

# Cops in the Courts II: Portrait of a Watchdog

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Leland J. Schwartz

Attorney John R. Williams has taken on the New Haven Police Department and slammed it harder than it has ever been hit before. Since last September the 30-year-old lawyer from Fargo, North Dakota, has brought more than \$5 million in federal lawsuits against at least eight detectives and as many high department officials including Biagio DiLieto, Chief of the New Haven Police Department.

The suits charge them with framing innocent people on drug violation, perjuring themselves at trial, coercing addicts to become informants by vicious beatings, threats and offers of a constant supply of narcotics and with actually supplying hard drugs.

Williams charges that New Haven policemen, particularly those involved in narcotics enforcement, use illegal police techniques as common practice. He says more than 90 per cent of all drug cases involve one or more form of police misconduct.

Basically, he blames the problem on undue public pressure to enforce the narcotics law, attempts to enhance the reputation of the department and dishonest ploys for individual commendations or promotions.

Most frighteningly, Williams says the corruption is the result of a widespread misconception within the police department: New Haven police think they know of all the evil people in town and feel justified in acting out their role as society's protectors by arresting them for doing nothing more than being on the blacklist.

Very candidly the wiry bearded lawyer describes himself as the product of his midwestern Protestant

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background—"the living embodiment of the Puritan ethic"—and says he's going to do everything he can to "put a stop to the injustice."

Late last August Chief DiLieto announced the arrest of nine young persons in connection with what he called "the largest drug seizures ever made in the history of the city."

In four separate raids gambling and narcotics unit detectives seized what they said they thought was close to half a million dollars worth of cocaine. All the suspects, ranging in age from 17 to 26, were jailed with bonds in excess of \$10,000.

"Together, these arrests represent substantial progress in our effort to track down and apprehend those narcotics dealers who operate on a volume basis and who represent the backbone of organized narcotics activity in the region," DiLieto said in a press release. "It is these individuals who victimize not only their addicted clientele, but the larger community as well." DiLieto noted a marked increase "during recent months" in drug arrests involving cocaine. "The reason for this," he told the *New Haven Register*, "is due to the increasing pressure placed on pushers in this area by members of the gambling and narcotics squad."

He pointed out that at the end of the summer of 1970 there had been a total of \$94,048 worth of drugs confiscated by the department compared with \$615,162 worth in 1971 after the "cocaine raids."

Two weeks later a very embarrassed police chief confirmed a story leaked to *United Press International* in Hartford that the state's toxicologist discovered the confiscated "cocaine" was nothing more than about 50 cents worth of medicinal quinine.

DiLieto, who said he immediately arranged for the release of the "suspects" and the dismissal of the charges, began what turned out to be an exhaustive internal investigation. The matter has come to be known as the "August Cocaine Affair."

Enter John Williams.

Twenty-six-year-old Calvin Smith was one of the nine arrested in the raids. He was the first to bring suit.

John Williams—the flower shirted, long-haired lawyer who handles a lot of drug cases and has argued in more criminal trials than any other lawyer in the county during the past two years—took Smith's case.

The news made page four of the *New Haven Journal-Courier* under the headline, "Legal Action Filed Against Police." The story said Smith was going to sue the department, charging that police framed, falsely arrested and then illegally imprisoned him.

The \$750,000 lawsuit claimed the cocaine possession charges were "the result of an extensive conspiracy of long duration among the defendants and others to enhance the reputation of the New Haven Police Department by arresting the defendant and many others upon fabricated charges of possessing narcotics."

In its 12 pages the complaint accused the department of "planting narcotics on innocent persons as a common practice, using tests for the presence of narcotics which are known to be utterly unreliable and valueless. . . . and hiring known drug addicts as informers. . . ."

Informers, the suit said, provide information and set up arrests for detectives who force the informers to cooperate by "providing them with narcotics, paying them sums of money, and subjecting them to beatings, abuse and threats of arrest. . . ."

Jorge Rames, another of the nine, followed closely with a near carbon copy of Smith's complaint, adding a tale of two informants who were ordered by three detectives to rob at gunpoint a Cumberland Farms store, were brought back to gambling and narcotics unit headquarters after being dramatically arrested by the detectives and then were permitted to shoot up with dope.

