



Written by [R. Cort Kirkwood](#) on May 7, 2021

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## Chauvin Verdict: The Fix Was In

Evidence didn't convict former cop Derek Chauvin of two counts of "murder" in the death of lifetime criminal and drug addict George Floyd. Nor did evidence show that the hated cop committed manslaughter with a "depraved mind."

What did convict him were fear, trial by social media, and a biased jury. Chauvin never stood a chance of receiving a fair trial; he was doomed the second Floyd's heart stopped beating on May 25 last year. Very likely, the three fellow cops involved in Floyd's death, Thomas Lane, J.A. Kueng, and Tou Thao, are doomed as well.



AP Images

The guilty verdict — something like jury nullification in reverse — sends a message to cops everywhere: When a black criminal resists arrest, you best let him go. If he is harmed or dies, you too will risk the wrath of the mob and trial by social media.

If cops believe a jury trial is superfluous, a thin patina that glazes a corrupt criminal justice system biased against cops, they'll either let criminals run free or quit the profession altogether. That won't bode well for the black communities that suffer the most from criminals such as George Floyd.

## Corruption of Justice

The jury convicted Chauvin on two counts of murder and one count of manslaughter because Floyd died while Chauvin restrained him on the ground with a knee to the back of his neck, shoulder, and upper back for about nine minutes. The unfortunate turn of events occasioned the usual moral panic and hysteria about "systemic racism" and, more importantly, triggered weeks of rioting by Antifa and Black Lives Matter terrorists that left cities across the country in flames. Neither judge nor juror was unaffected by those scenes, nor the prospect of similar terror should Floyd not get "justice" with a guilty verdict for Chauvin.

Thus, perhaps the most significant contributor to Chauvin's conviction wasn't what happened inside the courtroom with either the jury or the judge, or Chauvin's attorney or the army of prosecutors.

Rather, as leftist legal celebrity Alan Dershowitz said, what happened outside the courtroom settled Chauvin's fate. Three days before the verdict, leftist agitator Representative Maxine Waters of California showed up in Brooklyn Center, Minnesota, to protest the shooting death, by a white police officer, of a black man, Daunte Wright. The cop mistakenly shot Wright with her service pistol, instead of a taser, when he tried to escape police who were trying to arrest him. The warrant for Wright stemmed from an incident in which he attempted, with an accomplice, to rob a woman at gunpoint.

Waters angrily warned the judge and jury in Chauvin's trial about the result she and her mob expected. "We're looking for a guilty verdict," she said. "I hope that we're going to get a verdict [that says] guilty,



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guilty, guilty, and if we don't, we cannot go away."

And if the jury didn't deliver a verdict of "guilty, guilty, guilty?"

"Stay on the street," she told protesters. "We've got to get more confrontational."

Chauvin's attorney asked for a mistrial. "There is a high probability that members of this jury have seen these comments, are familiar with these comments, and things that have happened throughout the course of this trial," Eric Nelson told the judge:

I was advised of two television shows during the course of the past few days that specifically involve references to this particular case and the reactions of the characters in these stories to this particular case. This jury, despite all best efforts, has been bombarded with information relevant to this case. It is impossible to stay away from it unless you literally shut off your phone or you shut off your TV, you shut off your computer. And no such instructions have been given during the course of this trial.

Judge Peter Cahill denied that motion, and said he had instructed the jury, very clearly, "don't watch the news, pure and simple." Yet Waters might have given Chauvin grounds for a successful appeal, Cahill admitted. "I'll give you that Congresswoman Waters may have given you something on appeal that may result in this whole trial being overturned," he said.

Dershowitz agreed, and said Cahill gravely erred. "I think [the convictions] should be reversed on appeal," the Harvard law professor emeritus said. The jurors voted to convict, he said, because they were terrified.

The "threats and intimidation" from the radicals — "the sword of Damocles over the jury" — had a message, Dershowitz said:

If you don't convict on the murder charge, on all the charges, the cities will burn, the country will be destroyed, seeped into the jury room because the judge made a terrible mistake by not sequestering the jury....

Every juror in that room knew about those threats. And when they sit and deliberate, they have to be saying to themselves, consciously or unconsciously, if I were to render a verdict other than a murder verdict, what the consequences will be for me, and my family, my friends, my business. That should never, ever, be allowed to seep into a jury room. So, I have no real confidence that this verdict — which may be correct in some ways — but I have no confidence that this verdict was produced by due process and the rule of law, rather than the influence of the crowd.

