

Because the Black community is subject to much greater police surveillance, they are also much more likely to be caught when they break the law than White people who engage in the same forms of criminal activity. For example, 65% of the Black drug dealers... report that they have been arrested at some time in their lives, compared to only 35% of the White drug dealers.

Discrimination or “Good” Policing? The Racial Profiling Debate in Canada

SCOT WORTLEY

*Centre for Excellence on Research on Immigration and Settlement (CERIS)
Centre of Criminology, University of Toronto¹*

JULIAN TANNER

Department of Sociology, University of Toronto

For decades, Black people in major Canadian cities, including Toronto, Montréal and Halifax, have complained that they are frequently stopped, questioned and searched by the police for “DWBBs—Driving While Being Black Violations” (Foster 1996, 5). Similar complaints have been made by Aboriginals in the Prairie Provinces and by South Asians in British Columbia. Not surprisingly, law enforcement officials have universally rejected such claims. This controversy reached a boiling point in October 2002, when the *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. 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 licence 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. Their analysis also reveals that Blacks

are treated more harshly *after arrest* than their White counterparts. In particular, White offenders are more likely to be released at the scene, while Black offenders are more likely to be detained, taken to the station for processing, and held in custody until their bail hearing (Rankin et al. 2002a, 2002b).

In response to the *Star* series, the Toronto Police vehemently denied all allegations of racial bias. The Police Chief declared, “We do not do racial profiling...There is no racism.”² Likewise, the President of the Police Association stated, “No racial profiling has ever been conducted by the Toronto Police Service.”³ Several local politicians echoed these sentiments. The Mayor of Toronto, for example, declared, “I don’t believe that the Toronto police engage in racial

¹ Correspondence may be directed to Prof. Scot Wortley, Centre of Criminology, University of Toronto, 130 St. George Street, Toronto, Ontario, Canada, M5S 3H1, or scot.wortley@utoronto.ca.

² Toronto Star (2002a, A14).

³ Porter (2002, A6).

profiling in any way, shape or form. Quite the opposite, they're very sensitive to our different communities."⁴ Unfortunately, the police have yet to produce concrete data that can lend support to their "no racism" argument. Does racial profiling exist in Toronto? It is the purpose of this paper to briefly discuss the results of two recent Toronto surveys that directly addressed the racial profiling debate.

Racial profiling: A definition

In the criminological literature, racial profiling is said to exist when the members of certain racial or ethnic groups become subject to greater levels of criminal justice surveillance than others. Racial profiling, therefore, is typically defined as a racial disparity in police stop-and-search practices, racial differences in Customs searches at airports and border-crossings, increased police patrols in minority neighbourhoods and undercover activities or sting operations which target particular ethnic groups. Racial profiling, therefore, is associated with racial bias in police investigation—not racial bias in arrest decisions or racial bias in police treatment after arrest. This is not to say that arrest statistics, like those analyzed by the *Star*, do not reflect profiling. For example, the over-representation of Blacks in Toronto arrest statistics could mean that Blacks are indeed subject to greater police surveillance. However, it could also mean that Blacks are simply more involved in criminal activities. Thus, the racial profiling hypothesis cannot truly be tested unless we first examine information on police surveillance activities.

Previous research

Do Black people come under greater criminal justice surveillance than people from other racial backgrounds? Are Black people more likely to be stopped, questioned and searched by the police? Police data from both England (Bowling and Phillips 2002) and the United States (see Engel et al. 2002) suggests that they are. In England, for example, the *Police and Criminal Evidence Act* mandated that the police keep a written record of the racial background of all people subjected to police stops and searches. Statistics from 1997-1998 reveal that Black people in the United Kingdom were stopped and searched at a rate of 142 per 1,000, compared to 45 per 1,000 for Asians and 19 per 1,000 for Whites. Overall,

the English data suggests that Blacks are approximately eight times more likely to be stopped and searched by the police than Whites (Bowling and Phillips 2002).

Unfortunately, unlike England and the United States, the police in Canada are not required to record the race of the people they stop and/or search. Thus, official police statistics cannot be used to investigate the presence or absence of racial profiling in this country. However, a number of field studies have uncovered evidence that racial profiling may exist. For example, James (1998) conducted intensive interviews with over 50 Black youth from Southern Ontario. Many of these youths reported that being stopped by the police was a common occurrence for them. Neugebauer's (2000) interviews with 63 Black and White teenagers from Toronto produced very similar results. Although the author finds that teenagers from all racial backgrounds often complain about being hassled by the police, both White and Black youth agree that Black males are much more likely to be stopped, questioned and searched by the police than youths from other racial backgrounds. Although these ethnographic studies provide great detail about police encounters and document the "lived experiences" of Black youth, they are based on rather small, non-random samples. Thus, they risk being dismissed as "anecdotal" and not truly representative of police behaviour. However, similar evidence of racial profiling has been uncovered by two recent surveys of Toronto residents.

