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A job for a grand jury

The district attorney attempts to rewrite the truth - and a not-guilty verdict - on a police beating.

By Howard D. Popper

Years before his own indictment, former New York state Chief Judge Sol Wachtler famously observed that district attorneys have so much influence over grand juries that "by and large" they could get one to "indict a ham sandwich." The corollary in Lynne A. Abraham's Philadelphia is that any prosecutor who wants to can convince a grand jury that a ham sandwich is kosher.

The recently released grand jury report on the May 2008 arrest of Dwayne Dyches, Brian Hall, and Pete Hopkins is just such a sales job. The grand jury found no cause to indict the police officers involved in the arrest, some of whom were dismissed or otherwise disciplined after a news video caught them dragging the three men from a car and beating them.

Abraham is known for finding conflicts of interest that excuse her from pursuing politically sensitive prosecutions. So how is it that she doesn't see a problem with convening a grand jury to investigate the arrest of three men she is simultaneously prosecuting?

The police officers' version of the events surrounding the arrest was in many respects rejected by the trial jury that acquitted Dyches, Hall, and Hopkins. Yet the grand jury accepted this story without the slightest skepticism. The grand jurors apparently neither saw nor considered the testimony, evidence, and arguments presented in the criminal trial, even though the trial jury had unanimously acquitted the three men on all counts nearly a month earlier.

In that light, the grand jury report's strained effort to denigrate the wholesale acquittals reveals itself as an attempt by the prosecutor's office to retry the case. This self-serving public-relations section of the report points up yet another reason why the district attorney had no business conducting this investigatory grand jury while engaged in the prosecution at the same time.

The tailoring of testimony to the grand jury is transparent. The so-called expert testimony on police procedures and use of force was provided by Philadelphia police officers. The grand jury also heard expert testimony from a former Bensalem police official who has regularly helped Philadelphia defend police officers accused of civil-rights violations. Let's be real here: The grand jury didn't pick these "independent" experts; Abraham's people did.

Given that the video of the assault made national and international news, it wouldn't have been too much trouble for prosecutors to go a little farther afield and find experts who weren't either the usual paid apologists or brothers in arms of the officers involved - unless, of course, they didn't really want independent opinion and analysis.

No reputable police department in the country deems kicking and punching legitimate methods for restraining suspects - even allegedly resistant suspects - especially when they are overwhelmed in number by the police. The grand jury would have been better off watching old episodes of *Cops* for examples of legitimate police tactics to compare with the Keystone Kops affair on display in the Fox 29 video.

Finally, the grand jury's report - which was probably not written by the grand jurors - goes far beyond its mission of deciding whether criminal charges against the officers were warranted. The report is in fact an apologia for the police. So not only did the grand jury fail to indict any officers; it put them on a pedestal as paragons of proper policing.

The report does, however, succeed in effectively indicting Police Commissioner Charles H. Ramsey. It will undoubtedly serve as a script for the officers involved when they seek to overturn his disciplinary decisions.

The grand jury report is, quite simply, a whitewash. The grand jurors are to be pitied for having been used and manipulated to achieve such a result. But the real blame falls on a district attorney who has so little respect for the duties and obligations of her office that she would foist this sham proceeding and report upon the public.

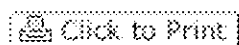
In so doing, Abraham has further disillusioned a public hungry for police accountability, emboldened police who engage in misconduct, undermined the police commissioner, and shamed all honest, disciplined officers who don't let their emotions dictate their behavior.

Law enforcement and justice are not necessarily the same thing. Too bad the district attorney does not understand the cost of blindly supporting the former, and failing to blindly seek the latter.

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