Racial disparities in police stops in Kingston, Ontario: Democratic Racism and Canadian racial profiling in theoretical perspective

by

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A thesis submitted in conformity with the requirements for the degree of Doctor of Philosophy, Criminology Centre for Criminology and Socio-legal Studies University of Toronto

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Abstract

This study takes a quantitative and qualitative approach to examine police stops in an Ontario city. The author finds that Black residents were over stopped by police, and the over stopping may not be fully explained by the police-reported reasons and dispositions of the stops. In other words, the author suggests that police stops have less to do with crime control models of criminal justice, and more to do with surveiling marginalized populations. The author uses critical discourse analysis to examine news coverage of the racial profiling controversy in Ontario, including news reports on the study. The author argues that public discourse (both liberal 'anti-profiling' advocates and conservative supporters of police) contributes to the continued targeting of certain groups, by constructing an ideal victim of racial profiling (middle class, respectable), thus excluding all other subjects from legitimately seeking freedom from being hassled by police and having freedom of movement enjoyed by the nonprofiled population. The study also uncovers the influential role of police unions in Ontario in manipulating political discourse on race and policing.
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This dissertation is dedicated to my two daughters, Catherine and Scarlet.
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Chapter 1: Introduction

1.1 Introduction

At the heart of policing in Canada is a turbulent debate about law, equality and race. The clean cut image of the Mountie (‘He always gets his man!’) is an enduring symbol that gives the impression that policing is uncontested in Canada. However, the reality is much more complex. For over twenty years, the contention that there is bias within the criminal justice system in Canada has been in the public spotlight. High profile and notorious incidents have highlighted police violence and the mistreatment of Black and First Nations people in Canada. For example, the death of Neil Stonechild exposed police ‘starlight tours’ (Comack, 2012) and the Ipperwash inquiry into the shooting of unarmed protester Dudley George threw into question the legitimacy of the Ontario Provincial Police (Edwards, 2011). A series of police shootings of Black men in the 80s and 90s also led to claims of racism within the Toronto Police Service (Tator & Henry, 2006). Furthermore, in the case of Dee Brown, an Ontario judge acceded that it was likely that Toronto Police engage in racial profiling (Makin, 2002). Similarly, in Kingston, Ontario – the jurisdiction of most relevance to the current dissertation – two high profile armed takedowns of a middle-class Black teenager also sparked claims of racially biased policing (McMahon, 2005a).

The debate has taken many forms. Newspapers such as the Toronto Star have been at the forefront of reporting the issue of race and policing in Ontario. A series of high profile inquiries

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1 The symbol is, of course, a highly gendered and racialized symbol. See Dawson, The Mountie from Dime Novel to Disney (1998) for an analysis of the Mountie through the lens of masculinity, nationhood and violence.

2 Following Brucato (2014) “When ’Black’ references a specific cultural group, it will be capitalised. This capitalisation also recognises similar usage established by Black liberation movements in the U.S. Words referencing multiple, unspecified groups - such as ‘people of colour’ and ‘white’ -will not be capitalised.” (p. 50).

3 The non-sanctioned police practice of driving ‘troublesome’ aboriginal people to the outskirts of towns in extreme weather conditions. A public inquiry found that Cree First Nations teenager Neil Stonechild had been picked up by the police shortly before he died on the outskirts of the Saskatoon (Comack, 2012).
have also looked at race, discrimination and policing in Ontario. In addition to the Ipperwash Inquiry, a Task Force on Race Relations and Policing in Ontario was convened in the 1980s after the police shootings of two Black men in the Toronto region. The task force resulted in the Lewis Report (1989) with dozens of recommendations on how to improve relations between racial minorities and the Toronto Police. However, critics contend that police organizations have largely failed to implement the recommendations of the Lewis Report and other official reports that raise issues regarding race and the criminal justice system. These additional reports include the *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System* (1995) and the Ontario Human Rights Commission’s report entitled: *Paying the Price: the Human Cost of Racial Profiling* (2003). Law enforcement circles in Canada have more or less denied and/or ignored the findings and recommendations of these reports (Tanovich, 2006; Tator & Henry, 2006; Wortley & Owusu-Bempah, 2011). It can be argued that official inquiries, while shedding much light and collating countless testimonials, have had little impact on police practices and have done little to ameliorate the poor perceptions of the criminal justice system held by many members of the Black and other ethnic minority communities. Indeed, a recent survey of Toronto residents indicates that Black Torontonians have significantly lower rates of trust and satisfaction in police than whites (Wortley & Owusu-Bempah, 2009). This dissertation takes these contentions and perceptions as its springboard to examine and analyze racially biased policing in Kingston, Ontario. The data for the dissertation were collected as a result of allegations of racism in the Kingston Police Service, allegations that have dogged some Canadian policing services for many years.

Although Canada is an extremely ethnically and racially diverse society with a reputation for peaceful coexistence and tolerance, this chapter demonstrates that this reputation is not entirely deserved. It is argued that Canada suffers from a long history of racial inequality and racial injustice, which remains a pressing issue, especially for Black and Aboriginal groups. The chapter then suggests that allegations of racial discrimination are particularly pronounced within the Canadian criminal justice system, and that one particular form of bias – racial profiling – has emerged recently as deeply problematic and is the focus of this dissertation. A definition of racial profiling is provided, followed by a short review of how the issue of racial profiling first emerged in the United States and the United Kingdom. The proactive responses of the governments of these two western countries – including open condemnation of racial bias,
monitoring through data collection, and support for research – is contrasted to the response of Canadian governments. Perhaps surprisingly to some, Canada does not hold up well compared to other western democracies. In Canada, a discourse of denial, and restrictions on data collection and research have allowed police services and the wider justice system to avoid scrutiny and operate at a level of impunity not witnessed in the US and the UK, with one exception. The chapter then goes on to describe the Kingston Data Collection Project, which is the only project of its kind in Canada, and which is the focus of this dissertation. The chapter ends with a brief outline of the dissertation chapters.

1.2 Race and Ethnicity in Canadian Society

The role of race and ethnicity in the development of the Canadian nation and society is profound but not always acknowledged. Several dimensions of race and ethnicity have been especially important to nation building in Canada (Kallen, 1995; Roberts & Doob, 1997). The first dimension relates to First Nations peoples. Despite the presumption by early colonial governments that First Nations, Métis and Inuit people in Canada would become virtually extinct, Aboriginal identity has re-emerged since the 1970s, accompanied by a distinct and enduring Aboriginal population with claims and aspirations to full citizenship. The second dimension is the bicultural framework created by the two founding colonial powers in Canada – the French and the British. As a result of this bicultural framework, Canada has a large geographically concentrated French minority that considers itself a nation within a nation. The third dimension to race and ethnicity in Canada was created by waves of immigration after the US Civil War, the great Irish potato famine, as well as both World Wars. In particular, high levels of immigration after the second world war have led to a racially and ethnically diverse population and the development of an official multiculturalism policy (discussed in more depth later in this chapter). Canada is not the only nation where one or more of these dimensions are present. For example, Australia boasts state multiculturalism and has a large Aboriginal population; Britain also has geographically concentrated minorities with aspirations to nationhood (the Scots and Welsh). However, Canada is the only such nation currently grappling with all three dimensions (Kymlicka, 2003). Canada is also unique to the extent that the three issues – First Nations status, the rights of the French-speaking population and immigrant groups– have been acknowledged in both legislation and the Constitution. For example, a national commitment to multiculturalism is enshrined in section 27 of the Constitution (CMA, 1985).
As a result of these historic processes, the Canadian population today is very ethnically, racially and demographically diverse. According to the 2006 Census, people of Aboriginal ancestry comprise 3.8% of the Canadian population. French Canadians represent about 22% of the population. Finally, approximately 16% of the population was classified as a ‘visible minority’ in 2006 and this figure is projected to increase to almost 30% by 2031 (Statistics Canada, cited in Wortley & Owusu-Bempah, 2012). ‘Visible minority’ – a term and concept uniquely Canadian – is established in the 1995 Employment Equity Act. The term denotes “people, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour” (HRDC, 1999).

According to Statistics Canada, the visible minority population includes the following groups: Blacks, South Asians, Chinese, Koreans, Japanese, Southeast Asians, Filipinos, Arabs and West Asians, Latin Americans and Pacific Islanders (Statistics Canada, 2009). Visible minority populations count both recent immigrant and non-immigrant groups. The largest visible minority group in Canada is South Asian (4.8%), followed closely by people of Chinese descent (4%). Black or African Canadians comprise a relatively smaller group (2.9%, Statistics Canada, 2011).

Immigration has contributed greatly to Canada’s diversity and economy. Between 2000 and 2010, Canada’s annual intake of immigrants (permanent residents) has ranged from 227,000 to 280,000 (Citizenship and Immigration Canada, 2012). The economic benefits of immigration are widely acknowledged and the official policy of multiculturalism is relatively uncontested in mainstream society, politics, and academia, with some exceptions on both the right and left (see for example Breton & Reitzer, 1994; Henry & Tator, 2005; Gunew, 2004; Razack, 2004).

Canada has an international reputation as a model of tolerance and diversity: “32 million inhabitants reflect a cultural, ethnic and linguistic make up found nowhere else on earth” boasts the Canada Heritage website (Canada Heritage, 2009, cited in Owusu-Bempah & Wortley, 2014, p. 283) Canadians also favourably compare themselves to other countries, especially with their neighbours to the south. A 1995 Maclean’s survey found that of the 74% of respondents who felt Canadians had a distinct national character, 30% cited ‘non-violence’ and 29% cited ‘tolerance of people with different backgrounds’ as what makes Canada distinct from other countries (Wilson-Smith, 1995, p. 8). This self-concept appears to be intact 20 years later. In a 2015 prosperity index published by a UK think tank, Canada was declared the most tolerant country in the world: with more than 92% of Canadians surveyed agreeing that their country is a good place for immigrants and 90% feel their country is tolerant of ethnic minorities (Champion,
The metaphor of the ‘melting pot’ usefully demonstrates the differences that many feel set Canada apart from its close neighbour the United States. If the US is labelled as a cultural ‘melting pot’ where assimilation to US nationality and culture are demanded, Canada is painted as a ‘mosaic’, where the policy of multiculturalism supposedly ensures that people can retain their cultural identity and heritage (Driedger, 1978, 2011).

The next section casts doubt on Canada’s international reputation for tolerance. Behind the veneer of multiculturalism, racism and racial inequality are widespread in Canada. Indeed, in later chapters I argue that the Canadian national identity does not allow for open discussion of racism, and therefore these truths are often hidden and unspoken.

1.3 Inequality: the Vertical Mosaic

Porter’s 1965 sociological study, The Vertical Mosaic, revealed that Canada’s so-called ethnic and cultural ‘mosaic’ was in fact a rigid hierarchy. Whites of British origin were shown to have the highest incomes, education, and access to political power. It appears that little has changed since 1965. Henry and Tator (2005) argue that although there is a discourse of freedom, equality and democracy in Canada, the fact is that racism in Canadian society is pervasive and many minority groups suffer a much lower socio-economic status than whites. Much evidence supports this view.

In his study on income inequality in Toronto ethno-racial groups, Ornstein (2006) argues that Porter’s vertical mosaic has become severely racialized. Using 2001 Census data, Ornstein finds that the white European group (comprising English, Irish, Austrian, Latvian, Russian, Ukrainian, Greek, Italian, Albanian, Jewish, etc.) continues to have the best outcomes for education, employment, and most markedly, income compared to non-European groups. He suggests that whereas Porter’s hierarchy was comprised of different European ethnicities – with Anglo Protestants at the top and French and Irish Catholics below – the ‘New Vertical Mosaic’ has become deeply racialized, with white groups higher on the pyramid of wealth, and groups of colour lower. This ethno-racial hierarchy is most evident in Ornstein’s classification of ethno-racial groups using Statistics Canada’s Low Income Cut-off (LICO) measure. The table below summarises the LICO scores for the different ethno-racial groups.
Table 1.1 Ethno Racial groups by percent Low Income, 2001 Census of Population, Canada

<table>
<thead>
<tr>
<th>Ethno racial group</th>
<th>Percent Low Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>African (Ethiopian, Nigerian, Somali, Black, etc.)</td>
<td>39%</td>
</tr>
<tr>
<td>West Asian (Arab, Egyptian, Iraqi, Afghani, Armenian, Turkish, etc.)</td>
<td>30%</td>
</tr>
<tr>
<td>Caribbean (Barbadian, Jamaican, West Indian, etc.)</td>
<td>22%</td>
</tr>
<tr>
<td>East Asian (Chinese, Filipino, Japanese, Korean, Vietnam, etc.)</td>
<td>20%</td>
</tr>
<tr>
<td>South Asian (Bangladeshi, Pakistani, Indian, Sri Lankan, etc.)</td>
<td>20%</td>
</tr>
<tr>
<td>European (Canadian, English, Irish, Austrian, Latvian, Russian, Ukrainian, Greek, Italian, Albanian, Jewish, etc.)</td>
<td>10%</td>
</tr>
</tbody>
</table>

Source: Adapted from Table 5.1, Ornstein (2006)

Ornstein finds that 10% of Torontonians of (white) European ethnicity live in poverty compared to 20% of South Asians and East Asians; 30% of West Asians and Caribbean; and nearly 40% of those of African ethnicity (Ornstein, 2006, Table 5.1). While it is clear that there are great discrepancies within the so-called ‘visible minority’ groups – for example, South Asians (20%) are substantially less likely to live below the poverty line than the African group (39%)—there is still a very clear racial hierarchy with whites on top, and people of colour, in varying degrees, less well off. Another recent Toronto study found that employers were 40% less likely to interview job applicants with foreign-sounding names than white-Anglo-British sounding names (Oreopoulos, 2009).

Evidence of racial inequality in Canada is not limited to Toronto; there is a vast research literature on the differential outcomes for minority groups and it is beyond the scope of this dissertation to review the field in depth. However, in a study exploring the ghettoization of Canadian cities, Walks and Bourne (2006) found “the association between low-income and minority concentration is strongest for Aboriginals, Blacks and Latin Americans” (p. 294). This economic disparity has been linked to both educational opportunities and subsequent labour market access, and social arenas that contain many obstacles for some minority groups, such as housing, health, and indeed, the criminal justice system. For example, the position of First
Nations, Inuit and Métis people in Canada is decidedly disadvantaged in the areas of income, education, housing and health. The average individual income for people registered with First Nations ancestry (referred to by the Canadian Government as ‘Registered Indians’ or ‘Status Indians’) in 1995 was 60% of what other Canadians earn (Grab & Guppy, 2008). Furthermore, according to Canada’s national newspaper, The Globe and Mail, “The abysmal health status of First Nations, Inuit and Métis peoples is Canada’s greatest shame” (Picard, 2012). Recent research into health disparities show Aboriginal people have lower life expectancy, higher infant mortality, higher rates of infectious and chronic illness, and higher morbidity than their non-Aboriginal counterparts (Frohlich et al, 2006). These differences persist even after controlling for income and lifestyle factors such as smoking and obesity (Statistics Canada, 2010).

The criminal justice system is another area in which allegations of racial differences and racial discrimination are particular pronounced and in which the ‘vertical mosaic’ is apparent. Certain minorities are vastly over-represented in the Canadian criminal justice system: Aboriginal children in Canada are more likely to be imprisoned than to graduate from high school (Therien, 2011). Recent data published by the Correctional Investigator of Canada suggest that 22% of the federally incarcerated population claims Aboriginal ancestry, whereas nationally just 4.3% of Canadians are of Aboriginal ancestry (Sapers, 2013, p. 30). The Correctional Investigator also reports that the problem is increasing at an alarming rate: “the Aboriginal inmate population has increased by 40%” since 2005-2006 (Sapers, 2013, p. 31). The Correctional Investigator also analysed figures for Black inmates in his annual report: “Black inmates are one of the fastest growing sub-populations in federal corrections. Over the last 10 years, the number of federally incarcerated Black inmates has increased by 80% from 778 to 1,403. Black inmates now account for 9.5% of the total prison population (up from 6.3% in 2003/04) while representing just 2.9% of the general Canadian population” (Sapers, 2013, p.9)

Racial differences in rates of incarceration in the Canadian criminal justice system -- high levels of over-representation of First Nations and Black citizens and under-representation of others groups such as whites and Asians -- begs the question: is the criminal justice system racist? Alleged racism within the Canadian criminal justice system is nothing new. For example, in a study of the Ontario criminal justice system from 1892 to 1961, Mosher (1998) demonstrates how immigration law, the legal system as well as other social sectors and institutions such as housing and the media, systematically discriminated against Blacks and Asians. Mosher argues
that current levels of racial inequality within the criminal justice system -- and the profound distrust many minority people harbour towards the police and criminal courts -- has its roots in Canada’s early colonial history. Backhouse (1999) further demonstrates that racism was “deeply rooted, multi-layered and systemic” (p. 275) within Canadian legal institutions and the law from 1900 to 1950. Similarly, in a study of Black defendants in Ontario criminal courts from 1858 to 1958, Walker (2010) found systemic racial disparities in the treatment of Black defendants. (See the next chapter for a detailed survey on current research on race and the criminal justice system in Canada).

These historical investigations foreshadowed contemporary research on the criminal justice system in Canada. Research on race and the criminal justice system in Canada has been of high quality but sparse, and has focused on corrections, the courts, and Aboriginal people. Scholars such as Anthony Doob, Julian Roberts, and Scot Wortley have published empirical work to shed light on race and the criminal justice system, despite a near blanket-ban on official policing data by race and very limited justice statistics by race (cf. Roberts & Doob, 1997; McCalla & Wortley, 2008; OHRC, 2003). Policing, where front-line officers have very high levels of discretion, presents an area of the criminal justice system where there is potentially racial bias. David Tanovich, and Frances Henry and Carol Tator produced books on race and policing in Canada that take as their premise that policing in Canada is racially biased. Scot Wortley has published the results of surveys that measure people’s attitudes and interactions with police and has found racial differences in attitudes and contact with police (Wortley’s work will be reviewed in depth in the next chapter). This dissertation contributes to this small but important literature, because it analyses police-reported data on race and stops that was previously unavailable, and continues to be routinely unavailable. The study brings into the spotlight a police decision-making process in Canada that has not been examined quantitatively before from the police point of view, that is, using data that has been knowingly reported by the police themselves. This is important because previous data has either been data reported by the public (surveys), or has been police administrative or intelligence data that has been obtained through Freedom of Information Act requests, the dissemination of which police were unaware at the time of recording the data. My study examines whether there are racial differences in police stops of people in Kingston using data collected by Kingston Police officers as part of a 12 month data collection project in Kingston, Ontario. The results of the study will provide the first
quantitative evidence on race and police stops from a purpose-designed study using police-reported data. The dissertation, therefore, will provide new and substantial information on the experience of policing by people in Canada.

The umbrella term ‘racial profiling’ is sometimes used to describe racial differences in stops by police, but can include a whole host of other elements and encounters. Thus the problem (claims of racism) indicated by ‘racial profiling’ is not new, but the term itself is quite new, with the terminology emerging in the late 1990s. I will suggest that one of the factors that contributed to the origins of the racial profiling debate was the advent of new police surveillance practices. The next section of this chapter begins with a discussion of the challenges associated with defining the term 'racial profiling.’ I then briefly outline the origins of the racial profiling debate in the US and the UK, and the emergence of the racial profiling debate in Canada, followed by a discussion of the consequences of racial profiling.

1.4 What is ‘racial profiling’?

‘Racial profiling’ is a term that is in common usage in North American popular culture, and yet is deeply problematic for use in academic investigations. This is evidenced by the fact that a ‘Google’ search on ‘racial profiling’ delivers over five million ‘hits,’ but at the same time, few academics provide a definition of ‘racial profiling’ in their work and no consensus has emerged regarding a standard definition of the term (Batton & Kadleck, 2004; Engel, et al, 2002; Paulhamus et al, 2010).

‘Racial profiling’ may have originated in law enforcement, but is now regularly used in relation to many other social institutions and used in comedic and dramatic contexts in films, fiction, music and other forms of expression. Although the term has grown beyond the original policing-oriented context, the colloquial meaning of racial profiling is arguably still straightforward: to say someone is ‘racially profiled’ brings up the image, in various forms, of a person, usually a man, usually non-white, somehow being detained or unfairly treated because of their race by someone in authority, the most common scenario being ‘Driving while Black’ (Harris, 2003). However, the meaning of ‘racial profiling’ in academia is not so straightforward.

In a review of racial profiling research, Batton and Kadleck (2004) find that many studies fail to properly define racial profiling. Other studies, the authors find, use operational-only definitions
of racial profiling (as opposed to conceptual definitions), with the result that racial profiling “is a term that assumes different meanings depending on the context in which it is used” (p. 36). An example of an operational definition, according to Batton and Kadleck is the following: “Racial profiling . . . [is] defined as the inappropriate use of race when making a decision to stop, search, cite, or arrest a person” (Nixon, 2001 cited in Batton & Kadleck, 2004, p. 57).

Other definitions are conceptual: “Racial profiling—the discriminatory practice by police of treating Blackness (or brownness) as an indication of possible criminality.” (Muharrar, 1998, cited in Batton & Kadleck, 2004, p. 56). Many definitions that have emerged from the U.S. literature have focused on police traffic stop encounters. For example, Schafer et al (2006) state: “Although a universally accepted definition of racial profiling has not emerged, this term generally refers to situations in which police use their perception of a driver’s ‘race as a key factor in deciding whether to make a traffic stop’ (Ekstrand, 2000, p. 1)” (p.185).

A focus on traffic stops is not helpful for the present study, which seeks to analyze a wider set of police activities, including stops of vehicles and people on foot. One influential definition developed for traffic stop studies that avoids this problem is that proposed by Ramirez et al:

[Racial profiling is] any police-initiated action that relies on the race, ethnicity or national origin of an individual rather than the behavior of an individual or information that leads the police to a particular individual who has been identified as being, or having been, engaged in criminal activity. (2000, p. 3.)

In contrast, the definition of racial profiling used by the Ontario Human Rights Commission is decidedly broader and can be applied to situations well outside of the law enforcement context:

[Racial Profiling refers to] 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 differential treatment. (OHRC, 2003, p. 6)

Due to the considerable discrepancies in definitions of racial profiling, critics (such as those who do not believe that racial profiling exists or believe it is justified) point out that racial profiling is a conceptually dubious term and claim that its amorphous nature is convenient for racial profiling ‘advocates’ (those described as anti-racial profiling activists) because all claims of racial profiling are therefore unfalsifiable (Melchers, 2006).
Despite these criticisms, and the urgent need to better theorize in the new and emerging sub-field of racial profiling research, criminologists have not settled on a standard definition, and many scholars of racial profiling continue to fail to define racial profiling, or they tend to use implicit operational definitions. For example, Tillyer et al (2010) use the term ‘racial profiling’ repeatedly (30 occurrences in a single article) but do not attempt whatsoever to define the term.

Many working in the field agree that a robust definition of racial profiling must go beyond operational considerations (cf. McMahon, et al, 2002). For example, a definition of racial profiling should equally apply to the study of pedestrian stops as to traffic stops, and be as relevant to city police as to highway troopers and customs officers. Wortley proposes the following definition:

Racial profiling exists when the members of a particular racial group become subject to greater criminal justice surveillance than the average or typical citizen. It has been associated with such practices as police stop and search practices, customs searches and specific undercover operations (Wortley, 2005)

Wortley’s definition has several advantages. Firstly, it appeals to notions of both procedural and distributive justice. In other words, it is concerned with both the fairness of the process of surveillance, as well as the equity of the outcome of police operations. Secondly, it does not rely on context, is not too narrowly focused on a particular police practice, and can be used to assess any number of criminal justice and other social institutional practices. Finally, Wortley’s definition links to the wider theoretical framing of surveillance practices and human rights discourses.

In order to focus the discussion, it is important to distinguish racial profiling from other forms of racially biased policing, employing the boundaries of my preferred definition. 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 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 a range of policing practices: police stop and search activities, the practice of ‘running plates’, increased police
patrols in racial minority neighbourhoods and undercover activities or sting operations that selectively target particular racial or ethnic groups. Furthermore, even without direct evidence that such racially differentiated practices are taking place, the existence of racial profiling can be inferred when racial differences or disparities in police surveillance activities cannot be explained by racial differences in reasonable, appropriate and legally relevant factors (see Wortley & Tanner, 2005; Wortley & Tanner 2003).

Origins of the Racial Profiling Debate

This section will discuss the varying origins of racial profiling. Many writers point to colonialism as the historical root of racial profiling (Batton & Kadleck, 2004; Harris, 2002; Tanovich, 2006; Tator & Henry, 2006). For example, it is argued that slave patrols in the antebellum American South were an early form of racial profiling (Cloud, 2003; Green, 1998; Reichel, 1988). The United States Border Patrol’s policing of the U.S.-Mexico border has also been identified as a precursor to modern-day racial profiling (Lytle-Hernandez, 2002; Lytle-Hernandez, 2010; Newsome, 2003).

The earliest example of religious and ethnic profiling in the U.S., according to Cloud (2003), occurred during the revolutionary war “when congress authorized the seizure and lengthy incarceration of Quakers suspected of being British sympathizers, precisely because they were Quakers” (p.370). The next-earliest example of racial profiling was the practice of ‘recovering’ runaway slaves. In an analysis of newspaper notices, Cloud (2003) finds that the vague descriptions given of runaway slaves authorised the use of wide-ranging discretion by slave catchers to stop and seize anyone suspected of being a runaway slave (echoing the contemporary use of Suspect Bulletin/Broadcasts by police). The result, Cloud argues, was a veritable license for profiling the entire adult Black population (2003).

If historians have been able to find examples of racial profiling (in all but name) in colonial times, then it is not surprising that early policing scholars also came to study what amounted to racial profiling. The next chapter discusses some of the early sociological work on race and crime, such as the writings of WEB DuBois and Gunnar Myrdal. However, academic research on policing in general, and policing race in particular was slower to emerge. In the US, Skolnick’s (1966) landmark research using participant-observation of a west coast police department was one such study. Skolnick explored police officers’ racial prejudice and
discovered and documented their tendency to operate within the framework of the racialized ‘symbolic assailant’ (Skolnick, 1966).

Against the backdrop of the civil rights movement and new interest in civil liberties, US legal scholars in the 1960s were grappling with the introduction of ‘stop and frisk’ or ‘field interrogation’ techniques, formalized in policing practices in the post-WWII period. In a 1967 study of police field interrogations, Pilcher discovered that police stops in Black neighbourhoods in Chicago resulted in more protest and resistance than in white neighbourhoods. The author concludes: “It is likely, therefore, that field interrogation practice, in all probability, adds to the general deterioration in the relationship between policemen and minority groups” (Pilcher, 1967, p. 490). In an early study of ‘stop and frisk’ in New York, Herman Schwartz came to a similar conclusion about the impact of police stops. He notes that “any young male Negro or lower class person in a high-crime neighborhood, or even a middle-class person in a minority neighborhood, is likely to be viewed with suspicion” (Schwartz, 1967, p. 447). He further contends:

A conclusion that "the gain is enforcement" does not outweigh the cost confirmed by studies which stress the extent of the resentment and alienation arising from these practices. More recently the Crime Commission Police Task Force found that “in many communities, field interrogations are a major source of friction between the police and minority groups,” the report refers to this problem over and over again, and study of the recent and earlier riots makes clear that such police practices bear a large share of blame for the disorders. The problems are aggravated when the stops are accompanied by searches. This community alienation produces more crime and disrespect for law, and in turn, more police-community antagonism, more fearful and hostile police attitudes, a greater need for aggressive street patrols, and again, still more resentment, more alienation and more crime. (p. 452)

In the 1970s, it was popular culture – not sociologists – that identified and documented police targeting of African Americans. Newspaper reports from the 1970s reveal that it was ‘commonplace around the country’ for Black drivers to believe that they were stopped by police because of their race (Mintz, 1979). Black comedians such as Richard Pryor may not have used the term ‘racial profiling’, but their subversive comedy demonstrated the differences between how Black people and white people view the police: “I went to Zimbabwe. I know how white people feel in America now; relaxed! Cause when I heard the police car I knew they weren't coming after me!” (Pryor, cited in Ellis, 2010).

Newspaper reporting in the U.S. on racial profiling intensified in the 1980s and 1990s with the perceived differential racial impact of the ‘war on drugs’ and the emergence of narratives that
proclaimed a ‘minority crime problem’ (Bell, 1992; Brazil & Berry, 1992). Media reporting in the 1990s was followed by some sociological and ethnographic studies of racialized policing in the U.S. (Anderson, 1990, 1999; Mann, 1993). Yet, the term ‘racial profiling’ did not emerge within academia until the late 1990s – when criminologists became interested in how the police targeted or ‘hassled’ Black people, especially young Black men (Browning et al, 1994). Prominent mainstream criminologists and legal scholars such as Anthony Doob and Michael Tonry were interested in the over-representation of Blacks in the criminal justice system, but did not use the term ‘racial profiling’. Their interest often focused on the formal stages of the criminal justice system, such as arrests, sentencing and incarceration rates. The more hidden stages of the criminal justice system did not come to be studied in depth until the 2000s. Studies of the various stages of the criminal justice system are reviewed at length in the next chapter, and Tonry’s work is also described and critiqued in the next section. During this period – the 1990s – critical race theorists also widely discussed racial disparities within the criminal justice system – long before the term ‘racial profiling’ came into use. Many of these theorists argued that the criminal justice system represented a system of ‘petit apartheid’ (Georges-Abeyie, 1989; Milovanovic & Russell-Brown, 2001; Russell, 1992).

The intense contemporary public consciousness about ‘racial profiling’ from the mid-1990s to the present is generally attributed to several sources. As part of the ‘war on drugs,’ the U.S. Drug Enforcement Agency (DEA) is said to have developed drug courier profiles and disseminated the profiling methodology to other law enforcement agencies in a training program dubbed Operation Pipeline. This program operated from 1984 until the mid-1990s. Some commentators believe that the drug courier profiles became distorted to focus more on race, with the result that the practice of racial profiling became widespread within law enforcement circles (Batton & Kadleck, 2004; Data Collection Resource Center, n.d.; Harris, 2002; Tomaskovic-Devey, Mason, & Zingraff, 2004; Ward, 2002).

Other pundits blame the media for creating the ‘problem’ of racial profiling (MacDonald, 2003; Melchers, 2006). It is true that U.S. journalists were instrumental in adding racial profiling to the policing lexicon (Glater, 2003; Nordheimer, 1994). The reporting of high profile incidents involving prominent members of the Black community, and civil litigation against police organizations were key to the emergence of the anti-racial profiling ‘movement.’ For instance, newspapers began reporting stories of professional, middle- and upper-class African Americans
being repeatedly stopped by police for apparently no reason other than their race and type of car (Harris, 2002). This anecdotal evidence and subsequent coverage of law suits generated public interest in police decision-making and in particular police traffic stop data (Buerger & Farrell, 2002; Harris, 2002).

The first major study of racial profiling, arising from litigation, found quantitative or statistical support for the anecdotal evidence. In this study, Lamberth (1996) found that Black drivers were strikingly more likely than whites to be stopped on the New Jersey Turnpike. Since his seminal report, over 400 jurisdictions in the U.S. have collected traffic stop data, either voluntarily or as mandated through legal settlements or anti-racial profiling legislation (Ramirez, McDevitt, & Farrell, 2000; Stokes, 2007).

When allegations of racial profiling surfaced in the U.S., officials were quick to unequivocally condemn the practice. This is evidenced by the action of the highest office in the country. In 1999, President Clinton declared, “Racial profiling is in fact the opposite of good police work where actions are based on hard facts, not stereotypes… It is wrong, it is destructive and it must stop” (Holmes, 1999, A22). Clinton subsequently wrote an executive memorandum requiring law enforcement agencies within the Department of Justice, the Department of Treasury, and the Department of the Interior to “compile data on the race and ethnicity of people they question, search or arrest to determine whether suspects are stopped because of the color of their skin” (Holmes, 1999, A22).

On February 27, 2001, President George W. Bush decreed that racial profiling was ‘wrong’ and directed the Attorney General to review the use of race by federal law enforcement agencies, and to work with Congress to develop data collection methods (“Attorney General seeks…”, 2001). Since this decree, a slew of data collection manuals have been written by various U.S. government agencies to assist police jurisdictions in the collection and analysis of data for the purpose of monitoring racial disparities in police stops (cf. Fridell, 2004; Fridell, 2005; McMahon, Garner, & Kraus, 2002; Ramirez et al., 2000). This response can be seen as evidence that U.S. government officials accept that racial profiling is a potential problem and that data monitoring is at least part of the solution. It is important to note, however, that the issue of racial profiling and race-based data collection was not confined to the United States. Racialized policing also emerged as a major social issue in the United Kingdom. Next is a brief discussion
of the origins of the problem of stops and searches of BME (Black and minority ethnic) people in England and Wales, followed by a brief review of the Canadian situation and a discussion of the impact and consequences of racial profiling.

1.5 Race and Policing in England and Wales

In England and Wales\(^4\), as in the United States, the problem of racism and the police is by no means a new issue. Police-minority relations have been an ongoing subject of academic inquiry (Chase, 1974; Gilroy, 1982; 1987; Gordon, 1983; Hunte, 1966; James, 1978; Lambert, 1970; Rex & Moore, 1969). In post-war England, the Black community was largely seen as hard working and law-abiding. However, beginning in the 1970s, moral panics concerning muggings by young Black men in London soon transformed conceptions of race and crime (Bowling & Phillips, 2002; Hall et al, 1979). Against the backdrop of race riots (Nottingham and Notting Hill, 1958; the Bristol uprising, 1980; Brixton riots, 1981, etc.) and the 1970s campaigns against 'sus' laws (which permitted arbitrary stop and search), a series of reports by the Institute for Race Relations highlighted the targeting of Black Britons by police:

> All this evidence suggests that arrest and police powers are now being used to keep the Black community in its place: physically, by penalizing Blacks found out of their 'ghettoes', and psychologically, by penalizing those who attempt to demand their rights or protect another's (Institute of Race Relations, 1979, p. 44, cited in Kushnick, 1999, 2.1).

In addition, the landmark report by Lord Scarman on the 1981 Brixton riots, known as the Scarman Report, highlighted the need for reform in British police practice (Bowling & Phillips, 2002). Indeed, one of the aggravating factors in the Brixton riots was identified as being an intensive police stop and search operation that did not have community support (Delsol & Shiner, 2006). Importantly, Scarman’s recommendations were supported by empirical research. An early study by the Home Office found Black citizens were more likely to be stopped and searched than the population as a whole (Willis, 1983).\(^5\) This finding was repeated in another

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\(^4\) Policing in Scotland and Northern Ireland has different historical and legal contexts. In the interests of conciseness, the discussion of UK policing in this dissertation will be confined to policing in England and Wales.

\(^5\) Willis used census data to calculate the stop rates for four police station jurisdictions in London. In Kensington, for example, the total stop rate was 31 stops per 100 population. However, the stop rate for the Black population for Kensington was found to be 62 stops per 100 Black residents. Willis also calculated stops by gender and age, and found remarkably high stop rates: the stop rate for Black males in Kensington was 146 stops per 100 Black
series of Home Office reports that used data collected under the Police and Criminal Evidence Act (PACE) (Campbell, 1998; Travis, 1994). PACE requires police to have reasonable suspicion in most stops of the public, and is intended to improve fairness in pre-charge criminal justice processes (Brown, 1997).

The introduction of PACE in 1984 marked a significant change to police powers in England and Wales (Cape, 2008). While some commentators suggest that PACE significantly reduced police discretion, in particular with relation to stop and search, others argue that PACE merely formalized post-war police practices (Dixon et al., 1990). The effectiveness of PACE in achieving its mandate is much debated, with numerous empirical studies suggesting that PACE has not resulted in improved fairness and balance in police treatment of the public in pre-charge situations such as stop and search (Brown, 1997; Dixon, 1989; Dixon et al, 1990; Miller, 2010).

For example, the code of practice that is published alongside PACE requires police officers to record all stops and searches and give a copy of the stop record to the targeted civilian (PACE Code of Practice, Code A 2015, section 3.8 e). Research has shown that the application of this guideline is inconsistent (Bland et al, 2000b, p. 31).

In 1999, public attention was drawn to events that highlighted that PACE measures had not ameliorated the problem of poor police-minority relations in England and Wales. The Macpherson Report (1999), a report of the inquiry into the racist murder of Black teenager Stephen Lawrence in 1992, identified that stop and search by police continues to be seen by the Black community as biased and unjust. The report put forward dozens of recommendations, including a recommendation to improve current recording and reporting of stop and search data, and to record and report all ‘stop and accounts’8. While stop and search data have been readily


7 One Home Office study found a police officer compliance rate of only 27%: approximately 70% of stops went unrecorded during a small observational study of stops and searches (n=138) (Bland, et al, 2000b).

8 Stop and account is the police action of asking people to account for themselves and may not include a search.
available through Home Office publications since 2005, data for stop and account have not.\(^9\) The requirement to record stop and account has recently been abolished.\(^{10}\)

In addition to abolishing the requirement to monitor stop and accounts in 2011, the UK government, under Conservative Prime Minister David Cameron, also reduced the details collected on all stops and searches as part of their campaign of ‘reducing red tape’ in the criminal justice system\(^{11}\). This change has been seen as a step backward by community activists as well as by social scientists (Shiner & Delsol, 2011; Stopwatch, 2011), especially in light of recent fallout over police violence such as the police shooting of Mark Duggan that sparked the August 2011 riots\(^{12}\).

In sum, the race riots in England and the racist murder of Stephen Lawrence were some of the events that galvanized the issue of ‘stops and searches’ of minorities by police in the British public conscience (Bowling & Phillips, 2002; Delsol & Shiner, 2006; Holdaway, 1996; Holdaway, 1999). The response in Britain mirrored the response in the United States; in both countries the police were compelled to monitor the race of people stopped and searched through comprehensive data collection regimes (although the situation in the U.S. is more piecemeal due to the extreme localism and decentralization of policing organizations [Walker, 2008]). The response has resulted in extensive data collection programmes at a national level. In the UK these programmes have been implemented and evaluated by the Home Office (Bland, Miller, & Quinton, 2000a; Bland, Miller, & Quinton, 2000b; Fitzgerald, 1999; Miller, Quinton, & Bland, 1999).

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\(^{10}\) The Macpherson Report (1999) recommended that police services record all stop-and-accounts, however, it was not until April 2005 that the government ordered the national collection of stop-and-account data and all 43 police services complied. However, very limited stop and account data were published beginning in 2006 and the data was discontinued in the 2010 edition of the *Statistics on Race and the Criminal Justice System*. In March 2011, the Tory-Liberal Democrat coalition government abolished the guidance on recording ‘stop and accounts’. As a result, “In total, 21 out of 43 forces in England and Wales will stop recording details [of stop and account]” (Dodd, 2011, para 3). In 2012, only eight police services are collecting stop-and-account data, and it is not clear where the data will be published.

\(^{11}\) Removing five pieces of information from stop-and-search forms, including the name and address of the person stopped; the outcome of the stop (fixed penalty notices, arrest, etc); and any injury caused.

\(^{12}\) This shooting was recently found ‘lawful’ by a coroner’s jury, although, confusingly, the jury also found that Mr. Duggan was unarmed at the time of the shooting (Dodd, 2014).
2002) but have not been as effective as activists had hoped for, and are now quietly being eroded in the new era of austerity.

Given the robust debate on racial profiling in the US and stop and search in the UK, and the subsequent data collection regimes in each country, it may come as a surprise to some that in Canada there is almost a complete absence of data on race and police stops. The next section explores the Canadian situation further.

1.6 Canada: a profound silence

In the US and the UK, at least some government officials have been vocal in denouncing racial profiling. In Canada, however, there has been a profound silence on the issue of racial profiling. The lack of government and official response to allegations of racial profiling is puzzling. Although Canada has not experienced dramatic race riots such as those in the UK (Brixton, etc.) and the US (Rodney King riots), Canada has had some high profile incidents with regards to race and policing. Described earlier, the so-called police ‘Starlight Tour’ is an example of police violence and mistreatment that has contributed to the long-held distrust of police by First Nations people. For African Canadians, the history of police shootings of unarmed or mentally ill Black people is the extreme example of race inequality (Wortley, 2006). Despite a long-running Toronto Star series on race, crime and policing and damning reports on race and policing from the OHRC and the Commission on Systemic Racism in the Ontario Criminal Justice System, there has been a lack of response from the government at all levels.

As the above discussion indicates, in the UK and the US there have been official responses to address racial inequality and policing. Data collection has been an essential element of the monitoring of police stops to address bias and inequality. There are various systems in place in the United States and England and Wales to collect data on the race of people stopped by police. However, in Canada there is no such provision (Owusu-Bempah & Millar, 2010; Wortley, 1999). Although the debate on racial inequality in policing has raged in the news media, academic journals, and third sector reports, there has been no official response from police or the Canadian
government\textsuperscript{13}. It is still the case that the call for routine data collection of stops by police in Canada has gone unheeded.

The silence on race and policing in Canada is two-fold. First, there appears to be a near blanket ban on the collection of race data at most levels of the criminal justice system\textsuperscript{14} which allows police services and the wider criminal justice system to avoid scrutiny (see Wortley, 1999, and Owusu-Bempah and Millar, 2010, for a detailed discussion of the unofficial ban on justice statistics by race in Canada). Secondly, police services in Canada do not routinely collect and publish \textit{any} data on the stops made by officers\textsuperscript{15}. Thus, despite activists’ campaigning for data collection, governments at the federal, provincial\textsuperscript{16} and municipal levels have all remained silent, and police leaders have been aggressive in shutting down debate (the police responses will be discussed at length in the qualitative chapter).

Official research and/or comprehensive data collection on the possibility of racial profiling is largely nonexistent in Canada. There is however, one major exception: a project that took place in Kingston, Ontario in 2003. This project is the focus of this dissertation. William Closs, the

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\textsuperscript{13}Over twelve years after the Kingston study ended, the Ontario Government started a consultation in February 2016 as part of a ‘Strategy for a Safer Ontario’ project to re-write the 25-year old Police Services Act. Individuals and organizations were encouraged to respond to an online survey, as well as make submissions to the Minister of Community Safety and Correctional Services (Yasir Naqvi). The broad areas of consultation are: promote a collaborative approach to community safety and well-being; improve interactions between police and vulnerable Ontarians; clarify core police responsibilities and support more effective community safety delivery; enhance civilian police governance, accountability and oversight; explore the expanded use of technology to support community safety; update education and training requirements for police officers; and address the sustainability of First Nations policing. The consultation closed in May 2016. At the time of this writing, the results of the consultation have not been released. A discussion paper is posted on the Province’s website (https://www.ontario.ca/page/strategy-safer-ontario-public-discussion-paper), and it is not yet clear how the issue of carding or street checks will be addressed in the reform process.

\textsuperscript{14}With the exception of statistics on Aboriginal people in the federal correctional system, as well as aggregate race data on federal corrections populations since the mid-2000s (available on the Public Safety Canada website).

\textsuperscript{15}Some data which police claim has been collected for intelligence purposes has been obtained through Freedom of Information Act requests by journalists, and provides a great deal of insight into police activities. However, proper monitoring of stops and searches requires high quality, supervised data collection and transparent publication procedures, such as the annual race and criminal justice statistics published by the Home Office.

\textsuperscript{16}The Provincial government “are holding consultations on the development of the Strategy for a Safer Ontario, a new blueprint for effective, sustainable community-based policing.” (Ont Ministry of Community Safety and Correctional Services website, 2015)
\end{flushleft}
head of the Kingston Police Service from 1995 to 2008, broke the code of silence that had previously enveloped the police brotherhood in Canada on the topic of racial profiling. As discussed later in Chapter 5, Chief Closs’s proposal to collect race data on people stopped by the Kingston Police was met with vehement opposition and he paid a heavy political price for his bravery.

Chief Closs’ actions resulted in the first ever research-generated database of police stops in Canada. The database enables researchers, for the first time, to submit police actions to empirical scrutiny, and determine whether there is any statistical support for claims by people in Kingston that Black people are over-stopped by the Kingston Police Service. The project is pioneering because it gives Canadians their first view into police decision-making. The Kingston project allows Canadian researchers to take the first steps down a path that is already well-worn by US and UK researchers who have had the benefit of this type of data for decades.

Skeptics may question why Canadians should want to know more about police stops. Surely, they may state, most police stops in Canada are routine affairs, and end fairly amicably and without negative consequences. The next section seeks to demonstrate that, in fact, racial profiling is not a benign police practice. I will argue that the consequences of racial profiling can be deeply felt, enduring, cumulative, and sometimes devastating.

1.7 Impact of racial profiling

The social and psychological consequences of racial profiling have been extensively documented (see reviews in Bowling, 2011; Harris, 2002; Hart et al., 2008; Ontario Human Rights Commission, 2003; Tanovich, 2006; Tator & Henry, 2006). In psychological terms, people who perceive that they have been the victim of racial profiling often feel humiliated, frightened, angry, frustrated and helpless. Previous research further suggests that experiences of racism and racial profiling are detrimental to perceptions of quality of life, and that frequent exposure to police stop and search activities can have a negative impact on mental health (Borrell, et al., 2006; Brody et al., 2006; Geller et al, 2014; Glover, 2009; Goffman, 2013; Landrine & Klonoff, 1996; Nelson, 2006). Here, though, I focus on the consequences of racial profiling with respect to the criminal justice system.
First, logic dictates that there is a direct relationship between how closely people are monitored by the police and how likely they are to be caught breaking the law. In other words, if racial minorities are systematically stopped and searched more frequently by the police than whites, they are also more likely 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 Canadians in particular -- within the Canadian criminal justice system (Wortley & Owusu-Bempah, 2011a). In the United States, numerous studies 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 Hispanic people within the American correctional system (Cole, 1999; Gabbidon & Greene, 2005; Mauer, 1999; Mann, 1993; Tonry, 1995; Walker et al. 2004).

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 (see chapter 6 for a detailed discussion of the ‘ratchet effect’ described by Bernard Harcourt).

The over-representation of racial minorities within the justice system, in turn, has been shown to cause immense social and economic harm to minority communities and families. Scholars often refer to such harm as collateral damage. The collateral damage associated with disproportionate minority incarceration, for example, can include economic hardship, social stigmatization, childhood trauma and underdevelopment, family dissolution, and poor physical and mental health (see Clear, 2008; Foster & Hagan, 2009, Murray, Loeber & Pardini, 2012; Pager, 2009; Pinard, 2010; Western & Wildeman, 2009; Wildeman, Schnittker & Turney, 2012).

A second major legal consequence of racial profiling is that negative police stop and search experiences can undermine the legitimacy of the entire criminal justice system. Indeed, a growing volume of American (Brown & Benedict, 2002; Engel, 2005; Hagan et al, 2005; Gabbidon & Higgins, 2009; Gibson et al, 2010; Lurigio et al, 2009; Mbuba, 2010; Rosenbaum et al, 2005; Skogan, 2005, 2006; Tyler, 2005, 2011; Weitzer & Tuchs, 2005), British (Bradford, 2011; Bradford et al., 2009; Bowling & Phillips, 2002; Jackson et al, 2012) and Canadian studies (Sprott & Doob, 2014; O’Connor, 2008; Wortley, 1996; Wortley et al., 1997; Wortley & Owusu-
Bempah, 2011; Wortley & Owusu-Bempah, 2009) has firmly established that certain racial minority 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 (Bradford et al., 2009; Bradford, 2011; Fagan & Davies, 2000; Gabbidon et al., 2011; Gibson et al., 2010; Rosenbaum et al., 2005; Skogan, 2006; Tyler & Wakslak, 2004.; Weitzer et al. 2008; Weitzer & Tuch, 2005; Wortley 1996; Wortley et al. 1997; Wortley & Owusu-Bempah, 2009; Wortley & Owusu-Bempah, 2011; Zhao et al., 2011). Importantly, these same studies suggest that minority 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 & 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, 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 (Brown & Benedict, 2002; Brunson, 2007; Gibson et al., 2010; Hart et al., 2003; Murphy, 2015; Slocum et al., 2010; Stewart, 2007; Tankebe, 2013; Tyler, 2006; Tyler & Fagan, 2008). Furthermore, a number of theoretical perspectives, including Tyler’s theory of Legitimacy and Compliance (Tyler, 2006) and Sherman’s Defiance Theory (Sherman, 1993), have shown that people with poor perceptions of the justice system are less likely to obey the law (also see Barkworth & Murphy, 2015; Kane, 2005; Stewart, 2007; Tyler & Wakslak, 2004; Wortley & Tanner, 2008). In other words, individuals are better able to justify their criminal actions and neutralize their guilt when they feel that the justice system itself is fundamentally unfair or biased. Furthermore, because of their poor relationship with and negative perception of the police, some minority individuals may conclude that they have to take personal responsibility for their safety by resorting to street justice, thus further increasing the level of violence in disadvantaged minority communities (see Stewart, 2007). In sum, racial
differences in stop and search activities contribute to negative perceptions of the police and justice system among minority civilians. 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.

A further unintended consequence of stops by police may be increases in offending. In a longitudinal study of youth offending, Wiley et al (2013) used propensity scores to match youths, and found that those who had been stopped by police were subsequently more likely to engage in delinquency than those not stopped by police. Further, those who had been stopped and arrested had an even higher odds of future delinquency. Ward et al (2014) found a similar effect using propensity score matching. Finally, it has been suggested that racial profiling can increase offending in the non-profiled population because it fosters a belief that the non-profiled group can offend with impunity (Harcourt, 2007). Hackney & Glaser (2013) found support for this principle in a controlled experiment of cheating. When Black students were thought to be profiled (closely monitored for cheating), the rate of cheating by white students was three times higher than the other experimental conditions.

The impact of police stops appears to be wide-ranging, and the effects are only now starting to be explored and understood. For example, recent research has found that contact with the criminal justice system, including police stops, can lead to political alienation and civic disengagement.

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17 A data analysis approach that has been adapted from the ‘hard’ sciences is the propensity score. This method has 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 & MacDonald, 2010). In the application of propensity scores in previous 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 p. 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 & 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. In the two studies cited here (Ward et al, 2014, and Wiley et al, 2013), the ‘treatment’ is contact with police, which may be potentially less problematic than race as ‘treatment’.
(Lerman & Weaver, 2014) and reduce contact with other institutions such as banks and schools (Brayne, 2014).

The discussion above indicates that racial profiling is not a harmless phenomenon that can be condoned in the name of public safety or crime prevention. Indeed, racial biases with respect to police surveillance activities can have a hugely detrimental impact on both minority communities and the operation of the criminal justice system. The potential consequences of racial profiling, in my opinion, fully justify further research, monitoring and reporting of police stop and search activities. With this in mind, let us turn to the purpose of the current study.

1.8 The Present Study

This is a mixed methods study that utilizes both quantitative and qualitative data. The quantitative chapters (chapters 3 and 4) use data collected as part of a project to investigate racial differences in police stops in Kingston, Ontario. As noted above, the data for the present study are unique in that they were collected as a project with the explicit purpose of monitoring police stops of racial minorities. The data were collected as a political response to issues of race and policing (the circumstances of the genesis of the project are described in later chapters). The qualitative chapters (chapters 5 and 6) provide an original analysis of the political responses to the Kingston project through critical discourse analysis of media reports and official documents.

The Kingston study opens up the possibility of using official data to quantitatively investigate whether there are racial differences in the frequency and type of stops recorded by Canadian police officers themselves. The qualitative data include media reports surrounding the Kingston Study and a small number of official documents responding to the racial profiling crisis. The qualitative data provide the political context in which the quantitative data could (or could not) be collected. With the scope (and limitations) of the data in mind, the following research questions have been formulated to contribute to an empirically informed dialogue on racial profiling in Canada:

i. Are racial minorities stopped at a higher rate by police than whites in Kingston?

\[18\] While several sources of police administrative data have emerged, such as the Toronto Police Services (TPS) contact card data, the Kingston data are special because the project was designed by and had input from police management and academics, and contains important variables not available on other administrative datasets.
ii. Do racial differences in police stops in Kingston persist after controlling for pedestrian stops, non-resident stops, and repeat stops of individuals (i.e. individuals stopped on multiple occasions), as well as situational and demographic factors?

iii. Are there racial differences in the legal justification (reasons) for police stops in Kingston?

iv. Are there racial differences in the dispositions (outcomes) of police stops in Kingston?

v. Do racial differences in reasons and dispositions of police stops in Kingston persist after controlling for various factors, including type of stop, resident status, and other situational and demographic characteristics?

vi. Do racial differences in reasons and dispositions of police stops explain racial differences in stop rates, if any?

vii. What were the political responses (official and unofficial) to the Kingston project?

viii. What does the political response to the Kingston Project say/reveal about race, policing, and the criminal justice system in Canada?

The first six research questions break new ground in quantifying police-citizen interactions in Canada. The remaining two research questions explore the political context of racial profiling research in Canada through qualitative enquiry.

In sum, the Kingston data shed empirical light on the racial profiling debate in Canada. For the first time, police-reported data on higher and lower discretion stops are analysed (TPS data are investigative and therefore predominately lower discretion stops). These data are not available elsewhere, and thus contribute to a debate that (at least in Canada) has been largely based on anecdotal evidence, and more recently on citizen-reported survey data. The study also builds on the historical and existing research on race and the criminal justice system in Ontario. It examines one aspect of the pre-arrest stage of the criminal justice system, which sits alongside other surveillance apparatus in the new governance structures.

1.9 Chapter Outline

The dissertation comprises seven chapters, including this introductory chapter. The next chapter – the literature review – briefly summarizes the historical research on race and crime and then describes the evolution of research on racial profiling with a focus on the US and the UK. Qualitative, survey and quantitative research is discussed. The review ends with a discussion of various methodological issues within the literature including ‘benchmarking’, followed by the
state of the Canadian literature on racial profiling. The geographic scope of the literature review is the United States, the United Kingdom, and Canada.  

The second chapter of the dissertation concludes by describing the research setting and the background to the Kingston data. This section includes a brief discussion of the political context that resulted in the Kingston project. The chapter ends with a detailed documentation of the project data collection methodology. Strengths and limitations of the methodology are discussed here, and revisited throughout the dissertation.

The third chapter uses a variety of techniques to analyse the stop data to determine whether racial differences in stop rates occur for different racial groups (this chapter answers research questions i. and ii.). The chapter calculates stop rates per 1,000 population, and odds ratios representing the likelihood of a given group being stopped. The benchmarking method used in this chapter is adjusted census benchmarking, that is, the denominator used to calculate stop rates is the census resident population.

The fourth chapter analyses the legal justification (reasons) for stops and stop dispositions (outcomes) in order to assess whether racial differences in stop outcomes occur during the study period (research questions iii and iv). The chapter ultimately seeks to understand whether racial differences in legal justifications and stop dispositions can explain racial differences in stop rates (research questions v. and vi.). The chapter uses two custom measures – the ‘hit rate’ and the ‘productive targeting index’ to explore whether police stops during the study period were about crime, or if police stops are primarily about something other than crime, such as ‘managing’ marginalized populations, as suggested by Bradford and Loader (2016) in their recent study of police stops in England and Wales.

