

# Class justice in New York: Why the DA failed to aggressively prosecute the cops who killed Diallo

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The outrage sparked by the acquittal last month of four New York City police officers in the Amadou Diallo case continues to simmer, fed by new acts of brutality and Mayor Rudolph Giuliani's outright defense of police killings.

Some critics, pointing to the failure of Bronx District Attorney Robert Johnson to vigorously prosecute the murder charges, accused the DA of throwing the Diallo case. Many pointed to the decision not to cross-examine the final—and arguably key—defense witness, James Fyfe, an ex-cop and former instructor at the New York City Police Academy. Fyfe testified in the Albany, New York courtroom that the four police officers had followed the department's procedures properly, albeit with tragic results.

"It is the job of the officers to protect life," Fyfe told the jury. "From what I was told, the individual [Diallo] ran from the officers into a building with innocent citizens. It is the job of the officers to prevent him from entering the building and putting its occupants in danger.... Things can only get worse if he gets out of sight."

From the standpoint of the facts, this is a rather incredible rendition of the Diallo killing. How Diallo "ran from the officers into a building," when the cops themselves said they stopped after seeing him looking out from the door leading to the building's vestibule, was never explained. As for it being the "job" of the cops to prevent a man from entering his own home, this theory makes every person in the city, or at least every resident of a neighborhood targeted by the Street Crime Unit, a suspect facing potentially lethal retribution.

Currently a criminal justice professor at Temple University in Philadelphia, Fyfe is a frequent witness for the prosecution in police brutality cases. He has done studies of cops who are brutal and corrupt and has by no means been uncritical of the New York Police Department (NYPD). He himself believes that one reason the Bronx District Attorney decided not to grill him was the DA's desire to conceal from the jury the fact that he had sought Fyfe as an expert witness

for the prosecution.

In a column written for the *Wall Street Journal*, Fyfe explained his decision to testify for the defense by contrasting the Diallo shooting to two other high-profile police brutality cases involving white cops and black victims—the beating of Rodney King in Los Angeles and the station house torture of Abner Louima in Brooklyn.

In those cases, he argued, cops were not involved in "good faith police work," but rather trying "to teach a troublesome black man not to challenge police authority." In both cases, he added, the police involved had lied about their crimes and were brought to trial only because of evidence produced by others.

He contended that the 41 shots which took Amadou Diallo's life were, by contrast, "a mistake made by four fine men who were doing what they were expected to do: cruise the streets of high-crime areas seeking to find unlawfully armed people and to interrupt crimes in progress."

The fatal shooting, he argued, was not a crime but a "mistake in professional discretion," akin to medical malpractice costing a patient's life. He went on to praise the cops for their "honest behavior" after the shooting.

In defending Diallo's killers, Fyfe declared that they "made no effort to whitewash what happened," pointing out that they did not utilize the standard police ploy of planting a weapon on the man they had killed.

One can only imagine what Diallo's parents thought of Fyfe's praise for the "honesty" and "integrity" of the four officers who killed their unarmed son in the vestibule of his apartment building. In any event, Fyfe's account of the officers' honesty in the aftermath of the killing does not square with other testimony. One witness reported hearing one of the cops declare, "This is what we're going to say," just after the shooting.

No such scruples can, by any stretch of the imagination, be ascribed to the Giuliani administration and the NYPD. In the immediate aftermath of the shooting, police investigators

were dispatched to Diallo's building to turn his apartment upside down and interrogate his roommates and friends in an attempt to uncover any "dirt" they might use to justify the killing.

What Fyfe's arguments really demonstrate is that the murder of Amadou Diallo, like the more recent New York police killings of Malcolm Ferguson and Patrick Dorismond, was not the unforeseeable outcome of actions by "rogue" cops. Rather, these deaths were the product of a definite social policy and policing strategy, which have as their objective making New York City "safe" for the wealthy and privileged by means of intimidation and outright terror against those who are neither.

Why were the prosecutors incapable of challenging Fyfe's whitewash of police murder? Because, in the end, the only answer to Fyfe's thesis was to place on trial the social and political premises that underlie what Fyfe calls "good," "by-the-book" police work.

In truth, the Diallo shooting was part of the inevitable human cost of policing a city where a yawning gap between rich and poor grows wider every single day, and where law enforcement is focused on the defense of the property and security of the "haves" against a keenly perceived danger from the "have-nots."

The Bronx District Attorney's Office attempted to single out the Diallo killing as a unique act of depraved violence by four individuals. If that had indeed been the case, the prosecution of the Street Crime Unit cops would have been far easier, and the popular outrage over the murder of the West African immigrant would have been far more restrained.

Amadou Diallo's killing struck such a popular cord precisely because hundreds of thousands of New Yorkers felt, "There but for the grace of god go I," or my children, father, wife or brother. Countless thousands of minority youth and workers have found themselves pushed up against a wall facing drawn guns and barked orders for no other crime than living in a neighborhood where the New York Police Department views every young male as a "perp," or for passing through a neighborhood where they do "not belong."

Every year many tens of thousands are "put through the system," forced to spend days and nights in squalid cells for "quality-of-life" offenses ranging from spitting on a sidewalk to sipping a can of beer in a park.

The prosecution did not challenge Fyfe, just as it failed to subject the cops themselves to a rigorous cross-examination, because in the end the District Attorney, the courts and the police are all part of the same "criminal justice system" which constitutes the principal bulwark of the wealth and privilege of the city's elite, and uphold the economic system

that condemns the majority to economic insecurity or outright poverty.

Even among elements of the city's establishment who have criticized the NYPD—from the New York Civil Liberties Union to the Reverend Al Sharpton—the critique of police actions never goes deeper than questions of tactics, or the racial composition of the cops themselves. Change, they suggest, can be achieved by substituting a "community policing" model for the present reliance on aggressive deployment of specialized units, together with an increase in the number of black and Hispanic cops in the department's ranks.

The first argument ignores that there were four times as many police killings in 1992, when community policing was upheld by the former city administration of Mayor Dinkins; the second ignores the fact that acts of brutality and even fatal violence are as prevalent among minority cops as they are among white ones.

Left unchallenged by these so-called critics of the NYPD is the social order that the police are deployed to uphold and enforce, a system of vast social inequality that makes a mockery of the very concepts of equal justice and democratic rights.

Had the Bronx District Attorney's Office chosen to place the NYPD itself on trial, mounting an aggressive exposure of police brutality and placing Diallo's murder in the context of the daily acts of humiliation and violence carried out by the police, it is quite possible that another verdict would have been rendered. But this was the last thing the DA's office had in mind.

In the end, the DA is principally occupied with the prosecution of the endless parade of poor and working class people whom these same police arrest and against whom they testify. Together, they are partners in processing this layer of the population through New York's precincts, courts and prisons as a means of suppressing social discontent.

Putting an end to atrocities like the killings of Amadou Diallo and Patrick Dorismond can be achieved only by means of a struggle that attacks the roots of this repression. It requires the independent political mobilization of the working class against the profit system, which breeds the social inequality and exploitation that make police violence inevitable.



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