An alternate juror later said she thought Chauvin was guilty, but also feared the explosive mob to which Waters was ready to put gasoline and a match. "I did not want to go through rioting and destruction again," the juror confessed, "and I was concerned about people coming to my house if they were not happy with the verdict."

## **Biased Jurors**

However terrified the jury was, it was also biased against Chauvin. Though the *Nation* fretted that the "the acquittal of Derek Chauvin has already begun" because the jury selection favored the cop, Chauvin was not acquitted, and the jury was packed with BLM backers.

As a headline in *The Atlantic* reported, Chauvin's "guilty verdict resulted not just from the strength of



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the evidence, but from a jury-selection process that departed from American norms.” The Chauvin jury was unique, averred *Atlantic* writer Sonali Chakravarti.

“What I saw was a jury-selection process that substantially departed from the country’s norms, resulting in a racially mixed jury, a number of whose members criticized American law enforcement for systematically discriminating against Black people,” she wrote:

All the jurors interviewed during *voir dire* were familiar with the case, and some had seen the video of George Floyd’s death. To varying degrees, they all understood the weight of the case and the intense media scrutiny it would undoubtedly receive, yet many were eager to serve. When interviewed by the defense counsel, Juror 27, who identifies as Black and an immigrant and who ultimately ended up on the jury, said that he had spoken with his wife about the killing shortly after it happened. “We talked about how it could have been me,” he said. Juror 91 put it simply when she said, “I’m Black and my life matters.” That these people held these views and still served on the jury shows a path toward greater democratic representation in America’s courtrooms....

But stating views sympathetic to Black Lives Matter did not result in jurors getting removed from the jury pool. During *voir dire*, a majority of the 12 seated jurors said they “somewhat agreed” or “strongly agreed” with the statement on the questionnaire that “Blacks and whites don’t receive equal justice in this country,” implying that they believe that racial discrimination in the legal system goes beyond isolated incidents and a few bad actors. The same majority also had favorable opinions of Black Lives Matter and disagreed with a statement that the media exaggerate claims of racial discrimination.

Noting that potential jurors who supported BLM rioters have been excluded in cases elsewhere, Chakravarti reported that pro-BLM sentiments in this case mattered not:

The attorneys and the judge did not treat critiques of racial bias in the legal system as something that would inherently bias a juror. This was clear once *voir dire* began. In one instance, a potential juror — a Black man — spoke about the sadness and outrage he felt at seeing the cellphone video that had circulated around the world: “It’s another Black man being murdered at police hands,” he said. Judge Cahill said that he believed this was an “honest opinion,” “widely held,” and not necessarily an obstacle to being an impartial juror. This may seem like a small thing, but to say that jurors can hold systemic critiques and still be fair inverts the old paradigm, which saw an absence of such critiques as a harbinger of neutrality — which of course is its own kind of bias.

Additionally, during *voir dire*, several jurors spoke about their own experiences with police violence, and those accounts were not disqualifying, as they almost certainly would have been in other trials.

Beyond those sympathies, jurors knew the city had settled a lawsuit with Floyd’s family for \$27 million, a prejudicial fact that suggests an admission of fault — i.e., the city believed Chauvin wrongly killed Floyd. Indeed, the judge dismissed two jurors because they confessed they could not be impartial knowing about the settlement.

Though a juror’s sympathy for BLM or Floyd or knowledge of the settlement might not have rendered him incapable of impartial judgment, it might have meant he was more likely to render a judgment based on emotion and not facts, such as the perception that police everywhere are racists, or that imaginary “systemic racism” is the defining feature of the criminal-justice system.

Statements from jurors suggested as much, as Chakravarti’s and other reports noted. Most significant



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was the disturbing truth that surfaced about juror 52, Brandon Mitchell. Mitchell, who is black, lied about attending a pro-Floyd “Get Your Knee Off Our Necks” rally in Washington, D.C. A photo of Mitchell wearing a T-shirt with the same message appeared in reports about the lie. Mitchell told an interviewer that people need to serve on juries to advance social “change.” He also thought the jury deliberated too long, and that it should have rendered its three guilty verdicts in just 20 minutes.

## Fear Plus Social Media

A key reason jurors were biased — aside from the false narrative that racist cops mistreat innocent blacks — and likely had their minds made up was social media, which published video of the Chauvin-Floyd encounter within hours, if not minutes, of its deadly end. Hysterical cries of “murder” from anti-cop leftists, BLM sympathizers, and even some conservatives — always eager to prove their “anti-racist” bona fides and throw a white cop to the wolves — filled Twitter, Facebook, and, of course, the leftist mainstream media.

