

NEW JERSEY AGREES TO PAY \$13 MILLION IN PROFILING SUIT

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Correction Appended

New Jersey's attorney general today agreed to pay nearly \$13 million to settle a lawsuit arising from the state's most explosive racial profiling incident, in which several young minority men were shot and wounded by state troopers in a 1998 traffic stop.

In an effort to quell the aftershocks of the case, the attorney general, John J. Farmer Jr., also threw out criminal charges against 128 other defendants who claimed their arrests were racially tainted.

The settlement ends the civil rights suit brought by four black and Hispanic men whose van was stopped in April 1998 on the New Jersey Turnpike. Three of the men were shot and wounded when the van began to back up toward a trooper, accidentally, according to the driver.

The case turned the state police's practice of singling out minorities for traffic stops and searches into perhaps the nation's premier civil rights issue. The fallout from the case also for the first time revealed how pervasive the practice was, not just in New Jersey, but nationwide.

The young victims of the turnpike shooting were quick to place their experience in the context of civil rights issues from the past.

"It seems like we're still in the struggle, you know?" Jarmaine Grant, one of the three men injured in the shooting, said at a news conference today announcing the settlement. "Like Dr. King, Malcolm X, Rosa Parks, they took the back door so we could take the front door. But it seems to me now like we're still taking the back door."

The settlement stipulates that the state does not admit any guilt in the shooting of the three men -- Mr. Grant, Rayshawn Brown and Danny Reyes. Keshon L. Moore, the driver of the van, was the only one of the four who was not injured.

But Peter Neufeld, one of the men's lawyers, said that the settlement spoke for itself.

"In the agreement there is no statement admitting liability or denying liability," he said. "However, they just agreed to pay \$12.95 million, and we think that that number speaks volumes about what happened that night."

While the settlement had been expected, what occurred here in Trenton, even as lawyers were announcing the settlement in Lower Manhattan, was a surprise. The attorney general said he would move to dismiss criminal charges against dozens of people accused of illegally transporting weapons or drugs.

In all, Mr. Farmer said, he would seek to drop charges in 77 of 94 cases in which defendants claimed they were stopped only because of their race or ethnicity, and were therefore seeking to suppress as evidence the weapons or drugs that troopers seized.

Mr. Farmer, who took over as attorney general in June 1999 at the height of the uproar over racial profiling, has been besieged ever since by the contending forces at work. There are the lawyers for a host of criminal defendants claiming to be victims of profiling, who continue to accuse the state of a cover-up. There is the legal team for the 1998 shooting victims, now headed by the celebrity lawyer Johnnie L. Cochran Jr., whose lawsuit against the two troopers, John Hogan and James Kenna, is still pending. And there are the state legislators, caught between an instinctive loyalty to the state police and a fear that the charge of racism will haunt them, who are to hold hearings within weeks on 90,000 pages of documents, released by the state last fall, that attest to the long-denied fact that profiling was common on New Jersey's highways.

Not surprisingly, Mr. Farmer called today's decision to dismiss the cases a difficult one, and he seemed to swing between a resigned acknowledgment that the accused drivers might have prevailed in having their cases thrown out, and a tough insistence that the evidence against them was sound, even if the way it was obtained might not have been.

"Let's be clear," Mr. Farmer stressed in a statement that aides said he wrote himself, and that throbbed with anger and frustration. "The defendants in these cases may have prevailed in their motions to suppress, but they are criminals nonetheless. All were carrying some form of contraband for distribution in communities in this and other states. It is, accordingly, impossible to view them as victims."

Still, Mr. Farmer conceded, there was no question that some of the dismissed cases involved "problematic conduct by individual troopers," and he vowed internal investigations leading to, "where appropriate, discipline, including termination."

He accused unnamed lawyers of chasing legal fees by promiscuously raising the charge of racial profiling in numerous criminal cases. And he

alluded critically -- even woundedly -- to the hearings planned by the State Senate's Judiciary Committee, whose members have vowed to question both Mr. Farmer and his predecessor, Peter G. Verniero, now a State Supreme Court justice. They plan to ask Mr. Farmer and Justice Verniero, along with dozens of other law enforcement officials, about their knowledge of the extent of racial profiling and their efforts to eradicate it, including the handling of the case against Troopers Hogan and Kenna.

"We have laid bare the truth," Mr. Farmer said, adding that New Jersey officials had "subjected ourselves to levels of scrutiny and criticism unheard of in the rest of this nation."

"But as we attempt to move forward, we are beset by the debilitating consequences of our candor: opportunistic litigation and the disruption of belated legislative hearings which -- however well motivated -- will, by forcing us once again to reinhabit the past, necessarily hinder our efforts to move forward.

"Enough," he added. "It is time to move on, to push this issue past competing but equally divisive political and economic agendas."

Members of the Judiciary Committee said nothing of Mr. Farmer's decision to drop the criminal cases, but took issue with his rebuke of their inquiry.

