

Ethnography of Legal Discourse

Professor Clark D. Cunningham

W. Lee Burge Chair in Law & Ethics

Director, National Institute for Teaching Ethics & Professionalism

Georgia State University College of Law

Atlanta, Georgia U.S.A.

cdcunningham@gsu.edu

www.clarkcunningham.org

Clark D. Cunningham

*The Lawyer as Translator, Representation as Text:
Towards an Ethnography of Legal Discourse*

77 Cornell Law Review 1298-1387 (1992)

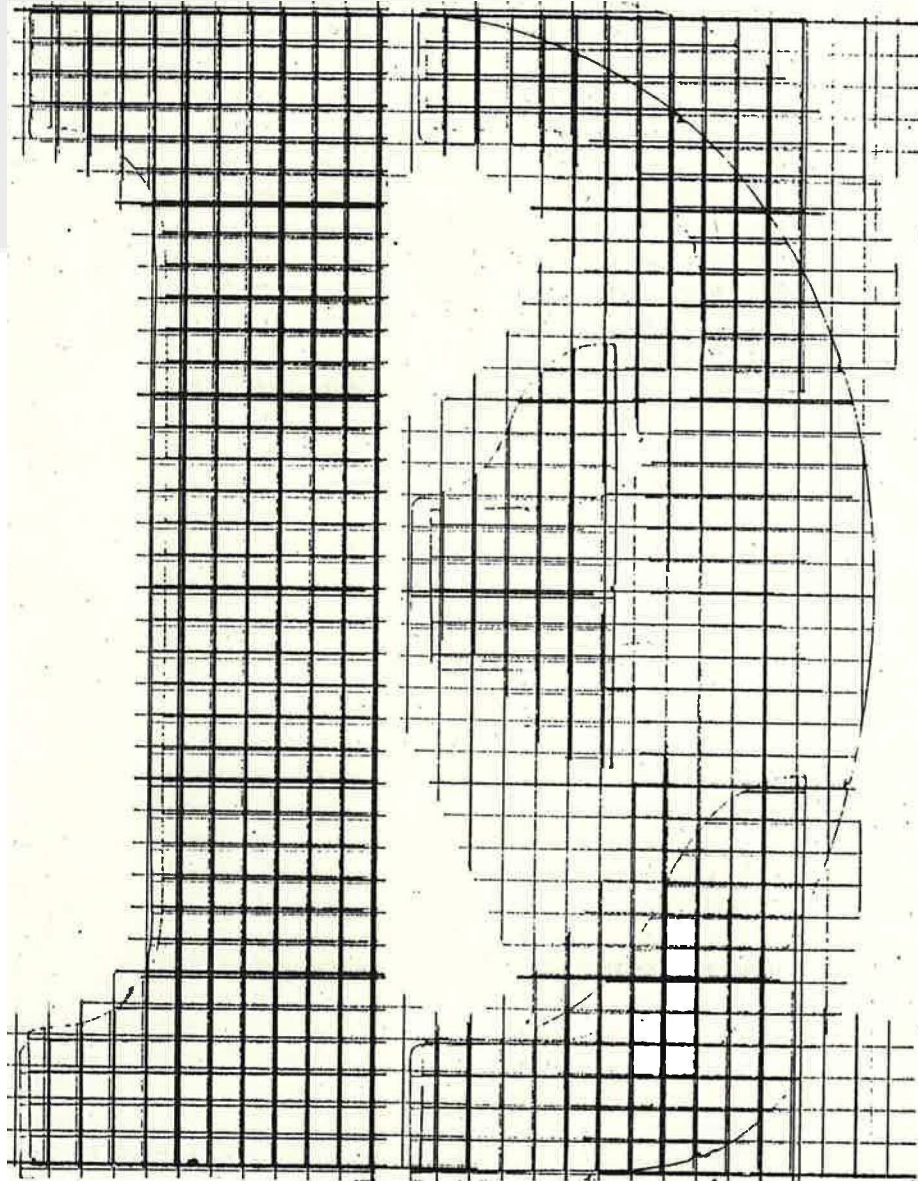


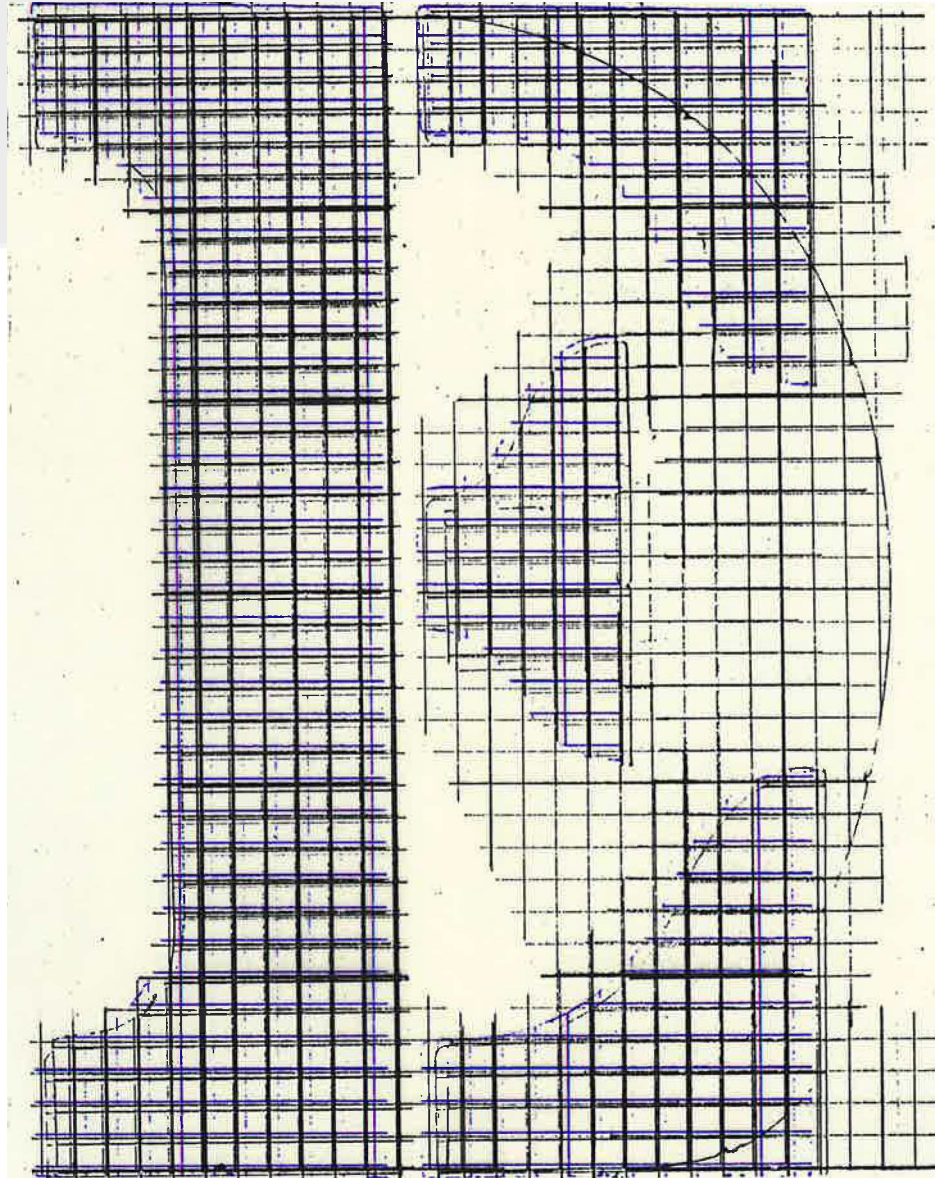
A theory of knowledge

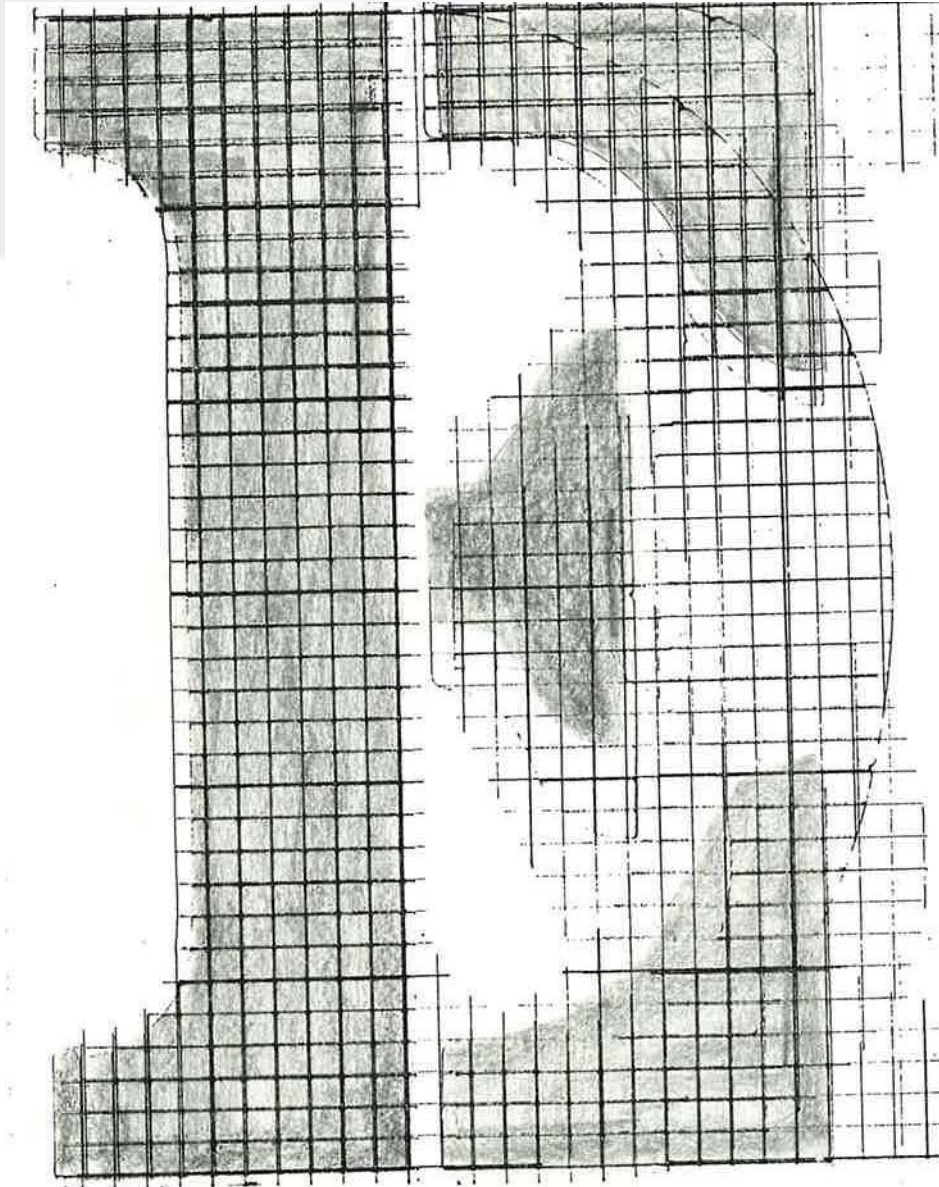
(with apologies to Ernst Cassirer,
Philosophy of Symbolic Forms)

