

REPORT FROM YANEZ TRIAL, DAY 1 (5/30/17)

Today was the start of the trial of Jeronimo Yanez, the cop who killed Philando Castile. I arrived over an hour early only to find a ton of people already in long line at court security and it took quite a while to get through. I made my way to the 8th floor and the hall was already lined with people waiting to get in—most of them members of the media.

The courtroom was too small for the number of people who wanted in. The first bench on each side was reserved for family and was labeled CASTILE and YANEZ. After that were four rows for the jury pool, four rows for media and just two rows across the back for members of the public. They were packed.

Judge William Leary started the proceedings by hearing motions from the defense. The prosecution had provided them with a transcript of both Diamond Reynold's Facebook Live video as well as the squad cam video. In both videos, Diamond is saying that Philando had a permit for his gun. The defense is trying to keep that info out since Yanez supposedly didn't know that. However, this was clearly part of the transcript. The prosecution asked to have until tomorrow to consider whether they are okay with redacting that part of the transcript and the judge told them to be ready to discuss it at 9 am tomorrow.

The defense raised a second motion. They stated that the prosecution had questioned Diamond Reynolds on 5/5 and that in her statement she said that while they were running errands, she and Philando stopped somewhere and that she bought some marijuana but Philando didn't buy it and never used any that day. Yanez is now claiming he smelled burnt marijuana (oldest cop lie in the book) and the defense wants to be able to talk to the seller to 1) make sure it was Diamond and not Philando that bought it and 2) how much was sold vs. the 6.1 gr they found in the car. Of course, even if any was used, that would not prove that Philando used it. The prosecution responded that they never asked Diamond where she bought it and asked if the defense expected them to interview her again. The judge denied the defense request for a re-interview, stating that this is not relevant but instructed the defense that if they were going to question Diamond about this, they would have to notify him first.

After a break, the jury pool was brought in. There are 50 people in the pool. It appeared that about 10 are people of color. The judge read the charges and outlined the duties of the jury. He reminded them not to view any news or social media about the case. He gave them detailed instructions on completing the jury questionnaire and then dismissed them to complete the questionnaire, stating that tomorrow will be jury interviews.

After the jury pool left, both sides approached the bench and notified the judge that a member of the jury pool named Cortez is related to Yanez. That member was dismissed for cause.

The defense then raised a motion asking for more jury strikes. The prosecution objected. The judge ruled against the motion, confirming that the defense gets 5 strikes, the prosecution gets 3 strikes and he assured both sides that he would remove biased or prejudicial people for cause after questioning by both sides.

The trial continues tomorrow at 9:00 a.m.

REPORT FROM YANEZ TRIAL, DAY 2 (5/31/17)

Jury selection began in earnest today. Two jurors were dismissed right away—a woman experiencing a high-risk pregnancy and a woman who is running her family business by herself because her husband has become disabled.

Juror #1 was an African American young man who holds down two jobs. He raised a few eyebrows by saying that the judicial system isn't always fair with some guilty people getting off because they can afford better attorneys. After a lengthy examination of this answer and what he knew about the case (very little), he was accepted to move to the next phase of the selection process. It wasn't clear what that process will be.

Juror #2 was a white female who manages a Holiday store. During questioning, she stated she never watches the news and had never heard of the case. She stated she holds police in high regard and was friends with the Maplewood cop who was killed and his wife. She said she rarely goes on the internet, only has 5 Facebook friends and only posts on it once a week. Attorneys for the prosecution showed her screen prints from her Facebook and after she confirmed it was her FB page, they showed her three pro-cop posts from a police supporters group that she posted in FB on the same day in November 2016. She claimed not to remember them but said, "I do respect the police." Judge Leary then told her he was concerned that she willfully withheld information on the three posts. He asked her to acknowledge that the posts were images of police cars and police officers and were pro-police. She was passed through to the next part of the process.

Juror #3 was an African American woman. Her questioning was very long. She had experienced a nasty incident with police when she broke up a fight in front of her home between people she didn't know. When police arrived, they immediately pepper sprayed her in the face. She stated that there is no justice for people of color in the criminal justice system. When asked what she knows about the case, she let the defense have it. She said "the shooting wasn't fair and the child and woman could have been injured also." She expressed that Yanez "was careless when he opened fire" and that "he is a bad person." She also said "I didn't think a traffic stop should result in someone getting killed." She looked over at Yanez a lot and it was as if she was using the opportunity to tell him off. She was dismissed for cause.

Juror #4 was a middle-aged white male. He questioned whether people should have to follow orders from police but still said that "police have a job to do." He was accepted for the jury.

Juror #5 was a middle-aged male of uncertain race. His nephew is an Alabama cop. His wife works in the St. Paul school system but did not know Philando. He lives in the neighborhood where the incident occurred. He heard that the incident was a traffic stop and the driver didn't follow instructions. He also said that it might be difficult to convict a cop but that he would go with the facts of the case. He believes police over lay witnesses but could put this aside. He was accepted for the jury.

Juror #6 was a white older male. He has had bad and good experiences with police. He believes the criminal justice system works. He was accepted for the jury.

Juror #7 was a white middle-aged man. He had wanted to be a state trooper when he was younger. When asked if he could find a police officer guilty, he said he had very strong

feelings about the incident. "The cop didn't handle it well. He did not handle it appropriately." He added that "there was no reason to unload a gun with a child in the car." He was dismissed for cause.

Juror #8 is a white woman who works as an LPN. She is very deferential to police. Questioning for her will continue tomorrow.

So, if you're trying to keep score, five people were accepted for the jury, two were dismissed for hardship reasons, and two were dismissed for cause.

More jury selection tomorrow.

REPORT FROM YANEZ TRIAL, DAY 3 (6/1/17)

Jury selection continued today at a much faster pace than yesterday. We learned today what the process and timing will be. The process now is to reduce the jury pool from the initial 50 down to 23. From there, the defense will get 5 peremptory strikes (jury removals without cause) and the prosecution will get 3 peremptory strikes. This will bring the jury panel down to 15 people—12 jurors and 3 alternates.

Judge Leary estimates that the first stage of jury selection will finish by 4:30 pm tomorrow with peremptory challenges and final motions Monday morning. Trial is expected to start Monday at 1:30 pm.

The morning started with the continued voir dire (questioning) of Juror #8. Each potential juror is being asked about whether they have been a victim of crime and then about details of the crime and whether they were satisfied with the police service they received. Juror #8 spoke about being a rape survivor. She said that police treated her well but that she would be able to be objective and would be able to convict a police officer if the facts and the law warranted. She was accepted for the jury.

Juror #9 is a white male who works as a fitness coach. He stated that he knows nothing about the case. When asked his opinion of the criminal justice system, he spoke pointedly about not believing in prosecutions for victimless crimes such as drug use. Notably, he is from Colorado. He was accepted for the jury.

Juror #10 is a young white female who recently graduated from the U of M with a political science degree. She has interned as a house page and senate legislative aid and is especially interested in education policy and school funding. She said she holds authority in high regard. When asked if she could remain unbiased and accept the serious responsibility of evaluating the evidence and applying the law, she fell apart. She cried and said she did not think she was ready for such a heavy burden. She was dismissed with cause.

Juror #11 is a middle-aged white male. He had read extensively about the case and said he thought the officer had made mistakes. When asked to elaborate, he said “my first thought is that a police officer fired into a car with a child in it” and this gave him a very negative opinion of Yanez. He then related that he is dealing with a very difficult family issue. He is power of attorney for his father and just learned that if he doesn’t come up with a very large sum of money his father would lose his house. He said he did not think he could concentrate on the case and was dismissed for hardship.

Juror #12 is a white 30ish biology professor with a PhD in entomology. Most of his answers were framed in scientific language. He and his family have been crime victims, including that he was shot with a pellet gun in the back by a drive-by shooter while walking with his pregnant wife, and his mother-in-law had been robbed at gunpoint while walking with his infant son. Despite this, he stated that his politics are very progressive. He was very familiar with the case through news and social media, calling it “a suspicious situation” and “excessive force.” He and his family attended the first vigil at J.J. Hill Elementary and he cried along with many others. He acknowledged that he does not have all of the facts and stated that as a scientist he would not pass judgment without knowing all of the facts. He said that he understands that Yanez is innocent until proven guilty, referring to Yanez’ presumed innocent as the “null hypothesis”—

the truth until proven otherwise. The defense then tried to trick him into saying he was biased by asking him the same questions over and over in different ways—it didn't work and the judge basically told them to knock it off. The defense then moved to have him dismissed for cause and the state objected. The judge denied the motion, stating that the totality of his answers did not indicate that he is biased. After a few more questions, he was moved on to the next stage of jury selection.

Juror #13 is a white female in her 30s who is an RN. She indicated that she knows another jury panel member because that person is her husband's manager. After a number of questions, the judge determined it was not an issue. She works at the same facility as Yanez' wife (Fairview Riverside), but she works in the adult ER and Yanez' wife works in the pediatric hospital. She doesn't know Yanez' wife. She knew about the case and heard that "Diamond Reynolds was smoking pot" and that "an officer shot Philando Castile while he was reaching for a gun" through Facebook posts. She also said that she was working in the ER when ambulance drivers complained about not being able to get to the hospital because a road was blocked by protests. Despite this, she stated that she would be able to be unbiased. She was passed to the next stage of jury selection.