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19 The reason for this is that Canada shares many demographic and historical patterns with both countries, and there is a history of knowledge exchange in law enforcement between countries. Other regions and countries could be fruitfully included in the analysis, such as Europe, Scandinavia, South Africa, Australia and New Zealand, but have been excluded due to space limitations. Within Canada, the focus of this dissertation is on Ontario. However, it should be noted that there is considerable attention to the issue of racial profiling in Quebec as well as other provinces such as Nova Scotia, Manitoba, Saskatchewan and British Colombia. There is also an emerging global literature on racial profiling; see for example the “Special Issue on Stop and search in Global Context” of Policing and Society, volume 21, number 4, 2011.
The first qualitative chapter (Chapter 5) uses critical discourse analysis to understand the variety of responses to the Kingston data collection project from the public, police organizations and politicians (research question vii). The chapter is divided into two sections. The first part analyzes public responses to two policing incidents involving innocent Black youths who had guns pulled on them by Kingston police officers, incidents which spurred claims of racial profiling by the KPS (Kingston Police Service). The second part analyzes official responses to the Kingston project, focusing on newspaper accounts of responses from police unions\textsuperscript{20}, police organizations, and politicians.

The second qualitative chapter (Chapter 6) also uses critical discourse analysis to examine the national responses to the racial profiling crisis in Ontario. This chapter conducts in depth analysis of three official documents that emerged as a result of the discursive crisis in Kingston. The qualitative chapters investigate what these various responses reveal about race and policing in Canada using the framework of Democratic Racism (research question viii). The chapter highlights how Canadian officials and stakeholders reacted and responded to the challenge of the Kingston data and the allegations that sparked the project, and how these responses differ markedly to responses in the U.S. and England & Wales. The qualitative chapters interpret the responses to the Kingston Project by theorizing policing organizations as engaging in organizational risk management, with a focus on reputational risk management. The chapter also uses concepts from critical race theory to unpack the discourses that are deployed in a key document published by the RCMP on racial profiling in Canada. The conclusion (chapter seven) discusses the three main contributions of the dissertation to the field of racial profiling research. These are: 1) Black people were over-stopped in Kingston, and Kingston Police stops were largely unproductive and seemingly unrelated to crime, 2) police unions in Ontario have contributed to the continued interdiction on collecting data on the race of people stopped by police and are part of a wider influence of police organizations on the Canadian political landscape, and 3) the lack of internationalization in the racial profiling research literature and the dominance of US-focused studies has created an academic schism between the US and other

\textsuperscript{20}Voluntary associations or federations that represent the rights, interests and views of police employees. Throughout the dissertation, police associations representing police leaders (management police) and rank-and-file officers (streets police) are both referred to as police unions.
countries, and has limited the methodological and theoretical tools available for understanding racial profiling in Canada. New developments in the collection of race data such as ‘carding’ are also discussed.
Chapter 2: Literature Review and Research Setting

2.1 Race and the Criminal Justice System: Origins and Debates

As early as the turn of the 20th century, some American sociologists were interested in the relationship between race and crime. W.E.B. Du Bois, whose seminal works *The Philadelphia Negro* (1899) and *The Souls of Black Folks* (1903) shaped the development of sociological theory and methodology, was also a pioneer of empirical research on race and crime (Gabbidon, 2007). In the first crime polls of their kind (1903-04), Du Bois sampled African American students (n=2,034) as well as chiefs of police, county officials and private citizens (n=103), in Atlanta, Georgia. Du Bois found that Black respondents were more likely than whites to perceive racial discrimination within the criminal justice system, white respondents, on the other hand, were more likely to feel that the system was fair and unbiased (Gabbidon, 2000).

Remarkably, many of the racialized perceptions documented by Du Bois in his 1903-4 survey appear in contemporary research. Indeed, recent crime surveys show that Black people are still much more likely than whites to view the police and wider justice system as discriminatory than whites (Gabbidon, 2000).

Following the path taken by Du Bois, sociologists such as Thorsten Sellin and Guy B. Johnson took up the intellectual project of examining empirically the relationship between race, crime and criminal justice. Sellin and Johnson, like Du Bois, attributed some racial disproportionality in crime statistics to official bias, as well as economic and ‘social factors’ such as education, poverty, migration, etc. (Tonry, 1995). Racial differences in the criminal justice system were famously identified by Swedish-born economist G. Myrdal in 1944. In *American Dilemma: The Negro Problem*, Myrdal outlines the obstacles to African Americans’ full participation in U.S. society, including the criminal justice system. The book includes chapters on the police and the court system:

> In most Northern communities Negroes are more likely than whites to be arrested under any suspicious circumstances. They are more likely to be accorded discourteous or brutal treatment at the hands of police than are whites. (Myrdal, 1996[1944] p. 527)

> The average Southern policeman is a promoted poor white with a legal sanction to use a weapon. His social heritage has taught him to despise the Negroes. . . . His professional experience with criminals, prostitutes and loiterers at Negro joints . . . are strongly selective and only magnify his prejudices. The result is that probably no group of whites
in America have a lower opinion of the Negro people and are more fixed in their views than Southern policemen. (p. 540-541).

Before World War II, sociological research was centred on the unequal treatment of Blacks and highlighted extreme examples of racism in the criminal justice system, such as lynching and all-white juries. This focus continued into the post-war era and became more prominent during the civil rights movement. However, by the 1980s, with the war on drugs in full swing, the debate on race and crime became pre-occupied with Black criminality and individualised explanations of racial disproportionality in the criminal justice system. In the 1980s, a debate emerged around whether the criminal justice system in the US was biased against Blacks and other minorities. Some maintained that the criminal justice system was colour-blind (Hindelang, 1978, 1981; Petersilia, 1983; Wilbanks, 1987), while others argued that there was some bias (Gottfredson & Gottfredson, 1988; Hagan & Peterson, 1984; Wilson, 1987), or indeed that bias was rampant (Georges-Abeyie, 1984; Hawkins, 1987; McNeely & Pope, 1981; Mann, 1987). The most high-profile books and articles from that period are briefly summarized below.

Hindelang published a study in the American Sociological Review (ASR) in 1978 that compared victimization survey data for personal crime (victim-reported race of offender) and arrestee data. He argues that black over-representation in offending is attributable to differential involvement of blacks in criminal activity, and he rejects the argument of discrimination in the criminal justice system. McNeely and Pope (1978) published a response to Hindelang, arguing that the two data sources used – victims-reported offender characteristics and arrest data – were not comparable, and the conclusion of ‘no bias’ in the criminal justice system is premature, if not unfounded.

McNeely and Pope subsequently published an edited book, *Race, Crime and Criminal Justice* (1981), a collection of chapters that empirically explore racial differences in outcomes in the criminal justice system. It was an early example of investigation into racial bias in the criminal justice system. The collection finds support for the discrimination thesis, with bias found in arrest, charge, conviction and sentencing decisions.

Hindelang (1981) published a study in the ASR that again compared national victimization survey to official arrest data, this time including an analysis of sex and age, and including some
property crimes. Hindelang again concludes that Black over-involvement in criminal activity is
the cause of Black over-representation in the criminal justice system, not bias in the system.

A RAND corporation study was published in 1983, authored by Joan Petersilia. The two-year
study compared the treatment of white and minority offenders at key decision points in the
criminal justice processing of approximately 1,400 male prison inmates in California, Michigan,
and Texas. The study overall found sparse evidence of significant discrimination against
minorities in sentencing in those states.

In 1987, Wilbanks’ book, the Myth of the Racist Criminal Justice System, stirred up debate
again. Wilbanks argues there is insufficient evidence to say that the criminal justice system is
biased against Blacks. The book addresses the differing perceptions of bias in the criminal
justice system held by Blacks and whites, and examines existing research on bias in police
deployment, use of deadly force, bail decision, plea bargaining, sentencing patterns, inmate
classification and discipline, and racism among prison inmates.

In response to Wilbanks, prominent criminologist Coramae Richey Mann published Unequal
Justice: A Question of Color (1987). In her book she strongly argues that Wilbanks’ (and others’)
approach is misguided. She shows that a reliance on statistics and quantitative data obfuscates
the reality of racism in the lives of Black people in the US, and their experience of the criminal
justice system.

Georges- Abeyie (1989) charges that the Wilbanks/Petersilia/Hindelang view of a discrimination
free criminal justice system is flawed because they only focus on the formal, easily measured
stages of the criminal justice system. He coins the term ‘petit apartheid’ to describe the systemic
cumulative bias throughout the system. His critique, along with Mann’s (1987) and others’, have
largely discredited Wilbanks’ thesis.

Research in the 1990s and 2000s has furthered the view that there may be bias in the criminal
justice system that contributes to the over-representation of Blacks in the carceral population.
Studies of outcomes at different stages in the criminal justice system have found some and mixed
evidence of bias in the treatment and processing of Black compared to white defendants (this
body of research is reviewed in depth later in the chapter). However, I suggest that most of this
research has examined the ‘front stage’ (i.e., the publicly performed components) of the criminal
justice system, and that more recent research on the ‘back stage’ (hidden components) of the criminal justice system, including racial profiling research, are producing an ever growing body of evidence to refute the ‘Black criminality’ (i.e., no-bias) explanation of over-representation in the criminal justice system. Refutation is important because the ‘Black criminality’ thesis is politically significant. It is used frequently in the media and is claimed to be a ‘common sense’ explanation for the over-representation of Black people in the criminal justice systems in Canada, US and the UK. This rhetoric is used by politicians who would take a ‘tough on crime’, anti-minority or anti-immigration stance (for example, Donald Trump in the U.S. and UKIP in the UK).

2.2 Front Stage and Back Stage of the Criminal Justice System

Sociologist Erving Goffman, in his influential work *The Presentation of Self in Everyday Life* (1959), posited a dramaturgical approach to analysing human interactions. Goffman suggested that all interactions or ‘performances’ could be said to take place in two very different regions: the front stage and the back stage. According to Goffman, the front stage is characterized by formality and strict controls with respect to access. Furthermore, the performance on the front stage comprises the presentation of a series of facades to the audience. By contrast, the backstage is more informal, and perhaps more truthful, especially where “the impression fostered by the presentation is knowingly contradicted or concealed” (Russell-Brown, 2004, p. 9).

Russell-Brown (2004) makes the connection between Goffman’s dramaturgical analysis and the idea of hidden or unconscious official bias in the criminal justice system. She proposes that Goffman’s ‘back stage’ is similar to Georges-Abeyie’s (1989) concept of ‘petit apartheid’ in the criminal justice system:

> Though Goffman applied his analysis of the back stage to individuals, it can also be applied to George-Abeyie’s discussion of unmeasured stages within the justice system. The back stage is the place where racially motivated decisions are made. Examples of the back stage include bench conferences, jury deliberations, and police department policies that encourage racial targeting of minorities. By definition, there is little official documentation of what occurs during these unmeasured stages. Thus, accountability is minimal. *As Goffman’s thesis predicts, racially motivated decisions made in the back stage may be easily represented as racially neutral ones in the front region.* (Russell-Brown, 2004, p. 9-10, emphasis added).
The appearance of non-bias at the front stage of the criminal justice system may be contradicted by hidden bias at the back stage. This could present a challenge to some of the work of Tonry (1994), Sampson and Lauritson (1997) and others. For example, Tonry’s *Malign Neglect* (1994), in only reviewing the evidence from the front stage of the criminal justice system (arrests, incarceration and sentencing), may overlook analytically important evidence on the activities of the police before the arrest decision. If bias occurs in the backstage, including racial bias in police surveillance practices, conclusions about the relationship between race and crime might be premature.

The next section reviews some of the available evidence on race and crime in both the front and back stages of the justice system. It is argued that the stages in the criminal justice system that have been subjected to the most scrutiny from the media, public and academics should be classified as the ‘front stage’, whereas stages that have been subjected to less scrutiny are classified as ‘back stage’. The table below proposes a classification of the characteristics of front and back stage activities in the criminal justice system.

### Table 2.1 Classification of Front and Back Stage Characteristics

<table>
<thead>
<tr>
<th>Front Stage</th>
<th>Back Stage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accountability (monitoring, scrutiny)</td>
<td>Less Accountability (unmonitored, unscrutinized)</td>
</tr>
<tr>
<td>High Stakes (e.g. Capital Punishment)</td>
<td>Appears to be Lower Stakes (e.g. Stop and Frisk)</td>
</tr>
<tr>
<td>Documentation</td>
<td>Undocumented (or less documented)</td>
</tr>
<tr>
<td>Contact with Audience (e.g. Audience in courtroom)</td>
<td>Less Contact with Audience (e.g. Stop &amp; Frisk at 3am on empty street)</td>
</tr>
<tr>
<td>Aspirational Outcome underlying performance</td>
<td>Pragmatic outcome underlying activities</td>
</tr>
<tr>
<td>Polite</td>
<td>Impolite</td>
</tr>
<tr>
<td>Formal</td>
<td>Informal (cathartic)</td>
</tr>
<tr>
<td>Decorum</td>
<td>Lack of decorum</td>
</tr>
<tr>
<td>Performance</td>
<td>Rehearsal</td>
</tr>
</tbody>
</table>

*Source: Compiled by the author from sources cited in this section*
It seems likely, given the less documented and scrutinized nature of the back stage of the criminal justice system that bias can occur more frequently than the front stage, and that bias can go undetected. For this reason, it is important to expand criminological studies to include scrutiny of the back stage processes of the criminal justice system. It also seems likely that back stage processes can have profound and cumulative impact on front stage processes. For example, it has been found that pre-trial detention can impact sentencing, as described later.

2.2.1 Sentencing: A front-stage activity

There are myriad activities that comprise the front stage of the criminal justice system. Courtroom processes such as trials and sentencing are good examples of criminal justice actors making contact with audiences and where careful attention to decorum is performed. It would not be possible to present all the evidence regarding race on all front stage activities, therefore, this discussion will be limited to one of the ‘grandfathers’ of the race and crime debate: sentencing.

Sentencing is a well-known front-stage activity. As Weitzer (1996) notes, what goes on in the courts is one of the most well-documented and researched stages of the criminal justice system. Research on race and sentencing from the 1930s to the 1960s in the U.S. was unequivocal in its findings that race was a major determinant of sentencing (Walker, et al, 2004, p. 207). This is hardly surprising given the prevalence of segregation, ‘Jim Crow’ laws, as well as the simple bivariate techniques used in the early sentencing studies (ibid). More recent U.S. research on sentencing has produced mixed results, with some studies finding race has little or no influence on sentencing (see Sampson & Lauritsen, 1997, p. 347-348 for a review of studies). However, the majority of studies do find race influences sentencing. For example, Chircos and Crawford 1995, (cited in Gabbidon & Greene, 2005) reviewed 35 race and sentencing studies and found generally that Blacks were more likely to be incarcerated than whites, even after controlling for seriousness of offence and prior record. The authors also concluded that Blacks living in areas where the percentage of Black population was higher than the national average were significantly more disadvantaged when it comes to sentencing outcomes (Chircos & Crawford, 1995 cited, in Gabbidon & Greene, 2005, p. 180-181). Spohn (2000) reviewed 40 sentencing studies, and concluded that race and ethnicity have a significant influence on sentencing decisions in the U.S. (cited in Gabbidon & Green 2005, p. 185). Minorities are sentenced more
harshly than whites if convicted of less serious crime, or convicted of drug offences. Recent
studies (see for example Johnston, Ulmer and Kramer, 2008) have suggested Hispanics receive
the harshest sentences of all (Gabbidon & Greene, 2005, p 186.; Greene & Gabbidon, 2012, p.
319)

In a review of some recent sentencing research, Spohn (2011) notes that Mitchell’s (2005) study
of effect size for race and ethnicity on sentencing did not support the ‘no discrimination thesis’.
Spohn suggests future research needs to examine the contextual, interactive and cumulative
effects of discrimination, and identifies four possible ‘indirect’ factors: legally irrelevant factors
such as unemployment and low educational attainment; process-related factors such as pleas,
private attorneys, detention (what I would classify as back stage criminal justice processes); race
of the victim; and high discretion offenses and attendant policies e.g. war on drugs.

This section provided a brief review of research on race and sentencing – an important and high
profile front stage activity in the criminal justice system. The next section reviews two much less
well-known process in the criminal justice system – DNA fingerprinting and pre-sentencing
reports (PSRs)– which are potentially just as important to criminal justice outcomes as
sentencing, but are hidden in the ‘back stage’ of the criminal justice system.

2.3 Back Stage in the Criminal Justice System

The back stage is important because, according to Goffman, what goes on in the back stage can
subvert and contradict the front stage messages. In the context of the criminal justice system,
what goes on in the back stage can also funnel, divert or direct individuals into the criminal
justice system from the outside, or propel individuals already in contact with the criminal justice
system further and further into the system. The back stage is informal, lacks accountability and
documentation and is relatively unscrutinised. Accordingly, the back stage may be where the
‘real business’ of the criminal justice system occurs (Russell-Brown, 2004).

The back stage of the criminal justice system is vast: police and security practices such as
license plate checks and automatic number plate recognition; DNA fingerprinting, police
custody; strip searches; pre-trial decisions; plea bargaining; access to legal counsel; bench
(sidebar) conferencing; pre-sentencing reports; probation; parole decisions, and the list could go
on ad infinitum. It is beyond the scope of this discussion to review all the research relating to
back stage criminal justice processes. Therefore, this section selects two back room stages of the criminal justice system that are woefully under-researched with regard to racial disparities and yet potentially have a tremendous impact on Black over-representation in the criminal justice system in Canada and elsewhere: 1) police use of DNA fingerprinting; and 2) pre-sentencing reports. It is felt that these two neglected processes give a good indication of the potentially important contribution of research on the back stage in understanding racial disparities in criminal justice processes and outcomes. The purpose of this exercise is to demonstrate that research on racial profiling does not take place in a vacuum: the criminal justice system is a complex creature with many moving parts, and racial disparities can occur anywhere along the criminal justice path. The disparities, in the context of the larger criminal justice system, are more than the sum of their parts, there is an accumulation and amplification of racial disparities all along the route that most people take through the criminal justice system. Therefore, research on racial disparities in police stops should be seen in the broader context of multiple disparities at multiple stages in the criminal justice system.

2.3.1 DNA fingerprinting

The UK has the largest per capita DNA database in the world, peaking at over 6 million DNA profiles held in perpetuity in 2012. Over one million of those samples were from people innocent of any crime and 156,000 samples held were from children aged 17 or under (Dodd, 2013). This has raised concern about the police use of the database and potential ‘ethnic profiling’ in the UK (Beaston, 2009, cited in Sveinsson, 2010, p. 34; Travis, 2011). British police do not need consent to take a DNA sample from persons charged or about to be charged with a recordable offence. Until 2013, DNA was kept indefinitely, regardless of whether the charges were dropped or the person charged was acquitted. Currently, the Home Office guidelines allow police to keep samples of innocent people for six months, and grant some exceptions to this rule (Home Office, 2013). According to a Runnymede Trust report, the National Databank policy has implications for racial inequality in the criminal justice system:

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21 The UK Protection of Freedoms Act 2012 puts limits on the police’s ability to hold samples of innocent people in perpetuity. However, the Act was not implemented until October 2013, when 1,766,000 DNA profiles were reportedly deleted (Ministerial Statement). At the same time, more DNA profiles were added through a controversial prisoner DNA collection scheme.
Evidence given by the Attorney general to parliament’s select committee show that 27 per cent of the entire Black population are currently on the database compared with 9 percent of all Asians and 6 per cent of the white population. 57 per cent of innocent samples taken in London alone are from people from African Caribbean communities. Disturbingly, 42 per cent of the entire Black male population living in the UK and 77 per cent of all young Black men, are profiled on the database even though the Home Office’s own research shows that people from this group are less likely to commit a crime than their white counterparts (Sveinsson, 2010, p. 34).

The authors of the report argue that the UK database, which checks all individual DNA profiles against all crime scene DNA profiles automatically every night (‘speculative searching’), is a form of ‘bio surveillance’ that disproportionally impacts Black people in the UK. As the title of one of Runneymede Trust’s reports so aptly states: “The National DNA Database has criminalised every Black family in Britain” (MacAttram, 2010). The British database is also used for familial DNA searches, which critics argue can perpetuate racial inequalities in the criminal justice system. The use of ‘familial searching’ by English police was recently highlighted in a high profile conviction in May 2016 for a three decades old unsolved murder.22

The Canadian National DNA Data Bank (NDDB) started operation in 2000, although the legislation that governs it was enacted in 1995, and amended in 1998 (DNA Identification Act). Unlike in the UK, the racial composition of the Canadian National DNA Data Bank is undocumented. The Canadian database is intended to be restricted to convicted offenders, however, there will be innocent people’s DNA in the database because of a special category for ‘prospective’ offenders. According to the RCMP website, it is expected that the Canadian databank will follow the UK example “within 5 years”, and collect DNA from all people charged, regardless of whether they are convicted of an offence or not (RCMP, n.d.).

In her doctoral study of the potential impact of familial DNA profiling on Aboriginal peoples in Canada, Conway argues that racial disparities in the NDDB “can be inferred” from the overrepresentation of racial minorities such as aboriginals in the criminal justice system,

22 “A man who sexually assaulted and stabbed a girl 32 years ago has been given a life sentence for her murder. Melanie Road, 17, was attacked as she made her way home from a nightclub in Bath in June 1984. Christopher Hampton, who changed his plea to guilty as his murder trial was due to begin at Bristol Crown Court, must serve a minimum term of 22 years. Hampton, 64, was caught in 2015 after police linked DNA from Melanie’s clothing to his daughter. . .She had been arrested aged 41 in 2014 for a "minor incident" and her DNA profile was taken, leading the police to her father.” (BBC, 2016)
especially in corrections data (2016, p.30). Conway argues that the use of the NDDB, if it contains racial disparities as are found in the UK, can perpetuate and intensify racial inequality in the criminal justice system and society as a whole (the concern of the thesis is that allowing familial DNA searches – not permitted under current interpretation of the legislation – would negatively impact aboriginal communities). It is reasonable to infer that aboriginal and African Canadians are over-represented in the database, and therefore are subject to more intense surveillance or profiling than other ethnic groups.

Despite some scholars concluding that expanding DNA databanks may not be a good use of scarce criminal justice resources (Tracy & Morgan, 2000), there appears to be little public debate about the extensive use of DNA databanks in policing on both sides of the Atlantic (Wilson-Kovacs et al, 2012). The next section discusses another back stage process in the criminal justice system – pre-sentencing reports, which share many of the back stage characteristics of DNA databanks such as a minimal level of scrutiny and monitoring. Both processes, however, can have significant and cumulative effects on individuals’ (and groups’) contact, intensity of intervention and outcomes within the criminal justice system.

2.3.2 Pre-Sentencing Reports

In Canada, the U.S. and the UK, the pre-sentencing report (also called the court report or social impact report) is a document that sentencing judges will have at their disposal prior to rendering their sentencing decision. Pre-sentencing reports (PSRs) “play an important role in informing the court about the offender’s risk and treatment potential, and in defining the type, length and conditions attached to the final sentence” (Hannah-Moffat & Maurutto, 2010, p. 263). PSRs are important because current research suggests a high concordance between recommendations by probation officers (via PSRs) and sentencing decisions by judges. Concordance rates are estimated to be in the range of 77 to 92 percent in the international literature (Lewis et al, 2006, p. 264). It is also thought that the absence of a PSR increases the likelihood of a custodial sentence because a PSR will generally make the case for alternatives to incarceration (Lewis et al, 2006, p.45).

Studies of PSRs are relatively rare in the U.S., but have indicated some racial disparity. Green (1989) found PSRs for Black offenders were more likely to recommend custodial sanctions and Denney (1992) found Black offenders’ PSRs contained more derogatory language than those of
white offenders. Research in the UK on PSRs is more extensive and the evidence is mixed. According to Lewis et al (2006) some researchers have found evidence that Blacks were more likely to have a PSR prepared than whites (Mair, 1986, Shallice & Gordon, 1990), whereas other researchers found the likelihood was the same (Crowe & Cove, 1984) or less (Hudson, 1989) for Black offenders. Research into the content of PSRs has also found some disparities by race.

Whitehouse (1983) found more negative references to African-Caribbean culture in PSRs than for other groups. By contrast, Gelsthorpe (1992) did not find such differences (cited in Lewis et al 2006). Several studies found that Black and Asian defendants were more likely to have PSRs written that contain no sentencing recommendation, which is thought to increase the likelihood of a custodial sentence (Voakes, & Fowler, 1989; Gelsthorpe, 1992; Home Office, 1996, cited in Lewis et al 2006, p. 47). In an influential study in the Midlands on sentencing, Hood (1992) found that 28% of white defendants did not receive a PSR, compared to 42% of Afro-Caribbeans and 43% of South Asian defendants (cited in Lewis et al, 2006, p. 48). Since PSRs usually recommend a non-custodial sentence, this could be seen as a possible advantage for whites. Her Majesty’s Inspectorate of Prisons studied 484 pre-sentencing reports and found that the PSRs of Black offenders contained fewer citations of sources (i.e. were less evidence-based) than PSRs of whites, and also found that the overall presentation and format of the reports were better for white than for Black offenders (Lewis et al, 2006).

This brief review of two relatively neglected back stage processes of the criminal justice system has shown that there is potential for race effects to exist in some of the less well-known processes coming under the umbrella of the criminal justice system. This section has reviewed some such differences in the use of DNA databases and the writing of pre-sentencing reports. It is of concern that there appears to be little research that seeks to link backstage criminal justice processes and few attempts to assess the cumulative impact of bias that may advantage and/or disadvantage some groups. This short survey of some of the less-well known criminal justice system processes is intended to create the context for research on racial profiling. It will be argued that research on biased policing should be seen as part of the spectrum of backstage and

23 Excepting recent research on juvenile courts that explores cumulative effects of race and ethnicity, and pre and post adjudication processes, such as Rodriguez, 2010 and Leiber, 2009.
front stage activities in the criminal justice system. One of the rationales for research on racial profiling, then, is grounded in an interest in the role police surveillance activities and decision-making may play in the cumulative process of bias in the criminal justice system.

2.4 Research on Racial Profiling: The Evidence

2.4.1 Qualitative Methods

Much of the initial work on racial profiling in both the United States and Canada consisted of qualitative field research such as one-on-one interviews or focus groups with racial minority youth. For example, Jones-Brown (2000) conducted interviews with a non-random sample of 125 African American male 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 youths 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 targeting of minority 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, 2009 and Conley, 1994 for similar American results).

In Canada, 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 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, p. 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, p. 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 self-selecting, non-random sample of 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 minority individuals and communities (Williams, 2006). 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 the OHRC study (see Eid et al., 2011).

The studies reviewed so far have employed interviews, testimonials and focus groups to collect qualitative data on racial profiling. Ethnography is a more immersive strategy, and one that has a long-established, if somewhat tarnished\(^\text{24}\), tradition in the social science. Ethnographic research typically calls for the researcher to closely observe the life of a specific community or group for

\(^{24}\) For a critique of anthropology’s unsavoury colonial origins, see for example Stocking, 1991 and Said, 1989. For a reflexive critique of anthropologists and ethnographers see Scheper-Hughes and Bourgois (2004, p 1-9), and the discussion of ‘salvage anthropology’ in particular.
an extended period of time. 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 classic ethnographic studies of the police did not directly address issues of race or police stop and search activities. However, Skolnick (1966), in a 15 month intensive participant observation study of a public defender’s office, district attorneys and police, 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.

While ethnographies of communities that experience stops by police contact are increasing, ethnographies of the police themselves are rare. Early police ethnographic studies by Westley (1970), Banton (1964), Klockars (1974), Black (1980), and Van Maan (1983) did not explicitly address racism. A notable exception is the pioneering covert ethnography of the British police conducted by Simon Holdaway while still a serving police sergeant. Holdaway documented the role of racism in the police occupational subculture. He showed that “the very negative and suspicious attitudes towards Black youths is firmly lodged in the stock of knowledge that directs officers’ work and has a clear link with [the] broader societal structures of power and inequality” (1983, p. 81). Holdaway’s study could not be replicated by academics today. There is simply no access to police at this level, and ethical constraints would also prevent this type of research, although arguably, covert ethnography would be an invaluable tool to study racism amongst serving police officers. In the absence of the ability to spy on (and make secret recordings of) officers, police-generated data such as those analysed in the Kingston study, may be the next best thing in discovering unassailable ‘truth’ of policing activities. Police-generated data, at the very least, cannot be criticized on the basis of being manufactured or biased, since the data are provided by police themselves.

2.4.2 Survey Methods

Unlike qualitative research strategies, survey methods often explore the opinions and experiences of citizens using large, often randomly drawn, samples. Thus, unlike qualitative results, survey
findings often can be 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. Additional analysis of these data reveals that the perception of being racially profiled is particularly strong among young Black males. Over 70% of Black males aged 18 to 34 in this 1999 study felt that they had been the victim of racial profiling at least once (see Weitzer & 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 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 & Tuch, 2005). Similar results have been produced in a number of other American surveys (see Higgins et al., 2010; Higgins et al., 2008; Reitzel et al., 2004; Reitzel & Piquero, 2006; Rice et al., 2005). 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. A 2007 survey of Toronto residents found 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. These racial differences in opinion are statistically significant (Wortley & Owusu-Bempah 2011; Wortley & Owusu-Bempah 2009).
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 of 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. 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-American 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 & Kaufman, 2003).

Other scholars have used the 1999 PPCS to examine post-stop outcomes. For example, Engel and Calnon (2004) used these 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, et al., 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, et al., (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.

Other American surveys, conducted within specific jurisdictions, have generated similar results. For example, surveys conducted in both Chicago (Rosenbaum et al., 2005; Skogan, 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 percent of white males in the same age category. Racial differences were particularly evident with respect to pedestrian stops: 18 percent of young Black males reported being stopped by the police while walking in the past year, compared to only 4 percent of white males. Further analysis of the Washington, DC data suggest 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).

Race differences in self-reported police contacts are also found in much younger age groups. For example, a survey of 331 eighth-grade students (age 12 to 15) in Seattle found that Black children were twice as likely to experience police contact as white children (Crutchfield, et al, 2012). This pattern persisted, even after controlling for self-reported offending. (The race disparity in police contacts was partially explained by experiences of school discipline, as well as having a sibling involved in criminal activity.) However, the authors conclude:

Here we have seen that African American juveniles are more likely to have had police contacts and these cannot be explained by differential criminal involvement, at least not as measured by self-reported delinquent behavior. Nor do they appear to be the result of differential income, single parents, family conflict, delinquent peers, or overall neighborhood quality. There exists a dominant narrative in the Black community that police, and the criminal justice system more broadly, discriminate against African Americans. Even those who believe that early intervention will sometimes “nip problems in the bud” should recognize that racial differences in criminal justice contacts that are not justified by criminal behavior will seem to confirm the accuracy of that narrative. (Crutchfield et al, 2012, p. 200).

Survey research conducted in England (Bradford et al., 2009; Bradford, 2011; Clancy et al., 2001; Qureshi, 2010; Skogan, 1990) has also documented significant racial differences in self-reported stop and search experiences. In general, these surveys have found that Black people are more likely to report being stopped and searched by the police than people from other racial backgrounds. For example, the 2000 British Crime Survey (BCS) conducted interviews with over 20,000 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 (Clancy et al., 2001, p. 57). 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).

Survey data in Canada are much harder to come by. While local area surveys of Toronto residents are available (Wortley, 1995; Wortley & Tanner, 2005; Wortley & Owusu-Bempah, 2011), until recently there were no national-level data in Canada that could investigate the question of race and police stops. The first such study was published in 2011, and utilized nationally representative data for children aged 12 to 17 from the National Longitudinal Survey of Children and Youth (NLSCY), collected in 2000-2001. Fitzgerald and Carrington tested the hypothesis that minority youth experienced disproportionate contact with police, net of other factors. Their analysis shows that Black, Aboriginal and West Asian youth were three times more likely to report having contact with the police in the previous 12 months than other ethnic/racial groups (Fitzgerald & Carrington, 2011, p. 472). The authors were able to control for risk factors related to delinquency as well as chances of police contact. Consistent with previous research, Fitzgerald and Carrington found that abstaining from offending did not ‘protect’ Black, Aboriginal and West Asian youth from police contact. Indeed, youth who were non-violent were found to have significantly higher likelihood of contact with police even controlling for all other factors (Fitzgerald & Carrington, 2011). The study controlled for a wide variety of variables, such as individual, family, peer and contextual factors, and the data are generalizable to the Canadian population aged 12 to 17. One limitation of the study was that the
Black, Aboriginal and West Asian youths were grouped into a single category, ‘high risk visible minority’ youth. A separate analysis for each group would be more in line with the current research on racial profiling.

Fitzgerald and Carrington (2011) were explicitly expanding on the findings of three large surveys conducted on Toronto residents by Scot Wortley and associates. The Toronto surveys have attempted to document whether racial minorities are more likely to be stopped by the police than whites. 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 & Tanner, 2003; Wortley & Kellough, 2004)

A second study, conducted in 2000, surveyed approximately 3,400 Toronto high school students about their recent experiences with the police (Wortley & Tanner, 2005). 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 reveal 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. The data further reveal that 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. However, 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 gets stronger. Further analysis reveals that racial differences in police stop and search practices are 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 & 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. The survey found that 65% of Black drug dealers in the sample 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 & Tanner, 2005).

A third 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 & Owusu-Bempah, 2011). 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. 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.

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.

The results of 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 such as age, gender, education, income, place of birth, neighbourhood crime, frequency of driving, leisure activities, alcohol and marijuana use, and criminal history. Chinese racial background, on the other hand, is unrelated to the probability of being stopped and searched by the police (Wortley & Owusu-Bempah, 2011).

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 researchers 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. Survey research, however, is not without its limitations. Potential weaknesses with survey methods include problems with sampling error, response rates, questionnaire construction, respondent recall, respondent honesty and sample exclusion (see Litchenberg, 2007; Lundman, 2004). 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.

2.4.3 Observational Data

This section will review the use of observational data to study police-citizen interactions. While there are many forms of observational studies, such as videotaped police-civilian encounters (Brazil & Berry, 1992; Dixon et al, 2008) and CCTV footage (Norris & Armstrong, 1999), this section is restricted to Systematic Social Observation studies.

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, p. 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 neighbourhoods performing vehicular stops and drug stings. Although members of the unit were particularly suspicious of Black males driving four-wheel drive vehicles, BMWs, and Honda Accords (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, p. 179). Chambliss's vivid descriptions of these stops serve to demonstrate just how intrusive, 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, p. 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, p. 180).

In another American study, Brown and Frank (2005) used SSO methods to study street-level policing in Cincinnati, Ohio. The officers focused only on encounters in which citizens were under suspicion of a criminal offence and for 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 & 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, p. 212). In calculating age- and gender-specific stop rates, the authors estimate that 91% of the Black male population under age 35 in the neighbourhoods studied were stopped and subjected to an informal street interrogation during the study period. For white males aged 35 and under, the proportion was estimated to be 29%. 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. The study found that the consequences of stops were more serious for Black citizens: “Over the course of a year …approximately one in three of the Black male population under 35 would be involved in a stop resulting in formal police action in contrast to only one in ten of white males under 35” (p. 222). 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. 1992, p. 222).

A covert observational study of the Paris police generated public interest in racial profiling in France (Erlanger, 2009; France24, 2012). Between October 2007 and 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 incognito because data were 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 minority 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 & Lévy, 2011; Open Society Justice Initiative, 2009).
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, I could not identify a single Canadian study that has used this type of methodology to examine the issue of racially biased policing. Social Observation (SSO) in particular 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. This may also be a problem, as we will see, associated with official police data on stop and search activities.

2.4.4 Official Police Administrative Data

A fourth strategy for measuring police stop and search activities involves the use of formal police records to document police-civilian interactions. In the United States and Great Britain, official police-reported data are arguably the most common source of information on police stop and search practices (Batton & Kadlec 2004; Miller, 2010; Paulhamus et al. 2010; Tillyer et al. 2010). This is not surprising given that police statistics are rather quick and inexpensive to collect compared to large scale surveys, systematic social observation, interviews, ethnography, and other qualitative methods. Often, data are already available, and new data collection strategies require minimal changes to current stop and search practices. Large police datasets can also be generated in a relatively short period of time at minimal cost. 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 include 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.

The next section reviews how traffic stop studies, largely reliant on the ‘contact card’ information format, examine questions of bias and racial profiling in policing. A brief overview of police data collection practices in the United States, the United Kingdom and Canada is
followed by a discussion of several methodological challenges associated with police generated data – including the usefulness of both internal and external benchmarking techniques and post-stop analyses.

2.4.4.1 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 systematically exclude police encounters with pedestrians (for rare exceptions see Jones-Brown et al. 2010 for a discussion of stop and frisk activities in New York City, and Alpert et al 2006 for pedestrian stops in Los Angeles). 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 such stops may contribute to the under-estimation of police activities that focus on young people and racial minorities (see 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 Fridell, 2004; Ramirez et al., 2000; Tillyer et al., 2010). A recent review of the American situation (see Engel et al., 2007) revealed that 34 state police agencies are 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 a result of litigation or legislative mandate. All other states either did not yet have a formal data collection policy or had bills under consideration. Over 400 law enforcement agencies in the U.S. have collected traffic stop data (Alpert et al., 2007). It should be noted that some cities – including New York City – have a policy to collect and report on stop and search data of vehicles and pedestrians on an annual or semi-annual basis (see Jones-Brown et al., 2010).

To date, analyses of American traffic 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
Alpert et al., 2007; Engel et al., 2007; Harris, 2006; Mosher et al., 2008; Paulhamus et al., 2010; Ridgeway & MacDonald, 2010; Tillyer et al., 2010; Weitzer & Tuch, 2006; Williams & Stahl, 2008). For example, Liederbach et al (2007) conducted a pilot study of police traffic stops in Texas, across five police agencies, including Dallas. The study analysed 6,839 contact cards for a two-month period ending January 2004. The researchers found that half of all stops in the study were of Black drivers, a rate much higher than their presence in the population. The authors conclude:

For the most part, results from the pilot study showed that minorities were disproportionately stopped overall, disproportionately stopped for violations other than traffic offenses, and disproportionately searched and arrested. Clearly, these facts alone should be cause for concern for police administrators and citizens both within these five jurisdictions and elsewhere (p. 117).

Another study that found evidence consistent with racial profiling was Meehan and Ponder’s (2002) study of a suburban white police force whose patrol area bordered a large urban city with a high African American population (‘Black city’). Meehan and Ponder found that, in two of the police sectors farthest away from ‘Black City,’ stop rates of African American’s were disproportional to their proportion of drivers. In a methodological innovation, Meehan and Ponder accounted for the proximity of a large African American residential area near to the study area, and examined stop rates in relation to distance to the residential area. Meehan and Ponder’s finding support the ‘out of place’ hypothesis of racial profiling, that is, that Black people are more likely to be unfairly stopped when they are in predominantly white neighbourhoods.

2.4.4.2 Official Data Collection in the England and Wales

As discussed earlier, all 42 police services in England and Wales are required to collect information on the people stopped and searched by police. These data are published in an annual report by the Home Office and the Department of Justice titled Statistics on Race and the Criminal Justice System. The information is freely available on the UK government website.

Overall, the data from England and Wales consistently demonstrate that Black and Asian 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 show
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, p.26-70).

Miller (2010) uses aggregate search data for England from 1996/7 to 2007/8 to examine whether reforms to police stop and search practices, as a result of the Stephen Lawrence Inquiry (SLI) PACE revisions, have had an effect. Miller finds that racial disproportionality in searches has actually increased since 1996 (Miller, 2010, p. 963). One issue with police data from England and Wales is the size and dominance of London compared to the rest of the country. Indeed, when stops by the Metropolitan Police in London are excluded, rates of disproportionality are reduced overall, but Black disproportionality remains higher than all other groups. Miller (2010) notes that the three largest police services areas (London, Greater Manchester and West Midlands/Birmingham) show upward trends in disproportionality patterns when looked at separately, whereas the rest of England shows flat or slight decreasing disproportionality (p. 964). Miller (2010) also analyses search arrest rates from 1996/7 to 2007/9 and finds no lasting increase in the percent of searches leading to arrests: “Overall, we can conclude, most confidently, that the SLI reforms failed to improve the arrest productivity of searches, despite what might have been expected given the reforms’ intentions.”(p. 967)

A small number of studies find no racial disparity in stop rates. One such study is Waddington et al’s (2004) study of stops and searches of vehicles and pedestrians in Reading and Slough, England. The racial composition of stops and searches was compared to the racial composition of people in public spaces likely to be patrolled by police. Their study found no evidence consistent with the notion that police disproportionately target ethnic minorities. In contrast, they argue that the white population, especially in Slough, tend to disproportionately attract attention from patrolling police officers. (A detailed discussion of their measurement techniques, which did not involve the use of resident population, appears the end of this chapter).

2.4.4.3 The Benchmarking Issue

A major methodological challenge when using official, police-recorded data to study racial disparities in police stop and search activities is the need to establish an appropriate baseline for
comparison. In other words, in order 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, the techniques that have been used to benchmark traffic stop studies have been wide-ranging, and have included everything from census population data to not-at-fault ‘crash’ data. In this chapter I review the literature on two of the most popular benchmarking techniques: census data and observational (roadway) data. Other less well-known techniques are summarized elsewhere. For an excellent summary of not-at-fault or ‘crash’ benchmarking; ‘blind’ enforcement (e.g. stationary speed cameras) benchmarking; Driver’s License data benchmarking; and internal benchmarking techniques see Tillyer et al (2010).

2.4.4.3.1 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, 2001; Lansdowne, 2000; Spitzer, 1999; Verniero & 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 relatively 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 & Calnon, 2004 p. 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 & 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. 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.).

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-age 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).

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

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25Harris (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.
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) 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.” (p. 181)

A number of critics – especially those engaged to do custom research 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, 2003). Such statements are inaccurate. 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 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” (Miller, 2000, p. 84). Similarly, while Riley and his colleagues (2009) 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 note:

Home Office research concluded 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” (p. 26-27).

Recently, Barnum et al (2015) conducted a traffic stop study comparing benchmarking techniques in an Iowa city police department. The authors found that daytime roadside
observational benchmarking “show substantial similarity” (p.10) to residential census population data for small localized geographical areas. Given the expense of roadside observational benchmarking (discussed in the next section), census benchmarking could be viewed as a more desirable method for benchmarking in areas where there are no major commuting thoroughfares, the authors suggest. 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 Bowling and 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 defense 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 & Phillips, 2007, p. 952-953).

Thus, 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 and Great Britain (and to a certain extent Canada), the profiling issue began with allegations that Black and other minority groups were more likely to be stopped, questioned and searched by the police than whites. Such allegations were largely denied by the police and their supporters. Census benchmarking, however, has now established that Blacks are, in fact, several
times more likely to be stopped and searched by the police than the members of other racial
groups. 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 or other, more “legitimate” factors.

2.4.4.3.2 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 street 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 & Calnon, 2004; Lange et al., 2005) and
populations ‘available’ for stops (Miller, 2000; Waddington et al, 2004). Importantly,
observational techniques can also be used to document pedestrian as well as driver populations
(see 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

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, they 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 (Lamberth,
2004, p. 32-35). 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 & Phillips, 2007; Hallsworth, 2006; Miller, 2000;
Waddington et al., 2004).26

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). The benchmarking exercise may not reflect the
full breadth of times and places of stop data, making observational benchmarking vulnerable to
the same criticism leveled at census benchmarking. 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 & Calnon, 2004b; Fridell, 2004; Ramirez et al., 2000).
Finally, Bowling and Phillip (2007) 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. (p. 946)

26A 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).
As the above summary suggests, all benchmarking strategies have their strengths and weaknesses. However, as noted by Tillyer and his colleagues (2010): “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” (p. 83). Using multiple benchmarks within the same study, however, is a strategy that might improve the validity and generalizability of findings. Nonetheless, unless an army of researchers could be deployed to collect observational data on every police stop in a jurisdiction for a substantial period of time, and the Hawthorne effect could be neutralized, a “perfect” benchmarking study is not possible, and the present study certainly does not approach perfection. There will always be some factor that remains unmeasured and some factors that, in fact, cannot be measured at all. 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. I have touched on some post stop findings above, and we now turn to this issue in more depth in the following section.

2.4.4.4 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 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 of the stop (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 & Todd, 2005; Persico & 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 minority civilians would be indicative of irrational racial profiling practices.27

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 & Tillyer, 2008; Ridgeway & MacDonald, 2010; Tillyer et al., 2010).

This point has also been made by Phillips and Bowling (2007, p. 953) using a real life example from England. The authors maintain that the per capita 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 – a fact that some might interpret as an absence of racial bias.

27The 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 do not make such a distinction.
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 likely contributes significantly to negative perceptions of the police within the Black community. 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 & Phillips 2007, p. 953, emphasis added).

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; Engel & Tillyer, 2008).

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 are ‘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 & Lee, 2008). Logistic

\[ \text{This analysis would also hold for New York City. Analysis of the NYPD stop and frisk data indicate that while Blacks and Hispanics are approximately nine times more likely to be stopped and frisked by the police, the hit rates for all racial groups are approximately equal (about 6%). In other words, innocent Black and Hispanic New Yorkers are approximately nine times more likely to endure an unnecessary police stop and frisk than their White counterparts (Jones-Brown et al. 2010).} \]
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.

This brief survey of the use of official police data to study racial profiling has thus far reviewed evidence from the United States and England and Wales. The next section considers to what extent the question of racially biased policing has been investigated using official police data in Canada.

2.4.4.5 The Canadian Situation

Unlike England and Wales 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.

However, Canadians have had glimpses of what official data can reveal about police activities. Charest (2009) examined 163,630 identity 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, p.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.”

In a more recent foray into police administrative data analysis, the Toronto Star obtained Toronto Police carding data (Field Information Reports) for the years 2008 through 2012
(Rankin, 2013). The data were obtained through a Freedom of Information Act request and the dataset comprised a total of 1,825,792 contact cards. The *Star* analysis showed that stops of Blacks (n= 418,507) were much higher proportionally (using the most recent census data benchmark) than stops of whites (n= 861,534). The *Star* analyzed stop rates in each of the city’s patrol zones and found that Blacks were more likely to be carded in all zones (Rankin, 2013, p. 7). Consistent with previous research, young Black men were found to be the most severely over-documented group. In one patrol zone, the *Star* calculated the ratio of young Black men carded compared to their presence in the zone population and found a ratio of 252 to 1. (See Rankin, 2013 for the full analysis).

Both examples are consistent with the evidence in the United States and United Kingdom reviewed above, that is, both investigations indicate that Black Canadians are subjected to a higher level of involuntary police contact than members of other racial groups. 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. Both of these studies are severely limited. For example, the Toronto data had a high number of contact cards for which the race variable was missing. In both studies, the data collection instrument was designed with administrative purposes in mind, and not as a research tool. Also in both studies, census benchmarking was used. As discussed above, the use of census benchmarking can be criticized on the grounds that the racial distribution of the resident population is not an appropriate benchmark with which to compare the racial distribution of stops.

In sum, compared to the United States and the United Kingdom, Canada is in the statistical dark ages when it comes to justice statistics by race. To my knowledge there are only these two examples, in Toronto and Montreal, of official police data collection in Canada, with one important exception: the present study. The present study uses police stop data collected by the Kingston Police Service to investigate racial differences in police stops. The Kingston data may be important in that it provides some ‘hard’ numbers to consider alongside the survey research and qualitative data Canadian academics have already produced on race and policing (see review

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of Canadian research above). However, it might also be argued that the Kingston data has symbolic importance, too. The study provides a new hope that the debate on racism and policing in Canada can move forward; that data collection is possible and that the fact of data collection is not a threat to police-minority relations and the public more generally, as some critics have suggested (see Chapter 5 for a detailed analysis of critics responses to the Kingston study).

This dissertation uses data collected by the Kingston Police Service from October 2003 to September 2004 to explore racial disparities in police stops, legal justifications for stops and outcomes of stops. The next section describes the research setting – Kingston, Ontario – and provides a brief discussion of the events leading up to the pioneering decision made by Kingston Police Chief Bill Closs to direct his officers to document all stops with the public. In so doing, Chief Closs became the first police leader in Canada to adopt US-style racial profiling monitoring.

2.5 Research Setting

Kingston, Ontario is a mid-size city with a population of 117,000 according to the 2006 Census. The population of the entire Kingston Census Metropolitan Area (CMA) is approximately 152,000. Kingston is situated on the banks of the St Lawrence River, and is located approximately 2.5 hours east of Toronto along the 401 Highway, a major East-West highway situated in southern Ontario. Across the river, on the other side of Wolfe Island is the border with the United States.

The land on which Kingston sits has been occupied by First Nations “since before the time of Christ” (Armstrong, 1973, p. 4). It would not be possible to tell the full story of the First peoples, nor is it feasible to produce a full account of the colonial and loyalist history of Eastern Ontario. This section is therefore necessarily brief, but it is appropriate to describe the geography and highlights of the colonial past relating to Kingston, Ontario’s oldest city (Armstrong, 1973). Kingston is located on the mouth of the Cataraqui River, where the St. Lawrence River leaves Lake Ontario. Access to the St Lawrence was important during the height of the fur trade. As a result, there were Iroquois villages along the north shore of Lake Ontario from 1665 to 1701, including near the site of what is now Kingston city (Adams, 1986; Jordan, 2013)
Kingston boasts some historical ‘firsts’ (which are made much of by the city’s tourism sector). The first European attempt at colonization in what is now Ontario occurred at Kingston: in 1673 the French established Fort Frontenac, a strategically important stronghold for the fur trade and a defensive structure against the competing British (Eccles, 1955). A century later, Kingston was chosen as the first capitol of the united Canadas (Upper and Lower) from 1841 to 1844 (ibid).

The first English-speaking settlers near Kingston were loyalists – those loyal to the British crown during the American Revolution – who arrived in waves for twenty years after the end of the war (Knowles, 1997). The British Crown rewarded loyalists with land in Upper and Lower Canada:

In 1783, Britain’s American colonies had won their independence and did not take kindly to those who had chosen to remain loyal to the British. These Loyalists were beaten, killed, or at the very least lost their property. To help resettle those that survived, by then officially called United Empire Loyalists, the British government laid out a series of townships, primarily at the east end of Lake Ontario and the Niagara area, in which to disseminate free land as well as grain seed and farm utensils. (Brown, 2010, p. 16).

Kingston’s Black history also begins with the loyalist migrations. Conditions for African American migration to Upper Canada were favourable when in 1793 Lieutenant-Governor John Graves Simcoe passed an “An Act to prevent the further introduction of Slaves, and to limit the Term of Contracts for Servitude within this Province” (Cooper, 2009). In addition to Black United Empire Loyalists, eastern Ontario towns such as Kingston also received Black refugees from the War of 1812, the American Civil war, and, post-antebellum, the celebrated underground railroad (Schultze, 2012). Although a very small proportion (five percent) of early Black refugees came to Ontario— the majority arriving in the Maritimes and Quebec pre-1815 (Magosci, 1999) – by 1860, it was estimated that between 20,000 and 75,000 loyalist and refugee Blacks were living in Upper Canada (Magosci, 1999, p. 143). One example of the role of Kingston in the route north for some African Americans is the story of the fugitive slave William ‘Jerry’ Henry. In the early 1850s, Henry was brought to Kingston in a covered wagon after escaping seizure by federal officials in Syracuse, New York. He was reported to have found work and married in Kingston, although he died two years later of tuberculosis (Hudson, 2006).

Kingston also played a role in Canadian Black legal history, producing Canada’s first Black lawyer in 1855. Robert Sutherland (c1830 – 1878) was born in Jamaica and attended Queen’s University. Sutherland was “the first known university student and graduate of colour in Canada, and British North America's first known Black lawyer” (Queen’s University, nd).
Despite Kingston’s role as a destination for refugees on the underground railroad, not much is known about Kingston’s early Black residents and there is a lack of historical research on how many families came and settled there. As Simpson aptly perceives, “Despite evidence of the early presence of Black residents and citizens in this region, Blackness is still somehow an unimaginable or surprising part of Kingston’s heritage and present reality” (2011, p.1). In contrast, much is made of Kingston’s white loyalist past. Indeed, Kingston’s economy is tied to its proud loyalist and Whig heritage, with constant reminders of the colonial past and celebration of historical institutions and buildings as part of the tourism trade. Known as the ‘limestone city’ due to the large number of heritage buildings constructed from local limestone, Kingston is a major tourist destination in eastern Ontario. Several sites in Kingston have recently been designated World Heritage Sites by UNESCO, including Fort Henry National Historic Site (Parks Canada, 2009). The city is characterized by its historic institutions: Queen’s University, the Royal Military College, and the Kingston Penitentiary. According to Preston (1976) “Loyalists gave conservative characteristics [to Kingston] that have endured to this day. Kingston was in one respect unique among Canadian towns. In no other place were both military and university influences so important because in no other place did they both feature so large proportionately” (p.119).

The Kingston Police Service is similarly proud of its colonial heritage. The Service claims to be one of the oldest police organizations in Canada, with its origins coinciding with Kingston’s brief stint as the capital city of the United Canadas in 1841 (Kingston Police Service, 2006.). The organization was created by the Common Council of Kingston on December 20, 1841: "... for the preservation of good order and the public morals therein..." (ibid). The new paid police force consisted of a Chief Constable and four sub-constables. The Kingston Police suggest that the force was itself shaped by the city’s colonial institutions and continues to be today:

Kingston is unique in Canada in that it is now and has been almost from the beginning a garrison town, a university town, and a penitentiary town. These institutions have in some respects served to shape the police force, as well as the community. Because of the demands placed on it by Kingston's unique demography, the Kingston Police have often had to deal with major incidents not common in municipalities of comparable size. By

30For example, public building names such as the Kingston Frontenac Public Library, and cultural institutions such as two daily newspapers – titled ‘the Whig-Standard’ and the ‘Kingston Heritage’—summon the French and British colonial past into everyday life.
way of example, on August 15, 1954, Kingston’s police were called out when 200 of the almost 1,000 inmates in Kingston Penitentiary rioted and set fire to the old prison. The fires resulted in the burning of the central dome, which later had to be replaced by a flat roof. On this occasion, the entire police force was called in to surround the prison to prevent a possible mass escape. (Kingston Police Service, 2006)

By 2011, the Kingston Police Service comprised 198 officers and 60 civilian members. In that year, KPS responded to 41,911 calls for service and had an operating budget of $31.5 million (KPS, 2012) The current mission statement of the organization reflects the importance of the tourist trade: “The Kingston Police endeavour to enhance safety and to protect the quality of life of everyone in the city of Kingston, whether resident, worker, or visitor” (KPS, 2012, p.3). As with many other organizations in Kingston, the police organization evokes the past in the present. The Kingston police ‘tag-line’ is ‘Serving our community since 1841”, which places the colonial history of Kingston firmly at the centre of the organization’s values and image. Indeed, the sub-title of the most recent Kingston Police Business Plan is “Building on 170 years of service” (KPS, 2012).

Kingston is marketed as a safe place to work, live and visit, and this image is supported by official statistics. “The Statistics Canada Juristat article “Police-Reported Crime Statistics in Canada, 2010,” reported a crime severity index for the Kingston census metropolitan area of 62.3, as compared to a national average of 82.7.” (KPS, 2012, p. 4). Similar to other police organizations in Canada, the most frequently reported crimes in Kingston are property crimes, and the organization also expends considerable resources on traffic enforcement.

