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# JULIAN FALCONER: SEEKING JUSTICE FOR SAMMY YATIM

By *Jodie Shupac, Staff Reporter* - January 29, 2016



*Julian Falconer*

An advertisement banner with a yellow background and a blue border. On the left is a blue star logo with the text "THE ISRAELI SOURCE" in white. To the right of the logo, the text reads "Canada's only WHOLESALE OUTLET for all your JUDAICA needs" in bold black font. At the bottom of the banner, in a dark blue bar, is the text "60 Doncaster Avenue, Thornhill • 905-482-2025" in white.

Toronto lawyer Julian Falconer, who's spent his career representing families of people killed by police officers or while in custody, will be representing the mother and sister of Sammy Yatim, the 18-year-old killed by a police officer in a 2013 incident on a streetcar in which he

brandished a switchblade, in a lawsuit the women are pursuing against former Toronto police chief (and current Liberal MP) Bill Blair, the Toronto Police Services Board, two unnamed police officers and Const. James Forcillo.

The officer was found guilty last week of attempted murder for shooting Yatim six times after an initial volley of shots that saw him crumple to the ground.

### **Why have you chosen to devote your career to representing families who've had a member killed by a police officer?**

In these situations, you'll have an officer who's either poorly trained or who shouldn't have in the first place been entrusted with key decisions. Then you have a person in emotional crisis who couldn't possibly respond to police commands. The claim, "I shot him because he didn't do what I told him" when someone is delusional and doesn't know where they are is absurd. These cases are, frankly, the worst and the saddest. I'm able, as part of my work, to explore the circumstances and bring them to light, show some respect for the memory of the deceased and give the family some comfort knowing that somebody's on their side.

### **Have your Jewish values or background contributed to your professional commitment to social justice?**

Yes, very much so. I think there's a history among Jewish communities of enlightened, progressive consciousness around engagements with the state, and a history of compassion. I think if you stick with that and your root values, you have the opportunity to do good work.

### **What's your take on the verdict in the criminal case against Forcillo?**

The verdict is nothing short of historic. This is the first time that a jury has returned a guilty verdict with respect to a police officer's use of force in Ontario's history.

### **Had you hoped Forcillo would be convicted of murder?**

I don't see the criminal process that way, in terms of my own likes and dislikes. The mother of Sammy Yatim, Sahar Bahadi, expressed her gratitude to the jury for the fine work they did, as well as to the judge and prosecutors. A fair hearing was done. The important result is that this police officer is being held accountable for his conduct. The use of lethal force is obviously the most extreme act an officer can engage in, and too often, they're not held accountable.

**When is the civil case you're preparing going to trial?**

It's difficult to say, given the stage it's at right now. The civil process is characteristically quite slow.

**Will the verdict in the criminal case against Const. James Forcillo impact proceedings or potential outcomes in the civil suit you're preparing?**

The verdict just came out and will be going to sentencing, so I'm not going to get into how it impacts the civil matter. I'm reluctant to start talking about how a criminal conviction can or cannot support a lawsuit. This isn't the time to talk about that.



*Sammy Yatim*

**After the verdict, the head of the police union made a strong statement about pursuing justice for Forcillo, while Toronto Police Chief Mark Saunders has said the force will continue to train officers to reduce harm in cases involving civilians in crisis. How much appetite for change do you think there is in the Toronto police community with regard to use of force and dealing with people in crisis?**

I think it's sad that the police union, far from appreciating the public mood on this issue, continues to use the "us versus them" approach – that you're either for or against the police. They're continuing the same old-school approach of mindlessly backing a player regardless of their conduct. I'm disappointed to hear very little respect, condolences or sympathy from them to the Yatim family. The current climate of public opinion is one in which there's far more insight into these issues. The public appreciates that they can be supportive of good police officers while calling out bad policing. The police union seems unable to appreciate those nuances.

**What specific changes would you like to see happening?**

Members of the public and good police officers should be working together to minimize bad policing. It's hard to do that in the kind of environment the police union sets up. The recommendations in the 2014 report produced by retired Supreme Court Justice Frank Iacobucci for former police chief Bill Blair, which dealt with police conduct in encounters with people in crisis, have yet to be substantially implemented, despite spin doctoring to the contrary.

The key recommendations about changing police culture haven't been implemented. It's clear that, unassisted, the Toronto Police Service is not going to fix itself.

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Right now, officers are taught that the remotest risk to their safety can justify the use of lethal force. So if someone is holding any edged item – including a pencil or pen – an officer is entitled, if the person doesn't respond to police commands, to draw a weapon and use deadly force.

There needs to be a balance. Of course police officers do a tough job and should be able to go home safe to their families, but there's got to be more balance so that their respect for the sanctity of the life they're dealing with doesn't come as a distant second to that.

### **Do you see hope for renewed change regarding police culture in Canada under the new Liberal government?**

I look at things like the 2010 G20 Summit in Toronto, at Robert Dziekanski being killed by RCMP officers in the Vancouver airport in 2007 – these are national events. I think they have, to some extent, fed a public awakening that we're moving farther away from the "just trust us" police model. I think video evidence has been a great assistance to bringing home to the public that just because the police say it's so, doesn't mean it is. Many officers' accounts are unreliable, and [with video] we can observe that.

### **Is there a particular case you lost that still haunts you?**

All of these cases haunt me. I was involved in cases like those concerning the deaths of [mentally ill men] Lester Donaldson, Edmond Yu, Wayne Williams [in Toronto], and each brings me the message that "there are none so blind as those who will not see," and that the Toronto police leadership has to take into account compassion for emotionally disturbed persons not in the frame of mind to understand a police command. They have to better create a balance for officer safety and sanctity of life. These are the hallmarks of civil society and, frankly, we all fall short.

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*This interview has been edited and condensed for style and clarity.*