

City to pay \$3.2m in wrongful conviction suit Record settlement follows DNA tests

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By Andrea Estes, Globe Staff | March 10, 2006

The city of Boston has agreed to pay \$3.2 million to settle a wrongful conviction suit filed by Neil Miller, who served 10 years in prison for raping a 19-year-old Emerson College student before DNA tests proved that another man committed the crime. It is believed to be the largest settlement Boston has paid in a wrongful conviction case.

Miller, 39, had been convicted of breaking into the woman's apartment Aug. 24, 1989, and raping her while holding a screwdriver to her neck after the woman identified him in a police lineup. He was freed May 10, 2000, after tests requested by the New York-based Innocence Project proved that his DNA didn't match that found in semen on the victim's body and bed.

Yesterday, Miller's lawyers, Howard Friedman and Innocence Project codirector Peter Neufeld, charged that testimony in their 2003 lawsuit shows the Boston police manipulated evidence to help prosecutors win a conviction.

They alleged that the senior criminologist in the city's lab gave false testimony about the blood evidence to increase the likelihood that Miller would be convicted.

The lawyers called on Police Commissioner Kathleen M. O'Toole to review every case that the now retired Boston police criminologist, David L. Brody, testified in to make sure other innocent people were not convicted by his statements.

"These were not mistakes," said Neufeld. "He was the head of the laboratory who testified more than 1,000 times who is caught in perjury. You have a duty to question all the other cases."

City officials denied any wrongdoing by police. Brody, who retired as the crime lab's director after 32 years, declined to comment on the charges.

The lawyers also alleged that Margot Hill, then a detective and now a deputy superintendent, ignored evidence that the rape for which Miller was charged was likely to have been committed by someone else.

City and police officials did not acknowledge misconduct in settling the case, which was scheduled for trial in federal court next week.

"The amount of the settlement speaks to the fact that an innocent man served almost 10 1/2 years in prison," William Sinnott, Boston's corporation counsel, said yesterday. "There is certainly no admission of misconduct by any of these individuals, especially by Detective Margot Hill. The lawyers are characterizing their case in the light most favorable to their side. That's what lawyers do."

Efforts to reach Hill last night were unsuccessful. Police spokeswoman Elaine Driscoll said Sinnott would speak on her behalf.

Sinnott and O'Toole said they would review old cases if they are convinced that others may have been wronged.

"I definitely want to sit down with these attorneys and hear their perspective," said O'Toole. "If we need to look at cases retroactively, we'll do that."

"We need to do the right thing. We're going to do the right thing, whatever it takes. We need to discuss it and go where the truth takes us. This was another horrible tragedy."

"The good news," she added, "is that we've done everything possible to update our forensics. We now have a nationally accredited crime lab and a DNA lab which is subjected to regular scrutiny."

Miller's case is one of a string of recent wrongful conviction cases. By the end of last year, at least 10 convictions for

murder, rape, and other crimes had been set aside in Suffolk County since 1996, generally through DNA evidence.

Under a 2004 state law, Massachusetts allows the wrongfully convicted to collect up to \$500,000 from the state to compensate for years spent behind bars. Several former prisoners have received payments, including Miller, who has collected \$500,000, his lawyers said.

Neufeld said that in this case, Brody violated a basic rule of criminology when he asserted that Miller could be considered a suspect because his blood type, type O, matched blood found at the scene.

Because the victim had the same type blood, Brody should have testified that he could not determine if the fluids found at the crime scene came from the rapist or the victim, Neufeld said.

The lawyers also have argued that when a lab technician informed Hill that there were three rapes that occurred around the same time and that it was likely that the rapist had Type B blood, she did not notify the prosecutor.

Miller, of Dorchester, said he has had a hard time finding work since his release and won't be satisfied until other wrongly convicted prisoners are released.

"It's still not over," he said. "There are still other guys who are sitting up there because of this forensic guy. Until they're cleared, everything isn't fine with me. It's not over."

He said he has no plans for the settlement money.

"I'm going to give it away," he said. "I don't know to who, maybe some other righteous person who could use it. It'll do some good for a while." ■

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