

Do African Americans Have a Right to Bear Arms?

And if so, why won't the justice system or the NRA stand up for it?



Reuters

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Philando Castile's shooting death, at the hands of a police officer in Falcon Heights, Minnesota, one year ago, was numbingly similar to a string of other killings of black men by police. But Castile's shooting was notably different in

one crucial respect: Castile was licensed to carry a gun. He carefully informed Officer Jeronimo Yanez—exceeding his legal requirements under Minnesota law, though following the advice some gun-rights advocates offer for concealed carriers when stopped by police. And yet Yanez almost instantly shot him. That aspect made the case a central focus not just for Black Lives Matter activists, but for some gun owners, too.

As I wrote at the time, Castile’s killing raised the question of whether African Americans truly have a right to bear arms in practice. Even setting aside the questionable grounds under which Yanez had pulled Castile over (a malfunctioning taillight is a classic pretextual stop police use to question black drivers), Castile had done everything right.

There’s a long history of African Americans attempting to arm themselves to defend against state violence. During the post-Civil War period, many blacks armed themselves to protect against white supremacist violence. Southern governments responded by attempting to strip the right to bear arms. A century later, the Black Panthers made a habit of openly carrying guns as a way of displaying to racist police officers in Oakland that African Americans couldn’t be pushed around. In response, the California legislature passed a ban on open carry, and Governor Ronald Reagan signed it into law.

Today, some gun-rights advocates have argued that African Americans would be best served to get gun licenses. They point to the high rates of violence in places like Chicago and the killings of black men, like Trayvon Martin and Jordan Davis, as proof that it’s better to be armed. The Castile case showed the naïveté of that view. His firearm didn’t serve as protection, but instead led directly to this death. This is not uncommon, as Jennifer Carlson, a sociologist at the University of Arizona, wrote in her 2015 book *Citizen-Protectors*: “My fieldwork shows that law-abiding men of color are ... more likely to be harassed simply for choosing to carry a gun. They must navigate

the widespread presumptions that they are criminals and that their guns are illegally possessed or carried.”

In the course of her interviews, Carlson found that in practice the exercise of the right to bear arms created more trouble than protection for African Americans: “Gun carriers of color told me they experienced unwanted police attention, and their guns heightened their existing vulnerability to police.” She also found many white gun owners were also well aware of the risks of licensed carry. While they were more likely to attribute unjust policing to “bad apples” on the force than systematic bias, they recognized that police are not always quick to acknowledge existing rights. It’s exactly the sort of situation that calls for gun owners to band together in national groups to influence politics.

That’s why after Castile’s shooting, many gun owners, and especially black gun owners, were dismayed by the NRA’s tepid reaction to his death. Two days after the shooting, and after extensive complaint from members, the NRA finally issued a statement that didn’t mention Castile’s name and promised further reaction “[once all the facts are known.](#)”

The criminal-justice system is not designed to put things back the way they were; a jury cannot bring Castile back to life. But it is designed to at least offer some posthumous indication of wrong and right. A jury’s decision to [acquit Yanez](#) of second-degree manslaughter and other charges, and the [release of a dashcam video showing Castile’s shooting](#), raises some pointed questions for the justice system itself and also for the NRA.

The video, released Tuesday evening, doesn’t add a great deal of new information, but it vividly illustrates how outrageous Castile’s shooting was, filling in the moments leading up to Yanez opening fire. (What followed was famously captured on Facebook Live by Diamond Reynolds, Castile’s

girlfriend.) Castile calmly speaks to the officer, who asks for his license and registration. Castile tells Yanez he has a weapon. Yanez tells him not to reach for it. Castile—trying to comply with Yanez’s request for license and registration—and Reynolds both say he isn’t reaching for it. But Yanez, within seconds, pulls his gun and shoots Castile repeatedly.

Yanez managed to convince a jury that he was scared for his life, but watching the video, it’s difficult to fathom why that would be. A dangerous criminal wouldn’t go out of his way to make sure the officer knew about his gun, and Yanez shot Castile nearly instantly anyway. (Convictions of police officers in fatal shootings are extremely rare, even when the evidence seems strong. The first trial of Michael Slager, the North Charleston, South Carolina, police officer who killed Walter Scott, resulted in a hung jury even though video clearly showed him shooting Scott in the back and then moving evidence at the scene.)

A number of gun-rights advocates have criticized the acquittal. *National Review’s* David French wrote:

In recent months we've seen a number of cases where courts have excused police for shooting citizens even after the police made mistakes—and the citizens were doing nothing wrong—simply because these citizens were exercising their Second Amendment rights. This is unacceptable, and it represents the most extreme possible deprivation of civil rights and civil liberties I'm aware of no evidence that Yanez panicked because Castile was black. But whether he panicked because of race, simply because of the gun, or because of both, he still panicked, and he should have been held accountable. The jury's verdict was a miscarriage of justice.

Colion Noir, a prominent African American gun-rights activist and lawyer who hosts an NRA-TV show, [agreed](#):

I don't feel [Yanez] was out to take a black life that day, but it doesn't matter because his actions cost Phliando [sic] his life. My legal mind can see why they couldn't get to Manslaughter in the Second Degree based solely on the facts at hand, but Yanez walking away from this case a free and clear man is just wrong.

But since the verdict, the NRA has remained [conspicuously silent](#), just as it did after the shooting itself, which has upset some members—and not just black ones—who complain that the nation's largest and most powerful gun organization is giving the impression it doesn't care about black gun owners's rights, much less lives.

That's especially striking because the details of the Castile case fit squarely into the scenarios the NRA has sketched for its members for years. For example, NRA CEO and Executive Vice President Wayne LaPierre [wrote in a 1995 fundraising letter](#), "In Clinton's administration, if you have a badge, you have the government's go-ahead to harass, intimidate, even murder law-abiding citizens" [emphasis in original]. That letter produced a firestorm of controversy, as critics accused LaPierre of hyperbole. Former President George H.W. Bush resigned his life membership. But LaPierre's words are at least a plausible, if not consensus, description of what happened to Philando Castile.

African Americans overall tend to favor stricter gun laws, rather than backing the idea of arming themselves. That's not irrational, as Carlson writes: People of color "are both most likely to be the victims of gun violence and most likely to be harassed by the police for their decisions to own and carry guns." But the prospects for meaningfully stricter gun laws in the United States are practically nil. Republicans control the House and Senate and the White House, and there is a conservative majority on the Supreme Court. Even with a Democratic president, the massacre of 28 mostly children in Sandy Hook, Connecticut, did not push legislators to tighten the laws. Regardless of one's views about the ideal state of gun laws, the open question at the moment is not about what the Second Amendment means but to whom it applies—and in particular, whether African Americans can expect it to protect their rights. Castile's death and Yanez's acquittal cast serious doubt that they can.

Complaining of the NRA's silence, Jazz Shaw, a conservative pundit, [writes](#), "We should all want the organization to speak up on behalf of the rights of *all* law abiding gun owners. The group has developed too much of a reputation as an organization populated by *old white guys*. But we don't *want* the NRA to be just for old white guys." The question is who "we" is. Shaw might not want

that, but the silence of NRA leadership leaves the organization's official position less clear.

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