The residents of Kingston are older and have higher incomes than the Canadian average. Kingston has a relatively low unemployment rate (6.2%), a high proportion of university-educated residents, and a bilingual rate higher than the national average. The proportion of the population with low incomes is lower than the average for Ontario (Statistics Canada, Neighbourhood profile, 2006 Census). The ‘visible minority’ population of Kingston is quite small, comprising only 6% (ibid). According to the 2006 Census, there are 740 people identified as Black living in Kingston. Of these, 390 are immigrants, with 190 persons from the Caribbean and 110 from countries in Africa. The remainder originate from the US (25), Europe (20), and
South America (20) (Statistics Canada, 2006).31 The majority of Black residents in Kingston are English speaking, and are employed in Public Administration and Health and Social Care industries. The Black population is highly educated, with 380 individuals holding a post-secondary qualification. The most popular field of study is social and behavioural sciences and law (Statistics Canada, 2006).

There are well worn class divisions in Kingston’s population and neighbourhoods. Peter Newman, writing in *Maclean’s* in 1962, notes: “Few cities in Canada have such a clearly marked division between the right and wrong side of the tracks.”(Newman cited in Harris, 1988, p. 59). In the 1980s, Harris conducted a study of the rise and fall of a local New Left political movement centred on tenants’ rights and the local housing crisis. He found Kingston to be highly segregated by class. Bobbi Spark, a ‘welfare mother’ and North End residents writes:

> The main street of the city, Princess Street, provides a clear definition of the ‘haves’ and ‘have nots’ residing [in Kingston]. South of Princess one finds the waterfront parks, historic buildings, suburbs, shopping facilities, university grounds, medical facilities, single-family dwellings, private clubs, expensive high rises and cultural activities. North of Princess, there is a waterfront cluttered with industrial debris, oil storage tanks, rail lines, coal piles and the city dump. The general area lacks planning, has inadequate parkland, ugly ill-fitting new apartments, sub-standard housing, less than imaginative schools, no concentrated shopping area, strip development, antiquated sewers, and generally speaking a ‘seedy’ look. (Spark, 1973, cited in Harris, 1988, p. 66).

The north end of the city is still associated with poor and ‘seedy’ neighbourhoods. In a small study of Black youth in Kingston, Simpson (2011) found the geography of Kingston to be divided along class lines in the minds of her interview subjects:

> The youth sometimes referred to "the "Heights" – a short-form for "Rideau Heights", a neighbourhood in the northern part of the city – as an area in which they sometimes experienced discomfort. With 30% of its residents living with low incomes and 32% without high school diplomas, the Heights and surrounding north-end neighbourhoods house a disproportionate share of Kingston's poor as well as the social disadvantages that attend multigenerational poverty [Kingston Community Health Centres Annual Report 09/10]. (Simpson, 2011, p. 79)

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31 N.B. numbers are census resident population estimates rounded to unit number 5.
Simpson’s study found that some areas of Kingston were seen as more dangerous than others for Black youth. A study participant, Chris, spoke of the dangers of moving through ‘the Heights’ as a young Black male:

Chris: Like my other buddy, he just moved to the Heights. He parked his car in the Heights. Nice car. He just moved to the Heights. They threw rocks through his car cause he was Black. It’s just, smashed up his whole car. You know what I mean? Just drove to the Heights, parked his car and they threw rocks all through it. So it happens. And if you make money and you’re Black? You’re definitely hated. Yeah, you get robbed, you get jumped...
Stephanie: So that’s what it’s like in the Heights. Is that what...
Chris: Oh the Heights? In the Heights, doesn’t matter if you sell drugs, you don’t have, you don’t have to be in a bad crowd to be a victim. You don’t, you know what I mean? (p. 79)

Interviewees believed that the majority of the approximately 250 Black families in Kingston lived in ‘The Heights’, Russell Street, and downtown Kingston. One respondent believed that only four Black families lived in the affluent Bayridge suburb (located 10 km to the west of the city centre), and reported experiencing racism and feeling uncomfortable visiting the area:

I went to a party in Bayridge two years ago . . . And Bayridge is the very, umm, it’s suburbs, right, so it’s very, like, very white. And we go there and me and Flow were told at the party, "No Blacks allowed. . . . So I was like, "Ok, no, no, no, it’s ok, I’ll take her home", you know what I mean? . . . [R]ight then and there we were actually not allowed to go in that party because we were Black. (Simpson, 2011, p.82)

Simpson’s research illustrates that the youth she interviewed report some experiences consistent with a racially polarized and class segregated community. However, since Harris’s study in the 1980s, there does not appear to be further academic research that addresses the issue of class, race and place in Kingston.

Despite the lack of research, anecdotal evidence points to there being a problem with racism in Kingston. Indeed, two policing incidents started a process that would see this relatively small, conservative, largely homogeneous Ontario city became the first jurisdiction in Canada to collect data on police stops and race. The incidents raised the question of whether the Kingston police were guilty of racial profiling, and raised broader questions about the relationship between the police and Kingston’s small yet long-established Black community (Closs & McKenna, 2006; McArthur, 2003a). These two incidents are described in the next section.
2.6 Background to the Kingston Data Collection Project

In March 2001, three youth sat in a parked Mercedes Benz in the West Kingston suburb of Arbour Ridge\textsuperscript{32}. The car belonged to the father of two African Canadian brothers, Mark and Andrew Wallen, aged 16 and 12 respectively. The third youth, a white female, was a friend of the boys. Police surrounded the car and ordered the boys to kneel on the ground at gunpoint. The high-risk takedown was triggered by a call from the public. “Police had been responding to a 911 call from a woman in a witness protection program who had mistaken Mark Wallen for a man who had assaulted her.” (McMahon, 2005a, p. 6).

The brothers were released soon after it became apparent that the youth were not suspects. The youth were innocent of any wrongdoing. Chief Closs apologized for the mistake. However, both boys were deeply affected by the experience, with the younger brother “sobbing and pleading” with police while having a gun pointed to his head (McArthur, 2003a, p 1). Despite the recommendation of the Kingston Police Services Board for police to receive race sensitivity training (as a result of the incident), the alleged targeting of the Wallen family by the Kingston police continued.

In March 2003, Mark Wallen was walking home from a basketball practice, near the Rideau Heights\textsuperscript{33} neighbourhood with his friend Adrian Parkes, who is also Black. A Kingston police officer, who was responding to a call from the public regarding “two men who were reportedly peering in car windows suspiciously”, stopped his cruiser and held the youth at gunpoint, eventually handcuffing them (McArthur, 2003a, p.1). According to the youth, “a police cruiser came flying down the street” and the police officer “came at them” and did not tell them why he was stopping or investigating them. They claim that the officer “acted as if he had caught the culprits as soon as he laid eyes” on them (ibid). The police officer says he pulled his gun on the youth because they did not comply quickly enough with orders to remove their hands from their

\textsuperscript{32} The neighbourhood is boundaried by Meadowbrook Park to the east and north, and Colin’s Bay penititary to the south. The area is also well-known for a large up-scale retirement village and is close to the Frontenac Mall.

\textsuperscript{33} The Kingston Police headquarters are located in the Rideau Heights neighbourhood.
pockets, and he believed that Mark Wallen’s cellphone – he was dialing his mother so that she could hear the altercation – was a gun. The officer was eventually cleared of any wrongdoing.

The incident further disillusioned Wallen, who has no criminal record and alleges that he was stopped three times by police in the previous month. The incident also spurred his mother, Donna Wallen, to bring the issue of racial targeting to the public’s attention:

"There's no doubt in my mind that they were arrested because they were Black," she said in a Whig-Standard interview with the Parkes and Wallen families. "Whenever you complain, [the police] behave as if you're making a mountain out of a molehill. I have decided that I am not going to keep quiet, because I'll be damned if I go through it again with Andrew. All the young, Black men I've talked to, they've resigned themselves to the fact that getting stopped by police is a way of life." (McArthur, 2003a, p.1)

The second incident (in March 2003) was “disastrous” for the KPS (Napier, 2005, p.4). It led to a public outcry and allegations that the police in Kingston may be practicing or engaging in racial profiling. The story was on the front-page in the local newspaper, the Kingston Whig-Standard (Duffy, 2003; McArthur, 2003; Rasbach, 2003). It has been noted that the first incident, which occurred in 2001, did not generate accusations of ‘racial profiling’ – in large part because this term had still not entered the police/citizen lexicon (Napier, 2005). However, by the time the second Kingston incident was reported in the news media in late March and early April 2003, Ontarians had already heard about police racial profiling in the city of Toronto.

In 1999, a team member of the Raptors basketball team was pulled over by Toronto Police. Dee Brown was subsequently charged with drunk driving. However, in 2002, an Ontario Superior court judge overturned Brown’s conviction, finding “there was evidence before the trial judge that required him to at least consider the allegations of racial profiling” (McMurty, quoted in Brennan, 2003). The results of the appeal were widely reported as the judge believing Brown’s claim that the police stopped him – not for his driving behavior – but because of the colour of his skin. This ruling led to a furor, with the Ontario Association of Chiefs of Police writing a protest letter to Premier Ernie Eves denying the existence of racial profiling and attacking the comments of the Crown Prosecutor in the case (Henry & Tator, 2005, p.70).

In October 2002, the Toronto Star obtained a Toronto Police Service (TPS) arrest database through a Freedom of Information Act request. Journalists at the Star analysed the data with the help of Professor Michael Friendly of York University. The results were published in an
investigative series of articles on race, crime and policing in Toronto (Rankin, 2002). The database contained charges laid from late 1996 to early 2002, and included details on over 480,000 events where an individual was arrested, and details of over 800,000 criminal and other charges (Rankin, 2002, p.A1). The Star analysis concluded that Black motorists were disproportionately ticketed for traffic stop violations, and were treated more harshly when arrested (ibid).

The Star series opened the national debate on racial profiling in Canada for the first time, although the African Canadian community in Toronto (and elsewhere such as Montreal and Halifax) had been expressing for decades their concern that the Black community is treated unfairly by the police (Tator & Henry, 2006). With the high profile Star series on police mistreatment of Black citizens by the police, the stage was set for the language of ‘racial profiling’ to be used in Kingston. In March 2003, when the second Wallen incident occurred, the debate on racial profiling in Toronto was still raging five months after the publication of the first article in the Star series. The political landscape had changed so much that the Chief of Police in Kingston felt the need to directly address allegations of racial profiling. In a series of town-hall style meetings, the Chief heard the stories and complaints about the police from ethnic minority residents and young people in Kingston (McMahon, 2004). Soon after the community meetings, Chief Closs proposed a data collection project to his police services board, and the project was approved (McArthur & Yanagisawa, 2003). The decision was a radical one.

Although the project is consistent with the type of monitoring that was implemented throughout policing organizations in the US and UK in the late 1990s and early 2000s, the decision was viewed as radical and dangerous by many in the Canadian policing community. The results of the study, published in 2005, were attacked by police leaders, politicians and some academics. The local and national responses to the decision to collect stop data in Kingston and the study itself are explored in-depth in the penultimate chapter of this dissertation. Now that I have explored the ‘why’ of the project, the next section will describe the ‘how’ of the project, with a detailed description of the methodology used for the Kingston data collection project.
2.7 Kingston Data Collection Project Methodology

The Kingston Police Service data collection project was an investigation of all stops conducted by Kingston police officers from October 1, 2003 to September 30, 2004, excluding ‘RIDE\textsuperscript{34}', stops and ‘casual’ contacts with the public. The study collected information on over 16,000 stops. The primary dataset used for analysis in this dissertation is 10,236 ‘contact cards’ completed by front-line officers of the Kingston Police Service (KPS). The secondary dataset used is 6,501 so-called Out of Vehicle (dispatcher-recorded) stops which are data generated by officers via communication to the dispatcher when officers exit their vehicle to stop or question a citizen. These stops will be referred to as ‘dispatcher-recorded’ stops.

For the 12-month period of the study (1 Oct 2003 to 30 September 2004), KPS officers were instructed to fill out a contact card every time a person was stopped and questioned in any manner. For vehicle stops, this means the driver and passenger(s) may each have had contact cards completed. For pedestrian stops, people or groups of people on foot may have had contacts cards completed when stopped in public places. Several types of police-citizen contacts did not require officers to complete a contact card, such as proactive police stops during ‘RIDE’ operations, and ‘casual contacts’ defined as “an interaction with a citizen who is not suspected of wrongdoing and does not involve interrogative techniques that are accusative in nature” (Napier 2005, p. 7).

The study, then, includes vehicle and pedestrian stops of a formal or interrogative nature, where police have stopped and questioned a person for a violation, infraction, intelligence purposes, or suspicious circumstances. The contact cards include the following information: contact date; police patrol zone (where the stop occurred); badge number of the officer; the location of the stop, such as the nearest intersection or address; name, date of birth, and address of person stopped; ethnicity (race); legal justification (reason) for the stop; disposition (outcome); personal characteristics such as sex, complexion, height, weight and hair colour; vehicle information (and whether a pedestrian stop); and an free-text field for remarks.

\textsuperscript{34} Municipal police organizations in Ontario and the Ontario Provincial Police conduct roadside spotchecks for impaired driving under the RIDE program (Reduce Impaired Driving Everywhere), funded by the Ministry of the Solicitor General (Ministry of Public Safety and Security, 2001).
The primary dataset used in the analysis for this report are the ‘contact cards’ completed by front-line officers of the Kingston Police Service (KPS). The contact cards were submitted by officers at the end of each shift and reviewed by the staff sergeant on duty. The cards were sent to the intelligence section where they were reviewed for intelligence information. Then the cards were sent to a clerk for data entry into the Kingston Police computer system. It is worth noting that one person was responsible for all the data entry during the study period, minimizing some of the inconsistencies in coding or other concerns that may arise when there are multiple clerks entering data. The electronic database containing the contact card information was manipulated into an SPSS-readable dataset by R. Lonsdale of the KPS.

A secondary source of data for this study was dispatcher-recorded stops. When officers on general patrol decide to make a vehicle or pedestrian stop, they press the ‘Out of Vehicle’ button on the mobile data terminal (MDT) to let the dispatcher know they will be out of their vehicle. This is a requirement for officer safety; the dispatcher must be notified when officers exit their vehicle. When the stop has been concluded they will let the dispatcher know they are back in the vehicle, and will submit further information on the stop via the MDT, such as the race of the person stopped, reason for stop, and disposition (outcome). Officers may also choose to fill in a contact card for dispatcher-recorded stops, but as we will see, many dispatcher-recorded stops did not have corresponding contact cards. The dispatcher-recorded stop dataset is another source of information about police-citizen contacts in Kingston, and I have used it to supplement contact card information. It was thought that the best way to use dispatcher-recorded stop data would be to merge the dispatcher-recorded data with the contact card data, because it would broaden the scope of police activity analyzed in the study. Dispatcher-recorded stops are limited because they do not include the age and other important details. Further, there is no information available as to why a contact card was not completed for the stop.

The merged dataset (contact cards and stops) was further cleaned by deleting duplicate records. This step has been recommended by Fridell (2004, p.60) and others in order to eliminate multiple entries in a database for a single incident. The researchers identified duplicates in the following manner: if two or more stops occurred on the same date, time and location and involved the same officer, citizen and disposition, then all but one record was deleted. The record with the most detailed information (usually a contact card record) was retained.
In sum, there are two datasets used in this study; the contact card-only dataset (n=10,236), and the merged dataset (n=16,737). The contact card dataset has the most detailed information and is used when variables such as age and gender are analyzed. The merged dataset is used when the analysis is limited to race and several other variables, including type of stop and reason for stop.

The Kingston dataset has some unique features. First, it includes both (and distinguishes between) data on pedestrian and vehicle stops. Most studies only analyze vehicle stops (with a small number of studies on ‘stop and frisk’ pedestrian stops). A convincing case can be made of the importance of this generally overlooked aspect of data on racial profiling. For instance, pedestrians are more likely to be from one of the groups most vulnerable to police attention – youth, the homeless, low income and other marginalized groups. Pedestrian stops by definition cannot be ‘colour-blind’ because police are likely to know the race of a person on foot before initiating the stop. Pedestrian stops comprise a larger portion of police activity in urban jurisdictions, and are therefore more representative of police activities – and “population experience” (Miller, 2010) – than traffic stops alone. Pedestrian stops are at least as intrusive as traffic stops; perhaps more intrusive in some circumstances. The experience of being stopped on foot by police will have profound impacts on the population being targeted (Shedd, 2012).

Pedestrian stops seem more likely to result in intrusive physical contact than vehicle stops, for example, the practice of ‘Stop and Frisk’ of pedestrians in New York City is more intrusive than a typical traffic stop, and in a study of young Black men, Brunson and Weitzer (2008) reported “Police stops of our respondents [on foot] were often associated with some type of bodily contact (i.e., rifling through pockets, restraining action, and forcibly undressing suspects)” (p 14).

Pedestrians are more likely to be residents of the area they are stopped in than motorists. In sum, pedestrian stop data could provide insight into the prevalence and impact of racial profiling and may make the use of census benchmarking more supportable.

Second, the Kingston dataset includes the place of residence and address of the person stopped. This means that the analysis can be refined from all people stopped to only residents stopped. This refinement answers a major criticism of racial profiling studies: that people stopped on highways are not necessarily residents of the area in which they are stopped, and therefore census data are an inadequate benchmark for calculating stop rates (Farrell & McDevitt, 2010).
Third, the database provides two units of analysis: 1) the count of police *stops* (which is the standard unit of analysis for most studies) and 2) the count of *individuals* stopped by police. Since an individual can be stopped more than once in a given period, this innovation is an important analytical distinction rarely made. The Kingston database provides two units or levels of analysis because for each person stopped there is a unique identifier. The analysis of individuals (rather than stops) addresses a criticism of previous racial profiling studies, which argue that individuals who are stopped multiple times (i.e. repeat ‘customers’) can skew the stop rates, especially for smaller ethnic groups (Bostaph, 2008). The inclusion of the unique identifier for each person means that the dissertation can refine the unit of analysis to persons stopped by police.

The datasets were cleaned (manually checked) before use. The accuracy of the coding for race on the contact cards was checked manually. The researchers checked whether the race written on the contact cards matched what was entered into the police database system (in the form of a spreadsheet). This cleaning was done manually – that is, the researchers took the paper contact cards and looked up the electronic record for the contact card, and compared the race indicated on the form to the race information contained in the database. This was done for all the ‘minority’ contact cards, i.e. cards for which the officer checked a minority ethnic group box. This cleaning was also done at random for every seventh contact card in which the race was designated as ‘white’. The researchers found over 160 miscoded cards, where the race of the person on the contact card was not entered correctly into the database. In these instances, the researchers changed the electronic race record to correspond to the officer’s written information. For example, if a contact card identified a person as ‘Black’, but the corresponding record in the database identified that person as ‘white’, the researchers changed the race field in the database from ‘white’ to ‘Black’ (there were no instances found of a person reported as white on the contact card being miscoded as a minority in the database). The researchers kept a record of all the changes they made. The logic of this cleaning process was to correct any data-entry errors that may have occurred, as well as to give priority to the officer’s perception of the race/ethnicity of the person stopped, as reflected on the paper contact card. The cleaned and merged data set shows that the vast majority of stops, 93.2%, were stops of whites. Race data were missing for 211 stops, or 1.3% of all stops.
Finally, all the missing data for police patrol zone was manually checked and recoded; that is, when zone data were missing, the location of the stop, if available, was manually coded to a patrol zone using Google Maps. This recoding process left only 2.8% (n=465) of all stops (n=16,737) missing zone data.

This chapter has provided an overview of the origins and debates on race and the criminal justice system, the main research findings and methodological issues in the current literature on racial profiling, and an introduction to the Kingston Data Collection Project.

The next chapter provides an analysis of racial difference in stop rates in Kingston, Ontario during the study period. It will become clear that while the methodology of the Kingston study is not without flaws, many of the main criticisms of racial profiling research have been addressed in the analysis to follow.
Chapter 3: Police Stops in Kingston, Ontario

3.1 Introduction

The previous chapter demonstrated that while there is some qualitative and survey research that addresses the question of racial profiling in Canada, there is a paucity of official data that can shed light on claims by community groups that racial profiling exists. The previous chapter also outlined the background and design of the present study, which uses official police-reported data of stops in Kingston, Ontario to investigate the concept of biased policing. This chapter tests for racial differences in stop rates and likelihood of being stopped in Kingston from October 2003 to September 2004. This chapter answers the following research questions:

i. Are racial minorities stopped proportionately more (at higher rates) by police than whites in Kingston?

ii. Do racial differences in police stops in Kingston persist after controlling for pedestrian stops, non-resident stops, and ‘repeat offenders’ (i.e. individuals stopped on multiple occasions), as well as demographic factors?

The analysis of stops in this first data chapter uses two main measures to answer the research questions: stop rates per 1,000 resident population, and the odds ratio (likelihood) of being stopped. Both measures are calculated, or ‘benchmarked’, using resident census population (for recent examples and discussion of the use of resident population, see Gaines, 2006; McDevitt, 2008; Miller, 2010; Scheb et al 2009.). As discussed in the previous chapter, a census benchmark is the measure against which the number of stops is compared, in order to assess whether there is disparity in the number of stops for certain groups, given their distribution in the resident population (Cordner, Williams & Velasco, 2002; Engel, Calnon & Bernard, 2002). According to Liederbach et al (2007), many argue that “aggregate-level disparities provide clear evidence of profiling” (p.103). Others argue that disparity itself is not enough to ‘prove’ racial profiling (Lange, 2005; Meehan & Ponder 2002; Wortley & Tanner 2004).

The present study uses both unadjusted and adjusted census benchmarking (Ramirez, McDevitt & Farrell, 2000) to measure aggregate levels of disparity, that is, by comparing stop rates and odds ratios for different ethnic groups. As explained earlier, studies that have used only
unadjusted census counts to benchmark traffic stops have been heavily criticized. The present study attempts to refine the use of census benchmarking by, for example, adjusting for age and resident status of people stopped. Census data for the Kingston census metropolitan area (CMA) as well as Kingston City census sub-division (CSD) were obtained through standard product tables on the Statistics Canada website, as well as custom tables from E-Stat. Population counts by visible minority status, population group, aboriginal origin, age, sex, and census tract were obtained for both 2001 and 2006.

3.1.1 Interpolation of Census Data

The Kingston stop data were collected in 2003 and 2004. Therefore, it was felt that population counts should be interpolated for 2004. This was done by subtracting the 2001 census figures from the 2006 census counts, multiplying the difference by 0.6, and adding this to the 2001 count. The logic behind the interpolation is that the 2001 counts for ethnic minorities may be too low (resulting in large disparities in the stop rates), but that the 2006 counts are too high (thereby underestimating disparity in stops for minorities). Thus, the interpolation method estimates the resident population in 2004, approximately three-fifths ‘distance’ between 2001 and 2006. Interpolation calculations were done separately for each racial group.

3.2 Stops of ‘Visible minorities’ in Kingston

“Visible Minority” is a measure of the racial minority population that has been developed by the Canadian federal government for use in the Employment Equity Act. Statistics Canada regularly publishes projections of the increase in the visible minority population of Canada (Statistics Canada, 2012). The Employment Equity Act defines visible minorities as "persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour" (1995, c44). The visible minority population consists mainly of the following groups: Chinese, South Asian, Black, Arab, West Asian, Filipino, Southeast Asian, Latin American, Japanese and Korean. According to Statistics Canada “[a]n estimated 5,068,100 individuals were members of the visible minority population. They represented 16.2% of the total population of Canada in 2006, up from 13.4% in 2001 (Statistics Canada, 2009). The term appears to be a Canadian invention; no other country uses this terminology.
The stop rate is calculated by dividing the number of stops recorded for a particular racial group by the 2004 population estimate for that group and then multiplying by 1,000. In Kingston during the study period, the stop rate for visible minorities (which excludes Aboriginal peoples) is 110 stops per 1,000 population (Table 3.1). The stop rate is calculated using the interpolated census data for the denominator, and the count of stops or individuals for the numerator, and expressed as a rate per 1,000 population. The stop rate for whites, however, is higher with 114 stops per 1,000 population.

**Table 3.1 Stop Rate per 1,000 population by Visible Minority (Merged Database)**

<table>
<thead>
<tr>
<th></th>
<th>Police Stops</th>
<th>Kingston CMA estimated population, 2004</th>
<th>Stop Rate per 1,000 population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Visible Minority35</td>
<td>882</td>
<td>7959</td>
<td>110.8</td>
</tr>
<tr>
<td>White</td>
<td>15489</td>
<td>135643</td>
<td>114.2</td>
</tr>
<tr>
<td>Total</td>
<td>16371</td>
<td>143602</td>
<td>114.0</td>
</tr>
</tbody>
</table>

Visible minority stop rates show near parity with whites. Similarly, the odds of visible minorities being stopped by police in Kingston during the study period were near equal to the odds for whites (an odds ratio of 0.97 compared to 1.0.). The odds ratio is calculated by dividing the percentage of all stops involving a particular racial group with the percentage of that racial group in the benchmark population. Lamberth (2004) argues that an odds ratio of between 1.01 and 1.5 should be considered benign. He goes on to suggest that an odds ratio of between 1.5 and 1.99 should be viewed as possible evidence of racially biased policing. However, Lamberth argues that an odds ratio of 2.00 or more should be seen as serious evidence that racially biased policing may exist (Lamberth, 2004, see also Lamberth 1996, 2013). Other studies that use odds ratios as a measure of disparity include McDevitt (2008) and Alpert (2007).

---

35 Excludes Aboriginal (Employment Equity Act, 1995).
Table 3.2 Odds Ratio (of being stopped) by Visible Minority, Kingston CMA (Merged Database)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Visible Minority</td>
<td>882</td>
<td>5.4%</td>
<td>7959</td>
<td>5.5%</td>
<td>0.97</td>
</tr>
<tr>
<td>White</td>
<td>15489</td>
<td>94.6%</td>
<td>135643</td>
<td>94.5%</td>
<td>1.00</td>
</tr>
<tr>
<td>Total</td>
<td>16371</td>
<td>100%</td>
<td>143603</td>
<td>100%</td>
<td>1.00</td>
</tr>
</tbody>
</table>

The aggregate category of ‘visible minority’ produces a result that on the surface seems inconsistent with other research on racial differences in policing. As we have seen, most studies in the U.S. and the U.K have found that ethnic minorities have disproportionately high contact with police compared to whites. The visible minority measure also seems to contradict existing racial profiling research in Canada, and seems to disprove the anecdotal and testimonial evidence of the literature review.

3.3 Stops of all racial groups in Kingston

When all the ethnic groups that make up ‘Visible Minority’ are disaggregated, however, a very different picture emerges. The following table (Table 3.3) presents stop rates for all eight ethno-racial groups in the study: Aboriginal, Arab, Asian, Black, Hispanic/Latino, South Asian, white and ‘Other’. The groups are listed in alphabetical order in all the tables.
Table 3.3 presents the stop rate per 1,000 for all stops using the estimated Kingston CMA population. The table reveals that several groups are stopped at a lower rate than whites – including Aboriginals, Asians, Arabs and Hispanics. South Asians, on the other hand, are stopped at approximately the same rate. Finally, the data clearly demonstrate that Kingston’s Black population has a police stop rate that is substantially higher (287.4 per 1,000) than the rate for whites (114.2 per 1,000).

The stop rate for Blacks in Kingston is the highest for any group in the study: more than double the rate for whites. The Black stop rate is very high despite the small number of stops by police. In fact, when all contact cards and dispatcher-recorded stops 36 are tallied, only 304 police stops involved a Black person. The Black population of Kingston, however, is so small, these stop figures translate into very high stop rates and odds ratios. The second-highest rate was the South Asian stop rate (120.7 per 1,000), which was only slightly higher than the stop rate for whites (114.2 per 1,000). (Table 3.3).

---

36 Dispatcher-recorded stops refers to ‘Out-of-vehicle’ stops: please see discussion of the two sets of data used in the Kingston study in section 2.7.
Table 3.4 presents the likelihood (odds ratio) of being stopped for each group. Aboriginals, Asians, Hispanics, Arabs and Other ethnic groups had a lower chance of being stopped than whites. While South Asians have a slightly higher chance of being stopped than whites (1.06 versus 1.01) the real difference is for Blacks (2.53), more than double that for whites in Kingston at the time of the study.

Table 3.4 Odds Ratio (of being stopped) by Race, Kingston CMA (Merged Database)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>245</td>
<td>1.5%</td>
<td>2921</td>
<td>2.0%</td>
<td>0.74</td>
</tr>
<tr>
<td>Arab</td>
<td>49</td>
<td>0.3%</td>
<td>606</td>
<td>0.4%</td>
<td>0.71</td>
</tr>
<tr>
<td>Asian</td>
<td>210</td>
<td>1.3%</td>
<td>3079</td>
<td>2.1%</td>
<td>0.60</td>
</tr>
<tr>
<td>Black</td>
<td>304</td>
<td>1.8%</td>
<td>1058</td>
<td>0.7%</td>
<td>2.53</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>48</td>
<td>0.3%</td>
<td>703</td>
<td>0.5%</td>
<td>0.60</td>
</tr>
<tr>
<td>South Asian</td>
<td>205</td>
<td>1.2%</td>
<td>1698</td>
<td>1.2%</td>
<td>1.06</td>
</tr>
<tr>
<td>White</td>
<td>15489</td>
<td>93.2%</td>
<td>135643</td>
<td>92.6%</td>
<td>1.01</td>
</tr>
<tr>
<td>Other</td>
<td>66</td>
<td>0.4%</td>
<td>816</td>
<td>0.6%</td>
<td>0.71</td>
</tr>
<tr>
<td>Total</td>
<td>16616</td>
<td>100.0%</td>
<td>146534</td>
<td>100.0%</td>
<td>1.00</td>
</tr>
</tbody>
</table>

A criticism of the analysis so far is that the CMA benchmark has been used. Critics could argue that the Census Metropolitan Area for Kingston includes the surrounding suburban and rural population that would be unlikely to be present in Kingston City, where most stops take place. To address this concern, the next table is benchmarked using census data for the geographic area of Kingston City, which is a smaller area than the Kingston CMA. The City’s population is 22 percent less than the CMA: 113,042 and 146,534, respectively.
Table 3.5 Stop rate per 1,000 population, by Racial Group, Kingston City (Merged Database)

<table>
<thead>
<tr>
<th></th>
<th>Police Stops</th>
<th>Kingston City estimated population, 2004</th>
<th>Stop Rate per 1,000 population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>245</td>
<td>2158</td>
<td>113.5</td>
</tr>
<tr>
<td>Arab</td>
<td>49</td>
<td>606</td>
<td>80.9</td>
</tr>
<tr>
<td>Asian</td>
<td>210</td>
<td>2944</td>
<td>71.3</td>
</tr>
<tr>
<td>Black</td>
<td>304</td>
<td>913</td>
<td>333.1</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>48</td>
<td>671</td>
<td>71.5</td>
</tr>
<tr>
<td>South Asian</td>
<td>205</td>
<td>1621</td>
<td>126.4</td>
</tr>
<tr>
<td>White</td>
<td>15489</td>
<td>103367</td>
<td>149.8</td>
</tr>
<tr>
<td>Other</td>
<td>66</td>
<td>757</td>
<td>87.1</td>
</tr>
<tr>
<td>Total</td>
<td>16616</td>
<td>113042</td>
<td>147.0</td>
</tr>
</tbody>
</table>

For Aboriginals, the stop rate changes considerably when the benchmark is changed from CMA to City data. This is because there are relatively large numbers of self-identified First Nations people living outside the Kingston City boundary, but within the Kingston CMA. These include a small non-status First Nations community in and around Sharbot Lake, north of Kingston near Frontenac Provincial Park (Lawrence, 2012). While the Aboriginal stop rate is relatively low using the CMA benchmark 83.9 per 1,000 (Table 3.3), it increases to 113.5 per 1,000 when Kingston City population data are used to calculate the stop rate (Table 3.5) The Aboriginal stop rate of 113.5 is still well below the overall total stop rate of 147 per 1,000 for Kingston City, therefore, the aggregate data for stops, whether using CMA or City population data suggest that Aboriginals are less likely to be stopped on average than other groups.

The stop rate for the Black population in Kingston also increases when the benchmark is changed. While the Black stop rate reported for the CMA benchmark in Table 3.3 was 287.4 per 1,000, the stop rate for the City benchmark is considerably higher at 333.1 per 1,000 population. This is more than double the stop rate for whites and the total population – 149.8 and 147.0 respectively (Table 3.5). The Black stop rate remains the highest stop rate for any group, and is preliminary evidence of race disparity in police stops in Kingston.
A comparison of the CMA and City benchmarked stop rates (Table 3.3 and Table 3.5 respectively) reveals that the stop rate for Asians is almost unchanged, and Asians have a much lower stop rate than whites, Aboriginals, or Blacks. South Asians are stopped at a higher rate than whites using the CMA benchmark (120.7 compared to 114.2 per 1,000), but this is reversed when the City benchmark is used; South Asians (126.4 per 1,000) are stopped at a lower rate than whites (149.9 per 1,000). This occurs even though the stop rate for South Asians only increases by 6 points using the City benchmark instead of the CMA benchmark (from 120.7 per 1,000 to 126.4 per 1,000). The stop rates for Hispanics and Arabs remains low for both groups regardless of the geographic benchmark (see Table 3.3 and Table 3.5). There is also little difference in the stop rates for the ‘Other’ group for either the CMA or City benchmarks. Hispanics, Arabs and Other have much lower stop rates than whites and the total stop rate. The next table re-calculates the likelihood of stops (odds ratios) for all ethnic groups using the Kingston City census data\textsuperscript{37}.

\textsuperscript{37} All tables from this point forward use census data for the geographic area of Kingston City (as opposed to the larger geographic area of Kingston CMA). This seems appropriate because the City geographic boundary is closer to the area covered by Kingston Police patrol zones. This analysis has also shown that the use of the City boundary does not fundamentally change the over-representation of Black citizens in stops, nor does it wildly inflate the Black or Aboriginal stop rate.
Table 3.6 Odds Ratio (of being stopped) by Race, Kingston City (Merged Database)

<table>
<thead>
<tr>
<th></th>
<th>Police Stops (N)</th>
<th>Police Stops (%)</th>
<th>Kingston City Estimated Population (N) 2004</th>
<th>Kingston City Estimated Population (%) 2004</th>
<th>Odds Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>245</td>
<td>1.5%</td>
<td>2158</td>
<td>1.9%</td>
<td>0.77</td>
</tr>
<tr>
<td>Arab</td>
<td>49</td>
<td>0.3%</td>
<td>606</td>
<td>0.5%</td>
<td>0.55</td>
</tr>
<tr>
<td>Asian</td>
<td>210</td>
<td>1.3%</td>
<td>2944</td>
<td>2.6%</td>
<td>0.49</td>
</tr>
<tr>
<td>Black</td>
<td>304</td>
<td>1.8%</td>
<td>913</td>
<td>0.8%</td>
<td>2.27</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>48</td>
<td>0.3%</td>
<td>671</td>
<td>0.6%</td>
<td>0.49</td>
</tr>
<tr>
<td>South Asian</td>
<td>205</td>
<td>1.2%</td>
<td>1621</td>
<td>1.4%</td>
<td>0.86</td>
</tr>
<tr>
<td>White</td>
<td>15489</td>
<td>93.2%</td>
<td>103367</td>
<td>91.4%</td>
<td>1.02</td>
</tr>
<tr>
<td>Other</td>
<td>66</td>
<td>0.4%</td>
<td>757</td>
<td>0.7%</td>
<td>0.59</td>
</tr>
<tr>
<td>Total</td>
<td>16616</td>
<td>100.0%</td>
<td>113042</td>
<td>100.0%</td>
<td>1.00</td>
</tr>
</tbody>
</table>

The odds of Aboriginal people being stopped do not vary with the geographic benchmark – the odds of 0.74 (Table 3.4) and 0.77 (Table 3.6) are very similar, and show that Aboriginal people have a lower chance of being stopped compared to whites (1.01). In other words, little difference in the odds of Aboriginals being stopped is found whether the CMA or City benchmark is used.

The odds of Black people in Kingston being stopped do not vary much according to the geographic benchmark. Table 3.6 indicates that the odds of a Black person being stopped are 2.27, compared to 1.02 for whites using the City benchmark. However, the odds ratio for being stopped actually increases for Blacks using the CMA benchmark: 2.53 for Blacks, and is high compared to 1.01 for whites (Table 3.4). Whether the CMA or City census areas are used, stop rates and odds ratios for Blacks are higher than all other ethnic groups included in the study.

The odds of Asians being stopped by Kingston police in the study period are slightly reduced using the City benchmark: from 0.60 to 0.49 (Table 3.4 and Table 3.6 respectively). This means Asians are about half as likely to be stopped by police than whites (1.01). Asians and Hispanics are the groups least likely to be stopped by Kingston police, regardless of the geographic benchmark used. While South Asians have a similar odds (1.06) of being stopped compared to whites (1.01) using the CMA benchmark, these odds are reduced when the City benchmark is
used (80.6, Table 3.6). Finally, Arabs and Other ethnic groups have slightly reduced odds of being stopped when the City benchmark is used in place of the CMA benchmark. Both groups have almost half the likelihood of being stopped (0.55, 0.59) compared to whites (1.02) during the study period (Table 3.6).

3.4 Stops of Pedestrians and Motorists

In the analysis thus far the evidence of racial disparity for some racial groups has been based on data on all stops – pedestrian and vehicle – combined. One argument that is leveled against traffic stop data is that the race of the driver may not be known to a police officer until after a traffic stop takes place (Grogger & Ridgeway, 2006). In other words, the race of the driver may be hidden by certain factors such as low light, windscreen, etc. The argument is that police cannot be held accountable for racial disparities in stops if the race of the person stopped is unknown. A unique feature of the Kingston dataset is that two types of stops were recorded – stops involving vehicles and stops of pedestrians. In fact, stops of pedestrians comprise the majority of contact cards in the present study (63.9%). It makes intuitive sense, at least, that most police would know the race of a pedestrian before the pedestrian stopped. Therefore, if race disparity exists in pedestrian stops, there is arguably a more sound basis for failing to reject the null hypothesis (that no evidence of bias exists). Little is known about stop rates of pedestrians compared to motorists. Most US studies utilize traffic stop data, and UK search data are rarely disaggregated or compare stops on foot with those in vehicles. However, the Kingston data indicate that there are race differences in type of stop. Table 3.7 presents the odds of being stopped for pedestrians and motorists separately by race, for the Kingston City census benchmark. The dispatcher-recorded database did not contain any information on whether a stop involved a vehicle or a pedestrian, and thus the merged database cannot be used. Therefore Table 3.7 is calculated using the contact cards database only.
Table 3.7 Odds Ratio (of being stopped) by Race and by Pedestrian and Traffic Stops, Kingston City, Contact Cards Only

<table>
<thead>
<tr>
<th></th>
<th>Pedestrian</th>
<th></th>
<th></th>
<th>Traffic Stops</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Stops % (n)</td>
<td>(n)</td>
<td>38</td>
<td>(n)</td>
<td>(n)</td>
<td></td>
</tr>
<tr>
<td>Aboriginal</td>
<td>3.2% (205)</td>
<td>1.9% (2157)</td>
<td>1.68</td>
<td>0.4% (18)</td>
<td>1.9% (2157)</td>
<td>0.21</td>
</tr>
<tr>
<td>Arab</td>
<td>0.3% (21)</td>
<td>0.5% (606)</td>
<td>0.60</td>
<td>0.7% (24)</td>
<td>0.5% (606)</td>
<td>1.40</td>
</tr>
<tr>
<td>Asian</td>
<td>1.0% (62)</td>
<td>2.6% (2944)</td>
<td>0.38</td>
<td>1.1% (42)</td>
<td>2.6% (2944)</td>
<td>0.42</td>
</tr>
<tr>
<td>Black</td>
<td>2.1% (138)</td>
<td>0.8% (912)</td>
<td>2.63</td>
<td>2.2% (81)</td>
<td>0.8% (912)</td>
<td>2.75</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>0.4% (28)</td>
<td>0.6% (670)</td>
<td>0.67</td>
<td>0.5% (18)</td>
<td>0.6% (670)</td>
<td>0.83</td>
</tr>
<tr>
<td>South Asian</td>
<td>0.6% (41)</td>
<td>1.4% (1621)</td>
<td>0.43</td>
<td>1.3% (47)</td>
<td>1.4% (1621)</td>
<td>0.93</td>
</tr>
<tr>
<td>White</td>
<td>92.1% (5945)</td>
<td>91.4% (103366)</td>
<td>1.01</td>
<td>93.4% (3417)</td>
<td>91.4% (103366)</td>
<td>1.02</td>
</tr>
<tr>
<td>Other</td>
<td>0.3% (17)</td>
<td>0.7% (757)</td>
<td>0.43</td>
<td>0.3% (11)</td>
<td>0.7% (757)</td>
<td>0.43</td>
</tr>
<tr>
<td>Total</td>
<td>100% (6547)</td>
<td>100% (113041)</td>
<td>1.00</td>
<td>100% (3658)</td>
<td>100% (113041)</td>
<td>1.00</td>
</tr>
</tbody>
</table>

Very few Aboriginal peoples were stopped in motor vehicles by police in Kingston during the study period (n=18). A much larger number were stopped on foot (n=205). The above table illustrates that the odds of Aboriginals on foot being stopped (1.68) is much higher than for Aboriginals in motor vehicles (0.21). In other words, aboriginal motorists have a much lower risk of being stopped than aboriginal pedestrians. Aboriginal motorists (0.21) are also much less at risk of being stopped than white motorists (1.02). However, Aboriginal pedestrians (1.68) are at a greater risk of being stopped than white pedestrians (1.01).

The odds of a Black pedestrian being stopped is high (2.63) and comparable to the odds of a Black motorists being stopped (2.75, Table 3.7). No other racial group in the study has high odds of being stopped as both a pedestrian and a motorist; the odds ratios for all the other groups

---

38 Percent stops divided by percent population.
are well under Lamberth’s (1996, 2004, 2013) ‘benign’ threshold of 1.5 (with the exception of Aboriginal pedestrians).

Table 3.7 also confirms Asians in Kingston during the study period had very low chances of being stopped by police, either as pedestrians (0.38) or as motorists (0.42). Disaggregating police stops by traffic and pedestrian stops for Arabs, South Asians and Hispanics reveals that Arabs are the second most likely group at risk of being stopped in a motor vehicle, after Blacks. The odds ratio for traffic stops for Arabs is 1.4, just below the threshold of disparity (ibid). For South Asians and Hispanics, the odds ratios show they are less likely than average to be stopped in a motor vehicle (odds ratios of 0.83 and 0.93 respectively). The likelihood of these three groups being stopped as pedestrians is very low. For example, South Asians are twice as likely to be stopped as motorists than as pedestrians (an odds ratio of 0.93 compared to 0.43). This may suggest that South Asians, (especially males, as will be shown), in vehicles are of more interest to the police than those on foot. The odds of Other ethnic groups being stopped in vehicles or on foot is the same (0.43), and more than half as likely as stops of whites in vehicles or on foot (Table 3.7).

3.5 Stops of Residents of Kingston

So far this analysis has used unadjusted census benchmarking to calculate stop rates and odds ratios by race and type of stop. Much criticism of unadjusted census benchmarking has emerged in the racial profiling literature in recent years (see benchmarking discussion in section 2.4.4.3.1). The main criticism of unadjusted census benchmarking is that the census only provides a count of residents in any given jurisdiction. This is problematic because police stops will include any number of non-residents that are visiting or travelling through a jurisdiction. It is therefore inappropriate, it is argued, to use a count of residents to benchmark a count of stops that may include a variety of non-residents (Tillyer et al., 2010). Kingston is located on the Provincial Highway 401 (the Macdonald-Cartier Freeway), the longest and busiest 400-series highway in Ontario and Canada. Historic Kingston town, with its beautiful limestone Classical Revival civic architecture, and historic attractions such as the early 19th century Fort Henry, is a tourist destination for people all around the world. It has also been argued that many Black motorists and pedestrians stopped in Kingston could hail from a nearby U.S. army training
facility, or could be students attending Queen’s University\textsuperscript{39} or local community college, or perhaps out-of-towners visiting family in the Kingston Penitentiary. Importantly, the Kingston data allow researchers to address the ‘non-residents’ issue in census benchmarking. The study contact cards provided information on the address of the stopped person (dispatcher-recorded stops did not contain any information on the address of the person stopped). Therefore, each stop in the contact cards dataset is coded as either a ‘resident’ or ‘non-resident’ stop. Table 3.8 (below) presents the contact card data by race and resident status. The table indicates that the vast majority (83.3%, \(n=8256\)) of stops in the contact card database were stops of residents of Kingston. One sixth of the contact card stops were of non-residents (16.7%, \(n=1,659\)).

\textsuperscript{39} During the study period (2003 -2004) Queen’s University was under fire for its reputation as a bastion of white privilege (Brown, 2006). The Queen’s student body was perceived as ethno-racially homogenous and the university hostile to faculty of colour. Incidents such as the resignation of six ethnic minority professors and white students wearing ‘Blackface’ to pubs prompted The Henry Report, a critical investigation into systemic racism towards ethnic minority and aboriginal faculty (Henry, 2004). Further, ninety-five percent of Queen’s students are non-residents of Kingston (Queen’s Quick Facts, 2013). The student population of over 20,000 is therefore likely to inflate the number of non-resident youths stopped by police during the study period. However, it is unlikely to substantially affect the number of stops of Black people in Kingston or the number of stops of residents of Kingston.
Table 3.8 Stops by Race and Residence (Contact Cards only)

<table>
<thead>
<tr>
<th>Race</th>
<th>Count</th>
<th>Kingston Resident</th>
<th>Not Kingston Resident</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Count</td>
<td>199</td>
<td>18</td>
<td>217</td>
<td></td>
</tr>
<tr>
<td>% within Race</td>
<td>91.7%</td>
<td>8.3%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>% within Residents</td>
<td>2.4%</td>
<td>1.1%</td>
<td>2.2%</td>
<td></td>
</tr>
<tr>
<td>Arab</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Count</td>
<td>37</td>
<td>6</td>
<td>43</td>
<td></td>
</tr>
<tr>
<td>% within Race</td>
<td>86.0%</td>
<td>14.0%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>% within Residents</td>
<td>.4%</td>
<td>.4%</td>
<td>.4%</td>
<td></td>
</tr>
<tr>
<td>Asian</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Count</td>
<td>85</td>
<td>15</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>% within Race</td>
<td>85.0%</td>
<td>15.0%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>% within Residents</td>
<td>1.0%</td>
<td>.9%</td>
<td>1.0%</td>
<td></td>
</tr>
<tr>
<td>Black</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Count</td>
<td>162</td>
<td>44</td>
<td>206</td>
<td></td>
</tr>
<tr>
<td>% within Race</td>
<td>78.6%</td>
<td>21.4%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>% within Residents</td>
<td>2.0%</td>
<td>2.7%</td>
<td>2.1%</td>
<td></td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Count</td>
<td>36</td>
<td>9</td>
<td>45</td>
<td></td>
</tr>
<tr>
<td>% within Race</td>
<td>80.0%</td>
<td>20.0%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>% within Residents</td>
<td>.4%</td>
<td>.5%</td>
<td>.5%</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Count</td>
<td>23</td>
<td>2</td>
<td>25</td>
<td></td>
</tr>
<tr>
<td>% within Race</td>
<td>92.0%</td>
<td>8.0%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>% within Residents</td>
<td>.3%</td>
<td>.1%</td>
<td>.3%</td>
<td></td>
</tr>
<tr>
<td>South Asian</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Count</td>
<td>67</td>
<td>20</td>
<td>87</td>
<td></td>
</tr>
<tr>
<td>% within Race</td>
<td>77.0%</td>
<td>23.0%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>% within Residents</td>
<td>.8%</td>
<td>1.2%</td>
<td>.9%</td>
<td></td>
</tr>
<tr>
<td>White</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Count</td>
<td>7647</td>
<td>1545</td>
<td>9192</td>
<td></td>
</tr>
<tr>
<td>% within Race</td>
<td>83.2%</td>
<td>16.8%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>% within Residents</td>
<td>92.6%</td>
<td>93.1%</td>
<td>92.7%</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Count</td>
<td>8256</td>
<td>1659</td>
<td>9915</td>
<td></td>
</tr>
<tr>
<td>% within Race</td>
<td>83.3%</td>
<td>16.7%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>% within Residents</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td></td>
</tr>
</tbody>
</table>

Table 3.8 (above) also reveals that there are racial differences in the proportion of non-residents in the study. It appears that several groups have substantially higher proportions of non-resident stops. For example, 23% (n=20) of contact cards for South Asians were non-resident stops, and 21.4% of Black stops were of non-residents (n= 44). This is high compared to the non-resident rate of 16.8% for whites, and 16.7% overall. Therefore, the argument that non-resident ethnic minorities could ‘inflate’ the numerator appears to be valid. In order to address this possible inflation, non-residents may be eliminated from the analysis. In other words, in order to control
for stops of non-residents, stop rates and odds ratios may be re-calculated for residents of Kingston only. Table 3.9 (below) presents just such figures, with stop rates and odds ratios by race for Residents of Kingston.

**Table 3.9 Kingston City Resident Stop Rates and Odds Ratios (of being stopped) by Race (Contact Cards only)**

<table>
<thead>
<tr>
<th></th>
<th>Resident stops⁴⁰</th>
<th>Kingston City estimated population, 2004</th>
<th>Resident Stop rate per 1,000 population</th>
<th>Odds Ratio Percent Resident stops divided by Percent Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>194</td>
<td>2158</td>
<td>89.9</td>
<td>1.28</td>
</tr>
<tr>
<td>Arab</td>
<td>36</td>
<td>606</td>
<td>59.4</td>
<td>0.84</td>
</tr>
<tr>
<td>Asian</td>
<td>85</td>
<td>2944</td>
<td>28.9</td>
<td>0.41</td>
</tr>
<tr>
<td>Black</td>
<td>149</td>
<td>913</td>
<td>163.3</td>
<td>2.32</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>35</td>
<td>671</td>
<td>52.2</td>
<td>0.74</td>
</tr>
<tr>
<td>South Asian</td>
<td>65</td>
<td>1621</td>
<td>40.1</td>
<td>0.57</td>
</tr>
<tr>
<td>White</td>
<td>7369</td>
<td>103367</td>
<td>71.3</td>
<td>1.01</td>
</tr>
<tr>
<td>Other</td>
<td>23</td>
<td>757</td>
<td>30.4</td>
<td>0.43</td>
</tr>
<tr>
<td>Total</td>
<td>7956</td>
<td>113042</td>
<td>70.4</td>
<td>1.00</td>
</tr>
</tbody>
</table>

Table 3.9 demonstrates that even when controlling for residence, some ethnic minority groups are stopped at higher rates than whites. When non-residents are excluded from the data, the Aboriginal stop rate remains higher than the total stop rate (89.9 per 1,000 compared to 70.4 per 1,000 respectively), but the Aboriginal resident stop rate is lower than the originally observed aggregated stop rate for Aboriginals of 113.5 per 1,000 (Table 3.6). However, the odds ratio for Aboriginal stops actually increases when non-residents are excluded. The odds of being stopped for Aboriginals increased from 0.77 (Table 3.6) to 1.28 (Table 3.9), when non-residents were taken out of the denominator. Although the odds of being stopped for Aboriginal residents (1.28) is still below the ‘disparity threshold’, the figure represents a reversal of sorts where Aboriginal residents are more likely to be stopped than the total population, rather than less likely to be stopped (however, the issue of repeat stops of individuals has yet to be addressed).

⁴⁰ Missing data for contact card addresses, n=300
Many of the stops of Black people in Kingston are stops of non-residents. Black people have the highest proportion of non-residents in the study (Table 3.8). Over 21% (n=44) of stops of Blacks people recorded on contact cards contained non-Kingston addresses, second only to South Asians who were non-resident in 23% of the stops (n=20). When I eliminate non-residents (and recall that dispatcher-recorded stops are excluded, as are contact cards with missing address information) from the calculation, the stop rate for Blacks decreases dramatically from 333.1 per 1,000 to 163.3 per 1,000 (Table 3.5 and Table 3.9, respectively). However, compared to the total stop rate of 70.4 per 1,000, the resident Black stop rate is still disproportionately high, and is the highest stop rate for any resident ethno-racial group (Table 3.9). The odds ratio for stops of Black residents (2.32, Table 3.9) is very similar to the previous calculation that included both residents and non-residents (2.27, Table 3.6).

Fifteen percent of Asians in the study were non-resident (n=15). The resident stop rate for Asian is very low – 28.9 per 1,000 – the lowest for any group in the study. The likelihood of residents being stopped is also very low (0.41) and is similar to the overall risk of stops for Asians (0.49). Asian residents are three fifths less likely to be stopped than white residents (Table 3.9).

When non-resident stops are excluded from the calculation, the stop rates for South Asians, Hispanics and Arabs, originally observed as low in Table 3.6, drop to very low rates, as shown in Table 3.9. Of the three groups, the South Asian stop rate is the most drastically reduced when non-residents are excluded: the stop rate is reduced from 126.4 per 1,000 (n=205) to only 40.1 stops per 1,000 residents (n=65). This is a threefold decrease. However, the odds ratio for Arabs actually increases when non-residents are excluded from the data. The odds of an Arab resident being stopped is 0.84, compared to the odds of all Arabs being stopped – 0.55. Similarly the odds of being stopped for Hispanics rises from 0.49 to 0.74 when non-residents are excluded. In contrast, the odds of a South Asian being stopped decreases from 0.86 to 0.57 when non-residents are excluded (Table 3.6 and Table 3.9).

So far we have seen that racial disparities in stop rates have persisted when geographic benchmarks have been varied and when type of stop and residence status has been accounted for. Since we have seen that there are racial differences in type of stop (pedestrians and traffic stops), the next table presents odds ratios for resident stops by race and type of stop. This table then allows us to see if the observed racial disparity holds constant when data are divided by type of
stop. In essence, Table 3.10 analyses race disparity in resident stops while controlling for type of stop.

**Table 3.10 Odds Ratio (of being stopped) of Kingston Residents by Race and Type of Stop (Pedestrian or Traffic), contact cards only**

<table>
<thead>
<tr>
<th></th>
<th>Pedestrian</th>
<th></th>
<th>Traffic Stops</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Resident Pedestrian Stops % (n)</td>
<td>Kingston City estimated population, 2004, % (n)</td>
<td>Odds Ratio</td>
<td>Resident Traffic Stops % (n)</td>
</tr>
<tr>
<td>Aboriginal</td>
<td>3.3 % (189)</td>
<td>1.9% (2157)</td>
<td>1.73</td>
<td>0.4% (10)</td>
</tr>
<tr>
<td>Arab</td>
<td>0.3% (19)</td>
<td>0.5% (606)</td>
<td>0.60</td>
<td>0.7% (18)</td>
</tr>
<tr>
<td>Asian</td>
<td>0.8% (48)</td>
<td>2.6% (2944)</td>
<td>0.30</td>
<td>1.4% (37)</td>
</tr>
<tr>
<td>Black</td>
<td>1.9% (110)</td>
<td>0.8% (912)</td>
<td>2.37</td>
<td>2.0% (52)</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>0.4% (22)</td>
<td>0.6% (670)</td>
<td>0.67</td>
<td>0.5% (14)</td>
</tr>
<tr>
<td>South Asian</td>
<td>0.5% (28)</td>
<td>1.4% (1621)</td>
<td>0.35</td>
<td>1.5% (38)</td>
</tr>
<tr>
<td>white</td>
<td>92.4% (5237)</td>
<td>91.4% (103366)</td>
<td>1.01</td>
<td>93.2% (2410)</td>
</tr>
<tr>
<td>Other</td>
<td>0.3% (15)</td>
<td>0.7% (757)</td>
<td>0.43</td>
<td>0.3% (8)</td>
</tr>
<tr>
<td>Total</td>
<td>100% (5668)</td>
<td>100% (113041)</td>
<td>1.00</td>
<td>100% (2587)</td>
</tr>
</tbody>
</table>

As observed previously, Table 3.10 suggests that Aboriginal peoples are much more likely to come to the attention of police as pedestrians than as motorists. This is true when controlling for resident status. That is, resident Aboriginals have a higher chance of being stopped on foot (1.73) than in a vehicle (0.21). Aboriginal pedestrians are also more likely to be stopped on foot than

---

41 Percent stops divided by Percent Population
white pedestrians or motorists. Black residents are almost equally at risk of being stopped on foot (2.37) as in a motor vehicle (2.50), and more than twice as likely compared to whites, well over the disparity threshold of an odds ratio of 1.5. Asians, South Asians and Hispanic residents have low odds of being stopped as either pedestrians or motorists, as do the Other ethnic group residents.