Results from Survey 1

In 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. For example, almost half (44%) of the Black males in the sample reported that they had been stopped and questioned by the police at least once in the past two years. Furthermore, almost one-third (30%) of Black males reported that they had been stopped on two or more occasions. By contrast, only 12% of White males and 7% of Asian males reported multiple police stops (see Wortley and Tanner 2003, Commission

⁴ Toronto Star (2002b, A9).

on Systemic Racism 1995). Multivariate statistical analyses reveals that these racial differences in police contact cannot be explained by racial differences in social class, education or other demographic variables. In fact, two factors that seem to protect White males from police contact—age and social class—do not protect Blacks. Whites with high incomes and education, for example, are much less likely to be stopped by the police than Whites who score low on social class measures. By contrast, Blacks with high incomes and education are actually more likely to be stopped than lower-class Blacks. Black professionals, in fact, often attribute the attention they receive from the police to their relative affluence. As one Black respondent stated: “If you are Black and you drive something good, the police will pull you over and ask about drugs.”⁵ One weakness with this study, however, is that it does not control for other relevant factors—including criminal behaviour—that may determine who the police stop and search. This issue, however, was addressed by the second survey described below.

Results from Survey 2

The Toronto Youth Crime and Victimization Survey was completed in 2000. Interviews were conducted with a random sample of approximately 3,400 high school students.⁶ The results of this study also suggest that Black people are much more likely than people from other racial backgrounds to be subjected to random street interrogations. For example, over 50% of the Black students reported that they have been stopped by the police on two or more occasions in the past two years, compared to only 23% of Whites, 11% of Asians and 8% of South Asians. Similarly, over 40% of Black students claim that they have been physically searched by the police in the past two years, compared to only 17% of their White and 11% of their Asian counterparts. However, the data also reveals that students who engage in various forms of crime and deviance are much more likely to receive police attention than students who do not break the law. For example, 81% of the drug dealers in this sample (defined as those who sold drugs on 10 or more occasions in the

past year) report that they have been searched by the police, compared to only 16% of those students who did not sell drugs. This finding is completely consistent with the police argument that they focus exclusively on suspicious or criminal activity when deciding to make a stop—not on the racial characteristics of citizens. The data further reveals that those students who have access to automobiles and spend most of their leisure time in public spaces (in malls, public parks, or nightclubs, for example) are much more likely to be stopped by the police than students who spend most of their time in private spaces or in the company of their parents. This leads to the million dollar question: *Do Black students receive more police attention because they are more involved in crime or because they are more likely to be involved in leisure activities which take place in public spaces?*

While our data reveals that White students have much higher rates of both alcohol consumption and illicit drug use, Black students do report higher rates in minor property crime, drug trafficking and violence. Black students are also more likely to report that they are members of a youth gang. In addition, both Black and White students report higher rates of participation in public leisure activities than students from all other racial backgrounds. These racial differences, however, do not come close to explaining why Black youth are much more vulnerable to police contact. In fact, after statistically controlling for criminal activity, drug use, gang membership, car use and leisure activities, the relationship between race and police stops actually gets stronger. Why? Further analysis reveals that racial differences in police stop-and-search practices are actually greatest among students with low levels of criminal behaviour. For example, 34% of the Black students who *have not* engaged in any type of criminal activity still report that they have been stopped by the police on two or more occasions in the past two years, compared to only 4% of White students in the same behavioural category. Similarly, 23% of Black students with no deviant behaviour report that they have been searched by the police, compared to only 5% of Whites who report no deviance (Wortley and Tanner 2003, Wortley and Tanner 2004). Thus, while the first survey discussed above reveals that age and social class do not protect Blacks from police stops and searches,

⁵ Cited in Wortley and Tanner (2003, 371).

⁶ See Tanner and Wortley (2002) for methodological details.

this study suggests that good behaviour also does not shelter Blacks from unwanted police attention.

Implications

These findings have two major implications. Firstly, because the Black community is subject to much greater police surveillance, they are also much more likely to be caught when they break the law than White people who engage in the same forms of criminal activity. For example, 65% of the Black drug dealers in the above high school study report that they have been arrested at some time in their lives, compared to only 35% of the White drug dealers. As means of illustration, imagine that 10,000 people live in a high-density community in downtown Toronto. Imagine further that half of the residents of this community are Black and the other half are White. Let us also assume that an equal number of Black and White residents (250 from each group) sell illicit drugs on a regular basis. If, due to racial profiling, Black residents are more likely to be stopped and searched by the police, Black drug dealers in this neighbourhood will be more likely to be detected and subsequently arrested than White offenders. For example, if 50% of the Black residents are randomly searched, compared to only 10% of the White residents, this searching practice should yield 125 Black arrests and only 25 White arrests. Interestingly, the race-crime statistics (125 Black arrests compared to only 25 White arrests) produced by such biased search practices would probably be used to justify the use of racial profiling (“we found more Black than White offenders therefore our profiling strategy must be correct”). Racial profiling, therefore, can become a self-fulfilling prophecy. This example helps illustrate how arrest statistics may have more to do with law enforcement surveillance practices than actual racial differences in criminal behaviour. In sum, racial profiling may help explain the over-representation of minorities in arrest statistics.

