those who were asked to conduct it, and a clear deprivation of the benefit of private mail. He also violated part (a) of this statute by knowingly coordinating a team to serve a warrant that SWAT exclusively should have served. This will be described in further detail below. Additionally, Jaynes violated (b) of this statute by failing to produce a search warrant matrix and ops plan when requested by the PIU investigative team, which is required prior to the execution of narcotics warrants (Sgt. James C. Lane, *Interview with Detective Josh Jaynes,* 5/19/2020). Here, I argue that Jaynes is attempting to obtain the benefit of ending further scrutiny on his work.

Brett Hankison, Jonathan Mattingly, and Myles Cosgrove:

Hankison, Mattingly, and Cosgrove are the three officers who actually fired shots the night of March 12/morning of March 13 into Breonna Taylor's apartment. Brett Hankison is thus far the only officer who has been charged in this case in actuality. He is charged with three counts of wanton

endangerment in the first degree, which is a fitting charge for endangering the lives of a pregnant neighbor of Breonna and her child. Hankison shot blindly from outside Breonna's apartment, and bullets flew into the neighbor's apartment, thankfully without causing additional death. This act warrants counts of endangerment for the pregnant woman and her child, as well as for the baby she was carrying.

Additionally, however, I believe that Hankison, Mattingly, and Cosgrove should all be charged with two counts each of wanton endangerment in the first degree for the dangerous situation in which they put both Breonna Taylor and Kenneth Walker. According to Kentucky state law, "A person is guilty of wanton endangerment in the first degree when, under circumstances manifesting extreme indifference to the value of human life, he wantonly engages in conduct which creates a substantial danger of death or serious physical injury to another person" (KRS 508.060). There are three key phrases in this statute that a particular case must meet in order to be able to charge wanton endangerment. Hankison's, Mattingly's, and Cosgrove's actions meet these phrases and should be charged.

"Extreme indifference to the value of human life": Regardless of who shot first, it is clear that Hankison, Mattingly, and Cosgrove all exhibited

extreme indifference to the value of human life when they blindly shot into an apartment 32 times. A quick Google search of the apartment building shows what you would expect of any apartment building: units stacked on top of and beside each other, sharing close quarters and walls. It is inconceivable that these officers could not grasp the mortal danger in which they were putting not just Breonna Taylor and Kenneth Walker, but every resident of that apartment building. The sheer number of shots into a residence that they had seen as a “soft target” only moments before is an indication of these officers’ extreme indifference to the value of the lives in the apartment.

“Wantonly”: According to the Kentucky penal code, “wantonly” describes crimes in which a person is “aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists” (KRS 507.040501.020). Hankison, Mattingly, and Cosgrove were aware of the dangers inherent in serving “no-knock” warrants; they knew that such warrants must be served by a SWAT team and not by narcotics officers like themselves because they *can* be dangerous. They should not have been serving the warrant at Breonna Taylor’s apartment at all, but once they knew that the situation was escalating beyond their control, they should have retreated. There is a

substantial and unjustifiable risk inherent in officers deciding to conduct field operations for which they are simply not trained.

"*Conduct…creates a substantial danger of death or serious physical injury":* The act of shooting into Breonna Taylor's apartment 32 times between these three men is clearly conduct which not only created a substantial danger of death, but also directly resulted in it.

It is clear that the actions of these officers wantonly endangered the lives of Breonna Taylor and Kenneth Walker. I do not believe that these officers are immune to charges simply because Walker shot first, as the attorney general involved in this case believes. The conduct exhibited by these three officers clearly constitutes chargeable wanton endangerment.

Remaining police officers present (e.g. Michael Nobles, Shawn Hoover, etc.): Finally, I would charge every remaining officer directly present and involved in the shooting of Breonna Taylor with official misconduct in the first degree, relating to part (a) of the statute. With the intent to obtain the benefit of finding narcotics and thus having a successful operation, these officers all ignored the fact that legally a SWAT team must be the ones to serve "no-knock" warrants. Lieutenant Dale Massey of SWAT stated in a follow up interview that SWAT assessed Breonna

Taylor's apartment and determined that a "no-knock" warrant was unnecessary, and Massey's team informed Jaynes well in advance of the operation that serving simultaneous warrants was a high-risk proposition. Additionally, the SWAT team Massey was heading was under the impression that they were the only law enforcement serving warrants that night (Sgt. Jason Vance, *SWAT Follow-Up Interviews,* 5/20/20). This deliberate misleading of SWAT by Jaynes and by the officers who were all too happy to serve a warrant that was out of the scope of their duties should be punished with official misconduct charges.

Ultimately, Joshua Jaynes said it best himself in his interview with Sgt. Lane, in stating, "'These aren't my warrants, these are *our* warrants, we all had a hand in this, and every Detective I work with in the PBI realizes that *these are all of our warrants"*" (Sgt. James C. Lane, *Interview with Detective Josh Jaynes,* 5/19/2020; emphasis added). I fully agree with Detective Jaynes and believe he and every public servant directly involved in this avoidable absolute travesty should be held accountable and prosecuted fully.

References

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