

# Forcillo's night in jail perhaps a taste of what's to come: DiManno

Const. James Forcillo's incarceration might last for all of one night.



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Defence lawyer Peter Brauti and Sammy Yatim's parents react to Const. James Forcillo's six year sentence in the fatal streetcar shooting of the 18-year-old.

By **ROSIE DIMANNO** Columnist

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The tableau was exceptionally rare: A Toronto police officer, arms pulled behind his back, being handcuffed in court.

Led away, a few minutes later, to the holding cells downstairs at 361 University.

These would not be the cells with which Const. James Forcillo was once intimately familiar as a court constable at the beginning of his law enforcement career. He'd served in a different courthouse. But he'd certainly know the procedure. The clang of the cage door slamming shut, the jangle of turnkeys, the indignity of being deposited behind bars.

Whether he submitted a DNA sample, as is routinely ordered of convicted and sentenced felons, is unclear.

And, as a cop — the first in Canada to be convicted and sentenced for attempted murder, "an egregious breach of trust which is an aggravating factor" — he was placed in protective custody, not simply flung into the bullpen with everybody else.

Forcillo's incarceration might last for all of one night.



Nabil Yatim, father of Sammy Yatim, wants the world to know his son was a “kind, nice, beautiful, talented young boy.” (ANDREW FRANCIS WALLACE / TORONTO STAR) | [ORDER THIS PHOTO](#)

The former 14 Division cop — suspended without pay Thursday by Chief Mark Saunders — could be sprung by early Friday, when a decision is expected on his application for bail pending appeal of both conviction and sentence. A new set of lawyers assembled, in front of a different judge, just down the street, at Osgoode Hall, mere hours after Forcillo learned of his fate. Except fate is an elastic concept, and the judicial system sometimes responds with more alacrity with some supplicants than others.

So, possibly and rapidly at liberty again, as Forcillo had been since a jury found him guilty of attempted murder in January. Since he was arrested three years ago charged with second-degree murder in the shooting death on a downtown streetcar of knife-wielding teenager Sammy Yatim. Since he was charged two years ago with attempted murder in the same fusillade of gunshots.

Three years and one day after Yatim was struck by nine bullets discharged from Forcillo’s service weapon, the cop who killed him could be in and out of jail lickety-split. That’s what a top-notch legal team can get you. Though most of us don’t have our legal bills covered by the police association.

“I don’t want to see a criminal on the street,” Sammy’s father, Nabil, said afterwards outside the courthouse. “But the system we have . . . we might have him out on the street.”

Forcillo didn’t even look at the family that continues to grieve their profound loss, Nabil admitting he spent the third-year anniversary of his son’s death just staring at the wall, wondering, as always: “What if this had happened, what if that happened. All the ifs.”



**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.

A sorry, even a fleeting acknowledgment from Forcillo that he understands the family's pain, would have been precious for the boy's parents and sister. They searched Forcillo's face for remorse and saw only a stony expression.

"Not much," said Nabil. "Not much of a man."

If no more than a single night in jail, for now, perhaps a taste of what's to come — six years in penitentiary, the sentence handed down Thursday morning by Justice Edward Then. Or at least whatever part of six years would be served until parole eligibility.

Not the eight to 10 years urged by the Crown. But a far cry from the house arrest — just send the guy home — which defence lawyer Peter Brauti had been seeking. Because, you know, *he's a cop* who was just doing his job that summer night, as sworn to duty, justified in the use of lethal force. An argument which found some traction with a jury because Forcillo was acquitted of second-degree murder — the fatal result arising from the first volley of three bullets. But rejected by jurors on the separate charge of attempted murder for continuing to fire in a second volley at the 18-year-old lying prone and mortally wounded just inside the streetcar stairwell.

Forcillo's account of events, from the witness stand, did not square with the multiple pieces of video evidence played in court at trial, his "misperceived" assessment — six seconds between volleys — of the continuing danger that Yatim posed. The youth, spine shattered, paralyzed from the waist down and heart pierced, was definitely not attempting to stand by up, not lifting his torso at a 45-degree angle as Forcillo testified and not an imminent threat to Forcillo or any of the many officers standing outside the streetcar's open door. "Based on the video which proves conclusively that Mr. Yatim made no attempt to get to his feet to renew the attack and based on all of the evidence, I have found as a fact beyond a reasonable doubt that Officer Forcillo was not under a misperception that Mr. Yatim was attempting to get to his feet by raising himself 45 degrees to renew the attack," Then said in his reasons for sentencing.

Then does not dispute that Yatim, who was high on ecstasy that night, had reached for the switchblade dropped when hit by the first volley. But "I find as a fact beyond a reasonable doubt that Officer Forcillo knew from his training that Mr. Yatim in rearming himself with the knife was only a potential threat. Accordingly, I conclude that Officer Forcillo shot Mr. Yatim precipitously contrary to his training at the commencement of the second volley and throughout the second volley."

That was the attempted murder, unjustified, of a dying young man.

Facts remain fluid, however, in the ongoing legal resistance to the case's outcome, and rejection of the constitutional challenge mounted at trial against a mandatory minimum four-year sentence for attempted murder with a restricted weapon.

It's nowhere near over.

That might explain Forcillo's deadpan expression when he was manacled. Not a flicker of reaction from either the felon or his wife.

Not a trace of remorse offered either.

Then made note of that too, sitting back down on his bench after rising to leave, as if remembering something that needed saying.

"Mr. Brauti, your client has not specifically expressed any remorse, and I want to make it clear that his failure to do that is not taken to be an aggravating factor. It is his right to maintain his innocence. But on the other hand, because there is an absence of remorse, he is not entitled to leniency."

There is a legal dimension to staying silent, of course, as Forcillo also declined Then's invitation to make a statement before the judge began reading his reasons for sentence. Remorse, an apology, could be construed as admission.

Sammy Yatim's parents wanted to hear it, though, needed to hear it.

"Admitting he was wrong," said Sammy's mother, Sahar Bahadi, "instead of trying to hide behind a whole bunch of other things."

"I noticed since it start, the trial, Forcillo didn't show any kind of remorse, and that hurts a lot. He destroyed our family. He will destroy our life, but he didn't show any kind of remorse."

Her anguish hasn't dimmed nor her anger diminished.

"I'm always angry since I lost my son, I'm always angry. I have screams inside me. And I have to control myself. But it's a very big loss, and it's a disaster for us."

Both parents expressed gratitude for justice done, for the wide support received and hope no other family will ever have to go through a similar horror. "It's not about vengeance," insisted Nadil. "It's about no other family should suffer what we suffered."

They want the wider public, as well, to know that Sammy was so much more than the muddled teenager who made ruinous mistakes that night. "A kind boy, not the way he was portrayed," said his father. "A kind, nice, beautiful, talented young boy, really. He hasn't made it to man."

Police union president Mike McCormack described Thursday as a "tragic day for the Forcillo family, for the Yatim family, for the community and policing. There's never going to be any good outcome from this, and it's tragic all the way around."

But that's a false ledger of loss. The suffering on both sides is not equal.

Forcillo may eventually go to prison, for a period of time. His family can see him, though, hear his voice, know that he will be restored to them.

The mother of a dead son can only kneel by his grave and weep.

"Sammy will never be coming back to us. I want him back."

**Related:**

[Const. James Forcillo sentenced to 6 years in Sammy Yatim shooting](#)

[Agonizing victim impact statements at James Forcillo sentencing](#)

*Rosie DiManno usually appears Monday, Wednesday, Friday and Saturday.*

## Sammy Yatim–James Forcillo 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.