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11-25-2014

No Indictment: Making Sense of Monday's Decision in Ferguson

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Recommended Citation

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No Indictment: Making Sense of Monday's Decision in Ferguson

Abstract

"It was no surprise that this decision stirred strong emotional responses across the board, with many taking the same decision as either full exoneration of Mr. Wilson or proof positive of a racist system incapable of producing justice. So how do we make sense of what has happened?"

Posting about the grand jury decision in Ferguson, Missouri following the death of Michael Brown and how Christians should react to it from *In All Things* - an online hub committed to the claim that the life, death, and resurrection of Jesus Christ has implications for the entire world.

<http://inallthings.org/no-indictment-making-sense-of-mondays-decision-in-ferguson/>

Keywords

In All Things, Ferguson, grand jury, Michael Brown, Darren Wilson, probable cause, civil unrest

Disciplines

Christianity | Civil Rights and Discrimination | Criminal Law

Comments

In All Things is a publication of the [Andreas Center for Reformed Scholarship and Service](#) at Dordt College.

No Indictment: Making Sense of Monday's Decision in Ferguson

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November 25,
2014



At around 8:30pm last night, County Prosecutor Rob McCulloch announced that the grand jury looking into the officer-involved shooting of Michael Brown had decided not to indict the officer, Darren Wilson, on any charges. This decision sparked several peaceful protests around the country in addition to less peaceful protests in parts of Ferguson, Missouri. It was no surprise that this decision stirred strong emotional responses across the board, with many taking the same decision as either full exoneration of Mr. Wilson or proof positive of a racist system incapable of producing justice. So how do we make sense of what has happened? More able voices than my own will doubtlessly chime in over the coming days and weeks, but I am writing to speak first to what the narrow legal implications of this decision are and second to encourage us all not to close our ears to dialog over the larger implications.

What is a grand jury? What does their decision mean?

A grand jury is a procedural safeguard designed as a check on the work of police and prosecutors, ideally providing an unbiased assessment of whether or not probable cause exists to press charges against an accused person. Unlike the jury used at trial, the grand jury acts like an independent investigator, asking questions of witnesses and examining evidence themselves before determining whether or not prosecution should move ahead to trial. Although

exact procedure varies, in this case, it involved twelve people, nine of whom needed to decide to press charges in order for Mr. Wilson to be indicted, that is, formally charged with a crime. The grand jury in this case had an option of charges, ranging from first degree murder down to involuntary manslaughter. The grand jury in Ferguson found insufficient evidence to bring any of these charges.

Much has been made of the standard of proof needed for an indictment, and it bears explaining. The standard of proof is what level of certainty is needed for some legal action to be taken. In order for a grand jury to press charges, the standard is essentially the same as a police officer's initial decision to arrest someone. That is, there must be *probable cause* to believe that Mr. Wilson has committed a crime. This is not the same thing as proof beyond a reasonable doubt, the standard of proof for finding someone guilty of a crime, and it is not even the same thing as a preponderance of the evidence, the standard of proof in a civil trial, which requires that it be more likely than not that something is true. Instead, probable cause is a justifiable belief, based on the totality of the circumstances, that certain facts are *probably* true. Courts have repeatedly refused to attach a rigid definition to this concept, but, in practicality, it means that the certainty a grand jury needs to indict Mr. Wilson is much lower than the certainty a trial jury would need to convict him.

So what does the grand jury's decision mean, as a legal matter? The narrowest meaning is simply that there was not a three-fourths consensus among the twelve members of the grand jury to bring any of the five charges available. This does not mean Mr. Wilson was found innocent, as he could still be prosecuted if new evidence came to light, but it does mean that no homicide charges will be brought against him at this point.

A broader implication of this is that the current federal civil rights investigation is also very unlikely to result in formal charges being brought. In order for Mr. Wilson to be found guilty of violating Mr. Brown's civil rights (in this case, his right to life), the prosecutors would have to show that the violation was intentional on Mr. Wilson's part. Based on [witness accounts](#) that have been made available, this would be a very difficult thing to prove beyond a reasonable doubt.

So where does this leave us?

At this point, we have a critical opportunity for a national dialog about important issues and concerns. Anger has been vented on the streets of Ferguson, and there is an opportunity here to address the sources of that anger and think about how to proactively solve some of the problems that have been highlighted by this whole situation. We may even need to have a discussion over exactly what problems we're talking about.

The one thing it's important that we do **not** do is to give into our natural tendency to slot the events of the past several months into our preferred narratives. For some, this decision was vindication of an assaulted officer and an indictment of those who are so quick to play racial politics. Others saw this as another example of just how deep institutional racism runs, showing that the system doesn't care about black lives and adding this to a long tally of cases of justice denied. Both sides then saw this decision by the grand jury as preordained, and neither is particularly interested in what the other has to say.

I would urge all of us to hold ourselves to a higher standard. Much of the evidence that the grand jury considered has been released publicly. ([CNN has a nice collection.](#)) I urge you to at least scan through this information and draw your own conclusions. There is no doubt that this was a tragic confrontation which has profoundly affected the lives of all involved, and the account does not fit neatly into a category of either side being the spotless hero or devilish villain. There are many questions which will remain largely unanswered, and perhaps that best explains why the grand jury chose not to press charges.

Ultimately, it is incumbent upon us not to relitigate the question of what exactly happened on that tragic day but to look forward at how to address serious concerns like the use of force, perceptions of racism among police, and how to deal with civil unrest while permitting peaceful protest. Michael Brown's own family has requested support in a "[campaign](#) to ensure that every police officer working the streets in this country wears a body camera." This is something that

has been called for by advocates both supportive and critical of police. Perhaps this is somewhere we can all agree to start.

Dig Deeper

Want to read other perspectives and thoughts on Ferguson, Missouri? Read Howard Schaap's article called "[Or does it explode?](#)" on how Langston Hughes' poem "Harlem" gives perspective on Ferguson. Chuck De Groat's article "[#Ferguson: A Gospel Issue](#)" shares important insights on privilege and our gospel response. And, Liz Moss reflects on the church's response through a "[Prayer of Confession](#)."

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