3.6 Stops of Individuals

Another potentially serious criticism of census benchmarking is the repeat-targeting problem – the tendency of police to stop certain individuals repeatedly over the course of a year. In a 12 month study such as the Kingston study, it would be expected that a small number of people may be responsible for a relatively large number of contacts with police. This is consistent with the ‘repeat phenomenon’ widely found in criminological research. For example, it has long been noted that a small number of offenders are responsible for a large number of offenses. Bostaph (2005) notes that while the “repeat offender” effect has been identified in much of the criminological research, few have applied it to traffic stops. Bostaph argues that stop and search data can suffer from the ‘repeat phenomenon’ found elsewhere in criminal justice system data. That is, a small number of individuals are responsible for a large proportion of incidents. Most racial profiling research is unable to account for this problem, because individuals cannot be identified. In other words, in most such research, the unit of analysis is a stop, not a person. The Kingston contact card data have the advantage of including a unique identifier for each individual. The repeat phenomenon can be eliminated by reducing the dataset to individuals. The next set of tables calculates stop rates for individuals, thus each person stopped in the study period is counted once, regardless of how many stops they were involved in. Table 3.11 presents information on how many stops per person there were on average in the dataset.
Table 3.11 Average Contact Cards per Individual, by race (contact cards only)

<table>
<thead>
<tr>
<th>Race/ethnic group</th>
<th>Count of Contact Cards</th>
<th>Count of Individuals</th>
<th>Average Contact Cards per person</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>223</td>
<td>92</td>
<td>2.42</td>
</tr>
<tr>
<td>Arab</td>
<td>45</td>
<td>41</td>
<td>1.10</td>
</tr>
<tr>
<td>Asian</td>
<td>104</td>
<td>95</td>
<td>1.09</td>
</tr>
<tr>
<td>Black</td>
<td>219</td>
<td>145</td>
<td>1.51</td>
</tr>
<tr>
<td>Latino</td>
<td>46</td>
<td>35</td>
<td>1.31</td>
</tr>
<tr>
<td>South Asian</td>
<td>28</td>
<td>75</td>
<td>1.17</td>
</tr>
<tr>
<td>White</td>
<td>88</td>
<td>6799</td>
<td>1.38</td>
</tr>
<tr>
<td>Other</td>
<td>9362</td>
<td>23</td>
<td>1.22</td>
</tr>
<tr>
<td>Total</td>
<td>10115</td>
<td>7305</td>
<td>1.38</td>
</tr>
<tr>
<td>Missing</td>
<td>121</td>
<td>115</td>
<td>1.05</td>
</tr>
<tr>
<td>Grand Total</td>
<td>10236</td>
<td>7420</td>
<td>1.38</td>
</tr>
</tbody>
</table>

The figures above suggest that overall, the repeat effect is not large, with a total of 1.3 contact cards filled out per individual in the study period. However, one group shows salient results: for each Aboriginal person stopped, an average of 2.42 contact cards were completed. Further analysis of the aboriginal individuals in the dataset reveals that one individual was responsible for 18 contact cards, and two individuals responsible for 16 contact cards each. In other words, three individuals accounted for 50 contact cards or 23% of the Aboriginal total. In order to fully account for the ‘repeat phenomenon’, stop rates and odds ratios are re-calculated using individuals as the unit of analysis. Table 3.12 presents the stop rates and odds ratios by race for all individuals in the dataset.
Table 3.12 Individual Stop Rates per 1,000, by Race (contact cards only)

<table>
<thead>
<tr>
<th>Race</th>
<th>Individuals Stopped</th>
<th>Kingston City estimated population, 2004</th>
<th>Stop rate per 1,000 pop</th>
<th>Odds Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>92</td>
<td>2158</td>
<td>42.6</td>
<td>0.66</td>
</tr>
<tr>
<td>Arab</td>
<td>41</td>
<td>606</td>
<td>67.7</td>
<td>1.05</td>
</tr>
<tr>
<td>Asian</td>
<td>95</td>
<td>2944</td>
<td>32.3</td>
<td>0.50</td>
</tr>
<tr>
<td>Black</td>
<td>145</td>
<td>913</td>
<td>158.8</td>
<td>2.46</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>35</td>
<td>671</td>
<td>52.2</td>
<td>0.81</td>
</tr>
<tr>
<td>South Asian</td>
<td>75</td>
<td>1621</td>
<td>46.3</td>
<td>0.72</td>
</tr>
<tr>
<td>White</td>
<td>6799</td>
<td>103367</td>
<td>65.8</td>
<td>1.02</td>
</tr>
<tr>
<td>Other</td>
<td>23</td>
<td>757</td>
<td>30.4</td>
<td>0.47</td>
</tr>
<tr>
<td>Total</td>
<td>7305</td>
<td>113042</td>
<td>64.6</td>
<td>1.00</td>
</tr>
</tbody>
</table>

The stop rate for Aboriginals is 42.6 per 1,000 population when individuals are counted, which is lower than the total individual stop rate of 64.6 per 1,000. When the count of stops only includes stops of individuals, the number of Black stops is reduced from 304 to only 145 individuals. Despite this reduction in the numerator, the individual stop rate for Blacks remains the highest for all ethnic and racial groups in the study. The stop rate for Black individuals is 158.8 per 1,000 (n=145) and is considerably higher than the white individual stop rate of 65.8 per 1,000 and the total individual stop rate of 64.6 per 1,000 (n=7305). Table 3.12 also shows the same result for the odds ratios. The odds ratio for stops of individual Blacks is 2.46, which is the highest compared to all the other groups and well into the disparity range.

Stops of individual Asians produce a stop rate that is half of the white individual stop rate (32.2 per 1,000 compared to 65.8 per 1,000). The data continue to suggest that Asians in Kingston are under-stopped compared to other groups. The individual stop rates for South Asians and Hispanics are very low as well (Table 3.12). Interestingly, stop rate and odds ratio for Arab individuals are on a par with the white individual stop rate, suggesting no disparity for this group compared to whites.

The individual dataset includes people who are non-residents of Kingston. In order to further refine the analysis, the non-residents are excluded from the individual dataset. Stop rates and odds ratios for individual residents of Kingston by race are presented in the table below.
Table 3.13: Individual Resident Stop Rate per 1,000, by Race (contact cards only)

<table>
<thead>
<tr>
<th>Race</th>
<th>Individual Residents Stopped</th>
<th>Kingston City Estimated population, 2004</th>
<th>Stop Rate per 1,000</th>
<th>Odds Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>73</td>
<td>2158</td>
<td>33.8</td>
<td>0.68</td>
</tr>
<tr>
<td>Arab</td>
<td>33</td>
<td>606</td>
<td>54.5</td>
<td>1.09</td>
</tr>
<tr>
<td>Asian</td>
<td>77</td>
<td>2944</td>
<td>26.2</td>
<td>0.52</td>
</tr>
<tr>
<td>Black</td>
<td>100</td>
<td>913</td>
<td>109.5</td>
<td>2.19</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>26</td>
<td>671</td>
<td>38.7</td>
<td>0.77</td>
</tr>
<tr>
<td>South Asian</td>
<td>59</td>
<td>1621</td>
<td>36.4</td>
<td>0.73</td>
</tr>
<tr>
<td>White</td>
<td>5274</td>
<td>103367</td>
<td>51.0</td>
<td>1.02</td>
</tr>
<tr>
<td>Other</td>
<td>18</td>
<td>757</td>
<td>23.8</td>
<td>0.47</td>
</tr>
<tr>
<td>Total</td>
<td>5660</td>
<td>113042</td>
<td>50.1</td>
<td>1.00</td>
</tr>
</tbody>
</table>

When Aboriginal individuals who are not residents of Kingston are identified (i.e. did not give a Kingston address for the contact card information), a further 19 individuals can be excluded from the numerator, resulting in a low stop rate of 33.8 per 1,000. This is considerably lower than the stop rate of individual white residents (51 per 1,000). Anecdotal evidence from Kingston suggests that police target a small number of Aboriginal adults who regularly frequent public spaces in the city centre. This would account for the high incidents of repeat contacts, and is consistent with the literature on urban policing of First Nations people in Canada (see for example LaPrairie & Steinke, 1994).

For some racial groups, the racial disparity in stops persists even when residence and the ‘repeat’ phenomenon are accounted for. Table 3.13 demonstrates that the stop rate for Black individuals is reduced when only individual residents are counted: 109.5 per 1,000 (n=100). However, this is still more than double the total stop rate for individual white residents (51 per 1,000). A similar effect is seen with the likelihood (odds ratio) of individual residents being stopped. While Black individuals had over double the odds of being stopped than whites (Table 3.12), the odds of being stopped are only slightly reduced for Blacks when individual residents are counted (odds ratio of 2.19). Individual Black residents still have over double the chances of being stopped compared to individual white residents (1.02).

The stop rate for Arabs is also lower when only individuals are counted in the dataset. The stop rate decreases from 80.9 per 1,000 (n=49) for all stops to 67.7 per 1,000 (n=41) when individuals
are counted. The stop rate for Arabs in Kingston is reduced further to 54.5 per 1,000 (n=33) when only individual residents are counted (data summarized in Table 3.14, below). A reduction in stop rates is also observed for Hispanics and South Asians when individuals in the dataset are counted. South Asians experience a similar pattern in the reduction in stop rates as for whites, that is, there is a large reduction in the stop rate when individuals are counted (and also when non-residents are excluded from the data), and then a less dramatic reduction when individual residents are counted in the stop rate (data summarized Table 3.14, below).

In sum, the Kingston stop data can be benchmarked in a variety of ways that address some of the major concerns of critics of census benchmarking and racial profiling research. Table 3.14 summarizes the four ways that the data can be benchmarked through the use of different numerators for calculating stop rates.

**Table 3.14 Summary table for Stop Rates per 1,000 population, by Race (Stop Rate calculated using four different numerators)**

<table>
<thead>
<tr>
<th>Race</th>
<th>Stop Rate Numerators</th>
<th>Per 1,000 population</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Police Contact Card stop</td>
<td>Residents</td>
</tr>
<tr>
<td>Aboriginal</td>
<td>113.5</td>
<td>89.9</td>
</tr>
<tr>
<td>Arab</td>
<td>80.9</td>
<td>59.4</td>
</tr>
<tr>
<td>Asian</td>
<td>71.3</td>
<td>28.9</td>
</tr>
<tr>
<td>Black</td>
<td>333.1</td>
<td>163.3</td>
</tr>
<tr>
<td>Hispanic /Latino</td>
<td>71.5</td>
<td>52.2</td>
</tr>
<tr>
<td>South Asian</td>
<td>126.4</td>
<td>40.1</td>
</tr>
<tr>
<td>White</td>
<td>149.8</td>
<td>71.3</td>
</tr>
<tr>
<td>Other</td>
<td>87.1</td>
<td>30.4</td>
</tr>
<tr>
<td>Total</td>
<td>147.0</td>
<td>70.4</td>
</tr>
</tbody>
</table>

The first column of numbers in the above summary table gives the stop rate calculated for each ethnic group using the total dataset of police contact cards i.e. stops. The second column uses only stops of residents in the dataset, thereby excluding non-resident stops from the benchmark. The third column uses a count of individuals to benchmark the stop rate. The fourth column contains a benchmark derived from only resident individuals.
The difference in Aboriginal stop rates according to the type of benchmark is illustrated in the first row of Table 3.14. The stop rates for Aboriginals decline as the benchmark is filtered by residence and individuals, with the highest rate found using the count of police contact cards (113.5 per 1,000), and the lowest stop rate found amongst resident individuals (33.8 per 1,000).

The Black stop rate is greatly reduced when the benchmark is reduced from all contact cards (333.1 per 1,000) to residents (163.3 per 1,000), to individuals (158.8 per 1,000), and finally to resident individuals (109.5 per 1,000). However, the stop rate for Blacks remains the highest rate for any group within the benchmarked stop rates. This is evidence that racial differences in stops persists, even when controlling for the problems of non-residents and repeat stops.

The final table of this section contains a summary of odds ratios using the four different benchmarks (count of contact cards, residents, individuals and resident individuals).

**Table 3.15 Summary Table of Odds Ratio (of being stopped) by Race (using four different base measures) (Contact Cards only)**

<table>
<thead>
<tr>
<th>Race</th>
<th>Odds Ratios</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Police Contact Card stop</td>
</tr>
<tr>
<td>Aboriginal</td>
<td>0.77</td>
</tr>
<tr>
<td>Arab</td>
<td>0.55</td>
</tr>
<tr>
<td>Asian</td>
<td>0.49</td>
</tr>
<tr>
<td>Black</td>
<td>2.27</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>0.49</td>
</tr>
<tr>
<td>South Asian</td>
<td>0.86</td>
</tr>
<tr>
<td>White</td>
<td>1.02</td>
</tr>
<tr>
<td>Other</td>
<td>0.59</td>
</tr>
<tr>
<td>Total</td>
<td>1.00</td>
</tr>
</tbody>
</table>

The odds of being stopped are highest for Aboriginal residents (1.28) and lowest for individuals (0.66). This effect can be explained by the relatively high proportion of repeat stops of residents in the Aboriginal population during the study period (Table 3.15).

In a slightly different pattern established from the previous table (Table 3.14), the odds of Black people being stopped are not reduced by change in benchmark, and in some cases the odds of
being stopped are higher using the adjusted benchmarks. For example, when only Black individuals are counted, the odds of being stopped are actually higher than for all stops of Blacks (2.46 compared to 2.27, Table 3.15). The odds ratios for Blacks are the highest compared to all other groups (rows) within each benchmark (column), without exception.

3.7 Stops by Age and Sex

A criticism of census benchmarking is that it does not account for different age distributions in sub-populations. For example, the Black population may be younger than the white population, and stop rates calculated using census data do not account for this difference. The argument is, then, that the higher stop rate amongst Black communities may be a function of a younger population curve. Indeed, census data for Kingston show that the Black population in Kingston has a younger structure than the total population (Social Planning Council of Kingston, 2009).

The Kingston stop data are unusual because the age of every person stopped was recorded. This allows for the data to be analysed by age group. Table 3.16 presents age-specific stop rates by ethnic group: the interpolated census count by age groups for Kingston City (denominator) is compared to the number of stops recorded for each age group (numerator).
Table 3.16 Stop Rates per 1,000 by Age Group and Race (contact cards only)

<table>
<thead>
<tr>
<th></th>
<th>Under 15 years</th>
<th>15-24 years</th>
<th>25-34 years</th>
<th>35-44 years</th>
<th>45-54 years</th>
<th>55+ years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>11.2 (6)</td>
<td>88.7 (29)</td>
<td>133.1 (62)</td>
<td>n/a (85)</td>
<td>113.1 (36)</td>
<td>10.5 (3)</td>
</tr>
<tr>
<td>Arab</td>
<td>7.8 (1)</td>
<td>154.8 (15)</td>
<td>75.2 (13)</td>
<td>130.9 (10)</td>
<td>32.6 (3)</td>
<td>42.9 (2)</td>
</tr>
<tr>
<td>Asian</td>
<td>1.9 (1)</td>
<td>81.6 (45)</td>
<td>46.4 (25)</td>
<td>22.1 (9)</td>
<td>43.0 (12)</td>
<td>28.7 (9)</td>
</tr>
<tr>
<td>Black</td>
<td>20.9 (6)</td>
<td>553.5 (90)</td>
<td>362.7 (49)</td>
<td>375.0 (48)</td>
<td>212.0 (19)</td>
<td>37.4 (4)</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>6.2 (1)</td>
<td>139.5 (20)</td>
<td>90.7 (8)</td>
<td>62.7 (7)</td>
<td>84.1 (7)</td>
<td>40.5 (3)</td>
</tr>
<tr>
<td>South Asian</td>
<td>2.9 (1)</td>
<td>91.8 (24)</td>
<td>73.5 (24)</td>
<td>77.1 (18)</td>
<td>58.4 (10)</td>
<td>27.2 (8)</td>
</tr>
<tr>
<td>White</td>
<td>16.8 (281)</td>
<td>214.8 (3262)</td>
<td>137.8 (1774)</td>
<td>130.0 (2033)</td>
<td>82.6 (1258)</td>
<td>22.5 (628)</td>
</tr>
<tr>
<td>Other</td>
<td>0.0 (0)</td>
<td>65.4 (13)</td>
<td>33.7 (6)</td>
<td>24.7 (3)</td>
<td>22.4 (4)</td>
<td>10.9 (2)</td>
</tr>
<tr>
<td>Total</td>
<td>15.7 (297)</td>
<td>206.6 (3498)</td>
<td>132.7 (1961)</td>
<td>132.5 (2213)</td>
<td>82.0 (1349)</td>
<td>22.5 (659)</td>
</tr>
</tbody>
</table>

The above table uses adjusted census benchmarking to control for age by showing the respective stop rates for all contact cards by race and disaggregated by six age groups: Under 15 years; 15 to 24 years; 25 to 34 years; 35 to 44 years; 45 to 54 years; and 55 years and over. However, the mean age can also be calculated. The mean age of Aboriginals stopped is 35.5 (n=221, SD=10.2), compared to the total mean age of those stopped, 32.9 (n=9977, SD=13.7). This is reflected in Table 3.16, which shows that the age group with the highest stop rate for Aboriginals is the 25-34 years (133.1 per 1,000). This varies from the pattern seen in the total population, for which the age group 15-24 has the highest stop rate of 206.6 per 1,000. In fact, the stop rate for Aboriginals 15 to 24 is extremely low (88.7 per 1,000).

The highest stop rate for any race or age group is for Blacks aged 15 to 24 years: the stop rate is an enormous 553.5 per 1,000 population (n=90). The stop rates for the other age groups for Black are also the highest in their category. For those aged 25 to 34, Blacks had a stop rate of 362.7 per 1,000 (n=8), compared to the overall rate of 132.7 per 1,000 (n=1,961) for that age group. Similarly, the stop rate for Blacks aged 35 to 44 is 375 per 1,000 (n=48), compared to the
overall rate of 132.7 per 1,000 (n=2213). Thus, when age is controlled for, the stop rates for Blacks remain very high – over double the rate for all groups.

When stop rates are disaggregated by age for all the ethnic groups, the cell sizes are very small for Arabs, Hispanics and South Asians (Table 3.16). Overall, the stop rates for younger Arabs, Hispanics, and South Asians are very low compared to the total stop rates, whereas stops of older people in these three ethnic groups have stop rates equal to or higher than the average stop rate for their age group. For example, Arabs in the 55+ age group have a stop rate of 42.9 per 1,000 (n=2), which is almost double the stop rate for the age group overall. Hispanics in the 45 to 54 age group had a stop rate of 84.1 per 1,000 (n=4), which is slightly above the average rate of 82.0 per 1,000 (n=1,349). South Asians had consistently below-average stop rates for all age groups except for the 55+ category, for which a stop rate of 27.2 (n=8) is recorded. However, these are very small numbers.

Gender is a demographic factor that, along with age, is consistently predictive of offending and contact with the criminal justice system in almost every criminological study of the last one hundred years. If a sub-group had a higher proportion of males, then we would expect that group to show much higher disparity in stops than a group that had a 50/50 distribution in gender. This is because previous studies show males come to the attention of the police at a much higher rate than females. About one quarter of the Kingston study contact cards were for females, whereas three quarters of contact cards were filled out for stops of males. The table below presents stop rates per 1,000 population by gender and race.
Table 3.17 Female and Male Stop Rates by Race (contact cards only)

<table>
<thead>
<tr>
<th>Race</th>
<th>Police Stops (contact cards)</th>
<th>Kingston City, estimated population, 2004</th>
<th>Female Stop Rate per 1,000</th>
<th>Police Stops (contact cards)</th>
<th>Kingston City, estimated population, 2004</th>
<th>Male Stop Rate per 1,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>52</td>
<td>1081</td>
<td>48.1</td>
<td>170</td>
<td>1077</td>
<td>157.8</td>
</tr>
<tr>
<td>Arab</td>
<td>6</td>
<td>296</td>
<td>20.3</td>
<td>39</td>
<td>308</td>
<td>126.6</td>
</tr>
<tr>
<td>Asian</td>
<td>34</td>
<td>1430</td>
<td>23.8</td>
<td>70</td>
<td>1190</td>
<td>58.8</td>
</tr>
<tr>
<td>Black</td>
<td>41</td>
<td>429</td>
<td>95.6</td>
<td>178</td>
<td>481</td>
<td>370.4</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>4</td>
<td>376</td>
<td>10.6</td>
<td>42</td>
<td>297</td>
<td>141.6</td>
</tr>
<tr>
<td>South Asian</td>
<td>17</td>
<td>802</td>
<td>21.2</td>
<td>71</td>
<td>816</td>
<td>87.0</td>
</tr>
<tr>
<td>White</td>
<td>2525</td>
<td>53947</td>
<td>46.8</td>
<td>6837</td>
<td>49414</td>
<td>138.4</td>
</tr>
<tr>
<td>Other</td>
<td>5</td>
<td>573</td>
<td>8.7</td>
<td>23</td>
<td>514</td>
<td>44.7</td>
</tr>
<tr>
<td>Total</td>
<td>2684</td>
<td>58935</td>
<td>45.5</td>
<td>7430</td>
<td>54096</td>
<td>137.4</td>
</tr>
</tbody>
</table>

The data in Table 3.17 show that race differences persist in stop rates even when gender is controlled for. The stop rate for Aboriginal men (157.8 per 1,000) is three times higher than for Aboriginal women (48.1 per 1,000). However, Aboriginals of both sexes have the second-highest stop rate of any ethnic group. The stop rate for Aboriginal men is only surpassed by that for Black males (370.4 per 1,000), and Aboriginal women by Black women (95.6).

Black males have the highest stop rate of any male group; the next-highest stop rate for males is Aboriginal males at 157.8 per 1,000, which is somewhat higher than the white male rate of 138.4 per 1,000. The Black male stop rate is almost three times the rate for white males (138.4 per 1,000). Similarly, Black females have the highest stop rate of any female group: 95.6 stops per 1,000 population, compared to 45.6 for the total female population. The second highest stop rate for females is found within the Aboriginal female group, however, the rate for Aboriginal females is almost half the rate for Black females (48.1 compared to 95.6). In sum, gender does, and does not make a difference to Black stop rates: the rate for Black males stopped is 370.4 per 1,000, compared to only 95.5 per 1,000 for Black females. However, the stop rates for the racial group Black of either sex are higher than for any other sub-grouping.
When gender is taken into account, a new picture of stops of Arabs and Hispanics emerges. The male stop rate for Arabs and Hispanics are quite high: 126.6 per 1,000 (n=39) and 141.6 per 1,000 (n=42), respectively, with the Hispanic rate surpassing the white male rate of 136.4 per 1,000 (n=6837). For South Asians, gender does not change the stop rates as dramatically – the stop rate for South Asian males is 87.0 per 1,000 (n=71), well below the total stop rate of 137.4 per 1,000 (n=7,430).

Stop rates for females in these three groups are low: Arabs (20.3 per 1,000, n=6), South Asians (21.2 per 1,000, n=17) and Hispanics (10.6 per 1,000, n=4). Although there have been no studies providing information on stops of these three particular ethnic groups by gender, extant stop and search literature would suggest that males are stopped much more frequently than females, and the Kingston data are consistent with this literature (see for example, Farrell et al., 2004; Lundman & Kaufman, 2003). For example, the South Asian male stop rate is about four times higher than the female South Asian stop rate (87 per 1,000 compared to 21.2 per 1,000, Table 3.17).

Whilst age and gender are important demographic variables separately, they also need to be considered intersectionally. That is, both age and gender will have predictive outcomes on people’s chances of being stopped by the police. Previous research has established that the young and the male are targets of police attention, so stop rates by type of stop for males only, by selected age and racial groups are offered in the table below.
Table 3.18. Stop rates per 1,000 for young males by Type of Stop and aggregated four Race groups (Kingston City, Contact Cards only)

<table>
<thead>
<tr>
<th></th>
<th>Pedestrian Stop Rate per 1,000 (n stops)</th>
<th>Traffic Stop Rate per 1,000 (n stops)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>15-24 years</td>
<td>25-34 years</td>
</tr>
<tr>
<td>Aboriginal males</td>
<td>97.4 (19)</td>
<td>n/a (44)</td>
</tr>
<tr>
<td>Black males</td>
<td>753.2 (58)</td>
<td>340.0 (17)</td>
</tr>
<tr>
<td>White males</td>
<td>222.6 (1673)</td>
<td>127.7 (795)</td>
</tr>
<tr>
<td>Other males</td>
<td>100.0 (61)</td>
<td>37.9 (24)</td>
</tr>
<tr>
<td>Total</td>
<td>215.5 (1811)</td>
<td>123.9 (880)</td>
</tr>
</tbody>
</table>

The group that is subjected to the most police surveillance, according to the Kingston data, are young, Black, male pedestrians. This is consistent with qualitative and quantitative research on citizen contacts with police (cf. Brunson, 2007; Wortley & Owusu-Bempah, 2011). The stop rate for 15 to 24 year olds in Kingston who are stopped on foot is 753.2 per 1,000 for Black citizens, compared to 222.6 per 1,000 for white citizens (Table 3.18). This is a staggering difference, and represents a statistical burden on a small number of people in the Black community.

3.8 Benchmarking stops by street observations: the ‘available for stops’ approach

As discussed in the previous chapter, there are many ways of ‘benchmarking’ the population for evaluating whether stops are disproportionate. Resident census population has been used as the benchmark in this chapter thus far. According to Waddington (2004), “the population ‘available’ in public places to be stopped and searched has a different profile from that of the general population” (p.889). Proponents of this stance argue that ethnic minorities are simply more often in public spaces where police are more likely to conduct stops than their white counterparts. Advocates of the ‘available for stops’ thesis therefore assert that benchmarking using resident census data is inappropriate, and that stop rates should be calculated using observational data on who is ‘available’ for stops (see discussion of observational benchmarking in Chapter 2, section 2.4.4). While this approach is perhaps feasible in the case of certain sections of highways (for example, Lamberth’s famous study of the New Jersey Turnpike, 1994, 1997), few studies on
racial profiling have actually taken this approach. This is in part due to the expense and difficulty of identifying, observing and recording the race of populations ‘available’ for stops and searches in most police jurisdictions. Indeed, who is ‘available’ for stops by police is a complex research question in itself (Grogger & Ridgeway, 2006; Miller, 2000; Waddington et al, 2004).

During the Kingston study period, two researchers\(^{42}\) conducted a small-scale observational benchmarking exercise. The research took place over 6 days in March and April of 2004. The researchers attended four sites and recorded the racial makeup of people ‘available’ for stops at that location; each site was visited only twice, at different times of day. The selection of sites was conservative because it was thought the sites were likely to have high numbers of ethnic minority people present. The researchers were not able to distinguish residents from non-residents of Kingston. Stop rates using the observational data as a benchmarks appear in the tables below.

\(^{42}\) Scot Wortley (the academic entrusted with the Kingston study data), and Ray Lonsdale (the civilian crime analyst for KPS).
Table 3.19: Total Street Counts (Observational Benchmarking), by Location of Observations and Racial Group

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>Kingston City Estimated Population (%) 2004</th>
<th>Mall Counts (%)</th>
<th>Queens University Counts (%)</th>
<th>St. Lawrence College Counts (%)</th>
<th>Downtown (Nightlife) Counts (%)</th>
<th>Total Street Counts (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>1.9%</td>
<td>0.2</td>
<td>0.1</td>
<td>0.3</td>
<td>0.1</td>
<td>0.1</td>
</tr>
<tr>
<td>Asian</td>
<td>2.6%</td>
<td>4.6</td>
<td>13.9</td>
<td>3.7</td>
<td>2.6</td>
<td>5.4</td>
</tr>
<tr>
<td>Black</td>
<td>0.8%</td>
<td>1.9</td>
<td>1.8</td>
<td>1.3</td>
<td>1.8</td>
<td>1.8</td>
</tr>
<tr>
<td>South Asian</td>
<td>1.4%</td>
<td>1.9</td>
<td>5.9</td>
<td>1.5</td>
<td>1.3</td>
<td>2.4</td>
</tr>
<tr>
<td>White</td>
<td>91.4%</td>
<td>90.2</td>
<td>75.7</td>
<td>92.5</td>
<td>93.5</td>
<td>89.2</td>
</tr>
<tr>
<td>All Others</td>
<td>1.8%</td>
<td>1.2%</td>
<td>2.6%</td>
<td>0.7%</td>
<td>0.6%</td>
<td>1.1%</td>
</tr>
<tr>
<td>N</td>
<td>113,042</td>
<td>3,404</td>
<td>5,572</td>
<td>1,110</td>
<td>15,841</td>
<td>25,927</td>
</tr>
</tbody>
</table>

The street counts conducted by the two researchers tallied to nearly 26,000 observations in four different locations. The results show that Black people made up a larger proportion of the population observed at the street count locations than is reflected in the resident census population (Table 3.19). For example, 1.8 percent of the downtown/nightlife population available for stops observed were Black, compared to the 0.8 percent estimated (interpolated) census count. This is not surprising, given that the census shows that the Black population in Kingston is younger than the white population. The street observations were conducted in sites where we would expect more young people to congregate, i.e. a mall, downtown.

---

43 The researchers spent 2 to 3 hours at two separate entrances of the Cataraqui Centre counting only those people coming into the mall.

44 The researchers attended five different night clubs on three different nights (Thursday, Friday and Saturday) at the peak hour of midnight. Only minorities were counted, as it would have been impossible to do a full count (census) of the nightclub’s populations. The estimated patron count was obtained from each club, and the proportion of minorities ‘available’ for stops was calculated using the total patron count. It is felt that the patron count was conservative, because some of the clubs were likely to be over-capacity at the peak times, but clubs would be deterred from reporting over-capacity due to fire safety and other compliance concerns. When the count of minorities between two researchers was different, the higher count was used. Because of this and the over-capacity issue, the observational benchmarks for minorities may be higher than the true proportions.
nightlife district, college and university\textsuperscript{45}. Indeed, the mall produced the highest proportion for Black people – 1.9 percent of observational counts (Table 3.19).

When the stop rate is calculated using observational street counts and the number of pedestrian stops, (Table 3.20, below), the Black stop rate (316.9) is moderately higher than the white stop rate (272.4 per 1,000). In other words, Black people are more at ‘risk’ of stops on foot than whites, using the observational data as a benchmark instead of census data. (The denominator – observational benchmarking – took place on foot and therefore vehicle stops are not an appropriate numerator).

Table 3.20: Observational Benchmarking, Number of Stops, Odds Ratios and Stop Rates, by Racial Group (Total Street Observations And All Pedestrian Stops, contact cards only)

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>Total Street Counts</th>
<th>% Street Counts</th>
<th># of Ped. Stops</th>
<th>% of all Ped Stops</th>
<th>Odds Ratio</th>
<th>Stop Rate (per 1,000 pedestrians)</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>23,127</td>
<td>90.3</td>
<td>6,300</td>
<td>95.9</td>
<td>1.06</td>
<td>272.4</td>
</tr>
<tr>
<td>Black</td>
<td>467</td>
<td>1.8</td>
<td>148</td>
<td>2.3</td>
<td>1.28</td>
<td>316.9</td>
</tr>
<tr>
<td>Asian</td>
<td>1,401</td>
<td>5.5</td>
<td>65</td>
<td>1.0</td>
<td>0.18</td>
<td>46.4</td>
</tr>
<tr>
<td>South Asian</td>
<td>622</td>
<td>2.4</td>
<td>54</td>
<td>0.8</td>
<td>0.33</td>
<td>86.8</td>
</tr>
<tr>
<td>N</td>
<td>25,617</td>
<td>100.0</td>
<td>6,567</td>
<td>100.0</td>
<td>1.00</td>
<td>264.0</td>
</tr>
</tbody>
</table>

Black pedestrians have the highest chance of being stopped by police, with an odds ratio of 1.28 compared to whites (1.06). Police did not target Asian and South Asian pedestrians in public spaces during the mini-study period. These two groups had very low odds ratios of 0.18 and 0.33 respectively (Table 3.20).

The next set of tables calculate stop rates using the number of stops recorded in the relevant police patrol zone for each observational site. Stop rates were lower for Blacks than for whites in the Queens University patrol zone and the Mall patrol zone when the observational benchmark is

\textsuperscript{45} For each campus, counts were taken at the entrances of two buildings: one teaching/classroom building and one administration building.
used (Table 3.21 and Table 3.22 below). The proportion of Blacks stopped was similar to the proportion of Blacks observed, and therefore the odds ratio for stops of Black was close to one. These two examples – Queens University and the Mall – provide the strongest support for the ‘available for stops’ thesis. In other words, the presence (‘availability) of young Black people at these sites may explain the slightly higher numbers of Black stops than would be expected using the resident population of Kingston as a benchmark.

**Table 3.21: Observational Benchmarking, Number of Stops, Odds Ratios and Stop Rates, by Racial Group (Queens University Observations and All Stops In Zone Four, Merged database)**

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>Total Queens University Counts</th>
<th>% of Street Counts</th>
<th># of Stops</th>
<th>% of All Stops</th>
<th>Odds Ratio</th>
<th>Stop Rate (per 1,000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>4,218</td>
<td>77.8</td>
<td>1776</td>
<td>91.7</td>
<td>1.17</td>
<td>421.0</td>
</tr>
<tr>
<td>Black</td>
<td>100</td>
<td>1.8</td>
<td>40</td>
<td>2.0</td>
<td>1.11</td>
<td>400.0</td>
</tr>
<tr>
<td>Asian</td>
<td>775</td>
<td>14.3</td>
<td>36</td>
<td>1.8</td>
<td>0.13</td>
<td>46.5</td>
</tr>
<tr>
<td>South Asian</td>
<td>329</td>
<td>6.1</td>
<td>31</td>
<td>1.6</td>
<td>0.26</td>
<td>94.2</td>
</tr>
<tr>
<td><strong>N</strong></td>
<td><strong>5,422</strong></td>
<td><strong>100.0</strong></td>
<td><strong>1,883</strong></td>
<td><strong>100.0</strong></td>
<td><strong>1.00</strong></td>
<td><strong>347.2</strong></td>
</tr>
</tbody>
</table>

**Table 3.22 Observational Benchmarking, Number of Stops, Odds Ratios and Stop Rates, by Racial Group (Mall Observations And All Stops In Zone Eight)**

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>Total Mall Counts</th>
<th>% of Mall Counts</th>
<th># of Stops</th>
<th>% of Stops</th>
<th>Odds Ratio</th>
<th>Stop Rate (per 1,000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>3,070</td>
<td>91.5</td>
<td>1,376</td>
<td>94.7</td>
<td>1.03</td>
<td>448.6</td>
</tr>
<tr>
<td>Black</td>
<td>65</td>
<td>1.9</td>
<td>28</td>
<td>1.9</td>
<td>1.00</td>
<td>430.8</td>
</tr>
<tr>
<td>Asian</td>
<td>157</td>
<td>4.7</td>
<td>27</td>
<td>1.8</td>
<td>0.38</td>
<td>172.0</td>
</tr>
<tr>
<td>South Asian</td>
<td>65</td>
<td>1.9</td>
<td>21</td>
<td>1.4</td>
<td>0.74</td>
<td>323.0</td>
</tr>
<tr>
<td><strong>N</strong></td>
<td><strong>3,357</strong></td>
<td><strong>100.0</strong></td>
<td><strong>1,452</strong></td>
<td><strong>100.0</strong></td>
<td><strong>1.00</strong></td>
<td><strong>432.5</strong></td>
</tr>
</tbody>
</table>

In the final example of observational benchmarking for the Kingston Study, researchers recorded the race of people observed in Kingston’s nighttime economy, including night clubs in
downtown Kingston, with over 15,000 observations recorded (Table 3.23). Stop rates calculated using nighttime, weekend downtown stops show that Black people were over-stopped compared to white people. The odds of being stopped were higher for Black people (1.56) compared to all other groups. Asian and South Asian people were under stopped in downtown nighttime patrols compared to their observed population.

Table 3.23: Observational Benchmarking, Number Of Stops, Odds Ratios and Stop Rates, by Racial Group (Downtown Nightlife Observations and All Night-Time, Weekend Stops in Zones One and Two), Contact Cards Only

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>Total Downtown Nightlife Counts</th>
<th>% of Street Counts</th>
<th># of Night/Weekend Downtown Stops</th>
<th>% of Night/Weekend Downtown Stops</th>
<th>Odds Ratio</th>
<th>Stop Rate (per 1,000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>14,811</td>
<td>94.2</td>
<td>1,364</td>
<td>95.2</td>
<td>1.01</td>
<td>92.1</td>
</tr>
<tr>
<td>Black</td>
<td>279</td>
<td>1.8</td>
<td>40</td>
<td>2.8</td>
<td>1.56</td>
<td>143.4</td>
</tr>
<tr>
<td>Asian</td>
<td>412</td>
<td>2.6</td>
<td>13</td>
<td>0.9</td>
<td>0.34</td>
<td>31.5</td>
</tr>
<tr>
<td>South Asian</td>
<td>206</td>
<td>1.3</td>
<td>15</td>
<td>1.0</td>
<td>0.76</td>
<td>72.8</td>
</tr>
<tr>
<td>N</td>
<td>15,708</td>
<td>100.0</td>
<td>1,432</td>
<td>100.0</td>
<td>1.00</td>
<td>91.2</td>
</tr>
</tbody>
</table>

The findings of this mini-observational study are consistent with other ‘available for stops’ benchmarking studies. That is, when observational benchmarking is used in place of resident census data, the racial disparity in stop rates may be reduced. This was certainly true of daytime stops in public spaces. However, we did still see an over-representation of Black pedestrian stops overall, and over-stopping of Black people in downtown night-time stops. There are too many limitations to the mini study methodology to be able to draw any hard conclusions. For example, the number of observations was tiny compared to the ‘population’ (i.e. all people in public spaces during the 12 month study period), the short time and selected places of the mini study observations are not representative of police patrol activities for the whole of the 12 month period (nor could any observational study purport to be), and the researchers may have double-counted some people or missed some people.
Most studies do not use the observational benchmark because it is a very expensive approach compared to census benchmarking. But there are deeper concerns about observational benchmarking. I find the problem with this approach is that it treats police patrol decisions as neutral (non-biased). The assumption is that the choices police make regarding deployment and patrol are race neutral, and thus the population ‘available’ for stops (as defined by police behaviour) is a fair benchmark for comparing stops. The available for stops thesis has elements of ‘blame the victim’. The unspoken assertion is that Black people would not be stopped if they were not so visible in public spaces (i.e. they would not be stopped if they stayed home). I think that an alternative view is more plausible: that police deployment and behaviour are extremely gendered, racialized and class-biased. For example, white businessmen walking around a business district at lunchtime are technically just as ‘available’ for stops as young Black youths at a downtown club on a Saturday night, perhaps more so. A group of white mothers playing with their children in a park are also just as ‘available’ for stops as a group of teenagers walking home from the mall. However, the priorities and choices of the police, influenced, I suggest, by race, class and gender, mean that the young Black men and the teenagers, in reality, are the targets of police attention. The observational benchmarking technique is efficient in protecting the police from claims that they are biased because it uses their own differential enforcement framework as a race-neutral standard. The ‘Black offending’ and ‘high crime area’ thesis are also used to rationalize the deployment choices that police make.

In addition to the critique I have put forward regarding police deployment, there are more intellectual and moral concerns with the ‘available for stops’ approach. I argue that it is not consistent with ideas of fairness, liberty of movement, and racial equality in all areas of life. In liberal democratic nations with common-law (adversarial legal systems), where there is a presumption of innocence, it is unacceptable that one group, based on race, is subject to especially intrusive police action purely based on their ‘availability’ or use of public spaces. The intrusiveness of stops and searches means that the individual feels the experience deeply, and over-stopping of one particular group threatens the very fabric of democratic life. Finally, Bowling and Phillips discussion of the available for stops issue is worth repeating:

The issue of availability provides no defense 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 & Phillips 2007, 952-953).

As Bowling and Phillips point out, stop rates should reflect the community experience, and overall, the Black community experience in Kingston is one of over-stopping by police.

3.9 Conclusion

The analysis in this chapter has answered the first two research questions and has shown that there are indeed racial differences in stop rates and the likelihood of being stopped, in varying degrees, which are not explained by other available factors. Although the findings are mixed for other ethnic groups, the findings for the Black population of Kingston during the study period are very clear: there are large racial disparities in stop rates and likelihood of being stopped regardless of other issues. The next chapter will answer the remaining research questions by investigating whether or not there are racial differences in reasons for stops and dispositions for stops. Specifically, the next chapter seeks to discover if legal justification for stops and stop outcomes related to crime can explain the over-representation uncovered in the findings of this chapter. A variety of theoretical explanations for Black over-representation in stops are explored using the Kingston data.
Chapter 4 – Outcomes Analysis: Explanations for Black Over-Representation in Police Stops

4.1 Introduction

The previous chapter found racial differences in stop rates in Kingston, Ontario through an analysis of police-reported stop data over a 12-month period in 2003-2004. Overall, Black people were two and a half times more likely to be stopped on foot or in vehicles compared to white people. These racial differences in police contact persisted when controlling for various demographic variables and for type of stop (vehicle or pedestrian). Racial differences were also documented using a variety of benchmarking techniques. In other words, the previous chapter established who is stopped. The present chapter, by contrast, investigates why people are stopped by the police and what happens to them after they are stopped.

The common-sense explanation for the apparent over stopping of Black citizens by police is the supposition that police stops are crime-related. Indeed, in the recent controversy in Toronto regarding so-called ‘carding’, the link between police stopping of residents and crime is explicitly evoked:

The dull reality is that police “go where crime occurs. We go where the community calls us to go,” Deputy Chief Peter Sloly told the Toronto Star. “I want my officers to be talking to people on the street engaging them, finding out what’s going on,” offered Peel police Chief Jennifer Evans. Carding is an “invaluable” intelligence-gathering service, police union president Mike McCormack declared in 2010. “You’re recording data, setting up associations, knowing who’s involved (in gang activity).” (Mascarenhas, 2015)

Although the link between police stops and crime seems uncontroversial, the analysis in this chapter casts doubt on this relationship. The structure of the chapter follows the questions posed by Bradford and Loader (2016) in their recent study: “Are police stops really about crime control, or are police stops motivated by something more than crime?” This chapter uses the Kingston data to explore that proposition, and is divided into two parts. The first part examines whether racial differences in the outcomes of stops are crime related (through an examination of predominantly hit rates), and the second part examines whether there are non-crime related racial differences in the reasons and outcomes of stops (through an examination of legal justifications
for stops and non-charge outcomes). Both parts ultimately seek to explain the over-stopping of Blacks in Kingston that was uncovered in chapter 3.

4.2 Part 1: Understanding stop rates from a crime control perspective

4.2.1 Hit Rates Analysis – Citations and Arrests during the study period

The definition of ‘hit rate’ for the purpose of this dissertation is a stop whose outcome is either an arrest or a citation. ‘Hits’ are calculated without regard for whether a search occurred. This approach is very different to previous studies. Most traffic stop studies (e.g. Alpert et al, 2007; Leiderbach et al, 2007; Petrocelli et al, 2003), and indeed pedestrian studies (e.g. Fagan & Geller, 2014) use a ‘hit’ rate calculated from search data as the main post-stop outcome of interest. In addition, few studies include traffic citations rates and arrest rates (exceptions include Blacock et al, 2007; Farrell et al, 2004; Mosher, 2007). The focus on searches in the US and UK literature is understandable, since the stated purpose of most policing is crime control; and, especially in the U.S., there is a focus on contraband discovery – weapons and drugs – in traffic stops and frisks of pedestrians. Focussing on search activities also has the effect of diverting attention away from police deployment and enforcement decisions and concentrating on the discovery of contraband on individuals. In other words, highlighting hits from searches avoids asking the question of who is stopped by police (and only answers what happens after the decision to stop has occurred). The Kingston study does not include analysis of searches. The over-riding reason for this is that the data did not include information about whether a search was incident to arrest or not, thereby making it impossible to calculate search ‘hit’ rates. However, there may be other good reasons to focus on dispositions other than searches in Kingston. Not only were there very few searches conducted during the study period (n=123, less than .8 percent of all stops), but the initial incidents that started the outcry about policing in Kingston were not about the powers of stop and search; rather, it was the unwarranted stopping of Black youth by

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46 For the purposes of analysis, the 11 dispositions on the contact card were coded to four discrete outcomes for the stop: No disposition, Warning, Citation, or Arrest.

47 In the literature for the ‘Outcome Test’, a ‘hit rate’ is the rate at which contraband is discovered during a search, excluding searches incident to arrest (Ayres, 2002; Engel, 2008; Tillyer et al, 2010)
armed Kingston police officers. Whether someone was given a citation or was arrested seems an appropriate measure in assessing whether police stops resulted in a ‘hit’, and is an indication of police activity, and indeed, whether police activity is productive and crime related.

The overall ‘hit’ rate for Black stops is relatively low compared to other groups. Only 21 percent of stops of Blacks in Kingston during the study period resulted in an arrest or citation (Table 4.1, below), compared to 28.8 percent for whites. Aboriginals, with a hit rate of 11.4%, are the only other group with an overall hit rate lower than the Black hit rate. South Asians, by contrast, had the highest hit at 36.5%.

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>Number Stops</th>
<th>Number Arrests/citations</th>
<th>‘Hit’ Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>245</td>
<td>28</td>
<td>11.4%</td>
</tr>
<tr>
<td>Asian</td>
<td>210</td>
<td>63</td>
<td>30%</td>
</tr>
<tr>
<td>Black</td>
<td>304</td>
<td>64</td>
<td>21%</td>
</tr>
<tr>
<td>South Asian</td>
<td>205</td>
<td>75</td>
<td>36.5%</td>
</tr>
<tr>
<td>White</td>
<td>15,489</td>
<td>4,468</td>
<td>28.8%</td>
</tr>
<tr>
<td>All Others</td>
<td>163</td>
<td>48</td>
<td>29.4%</td>
</tr>
<tr>
<td>Total</td>
<td>16,616</td>
<td>4,746</td>
<td>28.5%</td>
</tr>
</tbody>
</table>

Chi-square= 51, df=5, p<.001

It could be argued that it is inappropriate to aggregate pedestrian and vehicle stops because these types of stops are qualitatively different. The following table disaggregates stops by vehicle and pedestrian stops, as well as dispatcher-recorded and contact card stops.
Table 4.2 ‘Hit’ Rate by Racial Group by Type of Stop (Pedestrian or Traffic) and Type of stop record (Contact Card or Dispatcher Recorded Stop).

<table>
<thead>
<tr>
<th></th>
<th>Pedestrian Stops (contact cards only)</th>
<th>Traffic Stop (contact cards only)</th>
<th>Dispatcher-recorded Stops</th>
<th>Contact Card Stops</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>10.2%</td>
<td>16.6%</td>
<td>18.2%</td>
<td>10.7%</td>
</tr>
<tr>
<td>Asian</td>
<td>9.6%</td>
<td>35.7%</td>
<td>39.6%</td>
<td>20.1%</td>
</tr>
<tr>
<td>Black</td>
<td>9.4%</td>
<td>27.1%</td>
<td>34.1%</td>
<td>15.9%</td>
</tr>
<tr>
<td>South Asian</td>
<td>12.1%</td>
<td>29.7%</td>
<td>47.9%</td>
<td>21.5%</td>
</tr>
<tr>
<td>White</td>
<td>8.7%</td>
<td>38.3%</td>
<td>43.0%</td>
<td>19.5%</td>
</tr>
<tr>
<td>All Others</td>
<td>6.1%</td>
<td>39.6%</td>
<td>52.3%</td>
<td>21%</td>
</tr>
<tr>
<td>Total</td>
<td>8.8%</td>
<td>37.8%</td>
<td>42.9%</td>
<td>19.3%</td>
</tr>
<tr>
<td>Hits (N)</td>
<td>577</td>
<td>1392</td>
<td>4760</td>
<td>1969</td>
</tr>
<tr>
<td>X2</td>
<td>1.8, df=5, p=.870</td>
<td>18.1, df=5, p&lt;.01</td>
<td>11.4, df=5, p&lt;.05</td>
<td>12.9, df=5, p&lt;.05</td>
</tr>
</tbody>
</table>

Black ‘hit’ rates are significantly lower for all traffic stops, contact card stops and dispatcher-recorded stops (Table 4.2). Stops of Black pedestrians during the study period resulted in a slightly higher hit rate (9.4%) than stops of whites (8.7%); however, the difference between the expected count and the observed count is not statistically significant (a 2x2 for Black and white pedestrian hit rates shows the difference is not significant, $X^2 = 0.012$, df=1, p=.910, continuity correction for 2x2 table).

The analysis reveals much about the racial differences in outcomes for stops. Hit rates for stops of Blacks are low, and therefore do not provide a crime-related explanation for why Blacks were over-stopped during the study period. In other words, if police stops were primarily concerned with crime control (as is claimed by most police organizations), we might expect that high stop rates of a particular group would be concomitant with high hit rates for that group. That does not seem to be the case. In order to further investigate, I have narrowed the analysis to crime-related
Kingston police officers were directed to record legal justifications\textsuperscript{48} for stops during the project. Officers could classify stops according to seven different legal justifications on the study contact card, some more crime-related than others. The reasons were: 1) Bulletin / Suspect Description Broadcast; 2) Ontario Highway Traffic Act (H.T.A.) violation; 3) Criminal Code of Canada (C.C.C.) violation; 4) Drug related Offence; 5) By-Law Infraction; 6) Citizen Generated; and 7) Other i.e. Liquor License Act (Ontario) (L.L.A.), Provincial Statute (see glossary).

In order to facilitate the analysis of ‘crime related’ stops compared to other types of stops, I have aggregated the seven legal justifications for stops into four types of stops: 1) Crime-related, 2) HTA violations, 3) Citizen generated, and 4) Minor transgressions. My classification is shown in the table below.

### Table 4.3 Classification of Legal Justification for Stops

<table>
<thead>
<tr>
<th>Legal Justification (Reason) for stop</th>
<th>Crime Related</th>
<th>Citizen Generated</th>
<th>HTA Violation</th>
<th>Minor Transgressions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulletin/Suspect</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>By-law</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>CCC</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Citizen Generated</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Drug Related</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HTA</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Other/LLA/Prov. Statute</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

\textsuperscript{48} The current literature on racial profiling tends to focus on selected dispositions of stops (usually arrests, searches and citations) and neglects to examine police-reported reasons for stops. Indeed, to my knowledge, there are no extant studies that examine police-recorded reasons for conducting stops other than the NYC stop and frisk data. However, ‘carding data’ obtained by the Toronto Star shows that one third of Toronto Police CIPS/FIR stops were for ‘general investigation’ reasons (CIPS= Criminal Investigation Processing System, FIR= Field Information Report). (Rankin, 2013).

\textsuperscript{49} Throughout the dissertation, the officer-reported ‘reason for stop’ is referred to as the ‘legal justification for stop’, because the response categories reflect legal reasons for stopping citizens, rather than policing-as-craft reasons for stopping suspects, including pretextual reasons. In other words, the categories symbolize, replace and mask ‘street’ knowledge with legal knowledge. The term ‘disposition’ is used interchangeably with ‘outcome’.
In the table below (Table 4.4), it can be seen that Aboriginal people and Black people stopped during the study were stopped more proportionally for crime-related reasons than are whites. Both these minority groups also have a lower percentage of stops for HTA violations.

Table 4.4 Racial group by Legal Justification for stop (Percent Crime-related, Minor, HTA, citizen) Merged database.

<table>
<thead>
<tr>
<th></th>
<th>Crime-Related</th>
<th>Minor Transgression</th>
<th>HTA</th>
<th>Citizen Generated</th>
<th>Total (n)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>18.0%</td>
<td>44.9%</td>
<td>14.3%</td>
<td>22.9%</td>
<td>100.0% (245)</td>
</tr>
<tr>
<td>Asian</td>
<td>4.8%</td>
<td>21.9%</td>
<td>64.3%</td>
<td>9.0%</td>
<td>100.0% (210)</td>
</tr>
<tr>
<td>Black</td>
<td>15.5%</td>
<td>31.9%</td>
<td>41.8%</td>
<td>10.9%</td>
<td>100.0% (304)</td>
</tr>
<tr>
<td>South Asian</td>
<td>10.8%</td>
<td>17.6%</td>
<td>67.6%</td>
<td>3.9%</td>
<td>100.0% (204)</td>
</tr>
<tr>
<td>White</td>
<td>10.8%</td>
<td>27.3%</td>
<td>53.1%</td>
<td>8.8%</td>
<td>100.0% (15487)</td>
</tr>
<tr>
<td>All Others</td>
<td>12.9%</td>
<td>27.0%</td>
<td>49.1%</td>
<td>11.0%</td>
<td>100.0% (163)</td>
</tr>
<tr>
<td>Total</td>
<td>10.9%</td>
<td>27.5%</td>
<td>52.6%</td>
<td>9.0%</td>
<td>100.0% (16613)</td>
</tr>
</tbody>
</table>

Chi square= 214.7, df=15, p<.001

The next table shows that the Black hit rate for crime-related stops is higher than for whites during the study period – 25.5% compared to 17.5% (Table 4.5). But a chi square test shows that the difference between observed and expected counts is not statistically significant and there is a cell size problem, with the number of cells with an expected count of less than five higher than the recommended 20%. A two by two table (the next following table, Table 4.6) does meet the requirement of expected counts for the chi square test, and indicates that the hit rate difference between Black and white crime-related stops is not statistically significant.
Table 4.5 Hit Rate for Crime-related\(^{50}\) stops by Racial Group, Merged Database

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>Number Crime-related stops resulting in Arrests/citations (Raw Hit Rate)</th>
<th>Number Crime-related stops no resulting in Arrests/Citations (Unproductive stop rate)</th>
<th>Number Crime-Related Stops (Total)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>8 (18.2%)</td>
<td>36 (81.8%)</td>
<td>44 (100%)</td>
</tr>
<tr>
<td>Asian</td>
<td>2 (20%)</td>
<td>8 (80%)</td>
<td>10 (100%)</td>
</tr>
<tr>
<td>Black</td>
<td>12 (25.5%)</td>
<td>35 (74.5%)</td>
<td>47 (100%)</td>
</tr>
<tr>
<td>South Asian</td>
<td>4 (18.2%)</td>
<td>18 (81.8%)</td>
<td>22 (100%)</td>
</tr>
<tr>
<td>White</td>
<td>293 (17.5%)</td>
<td>1381 (82.5%)</td>
<td>1674 (100%)</td>
</tr>
<tr>
<td>All Others</td>
<td>2 (9.5%)</td>
<td>19 (90.5%)</td>
<td>21 (100%)</td>
</tr>
<tr>
<td>Total</td>
<td>321 (17.7%)</td>
<td>1497 (82.3%)</td>
<td>1818 (100%)</td>
</tr>
</tbody>
</table>

Chi square= 3.0, df=5, p=.694  (3 cells [25%] have expected count less than 5)

Table 4.6 Hit Rate for Crime-related\(^{51}\) stops for Black and White Race Groups only (2x2 Table), Merged Database

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>Number Crime-related stops resulting in Arrests/citations</th>
<th>Number Crime-related stops not resulting in Arrests/citations</th>
<th>Number of Stops</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black</td>
<td>12 (25.5%)</td>
<td>35 (74.5%)</td>
<td>47 (100%)</td>
</tr>
<tr>
<td>White</td>
<td>293 (17.5%)</td>
<td>1381 (82.5%)</td>
<td>1674 (100%)</td>
</tr>
</tbody>
</table>

Chi Square (\(X^2\))\(^{\dagger}\) 1.5, df=1, p=.219

\(^{\dagger}\) Continuity correction for a 2x2 table

---

\(^{50}\) Legal Justification for Stop = CCC, Drug-related, Bulletin/Suspect

\(^{51}\) Legal Justification for Stop = CCC, Drug-related, Bulletin/Suspect
For crime related stops, as can be expected, the hit rates are higher for all groups than non-crime related stops. The high hit rate for Blacks (25.5%) is not statistically significantly different from the white hit rate (17.5%). Although the black hit rate seems high, there were still over 75% of stops of Black people for crime related reasons that did not end in a ticket or arrest. Over a twelve-month period, there were only 12 arrests of Black suspects for crime-related activities. These data are consistent with the research setting discussion in which it was established that Kingston is a relatively low crime city. The small number of arrests of Black citizens for crime related stops seems to counter the hypothetical argument that high Black criminality is responsible for high contact with police. The small number of arrests also casts doubt on the practice of over-stopping Black citizens in Kingston, and raises questions about the efficient deployment of police resources. The next table summarizes the hit rates for the three other legal justifications for stops.

