

REPORTING POLICE MISCONDUCT: QUESTIONS AND ANSWERS

- **Why is it important to notice what was said and done before the police began threatening or hurting the victims?**

Because we need to know who was at fault. Did the police start it, or were they just responding to violence or flight on the part of the suspect?

- **In the video, were Anthony and Cecilia responsible for starting the incident because they said something disrespectful about the police officers?**

No. In our country, the Right to Free Speech means that citizens are entitled to criticize the police. Besides, the kids in the video weren't even talking to the police, they were having a private conversation.

- **In the video, did you spot any other potential witnesses? Do you think they'd be helpful?**

There were other two witnesses: a young man and a woman. The man looked like he might be afraid to get involved, and people might not believe his story anyway if he'd been drunk at the time. The lady seemed to be concerned about what was happening, because Officer Lou tried to reassure her by saying, "Nothing to see here, ma'am, everything's under control." However, she may have been too far away to see and hear properly. Nonetheless, it's important to talk to both witnesses, getting their names and a way to contact them in the future. (If you don't know these other witnesses, it's critical to make contact with them at the time of the incident, because it might be very hard to find them later.) In a police misconduct case, the more witnesses, the better.

- **If you're witnessing a police misconduct incident in real life, how close can you stand? Should you talk to the police or to the victim?**

Use common sense. Get as close as possible, so you can see and hear details, but don't get in the officers' way. Don't come up behind a police officer. Don't touch an officer or his/her equipment or vehicle. Avoid quick movements. Try to keep your hands in view. You have the right to watch the police — that's not "obstruction of justice." You also have a right to talk to the police or the suspect. But if the police say they don't want to talk to you, don't nag them. Above all, don't get sucked into a violent situation yourself.

- **What about taking photos or videos of police misconduct, like in the Rodney King incident?**

If someone can hurry and get a camera, that would be great. But if you're the only witness, it may be better to stay, using your eyes and writing notes — if you went away, you might miss something important. Again, you have to use your own judgment.

- **Aren't you taking a chance, if you report police misconduct like this, that the police will come and harass you?**

Yes, that is a chance that you're taking. You could try to report it anonymously, but lawyers, police review organizations and the media are not likely to pay attention unless the person making the report is willing to testify.

If you do want to report police misconduct, there are two things that will make you safer. First, make sure that lots of people know that you've made the report -- that way, it will be clearer that if the police go after you, they're just trying to get even. Second, get other witnesses to make reports, too, because there's safety in numbers. Only you can decide if it's a good idea for you to report police misconduct, given the circumstances in which you live.

But remember, for things to get better, people have to be willing to speak out. As a wise man once said, "If I am only for myself, what am I? And if not now, when?"

- **Was the arrest in the video unlawful, since it didn't seem that Anthony and Cecilia had committed any crime?**

Yes, the arrest was unlawful. The officers didn't think the kids had committed a real crime -- the police just came over to check on them out of curiosity. (If instead the police had received information earlier, actually linking Anthony and Cecilia to a crime, then the police might then have had adequate reason to detain or arrest them.)

- **What about when Anthony spit or when Cecilia ran away? Were those actions illegal?**

Anthony's spitting may well have been illegal, since in many areas there are laws against spitting (even on the sidewalk). Cecilia wasn't breaking the law by running away, since the police didn't have a legal reason for detaining her. (If instead the police had actually had a valid reason for detaining her, then running away would have been illegal.) Legal or not, spitting and running, in this situation, appear to have provoked the police to even worse behavior. However, even if Anthony and Cecilia had committed serious crimes, the police weren't justified in hurting them as they did, or in using hate speech.

- **Did the police use excessive force in dealing with Anthony and Cecilia?**

Yes. The police are only allowed to use force in proportion to the force used by the suspect, and only in order to restrain the suspect during a lawful detention or arrest. If this had been a lawful detention, Officer Duffy could have dealt with Anthony by turning him around and handcuffing him, but Duffy shouldn't have slapped Anthony. Nor should Duffy have jabbed him with a nightstick just for calling out to Cecilia. And if Cecilia had run away from a lawful detention, it would have been reasonable for Officer Lou to grab her and handcuff her. But he wouldn't be entitled to use a chokehold on her or try to whack her on the back of the head while he was handcuffing her.

