

# **ANOTHER RUSH TO JUDGEMENT**

by

**Michael E. Conti**

Justice is not to be taken by storm.  
She is to be wooed by slow advances.

**- Benjamin N. Cardozo,  
'The Growth of the Law'**

The recent shooting of Amadou Diallo in New York City by four police officers has sparked a firestorm of criticism and outrage from civic groups, politicians, the media, and many in the public. The slant on the incident that is being propagated by various political factions and media groups is that of four white rogue cops shooting down an innocent black man for no reason as he stood inside the vestibule to his apartment.

A Grand Jury has indicted the four officers on second-degree murder charges.

While I am not attempting to defend the actions of the officers involved, (I do not have all of the facts), neither am I content to sit back and condemn four men solely on the basis of the version of events currently being disseminated.

I believe that what is needed at this point, both within the law enforcement community and beyond, is to examine what we actually do know. From the information I have reviewed, it appears that what is undisputed is that nineteen rounds struck Mr. Diallo after four officers assigned to the Street Crime Unit opened fire outside his apartment. According to reports, the officers have said that they believed Mr. Diallo was reaching for a gun. No weapon was found. According to a local resident who claims to have heard the gunfire, the entire incident lasted about five seconds. A total of forty-one rounds were fired by the officers.

It is easy to see how these circumstances can be interpreted in the worst possible way. However, while the death of any human being is regrettable, what is needed is a calm, considered examination of the core aspects of the incident. From what I have gathered, four primary factors in this incident are at the heart of the matter and the

controversy. While we have heard many people's interpretation of these factors, I would like to examine them briefly here, from a police officer's perspective.

### **Unarmed**

Any reasonable police officer or court justice will tell you that the fact that Mr. Diallo was unarmed is inconsequential. The critical consideration here that provides righteous justification for the use of deadly force is - and must be - "What did the officers believe at the moment they fired their weapons?" If they believed that Mr. Diallo had fired at them, or was about to draw and fire on them, then their use of deadly force was justifiable.

### **No police record**

Whether or not Mr. Diallo had any prior record also has no bearing on the situation. Disregarding the fact that the officers would have no way of knowing this unless they were familiar with him, all that matters is the perception of danger that the officers had at the moment they fired.

### **Black suspect, white cops**

The matter of race as a contributory factor is something that must be addressed on a case by case basis. Speaking from personal experience, I can attest that when presented with a threat while working I could care less about the sex, race, or nationality of the person presenting it. A threat is a threat. Of course, many people have cited race as being the prime factor in this situation. As we know, there have been past complaints of what some claim to be a pattern of civil abuse and mistreatment of minorities by members of the New York City Police Department. In fact, while making a speech before the House Committee on Appropriations shortly after the Diallo shooting, New York Congressman Major Owens cited many cases involving the police and minorities in New York City and across the country. One of the things that I found particularly interesting in this speech was Mr. Owens' comment about the Diallo shooting when he stated, "Of course, if this stood by itself as one lone incident where four policemen emptied their guns on an African in New York City it would not have caused the furor that it caused."

I believe that this is the defining statement regarding the way this case will be judged. For what Mr. Owens seems to be stating here is that these men should not be judged solely for the decisions they made and the actions they took during the fleeting seconds of this incident, based upon what they knew and perceived at the moment it occurred. Rather, he would seem to suggest, these four men should be judged based upon the actions of other individuals in other unrelated, though similarly high profile, incidents.

This approach hardly bears any resemblance to due process.

### **Officers shot 41 times**

The final aspect that is being severely criticized is the number of rounds fired at Mr. Diallo. Speaking as someone very familiar with pistols who has been heavily involved with police firearms training and operations, I can confidently state that the average officer, working under the incredible stress and fear of a life threatening situation, can fire every round in his weapon in mere seconds - and not realize how many rounds were fired until well after the incident. In fact, the statement made by Mr. Diallo's neighbor relating to the time frame during which the rounds were fired is probably fairly accurate. Four officers firing 41 rounds in about five seconds is not beyond reasonable comprehension, especially if they believed themselves or their partners lives to be in great peril. Contrary to the March 8<sup>th</sup> New Yorker Magazine cover, the hit rate of 46% would also seem to indicate that the officers were not taking careful, marksmanship-like aim with their weapons, but were instead firing reflexively in great haste. Such a performance would be consistent with men operating under great stress in response to a severe fear stimulus.

### **Media response**

The New Yorker magazine cover itself also bears examination, as it is indicative of a larger problem at work here. For those of you unfamiliar with it, the cover, drawn by Pulitzer Prize-winning artist Art Spiegelman, depicts a police officer at a shooting gallery firing at targets that are obviously non-threatening. Just to make sure we get his point, he

included silhouettes of a businessman, a child with an ice cream cone, and an old woman with a cane. A caption reads, "41 shots, 10 cents."

That the artist insulted a profession made up not of cold-blooded Nazis but of decent people from the very society he depicts at risk seems lost on him. That he insulted a profession made up of people who place their lives on the line each day simply by donning the uniform seems of no consequence to him. Predictably, rank and file police officers, their families, and supporters created a furor over the capricious depiction. The cartoonist's response to this was to state that he hoped it made police officers angry for he believes that the public now fears the people who are supposed to protect them.

What Mr. Spiegelman and the editors of New Yorker Magazine do not seem to realize is that irresponsible exercises of the First Amendment do indeed have an impact on the law enforcement community and society at large. Unfortunately, however, it is not of a beneficial nature.

For while many of us in law enforcement may become incensed over the rush-to-judgement mentality, cheap shots and criticisms, most of us realize that the police have always been, and will always be, an easy target in an open democratic society. The very nature of police work insures that if we are out there, doing our jobs, we will sometimes be forced into making instant decisions on the information we have available at that precise moment - and these decisions may not always appear reasonable to others who were not there at that moment, who did not believe with their very being that their life or the life of another innocent person was about to end at that precise, frightening second in time.

And when the majority of people in our society, spurred on by the media, begin to automatically suspect any action taken by the police and believe the worst before all the facts are in, then the natural response of any intelligent person employed as a police officer will be to simply shy away from becoming involved in any situation that might result in them having to make one of those decisions, and face the firestorm of distrust, anger, threats, and cheap media shots such as those we have seen these past days.

What must be considered should the majority of citizens employed as police officers adopt the "I don't get involved" mind set, is the resultant chaos and anarchy that

is sure to occur when the criminal segments of our society find their activities virtually unimpeded.

Fortunately, that day is not yet at hand. If we wish to prevent it, then we all owe it to ourselves and those four police officers in New York City to keep open minds and not rush to judgement.

---

*Michael E. Conti, author of the book, IN THE LINE OF FIRE: A Working Cop's Guide to Pistolcraft, is a state police officer and training consultant.*