Table 4.7 Raw hit rate for HTA, Citizen-Generated, and Minor Transgressions stops by Racial Group, Merged Database

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>HTA ‘Hit Rate’</th>
<th>Citizen-generated ‘Hit Rate’</th>
<th>Minor Transgressions ‘Hit Rate’</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>25.7%</td>
<td>3.5%</td>
<td>8.1%</td>
</tr>
<tr>
<td>Asian</td>
<td>41.8%</td>
<td>0%</td>
<td>10.8%</td>
</tr>
<tr>
<td>Black</td>
<td>36.2%</td>
<td>0%</td>
<td>6.1%</td>
</tr>
<tr>
<td>South Asian</td>
<td>48.5%</td>
<td>0%</td>
<td>8.3%</td>
</tr>
<tr>
<td>White</td>
<td>47.3%</td>
<td>2.5%</td>
<td>5.9%</td>
</tr>
<tr>
<td>All Others</td>
<td>47.5%</td>
<td>0%</td>
<td>18.1%</td>
</tr>
<tr>
<td>Total</td>
<td>47%</td>
<td>2.4%</td>
<td>6.1%</td>
</tr>
<tr>
<td>Hits (N)</td>
<td>4106</td>
<td>36</td>
<td>282</td>
</tr>
</tbody>
</table>

X2

|          | 14. 4, df=5, p=.013 | 2.2†, df=5, p<.05 | 14.1†, df=5, p<.05 |

†more than 20% of cells have expected count less than 5

The lowest HTA hit rate is for Aboriginal stops. Of the 35 HTA stops of Aboriginals, only nine resulted in a citation. The pattern of stops and hit rates for Aboriginal people in Kingston is difficult to interpret; research on aboriginal policing has focused on high profile shooting incidents (for example, the Ipperwash inquiry) and so-called ‘Starlight Tours’ (Comack, 2012). There has not been quantitative analysis of vehicle and pedestrian police stops of Aboriginal people in Canadian cities. There were no arrests resulting from an HTA stop of any non-white persons, and there were 18 arrests of whites as a result of an HTA stop. The HTA hit rate of
36.2% for Black citizens (n =127, hits=46) is much higher than the aboriginal rate, but is very low compared with white HTA hit rate of 47.3% (Table 4.7 above). Low Black HTA hit rates in Kingston are inconsistent with the claim made by some that Black drivers have higher rates of traffic offending than whites (see discussion in Mosher, 2008). However, low Black HTA hit rates are consistent with the ‘pretext stop’ thesis, which is discussed in detail later in this section. In particular, it will be argued that the zero arrest rate resulting from HTA stops of Blacks attests that pretext stops in Kingston, if they were taking place, did not net large numbers of serious offences.

Kingston police officers had the option to code the reason for any non-casual contact with the public as a citizen-generated stop. Officers responding to noise complaints, domestic occurrences, careless driving, trespassing, and persons causing disturbance, as well as conducting street and information checks, used this category as the ‘reason’ for the stop. Citizen-generated stops comprised 9.1% (n=1,515) of all stops (n=16,734). Citizen-generated stops (n=1514) tended to be pedestrian (87.5%, contact cards), and mostly resulted in no disposition (81.4%, n=1,233). Only 16% percent of citizen-generated stops resulted in warnings, and less than one percent in arrests and citations.

None of the citizen-generated stops of visible minorities conducted in Kingston resulted in a hit in a 12-month period (Table 4.7, above). This finding raises questions about the appropriateness of stopping visible minorities on the justification of ‘citizen-generated’ reasons. It is also noteworthy that both of the Mark Wallen incidents that sparked the data collection in Kingston were consistent with a citizen-generated stop – in both cases, police say that a member of the public (wrongly) called upon police to stop Mark Wallen as a suspect.

Unlike HTA and Citizen-generates stops, the hit rate for minor transgressions stops is slightly higher for Blacks (6.1%) than for whites (5.9%) but there are cell size problems with the chi square test (Table 4.7). A chi-square test run on a 2x2 table (Table 4.8 below) for Black and white reveals that the racial difference in the minor transgression hit rate is not statistically significant.
Implicit in the debate about police stops is the belief that young Black men are responsible for the most offending (see discussion of the ‘symbolic assailant’ later in this chapter and Kathryn Russell’s ‘Blackcriminalman’ argument in the next chapter). We have seen little evidence that is consistent with this belief; but so far, only racial differences have been examined. Hit rates by gender and age may tell a different story. The next two tables present hit rates by racial group by sex and age, respectively.

Table 4.8 Raw hit rate for Minor Transgression stops for Black and White Race Groups only (2x2 Table), Merged Database

<table>
<thead>
<tr>
<th></th>
<th>Number Minor Transgression Stops</th>
<th>Number Minor Transgression Stops resulting in Arrests/citations</th>
<th>Raw Minor Transgression ‘Hit’ Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black</td>
<td>97</td>
<td>6</td>
<td>6.2%</td>
</tr>
<tr>
<td>White</td>
<td>4234</td>
<td>251</td>
<td>5.9%</td>
</tr>
<tr>
<td>X2†</td>
<td></td>
<td>.000, df=1, p= 1.00</td>
<td></td>
</tr>
</tbody>
</table>

†Continuity correction for a 2x2 table

Overall gender difference in hit rate is small but significant – female hit rate (contact cards only) is 20.6% (n=562) compared to 18.7% for males (n=1407, \(X^2=4.5, \text{df}=1, p>.05\), table not shown).

Table 4.9 Raw ‘hit’ rate by Sex and Racial Group (Contact Cards Only)

<table>
<thead>
<tr>
<th></th>
<th>Female Stops</th>
<th>Male Stops</th>
<th>Raw Male ‘Hit’ Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number Stops</td>
<td>Number Arrests/ Citations</td>
<td>Raw Female ‘Hit’ Rate</td>
<td>Number Stops</td>
</tr>
<tr>
<td>Aboriginal</td>
<td>52</td>
<td>6</td>
<td>11.5%</td>
<td>170</td>
</tr>
<tr>
<td>Asian</td>
<td>34</td>
<td>8</td>
<td>23.5%</td>
<td>70</td>
</tr>
<tr>
<td>Black</td>
<td>41</td>
<td>7</td>
<td>17.1%</td>
<td>178</td>
</tr>
<tr>
<td>South Asian</td>
<td>17</td>
<td>1</td>
<td>5.9%</td>
<td>71</td>
</tr>
<tr>
<td>White</td>
<td>2525</td>
<td>530</td>
<td>21.0%</td>
<td>6837</td>
</tr>
<tr>
<td>All Others</td>
<td>15</td>
<td>5</td>
<td>33.3%</td>
<td>104</td>
</tr>
<tr>
<td>Total</td>
<td>2684</td>
<td>557</td>
<td>20.8%</td>
<td>7430</td>
</tr>
</tbody>
</table>

\( \chi^2 = 6.9, df=5, p=.221 \)

\( \chi^2 = 10.8, df=5, p=.055 \)

---

52 Legal Justification for Stop = By-law infraction; Other/LLA/Provincial Statute
Hit rates disaggregated by gender and racial group tell a slightly different story. Black female hit rates are lower than white female hit rates, but higher than Black male hit rates. Indeed, the subgroups with the highest hit rates are: Other racial group females (33.3%), South Asian males (25.4%), Asian Females (23.5%), and white females (21%, Table 4.9). If we look back to the previous chapter, however, we see that these groups tend to be under-stopped by police, and thus, not particularly targeted.

A cross tabulation of age and race hit rates (Table 4.10) shows that racial differences in hit rates by age are not statistically significant. However, it is interesting to note that during the study period, there was a very low hit rate for young Black males under 25 (Table 4.11). A low hit rate for this group is not consistent with the Black offending thesis, which argues that young Black men are targeted by police because they are most likely to be involved in crime. It is interesting, however, that the hit rate (remember, hit rates are calculated from percent citations and arrests, not searches) increases with age, with the highest hit rate for stops of Black citizens found in the 45 plus age group (although this is a very small group, with 23 stops and 7 hits, Table 4.10).
Table 4.10 Raw Hit Rates by Age group and Racial Groups, contact cards only.

<table>
<thead>
<tr>
<th>Age Groups</th>
<th>0-24</th>
<th>25-34</th>
<th>35-44</th>
<th>45+</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>8.6%</td>
<td>17.7%</td>
<td>8.2%</td>
<td>7.7%</td>
</tr>
<tr>
<td>Asian</td>
<td>19.6%</td>
<td>20.0%</td>
<td>33.3%</td>
<td>19.0%</td>
</tr>
<tr>
<td>Black</td>
<td>9.4%</td>
<td>20.4%</td>
<td>18.8%</td>
<td>30.4%</td>
</tr>
<tr>
<td>South Asian</td>
<td>16.0%</td>
<td>20.8%</td>
<td>27.8%</td>
<td>27.8%</td>
</tr>
<tr>
<td>White</td>
<td>17.5%</td>
<td>21.3%</td>
<td>20.3%</td>
<td>22.0%</td>
</tr>
<tr>
<td>All Others</td>
<td>12.0%</td>
<td>33.3%</td>
<td>30.0%</td>
<td>19.0%</td>
</tr>
<tr>
<td>Total</td>
<td>17.1%</td>
<td>21.3%</td>
<td>20.0%</td>
<td>21.8%</td>
</tr>
</tbody>
</table>

| Number Hits | 650 | 417 | 443 | 438 |
| Number Contact Cards | 3797 | 1961 | 2213 | 2008 |

Chi-square=20, df=15, p=.170

Table 4.11 Young Male Stop Hit Rates by Race

<table>
<thead>
<tr>
<th>Hit Rate (%)</th>
<th>15-24 years</th>
<th>25-34 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal males</td>
<td>8.3%</td>
<td>15.2%</td>
</tr>
<tr>
<td>Black males</td>
<td>9.3%</td>
<td>24.2%</td>
</tr>
<tr>
<td>White males</td>
<td>17.3%</td>
<td>20.8%</td>
</tr>
<tr>
<td>Other males</td>
<td>15.6%</td>
<td>24.5%</td>
</tr>
<tr>
<td>Total</td>
<td>16.9%</td>
<td>20.9%</td>
</tr>
<tr>
<td>Total stops</td>
<td>2857</td>
<td>1477</td>
</tr>
</tbody>
</table>

X2 5.2, df=3, p=.157 1.6, df=3, p=.654

This analysis of hit rates has generated some surprising findings. The police stops recorded during the Kingston study very rarely resulted in a legal outcome such as arrest. Further, racial differences in crime-related hit rates were not statistically significant. Therefore, no explanation
for racial differences in stop rates can be found in racial differences in hit rates. I therefore turn to another theoretical proposal: the next section explores whether Black over-representation in police stops in Kingston are due to a phenomenon proposed by an American economist, Bernard Harcourt.

### 4.2.2 Statistical Discrimination and ‘The Ratchet Effect’

Statistical discrimination is an explanation for over-stopping of Blacks that comes under the umbrella of crime control – according to the theory, police officers believe that stopping Blacks will reduce crime. Statistical discrimination was proposed by Reiner (2010, p.159), and developed in Bernard Harcourt’s book *Against Prediction*. Statistical discrimination refers to the tautological relationship between stop and search enforcement and assumed ethnic criminality from arrest rates and prison populations (Reiner, 2010, p. 171). In plain language, the circular logic of arrests and criminality can be shown in the following three statements: a) Police stop more Black people as suspects because there are more Black people in prison, b) there are more Black people in prison because more Black people are arrested, c) more Black people are arrested because more Black people are stopped and searched by the police. Bernard Harcourt describes this, in more sophisticated terms, as the ‘Ratchet Effect’:

By ratchet effect, I have in mind a very specific social phenomenon that occurs in multiple stages. In simple terms, it is a disproportionality that grows over time. The disproportionality in question is between the makeup of the offending population and the make-up of the carceral population – that is, the population that has criminal justice contacts such as arrest, conviction, fine, probation, imprisonment, parole, or other supervision. So, for instance, if drywall contractors comprise 10 percent of actual tax evaders but 40 percent of persons convicted of tax evasion, there is an imbalance between the offending population and the carceral population. If the IRS then uses the carceral proportion to allocate more resources to drywall contractors, that imbalance will increase. Over time, this process of increasing disproportionality represents what I call a ratchet. (p. 147).

The ratchet effect explanation firmly puts ‘crime’ at the centre of the rationale for police stops, and therefore is an appropriate analytical tool to answer the question posed by Bradford and Loader that is the subject of this section: are police stops about crime control? It is beyond the scope of this study to determine definitively if the ratchet effect is in operation in Kingston, because little is known about the racial make-up of either the offending population or the carceral population in Kingston. Indeed, race data are not available (or is very hard to come by)
in Ontario for conviction rates, fines, probation, parole and supervision, although extant studies in Ontario do suggest aboriginal and Black over-representation in imprisonment rates. It is also very likely that there was Black over-representation in the correctional facilities in Ontario, including the infamous Kingston Penitentiary at the time of the study. According to the Public Safety Canada’s annual *Corrections and Conditional Release Statistical Overview*, 5.5% of federal offenders in 2007 were Black. This figure has risen to 8.2% in 2015 (also see the review of race and the Ontario criminal justice system in Chapter 1, especially Sapers, 2013). What is within the scope of the study is to look at whether the Kingston data are consistent with statements b) and c) above, that is, whether more Black people were arrested (as a result of a police stop) during the study period than whites. (We have already seen in the previous chapter that the Kingston stop rates are consistent with statement a.)

The following table presents a more detailed analysis of the legal justification or decision to stop, which may shed further light on officers’ beliefs. Each stop in the database was coded as crime-related, a minor transgression, an HTA violation or a ‘citizen-generated’ stop (see Table 4.3 for classifications).

**Table 4.12 Racial group by Legal Justification for stop (Percent Crime-related, Minor Transgression, HTA, citizen) Merged database.**

<table>
<thead>
<tr>
<th></th>
<th>Crime-Related</th>
<th>Minor Transgression</th>
<th>HTA</th>
<th>Citizen Generated</th>
<th>Total (n)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>18.0%</td>
<td>44.9%</td>
<td>14.3%</td>
<td>22.9%</td>
<td>100.0% (245)</td>
</tr>
<tr>
<td>Asian</td>
<td>4.8%</td>
<td>21.9%</td>
<td>64.3%</td>
<td>9.0%</td>
<td>100.0% (210)</td>
</tr>
<tr>
<td>Black</td>
<td>15.5%</td>
<td>31.9%</td>
<td>41.8%</td>
<td>10.9%</td>
<td>100.0% (304)</td>
</tr>
<tr>
<td>South Asian</td>
<td>10.8%</td>
<td>17.6%</td>
<td>67.6%</td>
<td>3.9%</td>
<td>100.0% (204)</td>
</tr>
<tr>
<td>White</td>
<td>10.8%</td>
<td>27.3%</td>
<td>53.1%</td>
<td>8.8%</td>
<td>100.0% (15487)</td>
</tr>
<tr>
<td>All Others</td>
<td>12.9%</td>
<td>27.0%</td>
<td>49.1%</td>
<td>11.0%</td>
<td>100.0% (163)</td>
</tr>
<tr>
<td>Total</td>
<td>10.9%</td>
<td>27.5%</td>
<td>52.6%</td>
<td>9.0%</td>
<td>100.0% (16613)</td>
</tr>
</tbody>
</table>

Chi square= 214.7, df=15, p<.001
A cross-tabulation of race by percent legal justification (Table 4.12, above) shows that of the people stopped by police during the study period, a larger percent of Black people were stopped for crime-related reasons, compared to other racial groups (except Aboriginals). Table 4.12 also shows that of the Black people stopped, a smaller percentage were stopped for HTA violations than other racial groups (except aboriginal). This is consistent with statistical discrimination insofar that the within-group reason for stop distribution shows a higher suspicion of Black people for crime. This would loosely suggest that police believe Black people to be associated with crime and minor crime more than other ethnic groups (except for Aboriginals). However, race difference in this cross tabulation, which includes all stops in the database, could be due to Black people being less likely to be stopped in vehicles. To address this problem, a cross tabulation of pedestrian stops is presented in the table below.

Table 4.13  Racial group by Legal Justification for stop (Percent Crime-related, Minor Transgression, HTA, citizen) Pedestrian Stops, Contact Cards

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>Crime-Related</th>
<th>Minor Transgression</th>
<th>HTA</th>
<th>Citizen Generated</th>
<th>Total (n)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>20.0%</td>
<td>47.8%</td>
<td>5.4%</td>
<td>26.8%</td>
<td>205</td>
</tr>
<tr>
<td>Asian</td>
<td>12.9%</td>
<td>48.4%</td>
<td>16.1%</td>
<td>22.6%</td>
<td>62</td>
</tr>
<tr>
<td>Black</td>
<td>28.3%</td>
<td>48.6%</td>
<td>3.6%</td>
<td>19.6%</td>
<td>138</td>
</tr>
<tr>
<td>South Asian</td>
<td>36.6%</td>
<td>41.5%</td>
<td>4.9%</td>
<td>17.1%</td>
<td>41</td>
</tr>
<tr>
<td>White</td>
<td>22.5%</td>
<td>51.0%</td>
<td>6.4%</td>
<td>20.0%</td>
<td>5944</td>
</tr>
<tr>
<td>All Others</td>
<td>27.3%</td>
<td>42.4%</td>
<td>6.1%</td>
<td>24.2%</td>
<td>66</td>
</tr>
<tr>
<td>Total</td>
<td>22.6%</td>
<td>50.7%</td>
<td>6.4%</td>
<td>20.3%</td>
<td>6456</td>
</tr>
</tbody>
</table>

Chi square= 29.3, df=15, p=.019

When only pedestrian contact cards are examined (Table 4.13) there are still significant racial differences in the distribution of legal justifications for stops within racial groups. Stops of Black citizens for crime-related reasons were higher (28.3%) than for whites (22.5%), although the South Asian group (n=41) has the highest proportion of crime-related stops (36.6%). Interestingly, the proportion of whites stopped for minor transgressions (51%) surpassed the proportion for Blacks (48.6%).
The high proportion of crime-related stops of Blacks could be due to higher suspicion from police officers caused by the ratchet effect. However, there are at least two alternative explanations for Black over-representation in crime-related reasons for stops. The first is that Black people during the study period were more involved in crime, but as analysis of hit rates in the first section of this chapter show, Black people overall were less likely to be charged during the study period\(^{53}\). The second explanation is that police were stopping Black citizens on pretext. This explanation is explored below.

4.2.3 Pretext Stops and the Legal Justification for Stop

Stopping drivers on ‘pretext’ was considered an essential crime control tool during the 1990s and the ‘war on drugs’ (see Chapter 1 discussion). Some of the earliest work on racial profiling responded to the classic police ‘pretext’ traffic stop, or ‘Driving While Black’. According to Shafer et al (2006):

> The term “racial profiling” generally describes police officers using pretext (often minor traffic or equipment violations) to stop and interview minority drivers to satisfy the officer’s curiosity and/or search for drugs and other contraband. There is general consensus among citizens, advocates, and police that such police behavior is inappropriate (p.185).

According to the pretext thesis, officers who stop vehicles on pretext believe that Black citizens are more likely to carry contraband. Officers, it suggests, will stop a Black motorist for a minor traffic violation such as “underinflated tires, safety belt warnings, failures to signal lane changes, and other minor vehicle code and nonmoving violations” (Ramirez, 2000, p. 9) in the hopes of a more serious ‘hit’ such as drugs or weapons. In the pedestrian context, ‘stop and frisks’ may also be conducted for pretext reasons.

In the pedestrian-stop context, high-discretion stops involve those who may look suspicious but are not engaged in any specific criminal violation or activities. These high-

\(^{53}\) Myriad speculative explanations also present themselves here: perhaps Black offending/contraband was high, but police chose not to charge Black citizens, or chose instead to give a warning; perhaps white offending was high and police chose not to record stops. While systematic social observational studies can track police decision making and stop outcomes in this way, the administrative data collected for the Kingston study simply does not allow us to know what actually happened.
discretion stops invite both intentional and unintentional abuses. Police are just as subject to the racial and ethnic stereotypes they learn from our culture as any other citizen. Unless documented, such stops create an environment that allows the use of stereotypes to go undetected. (Ramirez, 2000, p.10)

It is increasingly argued that these types of stops are inappropriate, although in the US the use of pretext stops has been upheld in the courts.\(^{54}\)

A direct measure of pretext stops would require knowing what officers are thinking when making a stop, and thus pretext stops are almost impossible to quantify. However, the Kingston data do provide information on the officer-reported legal justification for stop, and the outcome of the stop. A pattern of stops that are for HTA violations that end in either a) a charge for a more serious offence, or b) no charge/disposition, would be consistent with the thesis that officers are stopping Blacks on pretext (this does not, of course, preclude other explanations). It should be kept in mind, however, that the recorded reason for stops may not accurately reflect officer behaviour. For example, an officer could retrospectively code a pretext stop as a crime-related stop to appear to be consistent with an arrest outcome: ‘juking the stats’ is a well-known occurrence.

The table below presents disposition rates for all HTA violations during the study period (n=8731). It shows that HTA stops of Black citizens in Kingston resulted in low citation rates (36.2%) compared to stops of whites (47.1%), and Black stops were much more likely to end in a warning.

\(^{54}\) For example, see discussions of *Whren vs US* (1996) and *Terry vs Ohio* (1968) in Citron (2007) and Harris (1997). See discussion of Dee Brown case in the literature review of this dissertation for the Ontario courts’ view of pretext stops.
Table 4.14 Dispositions by Racial Group, HTA Violations only, Merged Database

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>Number HTA Stops</th>
<th>% Resulting in Arrest</th>
<th>% Resulting in Citation</th>
<th>% Resulting in Warning</th>
<th>% Resulting in No Disposition</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>35</td>
<td>-</td>
<td>25.7%</td>
<td>34.3%</td>
<td>40.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Asian</td>
<td>135</td>
<td>-</td>
<td>41.5%</td>
<td>46.7%</td>
<td>11.9%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Black</td>
<td>127</td>
<td>-</td>
<td>36.2%</td>
<td>50.4%</td>
<td>13.4%</td>
<td>100.0%</td>
</tr>
<tr>
<td>South Asian</td>
<td>138</td>
<td>-</td>
<td>48.6%</td>
<td>39.1%</td>
<td>12.3%</td>
<td>100.0%</td>
</tr>
<tr>
<td>White</td>
<td>8216</td>
<td>0.2%</td>
<td>47.1%</td>
<td>38.4%</td>
<td>14.2%</td>
<td>100.0%</td>
</tr>
<tr>
<td>All Others</td>
<td>80</td>
<td>-</td>
<td>47.5%</td>
<td>31.2%</td>
<td>21.2%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Total</td>
<td>8731</td>
<td>0.2%</td>
<td>46.8%</td>
<td>38.7%</td>
<td>14.3%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Chi-square= 36.7, df=15, p<.001

The low citation rate and high warning rate for Black HTA stops is consistent with pretext stops. There is, however, a zero percent arrest rate for HTA stops, which is not consistent with the idea that pretext stops, if they take place, are an effective law enforcement tool for more serious offences. The high warning rate for Black stops is difficult to interpret. Novak (2004) found that officers were more likely to stop Black motorists, but less likely to formally sanction them with a citation. Novak saw this as consistent with pretext stops. Smith and Petrocelli (2001) interpreted their finding – racial minorities more likely to be given a warning than a citation – as meaning that minorities may have been stopped on weaker evidence. Officers could be stopping drivers on pretext for a minor violation, and when a more serious offence does not materialize, officers choose to give a warning rather than a ticket for the minor traffic infraction. The practice saves time and paperwork for the officer. There is also the argument that officers knew that the data were being monitored. As a result, officers did not want to appear to be harsh on minority citizens, and gave warnings rather than citations during pretext stops to keep the hit rate low. In any case, the Kingston data are not consistent with successful or efficient pretext stops. The data are consistent with either few pretext stops occurring, or non-productive pretext stops occurring. The only thing I can rule out is that police are not using pretext as a legitimate enforcement tool. This is a main finding of the dissertation. This section, then, has shown that if pretext stops were taking place, they were not at all effective.

55 Legal Justification for Stop = HTA violation
4.2.4 Productive Targeting Ratio/Index

This section examines the relationship between the hit rate and the stop rate. It continues the investigation into whether police stops are about crime fighting, or about something entirely different. The raw hit rate is useful in measuring how much ‘success’ police have when they choose to stop an individual. However, the hit rate does not take into account the over-stopping and under-stopping of racial groups. In other words, the hit rate is impervious to whether 10% or 90% of a population group is stopped.

A good example of this paradox is explained by Bowling and Phillips (2007). They draw attention to the fact that the hit rate\(^{56}\) is the same for both whites and Blacks in England and Wales (approximately 11%), and yet, Black people are up to 5 times more likely to be stopped than white people. How useful, they ask, is the hit rate in measuring experiences of racial profiling? The hit rate completely ignores the over-stopping and targeting of minority ethnic groups, which historically has been the source of much racial tension between minority communities and the police in the UK. Similarly, the Kingston hit rates only tell us part of the story. It appears that stops of Black people do not result in significantly higher hit rates, and indeed, for some types of stops much lower hit rates than whites. This may indicate that the police are stopping proportionately more innocent Black people than white people, which will have a negative impact, but how many more in magnitude? The hit rate does not tell us which groups have been the most burdened by stops by police.

A new index goes further in measuring the impact and scope of racial profiling than the simple hit rate. The productive targeting index/ratio is calculated by dividing the group hit rate by the group surveillance rate (the surveillance rate is the stop rate per 1,000 population expressed as a percent). The index therefore combines information about the productivity of stops (hits) with information about which group(s) have come under the most scrutiny by police (surveillance rate). In other words, the hit rate measure is tempered by a measure that takes into account whether the Kingston police cast wider surveillance nets for some groups compared to others.

\(^{56}\) Note that this hit rate is calculated from successful searches.
during the study period. The measure takes into account the racial groups in Kingston receiving the most attention from police and which groups enjoy the least attention.
<table>
<thead>
<tr>
<th>Racial Group</th>
<th>% Raw ‘Hits’ 57</th>
<th>Surveillance Rate (Percent Population stopped by KPS)58</th>
<th>Productive Targeting Index59</th>
<th>Description of Index</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>11.4%</td>
<td>11.3%</td>
<td>1.008</td>
<td>A low hit rate and a low surveillance rate (both first quartile) suggests group not particularly targeted.</td>
</tr>
<tr>
<td>Asian</td>
<td>30%</td>
<td>7.1%</td>
<td>4.22</td>
<td>A high hit rate and a low surveillance rate (first quartile) suggests group very productively targeted.</td>
</tr>
<tr>
<td>Black</td>
<td>21%</td>
<td>33.2%</td>
<td>0.63</td>
<td>A medium (second quartile) hit rate and a very high (fourth quartile) surveillance rate suggests police are targeting this group, but not very successfully/productively.</td>
</tr>
<tr>
<td>South Asian</td>
<td>36.5%</td>
<td>12.6%</td>
<td>2.89</td>
<td>A very high hit rate (4th quartile) combined with a low (2nd quartile) surveillance rate suggests group are quite productively targeted.</td>
</tr>
<tr>
<td>White</td>
<td>28.8%</td>
<td>14.9%</td>
<td>1.93</td>
<td>Medium hit rate (2nd quartile) and medium (2nd quartile) surveillance rate suggest group are somewhat productively targeted.</td>
</tr>
<tr>
<td>All Others</td>
<td>29.4%</td>
<td>8%</td>
<td>3.67</td>
<td>A high hit rate (3rd quartile) combined with a low (1st quartile) surveillance rate is consistent with very productive targeting.</td>
</tr>
<tr>
<td>Total</td>
<td>28.5%</td>
<td>14.6%</td>
<td>1.95</td>
<td>--</td>
</tr>
</tbody>
</table>

57 Number of arrests/citations divided by number of stops (merged database).

58 Number of stops by race (merged database) divided by the number of residents (Kingston City Census data, estimated 2004)

59 The ratio of hit rate to surveillance rate (i.e., % Hits divided by % Population stopped by KPS)
The index illustrates considerable racial differences in the productivity and targeting of stops. Asians and South Asian appear to be the most efficiently targeted stops (appearing to be stopped for genuine reason), with overall high hit rates combined with low surveillance rates. The ratio for Black stops is very low (0.63), reflecting the medium hit rate and very high surveillance rate. This suggests that police may be on a ‘fishing expedition’ when stopping Black people, and may not have a genuine reason, at least compared to the South Asian group. This finding for Black stops is consistent with the pretext thesis, but not completely consistent with the statistical discrimination thesis. For the ratchet effect to be in operation, we would expect that stops of Black people would be fairly productive (a high carceral population, i.e. arrests), which would encourage or ‘ratchet up’ the targeting of Black people by police. To the contrary, the productive targeting index shows that the opposite of the ratchet effect may be in operation in Kingston. That in fact the groups with the highest productivity for stops (and highest carceral population in terms of those charged/cited or arrested) – Asians and South Asians, are the least likely to be stopped by police; while the group with the lowest productivity (and medium low carceral population, i.e. those charged/cited or arrested) -- Blacks, are the most over-stopped group. Once again, this may be explained by officer’s belief that the Black carceral population is high, in which case, the ratchet effect may still be a useful way to look at over-representation of Black stops in Kingston. Whether or not this finding supports the statistical discrimination/ratchet effect thesis, the findings are consistent with pretext stops and consistent with the existence of profiling.

The table below investigates productive targeting for subgroups by age and gender. A key finding from this breakdown of stops is that stops of males during the study period were overall less productive than stops of females (Table 4.16), which is inconsistent with a crime control view of police stops.
Table 4.16 Comparison of Hit Rates and Surveillance Rates – Productive Targeting – for Male and Female stops by Racial Group, contact cards only

<table>
<thead>
<tr>
<th></th>
<th>Female Stops</th>
<th></th>
<th>Male Stops</th>
<th></th>
<th>Total</th>
<th>Number of contact cards</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Raw Hit Rate</td>
<td>Surveillance Rate</td>
<td>Productive Targeting</td>
<td>Raw Hit Rate</td>
<td>Surveillance Rate</td>
<td>Productive Targeting</td>
</tr>
<tr>
<td>Aboriginal</td>
<td>11.5%</td>
<td>4.8%</td>
<td>2.39</td>
<td>10.6%</td>
<td>15.8%</td>
<td>0.67</td>
</tr>
<tr>
<td>Asian</td>
<td>23.5%</td>
<td>2.4%</td>
<td>9.79</td>
<td>18.6%</td>
<td>5.9%</td>
<td>3.15</td>
</tr>
<tr>
<td>Black</td>
<td>17.1%</td>
<td>9.6%</td>
<td>1.78</td>
<td>15.7%</td>
<td>37.0%</td>
<td>0.42</td>
</tr>
<tr>
<td>South Asian</td>
<td>5.9%</td>
<td>2.1%</td>
<td>2.80</td>
<td>25.4%</td>
<td>8.7%</td>
<td>2.9</td>
</tr>
<tr>
<td>White</td>
<td>21.0%</td>
<td>4.7%</td>
<td>4.46</td>
<td>19.0%</td>
<td>13.8%</td>
<td>1.37</td>
</tr>
<tr>
<td>All Others</td>
<td>33.3%</td>
<td>1.2%</td>
<td>27.75</td>
<td>19.2%</td>
<td>9.3%</td>
<td>2.06</td>
</tr>
<tr>
<td>Total</td>
<td>20.8%</td>
<td>4.6%</td>
<td><strong>4.52</strong></td>
<td>18.8%</td>
<td>13.7%</td>
<td><strong>1.37</strong></td>
</tr>
</tbody>
</table>

Similar to stops of South Asians in the previous table, stops of females in Kingston were much more efficient/productive than stops of males: the ratio for white women was very high (4.46) due to high hit rates (21%), and low surveillance rates (4.7%). Stops of males were much less efficient than of females, which is consistent with gender profiling – a large net is cast in stops of males, but female stops appear to be for genuine reasons. Black females and Black males are less productively targeted than their white counterparts, which is consistent with pretext stops and racial profiling. The data beg the question: if hit rates for females are so high, and police stops are about crime control, why do police not target more white females? Gender, hit rates and productive targeting would be a fruitful area of further research.

The next three tables show the hit rates, surveillance rates and productive targeting ratios by age group. Black hit rates vary considerably by age group (Table 4.17, below). Stops of young Black people during the study had very low hit rates (9.4%), whereas stops of older people were much higher (30.4%). (This remains true when looking at pedestrians only. The hit rate for
pedestrians aged 45 + is higher than for the younger age group 0-24, table not shown). However, racial differences in hit rates by age group observed during the study period are not statistically significant. Although the numbers are very small and differences are not statistically significant (there are only 39 contact cards of stops of Black people over the age of 45 in the dataset), the higher hit rate for older Blacks provides some support for the statistical discrimination thesis. It is possible (and is speculation at best) that some police officers experienced higher hit rates for older Black pedestrians and motorists, and this experience forms the basis for stopping more Black people of all ages.

Table 4.17 Raw Hit Rates by Age group and Racial Groups, contact cards only

<table>
<thead>
<tr>
<th>Age Groups</th>
<th>0-24</th>
<th>25-34</th>
<th>35-44</th>
<th>45+</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>8.6%</td>
<td>17.7%</td>
<td>8.2%</td>
<td>7.7%</td>
</tr>
<tr>
<td>Asian</td>
<td>19.6%</td>
<td>20.0%</td>
<td>33.3%</td>
<td>19.0%</td>
</tr>
<tr>
<td>Black</td>
<td>9.4%</td>
<td>20.4%</td>
<td>18.8%</td>
<td>30.4%</td>
</tr>
<tr>
<td>South Asian</td>
<td>16.0%</td>
<td>20.8%</td>
<td>27.8%</td>
<td>27.8%</td>
</tr>
<tr>
<td>White</td>
<td>17.5%</td>
<td>21.3%</td>
<td>20.3%</td>
<td>22.0%</td>
</tr>
<tr>
<td>All Others</td>
<td>12.0%</td>
<td>33.3%</td>
<td>30.0%</td>
<td>19.0%</td>
</tr>
<tr>
<td>Total</td>
<td>17.1%</td>
<td>21.3%</td>
<td>20.0%</td>
<td>21.8%</td>
</tr>
<tr>
<td>Number Hits</td>
<td>650</td>
<td>417</td>
<td>443</td>
<td>438</td>
</tr>
<tr>
<td>Number Contact Cards</td>
<td>3797</td>
<td>1961</td>
<td>2213</td>
<td>2008</td>
</tr>
</tbody>
</table>

Chi-square=20, df=15, p=.170
Table 4.18  Surveillance Rates- Age groups and Racial Group, contact cards only

<table>
<thead>
<tr>
<th></th>
<th>Surveillance Rate&lt;sup&gt;60&lt;/sup&gt; by Age Groups</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0-24</td>
</tr>
<tr>
<td>Aboriginal</td>
<td>4.1%</td>
</tr>
<tr>
<td>Asian</td>
<td>4.2%</td>
</tr>
<tr>
<td>Black</td>
<td>21.4%</td>
</tr>
<tr>
<td>South Asian</td>
<td>4.2%</td>
</tr>
<tr>
<td>White</td>
<td>11.1%</td>
</tr>
<tr>
<td>All Others</td>
<td>5.3%</td>
</tr>
<tr>
<td>Total</td>
<td>10.6%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Number Contact Cards</th>
<th>Census Resident Population, est 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>3795</td>
<td>35850</td>
</tr>
<tr>
<td></td>
<td>1961</td>
<td>14774.2</td>
</tr>
<tr>
<td></td>
<td>2213</td>
<td>17020.8</td>
</tr>
<tr>
<td></td>
<td>2008</td>
<td>45707</td>
</tr>
</tbody>
</table>

<sup>60</sup> Age group-specific surveillance rate is calculated by dividing the number of stops (contact cards only) of that age (and race) group by the number of estimated residents of that age (and race) group (Kingston City interpolated census data, 2004).
Table 4.19 Productive Targeting ratios by Race and Age groups

<table>
<thead>
<tr>
<th></th>
<th>Productive Targeting Ratios Age groups</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0-24</td>
</tr>
<tr>
<td>Aboriginal</td>
<td>2.10</td>
</tr>
<tr>
<td>Asian</td>
<td>4.67</td>
</tr>
<tr>
<td>Black</td>
<td>0.44</td>
</tr>
<tr>
<td>South Asian</td>
<td>3.81</td>
</tr>
<tr>
<td>White</td>
<td>1.58</td>
</tr>
<tr>
<td>All Others</td>
<td>2.26</td>
</tr>
<tr>
<td>Total</td>
<td>1.61</td>
</tr>
</tbody>
</table>

The index shows a similar pattern for both white and Black age groups: lower ratios for stops of younger people, and higher ratios for the over-45 age group. However, stops of whites are much more productive overall than stops of Blacks. Young Black people are subjected to very high surveillance rates; combined with medium and low hit rates, this is evidence of very unproductive targeting and is consistent with reports that young people feel that they are frequently stopped by police for no good reason.

Productive Targeting and Crime-Related stops

It may be useful to produce the productive targeting index for crime-related stops only, in order to examine whether police stopping patterns are primarily motivated by crime control. This section presents data for crime-related stops separately. These stops are more likely to be lower-discretion and for the most part exclude traffic violation stops (21 crime related stops ended in an HTA citation). It would be hoped that these stops are the most productively targeted, because they have potentially more serious or intrusive consequences than HTA violation stops.
Crime-related stops of Black people during the study period were less productive/efficient than stops of whites, according to the productive targeting index (Table 4.20). The hit rate was high (but not statistically significant) for Black crime related stops, but the surveillance rate was extremely high, more than double that of whites, during the study period. The above table does lend some support to the statistical discrimination thesis, in that the higher crime-related hit rate for Blacks (although not statistically significant) may have encouraged officers to believe that there are higher offending rates in the Black population.

Overall, it is my assessment that given the available evidence there is weak support for the Statistical Discrimination thesis. It is not obvious that Black people are over-represented in the offending or carceral population, since very few Black people were arrested during the study period; and hit rates, especially for young people, are overall low. However, higher hit rates in the older age group and for crime-related stops may fuel a perception amongst police that the offending and/or carceral population is proportionately higher for Blacks, and may help contribute to the ‘ratchet’ effect described by Harcourt. I found some support for pretext stops as an explanation for Black over-representation in the Kingston stops data: for HTA stops of Black citizens in Kingston, the warning rates were high, stops with no disposition were frequent, and citations rates were low. These findings are consistent with Miller’s (2008) study of self-reported

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61 The surveillance rate is the stop rate per 1,000 expressed as a percent: number of contact cards and dispatcher-recorded stops (by race) divided by the number of residents (Kingston City Census data, estimated 2004)
traffic stops. Miller found that differences in warning and ticket stops were consistent with the ‘Driving While Black’ (pretext stops). Certainly, more research is required to determine whether pretext stops are happening.

The productivity index also speaks to the issue of whether police stops are really about crime control. For example, the high productivity of crime-related stops of Asians casts doubt on whether concern about ‘crime’ (Black offending) is responsible for Black over-representation in police stops. It just does not make sense that if police stopping behavior is explained predominantly by drives towards crime prevention and detection, that police would under-stop groups with higher hit rates such as females and Asians.

The apparent disconnect between hit rates, crime-related stops, and stop rates opens up the possibility that police stops can be explained by priorities and factors that are not related to crime at all (Bradford & Loader, 2016). Contemporary research in policing has suggested that police organizations are moving away from ‘crime fighting’ and may be more concerned with such things as information gathering, image management, surveillance, and risk management (cf. Ayling, et al, 2008; Ericson & Haggerty, 1997; Huey, 2007; O’Malley, 2010). It is argued that there have been fundamental changes in how police organizations operate in late modern neo-liberal society.

Seen from this perspective the stubbornly low hit rates that form a key and routine component of the debate around stop and search are of only limited relevance to a proper understanding of the practice, at least from a sociological perspective. People from socially marginal categories are more likely to be stopped and searched even controlling for their actual level of self-reported drug offending (nor did the crime levels in the areas in which they might live seem to be particularly important). Positioned thus, stop and search is less about crime control and more about controlling recalcitrant, ‘difficult’ or threatening populations; at its root, about doing what is deemed necessary to maintain the particular version of ‘order’ that such individuals threaten or transgress. (Bradford & Loader, 2016, p. 22)

The next section, then, examines an alternative approach to explaining Black over-representation in police stops. The approach outlined below rejects the notion that police stops are about efficient law enforcement (i.e. the dominant ‘crime fighting’ discourse). Instead, the next section posits that police stops are about surveillance for surveillance’s sake, as well as social control, and maintaining existing structures of power in a liberal democratic society such as Canada.
4.3 Part 2: Explanations for stop rates beyond crime control

[T]he evidence (from across time and jurisdiction) is of repeated ethnic and other disproportionalities and endemically low ‘hit rates’ – suggesting that the power to search may be driven by some other factor than an evidence-based effort to investigate crime and apprehend individual suspects. (Bradford & Loader, 2016, p. 8)

4.3.1 Getting ‘hassled’: Police Stops as Surveillance

4.3.1.1 Introduction

This section explores Bradford and Loader’s second proposition: that police stops are not about crime but about managing marginalized populations. This chapter grapples with racial profiling as surveillance and social control. However, I prefer the term ‘getting hassled by police’, as coined by Browning et al (1994) because the word ‘surveillance’ evokes an image of a very passive and almost covert process, whereas stops by police are a very intrusive and aggressive activity. Police stops and searches, I argue, are better described as ‘getting hassled’ or even as ‘discipline’ (to use a Foucaultian term), because this reflects the experience of the people on the receiving end of the ‘surveillance’ -- experience that can have serious wide-ranging psychological and criminal justice consequences (see discussion in section 1.7). Hyper surveillance of a group can result in perceptions of exclusion from full participation and citizenship in democratic society (Chan, 2011; Glover, 2009; Haggerty & Ericson, 2006).

Under the surveillance and social control explanation of racial profiling, stops of Black people are theorized/rationalized as part of racialized panoptic risk governance of marginalized populations. For example, Loic Wacquant (2009) provides an account of race and the criminal justice system within a critique of neoliberalist politics and criminological analysis of the so-called ‘prison industrial complex’. According to Wacquant, the ethnорacial hierarchy created by the ensnarement of working class and poor Blacks in the welfare-prison continuum is a result of

---

62 The widespread practice of ‘running plates’ is more appropriately labelled a surveillance activity.
the “criminalization of poverty that is the indispensable complement to the imposition of precarious and underpaid wage labour as civic obligation for those trapped at the bottom of the class and caste structure” (2008, p. 25). To this end, Wacquant rejects current explanations of overt racism in the criminal justice system and the collusion of elites to manufacture a racialised prison industrial complex as explanations for Black over representation in the criminal justice system. Rather, Wacquant encourages us to see penal policy and welfare policy to be two sides of the same coin. Welfare and prison serve the same function: both ‘discipline’ the poor, Black population to submit to ‘sub-poverty jobs and the informal economy by continually (re-) generating a large volume of marginal labourers who can be super exploited at will (ibid).

Racial profiling viewed in this light is more about class and the functioning of the economy than about crime control. This perspective explains the lack of connection between offending and stop rates of Black people in Kingston. Hassling by police can contribute to the Black population’s feelings of alienation and resentment. Increased contact with the criminal justice system leads to low paid, precarious employment and the overall diminishment of life chances of the hassled population. The hassled population is less likely to be in a position to make claims to scarce resources and demand full rights and citizenship in the form of well paid, secure jobs, etc.

This line of reasoning does make some big leaps (for which I cannot provide evidence within this dissertation), and yet, there are some sound elements to the argument. For instance, there is growing evidence that getting hassled by police does have injurious effects. Glover (2009), in a small qualitative study (n=26), argues that police stops are part of the hyper-surveillance of Black men in the U.S, contributing to their negative perceptions of the criminal justice system and alienation from wider society. Her interview subjects talk about the ‘psychological warfare’ of racial profiling (Glover, 2009, p.121). Here, a young Black male in his twenties, with some college education, evokes what Glover calls the ‘panopticon effect’ of racial profiling:

So it’s a psychological thing because here you are a human being and that’s taking away a large piece of your mental freedom because you know you’re going to get stopped. You don’t know when. You don’t know under what circumstances. Even when it does go down, you don’t know how far they’re going to go with the stop. . . It cheats an individual out of some of their mental freedom because you have to worry. . . Here we go again. I’m clean. I haven’t done anything. I’m getting stopped . . . I think you have to be delusional to say ‘Well it will be different next time’. (Glover, 2009, p.122)
Glover uses critical race theory to argue that racial profiling is a fundamental part of the everyday racialization and criminalization of African American men and ‘the limits of citizenship placed upon them by the state” (2009, p.87).

In a six year ethnographic study of a group of young Black men and their families in Philadelphia, Goffman finds an entire community living a precarious life ‘on the run’ in a neighbourhood intensely targeted by police. Young men are constantly vigilant for fear of police ‘running’ their name through the system, and then being ‘hauled’ in for unpaid court fees, probation or parole violations, or failure to appear. Goffman describes a criminal justice system gone awry, with young men afraid to seek medical treatment (cops hide in emergency rooms to run names) and friends and neighbours subject to police raids and interrogations. Opportunities in the legitimate economy are elusive. Lack of educational opportunities, unemployment, poverty and deficiencies of all stripes mean that these young men are deprived of freedom of movement, participation in civil society, and full citizenship (Goffman, 2014).

Part 1 of this chapter provided some strong evidence consistent with the hassling thesis: we know that there are high stop rates (surveillance rates) of Black people in Kingston, combined with medium and low hit rates (productive targeting). The productive targeting index points toward the argument that police stop activity is not about crime control but rather is about hassling certain populations. The next section considers some additional aspects of the Kingston data to explore the hassling proposition: 1) stops for Minor Transgressions, 2) stops ending in Warnings, and 3) ‘Street Checks’. The strongest evidence consistent with ‘hassling’ is the finding that the majority of police stops in Kingston are not crime related.

4.3.1.2 Minor Transgressions Stops

Officers recorded the legal justification for stops, from a choice of seven reasons. In Part one, these seven legal justifications were aggregated into four categories (Crime-related, Minor Transgressions, HTA stops and Citizen-generated). Stops for minor transgressions are higher discretion stops (compared to Crime-related), and are indicative of a type of stop which may be consistent with being ‘hassled’.
Table 4.21 Productive Targeting Index/Ratio of Minor Transgression hits to population surveillance rates, by Racial Group, Merged Database

<table>
<thead>
<tr>
<th></th>
<th>% Raw Minor Transgression ‘Hits’ (Contact Card and dispatcher-recorded Stops)</th>
<th>Surveillance Rate</th>
<th>Minor Transgression productive targeting index</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>8.1%</td>
<td>11.3%</td>
<td>0.71</td>
</tr>
<tr>
<td>Asian</td>
<td>10.8%</td>
<td>7.1%</td>
<td>1.50</td>
</tr>
<tr>
<td>Black</td>
<td>6.1%</td>
<td>33.2%</td>
<td>0.18</td>
</tr>
<tr>
<td>South Asian</td>
<td>8.3%</td>
<td>12.6%</td>
<td>0.65</td>
</tr>
<tr>
<td>White</td>
<td>5.9%</td>
<td>14.9%</td>
<td>0.39</td>
</tr>
<tr>
<td>All Others</td>
<td>18.1%</td>
<td>8%</td>
<td>2.25</td>
</tr>
<tr>
<td>Total</td>
<td>6.1%</td>
<td>14.6%</td>
<td>0.41</td>
</tr>
</tbody>
</table>

The productive targeting index for minor transgressions for Black stops is very low, consisting of a very high surveillance rate combined with a low hit rate. This is consistent with the idea that police are unduly hassling Black citizens. The index suggests that minor transgression stops of whites are also unproductive, with a medium low surveillance rate and a low hit rate. While this is also consistent with ‘hassling’, the index is slightly lower for Blacks (0.18) than whites (0.39). This is in keeping with the idea that there are some racial differences in stops of citizens for minor transgressions. The two groups that police appear to be most productively targeting in minor transgression stops are Asian and ‘Other ethnic’. For these two groups, the surveillance rates are low and the hit rates relatively high. This could be interpreted as evidence of police choosing not to hassle these two groups (Table 4.21).

4.3.1.3 Warnings

Racial differences in stops that end in warnings may be indicators that police are hassling one particular group more than others. The police use warnings (both formal and informal) as a frequent disposition for all types of stops. However, the use of warnings is an under-examined area of racial profiling research (Miller, 2008). Not much is known about when, how or why police use warnings. According to Miller (2008), warnings can be used within pretext stops. While pretext stops are assumed to be motivated by detecting contraband during traffic stops, ‘getting hassled’ may not necessarily be motivated by getting a ‘hit’. Qualitative studies have
found that some respondents felt they were being ‘put in their place’ when stopped by police (cf Glover, 2009; Goffman, 2014; Brunson & Miller, 2006).

In Kingston, a larger proportion of Black stops ended in a warning for all types of stops except crime-related stops. This is somewhat consistent with the ‘getting hassled’ thesis. In particular, warning rates were high for Black citizens being stopped for minor transgressions (23.7%) and HTA violations (50.4%, Table 4.22). It should be kept in mind that there are many possible alternate explanations for high warning rates; for example, it could be that offences did occur, but police issued warnings in order to appear less harsh on minorities. Nonetheless, high warning rates for Blacks raise questions about the motivation for stopping Black citizens in Kingston, and are consistent with pretext and getting ‘hassled’ by the police.
### Table 4.22 Raw Warning rates by Legal Justification and Racial group (Merged database)

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>Crime Related</th>
<th>Minor Transgressions</th>
<th>HTA stops</th>
<th>Citizen Generated</th>
<th>Total Warning Rate</th>
<th>Number of Warnings per Racial Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>22.7%&lt;sup&gt;63&lt;/sup&gt;</td>
<td>28.2%</td>
<td>34.3%</td>
<td>25.0%</td>
<td>27.3%</td>
<td>67</td>
</tr>
<tr>
<td>Asian</td>
<td>40.0%</td>
<td>21.7%</td>
<td>46.7%</td>
<td>26.3%</td>
<td>39.0%</td>
<td>82</td>
</tr>
<tr>
<td>Black</td>
<td>19.0%</td>
<td>23.7%</td>
<td>50.4%</td>
<td>18.2%</td>
<td>33.5%</td>
<td>102</td>
</tr>
<tr>
<td>South Asian</td>
<td>13.6%</td>
<td>13.9%</td>
<td>39.1%</td>
<td>0%</td>
<td>30.2%</td>
<td>62</td>
</tr>
<tr>
<td>White</td>
<td>22.7%</td>
<td>16.9%</td>
<td>38.4%</td>
<td>16.0%</td>
<td>28.8%</td>
<td>4472</td>
</tr>
<tr>
<td>All Others</td>
<td>14.2%</td>
<td>20.5%</td>
<td>31.2%</td>
<td>5.6%</td>
<td>23.3%</td>
<td>38</td>
</tr>
<tr>
<td>Overall Warning Rate by legal justification for stop</td>
<td>22.4%</td>
<td>17.4%</td>
<td>38.7%</td>
<td>16.23%</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Number of Warnings per Legal Justification</td>
<td>409</td>
<td>793</td>
<td>3377</td>
<td>244</td>
<td>--</td>
<td>--</td>
</tr>
</tbody>
</table>

| Chi square | 3.9† | 13.5* | 13.3* | 7.7† | 16.5* | -- |

* p<.05; † 3 cells (25%) have expected count less than 5.

The Black warning rate for crime-related stops (19%) is lower than the white warning rate for crime related stops (22.7%), which suggests that hassling may not be taking place for crime-related stops, but the chi square of 3.9 is not significant and there are small cell size issues. A two-by-two table for Black and white crime related stops by warnings (below) shows that the difference is not statistically significant.

---

<sup>63</sup> Number of crime-related warnings of Aboriginals divided by the number of crime-related stops of Aboriginals.
Table 4.23 Two by Two Table for Warnings and Other Dispositions by Race (Black and White) for Crime related stops only

<table>
<thead>
<tr>
<th></th>
<th>Percent Black (n)</th>
<th>Percent White (n)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Warnings</td>
<td>19.1% (9)</td>
<td>22.7% (380)</td>
<td>22.6% (389)</td>
</tr>
<tr>
<td>Other</td>
<td>80.9% (38)</td>
<td>77.3% (1294)</td>
<td>77.4% (1332)</td>
</tr>
<tr>
<td>Dispositions</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>100% (47)</td>
<td>100% (1674)</td>
<td>100% (1721)</td>
</tr>
</tbody>
</table>

Chi=.158 (continuity correction computed for a 2x2 Table), df=1, p=.691

4.3.1.4 Street Checks

The data are limited in allowing for an exploration of the motivations of police. However, contact cards stops had the option for officers to mark whether a stop was a ‘street check’, and almost a quarter of all contact cards during the study period were marked as ‘street checks’ (23.9%, n= 2422) \(^{64}\). Indeed, general orders issued by Chief Closs during the project specifically included directions to record street checks, and specified that street checks included ‘vehicle checks’. This may indicate that street checks were a priority for the police organization during the study period. Police organizations see street checks (also referred to as field interrogations) as valuable crime control and prevention tools (Pilcher, 1967; Cohen et al, 2014). In recent months, street checks, or ‘carding’ has come under intense public scrutiny:

Street checks — known as carding, because historically the information was kept on contact cards — is the police practice of recording and storing information about people, vehicles and locations that aren’t involved in criminal investigations, to help build up a database police can draw upon later.

