

The testimony of Chauvin's "experts" and the pseudo-legal framework of police terror

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Millions of people around the world doubtless experienced a mixture of outrage and bewilderment as they listened to the so-called "experts" who were permitted to testify last week on behalf of Derek Chauvin, the former Minneapolis, Minnesota police officer whose brutal murder of George Floyd last year was captured on video and touched off mass protests worldwide.

Chauvin's trial for murder and manslaughter began on March 8 in an atmosphere of extreme social tension. The Minneapolis courthouse where Chauvin is being tried has been transformed into a war bunker, defended by the Minnesota National Guard and surrounded by concrete barriers, metal fencing and barbed wire. These barricades were erected by county officials at a cost of \$1 million.

Local authorities around the world, still reeling from the protests last year that drew in tens of millions of people, are bracing themselves for the response of the masses worldwide to the verdict. Chauvin's lawyers rested their case on Friday, meaning that jury deliberations are expected to begin today.

On Tuesday, Barry Brodd, a former Santa Rosa, California police officer, took the stand as a police "use of force expert." Combining legal sophistry with calculated provocations, Brodd's testimony veered from brazenly fascistic to utterly deranged.

Brodd claimed that Chauvin did not use "deadly force" when he knelt on Floyd's neck until Floyd became unresponsive. And at one point, Brodd claimed that Floyd should have been "resting comfortably" on the pavement as Chauvin's knee pressed down on his neck.

Even the veteran prosecutor, Steven Schleicher, was taken aback: "Did you say resting comfortably?" Brodd answered, "Or laying comfortably."

The prosecutor, still taken aback: "Resting comfortably on the pavement?" Brodd: "Yes."

Brodd also testified that Chauvin was using a "prone control" technique when he was kneeling on Floyd's neck. According to Brodd's twisted sophistry, "the maintaining of the prone control is not a use of force" because it is a "control technique." Brodd added: "It doesn't hurt."

Brodd's testimony strung together one inflammatory argument after another: police officers wear uniforms and "criminals don't wear uniforms"; drug users exhibit "superhuman strength" and "do not feel pain"; officers have to act preemptively and do not have to wait for threats to emerge; videos do not "show what the officer is actually feeling"; Chauvin was restraining Floyd for Floyd's own safety; and when Floyd said "I can't breathe," this demonstrated that he was able to breathe.

According to Brodd, Chauvin would have been justified in using

even more force than he used. In other words, by kneeling on Floyd's neck, Chauvin was demonstrating restraint.

Brodd went on to imply, in a manner calculated to be as provocative as possible, that the responsibility for Floyd's death actually rested with those who filmed the murder, because they were distracting Chauvin and making him feel threatened. "Crowd issues took the attention of the officers," Brodd claimed, classifying the "crowd" as a "threat."

Brodd insisted that Chauvin "felt threatened enough that he withdrew his pepper spray canister, and gave verbal commands to the crowd to stay back, so now he's dealing with the bigger threat."

Brodd concluded: "I felt that officer Chauvin's interactions with Mr. Floyd were following his training, following current practices in policing, and were objectively reasonable."

In addition to Brodd, Chauvin's lawyers called David Fowler, the former chief medical examiner of Maryland, to testify that Floyd did not die from asphyxiation due to Chauvin's knee pressing down on his neck.

According to Chauvin's experts, Floyd spontaneously died of natural and other causes that were unrelated to any of the conduct of the police. Fowler was permitted to testify in court, without any scientific basis, that Floyd died from carbon monoxide poisoning, allegedly from the tailpipe of a nearby police car, combined with a tumor, drugs, high blood pressure and underlying heart disease.

Fowler's testimony reached the zenith of absurdity when he claimed to have ruled out asphyxia as a cause of death because such a diagnosis was "unsupported by any experimental data."

Indeed, there have been no medical "experiments" attempting to replicate what Chauvin did to Floyd—because any such "experiments," in which human subjects would be killed by asphyxiation, would be forbidden by the Nuremberg Code, which was adopted after the trials of Nazi doctors following the Second World War.

It is a scandal and an indictment of the American judicial system that these fascistic provocations were allowed to take place in the courtroom at all. Under the Minnesota rules of evidence, it is the judge who has the discretion to determine whether an expert witness is qualified and whether the expert's opinions are scientific, helpful, and reliable.

Judge Peter Cahill would have been entirely within his powers to slam the courthouse door in the faces of Brodd and Fowler. Instead, the judge repeatedly overruled objections that were raised by the prosecutors.

With the testimony of Brodd and Fowler, millions of people are witnessing for the first time the pseudo-legal framework within which police brutality, corruption, and murder are routinely sanctioned in

American courtrooms. In fact, “experts” like Brodd and Fowler have been fixtures of trials involving the police that have been taking place around the country for years.