Juror #14 is an 18-year-old Ethiopian college student. She has lived in the US since age 10. The judge discussed her English skills, which are quite good. She stated she knew nothing about the case. When asked about the criminal justice system, she said that she likes that people who have no knowledge of the case can learn about it in court and then can pass judgment. Defense attorney Earl Gray began questioning her and came off as an incredible racist. He started by asking her if she was a citizen (she is). He then started peppering her with questions about the meaning of legal terms including culpable negligence, impeachment, etc. and she was not familiar with the terms. He said "this is a complicated case" and asked her "are you qualified to be a juror?" She said that since she did not know the definitions of the terms, she must not be qualified. The judge jumped in and explained to her that others would be first-time jurors and that jurors are not expected to know legal terms or be educated in the law. Gray then asked "can you understand the rules?" and she said she could. He then asked about where she lived in Ethiopia—a camp?, a village?—and she said "a house." He asked if she attended school as a child, and she said "of course" and that she learned English and listed math, science, art and other topics of study. He then demanded that she define the American criminal justice system. When she repeated what she had said previously about the role of jurors, Gray challenged her for cause, stating "she has no idea what the American criminal justice system is" and "she won't be able to contribute to jury deliberations" and is incompetent. The state raised that no other jurors were asked to define the American criminal justice system or legal terminology. The judge and Gray then got into it, with the judge saying most people would not be able to concisely define the American criminal justice system. Gray interrupted, screaming "every other 18-year-old would be able to answer this" and he said he wanted it on the record that he thinks she is incompetent. Judge Leary said "you're entitled to your opinion" then said MOTION DENIED! The state asked a few questions and she was then passed to the next stage of jury selection.

Juror #15 is a white female, probably late 30s. She has had a few encounters with law enforcement when her house was burglarized and when she witnessed a car being broken into. She had no knowledge of the case. She was passed to the next stage.

Juror #16 is a white male in his 60s, retired from medical manufacturing. He has a moderate amount of knowledge of the case because he saw it on the news. His impression is that “a guy was pulled over. He said he had a gun permit and then was shot.” He also said that Diamond Reynolds seemed overly calm about videotaping. He takes news reports with a grain of salt. He said he was pretty frustrated about sitting in the jury pool for two days but this is everyone’s civic duty. He said he could put aside his beliefs about the case and that jury decision-making is a serious responsibility. He was passed on to the next stage.

Juror #17 is a white man in his 50s. The incident occurred a mile and a half from his house and he knows exactly what happened—the driver did something wrong. He said he thinks 99% of media reports are hearsay. Asked if he could be a good juror, he said “no.” The judge dismissed him for cause.

Juror #18 is a white male with in his 40s. He was a bit concerned about the length of the trial because he is self-employed. He has a moderate amount of information on the case. He saw the video and he said it wouldn’t have occurred to him to film in such a circumstance but otherwise he hasn’t formed an opinion about the case. He was passed on to the next stage.

Juror #19 is a white female in her late 50s/early 60s. She is very familiar with the case. She had been in the building during the 1970 bombing of Dayton’s and was deeply affected by it. When she saw the video, it renewed all of her feelings about the bombing. She was crying on the stand and said that her memories would interfere with her ability to be a juror. She was dismissed for cause.

So, here’s the score: 14 potential jurors moved to the next stage, 3 dismissed for hardship, 5 dismissed for cause.

Jury selection continues tomorrow.

REPORT FROM YANEZ TRIAL, DAY 4 (6/2/17)

The rest of the jury panel was selected today. Some drama but not like yesterday. On Monday morning, the defense and prosecution will apply their peremptory strikes (jury removals without cause) and consider last-minute motions. The trial is expected to start with opening statements on Monday at 1:30 pm.

There were a lot of questions to jurors about guns today. The defense is starting to advance the theory that Philando's conceal/carry permit was obtained by fraud since there is a question about drug use and they claim he was using marijuana at the time he applied for the permit.

Juror #20 is a white male in his 40s. He knew a moderate amount about the case because he listens to National Public Radio and pays attention to the news, though he has not listened to the MPR podcast about the case. He had heard from people at work that "the guy who was shot was a cook." He has no opinion about who is at fault. He has been pulled over multiple times for minor violations and equipment issues. He thinks it's a problem with how these minor offenses can be allowed to build up and harm people financially. He spent 7 years teaching English in Cambodia and has traveled extensively to other parts of Asia, India and Guatemala. He was passed to the next stage.

Juror #21 is a white male in his early 30s. He was a sergeant in the Air Force, working as a medic for 7 years. He had two DUIs after breaking up with his girlfriend and now no longer drinks. He grew up around guns and had a 9 mm sidearm as a medic. He owns one now but doesn't have a conceal/carry permit. He knew just a little about the case—that it was an officer-involved shooting—but has no opinion about it. He was passed to the next stage.

Juror #22 is a white male in his late 50s. He is a light rail train operator and previously worked for the City of St. Paul as a heavy equipment operator. He flies hobby airplanes. He grew up in Frogtown. He knew very little about the case except that "it was an officer-involved shooting." He was passed to the next stage.

Juror #23 is a white male in his early 30s. He is a car detailer. His uncle is a police officer in Coon Rapids and his 3rd cousin is a police officer in Lino Lakes. He doesn't see them very often. He believes police officers should be treated like everyone in court cases. He knows a small amount about the case because he saw the Reynolds video on the news and read a few Facebook posts. His impression is that "a man was pulled over for a traffic ticket, had a gun and a witness had a cell phone" but he has no opinion on the case. His wife works for the MN Department of Revenue in overdue tax collection, which generated a few jokes among the lawyers. He has sole custody of his son after his ex-wife was convicted of child abuse. He was passed to the next stage.

Juror #24 is a white male in the late 50s. He is a certified gun safety instructor through the DNR and volunteers to train boy scouts in gun safety. He is a lifelong member of the NRA and a member of MN Gun Owner's Caucus, which pushed for the conceal/carry law. He agrees with the positions of the NRA but differs with the MN group because they believe people should be able to own guns without a permit and he believes people need to be vetted by law enforcement and demonstrate proficiency to own guns. He likes the permit process as it is now. He gave conflicting answers about whether he could put aside what he knows about guns and the permitting process and consider only the facts that come out through the trial. He said

that if he learned that someone had lied on their conceal/carry application, he would be against that and would have a hard time being unbiased but eventually said he could put it aside. His wife and son are American Indian. His son went to school with Philando Castile and they were acquaintances but he never met Philando. He has little knowledge of the incident but had heard that Philando told the officer "I have a gun" and he said that this is not the correct way to deal with a police officer. He has high regard for police officers but said that some officers are not trustworthy. When asked if he can be unbiased in evaluating police officer testimony, he hesitated before saying "I believe I can." The judge pointed out this hesitation. He explained that it depends on what the jury is allowed to hear. Items that are struck are hard to forget. The state challenged him for bias, saying that they don't think he's being honest about what he knows about the case and his ability to be unbiased. The defense objected because "he said he could be fair." The judge denied the motion, stating that the juror had said repeatedly that he would be unbiased. He was passed to the next stage.

Juror #25 is a white male in his 60s. He was a medic in the army in the 1970s, became a special education teacher after leaving the army and is now retired. He was friends with the school resource officer when he was teaching but they don't socialize now. He has a moderate amount of information about the case because he followed it in the news. He says there are a lot of facts in these cases that the public doesn't know about and that it sounded like Yanez was distressed in the video. He sees the incident as part of a broader pattern with Ferguson, Baltimore and the Jamar Clark case in Minneapolis and he was embarrassed because we should be above this kind of stuff. He was passed to the next stage.

Juror #26 is a white male in his 50s. He works for the MN sex offender program as a safety manager. He has some contact with residents to follow up on safety complaints and to train them in the use of certain equipment. He worked previously in health care facilities as a safety officer. Although he works with law enforcement, he said he could be unbiased. He was the victim of identity theft and was very dissatisfied with the way it was handled by law enforcement. They did not investigate it so he found the person himself but they would not follow up to prosecute the perpetrator. He knows a great deal about the case as he followed it in the news but has no opinion on it. He sees the justice system as fair and impartial but not perfect. He was passed to the next stage.

Juror #27 is a white female in the late 30s. She is a lab tech working in a physician office. She and two friends were abducted at gunpoint at age 4 and they were sexually assaulted but she barely remembers the incident. The man was never apprehended. She tends to believe police officers over other witnesses "because they protect people" but said she could judge their testimony the same as others. She knows quite a bit about the case because it happened 2 miles from her house. She was amazed that Diamond Reynolds had the presence of mind to videotape the aftermath but she has no opinion about her otherwise. She is aware that Diamond was recently arrested in another incident but could put that information aside. She noticed that Yanez was upset in the video but would be able to put that aside. She has no opinion on the criminal justice system. She is aware of protests because her son got caught in a traffic jam but she has no opinion about them except that people have a right to protest. The prosecution asked if she could name the components of the system and she was not able to. She was passed to the next stage.

Juror #28 is a white male in his mid-20s. He attended UW Stout, graduating two years ago. He works designing packaging. A friend was assaulted by a roommate and his hand was broken.

He called the cops. A statement was taken over the phone but no charges were filed. He has had two different citations for use of marijuana in Wisconsin. He has limited knowledge about the case, seeing some things about it in the news. He heard some people say that Philando Castile "was a nice person." He was not familiar with Yanez other than hearing his name. He said he could be fair and impartial. When asked about anything else people should know about him, he answered that he was "raised to respect everyone and not be a terrible person" which brought a moment of levity, with the judge replying "that's a good goal." He was passed to the next stage.

The judge announced that we now have 23 members of the initial jury panel and that court would resume at 9:00 am on Monday. Before court ended for the day, the prosecution asked to put a statement on the record in response to the defense motion for a change of venue. He wanted it noted that there were no protests, disruptions in the courtroom or other incidents that have caused problems with the case. A nice little jab at the defense. With that, we were dismissed for the day.

In addition to these daily reports, you may want to follow Star Tribune reporter Chao Xiong's Twitter feed at <https://twitter.com/ChaoStrib>. He is providing a blow-by-blow account from the court room.

REPORT FROM YANEZ TRIAL, DAY 5 (6/5/17)

Jury selection was completed today and the trial started in earnest.

The hearing started at 9 am with council going immediately into the judge's chambers. They were there for over an hour, with a packed courtroom waiting patiently for them to return. When they returned, the judge apologized for the delay and began to put his rulings on a few matters on the record:

- Conceal/carry permit issue: The prosecution can bring it in and the defense can argue whether he got it properly.
- Marijuana issue: The state will agree that there was marijuana in the car and that THC was in Philando's system.
- Preliminary jury instruction issue: The defense apparently requested some kind of change to the jury's preliminary instructions—it wasn't clear what—but this was denied.