The controversial practice has come under a harsh spotlight in Ontario, especially in Toronto where critics say too often racial minorities are stopped for routine carding and profiled. The provincial government is moving to standardize how police forces can gather such information. (O’Brien, 2015).

\(^{64}\) Note that street checks are not mutually exclusive of any of the other variables discussed, except dispatcher-recorded stops.
Although some police leaders claim that street checks are about crime control, there is little evidence in the Kingston data that they are crime related. The vast majority of street checks resulted in no disposition (82.8%, n=2022) and more than 50% (n=1367) of street checks were for minor transgressions. This is consistent with ‘getting hassled’ and the idea that street check stops are surveillance for the sake of surveillance. In other words, in Kingston, street checks are not about crime or crime fighting, but about surveillance and social control, the importance of which are emphasized by the top members of the police organization.

Street checks were also used disproportionately against Black people in Kingston. The table below shows that the odds of being stopped for a street check were two and a half times higher for Black people than for whites. This too is consistent with the ‘hassling’ explanation of the over-stopping of Black people in Kingston. The only other racial group with a high street check rate was the aboriginal group.

Table 4.24  Odds Ratio of being stopped for a Street Check, by Racial Group

<table>
<thead>
<tr>
<th></th>
<th>Street Checks (N)</th>
<th>Street Checks (%)</th>
<th>Kingston City Estimated Population (N) 2004</th>
<th>Kingston City Estimated Population (%) 2004</th>
<th>Odds Ratio (Percent stops divided by Percent Population)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>76</td>
<td>3.1%</td>
<td>2158</td>
<td>1.9%</td>
<td>1.63</td>
</tr>
<tr>
<td>Arab</td>
<td>11</td>
<td>0.5%</td>
<td>606</td>
<td>0.5%</td>
<td>1.00</td>
</tr>
<tr>
<td>Asian</td>
<td>20</td>
<td>0.8%</td>
<td>2944</td>
<td>2.6%</td>
<td>0.30</td>
</tr>
<tr>
<td>Black</td>
<td>52</td>
<td>2.1%</td>
<td>913</td>
<td>0.8%</td>
<td>2.62</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>8</td>
<td>0.3%</td>
<td>671</td>
<td>0.6%</td>
<td>0.50</td>
</tr>
<tr>
<td>South Asian</td>
<td>10</td>
<td>0.4%</td>
<td>1621</td>
<td>1.4%</td>
<td>0.28</td>
</tr>
<tr>
<td>White</td>
<td>2237</td>
<td>92.4%</td>
<td>103367</td>
<td>91.4%</td>
<td>1.01</td>
</tr>
<tr>
<td>Other</td>
<td>8</td>
<td>0.3%</td>
<td>757</td>
<td>0.7%</td>
<td>0.42</td>
</tr>
<tr>
<td>Total</td>
<td>2422</td>
<td>100%</td>
<td>113042</td>
<td>100.0%</td>
<td>1.00</td>
</tr>
</tbody>
</table>

Hit rates for street checks were extremely low (Table 4.25, below), except for the South Asian group, which had a very small number of street checks (10), of which two resulted in a hit. The hit rate was lower for Blacks (1.9%) than for whites (4.7%). However, the numbers are extremely low (for example, only one hit resulting from all street checks of Blacks, Table 4.25) and the racial differences in hit rate are not statistically significant, as shown the next two tables.
Table 4.25 Raw ‘Hit’ Rate for Street Check stops by Racial Groups, contact cards only

<table>
<thead>
<tr>
<th></th>
<th>Number Street check Stops</th>
<th>Number Street Check Stops resulting in Arrests/citations</th>
<th>Raw Street Check ‘Hit’ Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>76</td>
<td>4</td>
<td>5.2%</td>
</tr>
<tr>
<td>Asian</td>
<td>20</td>
<td>1</td>
<td>5.0%</td>
</tr>
<tr>
<td>Black</td>
<td>52</td>
<td>1</td>
<td>1.9%</td>
</tr>
<tr>
<td>South Asian</td>
<td>10</td>
<td>2</td>
<td>20%</td>
</tr>
<tr>
<td>White</td>
<td>2237</td>
<td>106</td>
<td>4.7%</td>
</tr>
<tr>
<td>All Others</td>
<td>27</td>
<td>1</td>
<td>3.7%</td>
</tr>
<tr>
<td>Total</td>
<td>2422</td>
<td>115</td>
<td>4.7%</td>
</tr>
</tbody>
</table>

Chi-square: 6.1, df=5, p=2.09 (5 cells [41.7%] have expected count less than 5. The minimum expected count is .47)

Table 4.26 Raw ‘Hit’ Rate for Street Check stops, 2x2 Table for Black and White racial groups, contact cards only

<table>
<thead>
<tr>
<th></th>
<th>Number Street check Stops</th>
<th>Number Street Check Stops resulting in Arrests/citations</th>
<th>Raw Street Check ‘Hit’ Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black</td>
<td>52</td>
<td>1</td>
<td>1.9%</td>
</tr>
<tr>
<td>White</td>
<td>2237</td>
<td>106</td>
<td>4.7%</td>
</tr>
</tbody>
</table>

Chi-square = 0.383, df=1, p=.536, continuity correction for a 2x2 table.

There appear to be some racial differences in street checks as a measure of getting hassled by police. Black people have higher odds of being ‘checked’ or ‘carded’. Further, miniscule hit rates overall point to street checks being a form of ‘hassling’, and are consistent with the view explored in this section that many police stops are not about crime. The next table examines the police-recorded legal justification for street checks by racial groups. Over half of all street stops were conducted for minor offences (Other/LLA/Provincial Statute).
Table 4.27 Legal Justification for stops by Race, for all Street Checks (contact cards only)

<table>
<thead>
<tr>
<th></th>
<th>Aboriginal</th>
<th>Black</th>
<th>White</th>
<th>All Others</th>
<th>Total %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulletin/Suspect</td>
<td>9.2%</td>
<td>9.6%</td>
<td>9.3%</td>
<td>3.5%</td>
<td>9.2%</td>
</tr>
<tr>
<td>By-law</td>
<td>3.9%</td>
<td>0%</td>
<td>4.2%</td>
<td>1.8%</td>
<td>4.1%</td>
</tr>
<tr>
<td>CCC</td>
<td>6.6%</td>
<td>7.7%</td>
<td>7.6%</td>
<td>5.3%</td>
<td>7.6%</td>
</tr>
<tr>
<td>Citizen Generated</td>
<td>23.7%</td>
<td>17.3%</td>
<td>9.2%</td>
<td>15.8%</td>
<td>10.0%</td>
</tr>
<tr>
<td>Drug Related</td>
<td>0%</td>
<td>3.8%</td>
<td>1.7%</td>
<td>3.5%</td>
<td>1.8%</td>
</tr>
<tr>
<td>HTA</td>
<td>6.6%</td>
<td>9.6%</td>
<td>15.8%</td>
<td>24.6%</td>
<td>15.6%</td>
</tr>
<tr>
<td>Other/LLA/ Provincial Statute</td>
<td>50.0%</td>
<td>51.9%</td>
<td>52.1%</td>
<td>45.6%</td>
<td>51.8%</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Chi= 38.4, df=18, p<.01

The pattern of police-reported reasons for street check stops is similar for Blacks and whites, with one exception: street check stops for citizen-generated stops was much higher for Blacks (and aboriginals) than for whites. Given that there were no arrests resulting in citizen generated stops, and the two controversial stops of Mark Wallen (in 2001 and 2003) fall into this category of stop, this could be an example of undue ‘hassling’ of Black and aboriginal citizens in Kingston.\(^{65}\)

Does getting hassled also differ by sex and age? Although few studies explicitly address gender and ‘getting hassled’ by police, in her small qualitative study, Glover finds that Black female respondents were less likely to speak from personal experience of intrusive traffic stops, and were more likely to speak of vicarious and community experiences of racial profiling (Glover, 2009, p. 108). As shown earlier, hit rates for males is slightly lower than for females (Gender difference in hit rate is small but significant – female hit rate for contact cards only is 20.6%)

\(^{65}\) An alternative explanation for a high proportion of street checks of Black people for ‘citizen generated’ reasons could be that police were simply responding to calls from the public regarding the race of a suspect. However, the zero arrest rate seems to suggest that the public’s call to police were not only unhelpful but also misplaced.
compared to 18.7% for males (n=1407), $X^2 = 4.5$, df=1, p>.05). Stops of females are much more productive than males (see Table 4.16 in section on ‘statistical discrimination’). This means that males are stopped in larger numbers with less proportional legal outcomes. This is consistent with Glover’s findings on being ‘hassled’ by police as a gendered experience.

Table 4.28 Female and Male Street Check Rates by Race

<table>
<thead>
<tr>
<th>Race</th>
<th>Female</th>
<th>Male</th>
<th>Female Street Check Rate per 1,000</th>
<th>Male Street Check Rate per 1,000</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Street Checks (contact cards)</td>
<td>Kingston City, estimated population, 2004</td>
<td>Street Checks (contact cards)</td>
<td>Kingston City, estimated population, 2004</td>
</tr>
<tr>
<td>Aboriginal</td>
<td>13</td>
<td>1081</td>
<td>12.0</td>
<td>63</td>
</tr>
<tr>
<td>Arab</td>
<td>0</td>
<td>296</td>
<td>0</td>
<td>11</td>
</tr>
<tr>
<td>Asian</td>
<td>3</td>
<td>1430</td>
<td>20.9</td>
<td>17</td>
</tr>
<tr>
<td>Black</td>
<td>10</td>
<td>429</td>
<td>23.31</td>
<td>42</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>0</td>
<td>376</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>South Asian</td>
<td>1</td>
<td>802</td>
<td>1.2</td>
<td>9</td>
</tr>
<tr>
<td>White</td>
<td>418</td>
<td>53947</td>
<td>7.7</td>
<td>1819</td>
</tr>
<tr>
<td>Other</td>
<td>2</td>
<td>573</td>
<td>3.4</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>447</td>
<td>58935</td>
<td>8.1</td>
<td>1975</td>
</tr>
</tbody>
</table>

The street check stop rate for males (36.5 per 1,000 population) is much higher than for females (8.1 per 1,000) during the study period. The highest street stop rate is found amongst the Black male group – with 87.2 per 1000 population stopped and ‘checked’. The next highest street check rate is for the aboriginal males group (58.4 per 1,000). This shows that police harassment is a reality in the streets for some groups more than others (see discussion of policing of First Nations people in Comack, 2012). The next table further shows that the highest street check rates are of the young Black male groups. These data combined with low hit rates are consistent

**Table 4.29 Young male Street Check Rates by Race**

<table>
<thead>
<tr>
<th></th>
<th>Street Check Rate per 1,000 (n street checks)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0-24 years</td>
</tr>
<tr>
<td>Aboriginal males</td>
<td>35.8 (7)</td>
</tr>
<tr>
<td>Black males</td>
<td>324.6 (25)</td>
</tr>
<tr>
<td>White males</td>
<td>98.3 (739)</td>
</tr>
<tr>
<td>Other males</td>
<td>14.7 (9)</td>
</tr>
<tr>
<td>Total</td>
<td>94.9 (798)</td>
</tr>
</tbody>
</table>

The street check stop rate of 324.6 per 1,000 for young Black males represents a very high contact rate with police for these so called non-investigative information-gathering stops. This level of police surveillance, as Goffman so heartwrenchingly documents in her ethnography of young Black males in Philadelphia, is unimaginable to the vast majority of the (white) citizenry. Most white middle class communities simply have no experience of what life is like when police contacts are so frequent and unwarranted. As Goffman (2014) argues, high levels of police surveillance and new uses of police technologies have created a new social fabric. She shows in her study that it has further undermined community ties, because there are criminal justice consequences to associating with others. A vast network of databases link information on people and their criminal justice status. For example, people can be ‘hauled in’ if a friend or sibling has a warrant out for unpaid court fees, or if they have breached curfew or parole conditions.

**4.3.1.5 Summary**

Overall, there is mixed support for the ‘getting hassled’ explanation of Black over-representation in police stops. Unlike crime control explanations of over-stopping of minorities, which posits that Blacks are of more interest to police because Black people are perceived to be more criminal, the ‘getting hassled’ thesis suggests that (innocent) Black people are ‘put in their place’
through frequent contact with police. High profile stories in the US as well as Canada of prominent Black citizens (judges, members of parliament, professors, senior police leaders) being stopped for apparently no reason are consistent with the ‘hassled’ thesis, since these victims of racial profiling are often beyond reproach and are clearly not being stopped for crime-related reasons. Media reports in Ontario suggest that a similar thing is happening for ethnic groups other than African Canadians:

[Brampton Mayor] Jeffrey described a recent meeting with South Asian lawyers and businessmen in Brampton who she met with to discuss business opportunities, but the conversation veered into the subject of street checks. “They felt they were being targeted because they happened to be in a nice car,” Jeffrey said. “There didn’t appear to be any criminal activity going on, or the likelihood of criminal activity. They may be driving a nice car, but they were being stopped,” Jeffrey said she was told. “The group I met with were South Asian lawyers and business people interested in investing in Brampton. I thought what they told me was troubling.” (Grewal, 12 June 2015, The Star)

The story of Mark Wallen fits this pattern, with the media emphasizing his good character and inappropriateness of police contact with him.

The very high surveillance rate and low hit rate for Black stops for minor transgressions is the strongest evidence for being hassled because it shows that these stops are frequently without a charge. Warning rates for Blacks are high, except for crime-related stops. The high warning rates for minor transgressions could ‘explain’ the low hit rate, but there are numerous other explanations. There are several ways to interpret high warning rates for minor transgressions: a) police use warnings in order to informally ‘divert’ people, especially young people, from the criminal justice system, b) police warned rather than charged because they were aware of the data collection project and did not want to appear harsh on minorities, c) issuing a warning saves the officer time and paperwork or the stop occurred near the end of their shift, d) a stop is coded as a warning in order to avoid recording a stop with no disposition – as discussed earlier, if a pretext stop is conducted with no discovery of contraband, the police officer could record a warning as a post hoc justification for the stop. These are not all incompatible with ‘getting hassled’, but I cannot take high warning rates as exclusively consistent with evidence of hassling. Finally, an examination of street checks by Kingston Police, commonly referred to as ‘carding’, is consistent with the thesis of hyper-surveillance of Black citizens in Kingston. Black people have much higher odds of being stopped for a street check; and furthermore, the overall hit rates
for these non-investigative stops are extremely low, which points to non-crime related motivations for these type of stops.

The next section presents the final theoretical explanation for the over-stopping of Black people in Kingston during the study period.

4.3.2 ‘Symbolic Assailants’

This section continues the refutation of police stops as crime control, but explores whether patterns of police stops can be explained by perceptions and bias in society and individuals. The concept of a symbolic assailant emerged during Skolnik’s (1966) research in highly segregated American cities. In *Justice without Trial*, he noted that in high-crime areas, the police standard of a reasonable search had the effect of making many honest Black citizens the target of police suspicion: “By this standard, Negroes who live in Black ghettos are especially prone to being searched according to a “reasonableness of the search” standard” (p 218).

In contemporary research, the ‘symbolic assailant’ has again been useful in explaining the experience of young Black males with police in urban areas. Brunson and Miller (2006) suggest the ‘symbolic assailant’ is created by both race and place. Their research sheds light on the frustration felt by young Black men who are the ‘honest citizens’ effected by police suspicions, mirroring Mark Wallen’s experience in Kingston:

> Our respondents believed strongly that the police besieged their communities because officers assumed that many living there, particularly the young Black men, were criminally involved. Regardless of their involvement in delinquency, young men felt themselves to be tainted by a kind of unilateral suspicion, which they tied most explicitly to their race, but also to their presence in public neighbourhood spaces, their peer associations, their manner of dress and their previous contacts with the police. Moreover, our research suggests that young men believed that despite their best efforts, they were not able to convincingly present themselves as law-abiding, even when they were, due to the confounding influences of race and place in the creation of symbolic assailants. As a consequence, young men were particularly angered both by police stops in situations they believed clearly invoked signs of legitimacy, and by what they believed was the assumption that they ‘got lucky’ rather than were innocent when the police failed to locate evidence of misconduct. (Brunson & Miller, 2006, p. 636, emphasis added)

This quote highlights the role of police suspicion in police stopping decisions, and how some groups in society perceive that they have been expelled permanently from the ‘law-abiding citizen’ category, regardless of their actual behaviour.
In a departure from previous (qualitative) studies, this section examines the symbolic assailant thesis through a quantitative approach. Four elements of the Kingston data will be explored in light of the symbolic assailant thesis: the legal justification for stops (as a measure of police suspicion); so-called ‘citizen-generated’ stops; the productivity of stops; and finally, surveillance rates (especially of middle age Black people). The next table takes up the first of these elements and provides insight into whether police suspicion of the ‘symbolic assailant’ was consistent across all types of legal justifications for stops. Legal justifications are the police officer-recorded reason for the stop, which presumably at least partly reflects the motivation behind the stop.

Table 4.30  Race of people stopped, within Legal Justification for Stop (merged database).

<table>
<thead>
<tr>
<th>Race</th>
<th>Bulletin/</th>
<th>By-law</th>
<th>CCC</th>
<th>Citizen Generated</th>
<th>Drug s</th>
<th>HTA</th>
<th>Other/LLA/Prov Statute</th>
<th>Total</th>
<th>Stops (n)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>1.9%</td>
<td>2.9%</td>
<td>2.0%</td>
<td>2.2%</td>
<td>3.7%</td>
<td>1.4%</td>
<td>0.4%</td>
<td>2.4%</td>
<td>1.5%</td>
</tr>
<tr>
<td>Asian</td>
<td>2.6%</td>
<td>0.3%</td>
<td>0.5%</td>
<td>0.7%</td>
<td>1.3%</td>
<td>0.7%</td>
<td>1.5%</td>
<td>1.1%</td>
<td>1.3%</td>
</tr>
<tr>
<td>Black</td>
<td>0.8%</td>
<td>2.5%</td>
<td>2.2%</td>
<td>2.3%</td>
<td>2.2%</td>
<td>4.7%</td>
<td>1.5%</td>
<td>2.1%</td>
<td>1.8%</td>
</tr>
<tr>
<td>South Asian</td>
<td>1.4%</td>
<td>0.8%</td>
<td>0.7%</td>
<td>1.7%</td>
<td>0.5%</td>
<td>0</td>
<td>1.6%</td>
<td>0.8%</td>
<td>1.2%</td>
</tr>
<tr>
<td>White</td>
<td>91.4%</td>
<td>92.7%</td>
<td>91.1%</td>
<td>91.7%</td>
<td>91.0%</td>
<td>91.2%</td>
<td>94.1%</td>
<td>92.9%</td>
<td>93.2%</td>
</tr>
<tr>
<td>All Others</td>
<td>1.8%</td>
<td>0.8%</td>
<td>3.5%</td>
<td>1.3%</td>
<td>1.2%</td>
<td>2.0%</td>
<td>0.9%</td>
<td>0.7%</td>
<td>1.0%</td>
</tr>
<tr>
<td>Total % (n)</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Chi square = 258.7 (df=30, p <.001 )

Black over-representation in all reasons given for stops (compared to the distribution in the population) is consistent with the symbolic assailant thesis. In other words, it shows that it is possible police officers were more suspicious of Black citizens than of whites (during the study period). This information taken together with my previous findings of mostly low hit rates for stops of Black people is consistent with Brunson and Miller’s (2006) qualitative findings regarding police suspicion of young men regardless of their law-abiding status.
The second element of the data that can be linked to the symbolic assailant are the citizen-generated stops in the Kingston dataset. The symbolic assailant, I would argue, does not just exist in the minds of police officers, but is ubiquitous in the public realm. Research has shown that in white settler societies such as Canada, minorities are over-represented in the media as criminal, untrustworthy, degenerate, and other negative stereotypes (Campbell, 1995; Entman & Rojecki, 2000; Fleras, 1995; Wortley, 2002). This means that, similar to the police, the average person probably has higher levels of suspicion of Black people than of whites, and thus the symbolic assailant concept is widespread within society. For example, a recent experiment by CNN showed that white children were more likely to view cross-race interactions more negatively than African American children (Killen, 2012).

Police may well point to the fact that calls from the public and so-called ‘Citizen-generated’ stops reflect the racialized suspicion of the public, not police themselves. Citizen-generated stops comprised 9.1% (n=1,515) of all stops (n=16,734) during the study period, and tended to be pedestrian (87.5%), and mostly resulted in no disposition (81.3%, n=1,217). This is consistent with how Brunson and Miller describe the stopping of young Black men in their study – often on the street and for apparently ‘no good reason’. Table 4.22 (above, in previous section) showed that only 16% percent of citizen-generated stops resulted in warnings. Less than three percent of all citizen-generated stops resulted in arrests and citations (2.4%, table below). Two high profile stops in Kingston involving Mark Wallen could be classified as ‘citizen-generated stops’ (see Chapters 1 and 5 for the Mark Wallen story).

66 The ‘remarks’ section of the contact cards shows that officers responding to noise complaints, domestic occurrences, careless driving, trespassing, and persons causing disturbance, as well as conducting street and information checks, used the ‘citizen-generated’ category to describe the reason for the stop.
Table 4.31 Raw hit rate for Citizen Generated stops by Racial Group, Merged Database

<table>
<thead>
<tr>
<th>Racial Group</th>
<th>Number Citizen Generated Stops</th>
<th>Number Citizen Generated Stops resulting in Arrests/citations</th>
<th>Raw Citizen Generated ‘Hit’ Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal</td>
<td>56</td>
<td>2</td>
<td>3.6%</td>
</tr>
<tr>
<td>Asian</td>
<td>19</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Black</td>
<td>33</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>South Asian</td>
<td>8</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>White</td>
<td>1363</td>
<td>34</td>
<td>2.5%</td>
</tr>
<tr>
<td>All Others</td>
<td>18</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Total</td>
<td>1497</td>
<td>36</td>
<td>2.4%</td>
</tr>
</tbody>
</table>

Chi-square: 2.2, df=5, p>.05 (5 cells [41.5%] have expected count less than 5)

As we have seen elsewhere in this chapter, none of the citizen-generated stops of visible minorities were ‘successful’ (in a 12 month period). This raises questions about the appropriateness of stopping visible minorities on the justification of ‘citizen generated’ reasons. The unproductive suspicion from the public that is reflected in the table above is consistent with the Symbolic Assailant explanation of Black over-representation: Black people, especially young men, are stopped not because they are engaged in criminal activity or suspicious behaviour, but because their markers of race and place make them ‘symbolic assailants’ to both the police and the general population.

Another strength of the symbolic assailant explanation of over-stopping of Black citizens is that it is consistent with the third element of the data explored here: the overall low productivity of stops of Black people during the study. Table 4.15 showed that the overall productive targeting index for Black stops was 0.63, representing a medium low hit rate and a very high surveillance rate. Other explanations such as the ‘Black offending’ thesis, and statistical discrimination cannot explain the co-existence of these two things (low hit rates, high stop rates), but the symbolic assailant explanation can.

In the first section of this chapter I showed that hit rates for stops of females were higher than males (though not statistically significant). This finding regarding gender – that white females

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67 Legal Justification for Stop = Citizen Generated
had the ‘best’ hit rates – seemed at odds with the low stop rates for white females and the high stop rates for Black males. However, the symbolic assailant provides an explanation for this paradox – white females are not targeted by police (despite their high hit rate) because they are not included in the category of ‘symbolic assailant’ due to their gender and race. There is a similar paradox with age: younger people tend to have higher stop rates but lower hit rates than older people. The symbolic assailant is configured as a young Black male, and this can also explain the disconnect between age and offending.

The final aspect of the data that may speak to the symbolic assailant thesis is the surveillance rates (stop rates) disaggregated by age and racial group (Table 4.18). Black population surveillance rates are overall high, which is broadly consistent with the symbolic assailant thesis. However, in Kingston the Black surveillance rates are highest for the middle age groups (25-34 years and 35-44 years). This is not entirely consistent with the symbolic assailant configuration, which predicts that suspicion is high for the younger age groups.

In sum, police interest in young Black males is resilient and not thwarted by a failure to charge this group with offences. The symbolic assailant explanation points to larger explanations about race and gender inequality in society and encourages us to think beyond the conventional trope of police stops as a crime-fighting/law enforcement tool, but rather as an expression of the place of young Black males in our society.

4.4 Chapter Summary

In part one, the conventional explanation of Black over-representation in police stops was examined and challenged. Hit rates, statistical discrimination, pretext stops and productive targeting were analyzed and the results did not support the belief that police stops are about crime. These findings are consistent with other studies cited, and are in line with Bradford and Loader’s data and theoretical model as well. The finding that police stops are not necessarily

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68 An important aspect of the symbolic assailant thesis cannot be tested in this study: Skolnick (1966), as well as Brunson and Miller (2006), highlight the importance of demeanour, language and attire to police suspicion of the symbolic assailant. Unfortunately, the Kingston data do not contain information about demeanour or appearance, but there is reason to believe it would be an important aspect in Kingston. See review of Paris study (Jobard & Levy 2011) in Chapter 2 for importance of ‘youth culture dress’ and ‘carrying a bag’ to police suspicion.
about crime is counter-intuitive and potentially controversial, and thus constitutes an important focus of this dissertation. In particular, the data show that pretext stops, if in operation in Kingston during the study, are a very inefficient use of police resources. It raises questions about the use of police stops in Ontario as a crime prevention tool. This is a timely finding given the current controversy in Toronto around the ‘carding’ issue.

Part two, following Bradford and Loader’s framework, explores two alternatives to crime control as explanations for over stopping of Blacks (in Kingston during the study period). The first explanation, that police are ‘hassling’ Black people rather than engaging in specific crime control functions, combines the various threads of the surveillance and social control explanations that are emerging in sociology and criminology. There is strong support for the ‘getting hassled’ thesis in the data: an analysis of minor transgressions, and the use of warnings and street checks showed the data are consistent with non-investigative stops taking place for little or no outcome. Although this section sheds light on, and advances the exploration of, previously qualitative-based theoretical explanations for racial profiling through the use of quantitative methods, it also raises as many questions as it answers. To clarify how well the ‘getting hassled’ or symbolic assailant theses apply to Kingston, further quantitative and qualitative studies will be necessary.

The next chapter uses as a jumping off point an unusual facet of the Kingston study. Although the study was ground-breaking at the time - the first of its kind ever to be done in Canada - the practice of recording stops was not replicated elsewhere in Canada in the following ten years. Instead of heralding a new era of accountability and transparency in policing in Canada, the study was a one-off anomaly and quietly brushed under the carpet for the most part. It is extraordinary that the study was ever conducted at all, since it went so against the grain of the dominant message in policing at the time. How it was able to happen in the face of extreme reticence of police and political leaders to discuss race or engage in data collection is a phenomenon that merits further investigation. The official responses to the study reveal much about the reasons for the silence on race in Canada.

The next chapter uses qualitative techniques to examine responses to the Kingston study in the form of newspaper items and government documents. The chapter uses Democratic Racism (Henry & Tator, 2009) as the theoretical framework, and operationalizes the theory through the concepts of dominant discourses and counter-narratives. It raises questions about the reluctance
to address race and racism in Canadian society, and the impunity of racialized policing in Canada.
Chapter 5: Politics & Discourse in Local Responses to the racial profiling crisis in Kingston: a case for Democratic Racism

5.1 Introduction

The previous two chapters have analysed data collected in the Kingston data collection project. Consistent with similar studies in the U.S. and England and Wales, Chapter 3 found that Kingston Police stopped Black people at higher rates (333.1 per 1,000 population) compared to whites (149.8 per 1,000 population). The odds of being stopped were also higher for Blacks (2.23) compared to whites (1.02). Chapter 4 provided explanations for the findings from Chapter 3 through outcome analysis of the data with methods that have not been used in the literature so far. Crime control explanations for stopping behaviours, such as the ‘Black offending’ thesis and ‘statistical discrimination’ (Harcourt, 2008), were explored using a hit rate and index unique to the Kingston study. Surprisingly and contrary to most police claims, the over-stopping of Black people was not found to be related to crime control. Notably, two sociological explanations were presented that are more consistent with the data and that also point to the disconnect between police stops and concerns about crime: getting ‘hassled’ by police (Browning et al 1994), and the ‘symbolic assailant’ (Skolnick, 1966).

The qualitative analysis presented in this chapter (and the next) complements the quantitative chapters because it sheds light on why and how the data collection project came to be. Examining the political responses to the Kingston data collection taps into the larger current of politics that has been reflected in an overall reluctance to collect race data in Canada (Owusu-Bempah & Millar, 2010), especially compared to other countries. The qualitative chapters of this dissertation analyse, in new ways, Canadian political responses to racial profiling, as well as the politics of regulation and reform of policing powers in Canada. The analysis helps explain why routine data collection continues to be resisted by Canadian governments and policing and security organizations, and why Canada continues to run counter to the international trend towards routine data collection.

This chapter, and Chapter 6 that follows, address the conditions and political environment under which the Kingston Police came to collect stop data for 12 months. Although there is a large criminological literature on politics and the police – Albert Reiss, Peter Manning, JQ Wilson,
Rob Reiner, M. Brogden, and Jean-Paul Brodeur – not much is known about the relationship between politics and the police in Canada. For example, Beare (2004) points out that although few would argue that the police in Canada are politically neutral, little is known about the tangible link (‘smoking gun’, p.1) between government politicians and police operations in Ontario; or about the relationship between political parties and police organisations, including police unions. Indeed, in Ontario, some police leaders go on to run as candidates for mainstream political parties, but to the best of this author’s knowledge, this obvious nexus of politics and police has not been scrutinized in the research literature. The most palpable evidence that this is an under-researched area is the fact that there are only three contemporary academic articles on police unions in Canada (Adams, 2008; Huey & Hryniewicz, 2012; O’Malley & Hutchinson, 2007), and only one focuses on the political discourse of the leaders of these unions (Huey & Hryniewicz, 2012). This paucity of literature is at odds with the findings of this chapter which suggest that police unions are a very powerful political force in Ontario, and need to be understood as such in order to understand the politics of race, policing and data collection in Kingston and elsewhere in Canada.

In this chapter, I look at the political responses from several diverse camps to events in Kingston: the public, police union leaders, police forces, and politicians - using several theoretical frameworks, and engaging in the literature from several disciplines. In the first part, I examine public reactions to two policing incidents that became highly politicized in Kingston in 2003. I do this by conducting critical discourse analysis (CDA) on letters-to-the-editor published in the daily newspaper, the Kingston Whig-Standard. In his study of news sources, Ericson et al (1989) singled out letters-to-the-editors as important in understanding how news media control and frame debates. Ericson et al studied the publishing decision making process of one editor of a business-oriented quality newspaper. They found high acceptance rates of letters addressing issues of information control and enforcement, as well as high acceptance rates for letters whose authors had a professional affiliation, other high status, and cited multiple sources in making their argument. Three categories of writers were likely to have their letters published: ‘authorized knowers’; ‘involved insiders’; and ‘favoured regulars’. In section 5.2, I will show that indeed, these typologies are applicable to the letters published in the Kingston Whig Standard – the published letters from which I take a small sample tend to address issues of information control and enforcement, and are written by ‘involved insiders’ and ‘favoured
regulars’, as well as ‘authorized knowers’. Ericson et al conclude that the letters-to-the-editor in the quality newspaper act as a forum for elites to speak to elites, while at the same time giving an appearance of openness and transparency.

Critical Discourse Analysis is a qualitative method developed in critical race theory and cultural studies. According to Link (1983) discourse is “an institutionalized way of talking that regulates and reinforces action and thereby exerts power” (cited in Jager & Maier, 2009, p.35). The task of the CDA analyst is to question and criticize, to reveal contradictions, to discover the limits of what can be said, and find out how discourse can make statements seem rational and beyond doubt (Jager & Maier, 2009). A critical reading of the personal opinions published in the daily newspaper reveals two types of discourse that are consistent with the typology of discourses used by Tator & Henry (2006) in their analysis of the discursive crisis emanating from the Toronto Star’s 2002 series on race and crime. I find letters in support of the police (dominant discourses) and letters in support of the young Black men involved in the policing incident (counter discourses). I use and advance Tator and Henry’s concept of Democratic Racism, and identify ways in which their analysis can be refined by giving more notice to counter narratives. I further find that although the counter narratives in support of Black youth appear to be condemning racial profiling and countering the dominant pro-police narrative, the counter narrative also contains some hidden mores and assumptions that ultimately undermine the case for reform.

In the second part of the chapter, I examine official responses to the Kingston study, and find that police unions played a key political role in the suppression of reform of policing stop and search practices, with police forces and politicians themselves taking a more backseat role. This part of the dissertation treads into unknown territory, because, if understanding of police and politics in Canada is limited, even less is known about the politics of police unions in Canada. This section briefly touches on the literature on police unions in Canada (Huey & Hryniewicz, 2012 and O’Malley & Hutchinson, 2007), as well as the work of scholars of police unionism in

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69 ‘Discourse’ and ‘narrative’ will be used interchangeably in this dissertation.

70 “[A] ‘discursive crisis’ refers to a set of reactions that profoundly affect society – specifically, the state of minority-majority relations. The crisis is sometimes of short duration, but this one was prolonged.” (Tator & Henry, 2006, p. 5).
UK (Berry et al, 2007; McLaughlin & Murji, 1998; Reiner, 1979) Australia (Finanne, 2008; Fleming, Marks & Wood, 2006) and the US (Kadleck, 2002; Walker, 2008; Wilson & Buckler, 2010). I find that the ‘split’ in the police unionism literature, noted by Walker (2008) and Berry et al (2007), makes it difficult to theorise the political behaviour of police unions in Ontario during the Kingston discursive crisis.

[There is a] fundamental split in the discourse about policing between mainstream American scholars and many other academics from diverse cultures. This split is founded on the simple fact that policing in the USA is overwhelmingly local. There are myriad agencies, many of them tiny, and the central government plays a relatively modest role in driving change; it may legislate, and pump in federal funding for programs, but it cannot demand uniformity across the country. With some 18,000 agencies, police practitioners and researchers function within a paradigm of extreme fragmentation, high decentralization and diversity, wide variety in standards, weak transfer of practices, and low central control. This is diametrically opposed to many European and other countries where the dominant player in policing, and police reform, is the central state. (Berry et al, 2008, p. 116).

Police unions in the US appear to have less coverage than elsewhere. Indeed, “there are no police unions in North Carolina, South Carolina, Georgia, or Mississippi” (Walker, 2008, p.98). On the other side of the split are European countries where union membership is close to 100% and where “the dominant player in policing, and police reform, is the central state” (Berry et al, 2008, p. 116). Other settler societies such as Australia and New Zealand are also located across the divide from the US literature – police unions in those countries are perceived as very influential, with potential as vehicles of social change, and with high coverage and centralized structures (Berry et al, 2008; Fleming, Marks & Wood, 2006). I would argue that Canada lies somewhere in the middle of this great divide. While policing in Canada has some strong similarities to policing in the U.S. – for example, policing is very local, often organized at the municipal level (e.g. Kingston Police), and rank-and-file unions tend towards reactionary conservatism – the strength, legitimacy and coverage of police unions in Canada are more in line with European and other Commonwealth countries such as Australia and New Zealand.

In this chapter I conduct a close reading of the media reports of the voices of police union leaders, as well as police themselves and politicians. CDA reveals that most of the official voices indulge in dominant discourses about racial profiling, consistent with the previous section and Democratic Racism (that is, messages that reproduce the status quo and contradict the lived experiences of people of colour, such as ‘there is no racism’, ‘we treat everyone equally’ are
ubiquitous and repeated and broadcast from many points within the white elite). I find that politicians are very reluctant to say anything about racial profiling, and I speculate this has to do with fear of the unions and fear of appearing ‘soft on crime’. I agree with others’ assessment that this fear of unions has led to a drift to the right in politics in North America (Page, 2011; Walker, 2008). However, I also uncover some rogue counter discourses within the mainstream (white-dominated) police apparatus in Ontario, and I attempt to theorise these responses using the literature. I further identify a discourse that is not easily classified using Tator & Henry’s typology, and I work to advance their model by adding a third type of discourse – ambivalent discourses.

5.2 Part 1 - Responses to Mark Wallen incidents in Kingston

According to Tator and Henry (2006), “democratic racism” operates in liberal democratic societies such as Canada through dominant discourses about race. Democratic racism is defined as:

An ideology that enables a society to justify and maintain two apparently conflicting sets of values. One set consists of a commitment to a democratic society motivated by egalitarian values of fairness, justice, and equality. Conflicting with these liberal values are attitudes and behaviours such as negative feelings about people of colour, which can lead to differential treatment or discrimination against them. Democratic racism is sustained and reinforced by a variety of myths and misconceptions; together, these lead to a pattern of denial of racism in liberal democratic societies (p. 207)

Democratic racism can help explain some of the glaring contradictions of Canadian society and other white settler societies. Democratic racism can answer the question: How can a country

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71 “‘Settler-colonies’ are those lands where newcomers arrived to settle and colonise rather than merely extract labour or merchandise. The impetus for settlement was land and the wealth that land could bring. In lands already occupied by indigenous people, settlement was premised on the ‘logic of elimination’ which coupled with the concept of a frontier in which the acquisition of indigenous lands ensured that ‘spatial coexistence of invaders and indigenes was] anomalous’. (Russell, 2001, p. 2)

“The most obvious pre-condition of a settler society is the fragility of pre-existing social formations. In most parts of the world where Europeans established themselves, indigenous communities were densely settled, and sufficiently malleable to sustain European merchants or planters as merely an additional imposition. Only where
that espouses equality and protection of human rights as evidenced by the Charter of Rights and Freedoms, allow sections of society to suffer from discrimination and inequality, as evidenced, for example, by poor health, educational attainment, and low income of some Aboriginal and Black communities?

According to Canadian critical scholars like Razack (2002, 2004), Mackey (2002) and Schick (2000, 2014), white settler societies must accomplish both these tasks – espousing equality while inhibiting the right of some to land and citizenship (especially for Black and First Nations peoples) – in order to function day-to-day and indeed continue to exist. Razack argues that aboriginal people must be “repeatedly evicted from the civilized space of the settler” (2012, p. 911), and that policing and the law mark non-white bodies as degenerate and outside the civilized white citizen-subject (Razack, 2000). In white settler societies, cities have to be repeatedly “made into a white place through physical settlement and occupation” (Blomley, 2004, p.114, cited in Razack, 2012, p. 929). But as Mackey (2002) notes, non-white identities are not erased in the civilizing project, rather:

The central issue is to examine who decides when and how Aboriginal people, French people or more recent immigrants, are or aren’t represented, or are or aren’t managed, in the interests of the national-building project. These cultural groups become infinitely manageable populations as well as bit players in the nationalist imaginary, always dancing to someone else’s tune. They become helpmates in the project of making a Canadian identity that defined itself as victims by outsiders and tolerant of insiders (p.49).

According to the democratic racism thesis, dominant discourses obfuscate and deflect discrimination on-the-ground in liberal democratic societies by producing, broadcasting, and repeating mainstream messages that are consistent with elite values, beliefs and norms. For example, Tator and Henry (2006) argue that police leaders during the discursive crisis in Toronto produced a ‘discourse of denial’, which is a dominant discourse that asserts that ‘racism does not exist, racial profiling does not exist’. Denial that racism exists is present in all liberal democratic

indigenous societies could not carry such a burden did settler societies develop. (Denoon, 1979, p. 511, cited in Russell, 2001, p.3)

72 Lyotard defines dominant discourses as “master narratives or hegemonic stories told by those in power” (1984, p. 50, cited in Tator & Henry, 2006, p.115)
societies, and indeed, the discourse of ‘I’m not racist’, and ‘This is not a racist society’ can be found in mainstream culture in the UK, US, Australia, and New Zealand. Findings from cultural studies suggest that dominant discourses need to be ubiquitous and repetitive (Gunew, 2004; Mackey, 2002; Said, 1994) and sometimes are even ritualized and fetishized (Ahmed, 2000).

According to van Dijk, “The denial of racism is part of a defensive strategy that actually enhances in-group preservation through positive self-presentations (van Dijk, 1991, in Tator & Henry p.124). The features of denial, self-presentation, and repetitiveness are only too apparent in the following excerpt from a transcript of Chief Julian Fantino’s public response to the

*Toronto Star’s* series on race and crime:

> We do not do racial profiling. We do not deal with people on the basis of their ethnicity, their race, or any other factor. We're not perfect people but you're barking up the wrong tree. There's no racism... We, at this police service, do not keep race statistics. We don't keep data. We're not supposed to. We have policies that do not allow us to do that, and we don't do it... I'm going to have to disappoint you that we don't do profiling at this police service we never have and we will not do it... We don't know, at the front end of anything, who we're dealing with... You don't know the origin of these arrests, you don't know the socio-economic circumstances involved... We have certain communities... that are under great stress and great distress. The ratio of population in certain areas, the type of environmental conditions that exist, the high concentration of public housing in certain areas- all are factors beyond our control that, clearly... require a police response. Communities... are different. They're different throughout the city... We don't look at, nor do we consider the race or ethnicity, or any of that, as factors of how we dispose of cases, or individuals, or how we treat individuals. (Fantino, 2002, emphasis added)

Fantino’s vivid denial of racial profiling in Toronto foreshadowed the rhetorical strategies of the dominant discourse that emerged in the Kingston racial profiling crisis. In the next section, I use CDA to ‘deconstruct’ four stories/narratives about Mark Wallen published in the local newspaper – *The Kingston Whig-Standard*. The use of cultural discourses such as news media is a well-established post-structuralist method of unpacking contradictions and instabilities within dominant discourses (Tator & Henry, 2006; Van Dijk, 1995; Wodak & Meyer, 2009). I uncover two types of discourses, the dominant discourse and the oppositional (or counter) discourse. Counter-intuitively, a very close reading of the second type - oppositional narratives - reveals

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73 Toronto Police Chief Julian Fantino quoted in the Toronto Star, 19 October 2002: A14, emphasis added
that they too contain elements of democratic racism, and therefore do not effectively combat the dominant narrative to which they purport to disagree with.

**Dominant narratives published in the Kingston-Whig Standard**

From 2001 to 2003, trouble was brewing in Kingston between the police and the Black community. In March 2001, three youths (two Black males and a white female) were subjected to a ‘high risk takedown’ by armed police while sitting in the car owned by the boys’ father, in a parking lot in Kingston (McArthur, 2003; McMahon, 2005). The youth, who were innocent and not suspects, were traumatised by the frightening incident. Meanwhile, the term ‘racial profiling’ was starting to spread in the news media and popular culture, and soon after, in October 2002, a series of articles in the Toronto Star accused police of singling out young Black people in nearby Toronto (Rankin et al, 2002). Back in Kingston, one of the boys from the first incident, Mark Wallen, was again accosted by a Kingston Police officer. Wallen was on his way home from a basketball game with a friend when a police officer stopped them for questioning and the officer ended up confronting the pair at gun-point. The youths were again found to be innocent of any wrongdoing and were not suspects (McArthur, 2003; McMahon, 2005). A more detailed description of these events can be found in the second chapter of this dissertation (see ‘2.6 Background to the Kingston Data Collection Project’).

It is perhaps not surprising that having a ‘gun pointed at his head’ by Kingston Police twice in the space of two years led Wallen and others to question whether Kingston Police were treating the Black community fairly (Closs, 2006). Allegations of racial profiling flew fast and thick. Between March 2001 and October 2003, the local daily paper, the Kingston Whig-Standard published nearly 100 news items, editorials and letters-to-the-editor with the key words ‘racial profiling’ and/or ‘Mark Wallen’, which form the basis for the analysis in this chapter. Many supporters of the Kingston Police blamed the newspaper for high levels of exposure of the two incidents, and for providing a forum for unofficial complaints against the police (Armstrong, 2005; Silver, 2004).

Responses in support of the Kingston Police were themed around denial and neutralization, following the pattern identified by Tator and Henry (2006) in their analysis of the discursive crisis arising from the *Star* series in 2002. Tator and Henry identify three dominant discourses
used by white elite voices\textsuperscript{74} during the Toronto racial profiling crisis: the discourse of denial (including the ‘rotten apples’ thesis), the discourse of ‘reverse discrimination’ and the discourse of ‘us’ and ‘them’. These are explained below.

Dominant discourses contain “hidden conceptions and underlying assumptions that regulate norms of social control” (Tator & Henry, 2006, p.114). The discourse of denial, as expressed by Chief Fantino (above), involves repeatedly expressing a view of the world that directly contradicts the experience and perceptions of the marginalized or non-dominant group. In Toronto, a statement of ‘There is no racism’ directly contradicts and negates the lived experiences of thousands of Torontonians, as documented by dozens of studies, which include: Maureen Brown’s \textit{In their own voices}; the testimonials from the OHRC report, \textit{Paying the Price}; and the \textit{Toronto Star} series, ‘Singled Out’ – which contained this telling example:

Me and my friend were walking with our coach. Police said there were kids with a gun. They tripped me and my friend and put shotguns in our backs. We weren’t the guys but we’re Black and they said two Black kids [had the gun] … After, they let us go ‘cause the coach talked to them. That’s why I hate police. I don’t talk to them. They’re racist. They only go after Black people. Life goes on though. (Hawk, aged twelve). (Tator & Henry, 2006, p. 175).

Fantino’s discourse also contains the underlying assumptions that communities with low socio-economic status, certain ‘environmental conditions’ and ‘public housing’ attract police attention, and he relies on stereotypes of Black criminality in order to draw a connection between ‘distressed’ (Black) communities and higher levels of policing.

Another version of the discourse of denial is the Rotten Apples discourse, used by Fantino’s successors. The Rotten Apples thesis dismisses racism within the police as “nothing more than the rogue actions of a limited number of isolated and bigoted individuals” (Tator & Henry, 2006, p. 17). It is argued that this rotten apples explanation does nothing to change the status quo in policing:

\footnote{Tator and Henry note the ‘dominant, elite or hegemonic discourse’ (p. 123) as emanating from the dominant elite, who are ‘mainly white’ (p. 115). The elite in Canada include “Opinion leaders, including police chiefs, politicians, bureaucrats, lawyers and judges, editors and journalists, advertisers, academics, and business leaders” (p. 116).}
Encoded in this discourse is the denial of racism as a set of institutional practices and patterned cultural behaviours that collectively support and reinforce racially different systemic outcomes. The implication of the ‘bad apples’ perspective is that all we need to do to solve the problem of racial profiling is provide police officers with more training in race relations and cultural sensitivity, or recruit a limited number of people of colour. This, of course, leaves unchanged the structure of policing as well as the core ideology of police officers – their beliefs, values and norms. (Tator & Henry, 2006, p. 17).

A more sophisticated dominant discourse is the Reverse Discrimination discourse. This is a common deflective strategy of white elites and authorities which makes claims of reverse discrimination or reverse racism. Reverse discrimination involves the rhetorical strategy of reversing semantic roles, where the dominant and powerful person or organization is transformed into a powerless victim (Tator & Henry, 2006, p.132). In the discourses on racial profiling, the police become the victims of racial profiling ‘advocates’ and of the media (examples of the reverse discrimination discourse are shown later in the chapter).

Finally, the discourse of ‘us’ and ‘them’ is the most-concealed dominant discourse. Tator and Henry call it the ‘discourse of otherness’ and argue that through ‘othering’, Blackness is constructed as criminal, resulting in the myth of the ‘criminalBlackman’ (Russell, 1998). I will refer to this discourse interchangeably as the discourse of ‘us’ and ‘them’ or the discourse of ‘criminalBlackman’. When elite voices use this discourse, it is often disguised as something else, and the words ‘Black’ and ‘criminal’ are actually avoided. The dominant discourse of ‘us’ and ‘them’/ ‘criminalBlackman’ is often hidden behind certain choices of words, tropes, or imagery. For example, in the Fantino transcript, the word ‘Black’ is not used, but an image of chaotic urban communities (communities ‘under great stress’, ‘high concentration of public housing’) is substituted and stands in for ‘Blackness’. Blackness is thus associated with criminality through the proxy of urbanity.

With these dominant discourses in mind, I analyse two letters to the editor published in the Whig-Standard which are representative75 of white elite responses to the crisis in Kingston and

75 The articles were selected from a population of 55 items comprising all the editorials, letters-to-the-editors, correspondence and columns with the key words ‘racial profiling’ and/or Mark Wallen published in the Kingston Whig Standard 2003-2005. The items were classified into two groups - dominant and oppositional – and two items from each group were selected for detailed analysis here. The items are representative in length, tone and arguments made, but obviously, this is a subjective exercise. The coding breakdown is as follows: 29 items (52%) were ‘pro-
are consistent with the characteristics Ericson et al found in letters chosen to be published in their study. Both letters are written by in-group citizens and are pro-police and anti-Wallen. I find both letters contain examples of the discourse of denial, the discourse of reverse racism and the discourse of ‘us’ and ‘them’. Thus, I find support for Tator and Henry’s democratic racism thesis, and show that responses to the racial profiling crisis in Kingston followed very similar dominant discourse patterns as they identified in Toronto. This suggests there is consistency in the way white elite authorities in Canada respond to allegations of racial profiling and reveals one reason why ultimately, the dominant discourse prevailed in Ontario (in the 10 year period after the study, there was no official move to routinely collect data). Both items (one is a letter-to-the-editor and one is an editorial column) were published by the *Kingston Whig Standard* and were chosen for analysis because they are representative of the type of items published at the time and both directly react and respond to the Wallen incidents very soon after the first reporting of the teenager’s confrontation with police.

Mary Vincent, a white resident of Kingston who formerly worked in corrections, wrote in support of the Kingston Police. Vincent is a ‘favoured regular’ whose letters were frequently published by the newspaper. Her letter has many of the hallmarks of the discourse of reverse racism. The letter is titled ‘Police officer was protecting himself’ and responds to the original *Whig* story of 4 March (“Officer targeted two teens ‘because they were Black’”). Vincent writes:

> When the teens refused to remove their hands from their pockets, were they not aware that this arrogant behaviour would cause a reaction? That policeman did not know what, if anything, they had in their pockets, and he had a right to protect himself (Vincent, 2003).

The excerpt from the letter uses the strategy of reverse discrimination by conjuring an image of the two young people as aggressors (‘arrogant’) and the police officer as a potential victim in the encounter (‘he had the right to protect himself [from the two teenagers]’). The letter also uses the discourse of ‘blame the victim’, which is a variation of the discourse of reverse racism. Vincent asks “were they not aware that this arrogant behaviour would cause a reaction?” thus implying that the officer’s actions were the youths’ fault. Vincent puts the blame and responsibility for the
incident onto the youths and absolves the officer of responsibility for what many would term his over-reaction (i.e. pulling a gun on two unarmed teenagers).

The letter goes on to state, “I know many young Black men who have lived in this city a long time. They have never mentioned having trouble with the Kingston police” (Vincent, 2003). This statement is a reiteration of the discourse of denial. Tator and Henry (2006) find in their analysis of the Star discursive crisis, that a key characteristic of white elite narratives is a declaration that there is no problem with racism, without providing any evidence in support of the claim (a strategy found in the Fantino transcript).

The discourse of ‘us’ and ‘them’ or ‘criminalblackman’ is also an important dominant discourse, and Vincent’s letter ends with a form of ‘othering’. She writes:

Most of us law-abiding citizens stand behind these dedicated men and women [Kingston Police officers] who are doing their best under increasingly frustrating conditions” (Vincent, 2003, emphasis added).

The discourse of ‘us’ and ‘them’ is a rhetorical strategy to classify the dominant white citizens, including Vincent herself, together with the white police officer involved in the incident as the ‘us’: normal, decent (‘law-abiding’) citizens. All others are excluded. The implication is the ‘other’ (Mark Wallen, his friend and supporters) are not normal, not decent, not law-abiding and crucially, not citizens. Thus, the myth of ‘criminalBlackman’ is conjured. This is a method of subtly associating Blackness with the ‘other’ and Blackness with criminality, without actually making overtly racist statements. The use of ‘law-abiding citizens’ facilitates this without having to use the word ‘criminal’.

An editorial column written by Craig Litchfield – another ‘favoured regular’ who is described as a freelance journalist living in Kingston and a member of the paper’s community editorial board (‘authorized knower’) – contains similar rhetorical strategies to the Vincent letter:

The ‘race card’ was played against the police by two Black youths after an officer pulled his gun on them. . . . It is an unfortunate coincidence that the two teens were in the wrong place at the wrong time. The colour of their skin was not the issue. The gun was pulled only after they ignored an order to remove their hands from their pockets. This is standard police procedure. Kingston is a city surrounded by prisons, and police have to be on guard. . . . Officers must be social workers, peacekeepers, referees and law enforcers. Their lives are in constant danger . . . For those who think we have ruthless storm troopers guarding our streets, perhaps a vacation in North Korea is in order. (Litchfield, 2003, p. 8)
This column is rich in hidden dominant messages. There is the mandatory repetition of the discourse of denial (‘It is an unfortunate coincidence’; ‘The colour of their skin was not the issue’), and the denial of racism includes a reference to a non-democratic state, North Korea. Reverse discrimination is accomplished by placing the police in the ‘victim’ role. Litchfield begins with portraying the police as victim and therefore innocent (the race card was ‘played against’ the police) and then proceeds to a denial of the white police officer’s violent over-reaction (pulling a gun on people when no reason to suspect they are armed is ‘standard procedure’).

The discourse of ‘us’ and ‘them’ can also be found in the column. Litchfield uses some odd and awkward tactics to produce this discourse. For example, Litchfield uses some strong imagery of Kingston as ‘surrounded by prisons’, and of terrified and besieged police officers, (‘police have to be on guard… Their lives are in constant danger’). The image of a siege (being ‘surrounded) is consistent with drawing a line between ‘us’ and ‘them’. The tendency for police to draw on this discourse has been noted by Reiner in his typology of police media representations: the ‘Fort Apache’ image of police (Reiner, 2010). According to Reiner, this is when police are imagined as inhabiting an outpost in hostile enemy territory. The corresponding film image is of white settlers besieged and surrounded by ‘savages’ in the 1948 John Ford film Fort Apache starring John Wayne. Litchfield imagines Kingston as besieged and surrounded by (Black?) criminals: ‘Kingston is surrounded by prisons’. The besiegement narrative is a familiar one for Ontario police. For example, Toronto Police at 51 Division in the 1990s, then responsible for policing Regent Park (an inner city social housing project), referred to the police station as ‘Fort Apache’ and ‘Fort Apache’ t-shirts and caps were sold. The ‘siege mentality’ creates a world of ‘us’ and ‘them’ and is a well-documented aspect of police culture arising from the isolation, solidarity, militarism, mistrust, and cynicism, as well as racism and hyper masculinity of police subculture (Reiner, 2010; Tator & Henry, 2006.) Similar to the Vincent letter, Litchfield has accomplished the criminalization of Blackness without even using the word ‘Black’. Unspoken racism is democratic racism.