To date Williams has filed a total of 12 similar suits. He says there will be more.

It wasn't long before the six-member politically appointed Board of Police Commissioners started indicating the department might bring administrative charges against some of the officers involved in Williams' suits.

At one point the board even asked State's Attorney Arnold Markle to conduct an investigation into the matter.

After much haggling over form, the board in mid-January brought charges of misconduct and abuse of authority against four detectives, two in their late 20's, the others 30 and 35.

Williams says there is no doubt his suits precipitated the soon-to-be-held departmental hearing—the first of such magnitude in the city.

"They never would have touched the thing," he says assertively. "They wouldn't have even taken a look."

Two more cases of a non-narcotic powder mistakenly identified as illicit drugs unfolded in January. One involved a 24-year-old laborer who was arrested last July and reportedly jailed for two months while awaiting trial for possessing 16 bags of heroin with intent to sell.

The other was exposed in a \$250,000 lawsuit filed by Williams in behalf of a 25-year-old Yale employee who claimed he was arrested by two detectives on fabricated charges of possession of heroin.

**T**he common demoninator of the suits is the charge of false arrests, arrests backed up and pushed through the entire judicial process on the lubricant of perjury. Williams traces the problem to what he calls a unique, ascertainable police mentality.

"That's brought on by a variety of factors," Williams says, "Their tendency to stick together socially; the nature of their work; the police mystique, handed down from generation to generation, that they are the defenders of society and are themselves constantly under attack, and the diminished value for human life they acquire because of their contact with the 'grubbier' side of things."

"When cops go to court," he says, "the rather clear-cut views they have about what they're doing seem to be shared by all the people in the criminal justice system.

"I think what the cop sees is that he's doing his job. He arrests somebody and therefore the subject must be guilty. When the person goes to court the mechanism to some extent says to the cop that the person is presumed to be innocent and is given an opportunity to get a defense and so on and so forth.

"All of these things cause the police to retreat into little groups, bunching together when the thunder and lightning comes. Throw into this mixture the decisions of the Warren court and the application of the guarantees of the Bill of Rights—specifically the Fourth Amendment—and you have a real criminal law revolution that scares the cop to death.

"This revolution has been felt with particular severity in the area of narcotics law enforcement."

Before *Mapp v. Ohio*, Williams points out, "police were not restricted by the requirement of having a search warrant or by the requirement of having probable cause.

"The dragnet," he says, "was one of the first outlawed police procedures. Police could no longer bring in everybody in a given area, take out the rubber hose and find a suspect.

"When the Supreme Court suddenly said this sort of thing won't go anymore and if you come in and tell us what you've done we're going to throw the case out, the problem began to get serious.

"It was assumed the police reaction would be to change their procedure and go out and try to do some real detective work.

"But in the area of narcotics that, I must say, would be a difficult task because basically junkies live and normally stay in their own world.

"For some reason society demands that police go overboard in enforcing the drug laws. This pressure, coupled with the enormous difficulty in making arrests through honest detective work, started the police falling into a pattern of stopping anybody on the streets thought to have drugs, searching them and making an arrest if their hunch proved correct.

"Another approach is to stop people they think are involved with drugs, plant some on them, and make an arrest on the assumption that the suspect would have some narcotics hidden somewhere anyway.

"This gets perverted by cops who are just interested in their arrest statistics and don't give a shit whether the guy's guilty or not. And they pick on junkies simply because junkies don't usually fight back.

"When they arrest a guy on the streets just because they think he's got something, that's an illegal arrest because they have no probable cause.

"What they do then is go into court and say the probable cause was obtained from an unidentifiable reliable informant. The court says that's not enough, so the cop testifies that the informant has provided him with a number of arrests—usually eight or nine or ten—and that 80 per cent of those led to convictions. They always say the same things.

"But if they feel a bit insecure and they think they've got to beef it up a little more, they throw in some *Draper* facts, saying they were informed the suspect would get off a particular train at a particular time dressed in a particular way. This, the Supreme Court says, would be sufficient grounds to make a search. However, the description wasn't obtained before, but rather was recorded afterwards."

Judges are buying this, Williams says incredulously. "They believe anything the police say, no matter what they say. Everybody knows that's true and every practicing lawyer knows it. It's just a knee-jerk reaction," he says.

