

# HOLDER'S AGENCY IN FERGUSON

Eric Holder just published an op-ed in the St. Louis Post Dispatch, apparently aiming to generate confidence in DOJ's investigation into Darren Wilson's killing of Mike Brown.

It starts with 3 sentences describing Brown's killing – with no mention of Wilson, or even that a cop killed Brown.

Since the Aug. 9 shooting death of Michael Brown, the nation and the world have witnessed the unrest that has gripped Ferguson, Mo. At the core of these demonstrations is a demand for answers about the circumstances of this young man's death and a broader concern about the state of our criminal justice system.

At a time when so much may seem uncertain, the people of Ferguson can have confidence that the Justice Department intends to learn – in a fair and thorough manner – exactly what happened.

A disembodied shooting killed Brown in this telling; violence did not.

Holder then spends several paragraphs discussing both the investigation itself, as well as the actions of the Civil Rights Division before he turns – in the course of one paragraph – to the protests. Here, violence is described as violence.

We understand the need for an independent investigation, and we hope that the independence and thoroughness of our investigation will bring some measure of calm to the tensions in Ferguson. In order to begin the healing process, however, we must first see an

end to the acts of violence in the streets of Ferguson. Although these acts have been committed by a very small minority – and, in many cases, by individuals from outside Ferguson – they seriously undermine, rather than advance, the cause of justice. And they interrupt the deeper conversation that the legitimate demonstrators are trying to advance.

The implication, of course, is that the violence comes exclusively from that “very small minority,” not the cops shooting rubber bullets from their tanks.

I find the next paragraph truly remarkable.

The Justice Department will defend the right of protesters to peacefully demonstrate and for the media to cover a story that must be told. But violence cannot be condoned. I urge the citizens of Ferguson who have been peacefully exercising their First Amendment rights to join with law enforcement in condemning the actions of looters, vandals and others seeking to inflame tensions and sow discord.

The Justice Department – the Agency Eric Holder leads, the 40 FBI Agents and Civil Rights prosecutors Holder described – has done nothing visible thus far to defend the First Amendment.

And then, Holder says, “violence cannot be condoned.” A bizarre passive sentence with no agent. By whom? Who cannot condone violence?!?!

And he uses it to urge “the citizens of Ferguson who have been peacefully exercising their First Amendment rights” – many of whom have been arrested, bullied, tear gassed, some of whom have formed chains to protect businesses – to “join with law enforcement,” the same law enforcement that has been bullying them. Holder asks these citizens – who presumably are the

ones he says cannot condone violence – to join the cops who have been engaging in violence to condemn others who have also been engaging in violence. Those “others” inflame tensions and sow discord. The cops don’t, according to this telling.

It takes a good paragraph and a half before Holder says the cops must restore trust. Only unlike the “citizens” of Ferguson, Holder does not urge the cops directly to do ... anything. He just describes what should happen, he doesn’t command it to happen.

At the same time, good law enforcement requires forging bonds of trust between the police and the public. This trust is all-important, but it is also fragile. It requires that force be used in appropriate ways. Enforcement priorities and arrest patterns must not lead to disparate treatment under the law, even if such treatment is unintended. And police forces should reflect the diversity of the communities they serve.

Note what else happens? That violence – unmentioned in Mike Brown’s actual shooting, but explicitly described when “those others” did it – here becomes “force.” Something distinct from the violence of looters.

Darren Wilson’s shooting of Mike Brown? Not described as violence – not even described as the act of a known man. The looters’ looting? They’re engaged in “violence.” And finally, the cops, whom Holder doesn’t dare urge to tone things down? They are exercising “force,” not “violence.”

I get there are legal reasons why he did this – notably, this permits him to endorse findings that Wilson used “force” out of fear for his own safety! But the grammar and vocabulary of this op-ed insists on the state’s monopoly on violence that it has been abusing for 10 days.