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CITY SETTLES SUIT IN LOUIMA TORTURE

By ALAN FEUER AND JIM DWYER

Four years after being tortured with a broken broomstick while under police custody in a Brooklyn station house, Abner Louima agreed yesterday to settle his civil lawsuit against New York City and its main police union.

The settlement calls for the city to pay Mr. Louima \$7.125 million and the union, the Patrolmen's Benevolent Association, to pay him \$1.625 million. It is the most money the city has ever paid to settle a police brutality case and is believed to be the first time that a police union anywhere in the country has paid a claim to settle a brutality case.

Though not a single word of the 19-page agreement mentioned changes in police procedures, Mr. Louima said he finally laid to rest his three-year-old suit after being convinced that the city and the union had started to alter how the Police Department trains, monitors and disciplines its officers. The city and the union said the changes the department had made were not directly linked to the Louima lawsuit, although they stopped short of saying that the incident had played no role in the development of policies in the past three years.

Indeed, in a minuet of public statements, lawyers for Mr. Louima, the city and the union offered divergent characterizations of the settlement. [Transcript of Louima statement, Page B4.]

To the Louima camp, the settlement was about changing what it considered to be egregious police practices. To the city and union, it was about bringing an unambiguous close to a particularly dark chapter in the department's history.

Mr. Louima, the city and the union agree that a handful of policy changes -- some substantive, others somewhat vague -- have been established since the attack or will soon go into effect. They include allowing a civilian panel, rather than the department, to prosecute police brutality cases and beefing up training on the use of force. For its part, the union agreed to hire an outside lawyer to counsel officers who need legal advice but who may have a conflict of interest with officers under investigation or with the union itself.

Perhaps the settlement's greatest impact, however, was that the P.B.A., which was accused of conspiring in the Louima cover-up, was a party to the suit at all. Mr. Louima's lawyers said yesterday that they had fielded numerous phone calls in recent months from police brutality victims across the country who were looking for advice on how to hold their local unions culpable in police attacks.

The settlement was officially signed in Federal District Court in Brooklyn during a closed-door conference in the chambers of Magistrate Cheryl L. Pollak. The signing followed months of contentious wrangling and false starts, including a failed attempt on Wednesday that fell apart when it was

discovered that the paperwork accidentally contained the wrong amount of money.

After the conference, Thomas P. Puccio, the chief lawyer for the P.B.A., gave a statement to a phalanx of reporters gathered across the street from the courthouse. "This is a very unique case," he said, "and the P.B.A. felt that it could assist the city in putting this behind everyone."

Mr. Louima and his legal team -- Sanford A. Rubenstein, Johnnie L. Cochran Jr., Peter J. Neufeld and Barry C. Scheck -- rushed from the courthouse to a Lower Manhattan office where they spoke to reporters in the corner of a cramped room.

Mr. Louima said he was pleased that his long ordeal had played a role in reforms of the department whose officers had so brutally attacked him. The assault seriously damaged his rectum and bladder.

"Since that day almost four years ago," he said, "I have vowed to do everything I can to ensure that the torture and cover-up I suffered will not be inflicted on my children or anyone else's children in the future."

The bulk of the settlement will be paid to Mr. Louima and his wife, Micheline, in one lump sum. Some will be disbursed in \$5,000 monthly installments over the course of at least 20 years. The lawyers will receive about \$2.9 million.

The cash payments will, of course, benefit Mr. Louima and his family alone, though he announced yesterday that he would use a portion of the money to establish an organization to support other victims of police brutality. The changes in police policy, however, could bear greater fruit.

Among the changes was the city's decision to phase out the so-called 48-hour rule as police contracts expire. The rule allows officers suspected of wrongdoing to wait two days before answering questions from superiors. While prosecutors say they generally do not see it as an impediment to criminal investigations, the policy has few supporters outside the department. "It was an affront that no one could talk to a city employee like that," said Raymond W. Kelly, a former city police commissioner.

It was Aug. 9, 1997, when Mr. Louima was sodomized with a broken broom handle inside the bathroom of the 70th Precinct station house in Flatbush. At two federal trials, two Brooklyn patrolmen, Justin A. Volpe and Charles Schwarz, were convicted of taking part in the attack, and four other officers were found guilty of participating in a cover-up.

The P.B.A.'s role in the case arose most clearly during the second trial when a union trustee, Michael Immitt, testified that he had visited roll calls at the station house, telling the officers: "Sit tight, don't talk about it. Don't talk to anyone unless something official comes down."

Mr. Louima's lawyers seized upon instances like that to accuse the P.B.A. of conspiring with patrolmen to cover up the truth and, in a broader sense, of acting with the city to create an environment in which officers could act brutally with impunity.