If the cop wants to build a stronger case still, Williams says, he'll add some "dropsy" testimony. "He'll go ahead and say the guy committed the crime in front of him and the way that testimony goes is: I walked up to the guy and the minute he spotted me he reached into his pocket, pulled the stuff out and threw it on the ground in front of me.

"That's the part that really gets me. Nobody would behave like that. Absolutely nobody. Sure some guy might try to secret the stuff, but the way the cops always tell it they throw it at their feet. It doesn't happen in real life, but the judges always believe it."

All of this, Williams says, is justifiable to the cop because of the police mentality. "They believe they know who the good guys are and who the bad guys are. The courts are frustrating them from protecting society from these bad guys, therefore, if they lie in court or plant drugs on somebody, it's all right. Any means to a good end."

He says for the cop it is easy to slip from that rationalization into 'well, getting a couple of commendations for me is a good end too, and these guys are all a bunch of bums anyway.'

"Then you get into the related problem of police brutality which is a different thing entirely and has to do with psychopaths on police forces.

"That is kind of the counterbalance to saying, 'Well, Williams is a nut. He's got a hangup with power and authority and that's why he does what he does.' Well, that's why a lot of cops do what they do because they have a hangup with authority and they like to kick people who are helpless.

"That's a traditional problem and every police force I suppose tries to cope with it to some extent, but I don't think they're doing all that they could. It seems to me that they could have a better weeding-out process."

Williams says part of the real problem relates to the way cops come together. "A cop sees an attack on another cop as an attack against himself even if he knows the other cop is a bum and, therefore, will defend his colleague and cover up for him. This is what's happening in New Haven now.

"Some of the bad things that are going on in the department have been common knowledge among cops for a long time, including many that haven't been happy with the practices.

"There was one cop in the gambling and narcotics unit who made no secret of the fact that he asked to be transferred to another division because he couldn't stand working with his partner because he was so corrupt. Yet he would go to court and commit perjury and cover up for his buddy. He always got away with it and is now one of the honored senior members of the department. They just don't rat on their friends."

**T**he reaction to the suits has been extreme, diverse, with nothing in the middle of the road. The highly publicized charges have had a marked effect on morale and have infuriated some, including DiLieto, and won the applause of others both in the department and in the community.

"I feel there are a number of cops who feel this is high time this happened," Williams says. "I think they are definitely in the lower ranks.

"Some cops have made offers of support and offers of help. On the other hand, there is a lot of antagonism, but that is mostly in the upper echelons of the department.

"I suppose if the chief of police is named in a suit he is not going to be happy about it, but on the other hand, if he were sincere in his claim that he is trying to weed out the bad things in his department, why would he resent somebody calling to his attention what those bad things are?

"But instead, it's well known that Chief DiLieto is anything but pleased that John Williams lives in New Haven. And it's well known that his right and left hand men feel the same way.

"The cops that don't like me don't make any secret of it. The other day, for example, I walked by some sergeants in front of City Hall—middle management people within the department—and I said hello and smiled as I always do. As soon as I was a bit passed them, one of them gave me a raspberry.

"Already the effect has been felt. The suits are slowly bringing about some public awareness and scrutiny into the problem, drug arrests have gone down because they're getting a bit afraid to plant so much, and certain guys don't work in G & N anymore."

Do you think John Williams is going to suffer for this? Will what he's doing hurt his reputation, his livelihood or his family? Will he get stifled in court?

"I've never been popular," he says. "There's only so much they can do and they've already done it.

"A lot of prosecutors don't like me and a lot of prosecutors dislike me intensely. A lot of judges hate me and others tolerate me. Some like me. But I think they all tread lightly because in criminal law you can go in with all barrels blazing.

"I do know they've all been watching me for a long time. I'm sure the police were investigating me ever since I was out on Congress Avenue for a night with the Panthers in 1967. My partners and I assume our phones are tapped."

Williams says they've done nothing concrete to dissuade him from carrying on his work. "One judge, however, told me I was giving them too much trouble and I would have to be disbarred. I consider that harassment.

"Lawyers in other cities doing this type of thing face much more, so I can consider myself lucky.