The narrative was established immediately. Another white cop had killed another black man for no reason. “I can’t breathe,” which Floyd repeatedly uttered as Chauvin restrained him, was the new “Hands Up, Don’t Shoot” meme at protests and on social media. The leftist mainstream media, of course, convicted Chauvin, too.

In chastising Cahill for not sequestering the jurors to isolate them from media coverage and social-media posts about the threatened violence, Dershowitz recalled the case of Sam Sheppard, who was convicted of murdering his wife, Marilyn, in 1954 after a 24-7 media campaign demanded a conviction. The case became the basis of the television series and feature film *The Fugitive*. In 1966, the U.S. Supreme Court voted 8-1 to overturn his conviction because the trial judge did not “protect Sheppard sufficiently from the massive, pervasive and prejudicial publicity that attended his prosecution.”

Cahill “did not do a good enough job in insulating the jury from outside pressures,” said Dershowitz, and instead simply instructed jurors to ignore the media. That wasn’t enough given modern technology, and Dershowitz worries the judge will sentence Chauvin too harshly, meaning out of line with the sentence he would normally pass in such a case, to prevent rioting.

That aside, the established facts belied the established narrative — a white cop killed another “gentle giant” for no reason. Chauvin didn’t “murder” Floyd, a truth found in the criminal complaint against Chauvin, which says Floyd had trouble breathing *before* the officer pinned him to the ground.

The officers made several attempts to get Mr. Floyd in the backseat of [Lane and Kueng’s squad car] from the driver’s side. Mr. Floyd did not voluntarily get in the car and struggled with the officers by intentionally falling down, saying he was not going in the car, and refusing to stand still. Mr. Floyd is over six feet tall and weighs more than 200 pounds.

While standing outside the car, Mr. Floyd began saying and repeating that he could not breathe. The defendant [Chauvin] went to the passenger side and tried to get Mr. Floyd into the car from that side and Lane and Kueng assisted.

The defendant pulled Mr. Floyd out of the passenger side of the squad car at 8:19:38 p.m. and Mr. Floyd went to the ground face down and still handcuffed. Kueng held Mr. Floyd’s back and Lane held his legs. The defendant placed his left knee in the area of Mr. Floyd’s head and neck. Mr. Floyd said, “I can’t breathe” multiple times and repeatedly said, “Mama” and “please,” as well. The defendant and the



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other two officers stayed in their positions.

The autopsy revealed no physical findings that support a diagnosis of traumatic asphyxia or strangulation. Mr. Floyd had underlying health conditions including coronary artery disease and hypertensive heart disease. The combined effects of Mr. Floyd being restrained by the police, his underlying health conditions and any potential intoxicants in his system likely contributed to his death.

The video is also clear. Floyd would not surrender; he would not calm down.

The final autopsy found that Floyd had coronary artery disease, high blood pressure, hypertensive heart disease, and cardiomegaly. A nasal swab taken the day after Floyd died divulged that he had contracted COVID-19.

Most importantly, Floyd had taken dangerous narcotics. The autopsy found fentanyl and methamphetamine in his bloodstream. Fentanyl is a synthetic opioid pain reliever that is “50 to 100 times more potent than morphine,” the Centers for Disease Control says. Opioids are respiratory depressants, and explain why Floyd complained that he couldn’t breathe *before* Chauvin restrained him. Floyd popped two pills just before police arrested him; investigators found pills in his SUV.

Beyond the findings of serious heart disease and opioid use are those directly related to his fatal encounter with Chauvin. Floyd suffered multiple “blunt force” wounds, but “no life-threatening injuries [were] identified,” the autopsy report says.

Importantly, a key note in an assistant prosecutor’s memorandum, written after a conversation with the Hennepin County Medical Examiner, explained the level of fentanyl in Floyd’s bloodstream this way: “This level of fentanyl can cause pulmonary edema. Mr. Floyd’s lungs were 2-3x their normal weight at autopsy. That is a fatal level of fentanyl under normal circumstances.”

And “if Mr. Floyd had been found dead in his home (or anywhere else) and there were no other contributing factors he would conclude that it was an overdose death,” the assistant prosecutor wrote.

