**APPENDIX A:**

**STREET CHECKS, RACIAL PROFILING AND POLICE-COMMUNITY RELATIONS:**

**A REVIEW OF THE RESEARCH LITERATURE**

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# **EXECUTIVE SUMMARY**

Over the past two decades, racial bias with respect to police stop, question and search behaviours – and the official documentation of these encounters through the practice of carding or street checks – has emerged as a particularly controversial issue. Canada’s Black, Aboriginal and Muslim communities have been especially vocal in their complaints about what has come to be known as “racial profiling” or “racially biased policing.” By contrast, allegations of racial bias have been largely denied – often vehemently – by Canada’s major police services and police associations (see Tanovich 2006; Tator and Henry 2006; Wortley and Owusu-Bempah 2011a).

The purpose of this report is to review the Canadian and international literature on racial bias with respect to police stop and search activities – often referred to as racial profiling. Racial profiling can be said to exist when the members of a certain racial or ethnic group become subject to greater levels of criminal justice surveillance than others. Furthermore, racial profiling exists when racial differences or disparities in police surveillance activities cannot be explained by racial differences in criminal activity, traffic violations, citizen calls for service or other legally relevant factors (see Wortley and Tanner 2005; Wortley and Tanner 2003).

Based on our review of the literature and consistent with the work of Tomaskovic-Devey, Mason and Zinraff (2004), we propose six different theoretical models that might help explain racial profiling: 1) The racial animus model; 2) The statistical discrimination/criminal stereotype model; 3) The implicit bias model; 4) The institutional model; 5) The police deployment model and; 6) critical perspectives on racial profiling. Our review of the literature also reveals five different methodological strategies have been employed by researchers in order to explore police stop, question and search activities and the issue of racial profiling. These five research methodologies include: 1) Qualitative methods; 2) Survey methods; 3) Observational methods; 4) Official statistics on police stops; and 5) Official data on police “street checks” or “carding”. This report documents the findings of literature utilizing each of the above methods. We demonstrate the consistency with which evidence of racial disparities in police stop and search practices is present across English-speaking Western nations, irrespective of methodology employed. We argue that the research literature strongly suggests that racially biased policing can exist in the absence of individualized, overt racism or racial malice. One does not have to prove that police officers are explicitly or overtly racist to prove that racial profiling exists. We also highlight the benefits associated with exploring racial profiling using multiple methodologies, given the associated strengths of weaknesses of each individual approach.

Some police leaders and their supporters have put forth arguments suggesting that carding, stop and frisk practices and other forms of proactive, aggressive street policing are valuable law enforcement tools that help reduce crime. While there is some limited support for this position in the research literature, our review demonstrates that empirical evidence supporting this thesis is highly contested. Conversely, a relative robust body of research has documented the negative consequences associated with racial profiling. Available evidence suggests that people who perceive that they have been the victim of racial profiling often feel humiliated, frightened, angry, depressed, frustrated and helpless. Akin to other forms of racial discrimination, previous research further suggests that racial profiling is a quality of life issue and that frequent exposure to police stop and search activities can have a negative impact on both mental and physical health. Racial profiling can also undermine the legitimacy of the criminal justice system by promoting hostility and resentment amongst the groups most targeted by the police. These negative perceptions, in turn, may result in a lack of cooperation with the police and courts and ultimately contribute to minority involvement in crime and violence. As such, the report concludes that the documented consequences of these racial profiling and associated policing practices outweigh the potential benefits.

We argue that a variety of strategies – including improved screening of police recruits, the recruitment and retention of minority officers, anti-bias training, improved regulations and guidelines for police stops and improved supervision and monitoring of front-line officers – are required to reduce racial disparities in police stop, question and search practices and reduce the negative impact that biased policing has on minority communities. We also suggest that the improved collection of race-based data is required to evaluate the impact of anti-bias initiatives. Improved data collection and dissemination will also increase transparency, improve police accountability and help improve public confidence in the police and broader justice system. Finally we address several perceived shortcomings with Ontario Regulation 58/16, namely its focus on “street checks” specifically and our acknowledgement that street checks are not synonymous with police stops. Indeed, under the regulation, there are a variety of situations in which the police do not always have to collect and publicly disseminate information relating to their stops of civilians. We therefore suggest mandating the collection and dissemination of demographic data on all police stops and provide a number of strategies to best accomplish this goal.

# **INTRODUCTION**

Canada is one of the world’s most active immigrant-receiving nations and has received international praise for its official policies of multiculturalism and racial inclusion. An argument could be made that Canada’s reputation for racial tolerance is well deserved – especially when race relations in Canada are compared to the situations in the United States and some parts of Europe. A closer examination of the historical record, however, reveals that racial discrimination has long been an issue within Canadian society – particularly with respect to the operation of criminal justice system. Indeed, a number of scholars have documented that allegations of racial bias with respect to law creation, policing, the criminal courts and corrections have existed in Canada since confederation (see for example Perry 2011; Walker 2010; Henry and Tator 2005; Chan and Mirchandi 2001; Mosher 1998). Over the past two decades, racial bias with respect to police stop, question and search behaviours – and the official documentation of these encounters through the practice of carding or street checks – has emerged as a particularly controversial issue. Canada’s Black, Aboriginal and Muslim communities have been especially vocal in their complaints about what has come to be known as “racial profiling” or “racially biased policing.” By contrast, allegations of racial bias have been largely denied – often vehemently – by Canada’s major police services and police associations (see Tanovich 2006; Tator and Henry 2006; Wortley and Owusu-Bempah 2011a). Although some high-ranking police officials, including former Toronto Police Chief Bill Blair, have admitted that racially biased policing may be an isolated problem within some communities or among some officers, they have yet to concede the possible consequences that such practices may have on minority communities nor commit to the long-term study of this phenomenon (see James 2005).

The purpose of this report is to review the Canadian and international literature on racial bias with respect to police stop and search activities – often referred to as racial profiling. The report begins by reviewing various definitional issues related to the concept, followed by a theoretical discussion of the probable causes of racially biased policing. This section will describe the various explanations that have been used to account for the existence of racial profiling in police stop and search practices including explicit (conscious) and implicit (unconscious) bias, racial stereotyping, actuarial/statistical discrimination and institutional/systemic practices. It will be argued that the research literature strongly suggests that racially biased policing can exist in the absence of individualized, overt racism or racial malice. One does not have to prove that police officers are explicitly or overtly racist to prove that racial profiling exists.

The next section of the report will explore research that has attempted to document the existence of racial profiling and the extent that it impacts racialized communities. The report will briefly review data from the US and Great Britain – but the focus will be on Canadian research. The report will also explore the various methodologies that have been used to document racial profiling including field observation, qualitative interviews, general population surveys and official police generated data (including the TPS data on carding and the Kingston and Ottawa traffic stop studies). This section will conclude that there is convincing evidence to suggest that racial profiling or racially biased policing exists in Canada and that police stop, question and search practices have a disproportionate impact on the African Canadian community.

The report then turns to a discussion of the possible benefits of police “street checks.” We review police arguments suggesting that carding, stop and frisk practices and other forms of proactive, aggressive street policing are valuable law enforcement tools that help reduce crime. This section will demonstrate that empirical evidence supporting this thesis is highly contested. Overall, while there is research to suggest that police stop, question and search practices can reduce crime in some contexts, evidence also suggests that crime reduction effects are often quite small, short-term and limited to specific neighbourhoods or communities.

This following section of the report will review research that has documented the impact that racially disproportionate policing – including the practice of carding or street checks – has had on racialized individuals and communities. These consequences include: 1) Mental and physical health problems; 2) Lack of trust or faith in the police and broader criminal justice system; 3) Racial disparities within the criminal justice system; and 4) Blocked educational and employment opportunities.This section of the report will also discuss the issue of data retention. It will be maintained that the retention of carding or street check data may continue to have an adverse impact on the individuals included in police databases. Furthermore, since African Canadians are greatly over-represented within the street check data, the retention of data will likely have a disproportionate impact on members of the Black community. The report concludes that the documented consequences of these street check practices outweigh the potential benefits.

The last section of the report provides a brief discussion of policy implications. It will be maintained that a variety of strategies – including improved screening of police recruits, the recruitment and retention of minority officers, anti-bias training, improved regulations and guidelines for police stops and improved supervision and monitoring of front-line officers – are required to reduce racial disparities in police stop, question and search practices and reduce the negative impact that biased policing has on minority communities. It will also be argued that the improved collection of race-based data is required to evaluate the impact of anti-bias initiatives. Improved data collection and dissemination will also increase transparency, improve police accountability and help improve public confidence in the police and broader justice system.

# **DEFINITIONAL ISSUES**

Over the past two decades the term *racial profiling* has become part of the popular lexicon. The term has appeared frequently in everything from academic manuscripts, government reports and news coverage to popular music, movies and television. The term racial profiling has also been used to describe various phenomena including the behaviour of customs and immigration officers, judges, lawyers, private security personnel, teachers, medical professionals and other public servants. However, consistent with the purposes of this report, the term is most often used in reference to the police and their stop, question and search activities (see Rice and White 2010).

In order to focus the discussion, it is important to first conceptually distinguish *racial profiling* from other forms of *racially biased policing*. *Racially biased policing* is a general term that refers to possible racial discrimination with respect to a wide variety of discretionary police behaviours including stop and search practices, but also including arrest decisions, charging practices, decisions related to pre-trial detention, sentencing recommendations and use of force. Racial profiling, on the other hand, focuses specifically on police surveillance and street interrogation practices. Racial profiling can be said to exist when the members of a certain racial or ethnic group become subject to greater levels of criminal justice surveillance than others. Racial profiling, therefore, refers to racial disparities with respect to police stop and search activities (sometimes referred to street checks or carding), increased police patrols in racial minority neighbourhoods and undercover activities or sting operations that selectively target particular racial or ethnic groups. Furthermore, racial profiling exists when racial differences or disparities in police surveillance activities cannot be explained by racial differences in criminal activity, traffic violations, citizen calls for service or other legally relevant factors (see Wortley and Tanner 2005; Wortley and Tanner 2003).

The above definition is highly consistent with other definitions provided by American scholars. For example, Ramirez and Hoopes define racial profiling as “the inappropriate use of race, ethnicity or national origin rather than behaviour or individualized suspicion to focus on an individual for additional investigation” (Ramirez and Hoopes 2003: 1196). Similarly, Warren and Tomanskovic-Devey (2009: 344) state that racial profiling “is a term used to describe the practice of targeting or stopping an individual based primarily on race or ethnicity, rather than on individualized suspicion or probable cause.” [[1]](#footnote-1)

As highlighted by Paulhamus and her colleagues (2010), the academic literature has also drawn a distinction between what has been called “hard racial profiling” (cases in which the police stop civilians solely because of their racial background) and “soft racial profiling” (the use of race or ethnicity as one of several factors in the decision to stop a civilian). Proponents of “soft profiling” definitions argue that racially biased policing exists if race *contributes* to police decisions to stop, question and search individuals. For example, data may reveal that the police are most likely to stop and search male civilians, late at night, within poor, high-crime communities. However, if Black males traversing these same communities, during the same time of day, are significantly more likely to be stopped than White males, this would constitute evidence of racial profiling. Profiling could be said to exist because, in addition to gender, time of day and type of community, race still impacts police decision-making. By contrast, advocates of “hard profiling” definitions would likely argue that racial bias does not exist in this scenario because race was only one of several factors – including gender, community crime-level and time of day – that influenced officer decisions to stop and detain individuals. They would likely argue that this data reflects a pattern of “criminal” rather than “racial” profiling (Satzewich and Shaffir 2009).

Some proponents of the “hard profiling” position have argued that racial bias cannot be said to exist as long as there is a legal or legitimate reason for stopping the civilians in question. We completely disagree with this argument. Consider, for example, the following hypothetical situation. Suppose that a police officer was assigned to patrol a particular stretch of highway. Also assume that this officer never stops drivers unless they are exceeding the speed limit. In other words, all of his stops are clearly “legitimate.” However, also assume that this officer stops eight out of every ten minority speeders he encounters while on patrol (80%), but only stops one out of every five White speeders (20%). In other words, this officer is four times more likely to stop minority than White drivers who are exceeding the speed limit. In our opinion, this police officer could still be guilty of racial bias, even though all his stops are legally justifiable. A similar example might be applied to illegal drug use. Assume that an officer stops and searches every minority civilian he witnesses smoking marijuana in public. Also assume that this same officer decides to ignore most of the White civilians he sees engaged in the same drug using activity. Although it could be argued that the officer has a legally legitimate reason for stopping and searching minority drug users, the fact that he refrains from stopping and searching White drug users is evidence of racial profiling.

In sum, although the term racial profiling has been used in a wide variety of contexts, this report focuses exclusively on possible racial biases with respect to police street checks or stop, question and search activities. In order to determine whether racial profiling exists or not, researchers much first establish whether some racial or ethnic groups are more likely to be stopped, questioned and/or searched by the police than others. The next task is to explore the possible reasons behind any observed racial differences in exposure to involuntary police contact. In other words, can racial differences in the exposure to police stop and search activities be explained by other legally relevant factors? The report returns to this question after the discussing the potential causes or reasons behind racial profiling.

# **THE CAUSES OF RACIAL PROFILING**

What might be the possible cause or source of racial profiling or racially biased policing? Although researchers have recently spent a great deal of time and effort trying to both define and measure this phenomena (see discussion below), less attention has been given to developing an integrated theory that would help explain the existence of racial profiling by the police. Consistent with the work of Tomaskovic-Devey, Mason and Zinraff (2004), we propose six different theoretical models that might help explain racial profiling: 1) The racial animus model; 2) The statistical discrimination/criminal stereotype model; 3) The implicit bias model; 4) The institutional model; 5) The police deployment model and; 6) critical perspectives on racial profiling. It should be stressed that the first three models focus on the intent and activities of individual police officers, while the third and fourth models focus on organizational mechanisms. The final model takes a broader, historical perspective. It is important to note that the two organizational models do not require any racial bias in officer or organizational intent, although they will produce racially biased police practices and disproportionately impact the members of minority communities (see Tomaskovic-Devey et al. 2004: 3).

## THE RACIAL ANIMUS MODEL

The racial animus model holds that, within any given society, some people have a conscious dislike or prejudice against the members of other racial groups. To the extent that police services reflect the population that they serve, it is likely that some police officers will also have overtly racist beliefs that may promote or condone the poor treatment of racial minority groups. Fortunately, North American research suggests that openly racist beliefs or prejudice have declined significantly over the past fifty years (see Schuman et al 1997; Henry and Tator 2005).[[2]](#footnote-2) Thus, it is likely that overt or explicit racial animus will be limited to a relatively small number of police officers. Nonetheless, these few racist officers could significantly increase the rate of stop and search for targeted minority groups and subsequently damage police-community relationships (Tomoskovic-Devey et al. 2004: 9).

According to the racial animus model, if police services can only identify and terminate these few “bad apples,” the problem of racial profiling will be eliminated. However, since most modern police services formally proscribe against racist attitudes and behaviour, the identification of overt racism among police officers is not a simple task. Indeed, the actual expression of racist beliefs by police officers, especially as they pertain to the treatment of racial minority civilians, is likely to be even rarer than the incidence of racial prejudice among police officers (see Tomoskovic-Devey et al. 2009: 9). As Williams (2006: 3) states: “To put it bluntly, a police officer who constantly pulls over Black motorists due to sheer racial animus cannot easily stand in a circle of reporters and state, ‘well, I must admit that I stop them because I enjoy harassing niggers.”

It is possible for some police services to have more “bad apples” than others. This might occur if police recruitment procedures do not effectively screen for racial animus or if informal field training processes encourage the expression of racist beliefs. Racial animus is also more likely to flourish within police organizations in which prohibitions against racist behaviour are not properly enforced (see Tomoskovic-Devey et al. 2009).

It should be stressed that the racial animus or “bad apples” explanation for racial profiling is somewhat popular among certain police administrators because it holds that racial profiling is an isolated problem, rather than a systemic issue, involving only a few, corrupt police officers (see Tator and Henry 2006). On the other hand, many police officers and police union leaders have come to equate the term “racial profiling” with accusations of overt racism. As a result, when their police service is faced with allegations of racial profiling, many officers believe that they as individuals are being accused of holding overtly racist beliefs and are deliberately trying to harm racial minority communities. Not surprisingly, many police officers find such accusations offensive (see Paulhamus et al. 2010; Satzewich and Shaffir 2009; Ioimo et al. 2007).[[3]](#footnote-3) In sum, although it cannot be totally dismissed, the racial animus model only provides a theoretically limited explanation for racial profiling. Other explanations hold that racial profiling is not rooted in the overt racism of individual police officers. Rather, profiling practices stem from the broader police culture and specific organizational practices.

## THE STATISTICAL DISCRIMINATION/CRIMINAL STEREOTYPE MODEL

Racial profiling may also be caused by racial stereotyping with respect to criminal behaviour. In other words, individual police officers may develop beliefs, stereotypes or profiles about the types of people who are more or less involved in criminal activity. These stereotypes might emerge as a result of socialization into the police subculture, personal job experiences, access to crime statistics or exposure to media depictions of crime and violence. For example, police supervisors and front-line officers may be exposed to crime statistics that show that a large proportion of gun-related murders and gun possession charges involve Black male offenders. This pattern may be reinforced by racialized media coverage of crime and their own experiences on patrol. Exposure to this information may cause them to believe that it is more rational for police officers to pay special attention – or otherwise suspect – Black males than other civilians. Such conscious stereotyping could directly contribute to racial profiling. Far from an “individual problem,” racial stereotyping can become an informal, institutional phenomenon.

The mental construction of the “typical offender” has sometimes been referred to as “criminal profiling” and often involves race or ethnicity as well as other personal characteristics including age, gender, social class and personal appearance (see Satzewich and Shaffir 2009). Stereotyping may play an important role with respect to proactive policing.[[4]](#footnote-4) Police supervisors, as well as the general public, put pressure on police officers to identify criminal offenders and subsequently ensure public safety. Demonstrating a proficiency at identifying and apprehending criminals may also be directly related to future promotion and career opportunities. Thus, many officers may feel a need or pressure to categorize those they encounter on the street by their likelihood of being involved in criminal activity. As a result, officers may feel that it would be more efficient or rational, from a crime-fighting perspective, to focus their surveillance activities on young, racialized males than, for example, older White females.

In a classic observational analysis of police patrol practices, Skolnick (1966) observed that the police in the United States tend to perceive young, Black males as "symbolic assailants" and thus stop and question them on the street as a means of effective or efficient “crime prevention.” Anderson (1990) further articulates this tendency in his more recent ethnographic study of a multi-racial community located in a large American city. In documenting the general police tendency to stop, search and harass young Black citizens as part of their routine patrolling activity, Anderson notes that:

On the streets, colour-coding works to confuse race, age, class, gender, incivility, and criminality, and it expresses itself most concretely in the person of the anonymous Black male. In doing their job, the police often become willing parties to this colour-coding of the public environment... a young Black male is a suspect until he proves he is not (Anderson 1990, pp. 190-191).

While patrolling the streets, the police may engage in the same type of actuarial risk assessment – and subsequent statistical discrimination – used by insurance companies (see Feeley and Simon 1992). For example, it is well known that insurance companies charge much higher premiums for young male drivers than drivers with other demographic characteristics. The justification for these higher rates is that, from a statistical standpoint, younger males are more likely to engage in risky driving behaviours (speeding, driving under the influence, etc.) and are more likely to become involved in serious traffic accidents. The same logic of statistical probability may be employed by the police on the street. According to individual and collective police experiences, young racialized males may be identified as the most likely to be involved in serious crime and violence. Thus, just as young males must suffer from higher insurance premiums, young racialized males must pay a higher cost when it comes to police attention. Furthermore, even though the majority of young males may have a clean driving record, they must pay higher insurance premiums because of the actions of a relatively few members of their demographic group. Similarly, even though the majority of young racialized males are law-abiding, they must pay a higher criminal justice premium: a criminal justice premium that manifests itself with respect to much greater exposure to police stop, question and search activities. Even Frank Zimring, an American academic who has championed the use of stop and frisk tactics, admits that, due to statistical discrimination, Black and other racialized males are going to be disproportionately subjected to police stops. He further concedes that this amounts to “a special tax on minority males” (Bergner 2014). This theme is further elaborated by Tomaskovic-Devey and his colleagues (2004: 12) when they state that:

The use of profiles in law enforcement is thought to increase the efficiency of officers, and, consequently, the police organization as a whole. Unfortunately, criminal profiles are often based on stereotypes of characteristics related to different groups. In turn, group membership becomes a proxy for suspected criminality. An obvious result of such group generalizations in policing is that a widely cast net subjects many noncriminal minorities to police scrutiny even though criminal and noncriminal Whites escape similar costs. Criminal status no longer represents an individual characteristic but is shaped by group racial status.

It is important to note that this process of racial stereotyping does not necessarily involve racial animus or malice. Instead, police officer stereotypes about the “probable criminal” may be rooted in a professional desire to be efficient or effective when using limited law enforcement resources. Nonetheless, such racial stereotyping, even when grounded in statistics and conducted in the name of public safety, can have a profoundly negative impact on racialized communities (see discussion below).

## THE IMPLICIT BIAS MODEL

The discussion, immediately above, referred to processes of *explicit* criminal profiling or criminal stereotyping that may *consciously* impact the actions of individual police officers. However, others have argued that *implicit* cognitive biases can also exist at the subconscious level (see Fridell 2017, White and Fradella 2016; Tomaskovic-Devey et al. 2004 for detailed discussions about the psychology behind the development of implicit cognitive biases). The basic argument is that people, in order to deal with an excess of information, learn to categorize. Categorization provides cognitive efficiency because it enables people to organize information and make decisions more quickly. Research suggests that people tend to categorize themselves and others into groups automatically and unconsciously. Lacking detailed information about specific individuals, people categorize others on the basis of highly visible and easily attributable characteristics such as race, gender and age. In turn, this process of categorization has an almost automatic impact on how we perceive strangers and often directly impacts how be behave towards them. There is also a general tendency to make in-group and out group distinctions and for people to display in-group favouritism. Out group biases, including negative attributions, may have a subconscious impact on police decision-making. As Tomaskovic-Devey and his colleagues (2004: 15-17) state:

This general tendency to make in-group and out-group distinctions has implications for racial bias in police stops. Because there is a tendency toward automatic display of in-group favouritism on making in-group and out group distinctions, officers may process information about driver threat in the context of both the driver and officer...When engaging in proactive policing such as patrolling a neighbourhood or interstate, officers are attempting to process large amounts of information in short time periods, with little individual information. They observe many people doing many things in dynamic settings. Acting as ‘cognitive misers,’ they attempt to process the information in a way that allows them to be efficient in evaluating all that is observed. Placing information in categories is a primary way that this is accomplished. These categories trigger stereotypes that help determine what seems suspicious or out of place. The types of information police routinely focus on are those that tend to be associated with criminality and public safety. Police can be expected to focus in particular on behaviour, language, vehicle qualities, and appearances (i.e., clothing, jewelry) and settings that invoke images of criminality or threats to public safety. When the officer is making discretionary choices about who to pull over and who to cite, this type of cognitive bias may make cars driven by minority drivers seem slightly more dangerous.

Indeed, research involving police officers has demonstrated the implicit associations that officer’s make between race and criminality. Eberhardt, Goff, Purdie and Davis (2004) presented pictures of White and Black faces to police officers and asked the officers to choose which face looked criminal. They found that the officers chose the Black faces over the White ones, particularly when the Black face had stereotypically Black features. Automatic implicit bias has also been found to negatively influence officers’ interpretations of Blacks’ behaviour (as suspicious or aggressive), and the perception of Blacks as more blameworthy, thus meriting harsher sanctions (Graham and Lowery, 2004; Richardson, 2011).

The idea that unconscious or implicit racial bias can impact police decision-making has seemingly been embraced by a number of Canadian law enforcement agencies – including the Durham Regional Police Service, the Peel Regional Police Service, the Ottawa Police Service and the Toronto Police Service. These services have all commissioned the delivery of a training program known as “Fair and Impartial Policing” [www.fairimpartialpolicing.com](http://www.fairimpartialpolicing.com). This program, developed by criminologist Lorie Fridell, is designed to increase police officer awareness of their own implicit or unconscious biases and how these biases may impact how they treat or respond to people from diverse backgrounds.

Overall, the research literature suggests that both conscious and unconscious stereotyping, at the level of the individual police officer, might contribute to racial differences in police stop and search activities. However, to truly comprehend the phenomenon of racial profiling, organizational as well as individual factors must be considered.

## THE INSTITUTIONAL MODEL

In the sections above, the report discussed how racial profiling may be the result of conscious racial stereotyping – often justified as criminal profiling – or implicit biases that are outside the consciousness of individual police officers. While conscious stereotypes or criminal “profiles” may be widely held within the police subculture and could be transmitted through informal socialization processes within police organizations, implicit biases, on the other hand, result from normal cognitive functioning and are thus common among people from all occupations and social backgrounds. However, we also cannot dismiss the possibility that certain police services actually develop profiling practices that are formally sanctioned by the organization’s leadership. In the United States, the use of formal racial profiles dates back to the late 1970s when the federal government created drug courier profiles for the purpose of apprehending drug traffickers at American airports. The practice was later extended to highways and became a widespread policy in the early 1990s after the U.S. Drug Enforcement Agency (DEA) offered drug interdiction training to local and state patrol officers. During this time, race was introduced as both a legitimate and normal characteristic of drug courier profiles, and police departments used these profiles to make stop and search decisions. A highway drug interdiction program, known as Operation Pipeline, trained more than 27,000 officers from 48 states how to use these profiles (Harris 2002; Warren and Tomaskovic-Devey 2009). There is also evidence to suggest that some Canadian police services may have received training from the DEA that is consistent with the principles of Operation Pipeline (see discussion in Tanovich 2006). There is also emerging evidence to suggest that formal, race-based criminal profiles have recently been extended to assist police in the identification of street gang members as well as drug traffickers (see Zatz and Krecker 2003; Barrows and Huff 2009).

In sum, it is important to note that the source of racial profiling behaviours cannot always be traced to the racialized beliefs, stereotypes or unconscious biases of individual police officers. Nor can it always be linked to racial stereotypes that are promoted within the informal police subculture. Sometimes the source of racially biased stop and search activities lies in the formal policies and training procedures of police organizations themselves. In other words, even officers who do not hold racist beliefs may engage in racial profiling when they follow the formally sanctioned orders or instructions provided by their supervisors and trainers. Once again, although the establishment of formal, race-based criminal profiles are often justified on the basis of effective policing and public safety, they also serve to stigmatize entire racialized communities and subject all members of identified groups to differential police treatment.