"My feeling is that whatever is going to happen is going to happen. I worked very hard to become a lawyer. I thought law school was a singularly unpleasant experience. I thought that preparing for the bar exam was very unpleasant. I thought that the few early years of my practice was unpleasant, very difficult and quite painful and having gone through all that, and having become a real lawyer, my view of it is that I'm going to utilize the things I worked so hard to get. If that gets people mad or gets me arrested, put in prison or disbarred, so be it. Otherwise, what is the point of becoming a lawyer in the first place if you're not going to use the skills that you have to do the things that you think are right?"

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Many of the police who are down on Williams accuse him of soliciting the suits, spacing them out and generating publicity. He says all of their charges are nonsense.

"In fact, I've been filing them as quickly as I can. There is no sense in denying that they could look spaced out and that, of course, has maintained publicity.

"Soliciting? That's absolute nonsense. Why would I have to go out and do that. How many other lawyers in New Haven do you know that would file these suits? Some of them have been referred to me by other lawyers. I just guess it's becoming a speciality.

"As far as the publicity is concerned, the problem has generated it, not me."

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In a direct sense Williams is an idealist. He is also quite unembarrassed about tracing a long trip from isolation and ignorance to his present days in court.

"My midwestern Protestant background had an excess of moral fervor in it" he says. "I think most of the people who were raised in the same time and place as I was tend to be in one way or the other moralistic.

"I'm just the living embodiment of the Puritan ethic. I think that given the particular set of values that I have evolved over the years, I am a crusader of sorts. I think that when I go into court with my clients it's with the air of a moral crusade, and always there is this feeling which I really have—and it probably communicates itself to some extent—that I am battling for large principles.

"It seems to me that the criminal justice system in this country is distinguished above all by its hypocrisy. It simply does not deliver what it promises. Given the type of background I have, I came to the practice of law with the belief that things were the way they said they were. When you went to court you were treated equally regardless who you were. The presumption of innocence was a reality and so on and so forth.

"I must have been a teenager before I had seen a black person. Everybody was fungible. We were all white, protestant, middle income, middlebrow. There were no rich people. There were no poor people. There was an utter isolation from the realities of the world that I am now exposed to.

"Even when I went to Harvard (Class of 1963) it was such a large place that you could always find people who were exactly like you were. I got married right after I graduated from college, and when I went to Georgetown Law School at nights, I worked my way through on staff of Senator Milton Young, who was a very conservative Republican from North Dakota. All of that was more of the same kind of world, and even though we were right in the middle of Washington, D. C., we were really isolated. Just having a senate staff plate on the back of your car was a guarantee you'd never get stopped for speeding or for going through a red light.

"My wife Brighid was a nurse and talking to her for a few hours at supper time was about the very first exposure I had to the real world. It struck me once I arrived in Hartford in 1967 right after I graduated and went to work in the General Counsel's office of Aetna Life and Casualty.

"Shortly after I arrived and passed the bar I became deeply involved in the volunteer defender program of the Junior Bar Association Hartford was running because the Legal Aid program did not include criminal defense work. Many junior lawyers who had prosperous practices donated part of their time to going into the lower courts and defending indigents accused of crimes.

"The first day I went into court with a minor case, I observed justice in action for the very first time, because, believe it or not, I had never been in a courthouse.

"The judge was a very old ex-congressman from Connecticut, which was how he got his job. One of the cases brought before him was a young woman in her late

20's or early 30's on a minor charge on an arrest warrant. She was not caught in the act of committing the crime, whatever it was, and it turned out she had little or no prior record.

"Apparently she had some small children at home and was not represented by an attorney, not even by the public defender. The assistant prosecutor handling the case told the judge the state wanted a bond of a few hundred dollars. I could not see why they even wanted a bond and he gave no reason. Clearly the violation was of a minor nature and she should have been released on her own recognizance.

"She began to cry and plead with the court to release her. She had no money, she was the recipient of welfare and she said she had two or three small children at home who she left behind when the police came to pick her up.

"She was actually humiliating herself in front of this man and the judge. The judge turned to the prosecutor and said, 'Under the circumstances, don't you think there's something we can do for this women?'

"The prosecutor very politely told the judge that there wasn't and that the state still wanted the bond. So the judge told the woman he'd like to help, but he had to do what the prosecutor told him. They took her away and I'm still as outraged about that now as I was then.