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76 The implication is that authoritarian, biased policing takes place only in non-democracies, whereas policing in democracies such as Canada is by definition fair, accountable, and equitable.
Counter-narratives published in Kingston Whig-Standard

We have seen two examples of items published in response to the racial profiling incidents in Kingston that employ the strategies of denial, reverse discrimination and the discourse of ‘us’ and ‘them’. These have followed the same pattern as the dominant discourses employed during the Toronto crisis as documented by Tator and Henry. The following section turns to the analysis of the positive responses to Mark Wallen’s claims of being a victim of racial profiling. This is a departure from Tator and Henry’s approach. Delgado (1995, cited in Tator & Henry, 2006) proposes three types of responses to racism and racist incidents: 1) first person narratives 2) dominant elite responses reaffirming mainstream common ideology and 3) counter-stories authored by out-groups to counteract or raise questions about the dominant response (p. 119). Tator and Henry explore the first two responses extensively in their book Racial profiling in Canada. However, they neglect the third type of response, the counter-narratives or oppositional discourses.

In overlooking the third category – counter narratives – Tator and Henry miss part of the mechanics of how democratic racism actually works in liberal democracies. Counter-narratives are important, I will show, because while they have the potential to disrupt dominant narratives and kick start social and political change, they also have the potential to stymie reform and maintain the status quo. I will extend my analysis of the Kingston crisis to include counter-narratives and I will assert that while oppositional discourses do provide an argument or ‘push’ against dominant discourses, they do not always refute the basic tenets of democratic racism and therefore do not and cannot topple racism in democratic societies. In other words, supporters of Mark Wallen criticise the police, but still manage to adhere to liberal democratic values and norms that continue a division between ‘us’ and ‘them’, which ultimately undermines victims of racial profiling. I find that counter narratives in the Kingston racial profiling crisis successfully question the discourse of denial and reverse racism, but seem to perpetuate the discourse of ‘us’ and ‘them’. Indeed, I believe these counter-narratives were important in Chief Closs’ initial

77 In a chapter in Tator and Henry’s 2006 book titled ‘In their own voices’, Maureen Brown provides narrative analysis of peoples first-hand experiences of racial profiling. Tator and Henry also provide extensive analysis of the White elite response to the Star Series – police leaders, politicians, academics, columnists, focusing on the dominant discourses of denial, reverse discrimination, and discourse of the ‘other’, but little is said about the counter-narratives in support of the Star.
decision to conduct the study. However, I will argue that counter narratives stopped short of instigating real change – they needed to explode the myths of (neo) liberal societies, not perpetuate them. As a result, the counter-narratives were not successful in changing the policing landscape in Canada – as is obvious from the failure to continue the Kingston data collection project and the fact that the project was not repeated in the 10 years following the study.

Counter narratives in support of Wallen included many sources such as ordinary citizens, community leaders, as well as some journalists and academics. Perhaps surprisingly, the counter-narratives are predominantly from elite sources, which raises questions about whether oppositional narratives can come from the in-group, and why so few out-group voices are heard. Below I have selected two representative examples that show how counter-narratives might not challenge some of the fundamental values of neo-liberalism and democratic racism.

A local minister, The Rev. William Duffy wrote a heart-felt letter of support for the two teenagers after the second incident in March 2003. Rev. Duffy, an ‘authorized knower’ by dint of his professional affiliation and status, provides a robust counter-narrative to the dominant discourse in Kingston that asserted police were ‘just doing their job’ in pulling a gun on two Black teenagers. Rev. Duffy certainly questions the dominant discourse that there was no racism involved in the incident. He writes: “Why would some of our respected police officers show what appears to me to be blatant racism?” (2003). While using qualifiers (what appears to be racism), Rev. Duffy does raise questions about whether racism is operating in the Kingston Police service:

> Why would anyone representing the law stop him [Adrian Parkes] and his friend as they were returning home from a basketball practice, question and search them, and pull a gun as if they were potential criminals? Is it because Adrian and his friend, Mark Wallen, are Black? (Duffy, 2003, p9)

The Reverend Duffy states “There is something wrong and unjust here”, but falls short of stating that racism is the explanation. The use of rhetorical questions allows him to remove himself from any direct accusations, and he clearly wants to maintain an allegiance with the police, with careful use of language such as ‘our respected police officers’ and ‘our respected chief of police, Bill Closs’.
Rev. Duffy’s counter-narrative emphasises the exemplary character of one of the victims of the incident. He writes glowingly about Adrian Parkes, one of the boys involved in the incident:

Adrian is one of the most sensitive and respected young men I know. . . . He and his family have been in our home and at our cottage on different occasions, and I look upon them as our friends. As his minister, I watched Adrian grow up as part of St Andrew’s Presbyterian Church, where he is admired and loved. (Duffy, 2003.)

This passage reveals much about his (and Adrian’s) status. Rev. Duffy has two homes (a house in town and a cottage), which signals an upper-middle class income and status. Both he and Adrian are members of the relatively affluent Presbyterian congregation. The Parkes family are a well-respected middle-class (and God-fearing) family, we are told. The writer’s emphasis on values and status is consistent with how democratic racism operates. Under democratic racism, only those ‘deserving’ protection receive it, either from the police, or protection of other human rights. Liberal democracies espouse equality, but they only afford protection from inequality to those that subscribe to dominant mainstream values and norms (such as capitalism, patriarchy, nuclear families, traditional organized religions, etc.). In this case, Rev. Duffy makes injustice contingent on adherence to dominant norms and values; the reason there is injustice in Adrian being stopped by police is because Adrian and his family are part of the same social circle and have adhered to the dominant norms – they participate in capitalist consumerist society and attend church. The implication is that if Adrian and his family were not worthy – if they were for example, unemployed, suffered from divorce, substance abuse (or other social ills) and did not attend church – support for their claim against police might be withdrawn. In emphasising Adrian as the perfect victim, Rev. Duffy, perhaps unwittingly, re-enforces and reproduces the inequality he very much wants to eradicate.

Another example of a counter-narrative that disrupts but does not eliminate dominant discourses on racial profiling in Kingston is a letter written by an ‘involved insider’: Mark Wallen’s mother, Donna Wallen. The discourse Donna Wallen uses in support of her son is similar to the letter by Rev. Duffy in that she provides a robust critique of the discourse of denial. Mrs Wallen, however, also relies on some of the underlying messages and discourses of democratic racism, such as the discourse of ‘us’ and ‘them’, by including the stipulation that only people adhering to mainstream values (economically productive, middle class, etc.) are deserving of protection from
the police. Consider this letter to the editor written by Donna Wallen titled ‘I am proud to be his mother’: 

As a law-abiding citizen, I have always regarded police authority as essential for the maintenance of law and order, and I have raised my children to believe that if they adhere to the laws of the land and live as responsible, productive citizens, they, like any other citizen, should expect the benefits of police protection. To date, and especially in the past two years, that has not been my family’s experience.

So then, what is the issue? Simply put, it is the fundamental right of our fathers, brothers, partners and sons to walk, run, cycle or drive around the streets of Kingston with their backpacks or gym bags, unimpeded by the stereotype of criminality associated with the colour of their skin. (Wallen, 2003, emphasis added)

Wallen counters the discourse of denial by emphasizing, quite rightly, that she and her family are treated differently due to their skin colour. However, this letter does demonstrate some consistency with democratic racism. The plea for equal treatment is couched in very specific liberal individualist terms; the letter argues that law-abiding, responsible, productive citizens are deserving of police protection, but leaves open the question of what happens to less-responsible, less-productive citizens?

This letter highlights how Mark Wallen is an ‘ideal victim’. Similar to Rev. Duffy’s insinuations of his own status and the innocence and deservingness of Adrian Parkes, the plea from Donna Wallen would not work unless she and her son were impeccably law-abiding and middle class. For example, if Mark Wallen was associated with drugs, or if he were a high-school dropout or unemployed, this letter would probably not be written or published. Just as there is an ‘ideal rape victim’, I suggest that there is also an ‘ideal’ racial profiling victim, residing in Donna Wallen’s construction of her son. Donna Wallen’s construction of ideal male personhood (‘the fundamental rights of our fathers, brothers, partners and sons to walk, run, cycle or drive around the streets of Kingston with their backpacks or gym bags, unimpeded...’) is designed to locate her sons within a middle-class liberal subject position by appealing to a connection with the capitalist economy. Autonomous (male) individuals must be able to move through space without impediment, in order to engage in productive economic transactions. Here, a young Black man (‘criminalBlackman’) becomes ‘good’ and ‘deserving’ when there are claims to belonging to the capitalist system, symbolized in the right not to be stopped and the possession of material goods such as a motor vehicle; and a gym bag that signals participations in civil society and sports - sportsmanship is a civilizing force here, too.
It is not enough for Mark Wallen to be innocent or unmarked (and thus included in the liberal subject position and deserving of protection): his entire family has to be deserving. Media reports on the family contain painstaking descriptions of not only Mark’s special status (no criminal record, articulate, bright, talented sportsman, ‘star KCVI basketball player’, scholarship winner, church member, etc.) but also the professional and community status of his parents. Both parents’ attended prestigious Queen’s University and Wallen’s mother is described as “a church soloist and winner of the Tricolour Award in her graduating year at Queen’s” (McLay, 2003) with a fellow choir member writing in support of Wallen and her son: “She has a beautiful, rich soprano voice. She is a woman of character, integrity and passionate conviction.” (du Prey, 2003).

The specific claims to middle class status in Donna Wallen’s plea reveal how much assiduous effort is involved to symbolically ‘de-other’ (de-criminalize) a Black teenager such as her son. She must go to great lengths to establish the innocence of Mark— he has been raised to respect the police, to be a responsible, productive citizen, to abide by the laws of the land – in order to signal that he is deserving of police protection and protection from police. Donna Wallen’s narrative of a good law-abiding mother and a good citizen-child evokes an image of the governed and disciplined male Black body within rational and civilized white settler society. The language of law and order and ‘laws of the land’ are particularly telling as they firmly locate Mark within the terrain of the individuated, autonomous, white liberal subject. Donna Wallen, then, may be an unwilling participant in democratic racism by perpetuating a division of ‘us’ and ‘them’. Instead of exploding this division, Donna Wallen fights tooth and nail to re-classify her son as part of the ‘us’ by leveraging her family’s middle class, law-abiding status. This tactic leaves space open for the continuation of ‘othering’ of more vulnerable and marginalized people. Donna Wallen’s plea for police to stop targeting her son does not extend to other young Black men who may not have had all the privileges of Mark Wallen. Thus, counter-narratives may not be very effective in dismantling racism, and indeed, may actually perpetuate democratic racism in liberal society. Another by-product of all this ‘work’ is that Wallen has aligned herself with the elite, and it is unclear whether her counter-narrative is coming from an out-group perspective, or if she is part of the in-group discourse after all. It could be argued that Tator and Henry, in neglecting an analysis of the counter discourses in the Toronto Star discursive crisis, missed an important opportunity to reveal some of the subtler inner workings of democratic racism.
Donna Wallen is not alone in striving to align with elites in discursive conflicts. Brunson and Miller note that Weitzer “found that middle-class Blacks stopped by the police ‘make a point of displaying middle-class status symbols in self-presentations’ in order to signal their legitimacy” (Brunson & Miller, 2006, p.626). Brunson and Miller explore the importance of markers of middle class status in the interactions of Black youth and police in their ethnographic study of young Black men and police in St Louis, Missouri. For example, they explain one interviewee’s (Tyrell) frustration with an encounter with police as a desire for the symbolic currency of middle-class status to be recognized:

Tyrell was upset because he was late for the movie and his good clothes were soiled. But he was especially angry because not only was he not engaged in any behaviour he deemed to be suspicious, but he believed that the police officer should have recognized his respectable attire as an indication of his law-abiding status. His reaction is very much in keeping with middle-class African-Americans’ responses to racial profiling. Symbols of legitimacy or affluence are not sufficient to counter police suspicion, and in some contexts may heighten it. (Ibid)

The police may not recognize the symbolic power of middle class status as markers of liberal subjecthood, but the media certainly does. A recent example of the importance of the Black elite subject in racial profiling stories is the worldwide media coverage of the arrest of Harvard Professor Henry Louis Gates, Jr. in his own home by Cambridge, MA police (McKenna, 2009). In the newspaper items examined for this study, the stories of Black victims of racial profiling are limited to those who appear innocent and middle class. We have seen this in the need to establish Mark Wallen and his family’s deservingness in their conflict with police, and it is reinforced by the lack of stories featuring non-mainstream people: the poor, the unemployed, the homeless, those with criminal records, and other marginalized people.

Part one of this chapter has introduced the concept of ‘Democratic Racism’ in the context of a white settler society such as Canada. It has examined dominant discourses and counter narratives on racial profiling published in response to the Mark Wallen incidents in Kingston, Ontario. Discursive strategies used by the in-group, such as reverse discrimination, the discourse of denial, and the discourse of ‘us’ and ‘them’ (criminalBlackman) were exposed in the writings of two Kingston residents. This part has also examined counter-narratives in response to the Wallen incidents. The counter-narratives were found to successfully oppose the discourse of denial, but were less successful in overturning the discourse of ‘us’ and ‘them’. Oppositional narratives, then, were found to be consistent with Democratic Racism and to help entrench some
of the long standing inequalities found in democratic societies. The next section identifies the discursive strategies (both dominant and oppositional) deployed in responding to the announcement of the Kingston Data Collection project in 2003 and the publication of the Kingston study report in 2005.

5.3 Part 2 - Official Responses to the Kingston Police Data Collection Project

Background to the project

Two armed takedowns by police of Mark Wallen resulted in a public outcry in the first half of 2003, as we have seen in the previous section. Given the attention the incidents received, it is not surprising that by late April 2003 the relationship between the Kingston police and some community members could be described as tense, and according to Napier (2005) the “firecracker was about to go off” (p. 2). The tension demanded a response from the KPS and this is when Chief Bill Closs decided to hold two ‘town hall’-style meetings\(^{78}\) to hear the stories (and frustrations) of Black and other communities. The first forum, held in May 2003, was targeted to youth in the community to express their experiences and concerns about policing in Kingston. The second forum, in June 2003, was aimed at adults of Kingston minority ethnic communities.

When the force held its landmark meeting for teenagers to air complaints about police on Wednesday night, the issue of racism kept coming up again and again.

Even when adults stepped up to the microphone, they recounted their experiences, or their children's experiences, with what they deemed to be racially motivated behaviour by officers.

\(^{78}\) Mark Wallen’s view of the forums was not a positive one:

He [Wallen] told the conference that two town hall meetings organized by police to discuss policing issues in Kingston - one for teens and one for adults - didn't create a real forum to discuss racism.

"It wasn't a town hall. It was a police forum," agreed audience member Sarah Miller.

The event for teenagers featured a DJ and live bands, and Wallen said it felt like too much of a party to be dealing with such an important topic.

"I was almost insulted to be there," he said. "It wasn't the issue it should have been." (McMahon, 9 Feb, 2003, p.3)
Kingstonian John Smith, a 55-year-old Black father who told the story of his son and a friend being pulled over and asked by a city constable if they were "looking for trouble."

Eli Alvarez, the minister of Resurrection Community Church, asked why he was repeatedly pulled over by police. "Is it because of my colour?" he asked.

To their credit, Police Chief Bill Closs and his staff took the accusations and anecdotes squarely on the chin. That, Closs said, is "what we wanted to hear -what is being said on the street." (Schliesmann, 2003, p.8)

The forums highlighted the anecdotal evidence that Blacks and youths felt the police treated them unfairly and drove home the point to the Chief that there were concerns about respect and trust between the community and his officers.

Chief Closs and the Kingston Police Services Board decided to address the issue of racial profiling – preferring to use the term ‘bias-based policing’ – through a formal policy and an unprecedented data collection strategy79 (Closs & McKenna, 2006). Closs proposed that all officers record the race of all the people they stop for a 12 month project80 (Schliesmann, 2003b). The proposed data collection project, and the report that followed, sent shockwaves throughout the Canadian policing communities. Police union leaders and police chiefs publicly criticized Chief Closs, while the project garnered praise from the Ontario Human Rights commission, ABLE, and some community groups and academics. A preliminary report (PowerPoint presentation) was presented to the Kingston Police Services Board on 26 May 200581. Amongst the report’s findings was that Black residents of Kingston were stopped at much higher rates than white residents. Chief Closs gave a public apology as a result. Although the study author pointed out the limitations of the data and the methodology, the Toronto Star ran front-page

79 The Kingston Police Services Board voted 3-2 in favour of the project (McArther, 20 June 2003, p1)

80 The data collection period ended in October 2004. The raw data were entrusted to Scot Wortley at the Centre of Criminology, University of Toronto. The author of this dissertation was a research assistant for some of the data cleaning and analysis.

81 The Kingston report was authored by Scot Wortley with data analysis assistance from this author. The PowerPoint presentation contained preliminary descriptive data, and was designed for a lay audience (the Kingston Police Services Board). The presentation also specifically addressed the various criticisms of the project methodology that had been publicly expressed by academics hired by police unions. This dissertation presents a new analysis, with newly developed measures and engages with the academic literature on racial profiling for the last 10 years.
headlines that the Kingston study ‘proved’ racial profiling. This was repeated in much of the Canadian media, despite the study’s author cautioning against over-interpreting the results.

This section analyses the two waves of official responses to the Kingston project: the first wave occurring after the announcement of the project (2003-2004) and the second wave after the project report’s release (2005). I use discourse analysis to critically examine official responses to the Kingston project and report. All newspaper reports of police leaders, union leaders, politicians and other spokespersons responding to the Kingston study from 2003 to 2005 were examined (n=70). First I discuss the dominant discourse and identify and discuss themes arising from official responses such as the rotten apples thesis and the use of ‘zero tolerance’ as a discursive strategy. A main finding of the dissertation results from this section: I suggest the role of police unions was unexpectedly important, and the discourses emanating from the various police unions were able to influence public opinion, stifle reform and deflect criticism from police themselves. I then identify the counter-narratives (discourses in favor of the Kingston study and data collection), which include a set of rogue police officers who go ‘off message’ to condemn racial profiling. I then build on Tator and Henry’s two-category discourse framework by introducing a new third category of discourse: ambivalent discourses about racial profiling.

Press coverage of individuals speaking on behalf of an organization or politicians, limited to reports published in formal news outlets. Unofficial responses (such as letters-to-the-editor, opinions, and blog posts) are excluded. Through keyword searches, approximately 70 items were identified as containing official responses to the Kingston study from major news outlets. All 70 items were thematically coded in NVivo.
Police Union Responses

“I’ve never heard of this happening in 25 years, from the chief down, from any of the chiefs down, or any of the front-line personnel. Straight up, we do not racially profile. We do not have a racist police force”.

– Head of Toronto Police Union, Craig Bromell, in an interview on CBC television (‘Bromell has his say on profiling’, 2002)

In their study of the lobbying activities of police union organizations in Canada, Huey & Hryniewicz (2012) find their interview subjects (police union leaders), consistently use linguistic devices to: 1) distort or reverse meaning, 2) avoid criticism or shift responsibility, and 3) limit thought or manipulate thought. This typology of types of dominant discourse is a useful device to keep in mind when conducting discourse analysis on police union’s responses to the Kingston crisis.

Given their previous responses to accusations of racism, it is perhaps unsurprising that Ontario police unions provided the most vocal opposition to the Kingston data collection project. The Kingston Police Association, the rank-and-file union representing over 200 police personnel in Kingston, was opposed to the project, with the association president stating “Our association believes there's been no demonstrated need to collect stats” (Lukits, 2003, p.1). The union membership voted against supporting the data collection policy, although officers conceded that it was their professional duty to fill out contact cards (ibid).

When the Kingston study results were released, the union discourse was predominantly one of denial, but included allusions to the ‘Black offending’ thesis. In the following quote, the implication is that Black citizens behave unlawfully:

The head of the Kingston Police union says officers do not target Black citizens any more than any other race. "My members target unlawful behaviour. For that reason, we conduct stops,” said Sean Bambrick, president of the Kingston Police Association. "These types of (studies), at the end of the day, don't prove or disprove anything." (Porter, 2005, p.A14)

Another important discursive strategy for the police unions was the reverse discrimination or police-as-victims discourse, identified by Tator and Henry (2006) and examined in the previous section of this chapter. The police union president protests: "The city of Kingston and its police force were unfairly maligned in the national media” (Bonnell, 2005, p. A10), evoking the
victimization of police by the media. The union president takes the victimization of police even further by suggesting police are under threat from the public:

Since the study’s release, officers have been *under fire* in the community from people accusing police of being racist, Bambrick said.

"We've seen an increase in terms of interactions with *hostility* with some members of the public, not of any specific race," he said. “In general, it seems more people are using it as an excuse to justify their behaviour". (McMahon, 2005c, emphasis added)

The discourse of reverse discrimination is very effective in casting the police as victims and thereby accomplishing the trick of deflecting the police from the role of wrongdoer. The discourse of reverse racism produces police officers as victims of ‘some’ hostile citizens; officers are ‘under fire’ (more than a semantic reversal ... how can armed police be under fire from unarmed civilians? The guns in the hands of the officers are erased through words) and there is an increase in ‘hostility’ due to the study. The attempt at the erasure of race, ‘not any specific race’, accomplishes the opposite of erasure: it highlights race in the interactions with police. In the police-as-victims discursive strategy, research on racial profiling is again being construed as the source of tension between police and communities, and helps deflect responsibility for the problem from the police. In the last sentence of the quote, the research is what people use ‘as an excuse to justify their behaviour’, thus constructing the implausible notion that people’s behaviours are more likely to be influenced by research than police stop and search patterns.

The *Kingston Whig Standard* also chose to deploy the discourse of reverse discrimination. Some of the headlines in the paper after the release of the report show a strong preference for the discourse of police as victims: “Officers suffering in wake of racial-profiling study” (Armstrong, 2005); and “Officers ‘wounded’ by publicity given to racial profiling study” (McMahon, 2005b). In this discourse, the research has ‘wounded’ police, causing them to suffer, thereby becoming a negative force. This narrative erases the harm done to victims of racial profiling.

The discourse of denial was taken up and expanded upon by the country’s largest union representing front-line police officers. In an interview with the *Whig-Standard*, the then-president of the Toronto Police Association, a police union described as “aggressively activist” (Martin, 2004), used several strategies to assert the dominant discourses of denial and the discourse of ‘Black offending’ (referred to elsewhere in this dissertation as the discourse of the ‘criminalBlackman’):
Rick McIntosh, president of the 7,700-member Toronto Police Association, dismissed the Kingston race-statistics project as "just a public relations scheme that doesn't really address any of the issues." McIntosh said Kingston Police should keep statistics on both the race and ethnicity of people stopped by police and the crime that prompted the police to intervene.83

"If you have a certain percentage of the population that is of a certain ethnic makeup and they are responsible for a disproportionate amount of arrests, it would stand to reason you're going to have a disproportionate amount of traffic stops," McIntosh said. "To keep stats on just who you are stopping and dealing with without actual crime stats doesn't do anybody any good."

"We have a fair bit of knowledge on this [issue]." McIntosh said. "I have no comment on what's going on in Kingston except to say that I know the rest of the province is against the chief in Kingston for doing this." (Lukits, 2003, p.1, emphasis added)

The TPA’s reputation as aggressive seems well deserved85. McIntosh displays some of the ‘belligerence’ Walker (2007) attributes to the subculture of some police unions in the U.S., and his discourse seems to conform to the ‘reactionary’ in Berry’s typology of police unions (2007). Certainly, there is a lack of management-speak that would be expected from what Berry coins ‘liberal’ or ‘reform’ police unions. Consider this press release by the Police Federation on the government’s announcement to further investigate the use of stop and search in England and Wales:

We [Police Federation] welcome the opportunity to be part of the consultation process regarding this necessary and effective tool to reduce crime and increase public safety.

Any decision to invoke stop and search powers must be justified and officers must be accountable for the decisions they make as part of their commitment to policing by consent.

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83 This statement reveals the police view that all police stops are about crime and crime control. The Kingston data revealed a very different picture, as discussed in the previous chapter.

84 McIntosh’s statement is a good example of the ‘Black people offend more’ explanation of Black overrepresentation in police stops, which was tested in the previous chapter. The logic that Black people are responsible for a disproportionate number of arrests and are therefore more likely to be stopped is not supported by the Kingston data; Black people have lower arrest rates than whites. McIntosh also makes the mistake of conflating arrest rates with area crime statistics. Indeed, the fact that stop rates and arrest rates have little to do with each other also raises doubt whether crime data bear any relation to actual offending rates.

85 For example, the TPA sued the Toronto Star for $1 billion over the Race and Crime series (CBC, 2003)
In our view this tool is essential - however if there are ways in which it can be further improved without a reduction in public safety then we are keen to take part in the debate. (Police Federation, 2013).

Instead of engaging with the issue and attempting to frame the discourse in a way favourable to the police stance (as the above press release strives to do), McIntosh uses the discourse of denial. McIntosh denies that racial profiling is a problem with the statement that the project is ‘just a PR exercise’, although he does not fully come out and state that racial profiling does not exist. This is a change of tactic from Fantino’s ‘there is no racism’ strategy (a response to the Star series, see section 5.2 in this chapter) and is different from McIntosh’s predecessor Craig Bromell who declared ‘straight up we don’t profile’, but is nonetheless a reactionary stance compared to the UK example, and I would argue is also more pugnacious than the KPA reaction.

It can be argued that the discourse of ‘criminal Black man’ is concealed in McIntosh’s statement. Although his word choice avoids using the word ‘Black’, the implication that a certain percentage of the population that is of a certain ethnic makeup are responsible for a disproportionate amount of arrests is clear: Black people commit more crime and therefore are stopped more. Period.

McIntosh emphasizes that the ‘rest of the province is against the chief’. I will call this discourse the ‘circling the wagons’ theme. McIntosh very vividly highlights that the whole of the police community is ‘against’ Chief Closs, and in his use of the word ‘province’ he also perhaps alludes to the provincial politicians who will follow the union’s lead. Circling the wagons is a defensive move that effectively protects those inside from an outside threat and physically excludes anyone outside the circle. This theme is related to the ‘Fort Apache’ image of policing, discussed earlier. I assert that during the discursive crisis, the extended policing profession in Canada felt ‘under siege’ and undertook to ‘circle the wagons’ and impose a strong discourse of denial; thus necessitating the need to repeat the theme that the rest of the province, and country, are against the project.

Upon the release of the Kingston report, the discourse of denial continued. Police leaders attacked the study through the media. Press conferences, interviews and a critique of the study were released to the press in June 2005. In addition to straightforward denials – the head of the Kingston police union continuing to claim that officers do not target Black citizens any more than other races (Porter, 2005) – the discourse of denial was reconfigured as an orchestrated
discrediting of the methodology used in the study, as well as personal attacks on the study author, Scot Wortley.

‘Street cop’ unions in Ontario were quick to issue press releases and mobilize University of Ottawa criminology professor Ron Melchers to critique the study’s findings on their behalf. At the invitation of the KPA, Melchers “who also worked with the Toronto Police Association in publicly criticizing the Star’s award-winning study on racial profiling by Toronto police officers” (Porter, 2005), proceeded to discredit the study by calling it ‘trivial’ and ‘silly’:

"This study does not find nor refute racial bias in the Kingston police”. . . “Any differences are miniscule. They’re trivial — certainly nothing that could ever be used to found a statement that racial profiling has been found in Kingston.” (Porter, 2005)

Melchers further berates the research and suggests that the research is harmful to perceptions of police:

"Someone should have turned this down. This is a silly study,” Melchers said. "The results are inconclusive and unreliable, the interpretations seen in the media are specious and the consequences of doing this kind of thing is that a lot of people are concerned that their children will be unfairly treated by police when there is no evidence that this is the case.” (McMahon, 2005c)

Melchers tactic of denial is to neutralize the study by labelling the results using emotive words such as ‘trivial’ and ‘silly’ as well as academically-loaded words such as ‘inconclusive’ and ‘unreliable’. Melchers produces a role-reversal by blaming the research for causing mistrust in police (the research will make people ‘concerned that their children will be unfairly treated by police’), and totally ignoring any information about the behaviour of the police, thereby deflecting any responsibility for public mistrust from police themselves. Melchers expanded his critique of the Kingston study in an RCMP report published in 2006, which is analysed at length later in the next chapter.

Another rank-and-file lobbying group, the Police Association of Ontario 86, also virulently opposed the Kingston project:

86 This organization can rightly be described as a lobbying group. They campaign against issues such as privatization of policing services and the curtailing of ‘carding’. They openly post their political mandate in a document called ‘Political Priorities’ for ‘lobby days’. Huey highlights the importance of ‘lobby days’ in her study:
Bruce Miller, chief administrator for the Police Association of Ontario, was so upset with Kingston's race-data collection study that he issued a national news release yesterday. "We don't see anything positive coming out of it," Miller said in a phone interview.

In the release, Miller calls the study "unnecessarily divisive" and says it does a "great disservice to all police personnel across the province."

He scoffed at Wortley's request for ongoing data-collection studies as a preventive measure. "We're accomplishing nothing through study after study," Miller said.

Closs, he said, did his officers a disservice when he apologized to Kingston's Blacks and aboriginals on behalf of his officers.

Miller said his members are encouraged by the fact that other police services aren't following Kingston. (Armstrong, 2005, p.4)

Miller produces at least two false impressions in this quote. First, he repeats the denial that there is any need for the study, and takes the position expressed by Melchers that research not only does not accomplish anything, but that research (not perceptions of police behaviour) can be the source of problems between the police and the community. Second, although the study is the first of its kind in Canada, Miller gives the impression that there has been 'study after study' on racial profiling in Canada, falsely putting Canada on a par with other countries such as England and Wales where there is regular monitoring through data collection. He may be disingenuously referring to the Star series, which obtained police stop data through a freedom of information request, which was fiercely resisted by the police service and the unions. In the final paragraph of the above quote, Miller, like McIntosh, assures us that other police services are not interested in data collection; signaling that the ‘wagons are circled’ against Chief Closs in the police community. In doing so, Miller violates the unspoken code of not turning on fellow officers by personally attacking Chief Closs. Miller berates Closs:

"Chief Closs has done a great disservice to the men and women of the Kingston police service," said Bruce Miller of the Police Association of Ontario. "Based on what we heard today, that apology was both unfounded and premature." (Bonnell, 2005, p. A10)

Some police associations hold annual lobby days, where interested members can meet federal or provincial legislators specifically to lobby for new bills or legislative amendments. Indeed, some associations even publish materials informing their members as to what particular policy issues they should advocate for during their meetings. The efficacy of lobby days as a potential opportunity for influencing policy makers was explained in the following terms by the member of one organization that engages in this practice: ‘‘[S]ometimes it involves a bit of a nose to nose discussion with some of those people, if it’s things they don’t agree with you on.’’ (Huey & Hryniewicz, 2012, p. 296).
‘Management cop’ unions were also highly critical of the Kingston project. Huey and Hryniewicz (2012) found that police leader unions were more circumspect about appearing to be political in the public realm; whereas I found the discourse used by these groups to be surprisingly reactionary, especially at the start of the discursive crisis. The association representing senior officers in Toronto used strong language of denial combined with ‘zero tolerance’ discourse:

"Racial profiling doesn't exist" on the force, said Inspector Jim Dicks, president of the Toronto Police Senior Officers Organization. Police have a zero tolerance for racial profiling, he maintained. (Huffman, 2003)

Here, the untenable nature of these two discourses together is evident: if something does not exist, why do you have to ban it? Zero tolerance discourse was deployed atypically during the discursive crisis in Kingston. Zero tolerance is normally used as a rhetorical strategy against a phenomenon that is widely perceived by the dominant group or elites as a problem relating to scrutiny of marginal populations in society (Ismaili, 2003); or, as Ben Bowling puts it, “This vacuous one-liner is now merely a lazy way of cussing things that we don’t like – from failing schools to poor punctuation” (2008, p. 6). However, in reactions to the Kingston study, zero tolerance was used in reference to something whose existence is seldom even acknowledged by the dominant organizations and elites. The zero tolerance rhetoric, I argue, was a peculiar strategy that was used to obfuscate the existence of racial profiling and avoid taking action to address minority community concerns. The zero tolerance rhetoric was particularly favoured by politicians, as we will see later in this section.

The discourse of denial becomes more detailed but still reactionary when a management police union, the Ontario Association of Chiefs of Police, strongly attacked the Kingston study in the early days:

Tom Kaye, president of the Ontario Association of Chiefs of Police, said yesterday the proposal to keep race-based statistics is bound to fail. "We are diametrically opposed to doing that," Kaye said. "If you have to fill out a contact card every time you pull over a minority, which could invite a civil lawsuit against you, do you not think the simpler thing to do is not stop them?" (‘Kingston police may keep notes on race’, 2003, p. A21)

87 The hard line of opposition from OACP subsequently softened in 2005 under the presidency of Armand LaBarge.
What is striking is the lack of management-speak for an organization that represents senior police executives who are surely influenced by the discourse of the New Public Managerialism as highlighted by O’Malley and Hutchinson (2007) and noted by Huey and Hryniewicz (2012) in interviews with police leader union representatives. Kaye begins with a black-and-white denial (‘diametrically opposed’) combined with the threat of de-policing minority communities (‘simpler to not stop them’). The next quote shows Kaye evoking the ‘Black offending’ and ‘available for stops’ theses and then awkwardly dovetailing into a semantic reversal where police are imagined as policy analysts for white bigots:

Kaye said that statistics don't reflect the realities of policing on the street. Numbers can be misleading, he said. "What if there was an after-hours club that had problems with a series of shootings, and that club was frequented by a certain ethnic group?" Kaye asked. "If you set up RIDE checks outside the club, chances are you're going to have skewed numbers on who you pull over."

Kaye also said he worries what might happen if statistics show that a particular ethnic group is responsible for a higher number of crimes than other groups.

Racists, who haven't taken the time to analyse the socio-economic factors behind the crimes, might use the numbers as ammunition for their cause, Kaye said.

"We don't want police forces to be policy analysts for white supremacist groups and bigots." (McArthur, 2003b, p.1, emphasis added)

Berry, et al (2008) propose a simple typology of police unions: ‘liberal’, ‘reactionary’ and ‘reformed’. Based on the above quote, I suggest the OACP could be classified as reactionary (along with the street cop unions such as the TPA discussed earlier). By arguing that data should not be collected because they could be misused by bigots, Kaye accomplishes three things: 1) he predicts that the data will show Blacks offend more (it doesn’t), thus, repeating the ‘criminalblackman’ hypothesis; 2) he names an extreme outgroup as bigots (white supremacists) thereby distancing police from the category and deflecting the possibility that the police themselves may be biased; and 3) creates a ‘public safety’ reason to ban monitoring of police, namely, the danger of the possible rise in white supremist groups as a result of data collection.

Here also is a good example of Huey & Hryniewicz’s (2012) three linguistic strategies employed by police union leaders in their Canadian study (distorting or reversing meaning; avoiding criticism and shifting responsibility; and limiting or manipulating thought).

The OACP is then silent in the mainstream press on racial profiling until the tenure of Armand LaBarge in 2005-2006. Below, Labarge presents an extensive commentary on the Kingston
study in an interview with the *Kingston Whig Standard*. This official police discourse has elements of the new public managerialism, and Labarge is more circumspect about criticizing the study and uses some interesting mixed dominant and counter-dominant messages:

> Whether you agree or disagree with what has been done here, in many respects it's brought the issue to the point in our profession where we are very free to discuss it," said Armand LaBarge, president of the Ontario Association of Chiefs of Police.

LaBarge, who's also chief of York Regional Police Service, said he doesn't think other forces will follow suit. "It's not something I would recommend to any police services board unless there was a significant problem in the community and that was the only way you could get to the heart of it," he said.

"What's happened in Kingston is a lesson to all of us as to what can happen when you undertake those types of projects without good, solid community support and good, solid support from all members of the police service and from the province."

Most police services boards would now undoubtedly look at what has come out of the Kingston study and look at the impact on the local police service and on the community, LaBarge said.

Police services boards will also be looking at alternatives for dealing with the perceived problem.

Nonetheless, LaBarge said Kingston Police did a good deed for police services across Canada by helping to drag the topic of racial profiling into the public arena. "Is policing better in the province as a result of police chief Closs’s leadership and courage? My view and position is that it is," LaBarge said.

LaBarge has already publicly commended Closs for his courage in conducting the controversial study here and he said he won't criticize his decision to do the study. However, he suggested the provincial government may not feel the same admiration. "My understanding is the Ministry of Community Safety and Correctional Services has absolutely no appetite for going down this road," LaBarge said. (Armstrong, 2005b, p.4).

This OACP discourse tries to accomplish the same things as the rank-and-file unions: they both seek to influence public opinion, stifle reform, and deflect criticism. However, the way in which Labarge goes about accomplishing this is very different from the methods of the men discussed so far (and yes, it is men; there were no female police union voices in the news items examined for this analysis). Labarge certainly goes farther toward recognizing racial profiling than any of his colleagues in saying it is a positive step to be ‘free’ to discuss ‘the issue’. However, he does not conform to O’Malley & Hutchinson’s (2007) prediction that police union leaders *must* change in the face of the changing neo-liberalist landscape, which includes, they argue, greater
market segmentation of policing and the threat of privatization. Instead, Labarge seems firmly in the reactionary dominant discourse camp along with his rank-and-file colleagues, as three features of his narrative reveal. First, he positions himself firmly in the police camp by refusing to criticize Chief Closs while at the same time evoking the ‘circling of the wagons’ of the police and government against data collection (other forces will not follow suit, it is not something he would recommend; government ‘has absolutely no appetite for going down this road’). This protects him by offsetting some of his potentially more critical comments. Second, he discredits the project in a very indirect manner; that is, by suggesting (without providing evidence) that the project did not have community support. Third, he then suggests that these studies should only proceed if they have police and the province to support them; since he knows and has already said the police and government do not support data collection, this is the same thing as saying, without regret, that further data collection will not take place in Canada. It is noteworthy that Labarge, though he deviates slightly from previous dominant narratives, is careful to never acknowledge that racial profiling exists. Labarge’s discourse is very similar to the more strident ‘street cop’ union representatives such as Miller and McIntosh in his repetition of the ‘wagons are circled’ statement, i.e. that police and government will not be taking any action to address racial profiling through data collection. In this way, he maintains the status quo.88

The above analysis of police union discourse in Ontario does not easily fit with the extant literature on politics and police unionism. For example, Finnane (2008) argues in an Australian study that police union exceptionalism has for too long allowed police unions to have it ‘both ways’. That is, a special ‘insider’ status that allows the unions to be cozy with governments, but at the same time, with very high membership rates and strong political mandates, to ‘cry wolf’ over issues that affect their members. Finnane rightly highlights the contrast between unions’ alarmist rhetoric around the precariousness of public safety in the face of threats of cuts to policing, and the actuality of the very strong and secure position of police unions and their members (especially in Australia where coverage is very high and unions are centralised). Berry et al (2007) make a similar point in a study of police unions in New Zealand, the Netherlands and the UK. They suggest this stance is starting to wear thin with the public, and police unions

88 After retirement, Labarge is pursuing a PhD in Aboriginal studies at Sturt University in Australia, which may explain the more nuanced language of his response to the crisis.
need to be more ‘self-conscious’. Further, police unions should beware of the perception of ‘feather-bedding’, which the authors claim has been the downfall of other trades unions. Ontario police unions do not seem to be conscious of these concerns. It also appears that in 2003-2005, Ontario police unions were still not yet overrun with managers espousing the style and language of the new public managerialism. I suspect that this trend, as O’Malley and Hutchinson predicted, has taken hold of the new generation of police unionists.

The work of Huey and Hryniewicz (2012) and Beare (2004) showed that police unions in Canada also hold special insider status in relation to public policy, and this seems borne out by the Kingston episode. The qualitative data examined in this chapter point to a close relationship between police unions and politicians, in that politicians were quick to publicly give assurances that police powers will not be interfered with, presumably as a response to the vocal protestations of police union leaders in the media. Through press releases, conferences, ‘lobby days’, and commissioning reports, it seems that police unions exploit their criminal justice ‘insider status’ to lobby for their members and to influence public opinion, stifle reform, and deflect criticisms. Further research into this area is needed.

Police unions have very different priorities from the police organizations whose members they represent. The responses from union reps might be expected to be different from the responses of police organizations themselves. And yet, both types of organizations heavily rely on the discourse of denial, and use some of the same rhetorical strategies, as is explored in the next section.

**Police Forces’ Responses**

While Ontario police union representatives seem stuck in the past, in more traditional, reactionary police subculture, the police chiefs and managers responding to the Kingston crisis had certainly ‘got the memo’ about New Public Managerialism (NPM). Police management responses to the Kingston study were peppered with ‘management speak’ and attempts to frame the debate favourably to police organizations.

Responses to the Kingston project from police services were shorter, more measured, less personal and less emotive than the responses from the unions. (Possibly lessons were learned after Fantino’s ‘There is no racism’ response to the Star series.) Police services tended to evoke
the zero tolerance approach, but avoided saying things like ‘racial profiling doesn’t exist’, with less strident language and overtones than the rank and file police unions.

Consider these quotes from a Toronto Star article reacting to the release of the Kingston study report:

In Peel Region, with a skyrocketing population fueled by immigration, the police force has tried to stay "way ahead" of sensitive issues such as racial profiling to ensure that it doesn't happen, said Emil Kolb, chair of the police services board.

The force has progressive policies to help officers "better understand lifestyles of immigrants to help them fit into our community," Kolb said.

Acting Halton Region Chief Gary Crowell said monitoring the force to ensure there is no racial profiling is ongoing, through the professional standards and public complaints bureaus and contact with community members.

Durham Region Deputy Chief Rod Piukkala said "It's an interesting report and we're making sure we understand the data and the implications that arise for policing. Certainly and absolutely we would never condone or sanction any form of racial profiling or biased policing here in Durham." (Benzie, 2005, p.B05)

It is telling that all three sources take the same rhetorical approach: they avoid stating that racial profiling exists, but insist that the practice is banned. This echoes the ‘zero tolerance’ approach used by the unions.

The chair of the police service in Peel speaks of racial profiling and immigrants fitting into the community – perhaps evoking the ‘criminalblackman’ or ‘jamaicanization’ of crime, where (Black) immigrants are imagined as importing crime into a clean, crime-free Canada (Tator & Henry, 2006). It is unclear how ‘progressive policies’ helping officers ‘understand’ ‘immigrant lifestyles’ has anything to do with racial profiling.

The Halton police chief claims to ‘ensure’ that, through “monitoring of the force” (monitoring without any apparent data), there is no racial profiling. The Kingston study results have not shifted the status quo, and business-as-usual measures such as ‘professional standards’, complaints and liaison with the community are offered as the management solution of the non-existent problem.
The response from Durham police is similarly lacking in substance and appears designed to protect the status quo by obviating the need for further studies or policy changes. The statement that racial profiling is not condoned leaves open the question of whether racial profiling exists, and avoids saying whether any action or changes will be made to the status quo policing. Indeed, all three responses are consistent in appearing to react to the Kingston study while effectively protecting the status quo in policing in Ontario. All three quotes avoid acknowledging that racial profiling may exist, and the zero tolerance rhetoric gives an appearance of a response or taking action when in fact nothing is being done at all.

The rotten apples discourse is a very different rhetorical strategy from the straight denial and zero tolerance approaches we have seen so far. The rotten apples thesis is a discourse of denial because it ultimately maintains the status quo. However, the rotten apples discourse does require the police to acknowledge that racial profiling exists, albeit in isolated cases with individual officers.

The Toronto Police have previously used the ‘rotten apples’ thesis in response to the Star series. In 2002, Bromell “conceded that there was racism on the force among some ‘bad apples’ who should be dealt with”, according to Lincoln Alexander (Keung, 2002, p. B05).

The rotten apples discourse was trotted out again by a police force spokesman when plans for the Kingston study were in the making:

The largest municipal police force in the country doesn’t keep such statistics and there are no plans to start, said Toronto Police spokesman Const. Mike Hayles. “Right now we do not see that such a form be put into place because the problem is not systemic,” he said.

“The service isn’t denying that incidences do occur, because yes they do,” he said. “There have been officers who’ve been disciplined. Is it a problem force-wide? Is it a problem that is systemic, that starts the day the officer starts to work? No it is not. That is our position.”

“If there was an officer who was found to be involved in an instance of racial profiling, that officer would be dealt with according to the rules and procedures that govern all police officers”. (McArthur & Pritchett, 2003)

Const. Hayles, in employing the rotten apples thesis, has had to admit that racial profiling exists (‘incidences do occur’). This is a radical departure from Chief Fantino, and the union president’s straight denial. But Hayles claims the problem is not systemic, confined to a few officers who have been disciplined. Like most supporters of the rotten apples thesis, the Toronto police
spokesman provides no evidence to support his claim. It is an irony that it is claimed that data collection is not needed because the problem is not systemic, yet data would provide the evidence to support whether this claim is true.

Later in 2005, when the Kingston report is released, the official police discourse emanating from Toronto changes radically. The new police chief is hailed as a progressive force, and there are high hopes that a change in attitude will occur and that data collection may take place in Toronto. On his first day on the job, Chief Blair utilized a reverse-denial discourse (he denies denial) combined with the zero tolerance discourse:

"I don't want to leave any wrong impression here," he told the Star in an interview. "I think racism and racial bias in policing is a problem. I do not deny the existence of racial profiling. As a matter of fact, if we deny its existence, how can we ever take the steps so it doesn't happen in our relationship with the public."

"In the police services I now lead, racial profiling will not be tolerated. I want to make that statement as strongly and as unequivocally as possible. It will not be tolerated in the way in which we deal with the public and it will not be tolerated in the way in which we deal with each other. (James, 2005)"

The new Chief gave a strong impression to reporters at the Toronto Star that something concrete would be done about allegations of racial profiling in Toronto:

"We have a responsibility to ensure that bias doesn't influence decision-making. We have to create a culture that functions bias-free," Blair said at a meeting with members of the Toronto Star's editorial board yesterday.

But the newly appointed Toronto police chief said if he is going to engage in such a collection, he wants to be sure that it is done properly, so that "appropriate steps can be taken to move forward," he said later in an interview.

"I do want to know the truth," he said, "but so much of the data collection out there has not been done well.... If we are going to engage in data collection and analysis, I'm committed to doing it right." (Huffman, 2005, B01)

It also appears that Blair led the police services board to believe that he would undertake some sort of data collection and monitoring:

The chief's words were well received at the Toronto Police Services Board, especially by board chair Pam McConnell.

"I'm delighted to hear but not surprised that the chief would have this view," she said.

"We wanted a chief who was supportive of diversity and that's one of the reasons we hired (him)."

McConnell also endorsed the chief's approach to the issue of racial profiling.

"I believe that in order to protect any institution from racial bias, you need to have quantitative evidence," she said. "I believe in the collection of statistics to protect
institutions from racial bias. You can't prevent unless you measure. And when you do
measure, you can find out remarkably interesting things." (ibid)

The chief acknowledged the influence of the Kingston project and appeared to be committed and
actively looking into data collection, although he maintained a type of denial with the assertion
that there is no official policy of racial profiling in the force:

The chief said he has talked with others who have collected race-based statistics for
other forces to discuss the challenges related to collecting the data.
"We want to look at the experiences of other jurisdictions, like Kingston and the United
States, where they have collected this data. We want to see what methodologies were
used, what has worked out well and where people have encountered difficulties in the
data collection," Blair said.

While Blair doesn't deny racial profiling exists in policing or within his own force, he
said improving relationships with Toronto's many diverse communities is a priority.
When asked about his position, he explains that there's no "systematic policy or
procedure of the service that directs that our people will use race in the determination and
exercises of discretion."

But bias, including racial bias, can have an impact on decision-making, he said.
"We ought to be constantly vigilant about the negative impact bias can have because we
make pretty important decisions in policing.... It is absolutely incumbent on us that we do
not allow bias, in particular racial bias, to inappropriately affect that decision-making."

By committing to doing the necessary work, Blair said he expects to find the right way to
collect the information and to find partners to assist in objectively analyzing the data in
order to improve relationships with all communities in the city.

Blair said he doesn't think the force's current data have enough detail to draw
conclusions and find solutions.
"If there are limitations of our existing data, and I believe there are, we want to collect
additional information," he said. "I think it is absolutely imperative that we find ways to
do it right." (Huffman, 2005, p. B01, emphasis added)

But hopes that racial profiling as a widespread problem would be acknowledged and addressed
through data monitoring were, as it turns out, unfounded (Gillis, 2015). To the dismay of many
in Toronto, Blair did not keep to his commitments (Gillis, 2015). Indeed, at least as far as
publicly available sources have recorded, Blair did not even approach anyone involved in the
Kingston project analysis to discuss its implications for Toronto. During his tenure as chief there
was no admission of wide-spread racial profiling and no attempt at monitoring through data
collection. Up until his retirement in 2015\(^{89}\), the Chief and the Toronto Police Service remained

\(^{89}\) The police services board declined to renew Blair’s contract. After leaving his post, Blair announced his
candidacy for the Liberal Party of Canada in a Scarborough constituency. (Toronto Police Accountability Bulletin
No. 90, May 7, 2015.)
in a position of denial and continued to make controversial decisions such as defiantly supporting ‘carding’ programmes that inordinately affect Black communities in Toronto, which caused the TPSB to consider the option of charging him with insubordination (Keenan, 2015).

What is perhaps most puzzling, however, is Chief Blair’s failure to address concerns raised by his own officers. An internal police focus group report by 38 Black officers on racial profiling in Toronto (which was commissioned during Fantino’s tenure in the aftermath of the Star series) was re-released to the media shortly before Blair’s appointment (Mascoll & Rankin, 2005).

The report included scandalous revelations about racism directed at Black officers and the public:

- Officers described "differential enforcement activities" - including derogatory comments directed at officers and members of the public - but were reluctant to report such incidents out of a fear it would lead to them being ostracized.
- The stereotype that Black motorists in expensive cars and neighbourhoods receive extra attention was true.
- Black officers were concerned police brass do not care about racist behaviour, that bad apples are protected, and that remedies are not effective or not taken.
- In one instance, an officer allegedly referred to Black citizens riding bicycles as "chimps on bikes" and the acronym COBs was used on one of the in-car computer screens.
- There remained a belief in the stereotype that Black officers are lazy, while Black officers felt they were not allowed the same margin of error as others.
- The overall climate was not changing despite a zero-tolerance stance taken by former chief Fantino.
- Black officers wanted to defend the organization, but felt nothing could be done externally until internal issues were dealt with.
- 11 of the group had reported instances of racial misconduct, although all had experienced or witnessed as much.
- The majority felt they'd been stopped for improper reasons while off duty.
- Half a dozen said they'd been stopped more than 12 times in a year and three said they'd been stopped more than once in a one-week span. (Mascoll & Rankin, 2005)

On his first day on the job, Chief Blair appeared to acknowledge and throw his support behind the Black officers:

Blair said it "took great courage and conviction" for the senior Black officers to "come forward" with their racial profiling concerns from [ethnic] minority officers. "They deserve our support and they have mine." (James, 2005)
Although Blair was praised for promoting one of the Black officers who had helped author the report, Blair did not publicly comment on the focus group findings again. Subsequently, critics contended that good work he did during his tenure, such as increasing the number of senior Black officers, was undone by his stance on carding which took the Toronto police further down the path of the perception of negative differential treatment of Black communities and racial profiling (Keenan, 2015; James, 2015c; Gillis, 2015).

Politicians’ Responses

The third and final source of dominant discourse (at the time of the Kingston Study) examined in this section is the words of politicians. Politicians in Canada are a good example of the ‘white elite’ voice that Tator and Henry identify as the main source of dominant discourses in white settler societies. There seemed to be a blanket of silence over the issue of racial profiling at the political level. A Conservative government was in power in Ontario when the Star series was published in 2002, and a new Liberal government was elected in October 2003, just as the Kingston study began. The Tories rarely commented on racial profiling, and the Grits, when in opposition also did not say much. However, federal and provincial politicians’ silence on the subject was occasionally disturbed with short, isolated quotes reported in the press.

One provincial politician used the discourse of denial in responding to the 2002 Star series on race and crime:

"No one has proven that it [racial profiling] exists and certain police officers have indicated that it does not exist," said Bob Runciman, the then-Conservative minister of public safety. (Urquhart, 2003, p.A29)

According to the Star reporter, the Liberal government did little about racial profiling when they were in opposition, and he assesses their stance on racial profiling while in power as ‘skittish’. Urquhart notes they did not want to appear ‘soft on crime’ by appearing to side against the police

90 Blair subsequently ran as a Liberal candidate.

91 There is little hope that the incoming police chief – the first Black chief for Toronto – will act on carding. Mark Saunders is not seen as a particularly progressive leader (James, 2015a) and it was discovered that he authored a “secret” 2012 report “denying the existence of racial profiling in carding” (James, 2015b)
unions (Urquhart, 2003). This may explain their reluctance to enter into debate about racial profiling, let alone produce policy or action to curtail it.

The response of the newly elected provincial Liberal government in 2003 to the Ontario Human Rights Commission report *Paying the Price*, seemed circumspect:

Outside the Legislature, Premier Dalton McGuinty promised "to carefully consider" the commission's report. Monte Kwinter, minister of community safety, went a little further and said "We will do what we have to do." (ibid)

Urquhart speculates that “This issue will be an interesting test, pitting the Liberals' principles against their politics” (ibid). In other words, will the Liberals stay true to their progressive, anti-racism principles, or will realpolitik win the day? Based on the available evidence, principles lost and the politics won.

Community Safety Minister, Monty Kwinter, used the zero tolerance rhetoric combined with the rotten apples thesis to re-iterate the Liberal government’s untenable position:

> Ontario's Liberal government will not tolerate racial profiling by police and is planning guidelines to help avoid it, Community Safety Minister Monte Kwinter says. "On the always controversial subject of racial profiling, let me say that the (Premier Dalton) McGuinty government will take an absolute zero tolerance approach," Kwinter, whose ministry is responsible for policing and corrections, told a weekend conference on "Policing a diverse community."

Kwinter said while the vast majority of police carry out their sworn duties "without a hint of racism or bias," his ministry will work with the Ontario Association of Chiefs of Police to develop "clear-cut definitive guidelines to help avoid racial profiling."

Kwinter said he does not believe that keeping race-based statistics, as the Kingston Police service now does, is the answer. (Brennan, 2003, p.A4)

An ‘absolute’ zero tolerance approach is declared, but it is not explained what this means. Guidelines to help ‘avoid’ racial profiling are the only remedy put forward (with no evidence provided that this strategy works), and data collection to monitor the problem is unequivocally ruled out, which hardly seems like a zero tolerance approach. The Liberals are using rhetoric without any substance behind the words. The rotten apples thesis is clear here too, with the assertion that the vast majority of police operate without bias, thus implying that any racial profiling or disparities are due to a few bad apples (without supporting evidence).
Later, Kwinter even more explicitly employs the rotten apples explanation: “On the controversial police issue of racial profiling, Kwinter said ‘some individual officers may act inappropriately ... (but) there's no place for it in Ontario’.”(Schmidt, 2004, p.B7).

In May 2005, after the Kingston study report was released, the provincial government refused to order police to do monitoring. This enabled police departments all over Ontario to continue the status quo.