## THE POLICE DEPLOYMENT MODEL

Research suggests that police officers are not deployed evenly across all areas of a community. Indeed, modern policing practices entail that crime “hot spots” or areas with higher than average levels of crime should receive a disproportionate share of police attention. In addition to the uneven deployment of police patrols across neighbourhoods, research also suggests that the style of policing may vary across communities. Several studies have documented, for example, that policing seems to be more proactive or aggressive in areas with high crime rates, while policing tends to be more reactive and less aggressive in areas with low crime rates (Tomankovic-Devey et al. 2004; Nobles 2010; Parker et al. 2010). Research also demonstrates that recent immigrants and certain racial minorities are over-represented in economically disadvantaged, high crime communities, while Whites are over-represented in low crime communities. Thus, by default, some racial groups are more likely to be subjected to aggressive stop and search activities as a function of the where they reside.[[5]](#footnote-5) Critics have argued that the greater police presence in racialized communities, combined with a more aggressive or proactive policing style within racialized neighbourhoods, represents a form of systemic bias that will ultimately expose racialized civilians, on average, to higher levels of police surveillance. In other words, according to the police deployment model, racial profiling is not necessarily the product of racial stereotyping or racial animus. It is, however, the result of where the police are deployed and how the police exercise their authority across different communities.[[6]](#footnote-6)

## CRITICAL PERSPECTIVES ON RACIAL PROFILING

Critical Race Theory (CRT) and its subsequent application in Russell’s (1992) *Black Criminology*, along with Phillips and Bowling’s (2003) *Minority Perspectives,* provides further theoretical direction with respect to understanding racial profiling and racialized Canadians’ experiences with the police. CRT emerged from American law schools in the 1980s, drawing much of its intellectual tradition from the Critical Legal Studies paradigm and Civil Rights scholarship (Delgado & Stefancic, 2001). Critical race theory examines the relationship between race, power, and the law, recognizing racism as deeply rooted within multi-racial societies. Critical race theorists view racism as both normal and functional (Delgado & Stefancic, 2001). Racism is normal because it influences the way in which society typically operates[[7]](#footnote-7) and is present as a common, everyday experience for most people of colour. Racism is functional because it serves both psychic and material purposes by advancing the interests of some racial groups at the expense of others. Furthermore, CRT scholars understand race as a social construct – a product of social relations and interactions rather than a phenomenon rooted in biology (Bonilla-Silva, 1997; Omi and Winant, 2014). In recognizing race as a social construct, critical race scholars also acknowledge that differential racialization[[8]](#footnote-8) occurs – that is, society assigns different characterizations and attributes to different groups at different times to serve different purposes (Delgado & Stefancic, 2001). Rather than embracing a colour-blind approach to equality, critical race theorists situate race as central to understanding how racial stratification continues to influence the lives of racialized people, while at the same time maintaining white privilege and supremacy (Phillips and Bowling, 2003).

A critical race perspective would suggest that Indigenous groups and racialized Canadians’ experiences with the police cannot be understood without historical contextualization. As Paulhamus et al. (2010) contend:

…considering the difficulty of isolating racial profiling outcomes from the larger social and organizational processes that likely drive much of the racial disparities observed in policing outputs, it seems artificial and theoretically simplistic to examine racial profiling as if it exists in a contextual vacuum… Thus, to effectively study and assess racial profiling outcomes, it seems necessary to understand the processes that lead to the conditions that produce the racial conflict in the first place” (250).

In order to address the above point effectively, it is important to consider and understand how race emerged as a meaningful social category, and develop a full appreciation of its historical and contemporary impact on the lives of racialized people. Indeed, race and ethnicity are not ahistorical essences (Phillips and Bowling, 2003), but rather concepts “rooted in a particular culture and a particular period of history” (Banton, 2009:67). Early (biological) theories of race were developed at the time of European exploration, colonization and the emergence of the trans-Atlantic slave trade. During this period, Black and other Indigenous people were systematically dehumanized and depicted as animalistic, aggressive, violent, and dangerous (Fishman, 2006; Harding, 2006; Owusu-Bempah, 2017). These views justified the appropriation of Indigenous lands by European settlers and the holding of Black Africans as chattel. These views were also used to exert control over Indigenous people[[9]](#footnote-9) and Black Canadians in the early phases of Canadian settlement. Indeed, it is generally accepted that formal policing in Canada emerged out of a need to control Indigenous populations while White businesses and settlers made their way west across the country (Lithopoulos, 1986; Monahan, 2013a,b; Nettelbeck and Smandych, 2010).

As Jonathan Rudin, a noted Indigenous legal scholar has also pointed out, the police have historically played a key role in carrying out the assimilationist policies of the Canadian government. This has included the enforcement of provisions of the *Indian Act,* such as those that prohibited Aboriginal people from consuming alcohol, taking part in cultural or spiritual practices, and traveling off reserve without proper documentation (Rudin, 2005: 32-33). The police are also often called on to intervene on behalf of the government in the context of Aboriginal land and treaty disputes (Rudin, 2005: 29). Rudin is not the only person to make such an observation. Indigenous participants a recent Ontario Human Rights Commission study into racial profiling in Ontario also situated their present day experiences with racial profiling and police discrimination within Canada’s history of settler colonialism (OHRC, 2017: 99). Indeed, present-day police practices were widely understood as a continuation of state practices intended eliminate Indigenous cultures and assimilate Indigenous peoples into mainstream society (Ibid)[[10]](#footnote-10).

A similar history has impacted upon the policing of Black Canadians. Following the abolition of slavery, the association of Blackness with violence specifically, and criminality in general, was used to justify restrictive immigration practices that limited Black entry into Canada and to exert social control over the Black population already present in the country (Maynard, 2017). In his book *Discrimination and Denial,* Clayton Mosher documents in great detail how the police used public order offenses as a means of controlling Toronto’s Black population throughout the late 19th and early 20th centuries (Mosher, 1998). Despite significant advancement with regards to racial and ethnic relations in Canada, perceptions of Black criminality have not completely subsided over time. As Roberts (2001:103) points out, there remains a tendency in Canada and other Western nations to “racialize” crime; that is, a tendency to develop associations between criminality and racial or ethnic origin. Indeed, a significant proportion of the Canadian public continue to believe that racialized Canadians are involved in a greater proportion of offending than official criminal justice records suggest (Rankin and Powell, 2008). A survey conducted in Ontario in 1995, for example, found that nearly half (45%) of respondents believed that there was a relationship between race and criminality. Of the respondents who held this view, two-thirds selected “West Indians” or “Blacks” as being the most responsible for crime (Henry et al., 1996). As individuals recruited from the general public, it is reasonable to believe that the police share public perceptions regarding race and crime (Correll et al., 2007; Eberhardt et al., 2004). From a Critical Race perspective, racial profiling would thus be viewed as a key tool used by the police in their efforts to identify and control the “dangerous populations” for the benefit of mainstream society (Kerrison, Cobbina and Bender, 2018).

**Summary**

The purpose of this section has been to review possible explanations for racial profiling. Future research is needed to determine which of the above explanations are the most valid, or whether all five theoretical frameworks occur simultaneously and thus account for some proportion of the racial profiling phenomena. Some scholars believe that, since racial animus has declined significantly within society, overt racism will only explain a small amount of racial profiling behaviour. Similarly, due to political pressures, it is likely that organizational guidelines that directly target certain racial groups are becoming increasingly rare. However, racial stereotyping, cognitive biases and systemically biased police deployment practices likely remain prevalent and thus are more relevant to both researchers and policy-makers. It is also important to note that some of the theoretical models discussed above are more amenable to policy than others. Formal, race-based criminal profiles can be eliminated. Police services can screen for racial animus in new recruits and discipline or terminate sworn officers who display overtly racist attitudes or behaviours. Policing in high crime neighbourhoods can also be restricted to rapid response to calls for service rather than proactive policing practices that often subject law abiding residents to aggressive street interrogations. However, as noted by Tomaskovic-Devey, Mason and Zingraff (2004: 25), implicit biases and individual-level stereotyping may be more difficult to identify and control. Importantly, we cannot change the realities of Canadian history.

# **THE EMPIRICAL DOCUMENTATION OF RACIAL PROFILING**

A review of the literature reveals that five different methodological strategies have been employed by researchers in order to explore police stop, question and search activities and the issue of racial profiling. These five research methodologies include: 1) Qualitative methods; 2) Survey methods; 3) Observational methods; 4) Official statistics on police stops; and 5) Official data on street checks or carding. In this section of the report we explore major research findings associated with each data collection strategy and discuss their associated strengths and weaknesses.

## QUALITATIVE RESEARCH

Much of the early work on racial profiling in the United States, Great Britain and Canada consisted of one-on-one interviews or focus groups with racialized youth. For example, Jones-Brown (2000) conducted interviews with 125 Black high school students from a central New Jersey town about their experiences with the police. She found that over 90% of the youth reported being stopped by the police at some point in their life and that 81% had been stopped within the past year. Furthermore, the majority of these youth reported that they had been treated unfairly by the police and that race had been a motivating factor with respect to the police decision to single them out for special scrutiny. Overall, these youth claimed that their experiences during police stop and search activities had left them with an "unfavourable" impression of the police. In a similar study, Brunson (2007) analysed in-depth interviews with 40 African American males who reside in a disadvantaged urban neighbourhood within the city of St. Louis, Missouri. Almost all of these respondents (83%) claimed that they had been repeatedly stopped and harassed by the police over the past year and the majority (90%) also reported that they knew someone else who had been recently mistreated by the police. Brunson comments that these numbers are extremely high and suggests, therefore, that police mistreatment of racialized males within disadvantaged communities is relatively common. He also suggests that direct negative experiences with the police, as well as learning about others’ negative experiences (i.e., vicarious exposure to police behaviours), combine and accumulate to a point where they reduce civilian trust in the police and ultimately reduce the level of community cooperation in police investigations (also see Glover 2008 and Conely 1994 for similar American results).

More recent research has examined the views of individuals engaged in the civil unrest that recently swept across the United States following instances of perceived police abuse. Cobbina, Owusu-Bempah and Bender (2016), for example, drew on data collected during interviews with protestors from Ferguson, MO to investigate how they felt the police view and deal with racialized Americans. Cobbina et al. found that their respondents believed that the police view Black people as criminal, worthless and debased, and suggested that these beliefs held by the police were rooted in historical patterns connected to slavery (2016: 220-221). By contrast, the respondents suggested that the police view White Americans as innocent and less threatening. The respondents argued that these differences in police perceptions of Black versus White citizens influence their respective treatment at the hands of the police, including levels of police scrutiny and contact (Cobbina et al., 2016: 224). Furthermore, the respondents suggested that police officers’ negative perceptions of Black Americans and the related treatment of this group were tied to broader social inequalities, such as poverty and social marginalization, which helped fuel the civil unrest.

Within the Canadian context, James (1998) conducted intensive interviews with over fifty Black youth from six different cities in Ontario. Many of these youths reported that being stopped by the police was a common occurrence for them. There was also an almost universal belief that skin colour, not style of dress, was the primary determinant of attracting police attention. As one of Black male respondent noted: "They drive by. They don't glimpse your clothes, they glimpse your colour. That's the first thing they look at. If they judge the clothes so much why don't they go and stop those White boys that are wearing the same things like us. I think that if you are Black and wearing a suit, they would think that you did something illegal to get the suit" (James 1998: 166). James concludes that the adversarial nature of these police stops contributes strongly to Black youths hostility and negative attitudes towards the police (James 1998: 173). Neugebauer's (2000) informal interviews with 63 Black and White youths from Metropolitan Toronto produced very similar results. Although the author found 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 teens from other racial backgrounds.

In another qualitative study, the Ontario Human Rights Commission (OHRC) gathered detailed testimonials from a non-random sample over 800 people in Ontario – most of them Black – who felt that they had been the victim of racial profiling (Ontario Human Rights Commission 2003). The OHRC project was not only successful in providing vivid descriptions of specific racial profiling incidents, it also provided detailed information concerning how these incidents negatively impact both racialized individuals and communities (Williams 2006). During a series of public consultations conducted by the Ontario Government’s Roots of Youth Violence Inquiry, strikingly similar stories were communicated to lead investigators throughout southern Ontario. Black and Indigenous youth repeatedly told the Inquiry that they felt targeted by the police – often through aggressive police stop and search activities – and that this targeting had eroded their trust in the police and the broader criminal justice system (McMurtry and Curling 2008a; McMurtry and Curling 2008b). Interestingly, a similar qualitative project was recently completed in Quebec by the Commission des Droits de la Personne et des Droits de la Jeunesse. Overall, the results of this Quebec investigation are startlingly similar to the findings produced by OHRC and Roots of Youth Violence inquiries (see Eid et al. 2011).

Findings from the above human right’s investigations were recently reinforced by the Community Assessment of Police Practices (CAPP) research project in Toronto. During the summer of 2014, the research team, funded by the Toronto Police Services Board, conducted an ambitious community survey that involved interviews with a non-random sample of 404 residents of 31 Division – an area encompassing one of the most racially diverse and socio-economically disadvantaged regions of Toronto. Approximately half the sample self-identified as Black, 12.1% as White and 30.4% identified with another racial group. The results of the study indicate that respondents had little trust or confidence in the police. Furthermore, regardless of their own racial background, the majority of respondents felt that the Toronto police engaged in racial profiling. Consistent with this belief, Black respondents were also much more likely to report they had been recently stopped and “carded” by the police and that during these encounters they had been intimidated and/or treated with disrespect (see Price 2014).

In recognizing the increasing presence of Black Canadians outside of urban areas, Carl James’ research has also examined the police experiences of Black youth residing in suburban areas in the Greater Toronto Area (James, forthcoming). Although many people move to the suburbs as a result of upward mobility, and to shield their children from the ‘social ills’ and violence associated with the inner-city, James’ findings suggest that stereotypical assumptions about Black people and Black youth continue to negatively influence their experience with the police in these environments. Indeed, one young man interviewed as part of his research commented

*Law enforcement also stereotypes us and assumes because we are Black we all partake in drugs etc. They also assume that all Black youth live in poverty and are struggling which is not true. People in the stores assume I am going to steal which is not true. I go out of my way to try not to look [like a] suspect. People are always staring at me thinking I am a thief.*

This sentiment is apparent in the interviews conducted with young Black men across the suburban neighbourhoods included in the study. As a result, James suggests that, for Black youth, life in the suburbs is understandably no different from that in urban areas when it comes to treatment from law enforcement officials; the high levels of surveillance they experience and treatment they receive from the police continue to reinforce notions of otherness and a lack of belonging (forthcoming).

Qualitative methodologies have also been used to study police officer perceptions of the racial profiling issue. For example, Satzewich and Shaffir (2009) recently interviewed 18 members of the Hamilton, Ontario police service with respect to their opinions about racially biased policing. Interestingly, a number of the participants in this study admitted that they might consider race, along with other personal characteristics, when deciding on who to stop and question. For example, one police officer admitted that: “It’s a very difficult job, and the nature of the job forces you to stereotype and discriminate. When I’m driving my cruiser at 2 o’clock in the morning, and I see (one of the interviewers) in a shirt and tie driving a Mercedes, I think nothing of it. But if I was to see a Black twenty-year-old, guess what? He’s getting pulled over” (Satzewich and Shaffir 2009: 210). What is also clear from the interviews is most police officers feel that profiling has nothing to do with overt racism or racial animus. Any focus on race, they argue, is a function of criminal profiling processes that have their roots in police professionalism, rationality and efficiency. As another respondent noted: “As police officers, we are trained in certain ways, and then you build instincts. Because when we are out on the street, we rely on our instincts. We are trained investigators in the sense that we need to do profiling. And what kind of profiling is that? Criminal profiling. It has nothing to do with racial profiling. We profile criminals. We do geographic profiling. It assists us to identify problems and localize them and address them. When we go out...we do not target any specific culture or race. However, if we do come into a problematic area, and we start to ply our trade – policing – then if they happen to fall within those parameters, there’s not much we can do” Satzewich and Shaffir 2009: 210). In other words, these police respondents tend to reject racial animus explanations for profiling, but support the idea that minorities may be stopped more than Whites because they are more likely to reside in “problematic areas” or fit a “criminal profile.”

Sazewich and Shaffir (2009) also document how police officers, working within the police subculture, effectively deflect or reject allegations of racism by focussing on recent changes to police organizational structures that reflect a commitment to anti-racism, by focussing on multicultural police recruitment practices that have increased the diversity of police forces throughout Canada, and by “blaming the victim.” Examples of blaming the victim include the argument that racialized criminals often “play the race card” in order to deflect attention away from their own illegal behaviour as well as claims that racialized perceptions of police racism are based primarily on exposure to the American media (Sazewich and Shaffir 2009: 217-218).

Other qualitative information on racial profiling in Canada was derived from focus groups with Black officers from the Toronto Police Service. Following a series of newspaper stories on racially biased policing, former Police Chief Julian Fantino asked several senior Black officers, including Superintendent Keith Forde, to investigate how allegations of racial profiling were being perceived by Black members of the force. In response to this request, thirty-six Black officers met to discuss the issue of racial profiling in October 2003. A focus group format was utilized. All of the participating officers agreed that racial profiling was a problem and that the criminal stereotyping of Black citizens was widespread within the Toronto Police Service. The majority of respondents also reported that they themselves had been the victim of racial profiling. Three officers, in fact, reported that they had been stopped and questioned by the police on more than one occasion in the same week and six officers reported that they had been stopped on more than twelve occasions in the same year. In a subsequent presentation of these findings to their fellow officers, the senior Black officers tasked with the investigation began with the statement: “We know that racial profiling exists” (see Tanovich 2006: 35-36).

Similar research on the perceptions and experiences of Black police has recently been conducted with officers in the Greater Toronto Area. Owusu-Bempah (2014) conducted in-depth interviews with a non-random sample of 51 black male police officers from five different Toronto-area police services. He argues that this sample can provide unique insights into the reality of racism within law enforcement because of the respondent’s dual identities and experiences as both black males within Canadian society and their experiences as police officers. Almost all the black male police officers involved in this study reported that they had observed racial profiling and other forms of racially biased policing on the job and had worked with fellow officers who engaged in racial profiling and openly condoned the practice. Indeed, the majority indicated that they themselves had been subjected to racial profiling on multiple occasions – even after becoming a police officer. All agreed that such racial bias has had a negative impact on Canada’s black community and produced distrust between the police and African Canadian civilians. Many of the officers argued that racially biased policing is a result of racial stereotypes that associate the Black population with both criminality and dangerousness (Owusu-Bempah 2015).

In conclusion, proponents argue that qualitative research methods can help researchers make sense of police stop and search statistics and further understand how police surveillance activities impact the lives of members of different racialized groups. As Brunson (2010: 221) notes, although statistics may help us identify racial differences in overall exposure to police surveillance activities, “they have not elicited the kind of information that would allow researchers to acquire deeper understandings of meanings for study participants. On the other hand, qualitative research methods provide a unique opportunity to examine and better understand the range of experiences that may influence individuals’ attitudes towards the police.” Stewart (2007: 124) adds that: “A qualitative research approach allows researchers to measure the various sources of negative direct and vicarious police experiences and understand the meaning one attaches to these experiences.”

Although qualitative studies tend to provide great detail about police encounters and the "lived experience" of racialized people, they have often been criticized for being based on small, non-random samples – usually from economically disadvantaged communities. In other words, it is often difficult to generalize the results of qualitative research to the wider population. Furthermore, most qualitative studies focus on the experiences of racialized people in isolation. In other words, they do not directly compare the experiences of members of racialized groups with the experiences of the White majority. These facts alone have led to charges that the qualitative research evidence documenting racial profiling is "selective" or "anecdotal" and thus not truly representative of police behaviour (see Wilbanks 1987; Melchers 2006). It should be stressed, however, that police denials of racial profiling are equally “anecdotal” and have thus been largely dismissed by organizations representing various racialized groups and scholars of race/racism (see Tator and Henry 2006). In sum, although qualitative research methods have considerable value when it comes to documenting and understanding police-race relations, there is a general consensus among researchers that, when possible, they should be supplemented with more quantitative approaches.

## SURVEY RESEARCH

Unlike qualitative research strategies, survey methods often explore the opinions and experiences of citizens using large, random samples. Thus, unlike qualitative results, survey findings can be more easily generalized to the entire population in question. With respect to racially biased policing, survey methods have been used to document that racial profiling is viewed as a serious problem by a large proportion of the American and Canadian population. The Gallup Organization was one of the first polling agencies to conduct a national survey on racial profiling in the United States. Their 1999 survey found that 80% of Black Americans and 60% of Whites felt that racial profiling was widespread. Furthermore, 40% of Blacks felt that they had been a recent victim of racial profiling, compared to only 5% of Whites. Additional analysis of this data reveals that the perception of being racially profiled is particularly strong among young Black males. Over 70% of young Black males in this 1999 study felt that they had been the victim of racial profiling (see Weitzer and Tuch 2002).

In 2004, Weitzer and Tuch returned to the issue of racial profiling in the United States by conducting their own national survey of the White, Black and Hispanic population. Consistent with their previous work, this more recent survey found that – regardless of race – most Americans believe that the practice of racial profiling by the police is widespread. Not surprisingly, the authors also found that this belief is more common among Blacks (90%) and Hispanics (83%) than Whites (70%). Interestingly, one fourth of the White respondents (27%) felt that racial profiling is justified, compared to 23% of Hispanics and only 10% of Blacks. Finally, in line with previous research, 37% of Blacks felt that they had been the victim of racial profiling, compared to 23% of Hispanics and only 1% of Whites (see Weitzer and Tuch 2005). Similar results have been produced in a number of other American surveys (see Epp, Maynard‐Moody and Haider‐Markel, 2017; Higgins et al. 2010; Higgins et al. 2008; Reitzel and Piquero 2006; Rice et al. 2005 Reitzel et al. 2004). Importantly, all of these studies suggest that racial differences in perceptions of racial profiling remain strongly significant after controlling for other theoretically relevant factors including age, gender, social class, education, political orientation and neighbourhood crime rates.

Survey research has also identified racial differences with respect to the perception of racial profiling in Canada. In a 2007 survey of Toronto residents, for example, respondents were asked the following question: *Racial profiling is said to exist when people are stopped, questioned or searched by the police because of their racial characteristics, not because of their individual behaviour or their actions. In your opinion, is racial profiling a problem in Canada or not?* The results suggest that Black Canadians are much more likely to perceive racial profiling as a major social problem than their Chinese and White counterparts. Indeed, six out of ten Black respondents (57%) view racial profiling in Canada as a “big problem,” compared to only 21% of White and 14% of Chinese respondents. [[11]](#footnote-11) Respondents were then asked: *Suppose that, in a particular neighbourhood, most of the people arrested for drug trafficking, gun violence and gang activity belong to a particular racial group. In order to fight crime in this area, do you think it would be okay or legitimate for the police to randomly stop and search people who belong to this racial group more than they stop and search people from other racial groups?*  According to the responses to this question, four out of ten White respondents (39%) and a third of Chinese respondents (34%) feel that racial profiling is a legitimate crime-fighting strategy, compared to only 23% of their Black counterparts. These racial differences in opinion are statistically significant (see Wortley and Owusu-Bempah 2011b; Wortley and Owusu-Bempah 2009).

It is important to note that, in addition to measuring public opinion about racial profiling, survey methods can also be used to measure actual experiences with police stop and search activities. The ability for surveys to measure race – as well as other variables that may theoretically predict contact with the police – is an important methodological advance that partially addresses the crucial issue of “benchmarking” (see discussion below in the section on official police statistics). In other words, survey methods enable us to estimate whether race has an impact on police stops and searches after statistically controlling for other relevant factors. For example, Lundman and Kaufman (2003) used data from the 1999 Police-Public Contact Survey (PPCS), a national survey of over 80,543 American residents, to examine whether racial minorities were more likely to report traffic stops during the past 12 months. [[12]](#footnote-12) A sophisticated multivariate analysis revealed that Black respondents, especially Black males, were more likely to be stopped by the police in the past year and that race remained a significant predictor of police stops even after statistically controlling for other relevant factors including size of community, driver social class and driver age. Further analysis revealed that both African-Canadian and Hispanic respondents were more likely to feel that the police had stopped them for an illegitimate reason and were less likely to feel that they had been treated fairly during their last police encounter (see Lundman and Kauffman 2003). Other scholars have used the 1999 PPCS to examine post-stop outcomes. For example, Engel and Calnon (2004a) used this data to determine that young Black and Hispanic males are much more likely to be searched during police stops than Whites – even after other legal and extra-legal characteristics had been taken into statistical account. The great over-representation of Blacks and Hispanics among those searched during traffic stops has also been documented by the 2002 and 2005 versions of the PPCS (see Durose, Smith and Langan 2007). These authors also found that, compared to Whites, Black and Hispanic respondents were at a significantly greater risk of a citation, arrest and police use of force. More recently, Hickman, Piquero and Garner (2008) used data from the 2002 PPCS to further establish that, during traffic stops, males, young people, Blacks and Hispanics are more vulnerable to police threats and use of force.

It should be stressed that a number of other American surveys, conducted within specific jurisdictions, have generated similar results. For example, surveys conducted in both Chicago (Skogan 2005; Rosenbaum et al. 2005) and Washington, DC (Weitzer et al. 2008) found that Black people are significantly more likely than Whites to report both traffic stops and pedestrian stops during the previous year. Consistent with previous research, these surveys found that young Black males are particularly vulnerable to police stops and searches. For example, in the Washington, DC survey, 61 percent of Black males, 18-29 years of age, reported that they had experienced either a traffic stop or pedestrian stop in the past year, compared to only 19% of White males in the same age category. Racial differences were particularly evident with respect to pedestrian stops: 18% of young Black males reported being stopped by the police while walking in the past year, compared to only 4% of White males. Further analysis of the Washington, DC data suggests that social class background does not protect Black people from police attention. Indeed, not only were Blacks with a university education more likely to be stopped than similarly educated Whites, they were actually more likely to report being stopped than Blacks with lower levels of educational attainment (see Weitzer et al. 2008).

Survey research conducted in England (Qureshi 2010; Bradford et al. 2009; Bradford 2011; Clancy et al. 2001; Skogan 1990) has also documented significant racial differences in self-reported stop and search experiences. In general, these surveys have found that Black people in Great Britain are more likely to report being stopped and searched by the police than people from other racial backgrounds. The 2000 British Crime Survey (BCS), for example, conducted interviews with over 10,000 residents of England and Wales and found that Black respondents were much more likely to report that they had been stopped by the police in the last "12 months" than either Whites or Asians. Multiple stops were especially common among Black respondents: 14% of Blacks report being stopped five or more times in the past year, compared to only 4% of Whites. Stops and searches were particularly common among young Black males. Indeed, the survey found that 40% of black males, 16-29 years of age, had been stopped at least once in the past year, compared to 25% of White males in the same age category. Furthermore, among those who had been stopped, Black respondents were much more likely than Whites and Asians to report that they had been searched and that the police treated them rudely. For example, the 2000 BCS found that 34% of traffic stops involving Black motorists resulted in a search, compared to only 9% of stops involving White motorists. Importantly, logistic regression analyses confirmed that racial differences in police stops and searches remain significant after statistically controlling for other relevant factors including age, sex, income, education, employment status, occupation, living in London, living in an inner-city community, access to a motor vehicle, evenings out per week, miles driven in the past year and criminal record (see Clancy et al. 2001; also see Skogan 1990 for similar results with respect to the 1988 BCS).

To date, there have been four large Canadian surveys that have addressed the racial profiling issue. Three of these studies were conducted in Toronto and the fourth involved a national sample. All four studies attempted to document whether racial minorities are more likely to be stopped by the police than Whites after statistically controlling for other factors that might increase – or decrease – the likelihood of drawing police attention (see reviews in Wortley 2016; Owusu-Bempah and Wortley 2014).

To begin with, a 1994 survey of over 1,200 Black, Chinese and White Toronto residents (at least 400 respondents from each racial group), conducted by York University’s Institute for Social Research, found that Black people, particularly Black males, are 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. In fact, 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. Multivariate 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 attributed 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” (see Wortley and Tanner 2003; Wortley and Kellough 2004).