Mr. Louima's success in suing the police union opens a new legal front for holding officers accountable.

"It's quite significant," said David Rudovsky, a professor of law at the University of Pennsylvania and the co-author of "Police Misconduct: Law and Litigation."

"The theory under which they proceeded was that the P.B.A. and its officials played a role in its

coverup," Mr. Rudovsky said. "The union there, and other places, will have to be a little more careful about how they proceed when they have information of wrongdoing."

The negotiations, said Lawrence S. Kahn, the city's assistant corporation counsel, required "extraordinary patience and persistence by Judge Pollak."

Indeed, the record financial settlement was the simplest part of the negotiations, according to Mr. Louima and his lawyers.

Mr. Louima said that he had spent most of the past eight months searching for signs of "good faith" that the police union would respond to the internal problems that were exposed after his attack.

At several points since December, Mr. Louima said, he was prepared to accept the city's settlement but reject the union's \$1.6 million offer in favor of a trial that would have focused on what he sees as the P.B.A.'s misconduct.

An important meeting was held on Dec. 18, if only because it clarified Mr. Louima's view of why the lawsuit should proceed, according to Mr. Neufeld, one of Mr. Louima's lawyers. By then, the financial terms of the settlement had been set.

That day, union officials, including Patrick Lynch, the president of the P.B.A., met with Mr. Louima, his lawyers and lawyers for the city in a closed hearing room at the Brooklyn courthouse. Also present was Magistrate Pollak.

"The point of the meeting for the city's lawyers was to show me all the changes that had taken place since the incident," Mr. Louima said.

According to Mr. Louima, one of the city's lawyers, Daniel S. Connolly, made a detailed presentation, with charts, about changes in disciplinary procedures that had taken place since August 1997. Mr. Connolly also contended that shooting statistics showed that most New York police officers practiced restraint in the use of their firearms, Mr. Louima said. "I did not have any reaction to that," he said.

Then, Mr. Louima said, the police union president, Mr. Lynch, gave a talk, as did several of his union colleagues. Although six officers have been convicted, the P.B.A. officials mentioned only one by name, Mr. Louima said. That, he said, was Justin A. Volpe, the officer who admitted using the stick to sodomize Mr. Louima.

"They said they were so sorry about what happened to me, but they put everything on Justin Volpe," said Mr. Louima. "That was an insult to me. They know that all those guys were convicted by three different juries."

In their presentations that day, none of the P.B.A. officials mentioned reforms, nor did they acknowledge that union delegates had any role in trying to contain the scandal, Mr. Louima said.

Mr. Neufeld, another of Mr. Louima's lawyers, said, "After that meeting, we had our marching orders from the client: unless there was real reform at the P.B.A., we were simply to make the deal with the city and take the union to trial."

The P.B.A. lawyer, Mr. Puccio, said yesterday that he never believed that that was a serious threat. He declined to discuss particulars of the settlement negotiations. "The only component in the union

settlement that meant anything was the insurance company paying the money," he said.

In January and February, the lawyers for Mr. Louima held meetings at the Yale Club with the lawyers for the police union, who included Mr. Puccio and Michael Murray.

At a meeting in early January, Mr. Scheck said, they first heard Mr. Puccio raise the issue of hiring a "conflict counsel" who would make sure that police officers had access to independent representation. He also said union delegates would get training on their legal responsibilities.

About the same time, Mr. Louima was called to a private meeting with Magistrate Pollak. "The judge wanted to know my position, and my concern was that money was not the issue," Mr. Louima said. "I was prepared to go to trial against the P.B.A."

A trial had little appeal, Mr. Louima said, because it would take two more years, and he was eager to move on with his life. Moreover, he stood to lose the settlement offered by the P.B.A. at a trial. "I didn't care about that," said Mr. Louima. "The million and a half was nothing to me. I wanted to see the changes."

Not long after that, Mr. Scheck said, the P.B.A.'s lawyers informed the Louima lawyers that a search committee had selected Abraham Abramovsky, a professor of law at Fordham University School of Law, to serve as "conflict counsel."

"We met with him, and felt he had a good grasp of the issues," Mr. Scheck said.

Mr. Louima said he thought the hiring of the counsel was "reasonable, and it is a sign of their good faith."

Mr. Puccio of the P.B.A. said the union had decided to hire the counsel independent of the Louima case.

Since the attack, Mr. Louima has spent thousands of hours preparing to testify before grand juries and at trials and hearings.

At the news conference yesterday, a reporter asked him what he would do with his money now that he was a rich man. Mr. Louima, who spent 64 days in the hospital and underwent three surgeries after the attack, replied: "I do not consider myself a rich man. I consider myself lucky to be alive."