



## **Ferguson: A Libertarian View**

**Guest: Will Grigg**

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**WOODS:** I want you to start off by giving the background to what's going on in Ferguson. I told you before we went on the air that I actually have a surprising number of international listeners, and we shouldn't assume that everybody in every country around the world is breathlessly watching every development in the United States. There are a lot of people who may have no idea what Ferguson even is and what's going on there and why. So first set the stage for us, if you would, please.

**GRIGG:** Well, Ferguson is a suburb of St. Louis, Missouri, one of several very small municipalities within St. Louis County. It has a population of about 21,000 people, between 67 and 70% whom are black. Like many other communities in that part of the country, it has experienced a demographic phenomenon called white flight. It had been more racially heterogeneous until the 1960s when you had a large exodus of Euro-American white population from the city, leaving behind primarily a black population. The city government, on the other hand, is composed of 94 or 95% white people, white residents of Ferguson. The police department itself is between 93 and 95% white. So you have all the necessary elements for a highly combustible situation, given the freighted history of race relations in the United States. And it's a city in which you don't have a particularly high crime rate. There's a relatively high rate of theft, but violent crimes are not commonplace.

On August 9 there was an incident in which an 18-year-old man by the name of Michael Brown was shot and killed by a Ferguson police officer who was tardily identified as Darren Wilson, a six-year veteran of that police department with no previous disciplinary record, although that fact is not particularly illuminating given the fact that, as far as we know, there are not rigorous disciplinary procedures with the Ferguson Police Department in spite of the fact there is a documented history of misconduct on the part of many officers in that department.

In the aftermath of the shooting, many of the people who had seen what happened say that Brown had been in a posture of surrender when he was fatally shot by Officer Wilson, and then other witnesses had seen what led up to the confrontation. Some of them had witnessed a

struggle in which apparently Brown, who was a very large young man, about 6'4", the better part of 300 pounds, was being pulled into the vehicle by Officer Wilson, or perhaps he was hitting Officer Wilson. That matter is in dispute right now. Other witnesses said he was trying to pull away from the vehicle. According to some eyewitness accounts, including that of his companion, a young man by the name of Johnson, Brown fled from the vehicle after a gunshot had been heard either inside the vehicle or coming through the window, the driver's side window of this SUV, and he ran a number of feet, probably between 25 and 30 feet from the police officer, who exited the vehicle firing at Brown. Brown then, according to eyewitness accounts, held up his hands in an apparent gesture of surrender but was shot several times fatally and then left dead in the street, and his body was left in the street for a number of hours. Estimates range from two to four hours. He was given no medical attention. No ambulance was ever sent to recover his body. That's an issue that inflamed the sensibilities of the public. Crime scene tape was strung up and police responded after the fact, but there were no EMTs on the scene, and no explanation was given as to what had happened and why this conflict erupted until after the immediate eyewitness on the scene was first out of the gate saying that they had been ordered in foul language—he, that is Darren Johnson and Michael Brown, had been ordered by the police officer using vulgarity to get out of the street and onto the sidewalk, and Johnson's account says that he had told the police officer that they were near their destination, which was his grandmother's home.

According to Johnson's account, the police officer hit the brakes, then backed up, and nearly ran over them, and then opened the car door, and the car door ricocheted off Brown, who was very close to the vehicle at the time, and this resulted in the police officer being thrust back into the car. And Johnson claims that the officer had threatened to shoot Brown and that Brown, having been threatened, reacted by trying to prevent this from happening, and then fled and was shot. That was the original account we heard from the primary witness on the scene. Some people think he's a source of dubious reliability. But he is one of the named and identified witnesses who publicly attested to what they have seen, many of whom have video records to substantiate at least part of what they say.

