

NYPD Facebook probe raises free speech question

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In this Sept. 26, 2010 photo, police stand along the route of the West Indian-American Day Parade as parade participants make their way along Eastern Parkway in the Brooklyn borough of New York. The New York Police Department is investigating a Facebook group purported to be created by police officers entitled "No More West Indian Day Detail," rife with nasty, often racist comments about the annual parade in Brooklyn that has been marred by violence, including this year when two people were fatally shot. (AP Photo/Tina Fineberg)

(AP) -- The Facebook group was titled "No More West Indian Day Detail," referring to police patrol for a raucous annual Brooklyn parade.

Sprinkled among the frustrations aired about regulating the crowded, loud, often-violent event were comments that were more offensive. Some called the parade, held in a predominantly black neighborhood,

"ghetto training," and a "scheduled riot." Others referred to participants as savages.

The West Indian Day Parade celebrates the culture of the [Caribbean islands](#) and is one of the city's largest outdoors events. Food carts with spicy dishes and fresh fruit crowd a stately parkway and dancers shimmy wearing revealing feathered costumes.

But it's often surrounded by violence. Following the parade this year, a woman was shot to death while sitting on her stoop with her daughter, as police exchanged gunfire nearby with an armed man who'd opened fire on another person moments before. And others were shot to death during celebrations in 2003 and 2005.

"Maybe next year they should hold it on Riker's Island," one of the [Facebook](#) posts read, referring to the city's main jail.

At least 20 such comments made on the page may have come from police officers, [New York Police Department](#) officials said this week. Internal affairs detectives are interviewing officers under oath and getting subpoenas for computer records. Departmental charges could be brought, Police Commissioner Raymond Kelly said.

He said the department can discipline behavior determined to be unbecoming of a police officer or detrimental to the service - and that includes online outbursts.

"It is disturbing when anyone denigrates a community with hateful speech. It is unacceptable when police officers do it," Kelly said in a statement.

But the posts, however embarrassing or outrageous, also raise a First Amendment issue about whether officers should watch what they say,

online and off.

[Government employees](#) must be able to express their opinions, said Donna Lieberman, executive director of the New York Civil Liberties Union. Unlike private employees, governmental employees like police officers and firefighters are protected under the First Amendment that says the government can't restrict free speech.

"That comes into play not only when we like what they have to say, but also when they say obnoxious, disgusting and hateful things," she said.

Police officers are naturally guarded, and don't often talk about the job, at least not publicly. Thee Rant, an online forum where writers air angry and occasionally bigoted grievances about the nation's largest department and the city it serves, is anonymous.

But in the Facebook group, comments with names and photos were posted in arguably the most public of online forums. Some used the NYPD shield as their profile image. Even some of those who wrote in cautioned about being too explicit, and warned that the department was watching. None of the people whose names were associated with the posts replied to attempts to contact them for comment.

The city's largest police union, the Patrolmen's Benevolent Association, has long urged members to avoid social networks. In a union magazine column called "Tweeting all cops: Stay off those social networking sites," treasurer Joseph Alejandro said technology simply presents problems for police that it doesn't for civilians.

"Using these technologies can present a real risk to police officers' careers because information posted on them can easily be misrepresented and used against an officer," he wrote.

Police departments around the country prohibit officers to make any statements that have anything to do with work, said Maria Haberfeld, a professor of police studies at John Jay College of Criminal Justice at the City University of New York. The officers know this when they join, and, like the military, they should abide by the rules, she said. If the posts were from officers, then they violated the rules.

"It's a very political profession," she said. "It's a public profession. It's not just seen as one officer doing it; it's seen as coming from the department."

The Facebook group, which had more than a thousand supporters, has been taken offline, but copies of the posts were made public by lawyers who used the remarks in the trial of a Brooklyn man who was arrested before last year's parade. The majority of the posts centered on concern about violence at the parade, frustration about what they said was unchecked lawlessness, while other city parades staged in more notable locales, like Fifth Avenue in Manhattan, were policed more fervently.

"Why doesn't NYPD brass utilize crowd control techniques like they do at Times Square on New Year's? I know it won't stop the guns, but it can control the crowds," one writer suggested.

The police department has not specifically addressed concerns made in the post other than the statement issued by Kelly noting the entire matter was under investigation.

Even within the group's posts were messages urging caution: "Please keep it focused. This is not a racist rant. This is about us, the cops," one post read.

Lawyers with the Brooklyn Defender Services, a nonprofit public defender service, used the posts to argue the officer who arrested

Tyronne Johnson in 2010 in the early morning hours before the rowdy parade may have been biased. The officer was a member of the Facebook group, but didn't post anything. That link was first reported by The New York Times.

Johnson was acquitted last month.

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