Universität Zürich[UZH]

Victimology, Victim Assistance, and Criminal Justice

Dubrovnic May 2026

Universität Zürich[UZH]

Guarding the Guardians:

Police Violence and the Swiss Criminal Justice System

Dubrovnic, 22 May 2026

Marc Thommen

Kurt von Allmen

- March 14, 2002, Kurt von Allmen (32) ran to his car after a night out
- Police mistakes him for burglar.
- Attempt to block his path with car. Pinned to wall. Leg amputated.
- Zürich criminal Justice authorities refuse to bring adequate charges against the police officers.

- Federal Supreme Court, Law Clerk
- My conviction: Officers have to be punished for severe bodily injury.
- Supreme Court refuses to hear the case. Dismissal.

Goals

1. Why police is not policed?
2. Why guarding the guardians?

Mike Ben Peter

Tribunal d'Arrondissement de Lausanne

Jugement rendue 22 juin 2023

PE 18.004238/PBR/mji

et

Cour d'appel pénale

Jugement rendu le 8 juillet 2024

PE 18.004238-LML/STL

Facts

I. Facts
II. Procedure
III. Law
IV. Discussion
V. Summary

Aargauerzeitung.ch

Facts

On February 28, 2018, at approximately 10:00 PM, the Lausanne Municipal Police were conducting an anti-narcotics patrol near the railway station.

Tribunal d'Arrondissement de Lausanne,
Jugement rendu le 22 juin 2023
PE 18.004238/PBR/mji C. 6a

Facts

- 10.30 PM: A patrol officer observed a suspicious person, Mike Ben Peter, retrieving a plastic bag near a vehicle.
- The officer initiated a stop-and-search operation.

Tribunal d'Arrondissement de Lausanne 22.6.2023

Facts

- Mike Ben Peter discarded the evidence and physically resisted arrest.
- The officer requested reinforcements at 10:48 PM.

Tribunal d'Arrondissement de Lausanne, C. 2a

Facts

- Mike Ben Peter was forced into a prone/ventral position and immobilized on the ground.

Tribunal d'Arrondissement de Lausanne 22.6.2023

Facts

- Assisted by arriving units, officers used a tactical baton to force Mike Ben Peter’s arms behind his back.
- He was handcuffed in the ventral position shortly before 10:53 PM.

Tribunal d'Arrondissement de Lausanne 22.6.2023

Facts

- By 10:56 PM, while still restraining, the officers observed that Mike Ben Peter had ceased resisting and appeared unconscious.

Tribunal d'Arrondissement de Lausanne 22.6.2023

Facts

- They initiated cardiopulmonary resuscitation (CPR) while simulta-neously requesting emergency medical services.

Tribunal d'Arrondissement de Lausanne 22.6.2023

Facts

- Mike Ben Peter was officially pronounced dead in the morning of March 1, 2018.

Tribunal d'Arrondissement de Lausanne 22.6.2023

Procedure

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Procedure

- Following the events, the officers involved were transported to the police station together.

Procedure

- There a joint debriefing with a superior officer took place before their individual interrogations were started.

Procedure

- The cantonal criminal justice authorities opened a preliminary investigation.

Procedure

- In 2023, the District Court of Lausanne acquitted all six officers, dismissing the charges of homicide by negligence.

Cantonal Police of Vaud

30 août 2021:

<u>Roger Nzoy Wilhelm, Morges</u>

Un homme à la peau foncée abattu par la police à la gare

28 février 2018:

<u>Mike Ben Peter, Lausanne</u>

6 policiers à genoux sur un homme à la peau foncée

28 octobre 2017:

solidarités

LAMIN FATTY MORT EN PRISON - PLUS JAMAIS ÇA!

Plus jamais ça!

<u>Lamin Fatty, Lausanne</u>

Le police l'avait placé en garde à vue, alors que Fatty était en mauvaise santé en raison d'une opération du cerveau subie peu de temps auparavant

6 novembre 2016:

<u>Hervé Mandundu, Rennes</u>

Le police a abattu Nervé Mandandu après qu'il soit sorti de chez lui avec un couteau de cuisine à la main

Profilage racial

A UN report highlights the insufficient independence of investigations and prosecutions regarding police misconduct, brutality, and fatalities.

UN

Law

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Law/Causation

The report identified multi-organ failure resulting from multifactorial causes: male gender, obesity, intoxication, acute stress, the ventral position, and pre-existing cardiac conditions.

