

NEW CASES, NEW CHALLENGES: STUDENT COMMENTS

Editor's Note: Even as we pause to assess the prospects and role of the black lawyer, it is important to remember that the struggle goes on. Black lawyers across the country are called upon to initiate and to respond to litigation having potential ramifications far beyond the boundaries of the particular dispute. Notwithstanding the need to involve other disciplines and to invoke other forums, judicial decrees emanating from litigation will continue to impact upon the rights, interests and common fate of black people. Consequently, the Board is pleased to offer three student comments focusing on ongoing cases of potential significance to the black community.

The student commentators deal with new twists on familiar problems. Stephanie Franklin's comment takes yet another look at the continuing search for ways to protect against misconduct and brutality by police who are charged with upholding the law. Nancy Love explores an innovative defense to the "reverse discrimination" allegation which has spawned a whole new genre of litigation. Charles Johnson wrestles with the difficult task of assuring implementation of even limited political concessions.

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UNITED STATES v. CITY OF PHILADELPHIA: A CONTINUED QUEST FOR AN EFFECTIVE REMEDY FOR POLICE MISCONDUCT

I. INTRODUCTION

*United States v. City of Philadelphia*¹ presents the first real legal attack on institutionalized police misconduct.² In this unprecedented civil action,

1. *United States v. City of Philadelphia*, 482 F. Supp. 1248 (E.D. Pa. 1979).

2. *Police misconduct* refers to all police behavior allegedly violating the constitutional rights of citizens. See *Suing the Police in Federal Court*, 88 YALE L.J. 781 (1979). Cases of "improper" or "unnecessary" use of force may be determined by the following standards: 1) If a citizen is physically assaulted by a police officer without an arrest (proper use of force requires an arrest); 2) If the arrestee did not verbally or physically resist the policeman (force should only be used if necessary to the arrest); 3) If the force was used to counter resistance to the arrest when the arrestee could easily have been restrained in other ways; 4) If force used in the presence of other policemen who could have assisted in subduing the arrestee, such as in the station, in the lock-up, and in the