Now, the police chief in Ferguson, a man by the name of Thomas Jackson, in the immediate aftermath of the shooting said that only that there had been a shooting that had emerged from a contact or an encounter on the streets. He didn't give the details. He very vaguely and elliptically described Officer Wilson, whose name wasn't disclosed until almost a week later, and then after a week of pretty intensive pressure by the media and by activist groups and by members of the Ferguson community, there was a very brief and terse press conference—it would have been a week ago today—in which Jackson identified the shooter and then released without explanation a package of materials that included a surveillance video of what appeared to be Michael Brown in what appeared to be an act of robbery at a local convenience store just a few minutes before the shooting occurred. This appeared to be a classic strong-arm robbery, which would be a felony, and although Jackson didn't elaborate, the incident report that he

released said that Brown was being sought as a suspect in a strong-arm robbery of a \$50 case of cigars, and that the case had been extraordinarily cleared, and that means that it had been cleared by the shooting of the primary suspect, although the cigars were never recovered.

Now, that element of the report that was provided in the tardy release of information was actually filled out several days after the shooting, because there was no indication at the time of the encounter between Officer Wilson and Michael Brown that the latter was being sought as a robbery suspect. This simply emerged as a result of Officer Wilson ordering Brown and his companion to stop jaywalking. So he was investigating an infraction of jaywalking, not an alleged strong-arm robbery. But these things were released together by Chief Jackson, and then a few hours later he had to clarify that, no, Officer Wilson was not pursuing Michael Brown as the suspect in the robbery. This was something that emerged because of a jaywalking infraction, and so the release of these two items together—the name of Officer Wilson, and then the report having to do with the alleged theft and the video surveillance of what happened in that convenience store. That has had the effect of what I call reverse telescoping the event. Because what we're finding out first is what was found out last about this. What actually happened is that when Brown and Wilson had their encounter, there was no reason for the officer to look upon Brown as a potential felony suspect. And this is complicated as well, Tom, by the fact that the larger video surveillance record from the convenience store is more ambiguous than what we were provided with a week ago, because it shows what appears to be a transaction between Brown and the store clerk, with whom he later had a confrontation of some sort.

It's pretty clear that he committed what I consider to be an act of battery on that store clerk. He's much larger than the clerk. He seemed to be intimidating him. He put his hands him in a way that was threatening. It's the behavior, in my estimation, of a bully, and of course, to that extent it's very much worthy of condemnation, but it's not clear that he actually stole the cigars. That becomes complicated by the fact that his companion Darren Johnson, reportedly, and I emphasize that adverb, reportedly admitted that the two of them had stolen cigars, but he had never been arrested for that offense in spite of the fact that he was named on the original report as a suspect. So the way that we tie this all up in a neat little bow and package, Tom, is to say that all we know for sure about what happened on that early afternoon of August 9 is that there was an encounter that grew out of an incident of jaywalking between this police officer and then Michael Brown and his companion Darren Johnson, and that somehow there was an altercation that erupted between Brown and Wilson that resulted in Brown fleeing and Wilson shooting him fatally six times. Two of the shots were head shots, one of which was on the top of Brown's head. The story that we're getting second-hand or third-hand from partisans of Officer Wilson is that Brown at some point turned and charged the officer, which is why he got shot on the top of his head.

However, one of the eyewitnesses on the scene who took an after-the-shooting video record

said that actually Brown appeared to be clutching his abdomen, seizing up as if in pain, before he was subjected to the two fatal head shots. Now this is a 6'4" guy. He had lowered his level, according to the eyewitness's account. He was clutching at his chest or his abdomen, and the examination by forensic pathologist at the autopsy that was performed last week, a privately commissioned autopsy, said that one of the shots went through Brown's hand and then into his body in the way they suggested that his hand was near the body, and that would comport with what this eyewitness is saying. But if he'd seized up and lowered his level and was trying to surrender because he was in pain from being shot, then it would make perfect sense that he would be shot in the top of the head by a police officer who is trying to take him down. It wouldn't make all that much sense to me if you're talking about a large man who's charging. You've got a moving target. And the other complication here, Tom, is that the other story we're getting from Wilson's camp is that he was severely beaten by Brown, and there was a rumor put into circulation earlier this week that Wilson had suffered an orbital fracture blowout of his left eye, which would mean that he had been very severely beaten in that side of his face. And that's the type of an injury that would make it very difficult for you to reel off several very quick shots at a moving target at a distance of 25 to 30 feet, which is what he would have had to do if the account of Brown charging the officer was accurate. If, on the other hand, you've got the slumping and agonized subject who is lowering his level and falling at the time he's being shot, then it would make more sense, as I understand the mechanics, that he would be shot in the top of his head. And bear in mind, the other consideration here is that Brown was taller than the officer, which means that he'd have to be angling the trajectory of the gunshots upward.