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PE 18.004238/PBR/mji C. 6a

Law/Causation

The autopsy report notes that positional asphyxiation remains highly controversial in the scientific community. It concludes that no definitive cause can be established…

Criticsm on ‘Excited Delirium Syndrome’ (ExDS), Fischer/Saana (2026): “While some see ExDS as a genuine condition and potential cause of death, others have argued that it is a made-up condition to explain away asphyxia-ation deaths that are ultimately caused by excessive police violence. ”

Law/Causation

The experts state it is impossible to say for sure if Mike Ben Peter would have died from his existing health problems alone, even without the police intervention.

Tribunal d'Arrondissement de Lausanne, C. 6b

Law/Causation

The court comes to the conclusion that a causal link between the arrest and the death has not been established.

Tribunal d'Arrondissement de Lausanne, C. 6c

Law/Negligence

On negligence, the court concludes that the defendants could not have been expected to act differently, given their respective experience and knowledge.

Tribunal d'Arrondissement de Lausanne, C. 8d

Law/Negligence

- The rules of due diligence taught to the defendants are clear, and they were aware of them

Cour d'appel pénale, Jugement rendu le 8 juillet 2024 PE18.004238-LML/STL E. 5.4.1.5

Law/Negligence

- A person hand-cuffed in a ventral position must be placed in a seated position as quickly as possible.

Cour d'appel pénale, Jugement rendu le 8 juillet 2024 PE18.004238-LML/STL E. 5.4.1.5

Law/Negligence

- Mike Ben Peter remained in that position for two minutes without being moved.

Cour d'appel pénale, Jugement rendu le 8 juillet 2024 PE18.004238-LML/STL E. 5.4.1.5

Law /Negligence

Ultimately, the court finds no breach of the duty of care, and thus no negligence

Tribunal d'Arrondissement de Lausanne, C. 8d

Law/Justification

- Furthermore, the arrest was justified based on reasonable suspicion of narcotics trafficking.

Cour d'appel pénale, Jugement rendu le 8 juillet 2024 PE18.004238-LML/STL E. 5.4.1.5

Law/Justification

- Mike Ben Peter's resistance was directly responsible for the increased use of force during the arrest.

Cour d'appel pénale, E. 5.4.1.5

Law/Justification

- The court finds that the officers' actions were proportionate to the resistance they encountered.

Cour d'appel pénale, E. 5.4.1.5

Discussion

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Discussion

All six police officers were acquitted by the Lausanne District Court.

Discussion

The family of Mike Ben Peter appeals the the acquittal of the police officers to the Cantonal High Court of Vaud.

Group 1: Prosecutors

As prosecutors you are representing the State at the Cantonal High Court of Vaud.

1. What charges do you bring?
2. What are your arguments?

Group 2: Defence Lawyers

As defence lawyers you are defending the police officers against the charges.

1. Do you plead guilty/innocent?
2. What are your arguments?

Group 3: Victim Attorneys

As victim attorneys you are representing the family of Mike Ben Peter.

1. What is your petition to the court?
2. What are your arguments?

Summary

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Summary

Substantive Criminal Law

- Homicide (cond.) intent (SCC 111)
- Negligent homicide (SCC 117)
- Homicide by omission (SCC 11)
- Abuse of public office (SCC 312)
- Justification (SCC 14 ff.)
- Error of Law (SCC 21)

Summary

Criminal Procedure

- Police Power to Stop: (Art. 215 CPC)
- Use of Force: (Art. 200 CPC; 24 LP/VD)
- Independence: (Art. 4 CPP)
- Examination Hearings: (Art. 142 ff. CPC)
- Expert Witness: (Art. 182 ff. CPC)
- Racial Profiling

Summary

1. Criminal Law: Criminal Justice Authorities routinely downplay or fail to prosecute crimes committed by police officers.

Summary

2. Criminal Procedure: Critical lack of independent oversight.

Aargauerzeitung.ch

Goal

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2. Why guarding the guardians?

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Literature

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- Thommen, Die Opfer staatlicher Gewalt vor Bundesgericht, FS-Wiprächtiger, Basel 2011, 87-100.
- Thommen, Opfer zweiter Klasse, sui-generis 2019, 92.
- BSK BGG^2-Thommen, Art. 81 N 39 ff.