A second study, conducted in 2000, surveyed approximately 3,400 Toronto high school students about their recent experiences with the police (Wortley and Tanner 2005; Hayle, Wortley and Tanner 2016). The results of this study further suggest that Blacks are much more likely than people from other racial backgrounds to be subjected to street interrogations. For example, over 50% of the Black students report that they have been stopped and questioned 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 consistent with the argument that the police focus exclusively on suspicious or criminal activity when deciding to make a stop – not the personal characteristics of citizens. The data further reveal that those students who spend most of their leisure time in public spaces (i.e., malls, public parks, nightclubs, etc.) are much more likely to be stopped by the police than students who spend 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 and more likely to be involved in leisure activities which take place in public spaces?

While the data reveal that White students have much higher rates of both alcohol consumption and illicit drug use, Black students report higher rates of minor property crime, violence and gang membership. Furthermore, 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. Multivariate analysis reveals that after statistically controlling for criminal activity, drug use, gang membership and leisure activities, the relationship between race and police stops and searches 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 2005). Thus, while the first survey, discussed above, reveals that age and social class do not protect Blacks from police stops and searches, this study suggests that good behaviour also does not shelter Blacks from unwanted police attention.

This high school survey was also able to demonstrate that, because they are subject to higher levels of police surveillance, Black youth are also more likely to be caught when they break the law than White youth who engage in exactly the same forms of criminal activity. Consider the example of student drug dealers. As discussed earlier, we defined a drug dealer as any respondent who had sold illegal drugs on at least ten occasions in the past year. The findings further reveal that 65% of Black drug dealers have been arrested at some time in their life, compared to only 35% of the White drug dealers – a finding that likely reflects the fact that Black students are much more likely to be stopped and searched by the police (Wortley and Tanner 2005; Hayle, Wortley and Tanner 2016).[[13]](#footnote-13)

It is important to note that these findings have also been replicated using a national sample of Canadian youth (12-17 years old). Fitzgerald and Carrington used data from the 2000-2001 National Longitudinal Survey of Children and Youth (sample size=4,164 respondents) to explore whether “high risk” “visible minority” youth (Aboriginals, Blacks and youth of Arab descent) were more likely than White youth or “low risk” “visible minority” youth (South Asians and Asians) to be stopped and questioned by the police. Consistent with the Toronto survey discussed above, Fitzgerald and Carrington (2011) found that Black, Aboriginal and Arab youth from across Canada were significantly more likely to be stopped and questioned by the police over the past year than White youth, Asian youth or South Asian youth. Furthermore, multivariate analyses reveal that the impact of race on police stops remains statistically significant after controlling for other theoretically relevant variables including socio-economic status, family background, parental supervision, leisure activities, neighbourhood safety and individual involvement in both violent and nonviolent crime. In other words, although high risk visible minority youth reported higher levels of criminal involvement than white youth, this did not explain why visible minority youth were more likely to be stopped and questioned by the police. Indeed, consistent with Wortley and Tanner’s (2005) findings, the results of Fitzgerald’s and Carrington’s (2011) work suggests that racial differences in police contact are greatest among youth with low levels of criminal involvement. Once again, Canadian findings suggest that “good behaviour” does not protect blacks and other minorities from unwanted police contact to the same extent that it protects whites. The authors conclude that their findings are consistent with allegations of racial profiling.

A fourth Canadian survey, conducted in 2007, involves interviews with a random sample of 1,500 White, Black and Chinese Torontonians, 18 years of age or older. Over 500 respondents were selected from each of the targeted racial groups (Wortley and Owusu-Bempah 2011b). Respondents were asked how many times they had been stopped and questioned by the police – while driving in a car or walking or standing in a public space – in the past two years. The results suggest that a third of the Black respondents (34%) have been stopped by the police in the past two years, compared to 28% of Whites and 22% of Chinese respondents. Racial differences exist for both traffic and pedestrian stops. Blacks are especially likely to experience multiple police stops. Indeed, 14% of Black respondents indicate that they have been stopped by the police on three or more occasions in the past two years, compared to only 5% of White and 3% of Chinese respondents. On average, Blacks experienced 1.6 stops in the past two years, compared to 0.5 stops for Whites and 0.3 stops for Chinese respondents.

Further analysis reveals that Black males are particularly vulnerable to police stops. One in four Black male respondents (23%) indicate that they were stopped by the police on three or more occasions in the past two years, compared to only 8% of White males and 6% of Chinese males. On average, Black males experienced 3.4 police stops in the past two years, compared to 0.7 stops for White males and 0.5 stops for Chinese males. Although Black females are less likely to be stopped and questioned by the police than Black males, they are significantly more likely to report police stops than White or Chinese females. In fact, Black females (9%) are more likely to report three or more police stops than White (8%) or Chinese males (6%). On average, Black females report 0.7 police stops in the past two years, compared to 0.4 stops for White females and 0.2 stops for Chinese females (Wortley and Owusu-Bempah 2011).

Respondents were also asked if they had been physically searched by the police in the past two years. Once again, the data reveal that Black people – particularly Black males – are more vulnerable to police searches than respondents from other racial backgrounds. Overall, 12% of Black male respondents report being searched by the police in the past two years, compared to only 3% of White and Chinese males. Black females are also more likely to report being searched by the police (3%) than White or Chinese women (1%).

The data clearly indicate that Black respondents are more likely to be stopped and searched by the police than White or Chinese respondents. However, there are factors, besides race, that may explain Black over-representation in police encounters. For example, Black Torontonians tend to be younger and less affluent than their White and Chinese counterparts. Thus, it may be youthfulness or poverty – not racial bias – that explains why Black people are more likely to be stopped and searched. Similarly, Black people may be more likely to be stopped because they are more likely reside in high crime neighbourhoods, often marked by aggressive police patrol strategies. Furthermore, racial differences in behaviour, not race itself, might explain why Black people receive greater police attention. For example, compared to people from other racial backgrounds, Black people may be more vulnerable to police stops because they spend more time driving or hanging out in public spaces. Finally, Blacks may be more likely to draw the legitimate attention of the police because they are more likely to be involved in traffic violations or various forms of criminal activity.

In order to address these competing hypotheses, a series of logistic regressions predicting police stop and search experiences were produced. In addition to race, these regressions statistically control for a variety of demographic variables including age, gender, education, household income and place of birth. The analysis also controlled for level of crime within the respondents’ neighbourhood, frequency of driving, level of involvement in public leisure activities, alcohol use, marijuana use and criminal history. The results of the multivariate analyses indicate that Black racial background remains a strong predictor of police stop and search activities after statistically controlling for other theoretically relevant variables. Chinese racial background, on the other hand, is unrelated to the probability of being stopped and searched by the police. The results further suggest that, the more stringent the measure of police stops, the stronger the relationship with Black racial background. For example, an examination of the odds ratios indicates that Blacks are 1.9 times more likely than Whites to experience one or more stops in the past two years, 2.3 times more likely to experience two or more stops and 3.4 times more likely to experience three or more stops. Furthermore, the results suggest that Blacks are also 3.3 times more likely than Whites to have been searched by the police in the past two years (Wortley and Owusu-Bempah 2011b).

All of the respondents who reported that they had been stopped and questioned by the police in the past two years (N=423) were subsequently asked a series of questions about their most recent police encounter. The results clearly indicate that Black respondents tend to interpret police stops more negatively than their Chinese and White counterparts. To begin with, respondents were asked if they thought their latest police stop was fair or unfair. Almost half of the Black respondents (47%) felt that their last police stop was unfair, compared to only 17% percent of Chinese and 12% of White respondents. Compared to White and Chinese respondents, Black respondents were also less likely to report that the police adequately explained the reason for the stop and were more likely to report that the police treated them in a disrespectful manner.

Finally, respondents were asked the following open-ended question: *The last time you were stopped by the police, why do you think they stopped you?* One out of every four Black respondents (25%) specifically claimed that they were stopped because of their race. By contrast, only two Chinese respondents and two White respondents cited race as the reason that they were stopped. Interestingly, both of these White respondents claimed that they were stopped by the police because they were riding in a car with Black people. With these results in mind, it is not surprising to note that Black respondents were much more likely than Chinese or White respondents to report that they were “very upset” by their last police encounter (Wortley 2011b). These results are remarkably consistent with American research that also suggests that Black people are more likely to feel that they have been treated unfairly or with disrespect during police stops (see Warren 2011).[[14]](#footnote-14)

Following up on its 2003 report *Paying the Price: The Human Toll of Racial Profiling,* the Ontario Human Rights Commission released *Under Suspicion: Research and Consultation on Racial Profiling in Ontario* in 2017. Based on consultations with over 1600 people, this report documents both quantitative and qualitative data on racialized and Indigenous communities experiences with racial profiling in a range of contexts, including public policing.

As part of the investigation, the OHRC conducted a non-representative survey of 1503 members of the Ontario public about their experiences with racial profiling.[[15]](#footnote-15) Almost 40% of respondents to the survey reported having been racially profiled across institutions and social contexts; this includes 72.5% of Black respondents, 57.4% of Indigenous respondents and 63% of Arab and West Asian respondents (OHRC, 2017: 20). Policing was the most common institution in which respondents felt that they were racially profiled (32.4%).[[16]](#footnote-16) Black (37.9%), Indigenous (31.9%) and South Asian (31.3%) respondents were most likely to report that they had been racially profiled by the police (OCRH, 2017: 29). The OHRC survey also asked respondents direct questions about their experiences with police street checks and “carding”. Over one-third of the respondents who reported being racially profiled said that they had been subject to a police street check. As documented by the OHRC, Black (25.9%) and Indigenous (24.0%) respondents were most likely to report having experienced a street check, followed by Arab or West Asian (17.4%) and Muslim (14.7%) respondents (OHRC, 2017: 38). By contrast, only 8.6% of White respondents reported having been street checked by the police (Ibid). Experiences with street checks also differed by gender. Whereas 28.4% of men reported having experienced a street check the same was true for only 10.0% of women (Ibid).

In sum, with respect to investigating racial profiling, survey research has three distinct advantages over qualitative data. First of all, since surveys are typically based on large, random samples, research results can be more easily generalized to the total population. Secondly, surveys permit direct comparisons between people who report that they have been stopped and searched by the police and people who have not been stopped. Thus we are able to determine if people who are frequently stopped and searched by the police are different – with respect to race or other theoretically relevant factors – from those with little or no contact. Finally, in addition to documenting specific experiences with the police, surveys can also be used to investigate the psychological impact that perceived racial profiling incidents have on targeted populations. Survey research, however, is not without its limitations. Potential weaknesses with survey methods include problems with sampling error, questionnaire construction, respondent recall, respondent honesty and sample exclusion (see Lichenberg 2007; Lundman 2003). However, comparing the results of surveys with the results of other qualitative and quantitative research methods can serve as a validity check and ultimately increase confidence in the findings. It is thus important to note that the results of the above surveys are remarkably similar to the results produced by studies that examine official police statistics (see discussion below);

## OBSERVATIONAL DATA

This section will review the use of observation, fieldwork, and ethnography to study police-citizen interactions. Three types of observation studies will be reviewed here: video observations, systematic social observation, and ethnographic or observational fieldwork.

### *Videotaped Police-Civilian Encounters*

A handful of studies have used videotaped information to study the relationship between the police and racialized citizens. In 1992, for example, two Florida journalists reported the results of their study of race and traffic stops using evidence from in-car police cameras. The journalists first obtained videotapes from the dash-mounted cameras of police drug squad cars. The reporters subsequently viewed 148 hours of tape in the Sheriff’s Operations Centre. Their sample consisted of all videotaped police-civilian interactions available at the time of the request. However, the reporters note that the internal policy of re-taping over old tapes meant that thousands of hours of police stops had already been erased (Brazil and Berry 1992). A sample of 1,084 videotaped police stops was eventually analyzed. The reporters calculated that 70% of all police stops were of Black or Hispanic drivers. Furthermore, of the vehicles searched, 80% involved Black or Hispanic drivers. In 3 out of 4 searches, no contraband was found. Interestingly, less than one percent of stops resulted in a ticket. The reporters also felt that the police in this study seemed to be more concerned with seizing cash – through proceeds of crime legislation – than making arrests. Many violations and apparent crimes were ignored. Furthermore, 87% of all stops took place on the southbound highway (where cash on its way to Miami would be present) compared to only 13% of stops occurring in the northbound lanes, where purchased drugs would be expected to be present. Seizing cash without an arrest (as then allowed by U.S. drug laws) was commonplace (Brazil and Berry 1992).

In another American study, researchers analysed data from a stratified random sample of video recorded traffic stops conducted by the Cincinnati police service. Consistent with allegations of racial profiling, the research team found that Blacks were subjected to much more scrutiny during traffic stops than Whites. For example, Black motorists were more likely to have their vehicle searched by police and both Black drivers and passengers were more likely to be subjected to a personal search or pat down. Furthermore, the average duration of each traffic stop was significantly longer for Black than White motorists – a fact that is suggestive of greater police suspicion (Dixon 2008).

In the United Kingdom, Norris and Armstrong (1999) conducted an observation study of CCTV camera operators that showed differential surveillance by race and gender. The study took place on three sites in London – from 1995 to 1996 – with CCTV schemes that included zoom and tilt cameras and around-the-clock monitoring by CCTV operators. The researchers observed 25 CCTV operators for a total of 592 hours. In addition to ethnographic field notes, the researchers collated data on the CCTV targets, which were defined as either a person or group that was followed for more than one minute by the CCTV operator, or a person or group, that was identified by outside sources (i.e. police or store security guards). The study collected basic demographic information (approximate age, sex and race) on 711 people (primary targets), and 966 additional people who were second, third, or fourth in a group target (recording a maximum of four people per target). The study found that Blacks were twice as likely as Whites to be scrutinized by the camera operators for no apparent reason. As the authors note: “Few Black people were surveilled explicitly because of their behaviour – 13 percent of targeted surveillance compared with 36 percent for Whites” (Norris and Armstrong 1999: 115). The data also showed that some young women were watched for seemingly for prurient reasons: “the thighs and cleavages of the scantily clad are an easy target for those male operators so motivated. Indeed, 10 per cent of all targeted surveillance on women, and 15 per cent of operator-initiated surveillance were for apparently voyeuristic reasons outnumbering protective surveillance by five to one” (Norris and Armstrong 1999: 129) The operators also targeted public sex acts, compiling a “shaggers alley greatest hits tape” which could be “replayed for the benefit of those who missed the ‘entertainment” (Norris and Armstrong 1999: 130).

The authors of this study also noted that the “out of place” hypothesis – which maintains that the police regard minorities as being more suspicious when they venture outside of their own neighbourhoods – was not supported by the findings. Within the inner city site, where Blacks were the majority population, Black male youths remained the primary target for the CCTV operators. Whites, who were the distinct minority in these neighbourhoods, did not warrant special attention. The authors also found that: “The selection of Black youth was not just a matter of operator discretion but a deliberate matter of policy. The first week of operation saw the police officer responsible for setting up the scheme give advice to both shifts on where and what to watch. The priority target was stated to be Black youths” (Norris and Armstrong 1999: 125).

Another recent English study used videotape evidence to document overt racism among British police recruits. In 2002, an undercover BBC reporter named Mark Daly trained for seven months to be a police officer and captured damning video evidence of police recruits using racist pejoratives. Daly eventually served eight weeks as a fully operational police constable. However, shortly after the screening of his documentary entitled *The Secret Policeman* (Daly 2003), Daly was arrested “on suspicion of obtaining a pecuniary advantage by deception” (see Ford 2003). It is important to note that, consistent with the Racial Animus Model, many of the officers documented in this study felt that racial minorities deserved to be targeted by police stop and search activities. As Daly documents with hidden camera footage (Daly 2003):

It was at the Police National Training Centre in Warrington, where trainees from 10 forces in the North West and Wales spend 15 weeks, that much of my [video] material was garnered. The extremity of some of the racism I encountered from these recruits beggared belief. The majority of the officers I met will undoubtedly turn out to be good, non-prejudiced ones intent on doing the job properly. But the next generation of officers from one of Britain's top police colleges contains a significant minority of people who are holding the progress of the police service back. Racist abuse like "Paki" and "Nigger" were commonplace for these PCs. The idea that Black and Asian members of the public should be treated differently because of their colour was not only acceptable for some, but preferable. (Daly 2003).

Although Daly’s work did not actually document racial differences in police stop and search activities, it did serve as a painful reminder that overt racism still exists within British policing. Thus, we cannot totally discount the possibility that racial animus may play some role in explaining racial disparities in police stop and search encounters.

### *Systematic Social Observation*

Studies involving the systematic social observation (SSO) of the police have been conducted since the 1960s and have been a rich source of information on policing behaviour. SSO research typically involves trained observers going on patrol and systematically recording their observations for later data analysis. As Lundman (2004) notes, few SSO studies of police work have directly addressed the issue of racial profiling or disparate stop and search practices. Furthermore, he notes that such studies typically “do not contain data on vehicle searches by police and search hits, or those data have yet to be reported” (Lundman 2004: 314). Nonetheless, some studies have captured the role that race may play during police-citizen encounters.

Chambliss and his research team, for example, spent more than 100 hours riding with Washington, D.C.s Rapid Deployment Unit (RDU) as they patrolled underclass neighborhoods performing vehicular stops and drug stings. Although members of the unit were particularly suspicious of Black males driving BMWs and other upscale vehicles (based on the belief that these were the preferred models of drug dealers), Chambliss observed that many officers became convinced that the criminals were leaving their fancy cars at home in order to avoid being pulled over. Thus, it became "commonplace for RDU officers to stop any car with Black males in it" (Chambliss 1994: 179). Chambliss's vivid descriptions of these stops serve to demonstrate just how intusive, intimidating and condescending such police encounters can be:

After midnight. The driver of the patrol car points out a car driven by two young Black men. He tells his partner to check for violations. The partner says, "pull 'em over. Broken taillight." The officers call for backup. Two other RDU patrol cars arrive and the suspect's car is surrounded by the three cars. Two officers approach the car on each side. The driver rolls down his window, and the officer asks to see his license, which he gives without comment. The officer on the other side of the car asks to see some identification of the passenger and is given his driver's license. The licenses are given to a third officer who removes himself to his car to check for warrants and to check the license of the car. The officer on the driver's side asks: "Can we search your car?" The driver says "No." The officer then says, "You know what will happen if you refuse a police officer's request?" The driver then says "OK, you can look." Both occupants are told to get out of the car and the car is searched. The officers find nothing. Apparently satisfied that there are no drugs or guns in the car, the officer says: "OK. You can go: but don't let us catch you with any shit, you understand?" The driver nods yes, everyone returns to their cars (Chambliss 1994: 180).

In the above case, a "broken taillight" was used as an obvious pretext to stop a vehicle and conduct a search. However, it is clear that the racial characteristics of both the driver and his passenger represented the true motivation behind the police officers' decision to pull the car over. Chambliss goes on to note that the RDU's aggressive policing strategy was not used in predominantly White neighbourhoods and that the few stops he observed that involved White people did not include either calls for backup or vehicular searches (Chambliss 1994: 180).

In another American study, Brown and Frank (2005) used SSO methods to study street-level policing in Cincinnati, Ohio. The officers focussed only on encounters in which citizens were under suspicion of a criminal offence andfor whom there was no outstanding arrest warrant. Their analysis examined the likelihood of suspects receiving a citation as compared to no police action. Due to the comprehensive nature of this study, the authors were able to control for an impressive number of demographic, legal and contextual variables. These variables included demographics for suspects and officers; offence severity; available evidence; probable cause; type of stop (traffic vs. non-traffic); citizen vs. police-initiated; suspect prior criminal record; suspect intoxication; suspect demeanour; offense in progress; and the presence of bystanders. The authors found that, after statistically controlling for all other relevant factors, Black subjects were 14 times more likely than Whites to be arrested than cited (Brown and Frank, 2005).

Another example of a SSO study was conducted in London, England during the late 1980s (Norris et al. 1992). Three researchers spent 807 hours accompanying officers on routine patrols in three neighbourhoods of London. Using local crime-victimisation data and census estimates, the authors calculated the expected number of stops of Blacks and Whites per 1,000 population. Comparing the expected stop rate to the stop rate they documented during their field work, the authors found that Blacks were “two and a half times more likely to be stopped than their presence in the local population would suggest” (Norris et al. 1992: 212). The authors further estimated that one third of the Black male population of London, 35 years of age or younger, was stopped and subjected to an informal street interrogation during the study period. Additional analysis of the observed stops revealed that Blacks, in general, were stopped by the police on far more "speculative grounds" than their White counterparts. Furthermore, Blacks were not more likely to display a negative demeanour towards the police and were actually less likely than Whites to be intoxicated (Norris et al. 1999: 222).

Recently, a covert observational study of the Paris police generated mass public interest in France. From October 2007 until May 2008, 525 police stops carried out by National Police and Customs officers were observed and recorded at five different locations within central Paris. Importantly, the observers constructed a benchmark of the population available for stops through the collection of data on over 35,000 persons observed in the five sites during the study period. Observers were innocuous because data was transmitted to the research team by mobile telephone via SMS. The study calculated odds ratios for likelihood of being stopped, comparing the characteristics of the persons in the benchmarked population with the characteristics of those stopped. The study found that Blacks and Arabs had much higher odds of being stopped by the police than Whites and thus concluded that these groups were disproportionately targeted by the Paris police. Along with race, this study also collected data on four additional variables: age, gender, clothing, and whether the person was carrying a bag. The study authors note that other significant predictors of being stopped by the Paris police include the wearing of ‘youth culture’ clothing and the carrying of a bag. They also note that there was a positive correlation between racialized background and the wearing of ‘youth culture’ dress. However, consistent with racial profiling arguments, Blacks were still much more likely to be stopped and interrogated by the Paris police after statistically controlling for youth culture dress and bag carrying (Jobard and Levy 2011; Open Society Justice Initiative 2009).

### *Ethnography*

Ethnographic research typically calls for the researcher to become totally immersed in the life of a specific community or group. The argument is that once a researcher has become accepted into the community, they will be able to observe “natural” behaviours that are not impacted by the presence of a researcher. Unfortunately, most of the classic ethnographic studies of the police did not directly address issues of race or police stop and search activities. However, Skolnick (1966) classic work did find that African Americans were routinely targeted by patrol officers for special scrutiny. Similarly, Anderson’s (1990) ethnography of a multi-racial neighbourhood within a large American city documented numerous negative encounters between the police and Black youth. He also observed that Black youth also tended to share “war stories” about their interactions with the police and that this sharing of narratives served to reinforce negative attitudes towards the criminal justice system.

### *Summary*

Consistent with qualitative and survey research, a number of observational studies have documented that racial minorities are subject to differential treatment by the police. To date, however, we could not identify a single Canadian study that has used this type of methodology to examine the issue of racially biased policing. The possible benefits of observational strategies depend on the exact approach taken. Videotape studies can provide researchers with raw data on a large number of police-citizen encounters. Such data may also be valuable because the police often do not know that they are being videotaped or that the tapes will be used for research purposes. Proponents thus argue that video observations are more “natural” because they have not been impacted by the presence of researchers or knowledge of the research process. Systemic Social Observation (SS0), on the other hand, has been praised because it allows researchers to observe officers as they perform their duties and consider all the factors that may influence their decision-making processes. Proponents argue, therefore, that SSO methods can better provide context and ultimately capture the great complexity of the modern policing environment. Such methodologies, however, are also vulnerable to the Hawthorne Effect (Barnes 2010). In other words, officers may change their behaviours because they know they are under study. Finally, like other qualitative methods, ethnographies have been praised for the richness and detail of the data they can yield. However, like other qualitative approaches, they have been criticised for being based on small, non-random samples of police –civilian encounters. As we will see, small sample size is not a problem associated with official police data on stop and search activities.

## OFFICIAL DATA – POLICE STOPS

A fourth strategy for measuring police stop and search activities involves the use of formal police records to document discretionary police-civilian interactions. In the United States and Great Britain, official police-reported data is arguably the most common source of information on police stop and search practices (Miller 2010; Paulhamus et al. 2010; Tillyer et al 2010; Batton and Kadleck 2004). This is not surprising given that police statistics are rather quick and inexpensive compared to large scale surveys, systematic social observation, interviews, ethnography, and other qualitative methods. Often, data is already available, and new data collection strategies require minimal changes to current stop and search recording practices. Large police datasets can also be generated in a relatively short period of time at minimal cost to the organization. Official data collection also has the advantage of maintaining high levels of police discretion in policing practice, but at the same time goes towards addressing and allaying community concerns about racial profiling (Data Collection Resource Centre 2011). Finally, one advantage of police-recorded stop data includes legal and contextual variables that may be missing from citizen reports of police stops, such as reason for the stop, official disposition of the stop, the police perception of citizen race, as well as the exact date, time and location of the stop.

In this section of the report, we first provide a brief overview of data collection practices, with respect to documenting police stops, in the United States, the United Kingdom and Canada. The report then turns to Canadian data on street checks or carding. The report then discusses several of the methodological challenges associated with police generated data – including the usefulness of both internal and external benchmarking techniques, post-stop analyses and the problem of police officer resistance to data collection efforts. This section concludes with a review of the arguments for and against police data collection on stop and search activities.

***Official Data Collection in the United States***

A large number of police agencies in the United States currently collect data on stop and search practices. Unfortunately, most of these studies focus exclusively on traffic stops and often systematically exclude police encounters with pedestrians (for an exception see White and Fradella 2016; Jones-Brown et al. 2010 for a discussion of stop and frisk activities in New York City). The omission of pedestrian stops is an important oversight. Pedestrian encounters are particularly common among young people – especially those who reside in urban areas. Thus, excluding these types of stops may contribute to the under-estimation of police activities that focus on young people and racial minorities (see White and Fradella 2016; Brunson 2007).

Within the United States, police data collection has generally emerged from one of three processes: 1) A requirement of litigation against a specific police service; 2) A legislative mandate designed to address racial profiling allegations; or 3) Proactive action by police service agencies to address community concerns. A number of police scholars have argued that volunteering to collect data in order to meet community concerns may be particularly salient because it indicates a commitment to accountability by the agency and communicates a message of legitimacy to the community (see Tillyer et al. 2010; Fridell 2004; Ramirez et al. 2000). A 2007 review of the American situation (see Engel et al. 2007) revealed that 34 state police agencies were currently collecting vehicle stop data. Eighteen of these 34 state agencies voluntarily initiated data collection efforts, while 16 agencies were forced to collect data as result of litigation or legislative mandate. By 2014, in response to continued allegations of racial profiling, 30 states had passed specific anti-profiling legislation and 18 states – including New Jersey, Connecticut, Illinois, North Carolina and Washington – now require the mandatory collection of data on all police stop and search incidents (including pedestrian stops). Furthermore, fifteen states require the analysis and publication of racial profiling data (see Brooks et al. 2014; Spohn 2014; Engel and Swartz 2014). Advocates maintain that such data increase police accountability and will ultimately contribute to reductions in biased policing practices. It should be stressed that many local police services – including New York City – have a policy to collect and report on stop and search data on an annual or semi-annual basis (see Jones-Brown et al. 2010).

To date, analyses of American police stop data demonstrate a relatively consistent pattern of racial disparity. In general, African Americans, and to a lesser extent Hispanic Americans, are more likely to be stopped and subsequently searched by the police than Whites (see reviews in White and Fradella 2016; Engel and Swartz 2014; Brooks et al. 2014; Tillyer et al. 2010; Paulhamus et al. 2010; Ridgeway and MacDonald 2010; Miller 2008; Mosher et al. 2008; Weitzer and Tuch 2006; Williams and Stahl 2008; Engel et al. 2007; Alpert et al. 2007; Harris 2006). However, the level of racial disparity in exposure to police stops varies from study to study and is strongly associated with the type of “benchmarking technique” employed. The complex and controversial “benchmarking” issue is discussed further below.