After lunch, the full panel of 23 jurors was brought into court for peremptory strikes. The attorneys exchanged strike lists. The prosecution immediately challenged the removal of juror #14 (my number, her official juror number is 17). This is the 18-year-old Ethiopian woman the defense tried to have removed for cause last week (see my day 3 report). The prosecution's objection was that the victims are African American and juror #14 is one of only two people of color on the jury.

The judge ruled that the state made a prima facie claim of race-based selection. He said that race has been an issue in this jury selection, citing that the victims are African American and the defendant is Latino.

At that point, the defense was required to present a race-neutral reason for striking the juror. Defense attorney Earl Gray stated that juror #14 is totally unaware, she came here at age 10 and never took a test for citizenship because she gained it through her father. He added that "This case is complicated. All the other people have had experiences with the criminal justice system. She hasn't had any of these experiences." He added, "She is not basically competent to hear this case. We want 12 jurors, not 11." He added that the defense was not planning to remove the other African American juror.

The judge then asked, "Your race-neutral reason is that she lacks legal system exposure so she's not competent. Is that correct?" The defense response was yes.

The prosecution noted that she is a high school graduate and a college student and said that the fact that she doesn't watch crime shows is a plus, causing a laugh in the courtroom.

Judge Leary then said that he questioned her at length and that her English is good. She gave a good response to question 59 (on the criminal justice system). She indicated she could apply law to the facts. She is intelligent and articulate. He wanted to note for the record that juror #18 answered the same question in a no more expansive manner than #17 (my #14), stating "I work in IT and I don't know much about the system" yet the defense failed to ask any questions of that juror. He said that #18 wasn't the only juror who gave a brief and unsophisticated answer to that question. He upheld the state's challenge. Juror #17 (my #14) will sit on the jury.

The professor and the gun safety instructor were removed, among others. Surprisingly, the Holiday Store manager who had lied about posting pro-cop items on her Facebook was kept on the jury. The remaining jurors were sworn in, given the elements of the charges, and were given preliminary instructions.

The prosecution entered a number of exhibits through Doug L. Henning with the Bureau of Criminal Apprehension (BCA):

- Exh 88—the shorts Philando was wearing when he was killed, sealed in a biohazard plastic bag
- Exh 89—a new pair of the same shorts that can be handled in court
- Exh 90—the holster in Philando's pocket, sealed in a biohazard plastic bag
- Exh 91—replica of exh 90 that can be handled in court
- Exh 92—Philando's wallet with drivers license and permit to carry, sealed in a biohazard plastic bag
- Exh 86—a diamond back FS 9 mm gun secured to make it inoperable and sealed in a biohazard plastic bag
- Exh 87—a duplicate of exh 86 that can be handled in court.

At 2:50 pm, the prosecution gave its opening statement. Attorney Dusterhoft said that this is about a traffic stop. The badge carries authority but also responsibility. He then described the incident and the squad camera video was shown for the first time in court. The judge warned people not to react to the video. It was very hard not to.

Yanez saw a white Oldsmobile and thought the driver looked like a robbery suspect from 4 days earlier at Super USA. He could only see what he could see through the window. He saw a black man with dreadlocks and glasses—not his height or weight. He contacted his partner Kauser and began following Philando. When he got closer, he saw a brake light out and pulled Philando over. By then, Kauser was behind him. Yanez approached the window with his hand on his gun. He told Philando about the tail light and Philando gave him his insurance card. He said, "Sir, I have to tell you that I have a firearm." Yanez replied, "Don't reach for it." Philando said, "Sir, I was reaching for..." when Yanez cut him off and said, "Don't reach for it" and began shooting immediately. He shot 7 times, with 5 shots hitting Philando. Two of the bullets pierced his heart. Philando's last words were "I wasn't reaching for it." Kauser grabbed Diamond's daughter and ran from the car. Diamond could be heard yelling and recording her video. The entire time, Yanez was screaming at her and holding his gun on her. He can be heard telling another officer "I don't know where the gun is. Roseville police arrived and Yanez was still holding his gun on Diamond. They removed Philando from the car and attempted CPR. When Philando was placed on a gurney, his gun rolled out from his right side. Philando was taken to HCMC. One bullet went through Philando's car seat and landed right next to Diamond's daughter. Another bullet hit the arm rest of the seat Diamond was sitting in.

The prosecution noted that Yanez didn't tell Philando to freeze or to put his hands up. Yanez' negligence led to Philando's death.

The defense gave their opening statement and a good bit of it was introducing the Yanez family and telling what a great guy he is with lots of "he grew up poor" and other sympathetic statements. His employment history was covered and includes a stint as an ICE agent. There was a brief overview of his training including being told that if he didn't shoot first, it would be too late and that the most dangerous thing a cop can do is walk up to a car. He claimed that

the stop was legal and Yanez “just wanted to find out who he is.” He ended by saying that these charges have cost Yanez his good name and he seeks to reclaim it.

The prosecution called its first witness, Anna Garnes-Halvorson. She is a teacher at J.J. Hill school and talked about Philando’s nature and work. She talked about how “Mr. Phil” never missed a day of work, knew all of the children’s names and their allergies and that he was consistently calm, always smiling. She was shown a general picture of Philando and one of him in his work outfit and she identified him.

Prosecution witness #2 is Diamond Reynolds. She gave a lot of information about her history, including being homeless for various periods. The shelter had set her up with housing in Zone 6 in St. Paul, a very dangerous neighborhood. Philando lived with Diamond and her daughter Dae-Anna and acted as a father figure to her. He had a gun for protection because two people had been murdered very near their home. At the time Philando was killed, she was working two jobs. She was asked if Philando had any anger toward police and she said he didn’t. They attended the neighborhood police picnic each summer. She began going through the events of July 6, 2016 when the judge recessed court for the day.

REPORT FROM YANEZ TRIAL, DAY 6 (6/6/17)

Trial started today with Diamond Reynolds still on the stand. The prosecution presented time sheets for her and for Philando for their jobs on 7/6/6 as well as a receipt and surveillance camera footage as part of establishing the timeline of the incident. Diamond recounted how her sister met her at work. They took the bus to pick up her daughter at daycare and eventually met up with Philando, who had gone to get his hair braided after work. The four of them went to the grocery store, with Philando staying in the car. They drove Diamond's sister home in Falcon Heights, then they were headed home when Philando was pulled over.

Defense attorney Gray made a big production out of Diamond's admission that she and her sister smoked a marijuana cigarette while they were hanging out together before picking up her daughter. He asked her why she did it and she responded, "Because I wanted to." He said to her, "you know it's illegal" and she replied "okay." He made a big deal about the fact that she and Philando smoked daily. He asked about marijuana that was found in the car after the incident. One of the pictures showed a baggie on the front car seat. Diamond said it was under the passenger seat and that she kicked it with her heel along with the groceries that were also on the floor around her feet. She said it was in a mason jar with a gold top, not a baggie. She also said that they had not smoked marijuana in the car at all that day and that the car had no smell of it. He then asked if the reason she went grocery shopping with her sister is so the sister could use food stamps to buy Diamond's food. The prosecution successfully objected. Yet another example of Gray's racist and classist conduct.

Gray asked her about a statement she made at a rally on 7/7/16. She said she and her daughter had been held by police for 5 hours without food or water. He tried to imply that she was lying by saying that not once during the 27 minute interview at the police station did she ask for food or water. The issue is this—the incident occurred about 9 pm. She and her daughter were taken home at 1 am. That's 5 hours. It's not as though she could have gone home at any point before they took her home. He asked her why she claimed she didn't get food or water and she replied "because they didn't give it."

There was a lot of questioning about her saying in her 7/6/16 and 5/5/17 interviews that Philando was going for his wallet but in her 5/31/17 interview she stated he was trying to unbuckle his seat belt. She explained that he was going for his wallet but was having trouble because the seatbelt blocked him. On redirect, the state established that his wallet was in his right back pocket and went through the motions needed to remove it.

The defense also raised that she has a civil attorney currently representing her and asked if she plans to sue. She replied "If that's what my lawyer recommends." She said that she retained him because she did not want to give her phone to law enforcement for privacy reasons. [Note: CUAPB recommends all witnesses in important cases be represented by attorneys and we set people up with them to give them a measure of safety in being a witness.]

Throughout the questioning, Diamond had moments of tearfulness, especially when she explained the impact Philando's death has had on her and her daughter. At the end, she was asked if she had been told by any lawyers that she should testify truthfully. She said she was told to tell the truth "which I did." She was strong and dignified in the face of ugly questioning meant to dirty her up and make her look like a liar.

Prosecution witness #3 was Joseph Kauser. He was Yanez' partner on the St. Anthony PD but works for Bloomington PD now. He considers Yanez a friend and they socialize together. He was a use of force instructor in St. Anthony. He described the steps for a standard traffic stop including stopping in a safe space, using emergency lights, notifying your partner or dispatch and standing in a safe space (the space between the front and back windows, known as the B pillar). He agreed that most men keep their wallet in their right back pocket so if a driver reaches in that direction it would be normal during a routine stop.

He was questioned about the St. Anthony PD policy on the use of deadly force. Deadly force is to be used only to preserve life and eliminate the threat of great bodily harm. The officer should exhaust other means first and give a warning first if feasible. The St. Anthony PD trains on the sanctity of life and on de-escalation. Part of de-escalation is to use language to stop movement you don't want, such as "stop moving" while watching the hands.

He had a carry permit before he became a police officer. The steps involved are to take a course, demonstrate proficiency with the weapon, and fill out a form. It is a one-day process. There was also a background check to own the gun itself. He was asked what they were told to do if stopped by police—should they tell that they have a gun or not? The class taught him that you could either tell or not tell. The law does not require you to tell. He said that if he stops a person with a permit to carry, he asks them where the gun is and asks to see their carry permit then he tells them to keep hands on the steering wheel.

He was working on 7/6/16 when Yanez contacted him and said he was following a car and planned to stop him because he looks like the robbery suspect from 4 days earlier because of his wide set nose. He was a half mile away and arrived right behind Yanez pulling over the car. He was asked what he does with traffic stops and the first thing is to run the license plate to see if the car is stolen, if there are warrants, and to know more about the driver. It appears that Yanez did not run the plates. This was supposed to be a standard stop and ID situation.