I don't see how, given the description of what supposedly happened to Wilson and given the account of Brown charging at him, that this would have happened unless you have a suspect who is basically doing a bear crawl or some other type of blow trajectory lunge in the direction of the officer—who was about 25 feet away at the time, bear in mind. It's not as if he was within tackling distance.

But there's some other anomalies here that have to be addressed. I don't know whether or not Michael Brown was a thug. I don't know whether he was involved in the strong-arm robbery. He had no previous criminal record. He had no known gang affiliations. But the story being offered by Officer Wilson is riddled with very significant defects to begin with. He didn't have a dash cam recording unit in his police vehicle, which would have cleared up a lot of what happened. They have the dash cams in the Ferguson police department. They have not been installed and activated because, in my opinion, officer accountability is not one of their institutional priorities.

So we have no video of the shooting. Wilson didn't call dispatch after the shooting. Dispatch actually received a secondhand report from the media that a shooting had taken place from that intersection in Ferguson. An ambulance was sent to the scene, either to retrieve the body of Brown or to take the supposedly severely beaten officer to the hospital for treatment. Video

shot immediately after the incident showed Officer Wilson upright and not visibly injured. No documentation has been provided regarding the type and extent of Wilson's injuries. A blogger in St. Louis called The Gateway Pundit put out a report earlier this week retailing the unsourced story that this orbital fracture blowout had occurred, and he provided a doctored X-ray, basically a clip art version of an X-ray, with the report insinuating that this was an X-ray taken of Officer Wilson showing an orbital blowout fracture. In fact, that's a piece of what you could call clip art displaying what that injury would look like, but this was seized upon uncritically by a number of our familiar suspects and what you might call the Fox News orbit as evidence that he had nearly been beaten to death by Michael Brown, which by the way is the precise phrase used by Michael Savage yesterday. Michael Brown supposedly nearly beat this police officer to death. That we know to be untrue.

There's been a reliable post-hoc report, if you will, that although Officer Wilson was treated for a swollen face, which could be the result of any one of a number of things, including recoil from his gun, there's no evidence that he suffered severe eye trauma. No documentation has been provided regarding the type and extent of his injuries in any case. The Ferguson PD provided an incident report on the alleged robbery, but didn't provide an incident report on the shooting, and the St. Louis County Police Department didn't even file an incident report until earlier this week, August 19. That's 10 days after the fact, and that incident report is blank. It simply lists that there was a homicide, and that the decedent was Michael Brown, but there are no details as to what happened there.

One of the very common police tactics we have seen I suspect is what we're witnessing here in the case of the shooting of Michael Brown, and that is for the officer to wait until the evidence is available and then use it to craft a narrative compatible with the so-called reasonable officer's standard under the Supreme Court ruling which is considered authoritative here, which is *Tennessee vs. Garner*, and under that reasonable officer standard, the officer is justified in using lethal force if in his judgment at the time such force is necessary in order to prevent lethal injury or serious injury to himself or to somebody else. And under Missouri state law, I believe it's Chapter 563, there's actually a very broad, very emancipated standard for the use of lethal force, and one of the key components of that Missouri state law is the idea that if somebody is involved in an altercation and flees and then gives some indication that he's going to resume his attack on the first party, that the aggressor is going to resume that aggressive action, that in that circumstance, lethal force is appropriate. And what I have said for over a week and a half now is that the police department, following standard protocol, would try to sculpt the narrative to fit the *Garner* guidelines and then add details that would be compatible with Chapter 563 of Missouri state law. That appears to be what they're doing.

So I don't know what Michael Brown did. We know the most important thing about what Darren Wilson did, but right now we're in the process where I suspect that, after the fact, once again, post-hoc, they are trying to provide a retroactive justification for what he did, and they

are in control, basically, of the process. The other side, that is to say the side that would be I guess you'd say partisans of Michael Brown, is actually the side that's more invested in finding out what happened than the police department is. That's a very familiar division of responsibility, quite frankly, when you talk about lethal use of force by police agencies. The side that wants to know what happened to the victim of police violence is the one that's more motivated to get to the bottom of things and to have full disclosure of the facts. The police, of course, are in the position of trying to ration facts to fit their institutional needs.

