

Why cops who shoot unarmed black men get acquitted

by Julian Sereno

Thirty years ago I served on a jury in a criminal trial in Orange County Superior Court. What I observed then opened my eyes to exactly what so many black men face with the criminal justice system -- why so many are locked up and why policemen who shoot them dead even though they are unarmed are rarely convicted.

The incident that led to the trial occurred on the evening of Halloween on West Franklin Street in Chapel Hill, long before the thronging costumed celebrants of recent years. The facts of the case were not in dispute. Only their interpretation.

The victim and the only witness for the prosecution was a young white man, not of imposing stature, who was walking down Franklin Street with a bag of groceries at about 8 p.m. The defendant was a larger, fit, fair skinned young African American man.

When they encountered one another, the defendant asked the plaintiff for money. The plaintiff handed over his wallet; the defendant took it, removed the cash, handed the wallet back and strolled over to a convenience store on Rosemary Street to buy beer. The plaintiff ran off down Franklin Street yelling, "Help, I've been robbed." The defendant was arrested leaving the convenience store with his beer.

The question before the jury was whether the event in question was a strong arm robbery, punishable by 10 years in prison, or merely panhandling, not illegal.

The jury was split pretty evenly between men and women, and between native North Carolinians and transplants from the north, of which I was one. There were no African Americans on the jury. Two members of the jury were victims of

violent crimes. The jury foreman had been kidnapped and taken hostage during a bank robbery in South Florida. I had been set upon by a gang at a James Brown concert in 1968, but managed to escape relatively unscathed; they didn't manage to get me on the ground and stomp me as they intended.

The question before each juror was whether a reasonable person would think they were being robbed or would they think they were being panhandled. I believe the defendant was a panhandler. He never threatened the plaintiff, and certainly didn't behave as though he had just robbed someone. A woman from New England, a senior citizen, said of the plaintiff, "That guy is such a marshmallow that if I said 'boo' he would call the cops."

Other jurors felt differently. Those who voted for conviction thought that if the defendant asked them for money, they would have thought he was robbing them.

The jury deliberated for two days, going as far as 8-4 for acquittal and later, 10-2 for conviction. We eventually reached equilibrium at 6-6, and the judge declared a mistrial because we were hopelessly deadlocked.

What I learned from that experience was the palpable fear, even blind terror, that some people have for black men -- all black men. When a cop who shoots an unarmed black man tells a jury that he shot for fear of his life, a lot of jurors buy it give him a pass. And it only takes one to hang a jury.

Some jurors feel that very same kind of fear themselves.

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