

Light charges draw fire

Cops' trial brews quiet controversy

By PAT SHELLBARGER
News Staff Writer

Three Detroit police officers are scheduled to go on trial July 10 in Recorder's Court on charges that they beat a couple in a west side apartment building.

The case, while drawing little public attention, has raised a controversy in the police department because of the comparatively light charges. Some officers have said the policemen may have been given preferential treatment because one is a friend of Dominick R. Carnovale, chief assistant Wayne prosecutor.

Carnovale and his boss, Prosecutor William L. Cahalan, denied the friendship figured into the case.

THE THREE officers — Robert Dixon, Phillip Torbitt and Joseph Stefankiewicz — were off duty at the time of the incident and are facing charges of assault and battery, a 90-day misdemeanor.

While refusing public comment, some officials familiar with the case insist Dixon — and possibly the others — should have been charged with felonious assault because Dixon allegedly used a handgun to beat one victim on the head.

State law says the charge of felonious assault can be brought against anyone accused of using a weapon.

In addition, if the three had been charged with the felony they could have been prosecuted under a new state law that requires a mandatory two-year prison term for anyone convicted of using a firearm during a felony.

The three are accused of the April 12 beating of Robert Carson and his friend, Maxine Thomas, in their apartment building at 12890 West Outer Drive.

"We had ideas of what the charge should be," said acting Deputy Police Chief Revel Brawner, head of the Internal Controls Bureau. "We kind of had in mind something heavier than assault and battery. I really can't say any more."

CAHALAN DEFENDED the decision to charge the men with a misdemeanor, claiming Carnovale deliberately abstained from the case because of friendship with Dixon.

"But I don't know him from a load of hay," Cahalan said. "I made the decision

on how to charge them."

Dixon, assigned to the Vice Section, and Stefankiewicz, assigned to Narcotics, have been reassigned pending a departmental trial board hearing. Torbitt is a police dispatcher who was already suspended April 25, after he allegedly failed to send a scout car promptly to the home of an elderly couple later found slain.

Carson claimed that minutes before the alleged attack someone lit a firecracker outside his apartment and shouted a racial epithet. He acknowledged grabbing a sawed-off shotgun and charging from the building to seek the culprit, but claimed he soon returned and replaced the gun.

The three officers, however, told investigators they saw Carson with the gun, and struggled with him while trying to disarm him. Carson insisted the struggle occurred several minutes later after he had put the gun away, left the building and returned.

HE SAID THAT when he returned, the three officers grabbed him, forced him into a vacant apartment and while Torbitt and Stefankiewicz held him, Dixon hit his head with the butt of his service revolver.

Carson was hospitalized for four days in Plymouth General Hospital in Detroit, where he received 13 stitches in the head and was treated for a possible concussion. His attorney, David L. Smith, said doctors have not yet let Carson return to his Cadillac Motors job.

Miss Thomas said she also was roughed up, but was not injured.

Carson reportedly told investigators that he had been subjected to repeated harassment because of his refusal to vacate the apartment building during renovations. Last week a Common Pleas judge ruled Carson has a valid lease and cannot be evicted.

Dixon is a tenant in the same building.

Cahalan defended his decision to charge the officers with the 90-day misdemeanor instead of a felony, saying: "We thought the end result would be the same. Either way they're likely to get probation since none of them has a record. And regardless of the outcome, they've still got to face a police trial board."

Cahalan said that had he chosen to charge the three with felonious assault, he

would have felt obligated to levy an additional charge of violating the new state felony firearms law, which carries a two-year mandatory sentence.

FELONIOUS ASSAULT carries a maximum four-year term.

"I did not feel the statute was aimed at police officers," said Cahalan, noting that city rules require police officers to carry their guns even while off duty. "You have to look at the intent of the Legislature."

Cahalan was one of the chief backers of

the law, enacted last year.

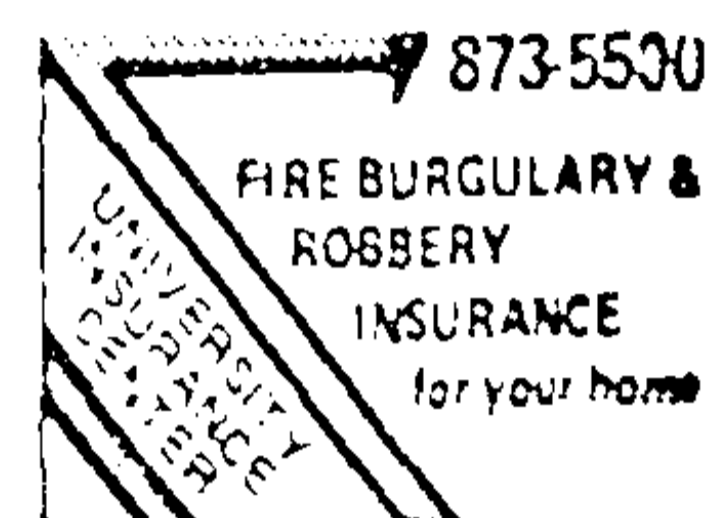
"They very well could have been performing their duty," he said. "It was a toss-up whether to charge them at all. In fact the reason we did charge them is that the only orderly means to get to the truth is to put people on the witness stand."

Only one Detroit police officer has been charged with violating the felony firearms law. Charles Lockett of the 12th (Palmer Park) Precinct was charged last August with violating that statute after he allegedly pistol-whipped a citizen.

Police hold 3 in gun slaying

Detroit police are holding two men and a woman in connection with the shooting death yesterday of a 35-year-old Detroit man on the city's east side.

Police said Roger Neal was shot once in the head during an argument in an apartment at 1090 Eastlawn.



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