Yanez was at the window when he arrived. Both Yanez and Kauser were wearing bulletproof vests and had Tasers, asps, pepper spray, radio, flashlight, cuffs, and microphones. He was standing at C pillar (the space behind the back seat window and observing the passengers with his thumbs in the edges of his bulletproof vest. The car windows were down and he did not smell any marijuana. He had no concerns at that time.

The prosecution went through the video over and over in short increments showing Philando's head movement to the right when he got insurance card then moved to neutral as he stated that he had a firearm in the car. He stated that Philando's voice was relaxed and his right hand moved at a reasonable speed, and he still did not feel threatened. He did not see anyone reach for a gun from where he was standing. Suddenly he was surprised when 6-7 shots were fired. Yanez did not communicate that there was a gun in the vehicle, "there wasn't time." He moved back from where he was standing to his last point of cover. He actually crossed Yanez' line of fire by running back, which put him in danger. He was asked if passengers would have been in fear for their lives in that situation and he said "they could." When asked if he knew where the gun was, he said, "I don't know where the gun was. He [Yanez] didn't tell me where the gun was." He agreed that the law does not require a person to say there is a gun or where it is. The prosecution noted that Philando went above and beyond, and Kauser replied "he volunteered it."

Kauser tried to cover for Yanez by saying that he had been taught that it takes longer to recognize and react to a threat and that police have to be proactive and shoot at center mass until the threat is stopped. "I think he followed protocol." He looked at the jury and spoke to them anytime he said something positive about Yanez.

He was shown a picture of the interior of the car from the driver's side with the seat belt receiver on the right side of the driver's seat and he agreed that reaching to the right could be consistent with trying to unbuckle the seat belt.

The squad video was played to the end and you can hear Yanez meeting with a supervisor. He gave what sounded like a rather scripted story about why he had shot Philando. Yanez never claimed he smelled marijuana and he said he did not see a gun. Only after the investigation was over did he claim to have seen a gun.

Prosecution witness #4 was Ofc. Juan Toran with the Roseville PD. He heard a "shots fired" call in St. Anthony and was a mile away so he went to the scene. He didn't know it had been a traffic stop. He arrived 2 minutes after the incident, parked his car and ran to the scene. Yanez was still at the window pointing a gun at the female passenger. He and another Roseville officer, Anderson, drew their rifles and pointed them at her. They demanded she leave the car, hold her hands up and walk backwards toward them. They had her kneel, then handcuffed her and put her cell phone on the sidewalk. They put her in the back of Kauser's squad. He then got involved in providing CPR to Philando. In the process, he claims a gun fell out of Philando's pocket when they rolled him to put him on a backboard. He put the gun on the pavement. When he was doing CPR, he was between Philando and the car and he did not smell marijuana.

Toran knew Yanez because they met at Bulletproof Warrior training. He gave a detailed description of the 3-day training, characterizing it as an officer survival class. He admitted they were shown a lot of videos of police ambushes and killings and were told that police are vulnerable to attacks that can happen at any time. One day of the class was taught by Lt. Col. Grossman, a member of the military who is not a police officer.

Prosecution witness #5 was Eric Torgerson, a firefighter/paramedic for St. Paul. On 7/6/16, they were contacted to come to the scene. They are 2 miles away. They were unable to get through a barricade for a while to pull up to the scene. When he arrived, he was never told the scene was unsafe. He saw people doing CPR so he checked Philando for signs of life and didn't find any. They placed him on a backboard and put him in the ambulance, and went into cardiac arrest protocol. He did not notice a smell of marijuana.

Prior to putting him on a backboard, he noticed an officer patting down Philando and reaching deeply into his right pocket to pull out a gun. He was adamant that the gun was deep in Philando's pocket.

Prosecution witness #6 was Lindsey Garfield with the Bureau of Criminal Apprehension (BCA). She talked about the on-scene investigation and showed a diagram of the scene they had created. She talked about retrieving and securing Philando's gun—in particular that there was no bullet in the chamber and that it would typically take 2 hands to engage a bullet in the chamber. She will be back on the stand tomorrow morning.

REPORT FROM YANEZ TRIAL, DAY 7 (6/7/17)

The trial today started with a ruling by the judge that testimony by use of force experts from both sides would be confined to whether the use of force by Yanez was reasonable or unreasonable and they can reference legal standards but cannot render an opinion on guilt or innocence. With that, the jury was seated and the trial resumed.

Prosecution witness #6, Lindsey Garfield of the BCA, continued. She provided information on the cartridges that were found on the scene and stated that all of them came from Yanez' gun. She and her team arrived on the scene at 11 pm—two hours after the incident. She smelled no marijuana in the car. Once the scene was diagrammed and the car was searched, the windows were sealed with plastic and the car taken to the BCA. Items of interest in her testimony:

- Exh. 39 was a photo of the rear of the car showing that both brake lights worked. The only brake light that was out was the one in the center back window of the car.
- Exh. 40 was a picture of the front passenger seat. On the seat were Philando's glasses and a baggie of suspected marijuana. The baggie was tied in a knot and was so small that it was the same size as one of the lenses on the glasses. You'll recall that Diamond testified that the marijuana was in a mason jar with a gold lid on it under the passenger seat. By the time the BCA got there, the baggie was on the car seat with the mason jar lid in the cup holder in the center console. Clearly someone had tampered with the scene before the BCA arrived.
- A series of pictures showed the trajectory and landing places of bullets. One bullet was embedded in the arm rest right next to where Diamond was sitting. One bullet had gone through the driver's seat, out the back and went through the back bench seat to the metal under the car. It went through the bench seat very near where Diamond's daughter was sitting in her car seat. The car seat was also shown in the picture.
- One set of startling pictures was of Yanez in uniform after the incident, with Philando's bloody insurance card still in his left chest pocket.

Prosecution witness #7 was Dr. Andrew Baker, Chief Medical Examiner for Hennepin, Dakota and Scott counties. Prior to his testimony, Judge Leary warned people about graphic pictures and gave people the opportunity to leave. Dr. Baker explained the role of the medical examiner and stated that since Philando died in Hennepin County, state law requires that his autopsy occur in the county where he died. He was in charge of Philando's autopsy. He showed a series of pictures and did an excellent job of explaining what they were. In particular, he showed four entrance wounds in the outside aspect of the upper left arm and one entrance wound in the lower left arm. There were exit wounds on the inside of the left arm. There were four entrance wounds into the chest and one into the hip. He suggested these resulted from the bullets going through the arm and reentering the body at the chest and hip level. Two of the bullets into the chest pierced Philando's heart and were not survivable injuries. He stated that the wounds were considered "indeterminate range of fire" because there was not gunpowder residue on the skin, possibly because of clothing.

As part of the protocol, he took blood samples. The ideal blood sample for toxicology testing is from the femoral artery but since there wasn't enough blood there, he also collected blood from the chest cavity. Cavity blood is not ideal because it is often contaminated. Blood from both sources was tested separately and showed levels of three marijuana metabolites (byproducts). He stated he is not qualified to interpret the results.

Prosecution witness #8 was Christine Engebretson, a clinical toxicology professor with the U of M pharmacy school. She reviewed the results of the blood tests. She stated that when a person dies, the marijuana metabolites that were stored in fatty tissue dump into the blood (called postmortem redistribution). Tests on postmortem blood are not reliable because of this. The blood tests also cannot be used to determine when a person last used marijuana. In fact, no reliable test has been developed to tell when a person last used marijuana. The metabolites can remain in the system for weeks.

The defense asked about the symptoms of marijuana use and they included impaired coordination and decision making, inability to concentrate and follow directions, impaired learning. The prosecution missed a golden opportunity by not asking if she was talking about symptoms of acute marijuana use and how long such effects would last.

Prosecution witness #9 was Jeffrey Noble, a police practices and use of force expert. He was a police officer for 28 years, rising to the level of deputy chief of a town in California. He also got a law degree while he was a police officer. He retired from being a police officer but was asked to return in 2013 to review issues with police corruption in a small department in California. He has investigated 120+ critical incidents and many other use of force incidents. He testifies in lawsuits—about 50/50 for each side. He is widely published in police practices journals and lectures internationally on investigating internal affairs cases. He once used deadly force in a bank robbery incident involving a hostage when the robber pointed a gun at another officer. He was initially retained by the prosecution to help determine whether charges should be brought against Yanez. He read all files and documents, viewed the scene and examined the car at the BCA, then provided a 64 page report to the prosecution.

He testified about the laws regarding deadly force. Deadly force can be used if there is an immediate threat of death or great bodily harm. Graham vs. Connor is the defining law on deadly force. There are three “Graham” factors:

- Severity of the crime at issue. Helps to determine the likelihood of the need for force.
- The suspect poses an immediate threat to the safety of the officer or another.
- The suspect is actively resisting or attempting to evade arrest by flight.

He applied the Graham factors to this incident. The severity of the crime was a brake light malfunction. The prosecution asked about Yanez’ assertion that Philando was a possible armed robbery suspect. He replied that since it was based only on race and a wide set nose, this was not enough to pull Philando over or even form an opinion that he was a possible robbery suspect.

Philando pulled over immediately and complied with orders. There was no evidence he was resisting.

On the immediate threat factor, this is an objective test. This means it is based on what a reasonable officer believes, not just what that particular officer believed.

If a police officer believes someone was an armed robbery suspect, he should contact the dispatcher to bring in other officers and treat it like a felony stop. This would be considered a high risk stop. Yanez did not notify dispatch and did not use the procedures for a felony stop. He had the right to pull over Philando because of the broken brake light. Even if this was not

treated as a felony stop if they believed Philando was an armed robbery suspect, Yanez and Kauser should have approached with caution. They didn't approach cautiously. Kauser was even "lackadaisical." Philando was wearing a seatbelt. He was restrained and could not have gotten out quickly to hurt them.

The dash cam video was shown in segments and Mr. Noble was asked about applying the Graham factors.