***Official Data Collection in the United Kingdom***

The Roots of race-based data collection within England’s criminal justice system can be traced back to the Brixton riots of 1981. This riot – which caused serious injuries to both police officers and civilians and caused major property damage – took place in a largely Afro-Caribbean neighbourhood suffering from high unemployment, poor housing, poor schools and a higher than average crime rate. Critics have argued that the event was triggered by *Operation Swamp 81* – a Metropolitan Police initiative that used antiqued vagrancy or sus laws to justify the stop, search and detention of Brixton residents for nothing more than “suspicion of wrongdoing” (Scarman 1981; Neal 2003). The British government quickly commissioned an investigation into the Brixton incident that ultimately produced the *Scarman Report*. This report identified rampant racial bias within the London police service, recommended legislative restrictions on police powers and identified the need for data in order to evaluate the effectiveness of anti-racism strategies (Scarman 1981; Neal 2003).

The Scarman Report and its recommendations directly contributed to the establishment of *the Police and Criminal Evidence Act* (1984). This legislation put strict limits on police stop and search practices and provided officers with a code of practice. Furthermore, to better monitor police activity, PACE also required police officers in England and Wales to complete a report on each stop and search they conduct. According to the Act, each report must include the time and location of the stop, the reason for the stop, the outcome of the search, as well as the ethno-racial background of the civilian.[[17]](#footnote-17) As a result of the PACE legislation there is now official data on police stop and search practices in England and Wales dating back to the mid-1980s.[[18]](#footnote-18)

The Macpherson Report (1999) – the culmination of the government inquiry into the murder of Stephen Lawrence – further highlighted the negative impact of stop and search on police relations with racialized communities. The Report recommended that the police should collect data on all stops, not just those that resulted in a search. Recommendation 61 states: *“That the Home Secretary, in consultation with Police Services, should ensure that a record is made by police officers of all ‘stops’ and ‘stops and searches’ made under any legislative provision (not just the Police and Criminal Evidence Act). Non-statutory or so called ‘voluntary’ stops must also be recorded. The record to include the reason for the stop, the outcome, and the self-defined ethnic identity of the person stopped. A copy of the record shall be given to the person stopped”* (Macpherson 1999: Recommendation 61). This recommendation was accepted by the Home Office and, following a number of pilot projects, police forces in England and Wales have been recording all stops (pedestrian and traffic, search or no-search) since 2005 (see Miller 2010; Bowling and Phillips 2007).

Since PACE and publication of the Macpherson Report, UK legislation has further mandated the collection and dissemination of race-based data beyond police stop and search practices. For example, Section 95 of the Criminal Justice Act 1991 (CJA) requires the Home Secretary to collect, analyze and publish information on criminal justice outcomes to prevent discrimination and improve the performance of persons engaged in the administration of justice. As a result, since 1996, the Home Office has required the police, the criminal courts and corrections to monitor the ethno-racial background of all suspects and offenders and keep race-based statistics on major justice-related outcomes (i.e., police stop and search practices, police arrest decisions, pre-trial detention, sentencing, prison admissions, parole, etc.). The results of these data collection activities are published annually by the Ministry of Justice (see Ministry of Justice 2015).

Overall, the British data consistently demonstrate that Black and Asian[[19]](#footnote-19) civilians are much more likely to be stopped and searched by the police than Whites. For example, according to data collected under the Police and Criminal Evidence Act (PACE), over one million stop and search incidents were recorded by the police in 2007/2008. The data also reveal that Blacks were stopped and searched at a rate of 129 per 1,000 during this time period, compared to 40 per 1,000 for Asians and only 17 per 1,000 for Whites. Overall, the 2007/2008 PACE data indicate that Black people are approximately eight times more likely to be stopped and searched by the police than their representation in the general population (see Riley et al. 2009: 26-70).

Recent analysis, however, indicates that number of police stop and search incidents within Great Britain has declined significantly over the past decade: from over a million stops in 2007-2008 to just over 500,000 stop and search incidents in 2014-2015. Importantly, as the number of stop and search incidents has declined, so have racial disparities. For example, in 2007-2008 Black residents were approximately eight times more likely to be stopped and frisked by the police than their White counterparts. By 2014-2015, however, Blacks were only four times more likely to be stopped and searched than Whites. Clearly, this racial disparity in exposure to police stop and searches is still disconcertingly large, and completely consistent with allegations of racial profiling, but it is only half what it was a decade earlier. Further analysis of the British data reveals that, as the number of stops and searches has declined, so has their effectiveness in detecting crime. In 2007-2008, for example, only 5% of stop and search incidents resulted in arrest, compared to 14% in 2014-2015. The decline in overall police stops and search incidents in England, combined with a decline in racial disparities and an increase in the arrests per stops ratio, has underscored the possibility that this police tactic had been grossly over-used earlier in the Century and that it may have been particularly over-used against racialized civilians (see Home Office 2015).

Data from the British “Stop and Account” dataset also reveal significant racial differences in exposure to police surveillance activities. The British “Stop and Account” dataset includes all stops in which the police requested civilians “to account for themselves” (i.e., asked them to provide identification, explain their behaviour or presence in a particular public location, etc.). Account stops do not include stops that resulted in a search (searches are captured by the PACE data), general conversations that might take place between a police officer and a civilian (i.e., giving directions) or cases in which the police were seeking witnesses (Riley et al. 2009: 95). Overall, the data reveal that the British police conducted close to 2.5 million account stops in 2007/2008. Black people were subjected to such account stops at a rate of 114 per 1,000, compared to 57 per 1,000 for Asians and 46 per 1,000 for Whites. Overall, the data indicate that Black civilians were 2.5 times more likely to be subject to an account stop than their White counterparts (see Riley et al. 2009).

As in the United States, British scholars are currently debating what proportion of the major racial differences in police stop and search activities are due to racial animus, racial stereotyping or implicit bias and what proportion are due to racial differences in crime rates, suspect descriptions or “available populations” (see Miller 2010; Bowling and Phillips 2007; Clancy 2001; Hallsworth 2006; Waddington et al. 2004). We further discuss this “benchmarking” issue in the next section. However, one thing is clear, the widespread collection and dissemination of police stop and search data in both the United States and the UK have enabled productive debates regarding the extent of racial profiling and have given researchers the information needed to track the extent of racial disproportionality with respect to police exposure. Such data also enables the evaluation of anti-racism initiatives designed to reduce racial disparities in police stop and search tactics. Unfortunately, data on police stop and search practices has, to date, been far less available in Canada.

***Official Data on Police Stops in Canada***

Unlike England and many regions of the United States, police forces in Canada are not required to record the race or ethnicity of the civilians they stop and/or search. Thus, in this country, official police statistics typically cannot be used to investigate racial differences in police stop and search activities. A pilot project that took place in Kingston, Ontario is one exception. Beginning in the late 1990s, the Kingston Police Service received a number of complaints about racial profiling from the city’s relatively small Black community. In order to address these allegations, Kingston’s Police Chief (Bill Closs), with the support of the Kingston Police Services Board, decided to engage in a short-term data collection project. Despite strong resistance from police associations across the country, this pilot project went into the field in October 2003. For the next twelve months, the Kingston police were ordered to record the age, gender, race and home address of all people that they stopped and questioned – along with the time and location of the stop, the reason for the stop and the final outcome of the interaction (i.e., arrest, ticket, warning, etc.). Information was ultimately recorded for over 16,500 police stops conducted this one year period. The results have been published and cited extensively in a number of peer-reviewed publications (see Marshall 2017; Wortley and Owusu-Bempah 2016; Owusu-Bempah and Wortley 2014; Wortley and Owusu-Bempah 2012; Wortley and McCalla 2008; Wortley and Marshall 2005).

In general, the results of the Kingston Pilot Project mirror the results of early racial profiling studies conducted in the United States and England. During the study period, the Black residents of Kingston were three times more likely to be stopped at least once by the police than their White counterparts. Overall, the individual stop rate for Black residents was 150 stops per 1,000, compared to only 51 per 1,000 for Whites. The results further indicate the individual stop rate is highest for the Black male residents of Kingston (213 per 1,000), followed by Black females (75 per 1,000), White males (74 per 1,000) and White females (29 per 1,000). It should be noted these stop rates were calculated after eliminating all police stops that involved people who lived outside of the City of Kingston (non-residents). Furthermore, each individual who was stopped during the study period was only counted once. In other words, the group-specific rates reported above were not inflated by individuals who had been stopped on multiple occasions. Although recommended (see Fridell 2004), such “adjusted census benchmarking” has rarely been conducted in other studies.

It is also important to note that, according to Canadian Census estimates, Kingston’s Black population in 2003 was considerably younger than its White population. Thus, there was a need to explore whether it was age – not race – that explained the observed racial differences in the exposure to police stops. Interestingly, further analysis of the Kingston data revealed that racial differences in police stops were most pronounced among young people. For example, the Black residents of Kingston aged 15 to 24 years had a stop rate of 410 per 1,000, compared to 109 per 1,000 for similarly aged Whites. In other words, the stop rate for young Black people in Kingston was almost four times higher than the White rate. It is also important to note, however, that significant racial differences in the police stop rate also existed for all other age categories (Wortley and Owusu-Bempah 2011; Wortley and McCalla 2008; Wortley and Marshall 2005).

As discussed above, most American studies that utilize official police data have only focused on traffic stops. This is important because many police officers claim that – because of factors like vehicle speed, tinted windows, observing vehicles from behind, etc. – they frequently do not know the racial background of the drivers they decide to pull over. One advantage of the Kingston study, therefore, is that it gathered information on both traffic and pedestrian stops. Indeed, over 40% of the 16,000 stops conducted during the study period were performed on pedestrians. Thus, if racial profiling does exist, we might expect that Blacks would be more over-represented in pedestrian stops than traffic stops – since the racial background of pedestrians should be more apparent to officers than the race of drivers. This is exactly what the results of the Kingston study reveal. While Black people are still greatly over-represented in traffic stops (2.7 times), they are even more over-represented in pedestrian stops (3.7 times).

Further analysis indicates that the racial differences in Kingston police stops cannot be explained by racial differences in age, gender, the location of the stop or the reason for stop. Interestingly, neither racial differences in observed or suspected criminal activity, nor racial differences in observed traffic violations could explain the higher stop rate for Blacks (see Marshall 2017; Wortley and Marshall 2005). Indeed, only a small proportion of all stops involving the Black residents of Kingston involved criminal activity (7%), suspected criminal activity (6%) or illegal drug use (2%).It is extremely important to note that these racial differences in police stop activity emerged despite the fact that the study was extremely well publicized before it went into the field. In other words, the Kingston police knew beforehand that they were being monitored for possible racial profiling activity. Indeed, the Kingston police association vocally expressed their displeasure with the study long before it went into the field and there is evidence that some Kingston police officers refrained from filling out the stop cards – especially during the early stages of the pilot project. Thus, the magnitude of the racial differences documented by the Kingston pilot project may be conservative (Marshall 2017). In other words, the observed racial differences in police stops could have been much greater if the police did not know that they were being monitored.

Since the release of the data, some have attacked the Kingston study for being imperfect and not considering all of the advanced bench-marking techniques that might have explained racial differences in police stops. Most notably, in a 2006 report commissioned by the RCMP, Ron Melchers dismissed the Kingston report as “junk science” (see Melchers 2006: 2). It should be stressed that this report has never been subject to peer-review nor have its findings appeared in a refereed academic publication. In general, Melchers’ criticisms of the Kingston study are grossly exaggerated and generally misrepresent the research findings. Prior to the Melchers report, the Kingston investigators had, in fact, already identified and acknowledged many of the methodological limitations associated with the study. Furthermore, each of Melchers’ specific, unfounded or exaggerated criticisms had been addressed – and challenged (see Marshall 2017). Although Melchers’ criticism of the Kingston data, in our opinion, is both exaggerated and misleading, there is no doubt that the Kingston study – as the first, poorly funded pilot project of its kind in Canada – could be improved upon. There has been no “perfect” study of racial profiling or any other topic. It should be noted, however, that Melchers report is less of a professional academic critique of the Kingston study and more of an advocacy piece for the police. Melchers purposefully uses inflammatory language, like “junk science,” to dismiss major findings. He also discounts previous qualitative and survey research findings – findings that often capture the voices of racialized civilians – as “anecdotal.” Rather than identifying both the strengths and weaknesses of Kingston study, Melchers is uniformly negative and fails to identify possible police resistance to the Kingston data collection project and how it might have negatively impacted study results. Furthermore, rather than identifying potential weaknesses with the study and providing methodological insight into how future research might be improved – which is the norm in academic discourse – Melchers actually calls for an end to racial profiling research in Canada – an argument that clearly illustrates his pro-police bias (Melchers 2006). This statement not only undermines the concerns of civil rights advocates and concerned racialized groups in Canada, it also violates the general principle of academic freedom. In our opinion, Melchers’s report shows little interest in improving the quality of racial profiling research – but it does advocate for a lack of police transparency and the end of data collection practices that might make the police “look bad.”

The Kingston project, although not perfect, introduced several novel adjusted benchmarking strategies and demonstrated that, despite resistance, a police-driven data collection project could be conducted in Canada. Furthermore, the project findings are far from meaningless. Indeed, the fact that the results of this study are consistent with other studies – and community allegations of racial bias – should be used to justify more, better funded, more ambitious studies. Unfortunately, the political will to spearhead such research and monitoring efforts in Canada has yet to emerge. Overall, we feel that the Kingston project demonstrated that, consistent with allegations, the Kingston police – at least during the study period – stop Black civilians at a much higher rate than civilians from other racial backgrounds. The study does not and could not, however, address all of the possible explanations for this disproportionality.

Since the release of the Kingston pilot project, only one other Canadian city has embarked on a study of police stopping practices. In 2012, the Ottawa Police Services Board and the Ontario Human Rights Commission reached a settlement in a case involving allegations of racial profiling (*Aiken vs. the Ottawa Police Services Board,* 2013 HRTO 901 – CanLII). As part of this settlement, the Ottawa Police Service (OPS) agreed that its officers would collect race-based data on all traffic stops over a two-year period beginning in 2013. The results of this research project – which involved an examination of over 81,000 police stops conducted by the Ottawa police over a two year period – were released in October 2016 (see Foster, Jacobs and Siu 2016).

Despite the fact that this study *did not* measure pedestrian stops – which represent a high proportion of all police-civilian interactions – and used a different benchmarking method, the results of the Ottawa data collection project are remarkably similar to the results of the Kingston study. Both Black and Middle-Eastern drivers, regardless of their sex and age, were much more likely to be stopped and questioned by the Ottawa police than White drivers. Overall, Middle-Eastern drivers were 3.3 times more likely to be stopped and Black drivers were 2.3 times more likely to be stopped than their proportion in the driving population would predict. The over-representation of racialized drivers in traffic stops was particularly high amongst young males. For example, White male drivers, aged 16-24 years, were 1.7 times more likely to be stopped than their proportion of the driving population. However, Middle-Eastern male drivers in this age group were 12 times more likely to be stopped and Black drivers were 8.3 times more likely to be stopped than their presence in the driving population would predict. Overall, the results suggest that young Middle-Eastern males, 16-24 years of age, were 7 times more likely to subjected to a traffic stop than 16-24-year-old White males. Similarly, young Black males were 4.9 times more likely to be stopped than White males in the same age category. As with the Kingston study, additional analysis of the Ottawa data reveal that racial differences in police stops could not be explained by police district, the reason for the stop or the seriousness of the incident – as measured by stop outcomes (Foster et al. 2016). The Ontario Human Rights Commission (OHRC 2016) captured the implications of the Ottawa Traffic Study in the following statement:

From the OHRC’s perspective, the York University researchers’ findings are highly consistent with the phenomenon of racial profiling. Over-representation of various racialized groups and sub-groups (broken down by sex and age) exists when looking at traffic stops generally, the reason for the stop, the outcome of the stop and the police district where the stop took place. In stating their conclusions about the disproportionately high incidence of traffic stops of various race sub-groups in the six police districts, the researchers note that anomalies are extensive in number and severe in disproportionality. These disproportionalities exist despite some officers acknowledging that they failed to correctly enter the race data due to concerns about how it would affect their employment.”[[20]](#footnote-20)

## OFFICIAL DATA – CONTACT CARDS AND STREET CHECKS

A fifth source of data that can be used to assess racial differences in levels of police contact involves what have come to be known as contact cards, street checks, community engagement incidents or field information reports. Although the exact terminology used to identify such police-civilian engagements varies from police service to police service, they tend to refer to the same phenomenon. For the purposes of this report, the terms “contact card” and “street checks” are used interchangeably. It should be stressed that these contact cards are not completed after every police stop. They are only filled out when individual police officers want to record the details of an encounter they have had with a particular civilian. It should be noted that, in the vast majority of cases, contact cards are not filled out during police encounters that end in arrest or criminal charges. In such cases a record of arrest and/or criminal incident report is used to capture relevant information. Street checks or contact cards, on the other hand, are typically filled out in cases where criminal charges are not laid, but the police officer still wants to record – for police intelligence purposes – personal information about the civilian stopped and details about the encounter.

Although contact cards have been collected by the police in Ontario since at least 1970, information about what they contained were never released to the public. However, following a hotly contested freedom of information request that ultimately took them to the Ontario Court of Appeal, the *Toronto Star* newspaper eventually obtained information on over 1.7 million civilian “contact cards” that had been filled out by the Toronto police between 2003 to 2008. Subsequent data requests from the *Star* captured information from more than 2 million additional contact cards (renamed field information reports) completed between 2008 and November 2013. Overall the data indicate that the Toronto Police Service completed close to three million street checks over the decade spanning 2003 to 2013 – approximately 300,000 per year (see Rankin 2010a; Rankin 2010b; Rankin and Winsna 2012; Rankin and Winsna 2014).

The contact cards or street checks obtained by the *Star* contain various pieces of information including the civilian’s name and home address, the reason for the stop and the location and time of the encounter. These cards also include basic demographic information including age, gender and skin colour. The cards often include information on the civilian’s associates (i.e., who they were with at the time of the stop) and specific observations or comments about the encounter deemed relevant by the officer(s) involved. Police argue that this information helps them keep track of who is present on the streets at certain times and locations and that this information may help them identify potential crime suspects, victims and potential witnesses. Critics argue that these contact cards provide insight into police surveillance practices and largely reflect the types of neighbourhoods and civilians that come under enhanced police scrutiny. A possible methodological benefit of the contact card data received by the *Star* is that, at the time of the first data request, the police did not know that contact card information was going to be available for public scrutiny. In other words, the actions of the police documented by the Toronto contact card data were not impacted by their knowledge of an ongoing research project (see Barnes 2010 for the potential impact of what has become known as the Hawthorne Effect).

As with the Kingston and Ottawa stop data, Black people are grossly over-represented in the Toronto police service’s contact card database. The following results stem from an original analysis of the Toronto Police Service carding data compiled during the 2008 to 2013 period. The results are very similar to findings previously published in the *Toronto Star* – with a few refinements. To begin with, only those cases in which the race of carded civilian was recorded by the officer are included in the current analysis (sample size=1,846,930).[[21]](#footnote-21)

The data indicate that 25.0% of all street checks completed by the Toronto Police between 2008 and November 2013 involved individuals described as “Black.” Census projections, however, suggest that only 8.08% of Toronto’s population is Black or African Canadian. In other words, Black people are 3.09 times more likely to appear in street check statistics than their representation in the Toronto population would predict (see Table One).

Further analysis reveals that, during this period, the Street Check rate for Blacks was 2,123.0 per 1,000. In other words, the TPS conducted 2,123.0 street checks for every 1,000 Black people in the Toronto population – or approximately 2.1 stops for every Black person in the city. By contrast, the street check rate for White people was only 653.7 per 1,000 – significantly less than one stop for each White person in the general population. Overall, the Black street check rate is 3.25 times greater than the White rate. This indicates that, between 2008 and 2013, Black people in Toronto were 3.25 times more likely to experience a street check than White people (see Table One).

**TABLE ONE: SUMMARY TABLE OF TORONTO POLICE SERVICE CARDING DATA, 2008 TO 2013**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Racial Groups** | **Population**  **Size** | **Percent**  **Population** | **Total**  **Number of**  **Street Checks** | **Percent**  **of Street**  **Checks** | **Odds**  **Ratio** | **Street**  **Check**  **Rate**  **Per**  **1,000** |
| **White** | 1,454,030 | 54.09 | 950,457 | 51.46 | 0.95 | 653.7 |
| **Black** | 217,360 | 8.08 | 461,468 | 25.00 | 3.09 | 2,123.0 |
| **Brown** | 337,512 | 12.55 | 308,809 | 16.72 | 1.33 | 914.9 |
| **Other** | 679,840 | 25.28 | 126,196 | 6.83 | 0.27 | 185.6 |
| **TOTAL** | **2,668,742** | **100.00** | **1,846,930** | **100.00** | **1.00** | **692.1** |

Further analysis of the TPS carding data indicate that Black people were issued a disproportionate number of contact cards in all Toronto neighbourhoods – regardless of the local crime rate or racial composition. Indeed, the findings indicate that although Blacks were over-represented in contact cards collected in high-crime neighbourhoods, they were even more highly over-represented in contact cards collected in low-crime, predominantly White neighbourhoods (see Meng 2017; Rankin 2010a; Rankin 2010b; Rankin and Winsna 2012). This finding seemingly contradicts the argument that Black people are only stopped more than Whites because they are more likely to live in or spend time in high crime communities. In fact, the data reveal that Black residents of Toronto are more likely than people from other racial groups to be carded both within the patrol zones that they live and when they travel outside of their immediate neighbourhood.

Additional analysis of the Toronto Police Service contact card dataset indicates that many police street checks were conducted for reasons of “general investigation.” In other words, these contacts were not the result of a specific traffic violation, criminal investigation or suspect description. For example, in 2008, the Toronto Police filled out 289,413 contact cards: 158,685 of these contacts (55%) were conducted for reasons of “general investigation.”[[22]](#footnote-22) Consistent with the overall findings, 24% of these “general investigation” stops involved Black people (a rate that is three times higher than the representation of Black people in the general Toronto population). By contrast, less than 1% of all recorded stops were conducted for reasons of suspected bail non-compliance, suspected street gang activity, suspected gun-related activity, a suspected robbery or a suspected break-and-enter incident (Rankin 2010b). An argument could be made, therefore, that these findings are quite consistent with racial profiling allegations – that skin colour makes Black people more vulnerable to general police investigations that do not involve an articulable cause or individualized suspicion. At the very least they serve to highlight the great need for further research and monitoring.[[23]](#footnote-23)

Another study of race and police checks took place in Montreal. Charest (2009) examined 163,630 identity or street checks carried out by Montreal police (SPVM) from 2001 to 2007. The data show a marked increase in the number of ID checks of Black Montreal residents over the study period. By 2006/7, Blacks were four times more likely to be stopped and interrogated by the police than their representation in the population: 30% of all ID check compared to 7% of the population (Charest, 2009: 3 [original in French]). As summarized by Eid et al. 2011: 26):

The Charest report highlighted “certain of the harmful consequences of the fight against street gangs and the repercussions of special squads like Avance and Éclipse on the volume and quality of ID checks of members of ethnic groups.” It notes that, between 2001 and 2007, the frequency of ID checks increased significantly in the city of Montréal (60% in Montréal, 125% in Montréal-Nord and 91% in Saint-Michel). In addition, it turns out that these observed increases are mainly attributable to stopping persons of “Black descent.”

Over the past few years, street check data has also been released to the public by a growing number of other Canadian police services. When racial data is included, the results (see OHRC 2016; Legal Aid Ontario 2016; Hoffman et al. 20150) consistently reveal that, regardless of municipality, Black and other racialized civilians are much more likely to be subject to a street checks than members of the White majority:

* Between 2011 and 2014 the Ottawa police recorded 23,403 street checks. Results indicate that Black civilians were more than three times more likely to be subject to a street check than their representation in the general population. Middle Eastern civilians were two times more likely to be subjected to a street checks, while Whites were under-represented (Yogaretham 2015);
* Between 2010 and 2015 the Hamilton police conducted over 18,500 street checks. Black people were four times more likely to be subject to a street check than their representation in the general population would predict (CBC 2015);
* In 2014, the London Police conducted 8,400 street checks. Black and Indigenous people were over three times more likely to be entered into the street check dataset than their representation in the London population (O’Brien 2016);
* The Peel Regional Police conducted 159,303 street checks between 2009 and 2014. Analysis of the street check data reveals that Black residents are three times more likely to be entered into the street check dataset than White residents (Grewel 2015);
* Between 2006 and 2015, the Halifax Regional Police conducted 68,483 street checks. Analysis reveals that Black Haligonians are three times more likely to be entered into the HRP street check dataset than their representation in the general population would predict (see McGregor and MacIvor 2017; Woodford 2017; Giacomantonio 2017);

In sum, official police data from two different studies of police stops in Canada (Ottawa and Kingston), and official police data on carding or street checks within Canadian cities, indicate that Black and other racialized residents are subjected to higher rates of involuntary police contact than members of the White majority. Furthermore, in each case, Blacks appear to be stopped by the police at a rate several times higher than their representation in the general population. One possible critique of Canadian studies that have examined official data on police stops or street checks, is that they rely primarily on what has been called “census” or “adjusted census” benchmarking. The report turns to the issue of benchmarking in the next section.

## EMPIRICAL CHALLENGES: THE BENCHMARKING ISSUE

A major methodological challenge when using official, police-recorded data to study racial disparities in police stop and search activities (or street checks) is the need to establish an appropriate baseline for comparison. In other words, to determine whether stops by police are racially biased, researchers need to know the number of expected stops, absent racial bias or racial profiling, to compare to the number of observed stops. In the racial profiling literature ‘benchmarking’ refers to the choices researchers make in the denominator when calculating measures of disparity using officially recorded police stops as the numerator. In recent years, researchers have also drawn a distinction between *external* and *internal* benchmarking strategies.

A variety of external benchmarking methods have been used as proxies for the population expected to be stopped. It is important to note that, in most cases, benchmarking methods have been developed to analyze traffic stops in isolation – not stops and searches that involve pedestrians. In general, external benchmarking techniques can be dived into the following six categories: 1) Census benchmarking; 2) Drivers’ licence data; 3) Not-at-fault vehicle accidents; 4) Blind enforcement mechanisms; 5) Observational benchmarking; and 6) Crime rate benchmarking. The strengths and weaknesses of each approach are briefly reviewed in the following pages.

### *Census Benchmarking*

*Unadjusted census benchmarking* compares the proportion of people from different racial backgrounds who are involved in officially recorded police stop and search incidents with each groups’ representation in the general population (as measured by the census). It is important to note that almost all of the early studies of racial profiling use such basic census comparisons (Cox et al. 2001; Lansdowne 2000; Spitzer 1999; Verniero and Zoubek 1999). In fact, the practice is still very common. For example, the annual reports released by the British government still use unadjusted census benchmarking to calculate race-specific stop rates (see Riley et al. 2009). Furthermore, a recent review of American studies found that: “Estimates of population figures provided by the census are the most widely used benchmark measures for studies of police-citizen contacts” (Engel and Calnon 2004b: 101). This fact is not all that surprising since census benchmarking data are inexpensive, readily available and used in a variety of other research contexts (see Ridgeway and MacDonald 2010; Tillyer et al. 2010). Indeed, health researchers often use census benchmarking to calculate gender, age and race-specific disease and mortality rates. Similarly, sociologists use census benchmarking to study group differences with respect to both educational and economic outcomes. Finally, criminologists often use census benchmarking to calculate group-specific crime rates, victimization rates and incarceration rates. Interestingly, it seems that the use of census benchmarking in other areas of social research has not generated the same level of controversy as the use of census benchmarking to study racial differences in police stop and search activities.

