

The deal: 'Let us off and we'll let you off'

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AUG. 14 WAS James and William Gilmartin's day in court, but what happened to them in Judge Charles J. Durham's courtroom had little to do with justice.

The James, 20, and William, 18, were on trial for police charges of resisting arrest, disorderly conduct, and battery, the question of their guilt or innocence did not seem to be of prime consideration to Judge Durham.

Instead, the judge engineered a deal from the bench that would protect the policemen from police brutality charges lodged by the Gilmartins. It would be a deal that would intimidate the boys into denying the facts to win their freedom.

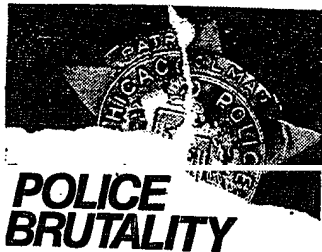
A five-month Tribune investigation of police brutality showed that this curious method of courtroom bargaining is common in Chicago courts when arresting officers face brutality complaints.

The Tribune also found, however, that the Police Department and the courts often ignore police misconduct. Rather than punishing the offending policemen, the system forces brutality

If a citizen has been abused by a policeman, his final recourse for justice is in the courts. If the policeman is guilty of brutality, the courts should punish him. If the victim has been unjustifiably charged with criminal acts, the courts should exonerate him. If the victim has been injured physically and financially, the courts should award him damages. A five-month Tribune investigation of police brutality showed that the courts in Chicago do not always respond that way. This is the eighth in a series of reports compiled by The Tribune's Pulitzer Prize-winning team of chief

victims to expend all their energies defending themselves against spurious charges.

THE GILMARTIN brothers faced what has been called the "holy trinity" of criminal charges policemen lodge



investigator George Bliss, Pamela Zekman, and William Mullen, and reporter Emmett George.

against victims of their own brutality: disorderly conduct, resisting arrest, and battery.

The charges are made for a purpose—to intimidate and blackmail the victims with possible convictions, jail sentences, and criminal records.

It is the policemen's way of protecting themselves. In exchange for dropping the criminal charges, they can win a promise from their victims not to sue and to drop police brutality charges lodged against them at the Police Department's Internal Affairs Division.

If the victim is not willing to make a trade, the policemen can work for conviction on the spurious charges—and win it more often than not. The conviction is then used to bolster their defense against the IAD brutality investigation.

Director Alfred Conrad of the Internal Affairs Division said the department was aware that policemen might be tempted to place phony charges against a brutality victim to justify their violence.

"I can't say if it's true," he said, "and I can't say if it's not true."

TO GUARD against any such practice, he said, [former] Supt. James B. Conlisk Jr. issued a general order a year ago to make it mandatory for

every district commander personally to approve battery and resisting arrest charges.

However effective that general order was, it was not effective enough to keep the Gilmartin brothers out of trouble.

The Gilmartins were more than willing to trade with the policemen. They were terrified of going to jail because their jobs in a steel foundry are the sole means of support for them, their mother, Delores, and her three smaller children.

They said, too, they were afraid of the policemen who patrol in their neighborhood. The family lived in an apartment at 2757 E. 79th St., one of the last white families left in a neighborhood that started changing to predominantly black several years ago.

It was the family's fear of the neighborhood that started the incident. Their apartment had been burglarized twice, and Mrs. Gilmartin hadn't let the children play outside for more than a year

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'Let us off and we'll let you off': Courtroom deal

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because she feared they might be attacked.

LAST JUNE 8, Mrs. Gilmartin arrived home with her three smallest children and a load of things in her car trunk. It was 11:30 p.m., and she parked illegally in front of her door to unload the car. She was afraid to park farther away and walk back with her packages, she said.

While she was unloading, James and William arrived home from their night-shift jobs. She left James with another son, Dennis, 12, to park the car in a legal spot for the night.

James was pulling away from the curb when Patrolmen George Cornish and Reginald Williams drove up and stopped him. He said he tried to explain why the car had been parked illegally, but they wouldn't listen.

Mrs. Gilmartin came outside and tried to tell one of the policemen she was the one who had parked illegally, and should get any ticket.

"He grabbed me right in front," she said. "He took me by the blouse and pushed hard, and told me I was interfering with an arrest."

When he saw the policeman grab his mother, James jumped out of the car and shouted, "Get your hands off my mother."