- **Was Officer Duffy's demand to search Anthony's bag legal?**

No. The police officers didn't have an adequate reason to suspect Anthony and Cecilia in the first place, therefore the officers weren't entitled to search their bags. So Anthony was right in refusing to let the police look in his bag -- but he might have expressed it in a less challenging way. It's sometimes an advantage to say it formally, as in: "I don't consent to your searching my bag." That signals to police and lawyers that you know your rights.

- **Was Anthony guilty of resisting arrest?**

No, Anthony was entitled to object verbally. It was legal for Anthony to exercise his civil rights by refusing to answer questions and refusing permission to search his bag.

- **In the video, when the police used words like "nigger," "faggot," and "bitch," was that misconduct?**

Yes. Using this type of language is always against police regulations. And such words would be important evidence that the police were committing an act of discrimination and/or a "hate crime."

SELECTED ANNOTATED BIBLIOGRAPHY

- ☞ American Civil Liberties Union. Fighting Police Abuse: A Community Action Manual. New York: ACLU, 1997.

Be sure to read this when you're ready to set up a community group or project on police misconduct. Profiles of differing groups and their strategies (videocamera patrols, lawsuits, lobbying, etc). Which statistics are useful and which are misleading. How to start or improve a police review organization. Good bibliography and list of contacts. (54 pages)

- Bernards, Neal. Police Brutality: Recognizing Stereotypes. San Diego: Greenhaven Press, 1994.

Well-designed lesson in spotting assumptions and rhetoric. Uses marginal notes and follow-up exercises to analyze four sets of contrasting viewpoints on police misconduct. Young adult level. (36 pages)

- Bornstein, Jerry. Police Brutality. Hillside: Enslow Publishers, 1995.

Streamlined analysis of the history, extent and causes of police misconduct. Short accounts of five famous cases. Young adult level. (112 pages)

- DeSantis, John. The New Untouchables: How America Sanctions Police Violence. Chicago: Noble Press, 1994.

Chapters 1 - 13 focus primarily on particular police misconduct incidents and the communities in which they took place. Chapters 14 -18 discuss approaches for curbing police misconduct. (311 pages)

- Dudley, William, ed. Police Brutality. San Diego: Greenhaven Press, 1991.

32 brief opinion pieces on police misconduct, discussing its extent, causes and solutions. A few articles are rather weak, but most are useful. Final piece is an extensive case study. Young adult level. (160 pages)

- ☞ Kennedy, Adam and Adrienne Kennedy. Sleep Deprivation Chamber: A Play. New York: Theatre Communications Group, 1996.

Powerful play about an African-American student who is arrested and beaten up by the police. He is falsely charged with assault and battery on an officer, and goes to trial. Many very realistic sequences in which witnesses are rigorously cross-examined about minute details. Most scenes are short — one or two could be excerpted for reading aloud in class, or for paper or discussion topics. (72 pages)



Ogletree, Charles et al. Beyond the Rodney King Story: An Investigation of Police Conduct in Minority Communities. Boston: Northeastern University Press, 1995.

Very well-organized presentation of the results of an NAACP study. Analysis of the types and causes of police misconduct, followed by an array of recommendations on how to halt the misconduct. (198 pages)

Skolnick, Jerome and James Fyfe. Above the Law: Police and the Excessive Use of Force. New York: The Free Press, 1993.

History and psychology of police misconduct. Analysis of strategies for controlling police misconduct. (313 pages)

Walker, Samuel, Cassia Spohn and Miriam DeLone. The Color of Justice: Race, Ethnicity and Crime in America. Belmont: Wadsworth Publishing Co., 1996.

Analysis of race discrimination at each stage of the criminal justice process. Chapter 4 deals with police and police misconduct. Useful charts and graphs. (244 pages)

Winters, Paul, ed. Policing the Police. San Diego: Greenhaven Press, 1995.

Eight articles on police misconduct, with differing positions on the extent of the problem and how best to control it. (92 pages)