

PUBLIC POLICY FRAMEWORK FOR RACIAL PROFILING IN CANADA

RACIAL PROFILING CASE STUDY → A RESEARCH PROJECT WITHIN THE EVERYDAY OPERATIONS OF POLICE SERVICES [AS A CASE STUDY ON HOW RACES ARE SURVEILLED/ CONTROLLED/ PROSCRIBED IN SOCIETY]

{In the social sciences, a “case study” is a research method involving an up-close, in-depth, and detailed examination of a subject of study, as well as its related contextual conditions.}

1. The definition of “racial profiling” that has had **the most influence in Canadian jurisprudence is that previously cited and provided by the African Canadian Legal Clinic**⁴³ introduced in the factum of the appellant by Counsel Tanovitch in *R. v. Richards* and cited by Morden, J.A. in *R. v. Brown* at ¶ 7:

There is no dispute about what racial profiling means. In its factum, the appellant defined it compendiously: **“Racial profiling involves the targeting of individual members of a particular racial group, on the basis of the supposed criminal propensity of the entire group”** and then quoted a longer definition offered by the African Canadian Legal Clinic in an earlier case, *R. v. Richards* (1999), 26 C.R. (5th) 286 (Ont. C.A.), as set forth in the reasons of Rosenberg J.A. at p. 295:

Racial profiling is criminal profiling based on race. Racial or colour profiling refers to that phenomenon whereby **certain criminal activity is attributed to an identified group in society on the basis of race or colour resulting in the targeting of individual members of that group**. In this context, **race is illegitimately used as a proxy for the criminality or general criminal propensity of an entire racial group**.

R. v. Brown (2003) O.J. No. 1251 at ¶ 7

⁴⁵ *R. v. Brown* (2003) O.J. No. 1251 at ¶ 8

Racial Profiling exists when the members of a particular racial or ethnic group become subject to greater criminal justice or institutional surveillance than others. **Profiling exists when racial characteristics – rather than behaviour – contributes to surveillance decisions.**

2. Race Data Collection In Canada →

A. **The Kingston Police Project** → Chief Bill Closs – took a courageous step in becoming the first Chief in Canada to ban racial profiling and collect and analyze data on the individuals that his officers stopped → [study questioned on the basis of the use of “contact cards”/ no licence driver control =’s [other] data validity/ integrity issues]

B. **Toronto Survey 1995** → **York University’s Institute For Social Research** conducted a survey of over 1,200 Toronto adults (18 years of age or older) who identified themselves as either Black, Chinese Or White. → over 400 respondents were randomly selected from each racial group → the survey found that Black people, particularly Black males, were much more likely to report involuntary police contact than either whites or Asians.

C. **The Toronto Youth Crime And Victimization Survey 2000** → interviews were conducted with a random sample of approximately 3,400 high school students. The results of this study also suggested that Black people are much more likely than people from other racial backgrounds to be subjected to random street interrogations.

5. **Toronto Star** → published a series of articles on the issue of race and crime. In addition to reviewing previous research, the star provided its own analysis of police arrest data → since the data was originally collected for other purposes, there are no ‘data collection controls’ considered

- [Putting aside the methodological limitations] the **study revealed that black people in Toronto are highly over-represented in certain offence categories**, including drug possession and **“out-of-sight” traffic violations** [?] (driving without a license or driving without insurance, for example)
 - The Star maintains that this pattern of over-representation is consistent with the idea that the Toronto police engage in racial profiling.
-

→*** the **“Ottawa Racial Profiling Study”**

I was a member of the **York University Research Team** – with Les Jacobs and Bobby Siu that conducted the OPS Study → the **largest racial profiling study in Canadian policing history.**

As the result of the **“Chad Aiken Case”** → We were contracted **to assist in the research design and analysis of “all” of the police traffic stops in the capital city of Ottawa over a two-year period from 2013 to 2015.**

Our study analyzed over **120 thousand traffic stops in the city of Ottawa.**

What also makes this study unique is → This was the first time that a racial profiling study examined the **Race, Sex and Age** of drivers [**Who** was stopped] – as well as the **Reasons for Stops** [criminal offence/provincial offence/suspicious activity] and the **Outcomes of Stops** [no action/ warning/charge].

The study found that **Middle Eastern and Black groups, are the two race groups with disproportionately high incidences of traffic stops.**

Middle Easterner drivers were stopped 3.3 times more than what you would expect based on their population.

Black drivers were stopped 2.3 times more than what you would expect based on their population.

{{This is **tangible evidence** – The disaggregated race data in the study is strong **prima facie evidence** of problematic police-minority relations.}}

It also **supports the call** for the Ottawa Police Service to **closely examine their policies and practices** → **and to take action to address any racial discrimination.**}}

{{{ **“Systemic Discrimination”** in policing can occur through **police “policies” and “practices” and “rules” and “norms”** → that may **“appear neutral” to police officers on the face of it** → but can have **a “damaging impact” on particular racial groups** → **this is happening in Ottawa and other major cities**}}}

However, For the first time – **a major Canadian city** can begin to get past all the **rhetoric** and **accusation** and **denials** and **competing explanations** – and get down to a more **rational dialogue** about appropriate policing strategies.

In Ottawa → the police & community **have now created** an **“action plan”** that sets **goals** and **targets** to eliminate racial profiling and

improve relations with the **study findings** as their **foundation/starting point** → {eg. We suggested a target of cutting the numbers in half after a year...}.

Our Study has Informed Several Major Developments

1) **The Independent Oversight Review** → Conducted by the Honourable Justice Michael H. **Tulloch**, this review includes the **Special Investigations Unit (SIU)**, **Office of the Independent Police Review Director (OIPRD)** and the **Ontario Civilian Police Commission (OCPC)** organizations that oversee police conduct.

2) **The Anti-Racism Directorate** → Aims to: eliminate systemic racism in institutions governed or regulated by the Ontario government

3) **Ministry of Community Safety and Correctional Services** → Review of its Action Plan (segregation/ overcrowding?)

OUR POSITION to them is → **Race-Related Data Collection is the lever** to **both progressive change** and **public accountability** → all public sectors should be collecting data