When Yanez approached the car he went to the window, not the B pillar. When asked to provide license and insurance, Philando complied. When Philando stated, "Sir, I have to tell you I have a firearm" he was correct to do so. He had read the training materials from the class Philando took and this was what they taught him to say. Yanez then said, "don't reach for it" and both Philando and Diamond replied that he wasn't reaching for it. He did not give clear commands. In this case, he should have said "put your hands on the steering wheel (or in the air)" because you want to see and control the hands. He did not rescind the demand to get his driver's license. If he was worried about movement, he should have gone into command mode and said, "Stop! Freeze! Put your hands up NOW!" Police are trained to control the hands, get the hands up and to stop the movement.

There were 5 seconds between when Philando told him about the gun and when Yanez shot. He could have given clear and unambiguous commands, moved behind the B pillar to create time and distance and warned his partner to give him time to reposition. If he had moved behind B pillar, he would not have had Diamond, her daughter and Kauser in his line of fire. Officers are trained to consider the safety of innocent people.

Yanez should have told Kauser there was a gun. When other officers arrived, he should have told them about the gun. Even as three more officers arrived and one of them took over Yanez' position, he still did not reveal that there was a gun present and he never said he saw a gun or where it was. At the end of the video, Yanez told a supervisor "I don't know where the gun was. He didn't tell me where the gun was." Yanez should have asked where the gun was. He also told the supervisor, "I told him to take his fucking hand off the gun" but he had never said that. He then told the supervisor that he was getting nervous—this is not enough to use deadly force.

The prosecutor asked for Mr. Noble's opinion of Yanez' use of deadly force based on his knowledge of the case and the law. He said, "My opinion is that the use of deadly force was not objectively reasonable. No reasonable officer would have believed that Mr. Castile was involved in a robbery. He was not a threat. This was a routine traffic stop. Ofc. Yanez did not follow his training. The situation did not warrant the use of deadly force."

The defense really struggled to dispute Mr. Noble's testimony. They made some points about how much he got paid for this report and how much he makes as a consultant in police cases. They also make a production about the fact that he has testified in about 40 civil cases and only 3 or 4 criminal cases. [Could that be because police are almost never criminally charged?]

They asked him about articles he has written about police deception (the blue wall of silence). Did you find any evidence of deliberate deception? I never spoke to the officers. I did not find any intentional, malicious deceptions in reports.

The defense asked him about Yanez' use of the car to car radio instead of calling dispatch. He answered that if Yanez thought it was a traffic stop the use of the radio was fine but if he thought it was a stop of an armed robbery suspect he needed to call dispatch and treat the stop as a felony stop.

The defense asked if he reviewed any prior use of force by Yanez. He said there was a previous incident in which someone had tried to take Yanez' gun and his use of force was okay.

Things got really spicy when the defense asked if he understood that Yanez said he had seen a gun. Noble answered NO—Yanez used a lot of qualifiers likes “seems like,” “I believe,” etc. His immediate statement was that he never saw a gun. He said, “I never saw where the gun was” which means he never saw the gun.

He was asked about split second decisions. He said that 5 seconds is not a split second decision. He was not looking for minor mistakes but was looking at the totality of the circumstances.

He talked about principles taught in police training:

- Fire your weapon to stop the threat—not to shoot to kill
- Use of force motivation is reactive—the totality of the circumstances creates the situation
- An officer does not shoot to wound. They aim for center mass because adrenaline makes people less accurate. Killing is not the intent but is often the outcome.

In this case, there was no specific evidence that Philando looked like the robbery suspect. Yanez could not see his height or weight, hair style. He was a Black man driving by the store with a wide nose. No reasonable officer would believe he was a suspect.

He reviewed the St. Anthony PD use of force policy and said Yanez violated it. He was asked about the results of the internal affairs investigation of Yanez and he had not been given the info.

He was asked about the toxicology report showing that Philando had THC in his blood. He said he saw no evidence that Philando was impaired. Yanez followed him for 1.5 miles with no erratic driving, there was no delay in pulling over, there was no delay in following verbal commands.

He was asked about an article he wrote on how to interview police officers in investigations. He agreed there should not be a lot of stress. It is important to interview the officer right away. He disagrees with the 48 hour rule some departments have implemented. The defense asked if he was aware that Yanez hadn't slept before giving the BCA a statement and if that would change the way he viewed the statement. He said NO. The defense then claimed that Yanez was being harassed at his house that night [a bald-faced lie] and if this would change the way he viewed the statement. He said NO.

The defense ended by asking, "Is it your claim that Yanez had no reason to shoot Mr. Castile?" He answered, "My opinion is that Ofc. Yanez' shooting of Philando Castile was objectively unreasonable."

The prosecution asked if there was anything in the Yanez BCA interview about being harassed and he answered NO.

Court ended for the day. The prosecution is expected to rest their case tomorrow.

REPORT FROM YANEZ TRIAL, DAY 8 (6/8/17)

Trial today started with the prosecution offering a stipulation (set of agreed upon facts). Exhibit 38:

- Philando Castile was not present in the Super USA store on 7/2/16 during an armed robbery there.
- On 7/6/17, Philando Castile's driver's license and insurance were valid and there were no warrants for his arrest.

The defense agreed to the stipulation and it was put on the record. The prosecution also entered into evidence Exh. 94A—the transcript of the car to car radio transmission.

With that, the prosecution rested their case. The defense made a motion for a judgment of acquittal (not guilty) on all three counts, claiming the evidence presented is insufficient. The prosecution countered that they had sufficiently proven the elements of all three charges. The motion was denied.

The prosecution then stated for the record that there had been no protests or other disruptions in this second week of trial. The defense stated for the record that there are no Latinos on the jury (a true statement but where have they been when lots of Black folks get tried in front of all-white juries?).

The defense began presenting their witnesses.

Defense witness #1 was Juan Cortez. He is a firefighter/EMT with St. Paul. He got a call and arrived at the scene to see two officers performing CPR. He assisted with placing Philando on a back board. He heard something fall out of Philando's pocket with a clang and an officer said "gun." He saw the officer put the gun on the ground. He never saw a holster or wallet.

He was away from paramedic Torgerson (prosecution witness #5 on 6/6/17) while getting a backboard and stretcher. He said he did not see the gun come out of the pocket and he didn't see anyone pat down Philando but "I'm not saying it didn't happen."

Defense witness #2 was Jon Mangseth, St. Anthony police chief. He arrived in full uniform including a gun and Taser, as all other officers did today. The video of the Super USA store robbery was played and he was asked what he saw, which was two Black men robbing the store, pointing guns at the clerk. He was asked about officer training in his department and he gave a list of courses they take each year, including use of force training and de-escalation. He said that he encourages his officers to make traffic stops. Included in their duties is traffic safety and enforcement. [Not to mention revenue generation—MG.] They are encouraged to watch people drive by to look for crime suspects and find crime wherever it may be. It is officer discretion on who to pull over. He teaches officers to make pre-practice plans—to think through the possibilities of what can happen in various situations and decide in advance how they would handle them. When an officer needs to fire shots, part of the training is to shoot at center mass until the threat ends. Officers should know how many shots they fired. The department has a sanctity of life policy. Use of firearms is a last resort because of this policy.

The prosecution verified with him that facts unknown to an officer cannot be considered in later determining if a shooting is justified. For example, the fact that Philando had THC in his blood was not known to Yanez and cannot be used to try to justify him shooting Philando. The

prosecution showed him a press release by the BCA indicating that over 265 thousand people in MN have conceal/carry licenses. This is 7% of the adult population so one out of every 14 to 15 stops will involve a person with this license. Mangseth agreed that if a person is stopped and calmly informs the officer he has a firearm this is good and should not be blamed. If the officer is concerned, he should tell the person “let me see your hands” and ask where the firearm is. It’s also important to communicate with fellow officers.

Defense witness #3 was Ofc. Jeremy Stroger with the St. Anthony PD. He was Yanez’ use of force instructor. He was engaged and attentive in class. The prosecutor reviewed one of the slides from his class that listed factors that indicate a threat:

- Head back/shoulders back posture indicates a possible move forward with assault (but this doesn’t apply to drivers)
- Eyes straight ahead, not looking at officer
- A driver being cooperative does not diminish the threat as they can become uncooperative quickly. He shows videos of this in his class.
- Person having a red or flushed face, twitching or jerking, lips pushed out, sweating, eyes glazed, clenching or pounding fists, belligerent
- Demeanor change

He agreed that a calm voice and being polite are not signs of a threat. He agreed that to assess threat, the officer needs to communicate with the subject and not jump to conclusions and this includes listening to what they are trying to tell you.

Defense witness #4 was Grant Dattilo, a Roseville police officer. He arrived on the scene as a result of hearing “shots fired” on the radio. He saw Yanez at the driver window and said he would take over his position. Got a short briefing from Sgt. Adams and took over. He did not know what had happened before he got there. He and Sgt. Adams removed Philando from the car and began first aid. They had to unlatch his seatbelt to get him out. He was at Philando’s head. He heard Ofc. Toran say “gun” and pull the gun from the right pocket.

Defense witness #5 was Sgt. Bryan Adams with Roseville PD. On 7/6/16, he was monitoring car to car radio transmissions and heard that Yanez was following a suspect in a robbery. Then he heard “shots fired” on the radio. He did not know what was happening but in his mind he pictured a gun battle. He headed to the scene. He pulled out a rifle and Yanez told him to remove the woman from the vehicle and he helped to remove her from the car, handcuff her and placed her in Kauser’s squad car. Yanez did not tell him there was a gun in the car. He then returned to the car window to stay with Yanez as part of critical incident response. He did not ask him what happened. After Ofc. Dattilo took over for Yanez, he moved Yanez to the front seat of his squad car. He was acting as the “shadow officer”—to stay with the involved officer and get him what he needs and make sure he doesn’t discuss the incident with others. Kauser drove himself back to the station. Yanez and Kauser were in the room together at the station but he was there and they didn’t speak. Yanez stepped out to speak with the chief.

Defense witness #6 was Ofc. Zachary Wiesner with the Roseville PD. He heard the “shots fired” radio call and went to the scene. Other cops were already there. He took cover behind Yanez squad car door and pointed gun at the car. He saw them take Philando from the car so he went to get his AED (defibrillator) from his car. He placed the AED pads on Philando to shock the heart but the machine said that no shock was advised. He heard someone say “gun” but it was not Yanez. Yanez never told him he saw a gun.