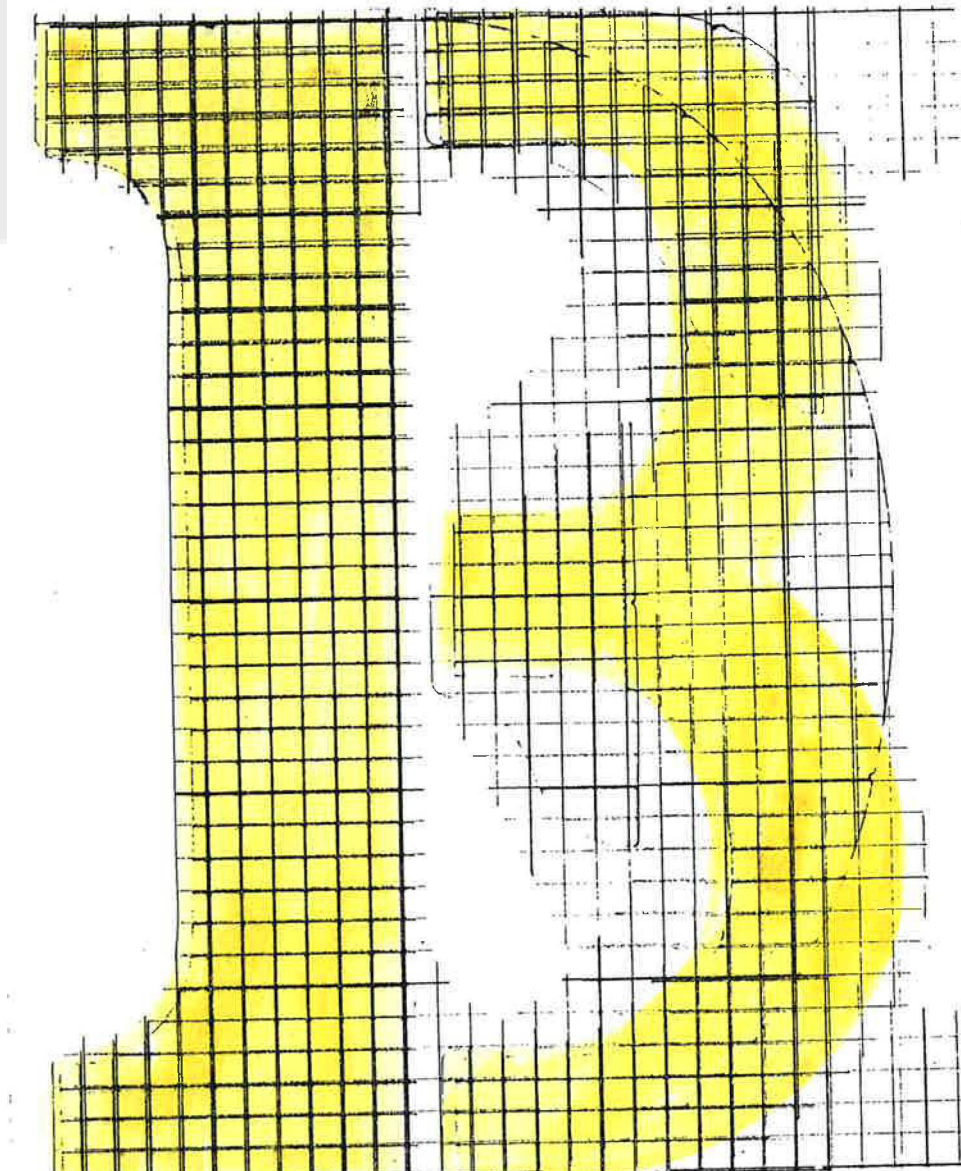
Mental activity

- Sensation (impulses from optic nerves)
- Experience (visual perception)
- Knowledge (concept – name)









Naming

- Reduces the particularity of experience
- To reveal inherent factors of form and relation
- And then formalizes and stabilizes

by Bros. & Co. Kalamazoo, MI 49002

Approved, SCAO _____ Original Complaint - Court Warrant - Court _____ 2nd Complaint copy - Prosecutor 3rd Complaint copy - Defendant

STATE OF MICHIGAN 148 JUDICIAL DISTRICT JUDICIAL CIRCUIT	COMPLAINT MISDEMEANOR	CASE NO.
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District Court ORI: _____ Court address _____ Court telephone no. _____ MI- _____

THE PEOPLE OF <input type="checkbox"/> The State of Michigan v <input type="checkbox"/> _____ Co-defendant(s)	Victim or complainant Complaining witness Daniel Kompolitowicz o information & belief Date: On or about 9-5-88
--	--

City/Twp./Village Hewitt at Washtenaw, Ypsilanti Twp. Washtenaw	County in Michigan	Defendant CTN	Defendant SID	Defendant DOB 4-25-59
Police agency report no. 4901-88	Charge DISTURBING THE PEACE	Maximum penalty 90 days and/or \$100		
Witnesses				

STATE OF MICHIGAN, COUNTY OF WASHTENAW

The complaining witness says that on the date and at the location described, the defendant, contrary to law,

did make or excite a disturbance in a business place, located at Hewitt at Washtenaw;
contrary to MCL 750.170; MSA 28.367; [750.170]

The complaining witness asks that defendant be apprehended and dealt with according to law.

(Peace Officers only) I declare under penalties of perjury that the statements above are true to the best of my information, knowledge and belief.

Warrant authorized on _____ by: _____
Date _____
Prosecuting Official _____

Complaining witness signature
Daniel Kompolitowicz
 Subscribed and sworn to before me on 10-04-88
 Date
Debra A. Dorc
 District Judge/Court Clerk/District Court Magistrate signature

May 8, 2025

STATE OF MICHIGAN 14B JUDICIAL DISTRICT JUDICIAL CIRCUIT		COMPLAINT MISDEMEANOR		CASE NO.	
District Court ORI: MI-		Court address		Court telephone no.	
THE PEOPLE OF <input type="checkbox"/> The State of Michigan v <input type="checkbox"/> _____ Co-defendant(s)		Victim or complainant Complaining witness: Daniel Kompoltowicz o information & belief Date: On or about 9-5-88			
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ORIGINAL DATE SEP 05, 1988		INCIDENT NO. 026 - 11-88	
TIME RECEIVED		FILE CLASS 5300	
WORK UNIT MSP YPSILANTI #26		COUNTY WASHTENAW	
COMPLAINANT TPR.S / #		TELEPHONE NO. (313) 482-1211	
ADDRESS: STREET AND NO. MSP #26		CITY YPSILANTI	STATE MI
ZIP 48197		INCIDENT STATUS 5 CLOSED	

NATURE OF INCIDENT

DISORDERLY PERSON/DWLS:

VENUE:

Primary incident occurred at: Intersection of Hewitt and Washtenaw Ave. Vehicle NB Hewitt crossing Washtenaw Ave.

Secondary venue occurred at: TOTAL GAS STA. located on the NW corner of intersection described in primary venue.

DATE/TIME:

Incident occurred on 09/05/88 at: 04:30 A.M. (Monday).

VEHICLE INVOLVED:

1977 Triumph 2Dr Convertable, Blue in color bearing 89/MI VRJ.
Disposition of vehicle: Towed from scene to Ypsi Towing. No Hold.

INFORMATION:

U/S while on patrol were EB on Washtenaw Ave approaching Hewitt Rd. Said intersection was controlled by a traffic signal, traffic signal was observed flashing Yellow for EB and WB Washtenaw Ave traffic.

Signal was further observed, Flashing RED for traffic NB and SB on Hewitt Rd.

Vehicle listed above was observed to be travelling NB on Hewitt Rd, and at an estimated speed of 35 MPH. Vehicle did NOT stop or slow for the flashing RED signal.

Vehicle was then pursued by U/S and a subsequent traffic stop ensued.

U/S observed driver of vehicle to look over at patrol unit, now about to make a NB turn onto Hewitt and behind target vehicle.