After the release of the first few traffic studies in the United States, critics, including a number of researchers funded by police organizations, quickly pointed out the limitations of using unadjusted census benchmarking. It was argued, for example, that the census population of a given area was not indicative of who would or should be stopped on public highways because it does not account for such things as car ownership, non-resident drivers, driving frequency or driver behaviour (speeding, traffic violations, etc.).[[24]](#footnote-24)

In response to these early criticisms, researchers began to use *adjusted* *census benchmarking* techniques to better examine racial differences in exposure to traffic stops. For example, in some analyses, census data are adjusted to only consider driving aged citizens as the benchmark or to only include census information on households with vehicle ownership (see Davis 2001; Ramirez et al. 2000; Tillyer et al. 2010). The Kingston, Ontario study, described above, also used adjusted census benchmarking to control for racial differences in the age and gender distribution of Kingston’s population. This study was also able to eliminate all non-resident civilians from the dataset, thus increasing the accuracy of the census benchmark (Wortley and McCalla 2008). In the Ottawa traffic study – described above – the researchers also employed adjusted benchmarking techniques. Rather than overall census projections, census estimates of the driving population were used to gauge the representation of different racial groups in Ottawa-area traffic stops (see Foster, Jacobs and Siu 2016).

Other researchers have developed weighted spatial models of driving patterns based on the location of businesses within specific census areas. For example, in Missouri, Rojek, Rosenfeld and Decker (2004) developed a spatial weighting procedure to better estimate the racial/ethnic profile of non-resident drivers in the jurisdictions being studied. The authors found racial differences in the probability of being pulled over, searched, and arrested. Specifically, they found that Black drivers had a higher probability of being pulled over, and a much higher probability of being searched and arrested than did Hispanics and Whites. Similarly, a recent study conducted in Rhode Island calculated ‘push’ factors for municipalities within 30 miles, as well as the ‘draw’ of the jurisdiction under study. The authors still found that, in most communities, non-white drivers were stopped disproportionately to their presence in the driving population. The Rhode Island study also found non-white motorists are roughly two to two and half times more likely to be searched than white motorists (see Farrell et al. 2003). Nonetheless, such advanced forms of adjusted benchmarking still do not measure racial differences in driving frequency, speeding, traffic violations or other behavioural factors that may legitimately attract the attention of the police.

In sum, the greatest potential weakness of non-adjusted and adjusted census benchmarking is that it does not accurately measure the population “available” to be stopped or the population that “deserves” to be stopped. The general critique of the census benchmarking approach is summarized by Ridgeway and MacDonald (2010: 181) when they note: “When two racial distributions do not align, and they seem to do so rarely, such statistics promote the conclusion that there is evidence of racial bias in police decision making. Racial bias could be a factor in generating such disparities, but a basic introductory research methods course in the social sciences would argue that other explanations may be contributing factors. ...Crude approximations of the population at risk for police contact are poor substitutes and can hide evidence of racial bias or lead to exaggerated estimates of racial bias.”

A number of critics – especially those funded by police organizations – have gone so far as to state that there is a general consensus in the research community that census benchmarking is “bad practice” and “without utility” (Melchers 2006; MacDonald 2001). Such statements are totally incorrect. In fact, a number of researchers feel that census benchmarking is a valuable first step in the research process and that it serves to effectively document the extent to which different racial groups experience involuntary police contacts. For example, a recent Home Office study concluded that: “When they are based on a wide enough geographical area, statistics based on resident populations still give us an important indication of how often members of different ethnic communities are actually stopped and searched in that area” (MVA and Miller 2000: 84). Similarly, while Riley and his colleagues (2009: 26-27) acknowledge that some research has questioned the extent to which the resident population reflects the profile of those people who use public spaces where searches are carried out, they also conclude that “comparisons based on the residential population remain important because they illustrate the experience of different ethnic groups irrespective of the reasons that may explain any disparities. Disproportionality is a critical issue for the police service because evidence shows that negative police practices can damage public confidence and because being stopped and searched has been linked with lower satisfaction levels with the police.” Miller (2010) has also argued that census benchmarking is likely the best method for documenting trends in police stop and search practices, including racial disparities, over time (see Miller 2010). The argument in favour of census benchmarking is perhaps best articulated by Benjamin Bowling and Coretta Phillips (2007). Following their review of different benchmarking strategies, these British scholars concluded that:

Having examined four comparators, it is our view that the most robust measure of disproportionality in the use of police stop/search powers, and which relies on the fewest assumptions, is the per capita stop/search rate. This conclusion must be qualified somewhat as per capita rates cannot account for ethnic differences in availability in local areas. However, patterns of availability are likely to differ markedly between localities for highly complex demographic reasons. Street populations also fluctuate during the day and it is unlikely that an accurate and cost effective means of measuring this can be devised. The issue of availability provides no defence against the charge that routine practices are having a disproportionate impact on people from minority groups; thus prompting the Lawrence Inquiry label of ‘institutional racism.” The observations made above about structural disadvantage point to the impact of stop and search as a force that is likely to compound and exacerbate disadvantage in other areas of social life. The most important point is that the per capita rate provides, by definition, an estimate of the population group experience. Thus, in a large geographical context such as the London Metropolitan Police Area or England and Wales as a whole, statistics based on resident populations provide an important indicator of how often members of different ethnic communities are actually stopped and searched within that area. As Home Office researchers bluntly put it, per capita stop/search rates show clearly that being Black means that you are going to be stopped more often (Bowling and Phillips 2007: 952-953).

Clearly, the results of census benchmarking methods should not be easily dismissed. Census benchmarking can capture the “population group experience” and document which racial groups are most vulnerable when it comes to attracting the attention of the police. Census benchmarking has also moved the racial profiling debate forward. For instance, in the United States, Great Britain and Canada, the profiling issue began with allegations that Black and other racialized groups were more likely to be stopped, questioned and searched by the police than Whites. Such allegations were largely denied, discounted or ignored by the police and their supporters. Census benchmarking, however, has now firmly established that Blacks (and sometimes other racialized groups) are, in fact, several times more likely to be stopped and searched by the police than White people. In other words, as the result of per capita comparisons, the racial profiling debate has moved from *whether* Blacks and other minorities are more likely to be stopped by the police to a question of *why* Blacks and other minorities are more likely to be stopped. It is important to note, however, that census benchmarking alone cannot help researchers determine the extent to which racial differences in exposure to police stop and search practices are the result of racial bias to other, more “legitimate” factors.

### *Other Benchmarking Techniques for Traffic Stops*

As the potential weaknesses with census benchmarking – especially with respect to traffic stops – became more widely known, researchers began to develop alternative benchmarking strategies that could better capture the “driving population.” Fridell (2004), for example, describes benchmarking using driver’s license data. ‘DMV’ benchmarking compares the number of licensed drivers in a jurisdiction with the drivers stopped by police. In the United States, data on the race/ethnicity of drivers of a jurisdiction is obtained from the Department of Motor Vehicles (DMV) for that area and used as the denominator, with the drivers stopped by police as the numerator. Although this benchmarking strategy is relatively inexpensive and may provide a more accurate estimate of the driving population than census figures, it still suffers from many of the same problems associated with census benchmarking. For example, it does not capture such important factors as driving quantity or driver behaviour – two factors that may dramatically increase the likelihood of being stopped by the police (see Tillyer et al. 2010: 81; Ridgeway and MacDonald 2010). This benchmarking strategy may also be unavailable in some countries – like Canada – were information on the racial background of licensed drivers is not recorded.

Data on vehicle accidents in which the driver is “not at fault” could also provide a more accurate benchmark of *who* is driving in a given jurisdiction. Not-at-fault drivers are assumed to be random, thus providing a more valid measure of the driving population. The comparison occurs between the race/ethnicity of drivers stopped by the police (the numerator), and the race/ethnicity of drivers involved in accidents (the denominator). The potential advantages of not-at-fault benchmarking are that it can potentially capture driver location, time of travel, type of vehicle and driver characteristics. It is also assumed that this type of benchmarking controls for driving frequency (if you accept the presumption that people who drive frequently are most likely to be involved in not-at-fault accidents). Not-at-fault crash data was recently used as the benchmark in a study of traffic stops by the Miami-Dade county police. The authors found that black drivers were stopped at rates that significantly exceeded their representation as not-at-fault crash victims (see Alpert et al. 2004). Crash data benchmarking, however, has several potential weaknesses. First of all, this method does still not answer the question of ‘who is driving *poorly*’ (Fridell 2004: 219). Secondly, the limited number of accidents that occur in any specific location may greatly reduce sample size, thus limiting the reliability and generalizability of findings. Finally, in many jurisdictions, the race of accident victims is not recorded, thus eliminating the non-at-fault benchmarking technique as an option.

‘Blind’ enforcement technologies (red light cameras, radar, air patrols, etc.) are also used to compare the race of technology-selected drivers with drivers actually stopped by police. For example, a red light camera takes a picture of a traffic violator and the race of the owner is identified either through the corresponding owner’s license photo or the actual photo taken by the red light camera. This data comprises the denominator with which to compare police stops. Lange et al. (2005), for example, determined the demographic features of 15, 046 non-speeders and 11,288 speeders from photographs of drivers using photo-radar technology. The data were used in conjunction with seven other data sources to examine traffic stops on the New Jersey turnpike. The findings of this project suggest that black drivers are stopped more than their overall presence in the driving population, but that black *speeders* are stopped at roughly the same rate as their presence on the turnpike. This finding is limited by the fact that police on the turnpike stop motorists for a variety of reasons other than speeding, and the study used speeding as the only measure of driver violating behaviour. Further, the missing data from the photograph analysis was considerable: the racial identity of the driver could not be identified in almost a quarter of all photographs (Lange et al. 2005). Overall, blind enforcement mechanisms are limited in a number of ways. For example, selected locations are fixed in the case of stationary speed cameras. Violating behaviour is also limited to speeding, and race data coding may be hampered by availability of race data in the case of driver records, or by poor quality of photographs. It is argued that blind enforcement does not provide a measure of quantity of driving (Tillyer et al., 2010: 82.)

Researchers at the RAND Corporation have also developed a non-technological ‘blind’ benchmarking methodology by comparing day-time and night-time stops (Fridell 2004: 141). The logic was to use the stops made in the darker hours of the day as the denominator - when visibility was poor and thus the officer would be ‘blind’ to the race of the driver, and the stops during lighter hours as the numerator because officers could see the race of the driver and thus be more susceptible to racial bias. This technique has been refined by Grogger and Ridgeway (2006) to use “the natural variation in daylight and darkness that switches with the change in daylight saving “ (Ridgeway and MacDonald 2010, p. 186). Ridgeway has contextualised this approach as an attempt to replicate the advantages of a natural experiment. The almost-experiment is an ‘instrumental variable analysis’ with its roots in econometrics. Using data from Oakland, California to compare stops occurring around 6:30 pm in both daylight saving and non-daylight savings days, the researchers found no difference in the percent of drivers stopped who are black. The researchers acknowledge that there are limitations to this method. The method does not account for other cues police officers may use as proxies for the race of the driver, such as music and or style of car. Further, the authors assumed that there are no seasonality effects or racial differences in day- and night-time driving behaviours. The method only derives data from a single time of day (dusk) and cannot be generalized to the other 23 hours of the day (Grogger and Ridegeway 2006). Of course, as with all the other benchmarking techniques discussed in this section, this methodology is limited to the analysis of traffic stops and cannot be used in the examination of stops involving pedestrians.

### *Observational Benchmarking*

Observation benchmarking involves researchers observing, counting and recording the race (and other characteristics) of a population ‘available’ for stops. Observation benchmarking can be stationary (observers located at the side of a roadway, on a steer corner, park bench, etc.) or mobile (researchers travelling at the speed limit in a car, observing and counting violating behaviours). This method has been used to measure roadway usage (Lamberth 1996; Lamberth 2010), driver violating behaviour (Engel and Calnon 2004b; Farrell et al. 2004; Lange et al. 2005) and populations ‘available’ for stops. Importantly, observational techniques can also be used to document pedestrian as well as driver populations (see MVA and Miller 2000; Waddington et al. 2004). It has been argued that these methods provide more appropriate benchmarks – especially within specific locations – than census benchmarks (Smith and Alpert 2002; Waddington 2004).

Overall, the results of observational benchmarking studies have been mixed. Lamberth (1996; 2010), for example, conducted a series of “rolling surveys” in both New Jersey and Maryland. Members of the research team not only documented the racial background of drivers on the highway, they also collected data on the race of speeders. The observations related to speeding behaviour were conducted while driving in an observation vehicle. The results of these two studies were consistent with allegations of racial profiling. For example, on the New Jersey turnpike, African Americans made up 13.5% of the total highway population and 15% of speeders. However, the represented 35% of those pulled over by the police. Further analysis revealed that Blacks were 4.85 times more likely to be pulled over than whites. Similarly, in Maryland, 17.5% of the observed driving population was Black, compared to 28.8% of those who were stopped and 71.3% of those who were searched by the Maryland State Police. By contrast, a series of recent studies in England employed observational techniques (including the use of CCTV cameras) to benchmark the pedestrian population “available” to be stopped in particular areas. In general, these studies showed that, within available populations, Whites were stopped at a higher rate, while Asians were stopped at a lower rate. Black people, on the other hand, were over-represented in some locations and under-represented in others (see Bowling and Phillips 2007; Waddington 2004; Hallsworth 2004; MVA and Miller 2000).[[25]](#footnote-25)

Observational benchmarking techniques are generally limited by cost and time constraints. As a result, observations are usually only conducted within very specific locations (often poor, high stop neighbourhoods or high volume roadways) during very specific time periods (observations are generally limited to a few days or weeks). This fact greatly limits the generalizability of findings. Other methodological challenges associated with observational techniques include the fact that measures of law violations are usually limited to speeding or red light violations. Others have questioned the reliability of the racial classifications made by researchers – particularly in traffic studies conducted in low light situations (see Tillyer et al. 2010; Engel and Calnon 2004b; Fridell 2004; Ramirez et al. 2000). Finally, Bowling and Phillip (2007: 946) provide the following critique of the ‘available’ for stops thesis:

The extent to which a social group is ‘available’ to be stopped/searched depends on such structural factors as unemployment, exclusion from school, homelessness, employment in occupations that involve evening and night work, all of which are known to be associates with ethnic origin. While these factors are beyond the control of the police, it remains the case that the apparently neutral criterion of ‘availability’ is, in practice, biased against some ethnic groups.

### *Crime Rate Benchmarking*

Some have maintained that neighbourhood and race-specific crime rates should be used to benchmark racial differences in police stop and search activities. The argument is that Black people and other minorities may be more likely to be stopped and searched by the police because they are more involved in criminal activity or reside in high crime communities. However, the use of crime data as an external benchmark is quite rare. Furthermore, under ideal circumstances, crime data should only be used to benchmark so-called “investigative stops” or stops that were generated by a specific criminal event. However, as Fridell (2004: 204-205) concedes, it is extremely difficult to differentiate between crime-related stops and other types of police activity:

The factors that put a person at legitimate risk of being stopped by police for a traffic violation are different from the factors that put a person at legitimate risk of being stopped by police for purposes of investigating a crime. In practice, however, separating traffic and investigative stops into two clear groups is difficult if not impossible. This is because of “pretext stops”: stops made on the basis of a traffic violation but motivated by the officer’s desire to investigate a possible crime. Because of this problem of pretext stops, all vehicle stops—traffic stops and investigative stops—should be analyzed together.

Arguably the best example of crime rate benchmarking involves a series of studies that have examined New York City’s “Stop-Question-Frisk” dataset. In New York City, the police are required to document stops of civilians on a departmental form commonly known as the UF-250. Data from these forms are then captured in a NYPD statistical database. A police officer is required to complete a UF-250 form for each person stopped if one or more of the following conditions are met: an officer detains someone on “reasonable” suspicion of a felony or misdemeanour; the stop involves a frisk or more extensive search of the person; the stop involves the use of physical force; the stop results in an arrest or summons; or the person fails to identify him or herself (see Jones-Brown et al. 2010). Over a seven year period, the annual number of stops documented by the NYPD tripled from 160,851 stops in 2003 to 575,996 stops in 2009. Further analysis reveals that the majority of these stops target racialized citizens. For example, although Blacks represent only 24% of New York’s population, they represent 54% of those stopped by the police in 2009. Similarly, Hispanics represent 31% of police stops in 2009, but only 27% of the population. By contrast, Whites are significantly under-represented in police stops: 35% of the population but only 9% of stops documented by the NYPD in 2009 (Jones-Brown 2010: 19). The data also reveal that young black males are particularly vulnerable to police stops. For example, Fagan and his colleagues calculated that a black male New Yorker, 18-24 years of age, had a 78% probability of being stopped by the police, compared to 39% for Hispanic males and only 14% for white males in the same age category (Fagan et al. 2010: 335).

The NYDP often refer to a RAND report (Ridgeway 2007) to justify the racial disproportionality observed in the above stop and frisk data. This report used violent-crime suspect descriptions as reported by crime victims as their benchmark. After statistically controlling for suspect race, the RAND report claims that racial differences in exposure to stop and search activities are non-significant: “We found that black pedestrians were stopped at a rate that is 20 to 30 percent lower than their representation in violent crime-suspect descriptions” (Ridgeway 2007: 13). The RAND report, however, has been harshly critiqued by Jeffery Fagan, an eminent law and criminology Professor from Columbia and Yale Universities (Fagan et al. 2010; Fagan 2010). First of all, Fagan points out that violent felonies account for less than 10% of all crime in New York City and that crime victims are able to identify the race of the victim in less than 50% of all cases. This fact alone makes the use of suspect descriptions to benchmark stops a rather dubious practice. Furthermore, Fagan points out that very few of the stops documented by the NYPD involved the actual investigation of a violent felony. Indeed, according to their own reports, police officers in NYC are most likely to stop civilians because they were making “furtive movements” or because they were present in a “high crime area” (Fagan 2010). Fagan and his colleagues then conducted their own multivariate analysis of NYC police stops using race and neighbourhood specific crime rates. He concludes that NYPD stops are significantly more frequent for Blacks and Hispanics than Whites even after statistically adjusting for precinct-level crime rates, racial composition and a variety of other social and economic variables that may be predictive of police behaviour. Furthermore, Fagan found that Blacks and Hispanics are significantly more likely to be stopped and frisked even if they reside in low crime communities with a racially diverse or predominantly white population. Fagan and his colleagues also noted that, according to their analysis, a third of the stops conducted by the NYPD were without legal justification and that the success rate for these stops was very low. Indeed, less than 6% of all stops recorded by the NYPD resulted in an arrest – a “hit rate” that is lower than the rates of arrest and seizure observed at random checkpoints. Furthermore, the percent of all stops that resulted in gun seizures, one of the main justifications for the NYPD’s stop and frisk tactics, is almost zero (0.15%). The authors conclude that: “Policing is not a discretionary service, nor is it nontrivial in that it is cost free. In New York, the cost burden of this safety – which largely accrues to White New Yorkers – is shifted to the 95 percent of African American citizens who are stopped but innocent of whatever suspected crime triggered the action” (Fagan et al. 2010).

Overall, many scholars feel that aggregate neighbourhood and race-specific crime rates are not an appropriate benchmark for racial profiling studies. Within any given neighbourhood or within any given racial group, only a minority of individuals engage in violent crime. Thus, the use of community or group-specific crime rates to explain racial disparities in police stops may represent a form of statistical stereotyping. In other words, aggregate crime statistics should not be used to justify the stops of individuals. This practice violates the principal of reasonable, individualized suspicion and thus, in our opinion, constitutes profiling.

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### *Internal Benchmarking*

Internal benchmarking, also referred to as the ‘matched officer” or ‘early warning system’ strategy, provides an alternative method for identifying racial profiling. Using this method, the stopping behaviours of police officers working similar assignments or patrolling similar jurisdictions are used as the baseline. The stopping behaviour of individual officers is then compared to this internal benchmark in order to identify individual officers whose actions differ significantly from the norm. The vital component of this strategy is effectively matching officers according to shift, jurisdiction and patrol responsibilities. If this is accomplished, all officers working that time and space are assumed to be exposed to the same environmental conditions and the same populations available to be stopped. Therefore, officers who stop significantly more minorities than their peers may be engaged in racially biased policing. The main advantage of internal benchmarking is that no “external” population data is required because internal departmental comparisons produce the stop rates for comparison. The disadvantages of internal benchmarking, however, have also been well-documented (see Engel and Calnon 2004b; Fridell 2004; Walker 2001; Ridgeway and MacDonald 2010; Tillyer et al. 2010). Internal benchmarking, for example, will not be able to detect racial profiling if an entire department, or district, or shift, is engaging in biased policing. Furthermore, in some cases, there may be a legitimate reason for an officer to deviate from the norm. For example, a Spanish speaking officer may set off a red flag for appearing to make an excessive number of stops of Hispanic drivers – when in fact this officer has been specifically assigned to handle police encounters with Spanish-speaking people (Ridgeway and MacDonald 2010). Finally, the resource allocations of some police services means there may not be sufficient number of officers in a given area or assignment to feasibly compare stop rates for internal benchmarking purposes (Tillyer et al. 2010). In sum, internal benchmarking may provide police supervisors with a strategy for identifying racially biased officers and/or enforcing anti-racial profiling policies. However, it is unlikely that such data will be freely released to the public – especially when you consider privacy issues and the likely resistance of police unions. Furthermore, police services may be reluctant to collect internal benchmarking data out of fear that such information will be used in criminal or civil courts by those making racial profiling allegations.

***Summary***

As the above summary suggests, all benchmarking strategies have their strengths and weaknesses. However, as noted by Tillyer and his colleagues (2010: 83): “The most significant limitation to all these benchmarks is the inability to measure adequately all of the risk factors associated with the likelihood of being stopped.” Using multiple benchmarks within the same study, however, is a strategy that might improve the validity and generalizability of findings. Nonetheless, a “perfect” benchmarking study is not possible. There will always be some factor that remains unmeasured and some factors that, in fact, can’t be measured at all. For example, imagine an observational benchmarking study that found that young Black males were stopped at a rate five times their “availability” in the population. Some might argue that this study still does not prove racial bias because it did not properly measure other factors that could draw police attention including clothing, body language or the way people walk. As discussed above, the most common reason for the NYC police to conduct a stop and frisk is “furtive movements” (Jones Brown et al. 2010). Although ridiculous, it might be argued, therefore, that we must first determine whether Black people are more “furtive” than Whites before drawing conclusions about possible racial bias. Is it even possible to measure something as fleeting and subjective as “furtiveness?” The methodological complexity of the benchmarking issue has caused some to argue that researchers should focus more on what happens after a stop has already taken place than what caused the stop in the first place. We turn to this issue in the following section.

## 

## POST-STOP OUTCOME ANALYSIS

Properly recorded police data can also be used for post-stop outcome analyses. Post-stop outcome analyses investigate the existence of racial bias after the police stop of a citizen has been already been initiated. Post-stop analyses focus on such variables as the reason for the stop, the length of the stop, whether identification was requested (particularly relevant for encounters with pedestrians and the passengers of motor vehicles), whether the police conducted a search of the vehicle or person and the outcome of the stop (i.e., no action taken, warning, ticket, summons, arrest, etc.). The major benefit of examining post-stop outcomes is that the comparison (all people stopped) is already known. In other words, post-stop analyses do not suffer from all the benchmarking issues discussed above. Thus, a focus on post-stop outcomes enables researchers to assess the impact of personal characteristics (including race) while statistically controlling for legal considerations (the reason for the stop, seriousness of the offence, the discovery of contraband, etc), stop characteristics (pedestrian or motor vehicle, time of day, day of the week, etc.), the characteristics of the officers involved in the stop (age, gender, race, rank, education, years of experience, etc) and the location where the stop took place (crime rate in the neighbourhood, racial composition of the neighbourhood, etc.). Although post-stop analyses can focus on a number of different dependent variables (length of the stop, whether the person was asked to exit the car, etc.), most recent scholarship has focussed on the “outcome test” (Becker 1971). In studies of police stops, the outcome test identifies the search “hit rate.” Usually a hit rate is defined as the percent of searches that result in the discovery of contraband (such as drugs and weapons) or some other criminal activity. Such discoveries usually result in arrest or some other legal action.

Typically, racial differences in hit rates are viewed as evidence of possible racial discrimination. The argument behind the use of hit rates is based on basic economic principles (see Persico and Todd 2005; Persico and Todd 2008). Proponents maintain that if the factors used by the police to determine who should be stopped and searched are race-neutral, the “hit rates” should be similar for people from all racial backgrounds. However, if the hit rate for racial minorities is significantly lower than the hit rate for whites, this should be viewed as evidence that police officials are inappropriately using race when making decisions about who to stop and search. Finally, some have argued that if the hit rate for minorities is significantly higher than the rate for whites, this would constitute evidence that racial profiling is effective and thus a justifiable criminal justice tactic. In sum, this theory likens a police officer’s decision to stop and search a person to that of any rational economic actor. Under this logic, a high proportion of unsuccessful inspections of racialized civilians would be indicative of irrational racial profiling practices.[[26]](#footnote-26)

It should be noted that in both the Ottawa (Foster et. al. 2016) and Kingston (Marshall 2015) police stop studies, the only two projects of their kind in Canada, Black and Middle Eastern civilians had lower “hit rates” than Whites. In other words, Black and Middle Eastern people who were stopped by the police during the Ottawa and Kingston studies were significantly more likely to be “cleared” and allowed to exit the interaction without an arrest, citation or warning. This could be interpreted as evidence of racial bias: that Black people in these two studies were more likely to be stopped, questioned and otherwise investigated without good reason than the members of other racial groups. White people, on the other hand, were primarily stopped when there was strong, direct evidence of wrongdoing and their interactions with the police are thus more likely to result in legal action. However, an alternative interpretation might be that – because Kington and Ottawa officers were under study – they may have treated the Black and Middle Eastern civilians that they did stop more leniently in order to avoid allegations of racist behaviour.

It should be stressed, however, that even when measured properly, the use of hit rates to measure potential bias is not without controversy. Indeed, many scholars are now arguing that hit rates cannot be properly interpreted without first having information about the population that was targeted for stops and searches in the first place (see Engel 2008; Ridgeway and MacDonald 2010; Tillyer et al 2010). The following hypothetical example (see Table 2) should serve to illustrate the problem of using hit rates – in isolation – to test for group-based biases. Let us consider the following “worse-case scenario.” Assume that 2,000 civilians pass through a particular neighbourhood during a particular week. Half of these civilians are Black (1,000) and the other half are White. Let us also assume that the rate of carrying contraband (10%) is identical for both White and Black civilians. In other words, during the observation period, 100 Black civilians and 100 White civilians are carrying contraband through the neighbourhood. Let us also assume that the police in this neighbourhood have a formal or informal “racial profiling” policy. Thus, in practice, police agents randomly stop and search one out of every two Black civilians (500 Black civilians during the study period), compared to only one out of every ten White civilians (100 white civilians total). During these “random” searches, 10% of the Black civilians (50 individuals) are found with contraband as are 10% of the White civilians (10 individuals). Thus, based on these numbers, one might incorrectly conclude that, since the hit rates are identical, no racial bias in policing exists. This would be an erroneous conclusion because it ignores the fact that 50% of Black civilians were randomly searched, compared to only 10% of whites. Furthermore, this inefficient racial profiling practice led to the discovery of 50% of the Black law violators, compared to only 10% of the White law violators. In other words, although White and Black civilians were equally likely to be carrying contraband, 83% of those captured by police officials were Black (a fact that would likely reinforce or justify future racial profiling practices). This is the true essence of racial profiling – and a reality that would have been masked by an analysis of hit rates alone.