Police officers in the US shot and killed more than a thousand people in 2020, reaching an all-time high since the *Washington Post* launched a database tracking police killings in 2015. The federal government and state authorities deliberately work to cover up the extent of police killings. For entirely deliberate reasons, Republican and Democratic administrations alike maintain no nationwide statistics on police uses of force, police shootings, and deaths in police custody on any consistent basis.

Brodd has been working as a professional “expert” since 1995, when he established the firm of “BVB & Associates, Consulting and Expert Witness Services,” of which he is the owner. In other words, this is how Brodd makes his living—this has been his job for more than two and a half decades.

Police “use of force” experts typically charge thousands or even tens of thousands of dollars per case, and their fees are routinely paid with public funds by the police departments and municipalities who hire figures like Brodd to help defend their officers against complaints brought by victims and their families.

This phenomenon is so widespread and routine that it has led to the creation of a whole layer of highly-paid fascistic police “experts” like Brodd whose primary job is to testify in court on behalf of police officers. In the case of the Chauvin trial, Brodd was paid \$11,400. He charges \$275 per hour for preparation for trial and \$350 per hour for testimony.

Brodd’s website lists his “services” as including: “Police Officer Use of Force analysis, Police and Civilian Deadly Force Cases, Carotid Restraint/Choke-hold Restraint litigation, and Police Procedures & Tactics.” Brodd testified that he has even been hired by police departments to teach police officers in training.

Brodd has been retained as an expert in no less than 140 cases, and he was almost always retained by the police. Perhaps most notably, he was also called as an expert to testify in the 2018 trial of Chicago police officer Jason Van Dyke, who killed 17-year-old Laquan McDonald by shooting him 16 times—another police murder that touched off furious mass demonstrations.

In case after case, experts like Brodd stridently opine that police brutality is “within policy.” The prosecutors in the Chauvin trial, wary of the explosive implications of the trial, have largely accepted this framework, confining themselves to arguing that Chauvin’s conduct was a violation of department procedure—as if the whole question of Floyd’s basic democratic and constitutional rights can be resolved by consulting the police department policy manual to see whether kneeling on his neck is allowed or not.

As for Fowler, it subsequently emerged he is currently facing a lawsuit brought by the family of Anton Black, a teenager who died in police custody in Maryland in 2018. The family alleges that Fowler fabricated an autopsy report that read: “In particular no evidence was found that restraint led to the decedent being asphyxiated.”

The manner in which Black and Floyd were killed—“positional asphyxia” or “restraint asphyxia”—is often officially recorded as accidental, having resulted from unexplained or natural causes. If there is no video taken by a bystander or protest organized by family members, these deaths may not even appear in statistical counts of police killings.

On May 26, the day after Floyd’s murder, the Minneapolis Police Department (MPD) issued a statement that read: “After Floyd got out

[of his car], he physically resisted officers. Officers were able to get the suspect into handcuffs and noted he appeared to be suffering medical distress.”

It is now beyond question that the official MPD statement was a fabrication—omitting the fact that Floyd said “I can’t breathe” more than 20 times and that Chauvin’s knee was pressing down on his neck for 9 minutes and 29 seconds. Instead, the official statement chalked Floyd’s death up to unexplained “medical distress” that he supposedly spontaneously developed on his own.

This demonstrates that it is not just a question of one or another “bad apple,” but of the whole institutionalized regime of police terror. If the murder had not been caught on film by the witnesses that Brodd bitterly denounced, then unexplained “medical distress” would have been the official story. Floyd’s murder would have been just another invisible death in the daily drumbeat of police killings in America.

Despite the massive protests triggered by Floyd’s murder, the rate of police killings in the US has continued at an average of three per day, notwithstanding all of the promises of “reform.” Given that many police killings are covered up by dirty medical examiners, the true numbers may be substantially higher.

These relentless killings take place in cities run by Democrats as well as Republicans, and both parties routinely retain the services of experts like Barry Brodd. Last week, fresh protests erupted after Chicago officials released video footage of the police execution of 13-year-old Adam Toledo on March 29, whose hands were raised in a gesture of surrender when he was gunned down.

Contrary to incessant efforts to explain this phenomenon in terms of racial conflict, black victims represented roughly a quarter of those killed by the police in 2020, the year George Floyd was killed. The largest share of victims were white.

There is no doubt that racism plays a role in many episodes of police brutality, leading to disproportionately higher rates of police violence against racial minorities. Bigotry and prejudice are actively cultivated among the reactionary layers of thugs mobilized to carry out state violence, but these subjective motives of individual officers do not explain the epidemic of police brutality itself, which is a function of the social crisis in the United States and the role of the police in capitalist society.

According to the Mapping Police Violence research collective, which gathers statistics on police brutality, no criminal charges were brought in 98.3 percent of police killings from 2013 to 2020. And in most of the cases where criminal charges were brought, the officer was not convicted.



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