Upon making contact with the Driver U/S was met with irate actions, with Driver stating that this wasn't necessary. U/S advised the Driver that running a RED light was a necessary stop. Tpr. King making contact with Driver requested subject to produce his MICH Drivers license, Registration and Proof of Insurance for the motor vehicle.

Driver's attention was then directed away from U/S and to Tpr. Moss who was utilizing his hand held flash light to look into the driver's side of the vehicle. Driver was observed to make statements directed towards Tpr. Moss indicating to the effect, "What are you doing looking in my car"? Further, Driver stated U/S have no right looking inside his vehicle and that he knew the law well enough to know "WE" need a search warrant to look into his vehicle.

Tpr. King at this time again asked Driver to produce his License at which time Driver again asked what he was being "Harassed" for. U/S explained that they observed him run the RED light and that this was the reason for being stopped, and U/S did not feel they were conducting themselves in any offensive manner. Driver then began indicating that he did NOT run the RED light, that he came to a complete stop and that U/S were making this up for a reason to Harass somebody.

Driver continued with verbal accusations of U/S being the "Strong Armed Vigilantes" and "Taking things out of the Working Public". Driver repeatedly stated: "I have no respect for YOU people", and "You are Bigots".

When driver was asked questions pertaining to and surrounding the events leading up to the incident at hand, would make strong, detailed remarks indicating that the POLICE can't get away with these kinds of things.

U/S upon continuing the normal course of action on this traffic stop felt uneasy with the situation as the Driver was acting in a manner such to create U/S with a concern for safety of Officers. U/S has made many traffic stops and has not come into contact with persons acting in this nature without attempting to hide something or possibly having contraband or a weapon about their person or accessible inside vehicle.

U/S requested driver to place his hands on the hood of his vehicle and spread his feet back in the normal wall search position. U/S asked the subject if he possessed any weapons, guns, knives, etc.... Driver stated that U/S could not search him unless he was arrested for some offense.

U/S again explained to the subject that they wished to pat him down only to dispel the possibility of him having any weapons. Driver continually stated that he was NOT letting U/S pat him down. Driver was arrested for Disorderly Person. Driver was then handcuffed and patted down with no weapons being found.

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My Initial Naming

- Not actually a disorderly conduct case
- Improper “Terry-stop”
- That had escalated into a “pretext arrest”

Terry-stop

- 4th amendment to US Constitution
 - “The right of the people to be secure in their persons ... against unreasonable searches and seizures, shall not be violated”
- Terry v Ohio (U.S. 1968)
 - Police officer “stop and frisk” is a
 - [brief] seizure of the person and
 - [limited] search of the person
 - Can only be done if officer “reasonably concludes ... that criminal activity may be afoot and that the person may be armed and presently dangerous”

Terry-stop

- Can only be done if officer “reasonably concludes ... that the person may be armed and presently dangerous”
- “[I]n determining whether the officer acted reasonably ... due weight must be given,
 - not to his inchoate and unparticularized suspicion or ‘hunch,’
 - but to the specific reasonable inferences which he is entitled to draw from the facts in light of his experience.”

Pretext Arrest

- United States v Robinson (1973)
- If a police officer arrests a person
- The officer can do a complete body search without any basis to believe the person is armed
- Robinson decision created risk that police would arrest for a minor offense as a pretext for searching the person

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STATE OF MICHIGAN
IN THE DISTRICT COURT FOR THE 14-B JUDICIAL DISTRICT

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

-vs-

Hon.

File No. 88-

Defendant.

WASHTENAW COUNTY PROSECUTING ATTORNEY

BY:

Attorney for Plaintiff

P.O. Box 8645

Ann Arbor, MI 48107-8645

(313) 994-2380

MICHIGAN CLINICAL LAW PROGRAM

BY: Clark D. Cunningham (P33663)

Attorney for Defendant

363 Legal Research Building

801 Monroe Street

Ann Arbor, MI 48109-1215

(313) 763-4319

MOTION TO SUPPRESS

Defendant, _____, by and through his attorneys,
the Michigan Clinical Law Program, moves the Court for an order
to suppress any and all evidence of events occurring after he was
requested to submit to a pat-down search for weapons on the
morning of September 5, 1988.

The reasons this motion should be granted are set forth in
the attached brief.