**TABLE TWO: HYPOTHETICAL EXAMPLE OF USING “HIT RATES”**

**TO IDENTIFY POLICE RACIAL BIAS**

|  |  |  |
| --- | --- | --- |
| **MEASURE** | **Black**  **Civilians** | **White**  **Civilians** |
| # of civilians passing through the neighbourhood during observation period | 1,000 | 1,000 |
| # carrying contraband | 100 | 100 |
| % carrying contraband | 10% | 10% |
| Number stopped and searched by the police | 500 | 100 |
| Stop and search rate | 50% | 10% |
| Number of civilians discovered with contraband | 50 | 10 |
| **HIT RATE** | **10%** | **10%** |
| **% of Offenders detected** | **50%** | **10%** |

This point has also been made by Phillips and Bowling (2007: 953) using actual data on stops and search practices in England. The authors maintain that, in 2006, the per capita stop rate in England and Wales was approximately 6.5 times greater for Blacks than for Whites. However, the hit rate for both Blacks and Whites was almost identical – a fact that some might interpret as an absence of racial bias. However, the hit rate figures, combined with the per capita stop and search rate, sheds light on another reality: *every year innocent Black people in England and Wales are 6.5 times more likely than innocent Whites to endure an unnecessary stop and search encounter with the police*.[[27]](#footnote-27) This fact likely contributes significantly to negative perceptions of the police within the Black community (see discussion below). This finding also underscores the potential utility of using census benchmarks to calculate per capita stop rates. Bowling and Phillips go on to state that: “While 6.2 percent of all arrests of White people result from stop and searches, this is true of 11.3 percent of all arrests of Black people. Therefore, in comparison with their white counterparts, Black people are almost twice as likely to enter the criminal justice process as a result of being stopped and searched by the police. These two points underline the importance of the disproportionate impact of stop and search on the communities of African Caribbean origin in Britain. It is perhaps for these reasons that the ‘availability’ argument has failed to increase community confidence in the use of this power” (Bowling and Phillips 2007: 953). In sum, although post-stop analyses can provide important insight into the nature of police-civilian encounters, they should not be examined without first examining who is stopped by the police in the first place (see Engel 2008).[[28]](#footnote-28)

***THE RELIABILITY OF DATA COLLECTED BY THE POLICE***

Benchmarking is not the only methodological challenge associated with the use of official data on police stop and search activities. Ensuring that police officers accurately record the details of all stop and search encounters with civilians is also an important issue. Traffic stop data is usually collected on-the-spot, and is therefore not vulnerable to problems of respondent recall or “telescoping.” However, numerous studies have revealed evidence that police do not record stops consistently. A recent study comparing British Crime Survey data to police statistics in an English county showed significant under-reporting of vehicle stops in the police-recorded data (Qureshi 2010). Similarly, in the United States, a RAND corporation multi-method study of police stops in Cincinnati also concluded that officers failed to record approximately 20% of all traffic stops (Ridgeway et al. 2009). In San Diego, Cordner et al. (2002) estimated that only 60% of all stops by police in the study period had a corresponding vehicle stop form filled out by police, and the compliance rate was even lower in Black and Hispanic neighbourhoods.

A Home Office study found, through 340 hours of observations of routine patrol work in England, that fewer than 30% of police stops were recorded:

The researchers observed 138 encounters that should have been recorded by officers. A form was completed fully at the time in under a quarter of all cases. A form was at least started (but finished later) in a further 4% of cases. Recording under the provisions of recommendation 61 was thus complied with (or attempted) in 27% of the encounters observed. There was no evidence that a form was fully completed in 70% of cases. (Bland et al. 2000: vii).

Evidence is mounting that police hostility towards data collection initiatives may cause some officers to refrain from recording stops and be more selective about the type of data they include in their documentation of police-civilian encounters (see Lundman 2012). Lundman (2010), for example, demonstrates that stops with missing race data are most likely to stem from drivers with postal codes in majority black neighbourhoods. The implication, according to Lundman, is that police-recorded data may not be valid because – in an effort to avoid allegations of racial bias – individual police officers may drastically under-report the stopping and searching of black drivers.

The prevalence of missing stops and missing data are not surprising in the context of focus group research that documented supervisory reports of officer behaviours. The propensity for police to distort data has been described as “disengagement” (Novak 2004), “reactivity” (Withrow 2004) and “monkey-wrenching” (Buerger 2002). In an article arising from his experiences of training police supervisors, Buerger describes four ways that police attempt to distort race and traffic stop data: 1) Work slowdowns; 2) Going underground; 3) Balancing; and 4) Ghosting. Work slowdown (or de-policing) is seen as the most common and easiest way for police to protest or “re-entrench” their negative view of racial profiling allegations and subsequent monitoring. Slowdowns would generally result in less proactive traffic activity and fewer proactive stops of pedestrians. According to Buerger (2010: 390), de-policing usually results in officers who “merely respond to complaints.”

‘Going underground’ is when police “may attempt to evade scrutiny by making their suspicion stops ‘off the record’” (Buerger 2002: 391). A less risky tactic than “going underground” is the idea of “balancing” traffic stops. This approach is summarized by the cop who thinks: “If I stop a Black guy, I have to stop X number of White guys to make the numbers come out right.” (Buerger 2002: 392). In other words, police officers collectively protect themselves from the perceived “statistical microscope” by increasing the number of stops and searches of white people.

Finally, ghosting is “the practice of falsifying patrol logs to “make the numbers come out right’” (Buerger 2002: 393). Ghosting arguably involves even more deception than balancing:

It consists of entering as a ‘stop’ the plate numbers (and perhaps the owner’s information as the driver if such information can be obtained surreptitiously via the MDT or other means) of vehicles driven by Whites who were not stopped. The term comes from the investigation of the April 1998 New Jersey Turnpike shooting case . . . two troopers involved in that shooting had falsified at least 19 incidents by substituting the vehicle information from a White-owned car for that of a minority-driven car that had been stopped (Buerger 2002: 393).

It is important to note that in both the Kingston and Ottawa police stop studies there is evidence of police resistance to data collection. For example, during the first month of the pilot project, the number of traffic and pedestrian stops conducted by the Kingston study plummeted compared to stop figures from the previous two years. The stop numbers only began to rise after warnings from Police Chief William Closs. Furthermore, representatives from the Kingston Police Service maintained that, during the study period, many officers refused to stop Black people out of fear of being accused of racism (Marshall 2015). Similarly, an independent study conducted by two independent researchers suggests that there was considerable police resistance to the Ottawa traffic stop study. Interviews with 57 OPS members found that front-line officers sometimes deliberately entered inaccurate race data out of fear that they might be accused of racism and that the data might negatively impact their employment. Other officers admitted that, in order to prevent scrutiny, they falsely reported that they had not perceived the race of civilian before deciding to conduct a traffic stop (Brown and Primeau 2016; OHRC 2016; Foster et al. 2016; Tumilty 2017). Clearly, if the quality of data in the Kingston and Ottawa studies were deliberately compromised by front-line officers – the already large racial disparities observed in the current data could have actually been larger.

The above discussion highlights the fact that, in studies that involve official data on police stops, the police themselves are the research assistants who collect the data. Police assistants, it might be argued, who are often not supportive of the research or monitoring and have deep apprehensions about the subsequent findings. Thus, for studies involving official police data, there is a need to develop quality control mechanisms and ensure that police supervisors closely monitor the data collection activities of the officers under their command.

**SUMMARY – Empirical Evidence of Racial Profiling**

A variety of methodological approaches have been used to examine the issue of racial profiling or racially biased policing in Canada, the United States and Great Britain. The research evidence overwhelmingly suggests that Black and other racialized groups are more likely to be stopped, questioned and searched by the police than White people. In general, racial disparities with respect to police stops remain statistically significant after controlling for other theoretically relevant variables (survey research) and the implementation of different benchmarking strategies (official police data). The available research evidence has been largely responsible for shifting the public conversation with respect to race and policing. While police services once denied the existence of racial differences in police stop and search practices, these differences are now acknowledged. Most police officials may still deny or downplay the existence or racial profiling or biased policing, and try to avoid such language, but they are starting to admit that racially disproportionate policing does exist. However, the reasons or causes behind racial differences in police stop and search tactics, as well as other forms of police decision making, are still under debate. Further research is required to address these debates and discover what proportion of these racial disparities are the result of implicit, explicit or systemic biases – and what proportion reflect other, more legally legitimate factors. Importantly, the debate over disproportionate policing has also taken another interesting turn. While police organizations have started to defend stop and search tactics, carding and street checks as important crime fighting tools, some academics, civil rights advocates and community members have begun to document the consequences of racially biased policing and the negative impact it has on racialized communities. It is to these issues that the report now turns.

# **THE BENEFITS OF POLICE STOPS**

In recent years, North American police officials have come to increasingly defend “stop and frisk” tactics and “street checks” as effective crime prevention strategies (Zimring 2012). They have argued that these tactics are particularly effective with respect to combating street gangs and reducing gun violence (<http://www.ctvnews.ca/video?clipid=777838>). Arguments in favour of stops/carding have included the following points:

* Police stop, question and search (SQS) activities can result in the identification and confiscation of both illegal hand guns and illegal drugs. Removing drugs, guns and offenders from the street will ultimately reduce violent crime and save lives;
* Even when unproductive, police stops are a deterrent. Stopping and searching civilians, especially the residents of high-crime communities, will send the message that the police are taking violence and drug crime seriously. Offenders will come to know that the certainty of police detection and punishment is high and this will eventually deter them from carrying drugs or guns in public. This deterrent effect will reduce the likelihood of violent, gun-related crime and make communities safer;
* Stop, question and search tactics hold offenders accountable. Stopping civilians and demanding identification will help police officers identify offenders who have warrants out for their arrest. It will also help the police identify offenders who are in violation of parole, probation and other court-imposed conditions (including pre-trial release conditions). By uncovering breach-of-condition violations, stop and search tactics can increase control over offenders who do not respect community sanctions. This increased control will prevent more serious forms of offending;
* Gang members and drug traffickers often do not reside in the communities that they “terrorize.” Stop and frisk practices can help identify trespassers and keep them out of public housing developments. Such practices will reduce both crime and fear of crime in affected communities;
* Stopping and documenting civilians (carding) can improve police intelligence. It can, for example, provide information on who resides in particular neighbourhoods or who frequents particular crime “hotspots.” Carding can also help identify criminal “associates” and link offenders to potential witnesses, victims and accomplices. Such intelligence can help the police solve crimes or decide what individuals or groups should be targeted for further investigation.

Unfortunately, such police arguments rarely consider the legality of these stop, question and search tactics. Even if effective – many have argued that these tactics cannot be condoned because they clearly violate basic civil rights (Tanovich 2006). It was this very logic that Judge Shira Scheindlin of the U.S. District Court for the Southern District of New York applied when she ruled that the NYPD’s Stop, Question and Frisk (SQF) policy was unconstitutional (Bergner 2014). After all, one could argue that if we eliminated all civil rights, and all rules of procedural justice, we would be in a better position to fight crime. Police would be better able to identify illegal activity and arrest offenders if they could only stop, detain, question and search any person at any time for any reason. They could also fight crime more effectively if they had the power to immediately conduct warrantless searches of homes and vehicles without having to explain or justify their actions. Such tactics, even if highly effective at detecting crime, apprehending criminals and deterring future offending, would violate the general principles of democracy and the rule of law.

Philosophical arguments aside, research evidence on the actual effectiveness of police stop, question and frisk tactics is quite limited. Canadian data is virtually nonexistent. Some American studies, however, do suggest that targeted, broken windows policing strategies – including hot spots policing and stop and frisk tactics – are responsible for significant crime declines in cities like New York, New Orleans and Los Angeles (see Land 2015; Braga 2015; Braga 2012; Durlauf and Nagin 2011). Skeptics, however, argue that most studies are inconclusive and have not taken into account other factors that may explain recent crime reductions – including community crime prevention initiatives and anti-violence movements that have emerged within poor, heavily racialized communities. Skeptics also maintain that, over the past two decades, violent crime has also declined in many urban centres that do not employ aggressive stop, question and frisk tactics (see Doob and Gartner 2017; White and Fradella 2016; Apel 2015; Meares 2014; Tonry 2011).

Recent analysis of crime data in the United States also reveal that the crime prevention qualities of police stop, question and frisk (SFQ) practices are rather limited. For example, Rosenfeld and Fornago (2012) examined the impact of SFQ on robbery and burglary rates in New York City between 2003 and 2010. Their multivariate analysis controlled for a number of other factors including, neighbourhood disadvantage and stability, percent Black in the community and overall crime trends. Results suggest that SFQ did not impact burglary rates and had only a small and inconsistent impact on robbery rates. The authors conclude that, based on the study results, one can’t conclude that stop, question and frisk (SQF) has no impact. However:

…if there is an impact it is so localized and dissipates so rapidly that it fails to register in annual precinct crime rates, much less the decade-long city-wide crime reductions that public officials have attributed to the policy. If SFQ is effective, but its effects are highly focused and fleeting, policy makers must decide whether expansions in a policy that already produces 700,000 police stops a year are warranted, especially given the ongoing controversy regarding the disproportionate impact of SQF on racial and ethnic minorities and the possibility that it reduces police legitimacy, which may erode its crime-reduction effects over the long term (Rosenfeld and Fornago 2012: 117-118).

In another recent study based in New York City, Weisburd et al. (2015) found that controlling for a variety of other community-level factors, the approximately 700,000 stop, question and search encounters conducted by the NYPD each year contribute to only a small, two percent reduction in crime. The authors note that attributing even this small crime reduction to SQF is problematic because it is impossible to distinguish the impact of police stops from their mere presence in the community. In other words, the impact of SQF tactics on actual crime rates is likely much smaller than advocates claim. The authors conclude that, despite the fact that police stop and frisk tactics may have a small crime reduction effect:

The aggressive use of SQFs could erode citizens’ willingness to report crime to, or to cooperate in investigation and intelligence gathering with, the police…The question is whether this approach (SQFs) is the best one for crime prevention at hot spots and whether its benefits are greater than the potential negative impacts on citizen evaluations of police legitimacy (Weisburd et al. 2015: 50).

Interestingly, despite dire warnings, new regulations and the dramatic decline of stop and frisk activities in New City have not resulted in significant increases in violent or property offending. In fact, crime rates have continued to decline to historic lows (see Chaun et al 2015; Wegman 2015; Bostock and Fessenden 2014). For example, in 2003, the NYPD conducted approximately 160,000 stop, question and frisk investigations. There were 597 homicides that year. In 2011, the NYPD conducted 685,000 SQFs and the number of homicides dropped to 515. After being ruled unconstitutional, the number of SQFs dropped to only 47,000 in 2013. However, the number of homicides continued to decline – only 333 murders were recorded that year (Weisburd et al. 2015). A similar situation seems to be emerging in Toronto. As the result of public pressure and the implementation of a new policy, the number of contact cards completed by the Toronto Police Service dropped by over 75% between 2012 and 2014 (see Rankin and Winsna 2014). However, Toronto’s rate of violent crime continued to decline over this two year period. In 2015 violent crime had dropped to its lowest level since the mid-1960s (see Boyce 2015).

While Canadian data is not available, we also know from American and British research that that police stop, question and frisk activities rarely uncover direct evidence of criminal activity. Some have likened it to looking for a needle in a haystack. For example, between 2004 and 2012, the NYPD conducted approximately 4,135,000 stop, question and frisk investigations.[[29]](#footnote-29) Only 46,000 of these stops – a mere 1.1% – resulted in the seizure of illegal contraband and only one out of every thousand stops (0.01%) resulted in the seizure of an illegal firearm (see Torres 2015). A similar picture emerges in England. As documented by Bowling and Phillips (2007), the per capita police stop rate in England and Wales is approximately 6.5 times greater for Blacks than for Whites. However, the hit rate for both Blacks and Whites is almost identical – about one percent of stops for both groups result in the discovery of illegal activity. The fact that these hit rates do not vary by race might be interpreted as an absence of racial bias. However, the hit rate figures, combined with the per capita stop and search rate, sheds light on another reality: every year innocent Black people in England and Wales are 6.5 times more likely than innocent Whites to endure an unnecessary stop and search encounter with the police. This fact could undermine public confidence in the police – a topic addressed further in the next section.

At the same time we must not completely handcuff the police. We must remember that some racialized communities suffer from high levels of violence and, like all people, desire police protection when it is needed. Nonetheless, even advocates of stop, question and search tactics are now arguing that aggressive, arbitrary police stops of all “available” civilians must be dramatically reduced (Zimring 2012). Furthermore, the use of documented police stops to evaluate officer performance is a failed practice. In cities like New York and Toronto such policies dramatically increased the number of stops being conducted, diminished the usefulness of these encounters, and greatly damaged police-community relations (White and Fradella 2016). A more targeted, community-driven approach is required.

The implementation of focused deterrence strategies is one possible solution. Proponents argue that focussed deterrence strategies can reduce serious violence while simultaneously improving the often strained relationship between the community and the police. To begin with, focussed deterrence directly involves community leaders, social service providers and regular citizens in the planning and implementation of violence-prevention initiatives. Partnerships between the police and community improve the transparency of law enforcement activity and provide local residents with both a voice and a role in crime prevention work. By using various analytical tools – including community stakeholders – to identify individuals, groups and gangs central to local crime problems, these initiatives are highly focussed on very high risk people. In other words, they do not subject law abiding citizens to indiscriminate police surveillance and investigation. Police also make concerted efforts to communicate with targeted individuals and warn them of the consequences of continued criminal behaviour. They are also made aware of community-based programs and services that will help them exit the criminal lifestyle. Community members tend to appreciate the fairness of offering youthful offenders the opportunity to change their behaviour rather than simply relying on arrest and prosecution. Finally, focussed deterrence focusses on issues of procedural justice and legitimacy. Targeted offenders are treated with dignity and respect. Preliminary evaluation findings suggest that the focussed deterrence approach has been successful at lowering crime rates and improving community confidence in police operations (Goff et al. 2015; Corsaro and Engel 2015; Brunson 2015; Land 2015). Such programs could represent the balance between public safety concerns and civil rights that Canada deserves.

# **THE CONSEQUENCES OF RACIAL PROFILING**

The social and psychological consequences of racial profiling and police stop, question and frisk activities have been extensively documented (see reviews in White and Fradella 2016; Doob and Gartner 2017; Glaser 2015; Harris 2002; Hart et al. 2008; Tanovich 2006; Ontario Human Rights Commission 2003; Tator and Henry 2006; Bowling 2011). In sum, people who perceive that they have been the victim of racial profiling often feel humiliated, frightened, angry, depressed, frustrated and helpless. Previous research further suggests that racial profiling – as with other types of racism – is a quality of life issue and that frequent exposure to police stop and search activities can have a negative impact on both mental and physical health (see White and Fradella 2016; Glaser 2015; Paradies et al. 2015; Watts 2014; Freeman 2012; Pieterse et al. 2012 Sewell and Jefferson, 2016).

The available evidence suggests the residents of heavily policed neighbourhoods, do exhibit high levels of worry and anticipation caused by the possibility of being stopped by the police at any moment, the potential for criminalization, and from the anger and resentment stemming from the perception of unfair treatment at the hands of the police (Anderson, 1990; Goffman, 2009; Sewell, Jefferson and Lee, 2016). Research has recently begun to systematically document the association between the experience of procedurally unjust policing and mental health. Sewell et al. (2016) examined the impact of aggressive policing at the neighbourhood level. They combined individual level health data collected by the New York City Department of Health and Mental Hygiene with neighbourhood level stop and frisk data from the NYPD. The results of this study showed that living in a neighbourhood with a higher density of frisking was associated with experiencing a higher level of psychological distress for neighbourhood residents, while living in a neighbourhood with a higher density of force was associated with experiencing fewer feelings on measures such as sadness and effort. However, further analysis indicates that these findings are gendered. Women were not affected by living in a neighbourhood where pedestrians are more likely to be frisked and where use of force is more concentrated. Indeed, the use of force acted as a protective factor for women’s mental health, perhaps by reducing fear of crime. Conversely, their results show that men who live in neighbourhoods where pedestrians are more likely to be frisked were more likely to report feelings of nervousness and worthlessness, as well as more psychological distress. Likewise, in neighbourhoods where pedestrians were more likely to have force used against them, men were more likely to report feelings of nervousness, effort, and worthlessness and more severe psychological distress.

The impact of aggressive policing on men’s mental health specifically was examined by Geller et al. (2014), who drew on the results of a survey conducted with 1261 young men living in New York City. Their respondents were asked about their experiences with the police, whether and how many times they had been stopped, where the encounter took place, about officer conduct during the stop, if they were frisked or search, and whether the officer used abusive language or some kind of physical force against them. The participants also reported their perceptions of procedural justice (level of fairness) and answered questions designed to measure levels of anxiety and trauma (PTSD). The findings of Geller et al.’s research suggests that young men who report police contact, and intrusive contact in particular, displayed higher levels of anxiety and trauma associated with their experiences. Furthermore, while procedurally just treatment was associated with fewer negative mental health symptoms, level of stop intrusion was predictive of PTSD – individuals experiencing the most intrusive stops displayed more symptoms associated with trauma. Geller et al. conclude by suggesting that the young men living in high-crime, disadvantaged neighbourhoods who are stopped by the police face the parallel disadvantage of compromised mental health.

In addition to contributing to physical and mental health problems, racial profiling can also further social disadvantage by increasing the chances of criminalization for those targeted by the police. In *Paying the Price: The Human Cost of Racial* Profiling, the Ontario Human Rights Commission drew specific attention to the detrimental impact that racial profiling has on the life chances of Aboriginal youth (OHRC, 2003: 56). Indeed, the same is true for other groups. As logic dictates, there is a direct relationship between how closely people are monitored by the police and how likely they are to get caught for breaking the law. In other words, if Indigenous and racialized populations are systematically stopped and searched more frequently by the police than Whites, they are also more likely to be to be detected and arrested for illegal activity than White people who *engage in exactly the same criminal behaviour*. Thus, racial differences in police stop and search activities may directly and significantly contribute to the over-representation of certain racial groups – Black and Aboriginal peoples in particular – within the Canadian criminal justice system (Wortley and Owusu-Bempah 2016; Owusu-Bempah and Wortley 2014; Wortley and Owusu-Bempah 2011a). In the United States, numerous academics have demonstrated that racially biased police stop and search practices, implemented as part of the War on Drugs, directly contributed to the dramatic increase in the over-representation of Black and Hispanics within the American correctional system (Gabbidon and Greene 2005; Walker et al. 2004; Mauer 1999; Cole 1999; Tonry 1995; Mann 1993). Critics further argue that differential law enforcement practices help explain why the majority of people convicted of drug crimes in the United States are Black and Hispanic, even though the vast majority of drug users and traffickers are White (Harris 2002; Tonry 1995).

The hypothetical data provided in Table Three provides a simple illustration of how racial profiling can impact the over-representation of racial minorities in the justice system. Let us assume that a particular community has 2,000 residents aged 18 to 24 years. Let us also assume that 1,000 of these neighbourhood youth are Black and the other 1,000 are White. The rate of carrying illegal drugs for personal use is exactly the same for each racial group (twenty percent). In other words, the community has 200 Black drug users and 200 White drug users. However, due to informal racial profiling practices by the local police, 50% of the Black youth in the neighbourhood will be stopped and searched by the police during the course of the year, compared to only 10% of the White youth. As a result, 100 of the 200 Black drug users will be detected and charged with drug possession by the police, compared to only 20 of the 200 White drug users. Thus, the profiling of the Black population will ensure that Black youth are more likely to be caught for breaking the law than their White counterparts. This process will ultimately lead to the over-representation of Black youth in the criminal justice system. Furthermore, at the end of the year, the police may review their drug arrest statistics and note that 100 of the 120 drug arrests (83%) that they made in this neighbourhood over the past year involved Black youth, a statistic that will serve to further reinforce racial profiling practices. In other words, racial profiling can become a self-fulfilling prophesy.

**Table Three: Hypothetical Distribution of Youth in a Fictional Community**

|  |  |  |
| --- | --- | --- |
| **CHARACTERISTICS AND OUTCOMES** | **BLACK YOUTH** | **WHITE YOUTH** |
| Number in community | 1,000 | 1,000 |
| Number using illegal drugs | 200 | 200 |
| Percent who use drugs | 20 percent | 20 percent |
| Number searched by the police in the past year | 500 | 100 |
| Number detected with drugs and charged | 100 | 20 |
| Percent of all drug users detected by the police | 50 percent | 10 percent |

This, of course, may be an overly simplistic example, but it does demonstrate how racial profiling can potentially contribute to the over-representation of racial minorities in the criminal justice system. The over-representation of racialized people within the justice system, in turn, has been shown to cause immense social and economic harm to their communities and families. Scholars often refer to such harm as collateral damage. The collateral damage associated with the disproportionate incarceration of racialized people, for example, can include economic hardship, social stigmatization, childhood trauma and underdevelopment, family dissolution, and poor physical and mental health (see Pinard 2010; Western and Wildeman 2009; Foster and Hagan 2009; Pager 2009).

A third major consequence of racial profiling is that negative police stop and search experiences can undermine the legitimacy of the police and the broader criminal justice system. Indeed, a growing volume of American (White and Fradella 2016; Glaser 2015; Zhao et al. 2015; Coraso et al. 2015; Gau 2012; Unnever et al. 2011; Gabbidon et al. 2011; Mbuba 2010; Higgins et al. 2010; Gibson et al. 2010; Slocum et al. 2010; Gabbidon and Higgins 2009; Lurigio et al. 2009; Higgins et al. 2008; MacDonald et al. 2007; Weitzer and Tuch 2006; Reitzel and Piquero 2006; Skogan 2006; Skogan 2005; Engel 2005; Hagan et al. 2005; Weitzer and Tuch 2005; Tyler 2005; Rosenbaum et al. 2005; Brown and Benedict 2002; Weitzer and Tuch 2002), British (Bradford 2011; Bradford et al. 2009; Bowling and Phillips 2002) and Canadian studies (Sprott and Doob 2014; Cao 2011; Cao, 2014; Wortley and Owusu-Bempah 2011a; Wortley and Owusu-Bempah 2011b; Wortley and Owusu-Bempah 2009; O’Connor 2008; Wortley et al. 1997; Wortley 1996) have firmly established that certain racial groups, including Blacks, Hispanics and Aboriginals, have much more negative views about the police and the wider justice system than Whites. Furthermore, additional research suggests that much of the racial disparity in perceptions of the criminal justice system can be explained by disproportionate exposure to police stop and search activities. Indeed, a number of studies have now established that people who are frequently stopped and searched by the police have less trust in the justice system and are more likely to view criminal justice institutions as biased. Research also suggests that indirect or vicarious exposure to racial profiling (through the experiences of family members and friends), can also have a negative impact on perceptions of the police, criminal courts and corrections (Zhao et al. 2015; Bradford 2011; Gabbidon et al. 2011; Wortley and Owusu-Bempah 2011b; Gibson et al. 2010; Rosenbaum et al. 2005; Bradford et al. 2009; Wortley and Owusu-Bempah 2009; Weitzer et al. 2008; Skogan 2006; Weitzer and Tuch 2005; Tyler and Wakslak 2004; Fagan and Davies 2000; Wortley et al. 1997; Wortley 1996). Importantly, these same studies suggest that racial groups who have the highest level of involuntary contact with the police tend to have the most negative views of the police and the least trust in the justice system (see review in Wortley and Owusu-Bempah 2009).