## **Floyd’s History**

Another possible blow to the defense, but not likely a fatal one, was the judge’s ruling that blocked the defense from presenting a full account of a previous arrest almost identical to the one in which Floyd died. That one, too, involved an overdose.

It occurred on May 6, 2019. “George Floyd was engaged in the sale and possession of large quantities of controlled substances,” a defense motion from Chauvin said. “When approached by police he placed drugs in his mouth in an attempt to avoid arrest, and swallowed them.”

The motion also disclosed that Floyd “engaged in diversionary behavior such as crying and acted irrationally” when police confronted him that day, and “an ambulance was called to transport Mr. Floyd to the hospital.”

As well:

The facts and circumstances of Mr. Floyd’s May 6, 2019 medical intervention at Hennepin County Medical Center for “accidental drug ingestion.” At which time Mr. Floyd disclosed that he “snorts oxycodone daily,” was hypertensive and not taking medications, took street drugs prior to admission (PTA) and while under arrest was tearful — because he was accused of selling drugs by the police and





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has been abusing opiates for the last year and a half.

The jury did hear his girlfriend's lachrymose account of their "struggle" with drug addiction, but did not hear about Floyd's conviction for aggravated robbery with a deadly weapon.

On August 9, 2007 in Harris County, Texas, the drug addict disguised himself as a water department employee to enter a woman's home "to steal drugs and money," the defense motion said. "In the course of the robbery Mr. Floyd placed a gun on a woman's abdomen, allowed her to be pistol whipped by an accomplice and demanded drugs and money."

Prosecutors sought to introduce stories about eight other instances in which Chauvin restrained people who refused to comply with lawful orders; Cahill allowed two.

All that said, even hearing about Floyd's criminal past and history of drug addiction wouldn't likely have swayed the jury to acquit Chauvin. Nor did hearing about Chauvin's similar bad acts convict him. The jurors were clearly biased against him, and they knew what would happen if they did not declare Chauvin "guilty, guilty, guilty": BLM would set the city ablaze and then attack their homes, and possibly murder the jurors and their families.

## What Next?

Chauvin did not "murder" Floyd. Nor did Chauvin's attempt to arrest and restrain Floyd kill him. Floyd's strenuously *resisting* arrest with a serious cardiovascular disease and a "fatal level" of fentanyl coursing through his bloodstream did kill him. As columnist Ann Coulter observed, given Floyd's poor health and the overdose, what would have happened if Chauvin had tased him, as use-of-force rules permit?

Absent the "fatal" dose of an opiate and respiratory depressant, the struggle might not have killed Floyd. Absent the struggle, the overdose might not have killed him. Absent the struggle, police would likely have sent him to the hospital again. If Floyd, a very sick man, had quietly surrendered and sat in the back of the police car, he would be alive. Those are the facts.

Lane, Kueng, and Thao face trial in late August for aiding and abetting second-degree murder and manslaughter. One may assume Waters and her mob will once again threaten violence if a jury does not convict them, or if the judge renders a decision that displeases Waters and her storm troopers.

A former district attorney said the three had better plea bargain. "To find a jury in August, after all that's gone on, that could really be fair to these three defendants seems like a very tough task." So a former prosecutor admits that juries today will nullify in much the same way the jury in the O.J. Simpson case, in voting to acquit, nullified an obvious guilty verdict. Except juries will do so in reverse. Instead of voting not guilty if the evidence is exculpatory, they will vote to convict.

In other words, the conviction of Derek Chauvin raises the obvious concern of whether a white cop, or any other, for that matter, can get a fair trial in a growing number of jurisdictions if a black criminal dies in his custody, particularly now that the false narrative of irredeemably racist cops is firmly set in the public's mind, and BLM knows that threats of violence will scare a jury into convicting an innocent defendant. As Dershowitz said, "the whole judicial system has been corrupted by identity politics and by the weaponization of the criminal justice system toward particular agendas."

Chauvin's attorney, Eric Nelson, has filed a motion for a new trial on multiple grounds, including



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prosecutorial misconduct, the *Sheppard v. Maxwell* precedent, and the judge's misusing his discretion. A new trial, let alone an acquittal, would likely invite the riots that would have ensued had the first jury acquitted Chauvin.

Perhaps more importantly, the verdict, and likely conviction of the other three, raises this question, which neither Waters nor the Left wants to ask: Will cops risk their lives in crime-ridden black communities if they, not the criminals, will be put on trial after any such future encounters?

The leftists who wish to "defund police" won't care. The black victims of the anti-cop movement will. And soon.



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