Dated: February 9, 1989

Respectfully submitted,

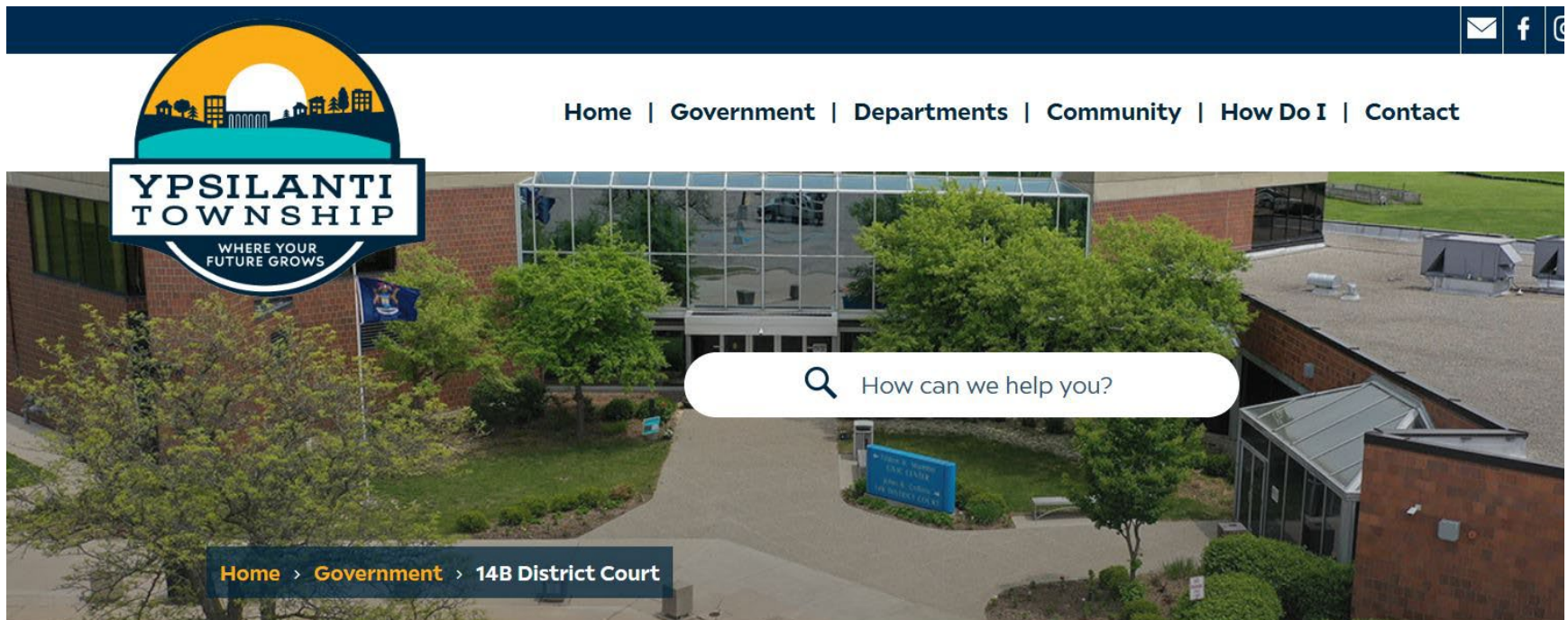
MICHIGAN CLINICAL LAW PROGRAM

In the police report there is absolutely no evidence other than unparticularized suspicion or hunch that defendant was armed and dangerous. The troopers approached defendant after he had emerged from his car. He stood in their plain view. There is no indication that the officers had any visual clue, such as a lump in his waistband, that might make them suspect defendant of carrying a weapon on his person. He made no threatening movements of any sort. Indeed, all that is reported is the irate questioning of the police officer's actions and accusations of misconduct and harassment. Taking the report at face value, we are asked to believe that the officers could reasonably conclude that defendant was "attempting to hid something or possibly having (sic)...a weapon about [his] person" simply because he made what some people would think were rude statements to police.

* * *

At no time during the incident in question did defendant do more than object to demands made of him by the police and ask the reason for these demands. The troopers could not have had a reasonable suspicion that defendant was armed and dangerous. The request for pat down thus was improper and the fruit of that unlawful conduct should be suppressed.

John B. Collins 14B District Court



Examination by Prosecutor

Q Now, tell me about his, about the defendant's demeanor.

A Very hostile toward the, myself and Trooper King.

Q What about his tone of voice?

A In an angry type voice.

Q What was the intensity of his voice?

A Loud.

Q What about his physical actions?

A Thrashing about, waving his arms and fists and saying.

Q Is this usual, on a civil infraction for somebody to act like this?

A No, no not at all.

Q At the point and time which you got out of the car and saw the defendant walking up to the station, he didn't appear to be acting in a way that would indicate that he was armed and dangerous, did he?

A At that point there was no way of telling, he had clothes on it was winter time, he could have been armed, he could have been dangerous. Any time you make a traffic stop, it could be an armed and dangerous person behind the wheel, or a passenger in the vehicle.

Q But there was nothing that he specifically did that indicated that he was carrying a weapon? At that point.

A Like I said, stated everytime we pull over somebody we treat it as if they were armed and dangerous.

Q So, at that point and time, you didn't really have any reason to believe there was any criminal activity afoot, did you?

A Besides running the red light, no.

* * *

A The reason Trooper King patted him down is that, for his safety along with mine. Any time somebody exits the car that we believe, we don't know ok, we do a pat down, it's not a search, it's a pat down for any sense of weapons.

Q I understand.

A And he, defendant ah, argued about that our pat down, was illegal and said you are not patting me down, that brings up our intensity level a little bit higher, more cause for alarm, so Trooper King patted him down for offensive

weapons.

Q. So, the reason, the main reason for the pat down was then because he had refused to submit voluntarily?

A Basically the pat down was done for the officer's safety, the troopers safety, myself and Trooper King.

Q If the defendant had not refused to voluntarily submit to a pat down search, he would have not been arrested for a disorderly person at that time, isn't that true?

A I can't ah, I can't say one way or another.

Q Because you did not make the arrest?

A You're asking me a hypothetical and I can't answer what would have been, I can only answer the facts of the case.

Q Was defendant's refusal to submit to the pat down search, one of the reasons he was arrested for being a disorderly person.

A Yes.

Q At that point, what other things had he done, to be a disorderly person, other than refuse to submit to the pat down search?

A By saying that the only reason that we stopped him was because he was black, that we couldn't do things that we did as far as myself flashing the flashlight in through the windows to check for any contraband in the vehicle, Trooper King stopping him in the first place, because he knew his rights, his hollering at the, ah myself and Trooper King for things that he knew we were doing illegally, all led up to that, acting disorderly.

Judge's Naming: "attitude arrest"

THE COURT: Well, there's no doubt in my mind, this is definitely an attitude arrest and had the person not exhibited the attitude that he exhibited that he never would have been arrested, I think that's pretty obvious, and I don't think there's anything wrong with that. I think that officers out on the street are human subject to the same human responses that other people have, and that they react as humans react.

I don't have any problems at all with the traffic stop, this is a valid traffic stop. ...

Then the officer asked him, and again in the Terry case, they say once a valid stop was made the officer may engage in a protective search if there's reason to believe the stopped individual is armed and presently dangerous, on this particular case they didn't have any reason to believe that the person was armed and presently dangerous. I have said on numerous occasions and I think I'll continue to say until some Court tells me that I'm dead wrong, that the first duty a police officer has in this society is to survive and I don't think that I'm ever going to find that the police officer is acting unreasonably when he stops an individual for a valid stop and does a brief pat down to protect both himself and his partner.

In this particular case there seems to be a request for pat down which was denied. Now at that point and time, had the individual agreed to the pat down and it turned out that he did not have any weapon, then obviously that would have been the end of it and the police would have just exercised their discretion and moved on. On this particular case the individual case the individual says no, I'm not going to let you pat me down. At that point and time I think the officers exercised their discretion and said look, we didn't have to arrest this guy for disorderly conduct for running his mouth in the manner that he did, but if he's gonna act like this then we're gonna exercise that discretion and arrest him. Once they put him under arrest they have a right to do a pat down search, which they did. I think it's definitely an attitude ticket, no question about it.

CL: He whipped around and pulled in off of Hewett. In other words, he pulled in as if he was blocking my car. And, um, I didn't do anything about it, as far as I was concerned. And the guy said "Hey Yo." That kind of ticks me off. I saw a police officer getting out, putting on black gloves, and he says "Hey yo, you." And I said you're not talking to me, are you? "Yeah, I am talking to you." I asked him what he stopped me for. Well, he walked to me ---

ST: How far from the car were you when he called you?