In the meantime, this whole thing has become deeply entangled with the always combustible issue of race relations, and you have the usual retinue of ambulance chasers and incendiaries who have descended on Ferguson and done their considerable and familiar best to prevent civility from breaking out. And that is fodder for nightmares, given what we know about the efforts of people to try to set Americans off against each other on the basis of race and other characteristics.

**WOODS:** What's your response to the police department's behavior since the event in terms of curfews and tear gas, or whatever else we've been seeing?

**GRIGG:** The role of law enforcement, Tom, and this is something you and I have discussed before, is not to protect persons and property, but rather to protect the institutional interests of the political clique that hires it, that employs it, and I suppose more than anything else, to protect those who are involved in law enforcement. Officer safety is always the highest consideration, and secondary to that would be protecting whatever corporate entity is in charge of funding the police agency in question.

So subsequent to the familiar and infuriating refusal of Chief Jackson to be as candid as he should have been in dealing with this matter, and what seemed to be the calculated insult of leaving this young man's lifeless body on the street for a number of hours while the entire neighborhood became roiled with anger and frustration. What you had was a crackdown that exacerbated those sentiments by making it clear to the residents of that section of Ferguson that they had no choice but to submit to whatever the political class and its enforcement arm sought to impose upon them. That, of course, resulted in a larger and more aggrieved response by the protestors, and as soon as this happened, you had a rupture of the local body politic and an opportunistic infection of people who showed up from outside the city. That's one thing Chief Jackson said that I think he was completely correct about. He said there are outside agitators in Ferguson who are causing problems. They showed up and started to loot and plunder, and the police did nothing to deter the acts of looting and plunder and pillage that were going on. Some of the shop owners who were under siege called the police department, and were told, well, that's not our job. We're no longer in charge of that. That's not our job. You're going to have to fend for yourself. So the property owners in Ferguson did what they should be doing, and that is to say, they took up arms in defense of their own property, and then organized informally to support each other. They've been receiving a lot of help in terms of cleanup and also the provision of necessities for getting through this unexpected financial

and economic emergency from their neighbors and friends there in Ferguson, but the city government's done nothing to help them, the police department did nothing to help them.

Meanwhile, of course, we had this saturnalia of militarized police overkill that lasted for a number of days, which displays the skull beneath the skin of American law enforcement at its root. At its heart, the essence of the thing is that these people consider themselves to be involved in counterinsurgency warfare—low-grade counterinsurgency warfare in most circumstances, and of course, high-capacity, very conspicuous displays of counterinsurgency warfare when they are given the opportunity, and some of the people who have evaluated this who have a military background—I'm aware of at least one veteran of the 82nd Airborne who served in Iraq. Upon looking at the response of the Ferguson Police Department with armored personnel carriers and military-grade, battlefield-ready weaponry said, "We didn't roll that heavy in an actual war zone."

And another thing that has been made clear, and this is something other people have pointed out, is that the purpose of putting these people into formal military attire is not to give them tactical advantage, because their camouflage is not patterned after an urban environment. They are wearing camo patterns that are more suitable for a jungle or desert environment. But they make them more visible, they make their presence more visible in order to send a message of domination. And Tom, I have been in a country that has been under military rule. I was in Guatemala in 1983 when Efraín Ríos Montt, who had been installed by the CIA, was taken out by the CIA in a military coup. The CIA giveth, the CIA taketh away. After this happened, the military exercised undisguised rule over large parts of Guatemala for a number of months. That was in an area near the coast where the military came in and took over several buildings in the downtown section of this little town called La Democracia, and they behaved pretty much the same way that the Ferguson Police Department behaved. They took buildings that looked like residential or commercial properties, and they immediately painted them in garish military colors. I actually talked to one of the command officers there on the scene about it. I said, why are you painting that building camouflage? He said because it's our intention to make it look different from the rest of them. He didn't elaborate on that thought, but the message that they wanted to send is: the military is here, and you are under our control.