Negative perceptions of the justice system and/or a lack of trust in the police have profound consequences for the functioning of the justice system. For example, a number of researchers have found that people with poor perceptions of the justice system are less likely to cooperate with police investigations and provide testimony in court (Gibson et al. 2010; Slocum et al. 2010; Tyler and Fagan 2008; Hart et al. 2008; Brunson 2007; Stewart 2007; Tyler 2006; Brown and Benedict 2002). Furthermore, a number of theoretical perspectives, including Tyler’s theory of Legitimacy and Compliance (Tyler 2006) and Sherman’s Defiance Theory (Sherman 1993) maintain that people with poor perceptions of the police and broader justice system are less likely to obey the law than those who perceive the system as legitimate. Indeed, an increasing number of empirical studies are providing strong empirical evidence in support of this hypothesis: those who perceive a high level of racial discrimination are more likely to engage in criminal behaviour than others (see Burt 2015; Coroso et al. 2015; James and Warner 2015; Augustyn and Ward 2015; Penner et al. 2014; Intravia et al. 2014; Martin et al. 2010; Bouffard and Piquera 2010; Wortley and Tanner 2008; Stewart 2007; Kane 2005; Caldwell et al 2004; Tyler and Wakslak 2004). In other words, individuals are better able to justify their criminal actions and neutralize their guilt when they feel that the justice system – and society itself – is fundamentally unfair or biased. Furthermore, because of their poor relationship and perception of the police, some racialized individuals may feel that they must take personal responsibility for their own safety and resort to street justice, further increasing the level of violence in disadvantaged racialized communities (see Coroso et al. 2015; Intravia et al. 2014; Stewart 2007). In sum, racial differences in stop and search activities contribute to negative perceptions of the police and justice system among racialized civilians. These negative perceptions, in turn, may result in a lack of cooperation with the police and courts and ultimately contribute to their involvement in crime and violence.

In sum, the research literature clearly illustrates that street checks – otherwise known as police stop, question and search tactics – are not harmless and should thus not be condoned in the name of public safety or crime prevention. The empirical evidence strongly suggest that the costs are greater than the benefits. Indeed, racial biases with respect to police surveillance activities can have a hugely detrimental impact on individuals, communities and the operation of the criminal justice system. Eminent Canadian criminologists Tony Doob and Rosemary Gartner, after reviewing the extensive academic literature on police stops, also came to this conclusion:

The police have a number of important roles to play in public safety and in the operation of the criminal justice system. The findings that we cite here which suggest that certain approaches to crime and public protection either do not work or have overall negative impacts should be placed in this larger context. Perhaps the conclusion that one could come to that might be the least controversial would be the need to monitor and evaluate police policies related to street stops to ensure that the benefits outweigh the possible harm that could come from such interventions. This is the same conclusion that one could apply just as easily to medical or educational interventions as police interventions. An important point to remember is that one cannot conclude something is effective, just because assertions are made that it is. Data are important. And sometimes, the findings are complex. Certain kinds of activities of the police can have quite positive effects if the community is engaged in an appropriate fashion. But looking at the issue that we started with – street stops by the police of people who have not apparently committed an offence – it is quite clear that to us that it is easy to exaggerate the usefulness of these stops, and hard to find data that supports the usefulness of continuing to carry them out. This is not to say that the police should not be encouraged to continue to talk to people on the street. But evidence that it is useful to stop, question, and/or search people and to record and store this information simply because the police and citizens “are there” appears to us to be substantially outweighed by convincing evidence of the harm of such practices both to the person subject to them and to the long term and overall relationship of the police to the community (Gartner and Doob 2017: A22).

***A Note on the Retention of Carding or Street Check Data***

One issue associated with the practice of carding or street checks is the retention of the personal information collected from these types of police-civilian interactions. As noted above, the police argue that this information is of high value with respect to future criminal investigations. It may, they argue, help identify crime victims, suspects and witnesses. Recently, it has also been argued that the retention of this type of intelligence-related data may help the police investigate and ultimately solve “cold cases.” Critics, however, have argued that the retention of personal information in “known to police” datasets can cause serious damage to individuals. Furthermore, since Black people and other racial minorities are, in most cases, grossly over-represented in contact card or street check datasets, they are also much more likely to suffer from any negative consequences associated with the retention of this information. Unfortunately, there has been no published research on exactly how – and how frequently – street check data are used by police services or the extent that it has impacted racialized individuals or communities. In order to systemically assess the impact of street check data the police would have to dramatically increase transparency and release information to researchers. Important questions that can only be answered with improved data access include:

1. Who has access to street check data and how often is this information used? For example, to what extent are street check data accessed by front-line patrol officers and criminal investigators? For what purposes? Do officers, for example, routinely access such data when they conduct traffic stops or respond to calls for service?

1. To what extent are street check data shared with outside police and public security agencies (i.e., CSIS, the Canadian Border Security Agency, American security agencies, etc.)?

1. To what extent are street check data shared with members of the public as part of employment, education or volunteer-related security checks? To what extent does the release of this information limit employment, educational and volunteer opportunities?
2. What type of information is provided within street check records. Of importance may be the notes, comments or observations police officers make during street checks about the civilians they interact with. For example, do officers make comments about the demeanour of civilians, their level of cooperation with the police, the people they are associating with, etc.?
3. To what extent does the information contained within street checks impact subsequent police decision-making? Does the information contained within street checks have an impact on how harshly or leniently civilians are treated during future encounters with the police?

Although relevant large-scale data about the uses – and possible misuses – of street check information have not been made available to the public, concerns have been raised. The following examples serve to illustrate how the retention of street check data may have a negative impact on civilians:

* In April 2012, Andrew Tysowski, a Carelton University Student, was stopped by an Ottawa police officer for running a red light. When asked, Tysowski told the officer he had never been in trouble with the police before. However, after conducting a computer check in his patrol car, the officer allegedly returned to Tysowski and issued him a traffic ticket. According to Tysowski, the officer called him a liar and told him: “Don’t be an asshole the next time. Anyone else it would be warning, but because of your record from 2006, I am giving you a ticket.” Concerned by the interaction and the idea that he might have a police record, Tysowski eventually filed a complaint with the Ontario Independent Police Review Directorate (OIPRD). When the OIPRD released their report into the complaint, Mr. Tysowski learned that his “record” stemmed from an incident, in 2006, when he had been taken off a bus by officers and questioned about a robbery. Although cleared of all suspicion, the officers involved produced a street check about the incident where they stated that they were making a note of Tysowski’s negative attitude towards the police in the event he should ever apply to join the Ottawa Police Service. Tysowski stated that he wanted his street check record expunged because it could “show up anywhere” and could negatively impact his future opportunities and interactions with the police. This case provides an example of where negative subjective information from an earlier street check was seemingly used to justify harsher police treatment during a traffic stop. It is also clear that the information on the street check could have hindered Tysowski’s subsequent employment opportunities (Adam 2012; Davies 2015).
* In February 2012, an officer from the Kitchener-Waterloo Police Service stopped a vehicle owned and driven by Andre McGann (*Her Majesty the Queen vs McGann*). The officer detained McGann for questioning, ran a computer check on his driving and criminal record, requested information on known criminals associated with the address McGann indicated as his destination, called for police backup, asked McGann to exit his vehicle and subjected McGann to search. When asked to explain the stop, detention and search of McGann, the officer reported that one of factors that raised his suspicion was that McGann had been stopped and carded by the Toronto Police Service on three occasions in the past year. This case indicates that street check information is sometimes shared between different police services. This case also serves to illustrate how information from previous street check incidents may impact subsequent police suspicions and behaviour.
* As part of his Osgoode Hall criminal law program at York University’s Osgoode Hall, George “Knia” Singh applied to take part in a ride-along with the Toronto Police Service. His application was denied and he could not participate in the ride-a-longs with his fellow classmates. Although he does not have a criminal record, Mr. Singh claims that he was informed by police that his ride-along application was denied because his “community engagement” or “street check” record indicated prior association with serious criminals. Singh had long volunteered his time to work with at-risk youth in high-crime, socially disadvantaged areas of the city and believes that this is how his association with “criminals” was established. A police spokesman later confirms that street check records are often reviewed before approving police ride-alongs and that prior association with criminals might have a negative impact on the approval process. This case provides evidence with respect to how street checks – conducted in the name of police intelligence – could be used for security check purposes and ultimately damage civilian opportunities (Rankin 2016);
* Available information also suggests that carding or street check records have, in the past, been routinely released by the police as part of employment and/or vulnerable sector security checks. Information from street checks has also been used internally to assess police recruits (see Crib 2014; Price 2014; PACER 2012). There has thus been great concern about the accuracy of such reports and fears that the release of such information can cause damage to the employment prospects and volunteer opportunities of persons who have never been convicted of a crime. Such information could also damage the reputations of law-abiding civilians. For example, how would an employer or local school respond to street check information suggesting that a job applicant has criminal associates, been observed in a “high crime” neighbourhood or been disrespectful towards police?

The above examples, although limited, exemplify valid concerns surrounding the retention, use and dissemination of personalized street check data. They demonstrate that the use of street check information often extends beyond the investigation of specific criminal incidents. In fact, street check information can potentially enhance police suspicion towards previously carded individuals and could be used to justify harsher treatment. Street check data might also be used as an alternative, non-conviction criminal record that could negatively impact employment, volunteer and educational prospects. As Black and other racialized groups are greatly over-represented in street check datasets, the negative impact of data retention will likely be greater on these communities than others. Recently, the Ontario government has introduced new regulations that could significantly reduce the number of police street checks and significantly limit the outside dissemination of personal “carding” data. This new legislation, however, does not address the damage that street checks may have already done or allay community fears that historical carding data, if retained, could continue to have negative consequences.

# **CONCLUSION**

What is perhaps most remarkable about racial profiling research is that, regardless of the research strategy used, the same constellation of results emerges. In general, the results of the above review of Canadian, American and British research shows that:

* Racially biased policing may be caused by a variety of factors including explicit (conscious) bias, implicit (unconscious) bias, statistical discrimination and systemic or institutional factors;
* Regardless of the research methodology used, studies consistently find that Black and other racialized civilians are more likely to stopped, questioned and searched by the police than whites. Racial differences are greater for police searches than for police stops;
* Racial differences in stop, question and search activities remain after other legally relevant factors have been taken into statistical account;
* Many police stops are conducted for purposes of “general investigation” rather than “individualized suspicion.” The fact that Blacks are more vulnerable to such “general investigation” stops is consistent with allegations of racial profiling;
* The “hit rate” or “success rate” for random police stops or checks is uniformly low. The police rarely identify criminal activity during such encounters. The hit rate for Blacks is usually the same – or lower – than the hit rate for Whites. These findings suggest that race-based criminal profiling is no more successful than randomized police checks.
* The fact that Blacks are much more likely to be stopped and searched by the police – but Black stops are no more successful than White stops – indicates that innocent Black civilians are much more likely to be subjected to arbitrary police investigations than innocent Whites;
* Research indicates that racially disproportionate police stop, question and search activities have major social consequences for Black and other racialized communities. These consequences include: 1) Damage to physical and mental health; 2) The gross over-representation of minorities in the criminal justice system; 3) A decline in the perceived legitimacy of the police and overall negative attitudes towards the police and broader criminal justice system; 4) Reluctance to report criminal activity and a lack of cooperation in police investigations; 5) Perceptions of injustice and a lack of faith in social institutions; and 6) higher rates of racialized offending;
* Furthermore, the collection and retention of personal information in “street check” datasets may have collateral consequences. Individuals in such datasets may be subject to higher rates of suspicion and harsher treatment by the police during future encounters. The dissemination of such data for purposes of security checks may also damage employment, education and volunteer opportunities;
* The crime prevention benefits of police stop, question, search and document practices are contested. Best estimates suggest that overall effects on crime reduction are small – much smaller than proponents claim. There is a growing consensus among academics that the costs associated with the widespread, arbitrary use of aggressive police stop, question and search tactics far outweigh the potential benefits;

A large number of policy initiatives have been identified that might reduce racially biased policing and the negative impact of racially disproportionate stop, question and search practices. Recommended policy options have included: 1) Improved screening of police recruits for racial bias and cultural competence; 2) Improved recruitment of racialized officers so that the police reflect the diversity of the communities they serve; 3) Improved training in race relations, implicit bias and cultural competency; 4) Training in less aggressive and more respectful methods for dealing with civilians during police stops; 5) Improved community policing and focussed deterrence strategies; and 6) Increased civilian oversight and police accountability mechanisms. Many community members and researchers have also called for more police transparency with respect to the collection and dissemination of data – including race-based data – that will enable better quality research into police activities.

## THE ARGUMENT FOR AND AGAINST POLICE DATA COLLECTION

Over the past five years, a fierce debate has taken place in Canada over the collection and release of official data on police stop and search activities. On the one hand, many community organizations and civil rights groups have called for the systemic collection of stop and search data and that such data should be released to the public on an annual basis. On the other hand, police organizations and police associations have, in general, fiercely resisted calls for mandatory data collection. In this section the report briefly reviews the major arguments for and against data collection.

### *The Argument for Data Collection*

1. *Data collection may directly reduce racially profiling and other forms of racially biased policing.* Data collection is not only a research exercise; it is a form of monitoring. Officers who engage in racial profiling – out of racial animus, racial stereotyping or some other reason – will be less likely to engage in biased stop and search activities if they know that their actions will be directly reviewed by their supervisors. Data collection makes what has been called the “invisible” side of policing more “visible.” Internal benchmarking will also help police managers identify potentially biased officers and target them for re-training or disciplinary action. The question is: Without monitoring, how do police supervisors know what their officers are doing when they hit the street? This argument is also consistent with the results of other police monitoring practices. For example, in the United States, it is well known that racial disparities in police use of force declined significantly after officers were mandated to fill out “use-of-force” forms every time they drew their gun or used force against a civilian (see review in Wortley 2006). Although limited, research in both England (Miller 2010) and the United States (Warren et al. 2009) also suggests that data collection may have contributed to a decline in racially biased policing within many jurisdictions. In sum, without proper monitoring, individual police officers will be better able to hide or conceal racial profiling practices.
2. *Data collection may improve police relationships with racialized communities.*  As discussed at length above, African Canadians and other racialized groups have significantly less trust and confidence in the police than White people. Data monitoring of police stop and search activities might improve these perceptions in several ways. First of all, as discussed above, monitoring could actually reduce racially biased policing. Secondly, data monitoring provides transparency. It demonstrates that the police have nothing to hide and are willing to share their actions with the public. By contrast, the refusal to collect and release data could be perceived as evidence that the police are “circling the wagons” and trying to prevent the release of information that may not portray them in a positive light. Finally, the willingness to collect and release data on stop and search activities may convince the public that the police are taking the issue of racially biased policing seriously and are trying to reduce the impact of profiling on racialized communities. To date, very little research has explored the impact of police data collection on public attitudes. However, British researchers have demonstrated that, since stop and search data collection was mandated in England and Wales, levels of confidence in the police among racialized people have improved significantly (see Bradford 2011; Myhill and Beak 2008).
3. *Data collection will assist in the evaluation of anti-racism and anti-racial profiling programs.* Over the past two decades, Canadian police services have introduced a wide variety of anti-racism initiatives designed to reduce racially biased policing and improve police relationships with racialized communities. These initiatives include anti-racism/cultural sensitivity training; programs to increase the recruitment of racialized officers and the establishment of police-community consultative committees. Recently, a number of police services, including the Ottawa police service, have established explicit anti-racial profiling policies. Unfortunately, as Stenning (2003) notes, none of these anti-racism initiatives have been subject to a high quality evaluation.[[30]](#footnote-30) The question is, therefore: Without the collection of data on police stop and search activities, how can we tell if anti-profiling policies are effective or not? You simply can’t. Furthermore, without data collection it would also be difficult, if not impossible, to properly evaluate the effectiveness of other anti-racial profiling strategies including anti-profiling training, cameras in police cruisers, etc.
4. *The monitoring of police stop and search activities is an important management tool.* One ofthe greatest challenges facing the establishment of a data collection or monitoring programs is the perception that the utility of such programs is limited to the investigation of racial bias. Nothing could be further from the truth. Besides race, data collection forms should be designed to collect information on the age, gender and home address of the civilian, whether the stop was a pedestrian or vehicle stop, the time and location of the stop, the reason for the stop, whether the civilian was searched or not, and the outcome of the stop (no action, warning, ticket, summons, arrest, etc.). Thus, besides racial differences in exposure to the police, these data can be used for a variety of other purposes including: 1) measuring gender and age differences in exposure to the police; 2) police stop and search behaviours within specific neighbourhoods; 3) the reasons officers decide to stop drivers and pedestrians; and 4) the effectiveness of police stops. In other words, an effective data collection system can assist police supervisors with respect to monitoring the activities of their officers in the field and establishing measures of effectiveness and productivity. As Tillyer and his colleagues (2010: 87) note, once a data collection system has been established: “Law enforcement agencies can now assess and begin to understand the decision-making process of their officers with the assistance of these data. The trend toward vehicle stop data collection across the nation offers several advantages to police agencies. In particular, these efforts can assist in informing agencies about patterns and trends in disparities in the stop and search outcomes for specific racial/ethnic groups. In undertaking this self-evaluation, agencies demonstrate a commitment to unbiased policing, particularly in situations where an agency voluntarily initiates data collection or goes beyond what is legislatively or judicially required of them. Moreover, understanding the patterns of vehicle stops and their outcomes can assist agencies in the effective and efficient allocation of resources which are often prime considerations in the present budget conscious environment.” Cleary the advantages of such a data collection system would extent to pedestrian as well as vehicle stops.

The final argument in favour of data collection is more philosophical than practical. It concerns the ownership of information about the police and police actions. It must be remembered that, since their creation, police services tend to be developed as para-military organizations. As such, they often view information as “intelligence” and try to use this intelligence to their advantage. Indeed, besides data on stop and search activities, it is very difficult to access many types of information on coercive police operations – including information on police use of force, local arrest data, data on police remand decisions, police complaints, etc. Often such information is only made available through freedom of information requests. It is also important to note that modern police organizations often have public relations departments or public relations personnel. As with other corporations, one might argue that it is the job of police public relations personnel to selectively release information that will establish a positive image of the police service, while preventing the release of information that could “harm” the reputation of the force. Police advocates have argued that such image management is important with respect to maintaining public confidence in the police and ensuring proper police functioning. Others, however, have maintained that, at least in theory, the police work for the public. As such, the police must be transparent and both collect and release all information that the general public – or particular groups within the public sector – demand. As Kane (2007: 778), argues, police departments sometime unwisely operate as if police-generated records are propriety data.

The public funds police departments and all dimensions of their coercive activities. The public *owns* all information related to police operations and processes. Thus, police departments should be required not only to collect data on coercive outcomes and processes but also to make them generally available to the public (original emphasis).

As we shall see, such views are not often shared by police officers or their supervisors.

### *The Argument against Data Collection*

It is also important to note that the advantages of police data collection need to be weighed against the potential challenges or consequences of such endeavours. Below we outline a few of the major arguments against data collection that have been provided by police organizations and their advocates.

1. *Data Collection will Damage Police Officer Morale.* A number of critics have argued that police officers are not supportive of efforts to monitor their activities and that forcing police services to collect data on police stop and search activities will damage police morale. Damage to police morale, in turn, could lead to a drop in job satisfaction and productivity. Unfortunately, we could not locate any research that addresses this claim. For example, we could not locate information to suggest that the police services in Britain or the United States – where data collection is mandated – have lower morale than the police services where data collection has not yet been instituted. However, there is evidence to suggest that the “poor morale” argument has been repeatedly used by police organizations and police unions to resist other public accountability measures including police use-of-force regulations, public complaints commissions, civilian oversight agencies, officer name tags and the establishment of Ontario’s Special Investigations Unit (see Sewell 2010; Morin 2008; Wortley 2006). In sum, the potential impact of data collection on officer morale and job satisfaction is an important research question that deserves to be investigated. However, we must also consider the possibility that, despite initial resistance, police officers will eventually accept data collection responsibilities as part of their job description and conduct themselves in a professional manner. Finally, it is possible that the impact of data collection on officer morale could be minimalized if data collection can be sold as part of a wider intelligence gathering/performance monitoring system rather than a tool for identifying racial profiling.

1. *Data Collection will Compromise Public Safety*. It has also been argued that forcing the police to collect data on the people they stop and search will lead to “de-policing.” In other words, police officers will deliberately reduce the stops and searches they conduct on minority civilians in order to avoid allegations of racial bias. Such de-policing behaviours, it is argued, will have a detrimental impact on the crime rate. This argument was made by Craig Bromell, then President of the Toronto Police Association, in the aftermath of the 2003 *Toronto Star* series on racial profiling. Brommel maintained that, if data collection was imposed on the Toronto Police, police officers would simply stop engaging in proactive policing within racialized communities and that this would give racialized criminals a free reign. Others have argued that data collection will take valuable time and resources away from police crime fighting and prevention activities and that this will, in turn, lead to more crime. However, we could find no empirical evidence to support this claim. Indeed, since data collection was mandated, crime rates – including violent crime rates – have declined significantly in both Great Britain and the United States (Siegel et al. 2010). Interestingly, crime rates have also declined in regions without data collection – perhaps indicating that data collection procedures have little to do with the causes of crime. Finally, there is little evidence to suggest that data collection has actually reduced police stop and search activities. Indeed, the number of stops and searches recorded by the police in both England and New York City has increased significantly since data collection began (see Jones-Brown et al. 2010; Miller 2010).
2. *Data Collection is Too Expensive*. A number of critics have argued that police data collection is too expensive and would take valuable resources away from other important policing functions. By contrast, others have argued that, after initial start up costs, police data collection is relatively efficient and inexpensive. Indeed, many police services already have data collection processes in place that document police-civilian encounters (i.e., contact cards or electronic reports) and only minor adjustments are required to move to the full collection of stops data.[[31]](#footnote-31) It is true, however, that some of the more advanced benchmarking techniques, discussed above, can be quite expensive. Nonetheless, the costs of using these approaches can be offset when the police enter into partnerships with university researchers. Such partnerships are often successful at securing external funding and can thus minimize the impact on police budgets. Furthermore, there are many university researchers who would be willing to provide their methodological expertise and analytical skills for free – as long as they and their graduate students can have access to police data for publication or dissertation purposes. In other words, working with university researchers is much cheaper than dealing with private consultants. Finally, police services in both England and the United States have been able to deal with the financial burden of data collection without sacrificing service. There is no reason to believe that Canadian police services can’t to the same.[[32]](#footnote-32)
3. *Data Collection will Compromise Officer Safety*: Some have argued that data collection will put police officers at higher risk of serious injury or death. This is a somewhat difficult argument to understand – especially since the same critics often argue that data collection will also reduce the overall number of police-civilian encounters (a fact that would reduce the overall risk of a violent confrontation). Perhaps they are arguing that data collection will change the nature of how the police deal with civilians once a stop is initiated. For example, because they fear allegations of racism, police may be more reluctant to search, frisk or use force against minority suspects who may be carrying weapons. Nonetheless, we could find absolutely no evidence to suggest the number of police officers injured or killed on the job has increased within jurisdictions that have mandated data collection. It is also important to note that similar concerns about officer safety were voiced when new use-of-force regulations mandated the completion or use-of-force forms every time the police pulled their guns or used physical force against a civilian. The argument then was that officers may hesitate to use force in dangerous situations because they do not want to perform extra paperwork. Now, decades later, we know that such concerns were unfounded. Indeed, American research suggests that since the implementation of use-of-force regulations, the number of officers seriously injured in the line of duty has significantly declined – as have the number of civilians killed or injured by the police (see Wortley 2006).
4. *The Data could be used in Court*. Some critics fear that, if available, aggregate statistics on police stop and search activities will be increasingly used by lawyers in both the criminal and civil courts. Such data, they worry, could clog the criminal courts with cases that allege “racial profiling” and thus slow down the court process and ultimately damage conviction rates. Others worry that police data could increase civil claims alleging police racism and that such allegations will increase legal costs and claims payments. We cannot discount this possibility. However, it is important to note that such cases have existed before data collection and will likely exist after data collection has begun. Furthermore, all cases must be judged on their own merit and it is unlikely that data alone will prove racial bias in any particular case. Furthermore, if data collection helps to reduce racial profiling, as suggested above, fewer racial profiling cases could emerge. Finally, it is possible that high quality research on police stop and search may help the courts perform their function and make wise decisions that are consistent with the principles of justice. Fear of data – and its possible use in court – is not a valid reason to ban data collection.
5. *The data could Damage Racial Minorities*: In an interesting twist, some have argued that data on police stop and search activities could actually damage racial minority communities. They maintain that, while some may interpret the over-representation of minorities in official stop and search statistics as evidence of bias, others might assume that this data “proves” that certain racial groups are more crime-prone than others. Stop and search data, in other words, might increase racial stereotyping within Canadian society. This logic is similar to the justification for banning all “race-crime” statistics in Canada (see Wortley 1996). It is interesting that this paternalistic justification for banning race-based data collection also serves to prevent the effective identification of racial bias in the justice system. Furthermore, the current ban on race-crime statistics has in no way prevented crime-related racial stereotypes from emerging in Canada. Indeed, racialized images of crime dominate the news media – where the vast majority of citizens get their information on crime-related issues. It fact, even with the current ban on race-crime statistics, Canadians actually tend to greatly over-estimate the involvement of racial minorities in criminal activity (see Wortley and Owusu-Bempah 2011).

These are but a few of the arguments that have been put forward by those who reject calls for police data collection on stop and search activities. Finding a consensus on this issue is only a distant hope. In many ways, the debate is split between those who prioritize the interests of the racial minority community members and researchers who want data collection, and those who are more sympathetic to the interests of the police and police organizations. Below we examine some of the potential limits of data collection under Ontario’s new street check regulation.