CL: Four meters from the car. He pulled in front of the car, blocking it after I got out. And he was the first one out of the car because I really didn't realize they were there until he said "Hey yo". By that time he was right in front of my car and I was walking away. And I said, "You are not talking to me, are you?" And he said, "Yeah, you, yo." And he was putting gloves, his old black gloves on -- macho kind of thing. And ---

ST: Were they white?

CL: Yeah.

ST: Both of them?

CL: Yes. I said, "Is there a problem here?" He said, "Yeah - come here." And as he was talking the other officer had a flash light and was looking into my car.

ST: So that one guy was talking to you and the other guy was flashing a light into your car? Were you, were the windows in your car rolled up?

CL: Everything was rolled up. I told him, "You don't have permission to look in my car nor can you look without my consent." I wasn't sure but that's what I told them -- I'm not sure if that's the law. "But if you want to look, that's OK. I have nothing to hide."

I said, "What did I do wrong?" He said, "What's your name?" I said, "What did I do wrong?" He said, "What's your name?"

So they said, "Do you have your license?" "I don't have a license on me, it is in the car." So I went inside the car. And I said "I want to know why you stopped me."

So I had my wallet with my running bag with the gear. I moved all the bagels and reached out my wallet.

He said, "You stand over here." I said, "What's the problem? And he said, "You stand over here." He said, "Are you going to be a tough guy?." I said, "I want to know why you stopped me. You just can't arbitrarily stop me for no reason."

So then the guy takes out his cuffs. I asked him, "What are you doing?" I said "You are arresting me?" But he didn't say a thing.

ST: He didn't answer you !?

CL: No. No. I told him, "Now unless I'm mistaken and unless I'm misinterpreting the Supreme Court opinion, if you are putting cuffs on me, and you are detaining me, I am certainly under arrest. And if you are arresting me, then read me my rights and then I want to know why you are arresting me."

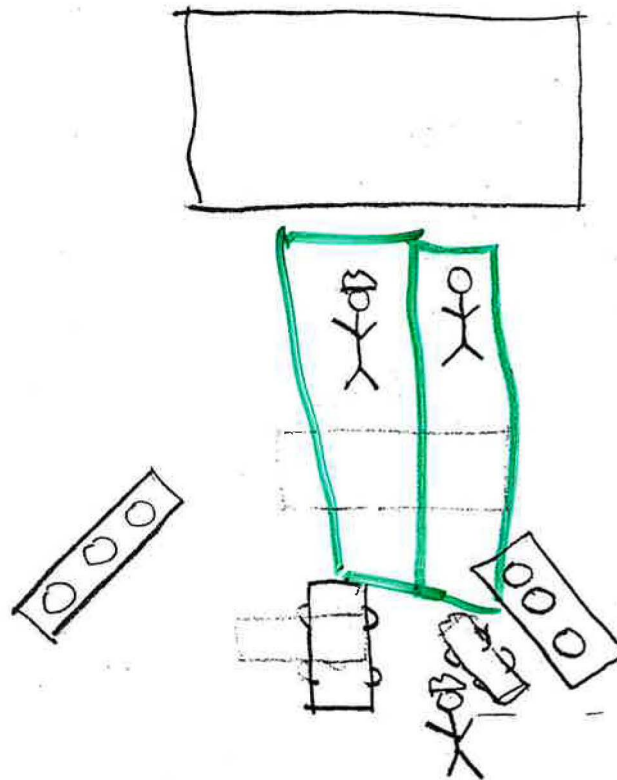
He put the cuffs on me, told me to turn around, and I said, "I want to know why you are arresting me." He sort of turned me around and pushed my head forward.

CL: Part of the conversation when my face was on the hood was essentially that I let him know I did not appreciate him addressing me --

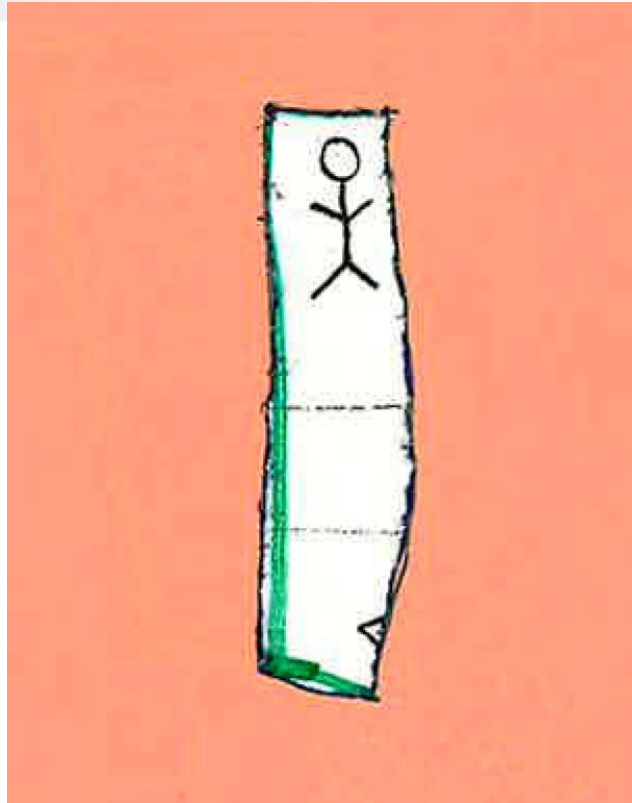
ST: In what type of language did he use?

CL: In the type of language he used. He didn't use profanity. He just [inaudible]. I told him that I was a tax-payer. If this was a suburbanite, you wouldn't approach him with "Hey, yo." My wife and I worked hard to go to school to be respectable, and I didn't appreciate you treating me like I was a sixteen-year old kid, which obviously I am not.

