

Ferguson officer Darren Wilson testifies before grand jury

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20 September 2014

Darren Wilson, the Ferguson, Missouri police officer who killed 18-year-old Michael Brown, setting off protests and demonstrations that lasted for weeks, testified for four hours in secret this past week, as a St. Louis County grand jury began its hearings on whether to return an indictment.

All indications are that the St. Louis County prosecutor, Robert McCulloch, a Democrat, is intent on using the grand jury as political cover for a decision he has already made not to prosecute Wilson, making the proceedings a sham.

Midday on August 9, Wilson fired ten rounds from his pistol, hitting Brown with at least six bullets. Multiple witnesses have described Wilson opening fire as Brown attempted to flee -- pausing when Brown stopped, turned around, and raised his hands in surrender -- and then finishing the young man off with multiple rounds.

Ferguson police left Brown's lifeless body sprawled in a pool of blood for hours. By dark the streets were filled with angry residents, and the police responded with armored vehicles, assault rifles and tear gas, setting off round-the-clock demonstrations and protests.

The decision to call the policeman who is the target of the investigation as one of the first witnesses was highly unusual. A prosecutor anxious to obtain an indictment would present the forensic and eyewitness evidence of the killing first, to give the jurors an appreciation of the circumstances surrounding it, before calling the potential defendant to the stand to tell his side of the story.

Even bringing the case to the grand jury suggests a desire not to prosecute. Those suspected of murder in Missouri usually have a preliminary hearing where a judge reviews the evidence presented by the prosecution and decides whether there is enough to

make a case.

In the killing of Brown, there is more than enough evidence already in the public record to arrest and prosecute Wilson for murder. The full extent of the evidence remains unknown, since the St. Louis County Coroner has not released an official autopsy report, and no city or county official has made public Wilson's version of the shooting.

Meanwhile, the Ferguson Police Department has placed Wilson on paid "administrative" leave. His whereabouts and activities have been kept secret, with the exception of this week's unannounced grand-jury appearance. At the Ferguson City Council meeting last Tuesday, the audience raged at public officials for refusing to acknowledge whether Wilson remains on the payroll. Demonstrators jammed that day's St. Louis County Council meeting as well, demanding Wilson's arrest.

There is no legitimate reason for the grand jury hearings. Under Missouri law McCulloch can file criminal charges directly, the path he follows with virtually all suspected criminals.

A St. Louis County grand jury is comprised of 12 citizens, selected to serve for four months. Nine must vote to indict for a prosecution to proceed. Although as a technical matter whether to prosecute depends on the vote of the grand jurors, in practice the decision is made by the prosecutor, who exercises complete control over the witnesses called, the questions asked and the legal explanations given. There is no judge or adversarial process.

According to a source cited by the *St. Louis Dispatch*, Wilson was "cooperative" when testifying, although he was entitled by the Fifth Amendment to remain silent.

Most observers believe that Wilson has nothing to fear from McCulloch, who – like all other public

prosecutors – will not prosecute police officers for excessive force unless forced to do so by public outrage. *The Washington Post* reported last week that McCulloch intends to present evidence without making any recommendation to the grand jury whether to indict Wilson. Normally, prosecutors who believe someone should be indicted argue that to the grand jury. McCulloch’s decision not to do so is clearly a maneuver to hide behind the skirts of the grand jury for political cover.

McCulloch has plenty of experience with this cowardly tactic. Despite more than a dozen police killings in St. Louis County since he became prosecutor, McCulloch has never filed criminal charges against any of the officers. He did present four of such cases to the grand jury, but to no one’s surprise he obtained no indictments.

The most notorious incident occurred in 2001, when undercover police officers shot and killed two unarmed men sitting in a car at a fast-food restaurant. A surveillance video revealed that the car was parked, and not driving at the officers, as they had claimed.

By opening the grand jury presentation with Wilson giving his prepared testimony about the Brown shooting, McCulloch has already laid the groundwork for sympathy to color the jurors’ interpretation of all the subsequent evidence, and made it much less likely that an indictment will be forthcoming.

Benjamin Crump, an attorney for Brown’s family, correctly labeled the grand jury a “smoke screen.” Crump told MSNBC, “There’s enough probable cause that exists to charge the officer now, we don’t need this grand jury.”

The media has stressed that three grand jurors are black. Five are female. The composition of the grand jury will have little effect on the outcome, however, which will be dictated by ruling class interests, not the weight of the evidence or the applicable law.

Originally, McCulloch announced that the grand jury would complete its review by mid-October, but on Tuesday St. Louis County Judge Carolyn Whittington extended the current grand jury to January 7, giving McCulloch the opportunity to drag things out until after the winter holidays, an obvious ploy to buy time in the hope that passions cool.

McCulloch has stated that audio recordings and transcripts of the grand jury proceedings will be

released if there is no indictment.

The events in Ferguson have highlighted the widespread use of excessive force by police officers throughout the United States, virtually none of which result in criminal prosecutions.



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