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What justice there is in James Forcillo verdict, we owe to video: Keenan

WARNING: Video below contains graphic content. Many expected a cop to go unpunished after the killing of Sammy Yatim, but the verdict suggests the trust placed in police is not endless any more, writes Edward Keenan.

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Warning: Graphic content. Toronto police officer James Forcillo found not guilty of second-degree murder and manslaughter after firing two volleys of shots at knife-wielding 18-year-old Sammy Yatim in empty streetcar.

By: Edward Keenan Columnist, Published on Mon Jan 25 2016

After a jury found police Constable James Forcillo **guilty** — in part — for his actions in the shooting death of Sammy Yatim, Mike McCormack of the Toronto Police Association said, “Clearly this sends a chilling message to our members.”

Well, I bloody well hope so.

Because this is a good message: when you’ve shot a guy three times, and he’s lying on the ground immobilized and dying and very obviously posing no threat to do anything except bleed, you ought not to shoot him another six times. Summary execution is never allowed — not even of a guy who had been doing threatening and creepy things, not even of a guy who waved a knife in your general direction and called you emasculating names before you immobilized him. If internalizing that somehow counts as “chilling,” then the attitude inside the police department has been altogether too hot.

That a police officer will be held criminally accountable for his actions in killing someone — that a police officer *can* be held criminally accountable for actions in killing someone — is a message that both the police and the public needed badly to receive. And a message that was not exactly expected.

McCormack said frontline officers are “shocked” by the verdict, which might also adequately describe how the general public received the news. A cop in this city, on the job and in uniform, held accountable for shooting someone? Found guilty in court? It has, as far as anyone can tell, never happened in Toronto before.

As many police critics would have told you, a badge is a license to kill in this city. Or seemed to be, until Monday. Now we know, at least, that a badge is not a licence to

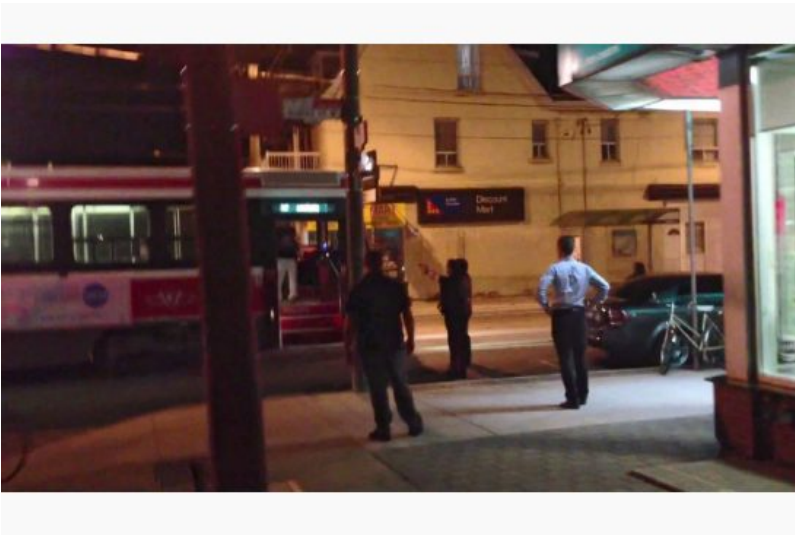


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attempt to kill. The message that sends to the police and to the general public is an important one.



MARKUS GRUPP / STILL FROM YOUTUBE VIDEO

The video evidence in the Sammy Yatim slaying made a critical difference in the outcome, writes Edward Keenan.

I'll leave it to others here (and elsewhere) to parse the specific legal meaning of Forcillo's being found simultaneously not guilty of murdering, but guilty of attempting to murder, the man he shot to death. The important part about it, in my mind, is that the guilty part of the verdict results directly from the second volley of shots that Forcillo fired. The ones that, in the eyes of anyone who saw the video that circulated immediately after the event and the further videos that emerged in court, cannot plausibly be justified.