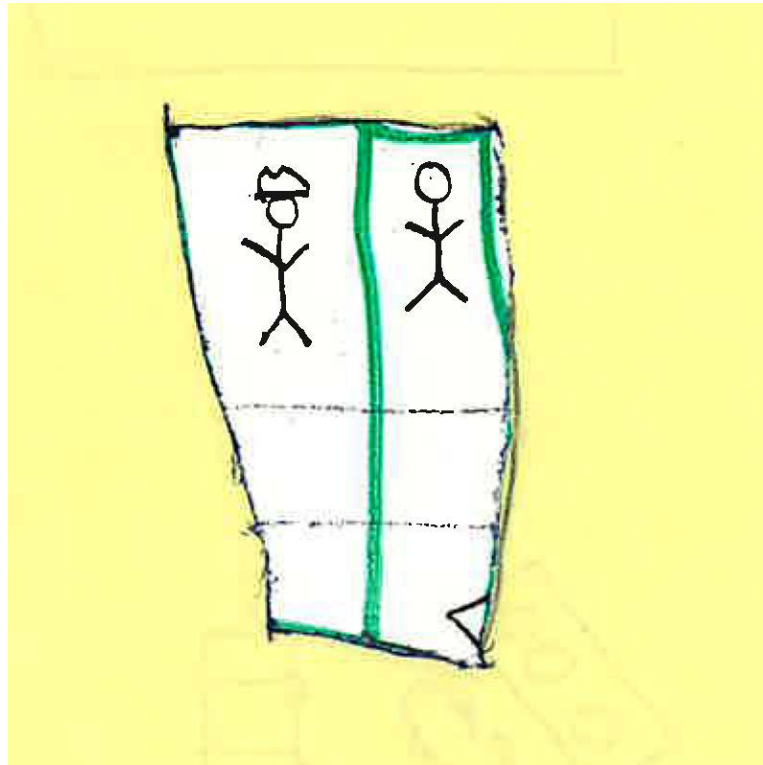
He claims that, he claims then that "I treat everybody like that." "Well I don't think you do, personally." And that was really the end of the story.



“author of his own problems”



"attitude" in relation to ...



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ST: He didn't answer you !?

CL: No. No. I told him, "Now unless I'm mistaken and unless I'm misinterpreting the Supreme Court opinion, if you are putting cuffs on me, and you are detaining me, I am certainly under arrest. And if you are arresting me, then read me my rights and then I want to know why you are arresting me."

He put the cuffs on me, told me to turn around, and I said, "I want to know why you are arresting me." He sort of turned me around and pushed my head forward.

CL: Part of the conversation when my face was on the hood was essentially that I let him know I did not appreciate him addressing me --

ST: In what type of language did he use?

CL: In the type of language he used. He didn't use profanity. He just [inaudible]. I told him that I was a tax-payer. If this was a suburbanite, you wouldn't approach him with "Hey, yo." My wife and I worked hard to go to school to be respectable, and I didn't appreciate you treating me like I was a sixteen-year old kid, which obviously I am not.

He claims that, he claims then that "I treat everybody like that." "Well I don't think you do, personally." And that was really the end of the story.

"respectable"

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“relief”

- What a litigant seeks by filing a court case
- After the hearing we found out that before we represented him
- Prosecutor had offered to dismiss the case if he paid court costs.
- Johnson refused
- So what did our client want?

“dignity”

- “I would like to have my reputation restored, and my dignity.”
- Car was towed
- Held at police station for hours
- Late for work the next day
- People knew “he had gotten into some kind of trouble”

“honor”

- “It’s my honor, my name.”
- “I feel violated.”
- “They tarnished my name.”

Cross examination as “relief”

- “translate” gas station encounter into what jury sees in the courtroom
- “translate” relief into restoration of dignity and honor
- “restore my name” as a “respectable person” who deserves respect

PROSECUTOR: Your honor, in this case I've had an opportunity to talk to the police officers about this case. I've reviewed it myself. I've made the decision and the record should reflect its solely my decision that the People do not wish to proceed. We're moving to dismiss. It's a 90 day, hundred dollar misdemeanor. Under the facts of the case even if the Defendant were found guilty a nominal fine would probably be the appropriate sentence. I don't see a great use to the taxpayers of the State of Michigan to expend literally thousands of dollars with police officer's time and overtime, witness fees, court time, to proceed in this particular case. And again, its fully my decision. Due to the nature of the case, also due to the nature of other cases I have to have prepared by Monday morning I would like to state that the police were ready to proceed. They do not agree with my decision, that the witnesses were in fact here this morning and this is over their objection, the Michigan State Police. But I cannot justify a trial on the costs to the taxpayers of the State of Michigan.

THE COURT: Well, I said on the record from the very beginning that there was no question in my mind that it was an attitude ticket. I'm not saying that that's even improper. The police officers do have a good deal of discretion. We see it everyday. Sometimes they exercise it in a manner that we think is commendable, other times we think that maybe they shouldn't have exercised it that way. But nevertheless they do have discretion.

* * *

We give a man a badge and a gun and a bunch of training and put him out on the street, we have to assume that they have some discretion and give them some discretion to operate. I think this was an attitude ticket. We see a lot of attitude tickets and um, no question about it. If the person had behaved in a different manner the ticket never would have happened and I don't find fault with the Prosecutor in bringing it, I don't find fault with the Prosecutor in dismissing it.

“patronizing, patronizing!”

To his student lawyers:

- “I have big thing about respect.”
- “Sometimes it was as if you were talking to a child, trying to make me understand as if I had no common sense.”
- “The way you guys talk to me and approach me – it’s a little like the way Trooper Kiser approached me.”

patronizing

- Then speaking directly to me
- “You’re the kind of person who usually does the most harm.”
- “You have a guardian mentality, assume you know the answers.”
- “Oversensitivity. Patronizing.”
- “All the powers is vested in you.”
- “I think you may go too far, assuming you would know the answer.”

A totally different story?

- Johnson, after court:
- “I’m not trying to put my story against their story.”
- “They’re trying to paint a picture and I’m trying to destroy it.”

Going back to video of initial client meeting

- Cl I was having problems with the clutch; I had run down on hydraulic oil. And when I went shopping previously and [inaudible] observed I needed some gas, I went shopping for some oil because every time I went to a stop light, you know, the clutch, I couldn't shift it, so I had to turn it off, in order to shift it.
- St Wait. You had to turn the car off to . . .
- Cl You see, I was having problems with my clutch.
- St Right.
- Cl The significance will, will develop as I [inaudible].

“I proceeded to the gas station on Hewitt and Washtenaw”

- Cl: “There was a flashing red light, I turned the car because I couldn’t slow down and shift. Turned the car off.
- St: “So, did you come to a complete stop?”
- Cl: “Came to a complete stop.”

So why did police follow him to gas station?

- Driving a sports car (1977 Triumph)
- 4:30 am
- Johnson wearing jogging clothes
- In an affluent area (near a country club)

Upon making contact with the Driver U/S was met with irate actions, with Driver stating that this wasn't necessary. U/S advised the Driver that running a RED light was a necessary stop. Tpr. King making contact with Driver requested subject to produce his MICH Drivers license, Registration and Proof of Insurance for the motor vehicle.