And that's pretty much the mindset that the Ferguson and the St. Louis County Police Department evinced, and whatever other agencies were paired to their banner when they raised the banner of counterinsurgency warfare. The message they were sending is that you are now under our control. All bets are off. You go where we tell you to go. You stay when we tell you to stay. And then they marched down the streets of these neighborhoods in Ferguson hurling CF canisters into the backyards of homes where people were simply sleeping during the nighttime session of this crackdown. There's dramatic footage of them heaving tear gas canisters and so-called less lethal munitions at the press. There was an Al Jazeera news crew that was hit with a tear-gas attack. There were reporters who were hit with rubber bullets, which are called less lethal but can be lethal. These are fossilized rubber projectiles that have

the consistency of a hockey puck, a streamlined hockey puck, and many people are saying, why are you hurling tear gas grenades into people's property? These people aren't protesting. They live here. This is their neighborhood. At the same time you get some of these rioters hurling Molotov cocktails at people's businesses and homes, and to me that's a pretty potent demonstration of the principle that the people in riot gear and the people with the bandanas and Molotov cocktails were on the same side. They were unified as allies against the interests of private property.

**WOODS:** I think this really underscores the problem with the conventional wisdom that the police work for us. It's a corollary of the more general view that we're all taught in school that we are the government. These pleasant little platitudes are implanted in our heads to disarm us intellectually, to make it harder for us even to conceive of the idea of opposition to the regime because, well, we are the regime. We are the government. Or the police, they work for us. They are our employees. But they are not. They don't work for you. You don't pay their salaries. Well, I pay my taxes, okay—very, very indirectly, your money wends its way to them, but it wends its way through the state. They work for the state. And it's not a surprise that they're defending state interests, and when they at least purport to defend private property, they are extraordinarily inept and unsuccessful at it. Even when they say they're doing it, when they look like they're doing it, they're extremely bad at it. And this is coming from a guy who believed every platitude about the local police growing up. I believed all of it. But there's no way you can buy into this anymore. How many of these crimes against person and property wind up getting solved? We are deceived by watching *Law & Order* on TV. We think, well, there's a crime, and then after 15 minutes of investigation, they figure out who the perpetrator is, and then he's in jail, and that's it. Nothing like that happens—almost never.

**GRIGG:** Yeah, they're very good at taking confessions. They're very good at enforcing warrants. But they're not particularly good at clearing crimes by investigating what happened and then building a case. And what you said about the agency in charge of actually paying these people is incredibly important, Tom. We don't pay the police. They are paid by the people who plunder our property. So we can't expect that they are going to be protecting property from plunder when they are agents of the people who exercise officially licensed plunder. This is particularly true in Ferguson. Last year two little towns in St. Louis County, Ferguson and Florissant—Ferguson today is about 21,000 people—their city governments together collected \$3.5 million in fines and court costs. There's a report that was put out by a group called Archway Defenders, which describes how the municipal court system there in St. Louis County in these small, largely black, very poor municipalities, working in cooperation with the police, are conducting what has to be called a shakedown operation—looting. They don't commit strong-arm robberies by sending people into cigar stores to take the merchandise and then shove any clerk who happens to respond in defense of property. What they do is they conduct traffic stops or inspection on the thinnest of pretexts in order to issue citations that force these people into a court system where for the most part, because these are economically marginal people at best, they can't afford legal representation, and they get sucked into a system that's going to bleed



them dry. It's not uncommon for people to be hit with monthly fines that are three times their monthly income in the city of Ferguson and some of these other small municipalities in that part of St. Louis County. Once this happens, of course, you have many of these people left incarcerated, or homeless, or jobless, or otherwise with their lives that are permanently blinded by a record that is largely ineffaceable. The police agencies in Ferguson are very, very bad at protecting private property as they are in most places and about every place else in this country, but they are very good at harvesting revenue, and that's an important part of the story as well.

Another element of that system that's worthy of remark is that the judges who preside over municipal courts there in St. Louis County are typically moonlighting prosecutors or private attorneys from other cities. You get these people who come into the system who have a prosecutorial mindset, for the most part. They are not going to be receptive to the needs of whoever it was who has been hit with a minor traffic citation, or in one instance I read about, somebody who was accused of refusing to subscribe to the corporate garbage collection service.

