



Written by [Annalisa Pesek](#) on April 17, 2021

Flagrant Double Standard: Unnamed Capitol Officer Who Shot Ashli Babbitt Is Cleared of Charges

The Capitol Police officer who fatally shot 10-year Air Force veteran [Ashli Babbitt](#) during the breach of the U.S. Capitol building on January 6 has been cleared of all charges, announced the Department of Justice (DOJ) and the U.S. Attorney's Office for the District of Columbia on April 14.

The black officer's name has not been publicly released, allegedly because he received death threats.

It's "[baffling](#)," said Terry Roberts, lawyer of the family of the deceased 35-year-old California native. "I find it to be baffling given the circumstances that it's a clear case of shooting an unarmed person without any legal justification, but I have no idea what went into their decision."



Ashli Babbitt (YouTube)

Regarding the decision, the DOJ released this [statement](#):

The U.S. Attorney's Office for the District of Columbia's Public Corruption and Civil Rights Section and the Civil Rights Division, with the Metropolitan Police Department's Internal Affairs Division (IAD), conducted a thorough investigation of Ms. Babbitt's shooting. Officials examined video footage posted on social media, statements from the officer involved and other officers and witnesses to the events, physical evidence from the scene of the shooting, and the results of an autopsy. Based on that investigation, officials determined that there is insufficient evidence to support a criminal prosecution. Officials from IAD informed a representative of Ms. Babbitt's family today of this determination.

The focus of the criminal investigation was to determine whether federal prosecutors could prove that the officer violated any federal laws, concentrating on the possible application of 18 U.S.C. § 242, a federal criminal civil rights statute. In order to establish a violation of this statute, prosecutors must prove, beyond a reasonable doubt, that the officer acted willfully to deprive Ms. Babbitt of a right protected by the Constitution or other law, here the Fourth Amendment right not to be subjected to an unreasonable seizure. Prosecutors would have to prove not only that the officer used force that was constitutionally unreasonable, but that the officer did so "willfully," which the Supreme Court has interpreted to mean that the officer acted with a bad purpose to disregard the law. As this requirement has been interpreted by the courts, evidence that an officer acted out of fear, mistake, panic, misperception, negligence, or even poor judgment cannot establish the high level of intent required under Section 242.



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On January 6, Babbitt traveled from San Diego to Washington, D.C., alongside hundreds of thousands of other Americans, to protest election fraud. She was captured on [video](#), having entered the Capitol building illegally, trying to climb through a broken window onto the House floor, when she was hit by gunfire and immediately fell to the ground. Babbitt was unarmed and allegedly carrying only a sweater and scarf in her backpack.

The officer was relieved of his policing duties and placed on administrative leave pending the investigation. Babbitt's family is reportedly [suing](#) the officer for constitutional abuses and excessive use of force.

In an e-mail statement to the *Epoch Times*, the officer's lawyer, Mark Schamel, wrote: "This is the only correct conclusion following the events of January 6. The lieutenant exercised professionalism and fantastic restraint in defending and protecting members of Congress.... He did so after clearly identifying himself and ordering the mob not to come through the barricade. He used tremendous restraint in only firing one shot, and his actions stopped the mob from breaking through and turning a horrific day in American history into something so much worse."

On April 7, D.C. Chief Medical Examiner Dr. Francisco J. Diaz determined Babbitt's death a homicide, owing to a fatal gunshot wound to the left anterior shoulder. According to the National Association of Medical Examiners, "[Homicide](#) occurs when death results from a volitional act committed by another person to cause fear, harm, or death."

But according to the DOJ, there was "no evidence to establish beyond a reasonable doubt that the officer *willfully* committed a violation of 18 U.S.C. Section 242.... Specifically, the investigation revealed no evidence to establish that, at the time the officer fired a single shot at Ms. Babbitt, the officer did not reasonably believe that it was necessary to do so in self-defense or in defense of the Members of Congress and others evacuating the House Chamber. Acknowledging the tragic loss of life and offering condolences to Ms. Babbitt's family, the U.S. Attorney's Office and U.S. Department of Justice have therefore closed the investigation into this matter."

It bears repeating, though Babbitt's death was ruled a homicide, the DOJ decided not to pursue charges against the officer, quoting "insufficient evidence to support a criminal prosecution."

A Double Standard of Justice

Now, consider the difference in treatment of the Capitol officer versus fired Minnesota police officer [Kim Potter](#). Potter, who is white, was charged Thursday, April 15, with second-degree manslaughter in the fatal shooting of [Daunte Wright](#), a 20-year-old black man, who resisted arrest and was stopped on a warrant for armed burglary. Potter allegedly shot Wright upon mistaking her firearm for a taser. The 26-year-police veteran made her first appearance in court Thursday wearing a black-and-orange jumpsuit.

Protestors in Minneapolis have once again set fire to the streets, claiming police brutality and demanding justice for Wright, wreaking havoc and destruction on local businesses and citizens. Arguably, these violent demonstrations are contributing to the rush to charge Potter. Conversely, the narrative focus of "insurrection" on January 6 not only overshadowed Babbitt's death but also downplayed any accountability for the (still publicly unidentified) officer who took her life.

Similarities may be drawn between the two tragedies, as both officers were in the midst of volatile situations. Yet the disparity between the treatment of the two comes down to issues of politics and race,



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neither of which should enter into the investigation or interfere with an officer's ability to do her job. This raises serious questions about the potential breakdown of the judicial process in our country.

Within two days of the shooting, Potter was fired from her job and charged. The Capitol police officer was never arrested and remains unnamed for "his own safety."

No doubt influencing this breakdown of justice is the mainstream media, heinously portraying the riots in Minneapolis, where businesses are burning and citizens are living in fear, as mostly "peaceful." Rarely are these protestors charged or even detained. As [Politico](#) reported, "In recent weeks, prosecutors have approved deals in at least half a dozen federal felony cases arising from clashes between protesters and law enforcement in Oregon last summer.... Some lawyers attribute the deferral of the criminal convictions to the arrival of President Joe Biden's administration in January and to policy and personnel changes at the Justice Department."

Meanwhile, dozens of Trump supporters have been deteriorating mentally and physically in [solitary confinement](#) in federal and state jails with no due process since January 6. In her article "[As Capitol Defendants Rot in D.C. Jail, Portland Rioters Get Leniency](#)," Julie Kelly writes:

Capitol defendants face multiple charges for use or possession of a "deadly weapon," a riot shield, inside the building on January 6 — and flashing a laser at police aircraft. Offenders also face 'civil disorder' charges similar to the 'obstruction of an official proceeding' [charge](#) filed against more than 130 Capitol protestors.

Among these defendants is [Victoria White](#), age 39. White faces charges of "criminal acts" for her participation in the breach of the Capitol. The mother of four from Rochester, Minnesota, works as a waitress and could face up to 55 years in prison if convicted. Like Babbitt, White traveled to DC to protest election fraud and entered the Capitol, where, according to FBI documents, she allegedly "assaulted Metropolitan Police" when she "tried to grab an officer's shield." According to White, she wasn't grabbing the shield but putting up her hand against it as a form of self-protection.

New reports released Friday, April 16, by the *Epoch Times* state that "the FBI has made an average of more than four arrests a day, seven days a week since January 6," according to Acting Deputy Attorney General John Carlin.

So the case is closed for the black officer who shot a white protestor, but the case is far from over for the white female police officer trying to arrest a black armed robbery suspect. This is a flagrant double standard of justice.



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