

2 Policemen Are Indicted In Park Melee

Charged With Kicking Man in Tompkins Clash

By RONALD SULLIVAN

Two police officers have been indicted on assault charges for kicking a man during a wild police confrontation with hundreds of people in Tompkins Square Park on the Lower East Side last August, the Manhattan District Attorney said yesterday.

The indictments of the officers, the first to result from the widely publicized melee, were based largely on a videotape, taken by an amateur cameraman, that showed them kicking the man, the District Attorney, Robert M. Morgenthau, said.

He said the tape would be offered as evidence when the case against the two officers went to trial. The tape, which was shown on several New York City television news programs, showed police officers removing or concealing their badges and name tags and then kicking and beating people.

At Least 70 Injured

At least 52 officers and 18 people were injured in the clash in the park and required hospital treatment, focusing wide attention on the police's crowd-control techniques and leading to the grand jury investigation. The grand jury is also investigating three other incidents of possible police misconduct or brutality involving seven other officers, Mr. Morgenthau said.

In addition, 120 complaints of brutality have been filed with the Police Department's Civilian Complaint Review Board. So far, seven officers face department trials. Neither of the indicted officers is among those seven.

The two officers, James Gatto, 26 years old, and John Giglia, 25, who were assigned to the Highway Division at the time of the outbreak in the park, pleaded not guilty at their arraignment in State Supreme Court in Manhattan and were released without bail. Their lawyer, Joseph Librie, said outside the court that the indictment "is outrageous" and that they "will be vindicated at trial, if not before."

Suspended Without Pay

The two officers, who had been on modified duty, were suspended without pay. They face up to one year in jail if convicted.

A Police Department spokesman, Detective Joseph McConville, said he would not comment on the indictments except to say that "we will work with the District Attorney."

Mr. Morgenthau said the two officers were charged with third-degree assault for

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kicking Robert Arihood, 42, a construction contractor who lives near the park. He said Mr. Arihood was on his way home at about 3 A.M. when about 450 police officers tried to enforce a 1 A.M. park curfew.

He said that when Mr. Arihood was on Avenue A between East Fifth and Sixth Street, he was chased by several officers into a group of other officers farther down the block, where he tripped and fell to the ground.

Beaten With Nightsticks

Mr. Morgenthau said Mr. Arihood, a tall, heavyset man, was then beaten with nightsticks. He said the videotape also showed that Mr. Arihood was repeatedly kicked by several officers. But he said only two officers could be identified on the tape, filmed by Clayton Patterson from a distance of 20 feet.

Mr. Patterson, 39, of 161 Essex Street, was jailed for several days on civil contempt charges in September for refusing to turn the tape over to the grand jury. He was released after agreeing to give up the videotape.

The injuries occurred after the police formed riot lines and pursued protesters and onlookers through the streets surrounding the park. But only eight arrests were made, Detective McConville said.

Police Commissioner Benjamin Ward said a few weeks after the park melee that he had disciplined several patrol officers and ranking officers for using bad judgment or excessive force in trying to break up crowds.

The charges are the first to result from the clash with protesters.

But Mr. Patterson said yesterday that the two indictments and Mr. Ward's actions were not enough. "It's tokenism," he said in an interview. "These two cops are fall guys. No police brass, no higher-ups were indicted. This was just a cover-up."

However, Mr. Patterson's reaction prompted Mr. Arihood to criticize his delay in turning his videotape over to the grand jury. "Holding the tape back was Patterson's fault," Mr. Arihood said in an interview. "The situation was hot and people were willing to testify, but there was no evidence available because Mr. Patterson was holding it back."

As a result, Mr. Arihood said "people's memories faded and we couldn't identify others." For example, he said 13 officers beat him, but he was unable to identify any of them.

Cooperation in Inquiry

Mr. Morgenthau said in an interview in his office that the Police Department had cooperated fully in the grand jury investigation and that to his knowledge ranking officers did not "resist" his efforts to identify any officer suspected of assaulting civilians.

The police were faulted for overreacting to the taunts and epithets directed at them by many people in the crowd who were protesting the curfew and other actions by the police.

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The New York Times/Frankie Ziths

John Giglia, left, and James Gatto, right, with a police officer as they left the courtroom. The two were indicted yesterday on assault charges for kicking a man during the Tompkins Square Park melee last August.