

\$3 Million Deal In Police Killing Of Diallo in '99

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Almost five years after Amadou Diallo, an unarmed immigrant from West Africa, died in a hail of 41 police bullets in the Bronx, his family agreed yesterday to a \$3 million settlement of its civil lawsuit against New York City.

The agreement ends an infamous case that led to a hotly contested state trial, a federal investigation and ultimately the dismantling of the Police Department's elite Street Crime Unit. In widespread protests, dozens of politicians and others were arrested on civil-disobedience charges, and the bullet-ridden entrance of Mr. Diallo's home became a symbol of the racial tensions renewed by the shooting.

Just after midnight on Feb. 4, 1999, four police officers in the plainclothes Street Crime Unit confronted Mr. Diallo, a 22-year-old street vendor from Guinea, and fired 41 shots, hitting him 19 times as he stood in the doorway of his apartment in the Soundview section of the Bronx. The officers said later that they thought Mr. Diallo resembled a rape suspect and had drawn on a gun on them when they approached. The supposed gun turned out to be a wallet.

After the officers were acquitted of murder, Mr. Diallo's parents sued them and the city, saying that racial profiling by the Police Department was a cause of their son's death.

But yesterday, all the major players in the case -- from the Diallos to city officials and lawyers for the four officers -- said they were content with the settlement of the case, which had been scheduled to go to trial on March 1.

Under the agreement, neither the city nor the Police Department admitted any wrongdoing in the case, although city officials did express their condolences. "The mayor, the Police Department and the city deeply regret what occurred and extend their sympathies to the Diallo family," Michael A. Cardozo, the city's corporation counsel, said in a prepared statement.

But Mr. Diallo's mother, Kadiatou, said she felt the city had acknowledged the shooting was a mistake.

"An apology was given today on the record," she said. "The apology is accepted." She added, "What we lost cannot be replaced, but we agreed to join hands with the city and accept this closure."

The \$3 million settlement is far less than the \$20 million in compensatory damages and \$41 million in punitive damages that the Diallo family had initially sought. It was nonetheless the largest settlement under New York State's wrongful-death statute for a victim who earned less than \$10,000 and had no dependents, said Anthony Gair, the family's lawyer.

Mr. Gair was not alone in comparing the Diallos' lawsuit with a similar suit filed by Abner Louima, a Haitian immigrant who was tortured with a broken broomstick in a Brooklyn police station in 1997. Mr. Louima was awarded \$9 million by the city and the police union in a 2001 settlement. Mr. Diallo received considerably less money, Mr. Gair said, because he had died almost instantly and under the "antiquated" wrongful-death law, pain and suffering for the dead cannot be considered.

"The law cries out for change," Mr. Gair said.

The city will pay the \$3 million in a lump sum, and the state Surrogate's Court will decide how that is divided between the family and its lawyers, said Kate O'Brien Ahlers, the spokeswoman for the corporation counsel's office.

Asked about the settlement at a news conference later in the day, Mayor Michael R. Bloomberg said: "It's just not a substitute for a human life. But it was a chapter out of our history and I'm just glad that we were able to come to a financial settlement with the family and let's get on with it."

There was never an official finding of misconduct in the case, which began with a state trial in 2000 that was moved to Albany after a judge ruled that political passions made a fair trial impossible in the Bronx. The four officers -- Kenneth Boss, Sean Carroll, Edward McMellon and Richard Murphy -- were acquitted. The United States Justice Department then decided in January 2001 that federal civil rights charges were unwarranted.

In April 2001, the Police Department, under the leadership of Commissioner Bernard B. Kerik, decided not to discipline the officers, but ordered them to undergo retraining. The department accepted recommendations by two internal investigative panels, which found that the officers, although they fired at an unarmed man, had not breached police guidelines because they believed that Mr. Diallo held a weapon and that their lives were in danger.

Stephen C. Worth, a lawyer for Mr. McMellon, said: "There's no doubt that this case has always been a tragedy in many ways for many people. I'm happy for the family that this matter can finally be put to rest."

Mr. McMellon and Mr. Murphy eventually resigned from the Police Department and are currently working for the New York Fire Department. Both Mr. Boss and Mr. Carroll regained their jobs as police officers, although they are still not allowed to carry guns.

Even beyond its central figures, the Diallo case has left a far-reaching legacy. It thrust Ms. Diallo into the public spotlight as a potent symbol of the lingering effects of police abuse. She has written a book about her experience, "My Heart Will Cross This Ocean," with Craig Wolff, a journalist. She has also established Amadou Diallo Foundation Inc., which offers scholarships to immigrant students, runs programs in the public schools to foster racial understanding and works to improve relationships between police officers and the communities they patrol.

One of the case's lasting effects for the Police Department was the abolition of the Street Crime Unit, which had been greatly expanded in 1997 to help take guns off the street. Although police officials have never publicly acknowledged that any of their practices, including those used by the unit, were inherently flawed, the Diallo case did lead in some measure to a round of soul-searching within the department.

Commissioner Kerik eventually established a wide-ranging effort to improve community relations that seemed intended to repair some of the damage wreaked by the Diallo case. In 2002, his successor, Raymond W. Kelly, announced an anti-profiling policy and redeployed the Street Crime Unit.

In Soundview, meanwhile, city officials and community leaders have renamed the block of Wheeler Avenue where Mr. Diallo lived and died. It is now called Amadou Diallo Place.

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