She was hit with a citation. And the other thing that needs to be put into this mix is that the Missouri state government publishes every year a breakdown of traffic stops in order to determine if racial profiling is being conducted by police agencies, and in Ferguson if you're a black driver, you are much likelier to be pulled over by the police. You're much likelier to be arrested by the police than you are if you're a white driver, in spite of the fact that white drivers in traffic stops investigated detentions of this sort have a higher rate of being found in the possession of contraband. So they are not targeting the demographic, if you will, that statistically is likely to be violating these stupid laws against the possession of contraband. It seems as if they are singling out the poor, for the most part, black population of Ferguson and these other towns. This is all something that's very well known by the people who live in this town.

So you have an engine of state-sanctioned mass larceny, and you have no protection for people who actually come under violent assault who are running businesses in the City of Ferguson once the veneer of civility has been punctured by this act of state-licensed violence. And the people who are responsible for investigating crimes aren't being particularly zealous in finding out what actually happened on August 9, and they said that they don't even bother to file an incident report, which is rudimentary. If something happens, you're supposed to document it. It's one of the first things they teach you when you're studying to become a police officer. Something happens: you document it. They didn't document what happened on August 9. There was no call to dispatch, and after the fact, we're getting a story that seems to be the product of PR manipulation by the St. Louis County District Attorney, and he is one of the most notoriously inveterate partisans of police in that profession. He is somebody who has made it very clear that as far as he is concerned, the unsubstantiated word of a police officer in a given incident is, for all intents and purposes, legally dispositive. He's actually said that he wanted to

be a police officer, but after he lost a leg to cancer, he had to settle for being a prosecutor. So he is somebody who very much takes the position that the police, if not infallible, are as close as mortally possible to reaching that status. So I am not at all convinced that we're going to get at any point a straight story as to what happened on August 9 from the perspective of the police department. In large measure, Tom, because the way the system is set up is designed to prevent that form of detailed and equitable accountability.

A police officer who commits a shooting immediately will invoke his *Garrity* privileges. That's a term referring to the *New Jersey vs. Garrity* decision, and in that circumstance what he does is he gives a detailed account from his perspective of what happened to the investigators that have been assigned to the case by the police department. But nothing he says can be used for the purposes of prosecution, either criminal or civil, and a police department lawyer will be assigned to the case in order to advise the shooter. The shooter will huddle with his union representative, and they will sit together, and they will confer, and they will try to put out a story that is in harmony with the *Garner* guidelines that I described earlier. In Dallas, police officers who are engaged in a lethal shooting are given an opportunity to review a any video that exists before they offer their official report of what happened. That's sort of what's happening here because we don't have an incident report. Here we are almost two weeks after the shooting, no incident report exists. I contend that it's being written right now. They are waiting to find out what's actually being said by the witnesses and actually trying to find out what evidence is being collected by the FBI, which is investigating the case, before they release their version of the story. So they are going to provide us with an *a posteriori* account—a severely *a posteriori* account—based on the evidence that is collected weeks after the event took place.

So we're probably never going to find out what happened, first of all, because a video record wasn't extant, and secondly, because of the process I am describing where they're going to wait until the other side actually does the work of investigating the shooting, and they're going to come up with a superficially plausible story to explain it. That's pretty much standard police procedure. It's just a somewhat enhanced version of what police usually do in these situations.

**WOODS:** Well, Will, we're out of time, but I want to direct people, as I did at the beginning of the program to your blog, and they may have forgotten it in the interim. So can you tell people how they can find you online?

**GRIGG:** My blog is called *Pro Libertate*, and the direct address is [freedominourtime.blogspot.com](http://freedominourtime.blogspot.com). I publish twice or three times a week. They are usually about 2,000 words in length, and there is PayPal button at the right-hand margin of the page and also a coin for Bitcoin donations if you're interested in contributing to help me with this ongoing enterprise. It's independent journalism. I call it journalism, the first instance. I try to break stories as well as comment on things that are already in the news cycle, if you will—[freedominourtime.blogspot.com](http://freedominourtime.blogspot.com). The blog's title is *Pro Libertate*.