If, looking at the event as it unfolded, it was clear that the shouty macho death-stakes standoff between Forcillo and Yatim should never have emerged (since Yatim was isolated on a streetcar alone), then it was also possible to conclude it may not have been Forcillo's personal fault, and procedures and training need to be adapted to respond differently. (See the resulting Iacobucci report's recommendations for dealing with people in grips of a crisis.)

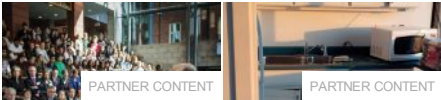
And if, looking at the moment when Forcillo first fired his gun, it did not appear clear that Yatim posed any immediate threat to anyone's safety, there was at least room to imagine reasonable doubt about whether it looked to the officer, in that split second, like Yatim was about to lunge forward, stabbing.

James Forcillo leaves court after being found guilty of attempted murder, and not guilty of second-degree murder and manslaughter after firing two volleys of shots at knife-wielding 18-year-old Sammy Yatim in empty streetcar.

But after that split second, and after another five and a half seconds, it was transparently obvious that the young man was no longer dangerous. He was dying. And



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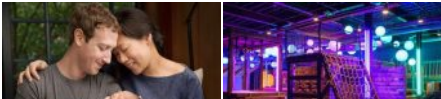


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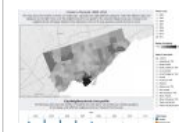
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we all saw it on video from multiple angles. Forcillo spun a story on the witness stand about how he thought Yatim was rising, Terminator-like, to attack, but even he admitted the video evidence showed clearly that was not the case.

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If a jury had acquitted Forcillo of firing those shots — six in succession — into the body of a helpless, wounded man, lying flat in his own blood, well inside the doors of an otherwise empty streetcar . . . if it could call that justified, then it would pretty much confirm the recently growing public perception that there is no law that applies to the conduct of our law enforcement officers. And yet that was pretty much the result many of us expected. Such is the state of our regard for the administration of justice, that we just figure a police officer will get off, no matter what.

But he didn't. Not entirely. Not guilty of second-degree murder, sure. But he still faces five years to life if his guilty finding for attempted murder is upheld on appeal.

"Video has made police accountable," Julian Falconer, the lawyer for the Yatim family, said after the verdict. And thank God for that. Video is often held up by self-presumed defenders of police officers as a force poisoning public opinion by exposing wrongdoing. But in its evidentiary value, video is in the long run an asset to legitimacy, because it allows — it forces — accountability for wrongdoing that has for ages been undermining our trust, bit by bit.

It may not be obvious to everyone right away, but this verdict is a positive development — or at least a halfway, attempted positive development — for public trust in the police and the justice system. It shows there is some minimum level of accountability to which officers will be held by the criminal courts. And the public needs to believe — needs to know — that is the case.

As Police Chief Mark Saunders said in his own reaction, "There can be no legitimacy without accountability."

With files from Alyshah Hasham and Verity Stevenson

More on thestar.com:

['Compromise' verdict in James Forcillo trial gets mixed reaction](#)

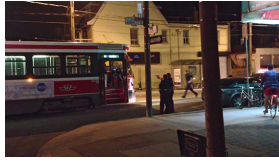
['Mystery' charge only one that sticks in Sammy Yatim slaying](#)

Edward Keenan writes on city issues ekenan@thestar.ca . Follow: [@thekeenawire](#)

Timeline

July 27, 2013

Shooting



Just after midnight, Sammy Yatim, 18, is shot dead on an empty Dundas St. streetcar by Const. James Forcillo. Police arrived moments after Yatim exposed himself and brandished a small knife, sending passengers fleeing. In a bystander video shot after police arrived, Forcillo can be seen firing his gun; nine shots are heard. A second officer then Tasers Yatim. The Special Investigation Unit steps in to probe Yatim's death.



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