## LIMITS OF DATA COLLECTION UNDER THE NEW STREET CHECK REGULATION

The Government of Ontario filed final regulations on the arbitrary collection of identifying information by the police – the new street check policy – on March 22, 2016. These regulations were implemented on January 1, 2017. Although the new regulations are progressive, especially when compared to previous standards, both community members and legal practitioners have highlighted potential limitations. For example, concerns have been expressed with respect to how possible “exceptions” to the street check regulations may be interpreted by the police and whether the use of these exceptions will impact both the quantity and quality of police-civilian encounters. However, this section of the report focuses on potential issues with the data collection and reporting requirements outlined in the street check legislation. These concerns are presented in the following bullet points:

* Street checks are not police stops. Although the vast majority of street checks may involve a police stop – relatively few police stops result in a street check. For example, according to the publicly available data, during the Ottawa Traffic Stop Study, the Ottawa Police Service (OPS) conducted 122,034 traffic stops. However, only 583 of these stops (0.5% of the sample) resulted in a “street check;”[[33]](#footnote-33)
* What about pedestrian stops? Does the new street check regulations ensure the collection and public reporting of information on all pedestrian stops? Not likely. Our reading of the regulations suggests that data will only have to be collected and disseminated on pedestrian stops that involve the completion of a street check. By definition a street check not only involves a police stop. To become a street check an officer must also *ask for* and/or *collect* personal information on that individual for the purposes of entering that information into a “street check” or “police intelligence” dataset;
* According to our interpretation of Ontario’s street check regulations, the police will not always have to collect and publicly disseminate information on the following types of police-civilian encounters: 1) Traffic stops (even pre-text traffic stops); 2) Police stops that result in arrest or detention or the execution of a warrant; 3) Police stops that would compromise an ongoing investigation; 4) Police stops that would compromise safety; 5) Police stops that involve the reasonable suspicion that a crime has been or will be committed; 6) Police stops in which officers do not ask for ID or other personal information; 7) Police stops in which officers ask for ID or other personal information but decide not to record or retain such information; and 8) Police stops in which police collect and temporarily retain personal information but ultimately decide not to include that information in a “street check” dataset;
* We further illustrate the points above with a few hypothetical examples. Imagine a case in which an officer approaches a group of youth and asks them to stop. She then asks the youths questions about what they are doing, where they are going and requests that they empty their pockets and gym bags. She does not ask the youth to produce ID and does not record their names or other personal information. In my opinion, this incident should be considered a police stop. However, it does not meet the standard of a street check and would thus not be documented under Ontario’s street check regulations;
* Imagine a second case in which an officer stops a lone youth and asks this youth what he is doing. He does not ask for ID or other personal information. During this encounter, the officer states that he would like to pat down or frisk the youth to ensure his own safety. He also politely asks the youth to empty his pockets. The youth consents to this search. The officer finds no weapons, drugs or other contraband and lets the youth exit the investigation. Although this encounter, in my opinion, meets the definition of a police stop, I believe it would not be captured by the data collection requirements present in the new street check regulations. The officer did not collect or retain personal information so information on the encounter would not have to be recorded;
* Imagine a third scenario in which an adult male is stopped by a police officer who is investigating a local crime spree. The officer asks the male to produce ID. The officer runs the civilian’s name through his dashboard computer system to see if the individual has a criminal record, is in breach of court conditions or has warrants. The check comes back “clean” and the officer ends the investigation. The officer decides that it is not necessary to record the incident as a street check and discards the personal information he has collected. Although this incident would meet the criteria of a police stop or investigative detention, I think there is a high probability that this stop would not be entered into a “street check” dataset as stipulated by the new regulations;
* To be clear, we are not saying that police officers will ignore the new street check regulations. In all three cases above, for example, the officers could follow the street check regulations (i.e., inform the civilian of their right not to answer questions or exit the encounter) or argue that that the stop met one of the “exception” standards. However, just because the officers followed the regulations does not mean that the stop would be documented in street check datasets;
* In sum, the new street check legislation does not, in our opinion, require the collection of information on all investigative police stops. It only requires that data be collected and disseminated on stops during which personal information is both collected and retained. Thus, despite the new regulations, it is quite possible that the majority of police stops – both traffic and pedestrian – conducted by the police in Ontario will still go undocumented. We anticipate that street check numbers will plummet – if not disappear entirely – following the implementation of the new regulations. Preliminary data released by police agencies supports this assertion.
* The only way to ensure complete coverage of police stop practices is to ensure data collection on all investigative stops – not only those that produce a street check record. The language should move from “street checks” or “carding” to “police stops.”
* We also note that the data collection provisions outlined in the new street check regulations do not require the collection of information found important within the “racial profiling or “racial bias” literature. For example, it does not require information on whether the civilian was searched during the stop or street check or whether the stop resulted in criminal charges. It will thus still be impossible to measure racial differences in the intrusiveness of police encounters or racial differences in investigative “hit rates”.

While there are a number of potential shortcomings in the approach to data collection contained in the street check regulation, these limitations can be overcome. In the last section of this report we highlight a possible, multi-method strategy for collecting high quality data dealing with the issue of biased policing in Canada.

## RECOMMENDATIONS FOR DATA COLLECTION ON POLICE STOP, QUESTION AND SEARCH ACTIVITIES

As the above review suggests, no study is perfect. Different types of methodologies have different types of strengths and weaknesses. The strengths of qualitative studies (contextual detail, information on emotional impact, etc.) are different than the strengths of quantitative studies (large sample size, replicability, etc.). As a result, researchers often recommend a multi-method approach when addressing complex issues such as police stop and search. This strategy is sometimes referred to as triangulation (see Hammersley 2008; Denzin et al. 2006; Bryman 2007). The argument is that, by using multiple research methods to address the same topic, we are better able to understand social realities. Furthermore, if different research methods tend to yield the same types of results, we can have more confidence in their accuracy. For example, both Canadian survey research and official police data from both Kingston and Toronto suggest that Black people are more likely to be stopped by the police than White people and that White people are more likely to be stopped and searched than Asians – even after other relevant factors had been taken into account. The fact that such findings were produced by two very different research methodologies should strengthen our confidence that these findings reflect reality. Furthermore, findings using one type of method may help us understand the results of a study that used an entirely different research strategy. For example, qualitative interviews may help us understand the emotional impact of racial profiling and help explain survey research findings which suggest that racial minorities have a lower opinion of the police than Whites. Furthermore, while official data collection may help us measure the extent of racial disproportionality in police stop and search activities, qualitative methods may better help us understand police decision-making processes. As Tillyer et al. (2010: 87) note: “Future research may have to advance beyond quantitative analysis and explore qualitative studies to address the underlying motivations for officer decision making. This alternative approach to studying the existence and extent of bias based policing likely will require asking officers to describe their decision making process through the use of interviews or focus groups.”

In light of these findings, we recommend that police services that are serious about addressing the issue of profiling and/or racially biased policing adopt a multi-method approach to research and evaluation. Specific recommendations include:

1. The first step in the research process should involve the formation of a research or evaluation committee. This committee would be responsible for the development and implementation of the research and evaluation plan. This committee should consist of police personnel, community representatives and academic researchers. It is important that researchers be involved from the beginning of the research process as they should have the methodological training to ensure the development of a sound methodological strategy. As discussed above, the use of university-based academics, trained in social science methodology, will likely be much less expensive than the use of private consultants. Furthermore, the use of university researchers might contribute to the perceived objectivity of the project.[[34]](#footnote-34) The selection of the researchers is an important step. Ideally, researchers should be approved or accepted by both the police and community representatives of the research committee. If a consensus on a single researcher cannot be found, perhaps the committee will have to form a research team that consists of one researcher that is acceptable to the police, and one researcher that is acceptable to the community members.
2. We recommend that police services establish a permanent data collection system to record information on all stops of civilians. This data system should record information on both traffic stops and stops involving pedestrians. The information to be collected on each stop should include: the date of the stop, the time of the stop, the location of the stop, the reason for the stop and the outcome of the stop (no action, warning, ticket, summons, arrest, etc.). Whether the person or vehicle was searched by the police should also be recorded. It is also important to distinguish between investigative searches and searches that take place after arrest. The age, gender and racial background of the person stopped should also be recorded. Ideally the data collection procedure would also record the full name and home address of the individuals stopped. This would help the research team identify individuals who are stopped multiple times in a given time period as well as individuals who reside outside of the study jurisdiction. Furthermore, such information would help researchers determine if people are more likely to be stopped in their own neighbourhoods or when they travel to other areas of the city. For example, previous information suggests that Blacks in the United States are most likely to be stopped when they travel into predominately White neighbourhoods – a finding that is consistent with the “out-of-place” hypothesis (see Meehan and Ponder 2002). Of course the research committee might identify other information that should be recorded.[[35]](#footnote-35)
3. We recommend the development of a permanent data collection system for the following reasons: 1) A permanent system will allow for comparisons over time. Trend data could be used to identify emerging patterns related to police stop and search activities and evaluate the effectiveness of anti-racism policies; 2) Data monitoring of stop and search activities may reduce racial profiling (as discussed above). Thus, the benefits of data monitoring would be severely limited if police services only engage in a time-limited pilot project (like the Kingston Project); and 3) During a time-limited pilot project, the police may change their normal activities to avoid allegations of racial bias. However, they may return to normal activities after the study is complete.
4. In addition to census and adjusted census benchmarking (which will capture per capita stop rates), we also recommend the use of one or more advanced benchmarking techniques (discussed above). The exact benchmarking techniques to be employed should be decided by the research committee. However, we recommend the use of observational benchmarking because it has the best chance of capturing other factors that may be related to police decisions to stop and search civilians (including street availability). Due to the high cost, it would be impossible to conduct observational benchmarking on a continual basis. Thus, we recommend that observational benchmarking sub-studies be conducted periodically (perhaps every 2-5 years) to supplement the regular collection of stop and search data. It would also be impossible to conduct benchmarking in all neighbourhoods. Thus, we suggest that observational benchmarking should be conducted on a random sample of both high and low stop areas within the study jurisdiction. Finally, if possible, we recommend that the research committee work with academic researchers to secure external funding for these benchmarking sub-studies.
5. We also recommend that police managers use internal benchmarking techniques to identify individual officers who are possibility engaging in racially biased stop and search practices. Once identified, these officers can be brought in for discussion, re-training or discipline. Although the research committee may assist police supervisors in the development of internal benchmarking techniques, the names of individual officers do not have to be released to the research committee or the general public. The use of internal benchmarking could remain an internal strategy for identifying problematic officers. However, the research committee may want to know how many officers have been identified as potentially biased through internal benchmarking techniques and how these officers were dealt with. The release of such raw numbers would not reveal the identity of individual officers.
6. The collection of official police data should be supplemented with periodic surveys of the general public. General population surveys should collect information on self-reported contacts with the police as well as respondent attitudes and perceptions of the police and wider criminal justice system. Survey data on self-reported stops could be compared with official stop data in order to identify significant commonalities or differences. Surveys could also be used to conduct multivariate analyses and determine whether racial differences in stop and search activities can be explained by other factors including age, area of residence, local crime rates, driving habits, use of public spaces, self-reported drug and alcohol use and self-reported involvement in criminal activity. Importantly, if such surveys are conducted on a periodic basis (every 2-5 years), the data could be used to determine if racial differences in stop and search activities are declining or increasing and if attitudes towards the police are improving or getting worse. In other words, survey research data over time could be used to evaluate the effectiveness of anti-racism and anti-profiling policies.
7. Periodic surveys should also be conducted on the police themselves. Such surveys could be used to measure the impact of data collection on officer morale and job satisfaction, officer attitudes towards anti-racism programs or policies, and officer decision making with respect to stop and search tactics. Such surveys could be expanded to measure prejudice and stereotyping, attitudes towards specific minority groups and minority crime and opinions about the effectiveness of various anti-racism policies. Of course these surveys could address any other topics of interest to the research team or police managers. We recommend that such officer surveys be conducted every 2-5 years to better facilitate the evaluation of anti-racism initiatives.
8. We also recommend the periodic implementation of qualitative research methods. These methods should include interviews and focus groups with both community members and police officers. Such strategies could collect more detailed information about public perceptions of police stop and search tactics; the impact of police stops on individuals and communities; opinions about whether police anti-profiling and anti-racism strategies are working; and how anti-racism strategies might be improved. Such qualitative strategies could also measure public awareness of data collection efforts and research results and gauge the impact that research is having on public opinion. As discussed above, qualitative methods could also be used to examine the impact of anti-profiling policies and data collection on officer morale and how such policies have impacted police behaviour on the street. Furthermore, interviews and focus groups could be used to investigate police decision-making and how race and other factors influence – or do not influence – the actions police take as they perform their patrol duties.
9. Finally, we propose that reports documenting the results of all data collection and research activities be released to the public on an annual or biannual basis. This is the only way to guarantee transparency. However, we also feel that reports should not be released until the research team has conducted a full analysis of the data. Furthermore, reports should not be released until police officials have been fully briefed. Reports should be released during a coordinated press conference in which the data can be fully explained. This will reduce the chance that the data will be used inappropriately (although that possibility can never be totally eliminated).

In conclusion, it is quite apparent that high quality data collection is needed to fully examine police stop, question and search activities and evaluate the effectiveness of anti-racism policies (see Meng 2017). In recent years, police services have sometimes modelled themselves after major corporations. They have started to develop “mission statements” and “business plans” and have started to refer to the public as clients or customers. It is hard to imagine a major corporation developing a major policy without also developing a strategy for evaluating the effectiveness of that policy. Police services need to follow the same path. Anti-racism policy without proper monitoring and evaluation can be dismissed as nothing but symbolic window dressing. Without proper monitoring, little will change with respect to police-race relations over the next decade.

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# **APPENDIX B**: **REFERENCES**

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1. A number of Canadian organizations have also sought to define racial profiling. For example, the Ontario Human Rights Commission defines racial profiling as “any action undertaken for reasons of safety, security or public protection that relies on stereotypes about race, colour, ethnicity, ancestry, religion, or place of origin, rather than on reasonable suspicion, to single out an individual for greater scrutiny or different treatment” (OHRC 2003: 6). Similarly, the Quebec Commission des Droits de la Personne et des Droits de la Jeunesse defines racial profiling as “any action taken by one or more people in authority with respect to a person or group of persons, for reasons of safety, security or public order, that is based on actual or presumed membership in a group defined by race, colour, ethnic or national origin or religion, without factual grounds or reasonable suspicion, that results in the person or group being exposed to differential treatment or security” (Eid et al. 2011: 10). Such definitions have been subject to criticism because they focus only on actions that are *motivated* by concerns for “safety, security or public protection.” In other words, these definitions seemingly exclude actions that may be motivated by overt racism (racial animus) or actions that reflect systemic or institutional bias (see discussion below). As Williams (2006: 3) states: “Racial profiling, according to the OHRC, is a well-intentioned, albeit misguided, attempt to preserve public and private security.” [↑](#footnote-ref-1)
2. Although racial animus has declined in North America, it has not been eliminated. In fact, recent research suggests that people with overtly racist views and/or feelings of racial animus are much more likely to support tough criminal justice policies (see Brewer et al. 2008). Others have argued that overt racism has not declined as significantly as research findings suggest. These critics maintain that, because of cultural change, racists are just less likely to publically express their views (see Murakawa and Becket 2010; Henry and Tator 2005). [↑](#footnote-ref-2)
3. Indeed, the tendency for police officers to view allegations of racial profiling as an accusation of overt racism has led some researchers to call for a change in the language used to frame the issue. Some scholars, for example, have called for researchers to replace the term “racial profiling” with the term “disproportionate stops” because it takes attention away from officers’ intent and puts the focus on the data and community impact (see Paulhamus et al. 2010: 249). [↑](#footnote-ref-3)
4. Proactive policing refers to police surveillance or investigative behaviours – including police stop and search activities – in which police officers actively search for criminal or traffic violations, suspicious persons or suspicious activities. By contrast, reactive policing involves police responses to specific calls for service. [↑](#footnote-ref-4)
5. Research does suggest that the residents of high crime communities are more likely to be stopped and searched than the residents of low crime communities. However, additional analysis reveals that, within high crime communities, minority residents are more likely to be stopped and searched by the police than White residents (see Wortley and Owusu-Bempah 2011). [↑](#footnote-ref-5)
6. It is important to note that the police deployment model cannot adequately explain research findings which suggest that minority civilians are even more likely to be stopped and searched by the police when they reside in, or travel through, high income, low crime, predominantly White communities (see Meehan and Ponder 2002). [↑](#footnote-ref-6)
7. Rather than being an aberration. [↑](#footnote-ref-7)
8. Racialization is a term used to describe the classification of people into groups by reference to their anatomical features, such as skin color and facial features, and the making of judgments about their innate and cultural attributes and/or social worth based upon those features (Miles 1989: 75). [↑](#footnote-ref-8)
9. Despite high rates of violent victimization and the immense over-representation of Aboriginal people in the Canadian criminal justice system, very little empirical research has examined Aboriginal perceptions of and experiences with the police in Canada (Cao, 2014; Rudin, 2005). This shortcoming arises in part from the fact that Canadian police agencies do not collect or release very much in the way of data that includes Indigenous status and other racial descriptors (Wortley, 1999; Millar and Owusu-Bempah, 2011). As such, most of what has been published concerning the relationship between Indigenous people and the police is qualitative in nature and contained in the reports of governmental commissions and inquiries. This should be viewed as problematic - although a vast body of data is collected on the representation of Indigenous people in Canadian correctional systems, their presence within correction institutions is a result of contact with earlier parts of the criminal justice system, including the police. Thus, police and court data would be useful in order to adequately understand some of the processes that lead to Indigenous over-incarceration (Rudin, 2005: 28). [↑](#footnote-ref-9)
10. The OHRC was urged by participants to consider the policing of Indigenous people alongside the actions of other social institutions, such as the child welfare system, and to consider the inter-generational effects of colonization, including those related to the legacy of residential schools (OHRC, 2017: 99). [↑](#footnote-ref-10)
11. All of the racial differences highlighted in this section of the text are significant at the p >.01 level. [↑](#footnote-ref-11)
12. This survey only asked about traffic stops in which the respondent was the driver. [↑](#footnote-ref-12)
13. A recent re-analysis of the 2000 study compared results from the high school sample with the results from a sample of over 300 Toronto-area street youth (see Hayle, Wortley and Tanner 2016). The results, once again, reveal that Black high school students are much more likely to be stopped and searched by the police than students from other racial backgrounds – even after controlling for other variables including involvement in crime and gangs. The findings further indicated that racial differences are largest amongst those students with low levels of criminal involvement and smallest among those deeply immersed in deviant lifestyles. Interestingly, racial differences in exposure to police stop and search activity did not reach statistical significance amongst homeless street youth. This lack of racial difference was, however, explained by the fact that all street youth reported extremely high levels of criminal involvement and spent a great deal of their time in public spaces. Involvement in such deviant lifestyles likely drew the legitimate attention of the police. Once again, however, the results confirmed that racial profiling is most likely to manifest itself amongst populations with low levels of criminal activity. It seems that good behaviour protects White people from being investigated by the police more than it protects Black people: that being Black, in and of itself, attracts police attention. [↑](#footnote-ref-13)
14. Survey research has also been used to document the experiences and opinions of American police officers. For example, a recent survey of the police in Virginia found that 26% of officers believe that racially biased policing is a common practice and that this opinion is more widely held by Black than White officers (Ioimo et al. 2007). Similarly, a sample of Black police officers in Wisconsin found that the majority of respondent believed they had been the victim of racial profiling at some time in their life (see Barlow and Barlow 2002). [↑](#footnote-ref-14)
15. Breakdown of largest survey respondent groups by self-reported ethnoracial category: White (48.7%), Black (22.8%), South Asian (10.6%) Indigenous (8.7%) (OHRC, 2017: 117-118). [↑](#footnote-ref-15)
16. Similarly, racial profiling by the police accounted for the greatest proportion (41%) of applications to the Human Rights Tribunal Ontario analyzed by the OHRC as part of the broader project. (OHRC, 2017: 31). [↑](#footnote-ref-16)
17. Section 4.3 of the PACE legislation explicitly sates that: “The record of a search must always include the following information: (a) A note of the self defined ethnicity, and if different, the ethnicity as perceived by the officer making the search, of the person searched or of the person in charge of the vehicle searched (as the case may be)”; [↑](#footnote-ref-17)
18. Police recording requirements for “stop and account” and “stop and search” activities are also embedded in the 1994 Criminal Justice and Public Order Act and section 44 of the 2000 Terrorism Act. [↑](#footnote-ref-18)
19. “Asian” in the British context refers to people from the Indian subcontinent or those people typically called “South-Asian” in Canada. [↑](#footnote-ref-19)
20. Compared to the Kingston study, the Ottawa study has not been subject to the same level of overt police criticism. However, the Ottawa study is subject to the many of the same methodological limitations – including a lack of observational and/or behavioural benchmarking. This may be an indication that police services are becoming more sensitive and open to the analysis of race-based data and its policy implications. [↑](#footnote-ref-20)
21. Between 2008 and November 2013 the Toronto Police Service completed 2,026,258 contact cards or field information reports. However, information of the race of civilian was missing in 179,328 cases (about 9 percent of the sample). These cases are left out of the current analysis. [↑](#footnote-ref-21)
22. 55.5% of all stops were for general investigation, 16.4% were traffic-related, 5.3% were vehicle-related and 3.7% were conducted for loitering. In fact, general investigations, traffic-related stops, vehicle-related stops and loitering stops accounted for 81% of all completed contact cards in the 2008 dataset. All other reasons accounted for only 19% of recorded stops. [↑](#footnote-ref-22)
23. As discussed above, Blacks were 8% of Toronto’s population in 2008, but represented 24% of all contact card stops and 24% of all stops conducted for purposes of general investigation. Blacks were also grossly over-represented in traffic-related stops (27%), loitering stops (30%), drug-related stops (26%), trespassing-related stops (28%), suspicious activity stops (25%), bail compliance stops (45.9%), gun-related stops (48.7%) and stops related to possible street gang activity (62.1%). By contrast, Whites represent over 90% of stops related to biker gangs. However, it should be stressed that only 182 of the 289,413 stops recorded in the 2008 dataset (0.06%) involved suspected biker gang activity. [↑](#footnote-ref-23)
24. Harris (2002), for example, argued that since black people are much poorer and less likely to own a car, census benchmarking actually under-estimates the proportion of black drivers stopped and searched by the police. [↑](#footnote-ref-24)
25. A potential problem with these British studies is that they tended to use observations of pedestrians to benchmark stops that often involved motor vehicles. However, because of racial differences in social class position, minorities are often less likely to have access to a car than Whites and are thus more likely to rely on public transit. In other words, pedestrian observations may over-estimate the population of minorities that is “available” in a particular area and under-estimate the size of the white population. Another potential weakness with these British studies is that they tended to only focus on “high stop” communities. These communities tended to be economically disadvantaged with a higher than average minority population. Thus, it may be more accurate to say that white people living or travelling through poor, minority neighbourhoods are more likely to be stopped than their overall availability (a finding that would be consistent with the out of place hypothesis). [↑](#footnote-ref-25)
26. The outcome test should only be conducted on discretionary searches that take place before arrest. Mandatory searches that take place following an initial arrest should be excluded from the analysis. Unfortunately, many police-reported datasets to not make such a distinction. [↑](#footnote-ref-26)
27. This analysis would also hold for New York City. Analysis of the NYPD stop and frisk data indicate that while Blacks and Hispanics are approximately nine times more likely to be stopped and frisked by the police, the hit rates for all racial groups are approximately equal (about 6%). In other words, innocent Black and Hispanic New Yorkers are approximately nine times more likely to endure an unnecessary police stop and frisk than their White counterparts (Jones-Brown et al. 2010). [↑](#footnote-ref-27)
28. Post-stop outcomes are often seen as valuable because they are suitable for multivariate analysis. Multivariate analyses of post stop outcomes using generalized linear models (GLM) are the most popular approach in current criminological literature on racial profiling. GLM is also the most methodologically convenient approach, because post-stop analysis does not require benchmarking and popular statistical packages such as SPSS make multivariate analysis relatively easy. However, there is no consensus on a preferred multivariate approach. For example, Tillyer et al. (2010) note that traffic stop data is ‘nested’ at the level of officer or geographic patrol areas, which would suggest that multi-level or hierarchical regression models should be used, however, most studies do not take these factors into consideration. GLM approaches have included logistic regression (Alpert et al. 2007; Mosher et al. 2008; Lange et al. 2005), negative binomial regression (Fagan 2010), and Probit (Anbarci and Lee 2008). Logistic regression seems to be the most popular approach amongst criminologists, mainly because Logit model odds ratios are easy to interpret, whereas Probit models are favoured by economists studying racial profiling. There has not been evaluation of how well underlying assumptions of these tests are met and if there are differences these approaches may generate in study findings and results.

    Another data analysis approach that has been adapted from the ‘hard’ sciences is the propensity score. This method has traditionally been used to compare treatment outcomes for groups of people in nonrandomized trials. In lieu of subjects being assigned randomly to two groups (a ‘treatment’ group and a ‘control’ group), the propensity score helps determine what factors predict a person’s membership in a treatment group (Ridgeway and MacDonald 2010). In the application of propensity scores in racial profiling research, race is the ‘treatment’ of interest, and stops are matched on all available variables, such as location, time, officer characteristics, etc. “Propensity score analysis compares the vehicle stop outcomes of white drivers to minority drivers by matching the vehicle stops on all other factors except for the driver’s race/ethnicity” (Tillyer et al 2010: 85). Propensity scores are calculated by comparing the outcomes for matched individuals from the two groups. This technique has only been used in a handful of studies (Ridgeway 2006; Rosenfeld, Rojek and Decker 2011), and it is not yet clear what the full limitations of the method are. For example, sample size of matched groups may be an issue (Tillyer et al 2010), and the epistemological implications of the use of a method that classifies race as a ‘treatment’ needs to be explored further. As with all multivariate techniques, propensity scores can suffer from the omitted variable problem.

    Finally, Geographic Information Systems has been used by police for crime mapping (especially for ‘hotpots’ policing) for some time, but has the potential to be used in a much more sophisticated manner for racial profiling research (Tillyer et al 2010; Nobles 2010). Beyond crime mapping, GIS can provide complex calculations and statistical tests to answer research questions about who is stopped and why. Police and researchers can use GIS to identify non-random spatial distributions of stops, and to produce multivariate regression models that account for spatial variations and the ‘spatial autocorrelation’ problem in crime data. Some popular uses of GIS in the social sciences are LISA analysis, indexes of dissimilarity, and kernel density estimation regression (Nobles 2010). One of the limitations of GIS is that, like other techniques that attempt to measure who is stopped, it does require a benchmark. So far, benchmarks used in GIS analysis include census data, calls for service, reported crime, and probationer and parolee data (Rosenfeld et al 2011; Engel et al 2006; Greenwald 2001). GIS analysis is as vulnerable to criticisms of benchmarking methodologies as other methods. [↑](#footnote-ref-28)
29. Even though African Americans represent only 23% of New York City’s population, they were involved in over half (52%) of the stops conducted by the NYPD over this period. By contrast, although Whites represent 10% of the NYC population, they were involved in only 10% of police stops. [↑](#footnote-ref-29)
30. At least a high quality evaluation that has been made available to the public. [↑](#footnote-ref-30)
31. This was the case in Kingston, Ontario. Despite being a relatively small police service, the Kingston police had for years collected contact cards for intelligence purposes. Thus, in order to conduct the Kingston stops pilot project, only small changes to the current contact card system – including the addition of a field to measure race – were required. Furthermore, during the pilot project, officers had to now fill out a contact card for all stops – not just those they felt were important for intelligence purposes. [↑](#footnote-ref-31)
32. We also vehemently disagree with Melchers’ (2006) argument that Canadian academics simply do not possess the quantitative skills necessary to properly analyze data on police stop practices. Melchers seems to base these conclusions on a 1998 report (a report many academics disagreed with). First of all, since that time universities have attempted to increase the quantitative training of social science researchers. Secondly, over the past decade, many Canadians have received their training at American universities with a highly quantitative focus. Many of these individuals are now working as professors in both Canadian and American universities. Finally, there are many quantitative American academics who would be more than willing to work with Canadian data (as long as they could use such data for publication purposes). [↑](#footnote-ref-32)
33. “Street check” is one of the categories listed under the “OUTCOME” variable in the OPS Traffic Stop dataset. It is important to note that while Black drivers were involved in 8.3% of all stops made by the OPS during the study period, they were involved in 19.6% of stops that resulted in a street check. [↑](#footnote-ref-33)
34. Unfortunately, some members of the public perceive that the views of private consultants can be swayed by financial considerations and the interests of their clients. [↑](#footnote-ref-34)
35. Another option would be to only record information on all investigative or coercive stops – rather than all traffic stops made by the police. For example, since 1984, the police in England have had to record information on all stops that involve a search – although they are currently moving to a system that will record all stops (Riley et al. 2009). As discussed above, a similar system has been established in New York City where only stops that involve a frisk, search, use-of-force or detention are recorded (Jones-Brown 2010). As Fridell (2004) notes, the weaknesses of this approach is that it will not capture pre-text stops (traffic stops that are really intended to investigate possible criminality). [↑](#footnote-ref-35)