Defense witness #7 was Glenn Hardin, a toxicology expert formerly with the BCA. He has a MA in forensic science. He was involved in trying to document the effects of drugs on drivers for the DRE program. He reviewed the THC blood results for Philando and stated his opinion that Philando had been under the influence two hours before the traffic stop. He cited a 2001 article by Hustas with the model he used to estimate the last usage.

There was a long rebuttal by the prosecution which pretty much destroyed this expert's opinion. They asked if he had ever used a postmortem blood test result to calculate last use and he admitted he had not. They cited several more recent articles including a 2011 article by Hustas that said "in the case of blood samples after death, the use of these models is not recommended." A 2014 article by Giroux states "postmortem blood levels are not representative of pre-death levels."

Defense witness #8 was James Diehl. He was Philando's conceal/carry instructor. In traffic stops, he recommends people keep their hands visible on the steering wheel, let them know you have a permit and a firearm. There is no requirement to tell officers you have a gun. Doing so is above and beyond the requirements. He recommends the use of the word "firearm" as it sounds softer. He makes these recommendations based on a survey taken of law enforcement officer preferences. He teaches to follow the commands of officers. If the officer tells you to produce your drivers license and insurance card and you do it, you are following the officer's commands.

Defense witness #9 was Joseph Dutton, a former Golden Valley police officer hired as a use of force expert by the defense. He only works on behalf of police officers and said his goal is to defend cops. He reviewed the data but did not speak to Yanez. He came to the opinion that Yanez used authorized deadly force in the incident. His report was only FOUR PAGES long, with 1 page on the facts of the case. The page on facts included no quotes or statements by Philando or Diamond.

His entire opinion was based on the falsity that Yanez had seen Philando gripping and pulling out a gun. "I believe wholeheartedly that he saw a gun. He looked in the video like someone who had seen a gun." He said that when he saw in the report that Yanez saw Philando making a C position with his hand this was the most significant detail. He was asked if the C position could also be used to unbuckle a seatbelt and he scoffed. He was reminded that Yanez told a supervisor immediately after the shooting that "I don't know where the gun was. He never said where the gun was." He said that was only referring to the period of time after Philando said he had a firearm. He claimed that the fact that a gun was found in the right pocket corroborated Yanez's statement. When asked why he didn't tell other officers where the gun was he replied, "He looked pretty traumatized to me, sir." When asked if Yanez could have done anything different, he referred to split-second decision making despite being reminded that it was 5 seconds before Yanez started shooting. He was not familiar with the idea that the test of whether deadly force was reasonable is an objective test—what a reasonable officer would do, not the specific officer in the case. The prosecution also had to educate him on the concept of state-created danger. He claimed that because Philando did not look at Yanez as he drove by, this was enough to raise suspicion that he was a robbery suspect because "he basically fit the description." In his report, the only thing he said about Diamond and her daughter is "it should be noted that they were not injured" but there was no information in the report about the bullets that landed very near them. Throughout his testimony, he was hostile when any of his assertions was questioned or challenged.

In this writer's opinion, Joseph Dutton was utterly biased and not credible. He used facts not in evidence anywhere to justify Yanez' actions. However, all the defense has to do is create even a little doubt in one naïve juror to successfully defend their client. This may well have been the strategy for using such an obviously slanted "expert."

Defense witnesses #10, 11, 12 and 13 were all friends of Yanez and were presented as character witnesses to say he is an honest guy.

Defense witnesses will continue tomorrow. Yanez is expected to testify.

REPORT FROM YANEZ TRIAL, DAY 9 (6/9/17)

My apologies for the delay in getting this out. Attending the trial last week has been almost unbearably stressful and exhausting. Deep respect for Valerie Castile, who has exhibited grace, dignity and occasional humor throughout this ordeal. It has been my honor to support this family and document this historic trial for the community.

After a short meeting in chambers, the day started with defense witness #14 Emanuel Kapelsohn. He is a firearms expert and attorney from PA. He listed an impressive number of certifications and said his specialty is shooting scene reconstruction.

He talked about the elements of justification for use of deadly force: ability, opportunity, and jeopardy. Ability is the presence of a weapon, differential in body size (big person, small cop), the number of attackers or other factors that would allow the person to harm the officer. Opportunity involves the officer believing the person could use the ability—a person with a knife or other contact weapon would have to be close enough to use it. Guns are not contact weapons so they can be used from a long distance away. Jeopardy is imminent danger--the suspect must do something to indicate he would take action.

In this case, he said Philando had the ability (a gun), the opportunity, but it comes down to whether Philando did something to indicate he would take action. He believes Philando was pulling out his gun due to the statement from Yanez saying “don’t pull it out.”

He stated his opinion that the use of deadly force was justified because “Ofc. Yanez told him three times not to do what he ultimately did” and because Philando didn’t say he had a permit first. He added that the gun being found collaborates what Yanez said he saw. Even if he was reaching for his wallet, an officer can mistake what was in his hand and the shooting would still be justified. He took it further, saying that if Yanez believed there was a gun, he needed to shoot even with a passenger and child in the car because this prevented Kauser from having to shoot, which would have endangered Diamond and her daughter. By shooting from where he was, he was more accurate and this was safer than moving to the B pillar.

He said he used a car with a window at the same height as the window on Philando’s car (but not the same type of car so nothing about the other dimensions of the window) and said he could see in the window enough to determine that a gun could be seen through the window. He said nothing about lighting conditions or if he used a model in the car of Philando’s height and weight.

He talked about examining the shorts Philando was wearing. They had been cut during his medical care and he taped them back together. He put the replica gun into the replica holster and slipped it into the pocket of the shorts on top of the table. The top of the gun was visible by 1/8” to 1/4” at the bottom slash of the pocket. [Keep in mind that the gun in Philando’s pocket was not in a holster, thus would have been lower in his pocket and gravity would have pulled it even lower.--MG]

He said he got a pair of shorts of the same model as Philando’s but in his size (he made a point of saying “size 42”). He put the replica gun in his pocket and sat in a car (did not say if it was the same model Philando was driving) and timed himself pulling the gun out of his pocket. He said it took him 28/100 of a second to remove it from his pocket. However, he provided no

testimony about the measurement of the pocket such as whether it was larger than the one in Philando's considerably smaller shorts. Kapelsohn's shirt was tucked into his shorts and Philando's t-shirt was outside of his shorts. When asked by the prosecution whether he was seat-belted when he did the test, he admitted he was not. The credibility of this test—and this witness—was shattered.

The prosecution handled him masterfully, getting him to agree to a series of facts:

- Philando was not involved in the Super USA robbery
- Philando had no intention to shoot Yanez—he said he had no way to know but knew of no reason to believe he did
- The traffic stop was of a family on their way home from a grocery store and was handled as an ordinary traffic stop. Philando had complied with providing his insurance card and it was reasonable to expect his license to be in his wallet.
- Philando told Yanez he had a firearm. The law doesn't require this. He went above and beyond what the law requires. Yet Kapelsohn blamed
- Philando had not yet completed complying with Yanez' request for his license
- Even if Philando had gotten to his wallet, the shooting would have been reasonable if the wallet looked like a gun to Yanez BUT Philando's wallet was white, orange and other colors. No reasonable officer would have mistaken it for a gun.
- Use of force incidents have to be based on what the officer knew or could reasonably known AT THE TIME OF THE INCIDENT. The prosecution used a series of examples such as if a shooting happened that was unjustified but it later turned out that the person had a warrant or his license was suspended, that would not justify the shooting and Kapelsohn had to agree. Things not known to the officer or reasonably believed are not relevant.
- An officer is NOT permitted under the law to use deadly force just because there is the possibility of risk of harm. All encounters involve risk.
- Just because an officer is nervous, this does not justify deadly force.

Kapelsohn claimed he testifies both for and against police officers. However, his record shows that in the last three years he has testified only 6% of the time against police and never in a criminal case. In fact, he has a reputation for representing officers and being "creative" in that representation. He once defended an officer who killed a person who was carrying an empty bucket.

The prosecution pointed out that in his report, Kapelsohn excluded all evidence that ran counter to Yanez' narrative or his own opinion, including the statements by Philando and Diamond. He also operated from the assumption that Yanez saw a gun and based his opinion on that. When asked about the fact that Yanez said to his supervisor that he didn't know where the gun was, Kapelsohn made the same bogus assertion made by Joe Dutton (trial day 8) that this only referred to the period before he saw the gun. He claimed that Yanez saw something wider than a wallet and this justified the shooting.

The prosecution raised the issue of the bullet damage to Philando's right index finger. There was no bullet damage to Philando's shorts or his gun. This couldn't have happened if his hand was in his pocket or on his gun. Kapelsohn tried to show how it could have happened with Philando's hand on a gun with his finger outside of his pocket but his hand was so contorted that it made no sense.

Defense witness #15 was Jeronimo Yanez himself. After giving his family, educational and career info, he got into his testimony. When he was testifying for the defense, he looked at and spoke to the jury.

He was the second cop on the scene at the 7/2/16 armed robbery of the Super USA convenience store. He had seen the store security video and the still pictures from the video.

On 7/6/16 he had been making traffic stops for speeding. He was on Carl Street with his car pointed toward Larpenteur Ave. He saw a car driving eastbound on Larpenteur. Despite getting dark, he claims he saw the driver, who he claims made brief eye contact with him. He claimed that Philando had a “deer in headlights” look in his eyes, which is considered suspicious.

He started following the car. He called his partner to tell him he was following someone who looked like a robbery suspect because he was a Black man with a “wide set nose.” He wanted to investigate but would need an equipment violation or other excuse to pull over the car.

He put on his emergency lights and pulled the car over in a safe area. As he approached the B pillar of the car he smelled burnt marijuana. He saw one of Philando’s hands on the steering wheel and one hand just below. He addressed Philando, telling him why he pulled him over, then asked for license and insurance. Philando gave him his insurance card. Philando then told him about having a firearm. Philando’s right hand was going toward his right thigh and his hand was in a C shape. Yanez then claimed that Philando “canted his upper body to the right” [remember that the video showed Philando leaning to the left as if to relieve the weight on his right buttock to get his wallet] and blocked Yanez’ view. He claimed that Philando “totally disregarded” his commands. He claimed to see Philando’s hand on a gun and that’s when he started shooting. He claimed he shot downward and to the left to avoid the passengers.