However, it should be noted that the above research also suggests that the police almost never arrest citizens who are not involved in some form of criminal activity. This may lead to the conclusion that racial profiling is harmless: if you don’t break the law, you will not be arrested. However, the second major consequence of racial profiling is that it serves to further alienate Black people from mainstream Canadian society and reinforces perceptions of discrimination and

racial injustice. Indeed, our research strongly suggests that Black people who are frequently stopped and questioned by the police perceive much higher levels of discrimination in the Canadian criminal justice system than Blacks who have not been stopped. Interestingly, being stopped by the police does not appear to increase perceptions of injustice for Whites or Asians (Wortley and Tanner 2003, Wortley and Tanner 2004, Wortley et al. 1997). Being stopped and searched by the police, therefore, seems to be experienced by Black people as evidence that race still matters in Canadian society. That no matter how well you behave, how hard you try, being Black means that you will always be considered one of the “usual suspects.”

Conclusion

Clearly, the issue of racial profiling requires further research in this country. Unfortunately, Canadian law enforcement agencies—with the noted exception of the Kingston, Ontario Police Service—have thus far refused to collect their own data on this phenomenon. The general fear is that official stop-and-search data will be misunderstood by the public, used to unfairly label individual officers as racist, increase law suits against police services and ultimately result in de-policing (officers will refuse to respond to situations which involve minority citizens). It should be noted that in general, these problems have not emerged in England or in the United States, two countries where this type of data has been collected for years. Canadian police managers need to recognize that there may be major advantages to collecting their own stop-and-search data. First of all, it could be an effective means of monitoring police behaviour and might very well reduce the number of unjustified, racial profiling incidents. Secondly, a transparent effort to monitor and eliminate racial profiling, in our opinion, will ultimately improve the relationship between police and various racial minority communities. Conversely, a refusal to acknowledge and deal with the issue will only intensify tensions and ensure that the problem of racial discrimination continues to haunt law enforcement agencies for decades to come.

Bibliography

- Bowling, Ben, and Coretta Phillips. 2002. *Racism, Crime and Justice*. London, England: Pearson Education Ltd.
- Commission on Systemic Racism. 1995. *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System*. Toronto: Queen's Printer for Ontario.
- Engel, Robin Shepard, Calnon, Jennifer M., and Thomas J. Bernard. "Theory and Racial Profiling: Shortcomings and Future Directions in Research." *Justice Quarterly* 19,2 (2002), p. 249-273.
- Foster, Cecil. 1996. *A Place Called Heaven: The Meaning of Being Black in Canada*. Toronto: Harper-Collins.
- Harris, David. "Driving While Black and all Other Traffic Offences: The Supreme Court and Pretextual Traffic Stops." *Journal of Criminal Law and Criminology* 87 (1997), p. 544-582.
- James, Carl. 1998. "'Up to No Good': Black on the Streets and Encountering Police." In Victor Satezewich (Ed.), *Racism and Social Inequality in Canada: Concepts, Controversies and Strategies of Resistance*. Toronto: Thompson, p. 157-176.
- Neugebauer, Robynne. 2000. "Kids, Cops, and Colour: The Social Organization of Police-Minority Youth Relations." In Robynne Neugebauer (Ed.), *Criminal Injustice: Racism in the Criminal Justice System*. Toronto: Canadian Scholars Press.
- Porter, Catherine. 2002. "Police Union Blasts Star." *Toronto Star*. October 22, p. A6.
- Rankin, Jim, et al. 2002a. "Singled Out: An Investigation into Race and Crime." *Toronto Star*. October 19, p. A1.
- Rankin, Jim, et al. 2002b. "Police Target Black Drivers." *Toronto Star*. October 20, p. A1.
- Tanner, Julian, and Scot Wortley. 2002. *The Toronto Youth Crime and Victimization Survey: Overview Report*. Toronto: Centre of Criminology.
- Toronto Star. 2002a. "There is No Racism. We Do Not Do Racial Profiling." *Toronto Star*. October 19, p. A14.
- Toronto Star. 2002b. "Analysis Raises Board Hackles." *Toronto Star*. October 20, p. A9.
- Wortley, Scot, John Hagan, and Ross Macmillan. "Just Des(s)erts: The Racial Polarization of Perceptions of Injustice." *Law and Society Review* 31 (1997), p. 637-676.
- Wortley, Scot, and Julian Tanner. "Data, Denials and Confusion: The Racial Profiling Debate in Toronto." *Canadian Journal of Criminology and Criminal Justice / Revue canadienne de criminologie et de justice pénale* 45,3 (2003), p. 367-389.
- Wortley Scot and Julian Tanner. 2004. "The Good, the Bad and the Profiled: Race, Deviant Activity and Police Stop and Search Practices." Paper submitted to the *American Journal of Sociology*. Paper originally presented at the University of Toronto Faculty of Law Conference on *Systemic Racism in the Criminal Justice System*. November 28, 2002, Toronto.