Driver's attention was then directed away from U/S and to Tpr. Moss who was utilizing his hand held flash light to look into the driver's side of the vehicle. Driver was observed to make statements directed towards Tpr. Moss indicating to the effect, "What are you doing looking in my car"? Further, Driver stated U/S have no right looking inside his vehicle and that he knew the law well enough to know "WE" need a search warrant to look into his vehicle.

Tpr. King at this time again asked Driver to produce his License at which time Driver again asked what he was being "Harassed" for. U/S explained that they observed him run the RED light and that this was the reason for being stopped, and U/S did not feel they were conducting themselves in any offensive manner. Driver then began indicating that he did NOT run the RED light, that he came to a complete stop and that U/S were making this up for a reason to Harass somebody.

Driver continued with verbal accusations of U/S being the "Strong Armed Vigilantes" and "Taking things out of the Working Public". Driver repeatedly stated: "I have no respect for YOU people", and "You are Bigots".

When driver was asked questions pertaining to and surrounding the events leading up to the incident at hand, would make strong, detailed remarks indicating that the POLICE can't get away with these kinds of things.

U/S upon continuing the normal course of action on this traffic stop felt uneasy with the situation as the Driver was acting in a manner such to create U/S with a concern for safety of Officers. U/S has made many traffic stops and has not come into contact with persons acting in this nature without attempting to hide something or possibly having contraband or a weapon about their person or accessible inside vehicle.

U/S requested driver to place his hands on the hood of his vehicle and spread his feet back in the normal wall search position. U/S asked the subject if he possessed any weapons, guns, knives, etc.... Driver stated that U/S could not search him unless he was arrested for some offense.

U/S again explained to the subject that they wished to pat him down only to dispel the possibility of him having any weapons. Driver continually stated that he was NOT letting U/S pat him down. Driver was arrested for Disorderly Person. Driver was then handcuffed and patted down with no weapons being found.

Reasonable Suspicion,
St. Louis Post-Dispatch (1991)

- “Spend an evening on patrol with officers Burgess, Frank or Winter and watch them stop one car after another.”
- “They are especially interested in cars with two or more young black males ... which they say can be a telltale sign of a drug car.”

Reasonable Suspicion,
St. Louis Post-Dispatch (1991)

- "A curious things happens when some cars are stopped."
- "Without being asked, some of the male occupants get out, unhitch their belt buckles and place their hands on the roof of the car
- -- a frisk procedure they've obviously been through before."

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The last word – from Dujon Johnson

- “If my name is not used, I would be non-person again.”
- “I *want* to be identified.”
- “This anonymity has to end somewhere; I was anonymous in the courtroom.”

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Cunningham

Have I done a fair job of presenting what you said to us after the case was dismissed? Have I left out important things that were said? Are there thoughts and feelings you remember from that meeting that you did not express that you would like me to know about now?

Johnson

More or less. What I said, or meant to imply is that as white educated men (or as two law students), the three of you would never have to worry about finding employment or about providing for your families. This society is geared toward and protected by white men. No matter what the outcome of my case, no one's life would be changed. In fact, in a matter of time this would be forgotten by the attorneys themselves. I dealt with a situation which probably led to me losing my job at the University of Michigan, the loss of respect and dignity in my arrest, and now I was threatened with the very real and near prospect of being convicted. The very fact that I was involved in the legal proceedings, as I saw it, was a presumption of guilt (I have the two requirements: I was a person of color, and I didn't know my place.) This then was a fight of survival for whatever control I had left. How can I not have control of my life and still have goals, dreams, and ambitions? How could I be a husband? And father? How would my wife view me? Yes, these were things that were pressing against my mind when I referred to control over one's life. I felt very emasculated, less than a man.

Cunningham

Am I right in thinking that you did not tell us in our various meetings that you thought you were stopped because you were black? If you did tell us, can you remember when and how you told us and what our reaction was? If you did not tell us, did you think nonetheless that Kiser's actions were racially motivated? If you thought so, why did you not say so explicitly to us? (I have some guesses as to the answer to the last question, but would prefer to hear from you.)

Johnson

I did not tell you it was a racial issue, although I knew from the very beginning that it was (my arrest) racially motivated. I would have confided this, but who would have believed me anyway? I felt that on the basis of law itself that I did not have to interject the aspect of racial bias. I knew, legally, that Kiser's actions were wrong. And I felt I had taken the higher moral and legal ground.²⁴⁸

Johnson on the phone

- I didn't want to interject the issue of racial basis because I didn't want to cloud the legal issues.
- I felt that I had enough rights in the legal realm to go on; there was a sound legal basis for what I did.
- That which has not been said, hasn't been said; that would indicate I didn't want to say it.

Clark D. Cunningham & Bonnie S. McElhinny
*Taking It to the Streets:
Putting Discourse Analysis to the Service
of a Public Defender's Office*
2 Clinical Law Review 285-314 (1995)



Evaluating Effective Lawyer-Client Communication: an International Project Moving From Research to Reform

- Worldwide Advocacy Conference, Inns of Court School of Law, London, England (July 1998) (plenary address)
- The Conference on The Delivery of Legal Services to Low-Income Persons: Professional and Ethical Issues sponsored by the American Bar Association, Open Society Institute, and The Legal Services Corporation (Fordham Law School, New York City December 1998)
- Annual Meeting of the International Client Counseling Competition Board (March 1999)
- Midwest Clinical Teachers Association (October 1999)
- Inaugural Conference of the Global Alliance for Justice Education (December 1999)
- New York University Law School (September 2000).

Clark D. Cunningham

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VALUING WHAT CLIENTS THINK: STANDARDIZED CLIENTS AND THE ASSESSMENT OF COMMUNICATIVE COMPETENCE

KAREN BARTON, CLARK D. CUNNINGHAM,
GREGORY TODD JONES & PAUL MAHARG*

An international and interdisciplinary team from the Glasgow Graduate School of Law (GGSL) and the Dundee Medical School - in Scotland - and the Georgia State University College of Law (GSU) - in the United States - has undertaken an ambitious project to change the way lawyer-client communication skills are taught and assessed.



Dujon Johnson, years later



- Law degree from the University of Iowa (2004)
- MA in Chinese Studies, Univ of Michigan (2007)
- PhD, National Sun Yat-sen University, Taiwan (2012)
- LLM, Washington Univ. in St. Louis (2016)
- Assistant Professor, Department of History, North Greenville Univ, S. Carolina (2016)
- Peace Corps Response in Ukraine (2018-2019)
- ["Detroit man says he's going to Ukraine: I'm actually going to fight,"](#) Detroit Free Press (2022)
- ["Detroiter fights for Ukraine through education,"](#) Detroit TV4 (2023)