At this point, he started crying on the stand. He said “I thought I was going to die.” He said he did not want to shoot Philando—“that was not my intention”—but had no other choice because “he was not complying with my orders.” After that, he stayed in the same position and called for a Code 3 (emergency code). He saw Kauser take Diamond’s daughter out of the car but was concerned about Diamond because she continued to move her hands after being told not to. [You can clearly hear her on her video saying “I am not moving my hands, sir.”]

When the Roseville police arrived, he thought he told them that there was a gun but he was under stress and he didn’t. Someone took over his position and he went across the street with Sgt. Anderson when the St. Anthony PD supervisor [name sounded like Sgt. Sunday] walked up to them. That’s when he told her “I didn’t know where the gun was. He never told me where it was.” Yanez claimed that he meant that he never saw a gun until he saw it. He was then taken to the St. Anthony PD station. He stayed there with Sgt. Anderson and was told that BCA agents were on their way. His attorney, Mr. Kelly, arrived. [One of the three attorneys on the defense team.] They decided he should not give a statement at that time. The BCA wanted to wait at least a day.

He was driven home by Ofc. Elliot Erdman that night at about 1:30 to 2:00 am. Ofc. Erdman stayed with him and other cops stayed outside of his house out of concern for his safety. He was receiving harassing phone calls and people were knocking on his door and walking through his yard. He slept about an hour. He got a call early the next day from the BCA and

scheduled a noon interview. Ofc. Erdman drove him to the interview. He did not view the squad video before the interview. The agents explained the process then took his statement.

The defense asked Yanez if he saw a gun on 7/6 during his encounter with Philando Castile and he said “yes.” He had told the BCA “I thought it was a firearm” which he said means “it was a firearm.” He told the BCA “He seemed like he was pulling out a gun” but he meant that Philando was pulling out a gun and there was no ambiguity about it. He told the BCA he saw the barrel of the gun.

On the way home, he talked to Ofc. Erdman about the encounter and described the gun. He told Erdman that he accidentally told the BCA “barrel” instead of “slide.”

Yanez testified that he followed all of the St. Anthony PD policies, that his use of deadly force was necessary and reasonable.

The prosecution then began questioning Yanez. Yanez stopped looking at the jury and began looking straight forward at the prosecutor. He admitted he never told the BCA the gun looked like a Glock. When Yanez decided to follow and stop Philando, he could only see him through the window and maybe through part of the windshield. He could not see height, weight or build to know if it matched the robbery suspect. Yet he followed Philando for two miles. He said he ran his plates and found that the car was not stolen and there were no wants or warrants on the driver. When he made the stop, he realized a child was in the car. He saw that the driver was seat-belted. He didn’t use his flashlight because he wanted his left hand free. He admitted that when Philando started to move his right hand, he did not tell him to stop, to put his hands up, or “don’t move.” After the shooting he kept Philando at gunpoint because he didn’t know how badly he was hurt.

The prosecution asked about the cops at his house. Yanez said he did not discuss the incident with them. They were there because he was being harassed. Erdman stayed at his house for 2 or 3 days.

The prosecution wanted to play the audiotape of Yanez’ one-hour interview with the BCA to dispute his claim that he was under stress and to challenge some of the substance of the interview. They wanted to have the jury hear the tone of his voice and his exact words. The defense objected, saying that if the purpose was to determine if Yanez was under stress the prosecution would need to bring in a psychologist to evaluate it. Judge Leary ruled they could not play it because it would unduly delay the evidence [take too long] but could only ask Yanez about the interview based on the transcript. This writer finds that ruling really disturbing.

The prosecution went through the ways Yanez’ story changed between what he said on the scene and during different interviews. In his testimony, he said Philando had a “deer in headlights” look but he had told Kapelsohn that that Philando gave him a hard stare, then slumped down in his seat, then in an April interview he mentioned that Philando was wearing glasses. He told the BCA that Philando was not looking at him and was mumbling but this is not heard at all on the dash cam video. They asked Yanez if there was anything that was said that was not on the dash cam video and he was vague and admitted there wasn’t really anything not recorded. He told the BCA that Philando had his hand wrapped around the gun—which he had never claimed before or in interviews since. He told the BCA that he couldn’t see where Philando was reaching but now he says he saw it and there was a gun. They noted

the many times Yanez used vague terminology like “it seemed” “it looked like” “it appeared” “I thought” etc. Later in the interview, he told the BCA “It just seems like he was pulling out a gun” and then told them twice that he saw the barrel. He said in yet a different interview that he didn’t remember seeing anything in Philando’s hand. He told Kapelsohn that he saw Philando reaching between his thigh and the center console but said nothing about seeing a gun.

The prosecution asked that with all of the inconsistencies, “Is it your testimony today that you saw Philando reach down and grab a gun?” The defense objected but was overruled. Yanez practically yelled “IT WAS A GUN.”

Defense witness #16 was Elliot Erdman, a St. Anthony cop. He was not working on 7/6/16. When he heard about the shooting, he drove from his house in Farmington to the station. He was instructed to get into uniform and go to the scene. He drove Kauser’s car back to the station. He gave Yanez a ride home in his personal vehicle. He said that Yanez broke down crying in the car and was concerned about the child that was in the car. When they got to the house, a Minnetonka cop was already there. Erdman stayed at Yanez’ house for 2-3 days. He said Yanez was being harassed that night. When he opened the door the next morning, a card from a member of the media fell out of the space in the door.

He took Yanez to the interview with the BCA. On the way home, Yanez told him he had said “barrel” when he meant to say “slide” of the gun. He claimed that they had been followed by two cars on the way home. He and Yanez are close friends. They socialize regularly outside of work.

There was then some excitement in the courtroom when the defense called a final witness. Apparently, this was a surprise witness the prosecution was unaware of. The lawyers flew up to the bench and the judge ruled that he could testify.

Defense witness #17 was BCA Agent Chris Olson. He was one of the special agents that interviewed Diamond Reynolds. He verified that Diamond’s daughter was kept in a separate room while Diamond was being interviewed [which is what she had said in her testimony when the defense tried to make her look like a liar]. Her daughter was reading a book with Ofc. Vang. They released Diamond at 12:50 am [which matches what she said about being held 5 hours by police]. The defense then played a short video of Diamond in the back of Ofc. Vang’s squad car when she and her daughter were going to be driven home. Diamond asked about the groceries in the car and was told they are part of a crime scene. She said she needed money for the groceries because there was no other food in the house and she burst into tears, sobbing “this is so embarrassing” and said they hadn’t had anything to eat all day. A BCA agent gave her \$40. To this writer, this was a disgustingly racist and classist attempt to vilify Diamond Reynolds even further.

The prosecution questioned him and reinforced that Diamond had been in police custody since the shooting. He asked at what point Diamond learned that Philando had died. He was notified an hour after they got to the BCA and he informed her. He said they dropped off the non-perishable groceries to Diamond’s house two days later [she testified previously that they dropped them off at her house when she wasn’t home and a neighbor told her that someone stole them off her front step].

With that, the defense rested.

The judge told the jury that they should come back on Monday at 10 am. Closing statements are expected then.

REPORT FROM YANEZ TRIAL, DAY 10 (6/12/17)

Court today started with putting a few things on the record. The defense moved all of their prior motions. The prosecution objected. The judge denied the motion.

The prosecution, defense and judge then spent some time tweaking the jury instructions. This was mostly technical but there was language included that even if the jury found Philando to be negligent in some way, this is not a defense for any negligence by Yanez. The instructions also included the elements of each of the charges—manslaughter in the 2nd degree, and two counts of intentional discharge of a firearm (that endangers the safety of another). The jury instructions can be seen here, along with other key orders in the case:

<http://www.mncourts.gov/Media/62-CR-16-8110-State-vs-Jeronimo-Yanez.aspx>

The state then began their closing argument. Prosecutor Paulsen was measured yet imploring in his tone, speaking directly and personally to the jury. He used a PowerPoint to emphasize his points, including inconsistencies in various statements by Yanez. He started by saying that Yanez' shooting of Philando was not justified and then made several points:

- Philando was not a robbery suspect. No reasonable officer would have thought he was.
- When he was stopped, Philando's hands were in view on or near the steering wheel. He kept them in view throughout the initial information and only moved them when instructed to do so.
- He was courteous and non-threatening. He did not display any of the threatening conduct the trainers talked about.
- Philando only moved when asked to produce his license and insurance. When he did, he leaned to the left to relieve weight on his right buttock to access his wallet.
- He told Yanez in a non-threatening way "Sir, I have to tell you that I have a firearm on me." Why would he do that if he intended to shoot Yanez?
- Yanez had several options for responding if he was concerned. He could have said "stop," demanded to see Philando's hands, asked where the gun is, or moved to the B pillar.
- Yanez said, "don't reach for it then" but later claimed he didn't hear Philando's and Diamond's responses because he got tunnel vision. This runs counter to his training.
- Without warning, he fired 7 shots into the car, killing Philando and endangering Diamond and Dae'Anna.
- Just 4 minutes later, he told Sgt. Sunde "I don't know where the gun was" and "I was nervous." Being nervous is not the standard of whether deadly force is justified.
- The defense is trying to blame the victim. This is not right and evidence shows that Yanez was at fault, not the victim. No one is claiming Yanez wanted to kill Philando or had malice toward him. That's why he was charged with manslaughter. The prosecutor then gave examples of a person who was driving and texting and killed a pedestrian. That's negligence. Even if the pedestrian was not in the crosswalk or had THC in their blood, or was a student skipping school, it would still be negligence on the part of the driver.
- Cops have a right to use deadly force but only when necessary by an objective standard—what a reasonable cop would have done.
- Defense is claiming that Yanez was justified because he saw a gun in Philando's hand. However Yanez changed his statement multiple times. The truth is Yanez never saw

the gun in Philando's hand. The gun was in the right front pocket, concealed from Yanez' view. The gun was not seen by first responders until Philando was pulled from the car and was being rolled onto a back board. When Yanez claimed he saw a gun, how did it make it back into Philando's pocket to be found by first responders?