"I realized at that point that I wasn't going to be a corporation lawyer for very long. I got deeply involved with the program and at the same time became very active in civil liberties activities in Hartford. Very shortly I learned the New Haven Legal Assistance Association was doing criminal law. I came to New Haven in the spring of '69 as the LAA's senior criminal attorney in the Hill office."

Williams thinks the way poor people are treated in the criminal courts is "outrageous." "I also think the way rich people are treated when they're charged with a crime is pretty crummy," he says. "It's just worse if you're poor and worse yet if you're black.

"It's something that you have to live with day in and day out to appreciate its full horror. The system seems to be utterly rotten, utterly corrupt—but not because of any defect in the theoretical structure. Fundamentally, I think, the Bill of Rights is one of the finest documents ever written. The system of justice which is envisioned by the courts is good. There are room for improvements, but on paper it's pretty good. In practice it's not. It's a horror in the areas in which the reality diverges from the theory."

The most critical change Williams prescribes is that judges become sensitive to human beings, to the realities in the streets and who can truly deliver impartial justice.

"Most judges are to one degree or another assistant prosecutors," he says. "The great majority of judges are from that segment of society which feels threatened by poor people, black people and what they read in the papers about rising crime statistics.

"They believe that the police officer is the only thing standing between their wives and the ravaging Huns who are trying to break down the door and commit rape."

One day, Williams says, he accused a cop of lying in Circuit Court and the judge ordered the statement stricken from the record. "He admonished me and said if I ever made such a statement again I would face sanction from the court.

"After the case was over he called me to the bench and in a truly fatherly way said, 'We know that some of the things you say are sometimes true and we know that sometimes the police lie, but you must never say things like that in court because you'll help encourage disrespect for the law.' I think he was perfectly sincere."

Many prosecutors add to the problem, he says, when they get confused and see their roles as advocates for the police.

Williams complains that far too many public defenders are not adequately trained for their jobs. This is particularly serious, he says, because most people in criminal cases are represented by the court's lawyer.

"The especially scary thing is that many of the public defenders are political appointees and the people they represent have no interest whatsoever in the preservation of the present political order. If the public defender does, and he must if that's how he got his job, then he's actually in a conflict of interest with his clients at the very outset. It seems to me that in the private bar many of the good lawyers tend to be rebellious."

Williams categorizes himself as rebellious, admitting to a "real hangup with authority."

"I think I get a great deal of emotional satisfaction with doing battle with prosecutors, judges and police," Williams says, "and that is probably the reason I like to come back to my office every night and every weekend and why I haven't taken a vacation in years. It's a great American tradition throwing a snowball at the top hat."

Politically he places himself "somewhere near" an anarchist position. He says while that would tend to take some authenticity out of his charges in the eyes of some, it doesn't matter because, he says, "I'm not lying. Everything I charge I believe I can prove. That goes to defending cases, statements about judges, statements about cops or what have you. I do believe in what I'm doing.

"In criminal law, unlike civil law, you don't go in asking for a favor. By god, you're asking for your rights. I mean when we go to court we're demanding what the constitution is saying is ours. Nobody can take that away. If a judge takes it away maybe he's breaking the law and then he is going to be reversed.

"I know that there are things that we're entitled to and, somewhere back in the dim recesses of his mind, the judge knows and the prosecutor knows too.

The highly energetic, somewhat thin Williams has come pretty close to fulfilling the basic ingredients of his childhood dreams. "I wanted to be a lawyer, a trial lawyer. I wanted to do big, exciting stuff. Although I envisioned myself as a prosecutor, that was only as a child.

"Aside from that, I wanted to be President and I've abandoned that. I wanted to be rich and I've abandoned that. Right now I can't imagine doing anything that I would enjoy more except one thing: doing the same thing on a larger scale."

The other day John Williams' five-year-old son Brendan (named in a toss up between Brendan Behan and Dylan Thomas) told one of his friends his father is a "crimefighter, a lawyerman."

"He's always understood that," Williams says, "but it took a lot of explaining before he could understand why I defend people who are arrested. 'But aren't they the bad people?' Brendan would ask, misled by television.

"I'm pretty sure he's got it straight now," Williams said with a smile. "The other day he told me he told his friend if they ever arrested me he'd punch the judge in the mouth."