

# FERGUSON/WILSON GRAND JURY RETURN THOUGHTS AND WORKING MATERIALS

Last night was quite a night in the greater St. Louis Missouri area, especially the towns of Ferguson and Clayton, where the St. Louis County seat and courthouse is located.



First, at the insanely reckless, and inexplicably late hour of 8:00 pm, St. Louis prosecutor Bob McCulloch held one of the most surreal and disingenuous press conferences I have ever seen by a prosecutor in my life. Correction, not one of the most, but THE MOST. Here is the video and an uncorrected transcript from CSPAN.

The content is simply stunning. Prosecutor McCulloch basically gives a closing summation from the perspective of Darren Wilson's personal defense attorney. Which makes sense, as that has been the clear and unmistakable posture of McCulloch from the outset of this charade. He glowingly recounts cherry picked aspects of Wilson's testimony to support the officer's narrative, and then attacks the numerous civilian, and mostly black, witnesses that support the Brown side of things as all being either mistaken, liars or not even there. Just amazing.

But, as I alluded to, it was not just the content, but the timing of McCulloch's press conference as well. It was a consummately

reckless and hideous thing to do to wait until well into the night and darkness to incite the tinderbox of emotion and protest. Here is Jeff Toobin at CNN:

Here's the thing about that time of night: it's dark. Anyone – anyone! – should have known that the decision in the Brown case would have been controversial. A decision not to indict, which was always possible, even likely, would have been sure to attract protests, even violence. Crowd control is always more difficult in the dark.

The grand jury's deliberations concluded around lunchtime on Monday. It would have been simple to make the announcement while it was still daytime. Still, McCulloch said that he would not announce the grand jury's decision until 8 p.m. CT.

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The predictable reaction ensued. Protests began, some of them violent. Police responded with tear gas. Fires burned. Cars were destroyed. Gunshots were heard. The full scale of the damage was difficult to assess last night.

The ultimate verdict on the grand jury's decision is up to history at this point. But the verdict on McCulloch opting to announce the decision at night is clear – and devastating.

That is spot on. Insane is a word that I have been using a lot in respect to this case, but it certainly applies to McCulloch's dog and pony show timing.

Next is the actual grand jury materials and content, and what they mean to the injustice that has occurred in this matter. That one is going to take a lot longer to suss through and put together. I have read a few bits and pieces, notably much of Darren Wilson's grand jury

testimony, but there are thousands of pages of material, and it will take me days to get through it properly. More will come, but for now, I want to give a couple of links to the full set of materials put together by others.

Here is the New York Times version. I think it is the best formatted and easiest to navigate so far.

Here is the NPR version from the St. Louis affiliate.

Here is the Guardian version.

They are all fine links from which to navigate and I link all three because they went to great trouble to do a public service in a short amount of time. They are owed thanks. The one substantive comment I will make for now is the way the standing prosecutors, Kathi Alizadeh and Sheila Whirley, spoon fed the witnesses, and especially Darren Wilson, and otherwise slanted everything imaginable, to support the exoneration of Wilson is just disgusting. I have read countless grand jury transcripts over the years, and I have NEVER seen anything that remotely resembles this kind of biased, *for the defendant*, dog and pony show. Again, it is simply insane and unheard of.

Okay, this entire grand jury was a farce, a charade, and a lie. It was a cravenly engineered whitewash by Bob McCulloch from start to the criminally reckless end with Ferguson in flames last night. And do not, like so many on social media seem to be doing, think the DOJ is going to bail the situation out by indicting Darren Wilson on federal charges. Even DOJ veterans say it is unlikely. I say there is not a chance in hell of an indictment against Wilson personally.

In closing, a few words by my friend Scott Greenfield from his excellent criminal defense blog Simple Justice:

Americans may be a smart, educated people, but we are lazy and ignorant. It's too much effort for our delicate

sensibilities to gain a deeper understanding of how our nation functions. This is why the Ferguson Lie happened. This is why the Ferguson Lie works.

That the grand jury did not indict Ferguson Police Officer Darren Wilson was a foregone conclusion. To those of us who don't have to look up a study or read a law review article to understand how indictments happen in the real world, the outcome was clear when St. Louis County District Attorney Bob McCulloch announced that he would present all the evidence to the grand jury. Wachtler's "ham sandwich" has grown trite in this discussion.

The Ferguson Lie is an appeal to our sense of fairness and transparency. We were played. McCulloch's lengthy spiel before announcing "no true bill" was to spread the lie. To the ear of the media, McCulloch's pitch was appealing; the grand jury heard all the evidence. The grand jury transcript will be disclosed to provide complete transparency. Witnesses lied to the media, but the grand jury heard the truth. The grand jury saw the hard evidence. Nine whites and three blacks, so no one would think that the grand jury was denied the voice of people of color, sat on the grand jury, which met for 25 sessions and more than 70 hours of testimony.

The grand jury did the dirty work that America needed done. The grand jury has spoken.

This is the lie.

Go read all of Scott's piece, it is superb and exactly how I feel too.

For now though, I have to get off to court. There will be much more, but I am not sure when

given the time to cull through the materials and the holidays. Until then, happy hunting in the treasure trove of documents, and post your findings and discussion in comments.