- Philando had no reason to pull a gun out. He was not going to jail over a broken brake light. He had his family in his car with him. He knew the gun wouldn't fire because no cartridge had been racked in the firing chamber. He told Yanez he had a gun. Why would he do that if he intended to use it?
- The statements in the dash cam video were contemporaneous and show that Yanez did not see a gun. It was only well after the fact that he started saying he saw a gun.
- Yanez' partner, Ofc. Kauser, never saw a gun or perceived a threat. He was surprised by the gunfire. Of the three adult eye witnesses, only Yanez claims to have seen a gun and then only later.
- Yanez never yelled "gun" after supposedly seeing it. This is inconceivable. This is basic police training. He says nothing about a gun to the dispatcher or responding officers. He talks calmly about bringing more cars to the area, blocking the streets, but never talks about a gun. And, of course, he tells Ofc. Sunde "I don't know where the gun was. He never told me where the gun was."
- In his interview with the BCA he never tells them he actually saw a gun and he gave many inconsistent statements. He tells the BCA that Philando "canted his upper body to the right," blocking the view to his right hand. He couldn't see the area. He said Philando's hand was in a C position "almost like if I went to put my hand around my gun" but that's the position to grab many things. Yanez told the BCA that "it was dark inside the vehicle and I was trying to fumble my way through under stress." He also said "I knew he had an object and it was dark" and "It seemed like something was coming out and I thought it was a gun."

The prosecutor then brought up the autopsy picture of Philando's right index finger and reminded the jury that there is no corresponding hole in the shorts and no bullet damage to the gun. Philando's hand could not have been on the gun when he was shot.

Given that Philando never had his hand on the gun and never threatened Yanez with it, was the shooting justified? NO. This was an ordinary traffic stop. Philando Castile went above and beyond what the law requires. The training materials in his permit class never said which order he needed to say things to police officers or even that he had to say anything. Yanez himself testified that some people with permits tell him about the gun first. Philando never had a chance to produce his permit.

You can't blame Mr. Castile for Ofc. Yanez not following his own training on how to stop unwanted movement. Should have used deadly force only as a last resort—not his first resort because he was nervous. He was trained to consider the background and the safety of others before using deadly force, even if deadly force was necessary. He disregarded the safety of Diamond and Dae'Anna.

Yanez stated that it was dark—but who had the flashlight and didn't use it? He said there wasn't enough time. It was his job to create that time. He should have done what police practices expert Jeff Noble said—use clear commands, retreat to the B pillar, create safety. When a police officer is dealing with an ordinary citizen, he has to be sure before shooting.

The prosecutor then brought up another PowerPoint slide on the testimony of the experts and compared their credibility. The defense experts came off as dishonest. He reminded the jury that Kapelsohn did his reenactment WITHOUT A SEATBELT.

In terms of the other counts, he reminded the jury that Yanez never needed to shoot in the first place but once he did, he couldn't control where the bullets would end up due to ricocheting. One bullet landed in the arm rest right next to Diamond and one landed mere inches from Dae'Anna.

He told the jury that he was sure Yanez was a nice guy. That's why he didn't cross examine the character witnesses. But that's not what this case is about. He can be the nicest person in the world but that doesn't change the facts of the case. Philando Castile was a good man, too.

The defense will tell you that this is all Philando's fault because he had THC in his system. There is no credible evidence he was impaired. The only witness who smelled burnt marijuana is Yanez—not Kauser, Toran or Garfield with the BCA. We know that after death, THC leaches from the fat cells into the blood. The defense expert Harding was forced to admit he used junk science but still stood by his opinion.

There was a lot of inferences from the defense about Philando's gun permit application but that still doesn't justify Yanez' use of deadly force. It was not information known to Yanez at the time so has no bearing on the decision to use force. Even if there was an issue with his permit, "carrying a gun without a valid permit is not a capital offense."

He concluded by saying that Yanez should be found guilty on all three counts.

After lunch, we returned to the courtroom to a big hoopla. Apparently, three members of the jury were outside with a deputy when a car pulled up and the driver screamed, "Hey, he's guilty." The judge asked each juror what they heard and whether it would impact their decision. Two of them didn't hear the comment clearly but the one who did said it wouldn't affect her.

After that, the defense closing argument was presented by Earl Gray. He was really loud and animated in his manner. He started out okay at first, saying that he was honored to present the closing arguments on behalf of his client but the longer he went, the more his comments devolved. At points he was calling his client Ofc. Castile, was fumbling words, and was kind of huffing along like he lost his place in his notes. It was truly a strange and desperate sight.

Gray complained about the unfairness of the prosecution. He said the defense "failed miserably" in proving negligence by Yanez and that Philando's negligence caused the incident.

He addressed the inconsistencies in Yanez' statements about the gun by reminding the jury that four character witnesses said that Yanez doesn't lie and asked, "how would he know the gun was in the right pocket if he hadn't seen it?" Also, Yanez was traumatized.

In terms of the wound to Philando's right index finger, he told the jury that the gun probably fell back into Philando's right pocket after he was shot.

He told the jury he learned two lessons during the trial: 1) Squad video protects cops, and he claimed Diamond Reynolds is a liar, and 2) guns and drugs don't mix.

He reminded the jury of Yanez' presumption of innocence, not just the presumption of not guilty. The prosecution had to prove each element including that the use of force was not justified. They have to prove these elements beyond a reasonable doubt. This is a Constitutional right—if we don't use our rights, we lose them.

The prosecution had to go all the way to California to get some guy Noble who thinks marijuana is okay—it is there. All this money and resources with one goal—to convict this man (referring to Yanez). Yanez would never have been able to afford his defense team on his salary. A union of cops paid for his defense.

He railed on about Diamond Reynolds being dishonest because she didn't remember getting money for her groceries on the night her boyfriend was killed. She admitted that she and Philando smoked marijuana two days before. When they went to Cub foods, Philando stayed in the car. You can "reasonably infer that he was smoking marijuana in the car." Based on his blood levels, Hardin says he smoked it within two hours of being killed. You can reasonably infer he was stoned on marijuana.

Yanez had just seen a video and still pictures from a robbery four days earlier. He remembered what the robbers looked like. He's sitting on a side street and sees a man drive by who looks like the robber—Black, wide set nose, glasses, dreadlocks. He calls Kauser and says he's going to pull the guy over. When he did, he never brought up the marijuana because he was going to bring it up later. Then Philando said "firearm" and this would make any officer nervous. He looks like a robber and smells like marijuana. He leans to the right and ignores orders. When the prosecution says that Philando said he wasn't pulling out a gun, don't listen to the words only the actions. Circumstantial evidence shows that Yanez saw a gun even though he misspoke because he was traumatized. All of the expert witnesses said Yanez was justified except Noble. Yanez shot Philando's left side to protect the passengers.

Why would Philando take his gun out of his pocket? Because he was stoned. What was he doing with a gun in the first place? How can you view this with 20/20 hindsight? Yanez wasn't stoned, Castile was.

Noble said the stop was wrong in the first place. [Actually Noble said the stop was proper.] All of the other cops said Yanez did everything right.

Yanez is not a bad person. He's an honest person. He wants to go home to his family. Kapelsohn says it only took 1/3 of a second for Philando to get his gun out of his pocket. Four witnesses said the gun fell out of his pocket. Only one said they had to reach down and remove it. Kapelsohn said ability, opportunity and jeopardy. The ability was the gun, the opportunity was the distance, and the jeopardy came when Yanez said "don't pull it out."

If you find that he misspoke about not seeing a gun, you're going to have to believe circumstantial evidence. He was traumatized.

Yanez is charged with culpable negligence for causing Castile's death but the causation was Philando Castile when he smoked marijuana and didn't follow orders. "I blame Mr. Castile for his own death."

MN statute provides that no crime is committed when deadly force is used to deal with a threat. Yanez didn't act on a threat until he saw a gun. He described the gun as dark, with a thick handle and flat top. When he told the BCA the next day that he didn't see a gun, he was upset that day. Don't trust words, trust actions.

He read from *Graham v. Connor* and reminded the jurors that officers sometimes make "split-second decisions." This is not that hard of a case. Find Yanez not guilty.

Prosecutor Paulsen then began his final summation by saying "officer safety is important but so is civilian safety." Yanez had all of the advantages. Yanez stopped the car. Yanez had back up. He had the safety of the B pillar. He was wearing a bullet-proof vest. Philando was in a seat belt.

During the prosecution's summation, Gray kept hollering out things like "that's not true." The judge finally called him to the bench and must have told him to knock it off.

The prosecution continued. No witness ever said that Yanez said the gun was in Philando's right pocket. Attorney Gray is trying to tell you that everyone said that Yanez followed protocol. That's not true.

Philando Castile stoned on marijuana? Which witness said that? Only Harden, and his testimony was not credible. There were never any signs that he was stoned.

Just because someone is on marijuana or is a suspect in a robbery, this doesn't justify shooting them. The law doesn't allow it.

About Philando's hand being in a C shape, anything you grab with your hand puts it into that shape. (He grabbed his glass of water, then an electronic pointer.) If Yanez saw a gun, why didn't he say so? Yanez' prior statements were inconsistent—why is he just now claiming he saw a gun? Gray argued that Philando pulled a gun. There is absolutely no evidence of that. Why would Philando tell Yanez he had a gun, then pull it out?

Diamond Reynolds couldn't remember that an officer gave her money for food. Why does that matter? It has nothing to do with your decision in this case. Everything she said was captured on dash cam and Facebook video. She said he was going to take it off, referring to his seatbelt.

Use your common sense. Yanez resorted to deadly force that was not needed.

After the final summation, the three alternates were named. They were, in my opinion, the three jurors most likely to be favorable to the prosecution—the safety manager, the graphic designer, and the LPN nurse manager.

The remaining jurors were given their final instruction—not to unseal any evidence that was sealed in plastic--and sent off to deliberate.