Senator William L. Gormley, the committee's chairman and a Republican, said that the inquiry was actually moving quite quickly given the release of hundreds of reams of documents last fall, and that it would be impossible for the state to move past this episode without a full public airing. "If there weren't a process where the questions could be asked," he said, "how would the public feel about that?"

But Senator John A. Lynch, the ranking Democrat, said Mr. Farmer "should be ashamed of himself." He accused Mr. Farmer and Mr. Verniero of conspiring to stonewall the Judiciary Committee when it sought information with which to question Mr. Verniero during the 1999 confirmation hearings on his nomination to the State Supreme Court.

"John Farmer shouldn't be complaining about the Judiciary Committee going back and trying to do what it was prevented from doing the first time, getting the truth," Mr. Lynch said. "The question John Farmer should be answering is why are his people going around the state with bags of money settling these cases without ever allowing them to go to discovery?"

Of the 128 defendants whose cases are being dropped, 123 are already out on bail and 5 others are to be released unless they face other outstanding charges, officials said. Mr. Farmer said prosecutions would proceed against defendants in 17 cases where "there was no colorable basis to allege that racial profiling was an issue in the arrests."

In his statement, Mr. Farmer sought to mitigate his acknowledgment of wrongdoing by some troopers by defending the force's reform efforts, and he warned, "We simply cannot have our state troopers double-clutching in the performance of their duties because of a fear of second-guessing."

But the president of the State Troopers Fraternal Association, Edward H. Lennon, responded furiously, calling Mr. Farmer's decision to drop the prosecutions expedient but reprehensible.

"I suggest that without clear direction from the top, and the belief that they will be supported from the top, troopers will probably not even let the clutch out," Mr. Lennon said.

New Jersey civil rights leaders responded with mixed emotions to Mr. Farmer's announcement.

The Rev. Reginald T. Jackson, director of the New Jersey Black Ministers Council, called the dropping of the criminal cases appropriate, but sobering because a number of those to be released had been carrying drugs or weapons. And he said he sympathized with Mr. Farmer's complaints, up to a point.

"I think his sentiment is correct," Mr. Jackson said. "And yet, even in dismissing these indictments, even with the settlement today, it does not remove the fact that racial profiling is an issue we have to resolve, not only in New Jersey but across the nation."

According to details of the settlement released by the state this afternoon, the four men will receive combinations of 10- and 30-year annuities. Mr. Grant's will pay a total of \$4.4 million in monthly installments, and Mr. Reyes, who was the most seriously injured and like Mr. Grant still has bullets in his body that must be removed, will get annuities worth \$5.85 million over 30 years. Mr. Brown, who was also wounded but less grievously, will get \$1.785 million in the same manner, and Mr. Moore, the driver and the only one who was not physically injured, will get \$912,000.

Structuring the settlement through annuities means that actual outlays by the state will total less than \$5 million.

The four have a separate suit against Troopers Kenna and Hogan, which is not affected by today's settlement.

The four men were aspiring professional basketball players on their way to a camp in North Carolina when they were pulled over, and part of their claim for a settlement was based on their view that the shootings ended their careers. Today, Mr. Grant said that the four "would never give up" the hope of playing professionally. But, he added, he knew a career for him "was not going to happen."

What, the young men were asked, would they do now?

"Obviously, now we have to set new goals for ourselves," Mr. Reyes said. "My life was based on going to school and playing basketball. Now I can't play anymore, and now I have to make new plans. Do I have an idea what I want to do? Yes. But am I going to get it done? Time will tell that."

Correction: February 8, 2001, Thursday An article on Saturday about the settlement of a lawsuit by four men who were fired upon by two state troopers on the New Jersey Turnpike in 1998 misstated the cost and form of the settlement, and the outlook for further court action. The total cost to the state is \$12.95 million, not \$5 million or less. One of the men, Rayshawn Brown, will receive a lump sum of \$1.785 million. The three others -- Jarmaine Grant, Danny Reyes and Keyshawn L. Moore -- will receive a combination of annuities, paid out over 10 to 30 years, and lump sums. The state will pay \$4.4 million to Mr. Grant, including \$2.1 million in annuities worth more than \$10 million over time; \$5.85 million to Mr. Reyes, including \$2.15 million in annuities worth more than \$12 million over time; and \$912,000 to Mr. Moore, including \$423,000 in annuities worth about \$2 million over time. The settlement ends all litigation; the men do not have a separate suit against the troopers. A picture caption misstated the roles of four lawyers. Three of them -- Barry Scheck, Johnnie L. Cochran Jr. and Peter Neufeld -- represent Mr. Grant and Mr. Reyes. The fourth, Linda Kenney, represents Mr. Moore. Mr. Brown's lawyers, Douglas Burns and Wayne D. Greenfeder, were not pictured.

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