"He punched me," James said. "I fell down on the street, got up, and he punched me again."

MRS. GILMARTIN started pleading with the policeman not to hit James in the head. She told him James was still recovering from a serious head injury.

A family friend, a black man who lived across the street, said people started pouring out of the neighborhood bars and began encouraging the black policemen to "kill the honkies."

"I tried to quiet it down," the neighbor said. "To me those people [the Gilmartins] were always real nice, and there was no call to treat them that way."

"They [police] didn't like a black man coming to their [the Gilmartins'] defense like that, I guess."

He said one of the policemen asked, "Do you want some of it, too?"

The neighbor saw the incident from the start, and he disputed the version Cornish and Williams wrote in their arrest report.

The policemen charged that James hit Cornish when the policeman tried to issue the traffic ticket. They said

Williams called them "prejudiced black pigs picking on whites" and tried to interfere with James' arrest.

THE BROTHERS retained Atty. William Reynolds, a law partner of Ald. Edward Vrydolyak [10th], to defend them in court.

On the day of the trial, Judge Durham summoned the family and the policemen into his chambers to hear each side of the story and work out the "deal."

Judge Durham's opening statement to the court made it clear to Atty. Reynolds what the plan was.

"Well," the judge said, "I'm not going to drop the charges against them until charges against the policemen are dropped, period, and nothing pending."

Reynolds told the judge that the family had filed only a preliminary IAD complaint, that they hadn't made a full statement yet, and that they were ready to call off the complaint as the judge desired.

Judge Durham reiterated that he must have assurances the IAD would drop the case.

"Otherwise," he said, "I will keep it [the criminal charges] pending. You should drop the whole matter and chalk it up to bad experience on both sides. . . ."

Reynolds apparently placed a call to the IAD at this point to get its assurances it would drop the investigation at the Gilmartins' request.

JUDGE DURHAM explained to Cornish and Williams, "I am trying to keep these boys from having a record, but, at the same time, I want to keep your jobs intact."

Reynolds returned to the courtroom and announced:

"Judge, I just spoke to one of the investigators down at the Internal Affairs Division, and I informed him that the [complaint] would be withdrawn. He said he will note the file. He said it was previously noted that it was withdrawn, he would like me to send him a letter so that they will have something on their file. . . ."

Durham then insisted the Gilmartin brothers come before him and swear under oath they would withdraw the charges. The exchange went like this:

Judge Durham: "These charges that you lodged against the officers, do you wish to withdraw them?"

James Gilmartin: "Yes, sir."

William Gilmartin: "Yes, I do."

Judge Durham: "And, I would like to

add, that they had no basis in fact, that the charges were unfounded to begin with?"

James: "Yes, sir."

William: "Yes, sir."

Judge: "All right. That is your sworn testimony, both of you?"

James and William: "Yes, sir."

Judge: "Nobody has got a right to fight with a police officer in the performance of his duty. Now, give him a release . . . and this arose out of a simple traffic citation. Order of the court, S. O. L." [S. O. L. means the case was stricken with leave to reinstatement.]

JAMES EXPLAINED later he knew he had been forced to ignore the truth in court.

"I didn't want to go to jail," he said. "The judge told us the cops would be fired and we'd go to jail; so the best thing to do was to say it never happened, and we would all forget about it."

Confronted by The Tribune, which obtained an official transcript of the trial, Judge Durham denied that what he had done was intimidation.

"It [the trial] might have the appearance of shotgunning the defendants," he said, "but it certainly wasn't. It wasn't intimidation. Absolutely not. It appears to be intimidation."

Rather, he said, he may have been guilty of "poor use of language" in extracting the promises from the brothers.

"A court like mine can't affect actions on an IAD complaint," the judge said. "But the average defendant doesn't know that. He doesn't think he can pursue the complaint."

THAT WAS EXACTLY the impression left with the Gilmartins, who hastily informed the IAD that they were withdrawing their complaint. As a result, the complaint is considered unfounded, and the incident will never be considered a mark against Cornish and Williams.

The judge called the deal one of the "little secrets of the trade" used by judges to alleviate crowded court dockets.

"There is no legal prohibition against it," the judge said, "and there is no legal sanction for it. It is done according to custom."

"There's no harm to the community, and we have dispensed what we call justice, altho some people don't agree that's what it is."



Stanley Rokiciak [right] with his father-in-law, Matthew Krol.

Tribune Photo