Dalton McGuinty failed to address racial profiling or to make police accountable through data collection during his tenure as premier (2003 to 2012). The provincial Liberals engaged in a status quo discourse; that is, while they appeared to denounce racial profiling, like Blair, they took no action to address racial profiling or data collection. As a direct response to the Kingston study, the premier had this to say:

Racial profiling “should not be tolerated," but the province will not impose its will on local police forces, says Premier Dalton McGuinty.

Speaking to reporters in the wake of a year-long study by the Kingston police force that proved officers stopped Blacks three times more than whites, McGuinty repeated his government's concern about the issue.

"In terms of principles, our government stands against racial profiling, racism of any kind in any context in our society," he said yesterday.

However, McGuinty emphasized that he has no plans to tell Ontario's police departments how to do their jobs.

"If you're asking me whether I'm about to impose from on high certain steps to be taken by police services serving particular communities, I'm not about to do that," he said. (Benzie, 2005)

It is perplexing that the Premier is so successful in taking such an untenable position. On the one hand he declares no tolerance for racial profiling (it will not be tolerated, we stand against it), but on the other hand the Premier provides no remedies nor any motivation for police to enact remedies to the problem. He does not match his declared principles with any discernible action. Promises made to ethnic minority communities — “Kwinter said he wants visible minority communities in Toronto to know that "we are aware of their concerns ... and we are going to address them" (Brennan, 2003, p. A4)—are broken.
While the police dominant discourse has a thematic repetition of ‘circling the wagons’ (“all police forces are against Chief Closs and the Kingston study”), the politicians have a similar repetitive thematic assurance. Statements such as “Kwinter’s saying he does not believe that keeping race-based statistics…is the answer” and “If you're asking me whether I'm about to impose from on high certain steps to be taken by police services serving particular communities, I'm not about to do that” are extremely re-assuring to the police community during the discursive crisis. Repeated reassurances from politicians that police will not be forced “from on high” to collect data by the province may have been a ploy to calm down hysterical police unions and worried police leaders, and thus ensure the police unions do not undermine the politician’s chances at the next election. Indeed, both Finnane (2008) and Walker (2008) suggest that police unions have contributed to the ‘drift to the right’ in politics in western democracies such as Canada, the US, Australia, New Zealand and the UK.

Well organized to support and provide financial assistance to candidates for local office, particularly mayor and city council. Unions have been very effective in playing the ‘law and order card,’ and candidates are extremely reluctant to appear to be ‘soft’ on crime. [Police] union activities also affect such issues as police budgets and salaries, citizen oversight agencies, and so on. Since union-supported candidates are generally very conservative, it has contributed to the drift to the right in American politics since the 1970s ([O’Brien, 1996] Walker, 2008, p. 106-107).

In an impressive study of California’s Peace Officers Union, Page (2014) provides a convincing analysis of the political power and importance of these insider unions in producing the new ‘law & order’ agenda in public political discourse. Again, it is surprising that given the apparent influence of these organisations, there has been comparatively little interest in them by academe.

Politicians did not completely refrain from action. In 2008, McGuinty announced his choice of leader for the Ontario Provincial Police – former Toronto Chief Julian ‘there is no racism’ Fantino. This was proof for many that the Premier’s promises were nothing more than empty rhetoric.

In sum, the zero tolerance and rotten apples theses both function to deny there is a problem and to maintain the status quo. The zero tolerance rhetoric helps give an impression of action where there is none, and the rotten apples explanation appears to contain the problem without actually admitting there is a widespread problem. These are in the same vein as outright denial, but are more cynical because they are dishonest about what is at stake in these declarations. In this
sense, the Fantino denials are more authentic (and one certainly gets the impression that Fantino believes in his own rhetoric) and therefore more palatable (and easier to challenge) than the responses of the provincial government.

Official Counter-narratives

The previous section identified several types of dominant discourses about racial profiling employed during the discursive crisis in Kingston – straight denial, rotten apples, zero tolerance, reverse discrimination and circling the wagons – all of which have contributed to the status quo in Ontario. Police organizations, despite the Star series and the Kingston study, are in no hurry to formally collect data on race, and most do not feel a need to acknowledge a problem or change their ways.

Although there is a robust counter-narrative to this dominant discourse from non-official sources92 such as community groups, journalists, and academics, there is a much weaker counter-narrative from official sources. This section shows that very few official organizations93 showed support for the Kingston study or took a stance against racial profiling. Ultimately, this lack of a strong official counternarrative to the dominant discourse during the racial profiling crisis was a main contributing factor to the lack of reform that is apparent over ten years after the project was completed. The ‘failure’ of the project and the lack of a strong official counternarrative may be due in part to the fact that Canada lacks high profile national civil liberties and civil rights advocacy groups such as the ACLU and the NACCP, which have campaigned against racial profiling rigorously in the US since the 1990s. The more likely source of official oppositional

92 These sources – such as the African Canadian Legal Clinic and the African Canadian Community Coalition (a coalition of more than 30 community groups in Toronto) – assert that there is a problem with racism and policing, and that steps including monitoring need to be taken by police leaders to address the problem.

93 One notable exception is the OHRC. Their report, Paying the Price, was released 27 November 2003 during the discursive crisis in Kingston and contained a strong counter-narrative to the dominant discourse of ‘there is no racism, there is no racial profiling’. The report angered police. Chief Fantino “slammed Ontario Human Rights Commissioner Keith Norton’s report . . . as a “failure,” ”cavalier,” and added it ”trivialized” the issue of racial profiling” (Verma & Millar, 2003, p. A10). However, there was limited press coverage of the report as it relates to the Kingston study, and therefore the discourse surrounding the report has not been included in this analysis. See Tator and Henry (2006) for a discussion of the Commission’s engagement with the issue of racial profiling and see Williams (2006) for a critical analysis of the report.
voices to the racial profiling crisis in Canada were ‘rogue’ individuals from within dominant organizations, who went ‘off message’ about racial profiling. These rogue individuals tended to be senior Black police officers. The reason this is interesting is because it shows how dissenting voices within the dominant structures, like these Black police officers, are at once given a voice and also ignored and ultimately silenced. This speaks to the management of risk that is discussed later in this chapter. I argue that some rogue individuals were silenced during the discursive crisis in Kingston, that this pattern has continued, and that it is partly responsible for the continued failure to address racism in Canadian policing.

The only official police association that wholly supported the Kingston project was ABLE:

Chris Bullen, president of the Association of Black Law Enforcers, commended the controversial race-statistics project launched by Chief Bill Closs, saying "the whole Canadian mosaic is looking at Kingston as a shining example." (Lukits, 2003).

The non-profit association was founded in 1992, and its 1,000 Black and ethnic minority members include “police officers, correctional officers, probation and parole officers, immigration and customs officers, bylaw-enforcement officers, court-services officers, sheriff's officers and special constables” (ibid).

The message from ABLE was not only supportive: it was glowing with words such as ‘good’ and ‘decent’. The association called Closs a ‘visionary’. Bullen’s “message to the chief was: "We support you and carry on in the face of criticism. There are larger communities who are paying close attention to the good work you are doing in Kingston."") (ibid).

Bullen said he respects Closs for acknowledging that racial profiling exists in the law-enforcement world and for attempting to "do something that is decent" by collecting race-based statistics in Kingston.

..."Some people in the policing community will tell you it [racial profiling] doesn't exist, but it does, absolutely," Bullen said. "That's the stumbling block, that's why everybody is frustrated. How can we move forward to find some sort of solution if nobody wants to say it exists?" (ibid).

When the Kingston report was released, ABLE president Bullen was again unrelenting in his support for Chief Closs and the Kingston Project.

Chris Bullen said he hoped the provincial and federal governments would take note of the Kingston findings and use them to enact policy to crack down on racial profiling.
Bullen . . . commended Closs for the data collection project, which he sees as a catalyst for other police departments to address racial profiling.

"I think this thing is bursting at the seams and you can't contain it," he said. "It's like a crack in the dam and it's going to gush out eventually, whether you put a Band-aid solution to it, it's going to gush.

"I'm hoping that the powers in the criminal justice system have enough vision to do what's right and say, 'Listen, this thing does exist, let's find some solution to it.'" (McMahon, 2005, p. 7)

Bullen seems to match the adamant denials of the dominant discourse with equally adamant oppositional exclamations about the urgency of addressing the problem: phrases such as ‘bursting at the seams’ and ‘going to gush’ paint a very dramatic picture of the effects of denying what Bullen clearly sees as a very large problem. Bullen was the only public police figure to highlight the importance of the Kingston project to the wider issue of racism and policing in Canada. While other police associations sought to minimize and discredit the study, ABLE touted the project as a positive action and showed their support for Chief Closs by presenting him with their Visionary Award; the first police leader to receive the award (Lukits, 2003, p.1).

It is telling that the only police association voice to support the Kingston project was a non-white elite voice. The dominant discourse theory predicts that the discourse of denial is perpetrated by those in the white elite in-group, and the counter narratives arises from the out-group. However, ABLE stands at an intersection between the in- and out-group. As peace officers, its members are part of the dominant culture and organization (elites/authorities) from which the dominant discourse emanates. As Black and ethnic minority citizens (and victims of racial profiling themselves) ABLE members are uniquely placed to broadcast a strong out-group counter-message about racism from within, or at least in close proximity, to the dominant in-group. The tension between these two positions is brushed aside as unproblematic by Bullen:

Some association members are also members of the Toronto Police Association, which is opposed to the Kingston data collection project. Bullen said the different stands taken by the two organizations "is part of the democratic process" and doesn't seem to bother the officers involved.

"These are members who live in basically both communities - policing and also the Black community," Bullen said. "I think they are in a position to understand the issue." (Lukits, 2003)

The conflict with the larger, predominantly white, Toronto Police Association could be taken as evidence that ABLE is outside the elite white power structure of the police family. It raises
questions about how ABLE and its members were treated when, like Closs, the ‘wagons were circled’ against anti-racial profiling advocates. The next section, however, looks at some other rogue voices within the dominant elite power structure. The intersectional position of ABLE, and the rogue voices from within the police power structure somewhat challenges the Black-and-white framework put forward by Tator and Henry. I find that there are were different shades of oppositional voices during the discursive crisis in Kingston.

Although there was a distinct lack of official (non-community based) organizations that went on the record to support the issue of racial profiling raised by the Toronto Star and Kingston project, as well as the Black Officer’s focus group (indeed, only two – ABLE and OHRC report commending the Kingston project), there were some individuals within police organizations who did produce a counter narrative on the issue of racial profiling during the period of public debate spurred by the Star and Kingston (2002 to 2005).

The first, and most extraordinary, was the oppositional discourse produced by an Acting Toronto Police chief. Acting Chief Mike Boyd, who is white and was in the position from March 2005 to May 2005 after Fantino’s contract was not renewed, tried to address racial profiling in the Toronto police service. Boyd reacted in the media to an internal police focus group report that outlined the extensive racism and racial profiling occurring in Toronto from the perspective of Black police officers. Unlike his predecessor Fantino and his successor Blair, who maintained dominant discourses of denial and the status quo, Boyd made explosive oppositional statements about the need to address racial profiling in Toronto:

94 “Boyd, who is on a contract until May and is seeking the chief's job permanently, emphasized he was not with the service in October 2003, when then chief Julian Fantino asked for a report on the experience of Black officers serving on a force that had been accused of racial profiling.

The report was prepared by the service's four most senior Black officers Supt. Keith Forde, Supt. (then Staff Insp.) Peter Sloly, Staff Insp. Karl Davis and Insp. David McLeod. They convened a focus group of 38 rank-and-file officers who were visible minorities. The Star obtained copies of presentation notes from the senior officers' report on that session, as well as slide summaries of a more general presentation delivered to a police-only conference in November 2003.

All 38 officers agreed that racial profiling exists, the documents show. All reported having witnessed or experienced incidents of police racial misconduct while on the job, but some expressed a reluctance to report such incidents out of fear of being ostracized.” (Mascoll & Rankin, 2005, p. A1).
Racism and racial profiling in the Toronto Police Service will be "rooted out," acting Chief Mike Boyd has vowed.

And he will not wait for a permanent chief to be appointed before moving on issues raised by his four most senior Black officers in a 16-month-old report, which was revealed in the Toronto Star yesterday.

"I don't want anyone to underestimate my determination to deal with this issue," Boyd said in a phone interview yesterday. "Where it is found, it will be rooted out."

. . .

He said he discussed a response yesterday with his senior management group. "We collectively agreed that this cannot wait for the new chief to be appointed and we must move forward immediately," he said.

"Racial profiling is unacceptable. It will not be tolerated and we will aggressively go after that," he said. "It will not be tolerated in this service. Where it is found, it will be rooted out."

(Mascoll and Rankin, 2005, p. 1)

This discourse is remarkable because unlike previous discourses, the admission is not couched in denial, it has a sense of urgency, and does not use the language of negative zero tolerance we have seen in politician’s words, i.e. banning something that does not exists. In Boyd’s language, racial profiling is banned because it exists: ‘where it is found, it will be rooted out’. There is no circling the wagons discourse and there is no reverse discrimination discourse. The only remnant of a dominant discourse is that the ‘rooting out’ trope is a version of the rotten apples, the implication being that once a small number of officers are rooted out, the force will be ‘clean’. The other noticeable thing lacking is that Boyd does not come out with a policy of data collection, but as Acting Chief it may not be within his mandate at that time.

In the same article, Chris Bullen of ABLE also spoke out on the report and links it to the Kingston study:

Chris Bullen, . . .said yesterday the Toronto service's internal report marks a turning point, adding he expects more Black officers to speak out on the issue.

"After reading the article, it really hit home," Bullen said. "This is the reality for Black police officers right across the province, but particularly Toronto and the GTA, where the largest number of Black officers work.

"It's more than a shame, actually. It's disgusting."
Bullen said his group, which has more than 1,000 members across the country, will be working behind the scenes, at all levels of government, trying to bring about change.

... 

Bullen also pointed to the work that has been done in Kingston, where the police chief embarked on a pilot project that involved documenting the race of citizens stopped by officers, with the intention of analyzing the data for possible patterns of racial bias. Early results of that study are due to be shared publicly as early as this spring. (ibid).

Bullen consistently points to the Kingston project, but politicians and police leaders repeatedly fail to endorse data collection.

Although Boyd did not come down on the side of data collection, he broke the ‘party line’ in Toronto. He acknowledged the problem of racial profiling, and he promised to do something about it. Unsurprisingly, Boyd – who was initially considered a front-runner for the job – did not get the permanent position. As discussed earlier, Blair was appointed instead and proved a disappointment to those hoping for action against racial profiling. Although Blair brought a different rhetorical strategy to the problem, and was hailed as much more progressive than Fantino, was more willing to acknowledge the existence of racial profiling and made promises about data collection (Benzie, 2005, p.B05), by the time he retired in 2015, most informed observers concluded that Blair had done almost nothing to ameliorate the racial profiling problem in Toronto (Gillis, 2015). Indeed, things got even worse under his watch with the controversial carding program in Toronto.

Another example of a counter-narrative from within the dominant voice is a senior Black police officer, Jay Hope, of the Ontario Provincial Police. Hope was able to deliver some very explosive comments both in response to the Star series in 2002 as well as in response to the Kingston study. In 2002, Hope went up against the powerful Toronto Police union when commenting about a race summit:

"The issue is firmly in the hands of police leaders. This is not an issue for the union.... What takes place in terms of policy and priorities of police services is left firmly with police executives," OPP Chief Superintendent Jay Hope said.

"We haven’t seen yet an end to the issue of what’s going to happen about racial profiling," added Hope, of the Association of Black Law Enforcers, yesterday.

He was responding to a statement issued by Toronto Police Association president Craig Bromell on Tuesday, a day after those at the summit declared they agreed that racial
profiling exists and must be eliminated. The meeting was chaired by former Ontario lieutenant-governor Lincoln Alexander.

Bromell told the 7,200 uniform and civilian employees who belong to the association that he rejected the finding and the recommended action plan. (Keung, 2002, p B05)

Hope was later promoted to Deputy Chief at the OPP. In the extensive review of press items for this section, the only quote from an OPP source responding to the Kingston study is that of Hope. He weighs in on Kingston, as reported in the *Whig-Standard*:

OPP Deputy Commissioner Jay Hope, the highest ranking Black officer in the country, said he planned to send two senior officers to today's meeting [final presentation of Kingston report].

Hope, who recently said he felt new police recruits should undergo racial tolerance testing, said the OPP will examine the results of Kingston's study to see what issues could be applied to the provincial police.

"Unless you're an ostrich with your head in the sand, you can't discount being open to hearing what went on in Kingston as it applies to this issue," he said. (McMahon, 2005, p.7, emphasis added.)

It could be reasonably speculated that Hope’s ‘ostrich in the sand’ comment did not go down well with his colleagues at the OPP head office. At the very least, the OPP did not make any statements in the press after this incident, and like all the other police services in Ontario, did not conduct any data collection of their own (making Fantino’s appointment in 2006 even less surprising). Hope is not found commenting on the issue again in the press, except at a scholarship ceremony hosted by ABLE, in which he is quoted as saying: "You ask me about racial profiling," he said. "What are you asking of me that the award-winning Toronto Star hasn't already told you?"(Roberts, 2005, A02). It would seem that Hope, quite exceptionally, created a counter-narrative (albeit a small one) from within an elite white dominant organization – the OPP. The theoretical frame used by Tator and Henry does not account for this dissonence within the ranks. Contrary to their analysis, it seems that at least some individuals within the policing community are able to voice their opinions even if the opinions counter those of the unions and organizations to which they are accountable. However, it could be argued that the counter-narrative from the in-group was not all that effective; Hope (as well as Mike Boyd and ABLE itself), was not able to make much impact on his organization’s response, which was mostly silence.
Canada’s federal policing organization, the RCMP, was also largely silent during the controversy over the Kingston study. There was, however, one retired individual who, like Hope, seemed to go off message in his comments to the press. Consider this fleeting official counter narrative where there is a brief quote from a national committee convened to look at diversity in policing:

Known as the Law Enforcement Aboriginal Diversity (LEAD) Network, its new program director says the organization proceeds from the acknowledgement that *racial profiling does exist* and that all police must do better at grappling with the country's increasing multiculturalism.

"*There's no debate in the police community that racial profiling actually exists. Everyone agrees on that,*" says Dr. William Beahen, a 25-year RCMP veteran and the man chosen to lead the network. "What we don't agree on, all of us, is whether it's a systemic issue or whether it's a few bad apples, and that's something we're going to address as well."

(Delacourt, 2005, p. A20, emphasis added)

Here is an almost unprecedented incident of a police source (former Director of Strategic Partnerships and Heritage for the RCMP, retired April 2005) acknowledging that racial profiling exists, and whether it is systemic is left open for debate. This view is completely different from the views expressed by the RCMP in their report released in 2006, which denies that racial profiling is a problem in Canada (Melchers, 2006). This report is analysed at length in the next chapter.

We have seen three examples of anomalous counter-narratives within the dominant camp – Boyd, Hope and Beahen. Although the theoretical tools available to explain these are still limited, and counter narratives from within in-group organizations need to be better understood, theorized and investigated, this analysis has revealed some compelling evidence that mainstream police associations do NOT represent the views of all police workers. There are both white and Black police officers in Canada who do not accept the official discourse of denial and rotten apples. More needs to be done to understand how police culture, unions and the dominant discourse subsume these counter voices.

95 According to the Office of the Commissioner of Lobbying of Canada (ocl-cal.gc.ca), Dr Beahen’s consulting company received the following payments in the 2006/7 financial year: Royal Canadian Mounted Police, $25,000.00; Multiculturalism Program Department of Canadian Heritage, $614,379.00 and Public Safety and Emergency Preparedness Canada, $50,000.00. According to the same record, Dr Beahen’s only client during that financial year was the OACP, and monies received were identified for the purpose of promoting the LEAD network.
The Black officers’ focus group report and Dr Beahen’s comment about ‘there is no debate that racial profiling exists’ provides a glimpse into an alternative police culture. Perhaps there is a considerable segment of the police community that wants to see reforms in policing. It would be interesting to investigate the ways in which the organizations manage this internal risk to the ‘party line’. In what ways are dissenting voices, including those of senior Black officers, successfully quashed and the message controlled?

We have seen that the overall dominant discourse is denial, zero tolerance, rotten apples and status quo, but there have been a few flashes of counter narratives within the policing organizations themselves. This next section discusses official discourses that are not comfortably classed as either dominant or counter narratives, further muddying the seemingly Black and white notion of dominant and oppositional narratives.

**Ambivalent discourses**

During the discursive crisis in Kingston, the majority of official discourses reported in the media were dominant discourses – the discourse of denial and circling the wagons from police unions, the discourse of zero tolerance from politicians and the discourse of rotten apples from police leaders. There were also a tiny number of official counter-narratives, predominantly from rogue officers who went off message in expressing their support for the Kingston project. Additionally, in analyzing all the official discourses during the 2003 to 2005 period, I found a third type of discourse. These were discourses that contained mixed messages or were ambiguous in their position on racial profiling, and could not be classified as either ‘dominant’ or ‘counter’ in nature. I call these *ambivalent discourses*.

These ambivalent discourses are important because they originated from key figures in the crisis who, I argue, could have tipped the balance in favour of routinized widespread data collection if they had spoken out with more conviction and authority.

The first ambivalent discourse was, surprisingly, from the central figure in the discursive crisis, Chief Closs. Without question, Chief Closs did something remarkable in Kingston, and on the surface and based solely on his actions, he would be a strong oppositional voice. Where other police chiefs refuse to collect data, he actually did conduct a major study. However, if we
examine his words in the press closely, the Chief’s position on racial profiling is arguably ambivalent. The position of Chief Closs, the main figure in the Kingston crisis, lacks conviction and authority, and at times is contradictory:

"Most police organizations, most police leaders, most politicians believe that we've got great police officers across Canada, that we don't engage in racial profiling, that we don't police in any biased way - I happen to believe, because we all have biases, that it's possible that maybe we do," he said.

In the report, Closs maintained - as he has done since the beginning - that the data will show his officers don't use race as a determining factor in who they pull over or investigate. (Armstrong, 2005c, B4).

There are tensions in his position, he is clearly uncomfortable and isolated:

What we're doing doesn't sit well with police officers," he said. "It's a very uncomfortable walk we're engaging in right now."

Closs also said his meeting with Kwinter, which was arranged and attended by Kingston and the Islands MPP John Gerretsen, reiterated the fact that some people are simply against keeping statistical data as a way of addressing racial profiling.

"I was disappointed that there are people who have a closed mind when it comes to the value of race-based data collection," he said. (Pritchett, 2003, p.3)

Closs’ discourse is not wholly oppositional. He does not challenge and question the dominant discourses of denial, rotten apples, zero tolerance, etc. Instead of highlighting the benefits and innovation of the Kingston project, Closs delivers a narrative of victimization and reverse discrimination:

Chief Bill Closs said Kingston Police have been *unfairly maligned* for having the courage to carry out the controversial study in the first place while other forces and the Ontario government avoid addressing tough questions about police and racial groups.

"We're through being the *guinea pig* and doing it alone," Closs said after receiving a final presentation on the racial-profiling project.

"We've opened up our *heart and soul* to Canada while other police chiefs and boards across Canada thump their chests about how good they are," he said. "[Meanwhile], my officers have *sacrificed* over this past year while collecting this data."

In exchange for participating in the study, the force has been singled out as potentially racially biased, he said. To make matters worse, Kingston Police officers, who opposed the project but collected the raw data for it anyway, are *taunted* by friends and family and on the streets. (Armstrong, 2005c, p. B4, emphasis added)
The Kingston police force, in this statement, is a victim: ‘unfairly maligned’, ‘officers sacrificed’, ‘taunted’ on the streets, and singled out. Using a reverse discrimination narrative, Kingston police are transformed into helpless and vulnerable ‘guinea pigs’, who have ‘opened up our heart and soul’. Other police forces, who have not opened up to data collection, are the aggressors: ‘thumping their chests’. Within this discourse, Closs and his officers are made victims themselves. The role of victim is absolute and does not leave any room for Kingston Police to be wrongdoers themselves, for example, unfairly stopping young Black people such as Mark Wallen. The semantic reversal of the police as victims effectively deflects from Closs the unwanted role of the ‘bad guy’. According to Closs, the ‘bad guys’ are other police forces who avoid data collection and do not take responsibility for racial profiling at all. Of course, the Chief is right in this regard, but he has perhaps unwittingly used the reverse discrimination strategy to effectively move away from a counter-narrative about racial profiling in Ontario into an ambivalent if not dominant discourse.

Closs further distances himself and his police service from responsibility for racial profiling through a tearful apology and an emphasis on rationalizing the findings as disparities: "The fact that there are disparities in our stops, I accept that," he said, adding, "I'm not talking about racial profiling; I'm simply talking about disparities." (Armstrong, 2005c, p.B4).

Closs becomes more ambivalent about data collection as a positive measure when he decides not to continue the project as a regular practice:

Because Kingston Police didn't receive any support from the provincial government for its bold study and because of the "unfair" criticism leveled at his officers, Closs said he doesn't want to continue the pilot project, although that decision is up to the Kingston Police Services Board, the civilian body that governs the department. Closs said he hopes similar studies take place elsewhere in Canada. "I hope that this kind of work continues, but it has to be supported by somebody at the political level," he said. "I would never wish this experience on another police force the way we experienced it." (Armstrong, 2005c, p. B4, emphasis added)

Closs' discourse is ambivalent because he speaks so negatively about the project, yet accepts its value, and accepts the accolades he receives for undertaking the project (e.g. the vision award from ABLE). Closs tells us he regrets doing the project. He is clearly no champion for data collection. It also appears that the project, although causing a furor nationwide, effected little
change in policing in Kingston itself; a senior officer confirmed that nothing will change in Kingston as a result of the study:

The police department isn't planning on changing any policies or implementing any specialized sensitivity or race relations training as a result, Napier said. "The bottom line is we believe our officers did do their jobs properly and we don't believe they did anything wrong," he said. (McMahon, 2005d, p. 1).

Four months later a suite of changes were announced by Closs and Napier (Armstrong, 2005d) but the measures were largely business-as-usual.96

In addition to the mixed messages, the victimization/reverse discrimination discourse, and the distancing and failure to promote the benefits of the study, some of the ambivalence comes from Closs sounding more like a CEO than a Chief of Police:

96 “The force plans information and discussion sessions for staff that'll focus on the information contained in the contact cards officers were required to complete. The cards detail the reason for stopping a person as well as the person's race, gender and age and were the basis of the study.

"There are no plans for specialized sensitivity training, since there are no police officers in Canada more sensitive to this issue than Kingston Police officers," Napier writes.

In an interview, Closs said the sessions will be attended by 15 to 20 officers at a time over the course of a couple of months.

It's not intended as a disciplinary measure but as a learning exercise. The officers who filled out the contact cards won't be identified, Closs said... .

As part of the study's follow-up, the force's diversity officer met with native people who were stopped repeatedly over the course of the project. They discovered the natives were frequently stopped because they live on the street and often encounter police.

To prevent repeated encounters, police may no longer stop people such as known criminals every time they're spotted.

"We may just observe them," Closs said.

The project's other followup measures include:

- Enhancing the force's outreach program to 15- to 24-year-olds, especially to Blacks. This could include police ride-alongs.
- Reprioritizing past plans to implement police service excellence training and ethical thinking training.
- Re-emphasizing to all officers, particularly racially visible officers, the importance of interaction and communication between front-line officers and the community.
- Developing relationships with ethnic media sources and community leaders to promote recruitment among visible minorities.
- Pursuing methods of auditing contacts with the community and reinforcing accountability and responsibility training.” (Armstrong, 2005d, pA1)
Despite the pain now being felt by his officers, Closs said the department acted responsibly.
"Police organizations, or any business, frankly, should know how they're doing business and now, more than ever before, we know how we're doing business," he said. "It doesn't matter what colour they are, what age they are - we just have good information." (Armstrong, 2005a, p.3)

In his choice of words, Closs consistently downplays the results of the study – that Blacks, especially young Black men are disproportionately stopped by his officers – and its wide-ranging impact on the policing landscape. Instead, Chief Closs chooses to emphasis the victimization of his own officers, the lack of support from government, and the sense that other police organizations are getting away with something unfairly. Perversely, his sense of injustice is directed towards himself and his officers, not towards the people over-stopped in Kingston. In highlighting the increased accountability demonstrated by the Kingston Police compared to other police organizations, Closs is consistent with the reputational risk management approach to policing discussed later in this chapter. In this sense, the Chief is adopting the New Public Managerialism, well ahead of some of his counterparts, by using the media and research to enhance perceptions of police accountability and to manage his organizations’ reputation.

Despite his sometimes ambivalent and contradictory stance, these criticisms cannot undo the fact that Chief Closs was a pioneer in the field of research on race and policing in Canada, and he deserves the accolade of ‘visionary’.

Another ambivalent discourse during the discursive crisis in Kingston came from members of the Kingston Area Race Relations Association (KARRA) in response to the data:

[Bittu] George was the association's vice-president until he stepped down in June. While he was happy to hear police still plan to hand over the raw data, George said Kingston's visible minority community never asked for this project.

Collecting statistics to prove or disprove that police engage in racial profiling is not the big issue - what police will do with the results is, he said.

"At end of the day, the question is when you get this information what is it going to do in terms of affecting or changing the operations of the police department if there is the

97 Methodological note: although community groups were excluded from the ‘official’ discourses population, I have included KARRA because they were officially consulted by the Kingston Police Board in the decision to conduct the project.
perception out there that racial profiling exists," George said.

Spending a year collecting race statistics can be seen by some as a way for police to detract from the real issues plaguing their relationship with visible minorities, George said.

"A cynic would say that this protocol was used as a way to avoid dealing with those issues," he said. "An optimist would say, maybe there's an issue that needs to have some concrete numbers brought to it." (McMahon, 2004, p.1)

The above statement contains a number of contradictory themes. George distances himself and the association from the project by asserting that the community did not ask for it – highlighting that it is a police-led initiative. He then casts doubt on the value of data collection – first saying it does not matter what the data say: the actions of the police should respond to the perception of racial profiling. George remains aloof when he ambivalently states the hypothetical views of a cynic and an optimist: data can be a way of avoiding the issue; or, data can bring concrete evidence to a problem.

The following year, the new president of KARRA was more positive about the project:

Kingston Area Race Relations Association president Jim Atack said he would be surprised if the results show there is no racial profiling in Kingston.

"Basically because prejudice has been built into society for so long that to say nobody does it - I'm not talking internally [sic] - but unintentionally, we still all do it," he said.

"I might be surprised to find nothing, but it could be that way. We'll just have to see the results and look more closely at how they're drawing their conclusions."

The project can already be considered a success in making Kingston police officers more sensitive to the issue of racial profiling, Atack said.

It has also been responsible for encouraging discussion on the issue across the province, and the country.

"It's opening the debate to be a little bit more honest about it," he said. "The Chief deserves a lot of credit for that because he pushed through the objections." (McMahon, 2005, p.7).

Atack’s view is more wholeheartedly supportive of the data collection project (echoing the ABLE discourse) and represents a clear counter-narrative to the dominant discourse. Views within the association were evidently varied, as is to be expected in any community group. On
reflection, I expected the discourse of Chief Closs to be more positive, but Atack’s positivity highlights the negativity of Closs’ narrative.

The Police Services Board of Toronto, Canada’s largest city, is also ambivalent about the Kingston project at this time, which explains perhaps why that city still has not implemented any data project to address racial profiling. When the board was chaired by Norm Gardner, before the Kingston crisis, it was seen siding with the union:

Norm Gardner, who chairs the Toronto Police Services Board, sided with Bromell, denying that there was racial profiling or racism on the force.

"I do think in some cases that the conclusion was written before the meeting started. I think this is the way (the union) perceived it," Gardner said in an interview. "If there was racism, that'd be discriminatory. That's against our code of conduct, against our policy." (Keung, 2002, p.B5).

Later, when responding to the Kingston study, it appeared that the board was more open to change:

We've been looking to see how the lessons that are learned in Kingston can be applied in Toronto," said Pam McConnell, chair of the civilian board that oversees Toronto Police.

McConnell is one of several senior representatives from police organizations and interest groups across the province planning to attend the meeting today as Kingston Police unveil their controversial data collection project. (McMahon, 2005, p.7)

The board members were careful to never directly address racial profiling in the media (with the exception of responding to one Black councillor’s urging for police to stop more Black youths). The board is made up of progressive and conservative representatives and as a result does not tend to produce a coherent dominant or oppositional discourse in the major newspapers examined for this analysis (an analysis of minutes from board meetings, or internet sources such as the TPAC newsletter could yield a different result). Similar to the hopes that were raised when Chief Blair was appointed, there have been some very progressive board members appointed, which raised hopes that change in policing in Toronto was eminent. Inauspiciously, over the years the board has not effectively addressed the racial profiling issue. Most recently, the board was in a standoff with Chief Blair about the carding issue. At the time of this writing, with the appointment of a new Chief, the board had approved an earlier 2014 version of the carding policy, seen as less intrusive to minority communities, but there are continued calls to scrap carding altogether (James, 2015c). The new Toronto Mayor, John Tory, has recommended
that the carding policy be cancelled, but has said that any changes should wait until the provincial government’s review of the Policing Services Act is completed (Winsa & Powell, 2015).

It could be argued that silence is a default form of ambivalence, and two prominent national policing organizations maintained virtual silence in the press during the discursive crisis: CACP and the RCMP. Failing to show any leadership on the issue, CACP issued a single statement in response to the Kingston study: “The president of the Canadian Association of Chiefs of Police said it was obvious Kingston had a problem, and had to deal with it.” (Bonnell, 2004, p. A10). The organization chose to side-step giving a meaningful response during a seminal moment in race relations for policing in Canada. The position is unapologetically ambivalent.

There were also mixed messages from the federal government:

The federal government's decision to fund a project to promote "bias-free policing" through the action plan against racism is in sharp contrast with the insistence by Public Safety Minister Anne McLellan that Canadian police officers do not engage in racial profiling. (Thompson, 2005).

It is telling that the project (the LEAD network) seemed to quickly fizzle out, and the final say on racial profiling from a federal source was the RCMP report authored by Ron Melchers which treated the Kingston Study and all racial profiling research with contempt.

The ambivalent discourses, I argue, ultimately undermined the counter-narratives during the discursive crisis: a moving target is most difficult to hit, and better the opponent you can see than the one in the bushes. I believe that if some or all of these individuals and organizations – Closs, KARRA, TPSB, CACP, or the Federal Government had been less ambivalent and more genuinely oppositional, the policing landscape in Canada could have looked very different. Imagine for a moment how if the Toronto Police Services Board had responded positively to the Star series and the Kingston study, and strongly supported data collection in Toronto, things would be very different today. This leads me to believe that ambivalent discourses are just as important or powerful as dominant and counter-narrative discourses.

Conclusion

This chapter has shown that the discursive crisis in Kingston broadly followed the pattern of dominant discourses and counter-narratives that were apparent in Tator and Henry’s analysis of
the Toronto Star crisis. However, several factors emerged that are unique to this analysis. First, it was found that some of the counter-narrative in support of Mark Wallen and the Kingston Study had, embedded within them, some of the dominant discourses tropes such as the myth of ‘us’ and ‘them’. In painting Wallen as an ideal victim of racial profiling, the counter-discourse excluded marginalized people from the category of worthy citizen, and ultimately undermined the claims of victims of racial profiling and perpetuated Democratic Racism. Second, the chapter found that police unions had a surprisingly important role in using the dominant discourse to control and manipulate messages and meanings to their political advantage during the crisis. The paucity of research on police unions in general, and in Ontario in particular, hindered insight into this discursive strand and is an area that requires more exploration in future research. Third, the chapter finds that the weak counter narratives from official sources, combined with (undermining) ambivalent discourses, were important contributing factors to the ‘failure’ of the Kingston project to effect real change in policing in Ontario, despite the report inspiring front-page headline news that ‘racial profiling’ was ‘proven’ by the study.

The next chapter continues the analysis of the political responses to the discursive racial profiling crisis spawned by the Kingston study. The chapter uses discourse analysis and the theory of reputational risk to analyse three official responses to the racial profiling controversy in Kingston.
Chapter 6- National Official Responses to Racial Profiling

6.1 Introduction

The previous chapter mapped out the local responses to the racial profiling crisis in Kingston, Ontario, covering the period from the first reporting of Mark Wallen’s encounters with police (March 2003) until the release of the Kingston study report (May/June 2005). It would be misleading, however, to restrict the analysis to local responses when the crisis in Kingston did have some wider-reaching repercussions. Police services all over Canada were keeping an eye on developments in Kingston. The message from the federal government was that there was no racial profiling; the Minister for Public Safety and the head of the RCMP had each publicly stated that racial profiling does not exist in Canada (Ibbotson, 2005; Cheadle, 2002). It appears that the dominant discourse of denial was an important ‘truth’ in which the larger police organizational family had vested interests.

Due to the federal government stance of denial, there is a lack of published material relating to official policy on racial profiling. For this reason, and because the Critical Discourse analyst must also pay attention to what is not said, the first section of this chapter analyses second-hand accounts of an embargoed report on racial profiling that was written by lawyers (civil servants) in the Canadian government. A lack of texts means I cannot employ the methods of Critical Discourse Analysis (CDA) in full, and for that reason, I turn to organizational management theory, and in particular to the theory of reputational risk management (Powers, 2004) to help explain why a report was written and was stopped from being made public within the backrooms of government. Following an analysis of the secret report, I then return to CDA methods to critique a report that was published by the RCMP in 2006, which employs many variations of the dominant discourses that I have identified thus far. In the final section of this chapter, I analyse a guidebook published by the OACP. By performing close readings of these three documents (the only official documents that respond to the issue of racial profiling), I uncover some of the factors explaining why officials and authorities have been successful in hindering debate and obstructing racial profiling research in Canada.
6.2 Reputational Risk Management

Organizational management theory suggests that organizations, especially large ones, seek to manage external relationships and public perceptions because they see these as potential risks. Power et al (2009) suggests that the managing of this ‘reputational risk’ has become the “pervasive logic of organizing and of organizational attention” in late ‘liquid’ modernity.

In the case of the RCMP, Border Security, and provincial and municipal police services, reputational risk theory would suggest that these organizations see allegations of racial profiling and, more cogently, research on racial profiling, as risks to the organizations’ reputation. Although the literature is embryonic on the application of reputational risk theory to criminal justice organizations, Tara Watson, in her dissertation, used reputational risk to theorize how Corrections Canada actively discourages research as a method of reputational risk management (Watson, 2015). Following Watson’s example, I will attempt to use the concept of reputational risk to understand how and why the police organizations and unions inhibit anti-profiling discourse and research on racial profiling.

According to Power et al (2009), all organizations operate in risk environments. The idea that we live in a new era of ‘late modernity’ or ‘liquid modernity’ proposes that new modes of governance are emerging that are preoccupied with risk and regulation. Organizational risk management is an emerging area of study that builds on Beck’s ‘Risk Society’ and has led to the 'risk management of everything' (Power, 2004). The risk management of everything is part of the process of the ‘responsibilization' of everything and the move away from the state to privatization and regulation. Organizational studies have developed organization risk management theory using data and case studies from large organizations (mostly financial institutions), and have focused on audit processes, crisis management, and value asset management. Recently, the theoretical framework of new governances and risk has been an emerging area of research in criminology and socio-legal studies as well. For example, Pat O’Malley and others have forged new ground in the study of risk and crime. The theory of risk has also been deployed within studies of policing. For example, Richard Ericson and Kevin Haggerty explored “actuarialism” in policing in their important book Policing the Risk Society. Ericson and Haggerty introduced the concept of the police as ‘knowledge workers’ in a web of
risk-sensitive and audit-based external organizations, which include private risk management organizations such as insurance companies.


In 2005, a secret report on racial profiling was written by the Public Law Policy Section (PLPS) of the Canadian federal Justice Department. The 90-page report, which highlighted that racial profiling in policing and border services in Canada was a pressing issue, was never allowed to be made public. According to John Ibbitson of the Globe and Mail who obtained an embargoed copy of the report, RCMP and border agency officials wanted the report ‘rewritten or scrapped’ (Ibbitson, 2005). Controversially, the report contradicted the stance of the Minister for Public Safety, Anne McLellan, on racial profiling who stated in a senate committee ‘we do not racially profile’ (Ibbitson, 2005). The secret report was an official counter-narrative to the dominant discourse.

The report contained much content that contradicted the police’s stance (dominant discourse) on racial profiling. For example, the report pronounces, “Canada has … fallen behind the United States and the United Kingston, which have national policies on racial profiling” (Ibbitson, 2005). This statement would be unwelcome to police, but also tarnishes the cherished self-conception of most Canadians that ‘we’ are more tolerant and progressive on race than our neighbours to the south (Mackey, 2002; Razack, 2000).

The report contains explosive recommendations such as: “making grants to departments, agencies and other governments contingent on their developing policies against racial stereotyping . . . creating government-wide guidelines that all departments and agencies are required to follow; introducing legislation that goes beyond the Charter and human-rights legislation to specifically target and prohibit racial profiling; and to provide civil remedies for people who feel they have been victimized” (ibid). What little is known about the report suggests that it pugnaciously challenged the mainstream/dominant discourses of denial, reverse discrimination, and ‘us’ versus ‘them’.

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98 The report was never released, and the Public Law Policy Section was disbanded shortly thereafter. Due to time restrictions and the availability of Ibbitson’s second-hand reporting of its contents, I did not make a Freedom of Information Act request to see the report.
The report was the subject of conflict between the Justice Minister and the Minister for Public Safety. It appears that the latter won, because the report was never published. The policing organizations – RCMP, Border Agency, and other security services – interpreted the report as an unacceptable risk and pressured government ministers to retreat, according to Ibbitson (2005). Why was the report so risky?

According to Power et al, reputational risk is a new category of risk that has led to new behaviours in organizations. Traditional or ‘primary’ risks are associated with ‘tangibles’ and the ‘bottom line’. For example, the introduction of a new technology is risk-assessed on primary risks such as labour, output, profit, etc. However, Power et al argues that the new category of risk (reputational risk) is based on intangibles and is a purely man-made or ‘secondary risk’. In their discussion of risk management within regulatory agencies in higher education, Power et al suggest a scenario that could be easily applied to the police:

Designed to deal with primary risks facing society, regulatory agencies themselves face ‘institutional’ risks to the legitimacy of their operations as this is judged by different publics (Rothstein et al. 2006). Thus, regulating social (first-order) and institutional (second-order) risks become intertwined in a process of governing, which can become increasingly preoccupied with its own reputation. (Power et al, 2009, p.310.)

Secondary risks have the potential to invade an entire organization, and the organization can become obsessed with managing reputation, as Power et al demonstrates in the study of universities. Ericson and Haggerty (1997) notice this when they showed that policing organizations are preoccupied with managing relationships with external organizations.

Power et al. argue that the actions associated with purely man-made risk such as reputation will be more adversarial, defensive and precautionary than traditional primary risks (Power et al, 2009, p.316). For example, in a study of English universities, Power et al (2009) found that metrics such as the World University rankings were not only important because they were an indicator of the reputational value of the university, but also because the rankings came to be seen as a way to manage and produce reputation itself. Power and colleagues document how university employees at all levels (management, administration, academics) have become obsessed with rankings, and this form of risk management has transformed and even interfered with first-order risk management tasks. First order performance and output areas such as high quality research, staff development, curriculum development, improvements in learning and teaching have been outstripped and hijacked by reputational risk management. In the all-
consuming fight to defend the organization from a drop in the rankings, university staff are engaging in second-order activities such as image and brand management, building modern-looking student facilities, and directing staff to ‘increase’ performance on key indicators such as ‘good honours’, better ‘retention rates’, student satisfaction surveys and graduate employment rates 99.

The comparison between English universities – public, state funded organizations – and the police may be a fruitful one. In policing, it could be said that the management of secondary risk has increased in recent years: Mawby (2010) found an exponential increase in the hiring of PR and media relations personnel in policing organizations in England and Wales. There is reason to believe a similar trend is occurring in North America, with police organizations’ increasing presence on social media. Indeed, Kingston and Toronto Police now have twitter accounts 100.

The quashing of the secret report is a good example of the more ominous character of the ‘new’ form of risk category. The actions of the RCMP and other security agencies showed a complete lack of transparency, and a disregard for research, debate, and the public’s right to see official documents produced with taxpayer money. Killing the report before the public could see it is the ultimate example of a defensive, adversarial, and precautionary risk management strategy. The aggressive nature of the act is consistent with the theory of reputational risk management, but the disregard for the appearance of transparency is contrary to what the theory predicts.

The lack of concern with the perception of transparency in the behaviour of the RCMP and other Canadian policing organizations is puzzling. One explanation is that the parties involved believed that preventing the publication of the report would obviate the need for transparency (i.e. what the public doesn’t know won’t hurt it). The leaking of the document to a reporter has

99 For example, HE institutions are obsessed with student employment outcomes and National Student Survey (NSS) scores. As a result, a regular component of UK HE curriculum is ‘employability’, and much teaching time is devoted to encouraging students to engage in the NSS.

100 The Kingston Police Twitter page on 29 April 2015 displays photographs of officers attending a Media Release Writing course and a tweet declaring completed a law enforcement social media session. “Finished with #lesm from the morning & now diving into Media Release Writing on the #MROCOURSE”. The third tweet down boasts “Our own Cst. Koopman instructing on social media for police at #OMRON Media Relations Course”, with a photo of Constable Steve Koopman delivering training at OACP. Some Kingston staff are apparently part of the ‘Ontario Media Relations Officers Network’, a clear sign of preoccupation with second-order risk management.
undermined this approach. The aggressive suppression of research on policing and race is at odds with how police organizations in some other countries approach research, transparency and risk management. Indeed, it is unimaginable that the Home Office would seek to ban all research on race and policing (as is advocated in the RCMP report, discussed later)\textsuperscript{101}.

The behaviour is also puzzling because it contradicts how organizational theory predicts organizations \emph{should} behave in the face of a crisis. The theory predicts that large organizations with a reputation to protect would seek to appear open and transparent to the public (see the example of Mercedes Benz discussed in the next section). Indeed, Tara Watson found that Corrections Canada engaged in the research proposal process as a way of appearing to be open to research and accountability, however, the research was ultimately rejected (Watson, 2015). In the case of the PLPS report, the RCMP and other security organizations do not appear to be concerned with seeming to be transparent, open, or accountable, and acted with impunity in the suppression of the report. This is further at odds with policing research that has found a strong link between accountability, legitimacy, and effectiveness of the police (Tyler & Fagan, 2008, Tyler, 2004). One interpretation of the act of supressing the report is that the police in Canada at the time (2005) were not concerned that a lack of transparency would affect their legitimacy, which is a worrying trend, reminiscent of Reiner’s ‘post-legitimacy’ era of policing (2010). Indeed, rather than welcoming research or dialogue, police managers took back-door routes to stifle debate. Further, the organizations produced a defensive and adversarial dominant discourse that denounced research on racial profiling as a threat to the safety of the Canadian public in the form of a report commissioned by the RCMP. This perplexing aggressive and defensive stance is examined in detail in the next section.

6.4 RCMP Report on Racial Profiling: “Inequality before the Law”

A year after the RCMP successfully helped supress a report on racial profiling by the Justice Department, they published their own report on racial profiling. Given the previous discussion

\textsuperscript{101} While we cannot conduct a full analysis on the management of research on policing in the Home Office, that UK government department has a long and venerated history as a hub of research on police and policing. See historical and contemporary discussions in Bulmer (1987) and King and Wincup (2008) respectively.
of the behaviour of the RCMP, it is not surprising that the commissioned RCMP report contains very different discourses and recommendations than the PLPS report.

The report by Ron Melchers titled, *Inequality Before the Law: the Canadian Experience of ‘Racial Profiling’* stands as the only official document on the Canadian government website on racial profiling. Incredibly, this document argues that racial profiling does not exist in Canada; research on racial profiling is a danger to the public; and further, that no research on racial profiling should take place in the future. I argue that the RCMP/Melchers report is unique, anomalous, and stands alone in the international literature. Because the report is the only publicly available official government response to racial profiling and because it responds directly to the Kingston study (indeed, it contains a derisive attack on the Kingston study), the report merits intense scrutiny. This section undertakes a detailed examination of how this RCMP report functions to reinforce and broadcast the dominant police narrative on racism in Canada. In addition to exposing how the report seeks to influence the discourse on racial profiling in Canada, I will also show that the report is deeply political. The RCMP, in commissioning and publishing this report, are engaging in behaviour that is not easily identifiable in the current literature on the politics and police. The RCMP is not unionized (see Adams, 2008 for historical discussion). In my opinion, it is the lack of a political voice through a rank-and-file union that has caused the RCMP to publish this extraordinarily dogmatic report. As Beare notes, police organizations commission research as ammunition with which to load their metaphorical guns when campaigning for their interests (2004).

This section is divided into two distinct critiques. First, I comment on the methodological flaws of Melchers’ report, including failure to engage or refer to the literature on race, policing and traffic stops, errors in reading the Kingston Report, and unfounded claims about census benchmarking and small numbers. The section ends with a discussion of how reputational risk theory may or may not apply to the RCMP’s responses to racial profiling. Second, I use critical discourse analysis to uncover the variations of dominant discourses that Melchers uses to

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102 For example, it would be unthinkable for the Home Office to commission and publish a report that declares that there is no racial disparity in stop and search practices and that no further research should ever examine stop and search by police ever again!
discredit the Kingston Study, and to assert dominant discourses such as denial, blaming the victim, and the myth of the ‘criminal Blackman’, and dangers posed by research. In total, I identify and discuss five discourse ‘strands’ in the RCMP report, which expose the sometimes hidden and contradictory assumptions and values of the anti-racial profiling research position.

6.4.1 Methodological Shortcomings of Melchers Report

Fifty shades of grey literature

This report appears to be an official RCMP publication, with the organization’s logos on the cover (bottom left and top right) as well as the government of Canada logo (bottom right). The graphics on the cover, which include an image of at least one Mountie, and the fact that the report is available on their website, would seem to indicate ownership of the report by the RCMP. However, on the following page there is a standard disclaimer that “Opinions expressed are those of the author and do not necessarily reflect those of the Royal Canadian Mounted Police or the Government of Canada”.

103 Discourse strands are ‘flows of discourse’ that centre on a common topic (Jager & Maier, 2010, p.43)

104 Available at http://www.rcmp-grc.gc.ca/pubs/ccaps-spcca/ineq-eng.htm
Behind the slick cover, there is only a poorly-researched, disingenuous piece of ‘grey literature’ with a very distinct political agenda. The report entirely ignores the body of criminological, sociological and psychological work on race and policing, and yet argues that the evidence suggests that there is no racial profiling and that racial profiling research itself is dangerous. The report advocates for a total ban on race and policing research in Canada.

The author assiduously ignores the academic literature and prefers instead to cite non peer-reviewed sources, such as senior police executives, management professors’ lectures (Melchers, 2006, p.77) and think tank publications (RAND Corporation). For example, in his twelve page critique of the report of the Commission on Systemic Racism in the Ontario Criminal Justice System (1995), Melchers only refers to three peer-reviewed academic sources of which one is a 1989 study by Sherman, and another Melchers’ own article on aboriginal offending. In a two and half page discussion on measuring racial identity, he provides only one citation: a US Department of Justice report (p. 50). There are countless examples in the report of pages of discussion with minimal or no references to the academic literature.

Misleadingly, the report contains an extensive bibliography, which gives the impression that the report is well researched and grounded in the literature. However, very few of the contemporary
peer-reviewed academic articles listed are actually cited in the report. The deception is reinforced by the fact that there is no list of references or ‘works cited’. This could easily give an unaware reader the impression that the bibliography is the reference list, which is a very misleading impression indeed, because the literature listed in the bibliography does not influence or shape the structure, argument or conclusions of the report. The report deliberately ignores research on race and policing, and yet those references are in the bibliography.

The report has no reference list or ‘works cited’. If it did, it would be sorely lacking in academic peer-reviewed sources. The report does reference an extensive list of non-academic sources. For example, in arguing that racial profiling claims are akin to creationism, Melchers cites *The Onion*, a satirical review magazine. In another footnote, Melchers cites Machiavelli’s nine rules of success and an article about conspiracy theories published in *Scientific American*, a popular magazine. The same conspiracy theory article is used again to suggest that African Americans are more likely to believe that “the US government had created the AIDS virus in secret laboratories and had deliberately infected Black people” (Melchers, 2006, p. 37). A Toronto lawyer’s personal newsletter is cited several times (Alan Gold’s *Netletter*), and there is also reference to the work of fiction, *Oliver Twist*.

Not only does the report ignore most US and Canadian research on policing and race, the report is devoid of any mention of stop and search research in the United Kingdom. This oversight is perhaps not surprising, since overseas research directly contradicts Melcher’s main contentions that racial profiling research is illegitimate, unscientific, and a danger to the public. (These claims are explored in depth in the ‘discourse strands’ analysis in this chapter.)

Finally, Melchers’ methodological approach is contradictory and self-serving: he ignores most police-collected data studies including U.S. traffic stop studies, but demonstrates a reliance on national survey data while at the same time dismissing survey methodology. In his critique of the Commission on Systemic Racism Report, Melchers dismisses the Commission’s survey results and testimonial findings as randomly solicited anecdotes. He writes: “Self-reported experiences as gathered in the Commission survey constitute no more than a large number of randomly-solicited anecdotes and are subject to all the evidentiary precautions that must be given to anecdotal information.” (p. 36). Although Melchers purports to be a statistician and methodologist, he omits any information or discussion of the Commission survey methodology.
In fact, the Commission survey used a large stratified random sample of Toronto residents (n=1,500) and the methodology of the survey followed the best practice principles for social science surveys at the time, including over-sampling for ethnic minorities. Melchers also fails to discuss the methodology of another survey – the US Police Public Contacts Survey; but throughout the report, he relies on the descriptive data from this survey. It is very curious that the author characterised the first case survey data as ‘a large number of randomly solicited anecdotes’ but lauded the second case findings of a self-reported opinion survey as a “well-conducted” study -- whose findings he uses as the only evidence to support his assertions.

A small problem: small numbers

Melchers attacked the Kingston study in the media during the discursive crisis in Kingston, and levelled an accusation of ‘small numbers’ at the Kingston data. He repeats this criticism in the RCMP report. Melchers argues that small numbers are volatile and unreliable, and since there were a small number of Black stops in the Kingston data, he claims the data are irrelevant and do not merit analysis. “One would not even think of conducting statistical analysis here” (p. 61). To support this assertion, Melchers includes one footnote that simply says ‘Simpson’s Paradox’. It is puzzling that someone claiming to be a statistician would dismiss an administrative dataset on the basis of small numbers without any discussion or citations to academic sources. While I would agree that in a small survey sample it would be problematic to generalize to the larger population using very small numbers for a group in the sample, the Kingston dataset is not a survey and the situation is very different. Melchers does not take into account, for example, that the Kingston data are a census of all stops in a 12 month period. The small numbers problem inherent in samples that purport to represent a population may not apply when the small numbers are the population of interest. Furthermore, the Kingston data as analysed in the report to the Kingston Police Services Board, and indeed, in this dissertation, do not include advanced inferential statistics such as correlations and regression analysis. The Kingston data analysis is limited to descriptive and quasi-inferential data analysis (predominately cross tabulations with a chi square test), to which again, the small numbers problems may not apply. It would be easier to respond to Melchers on the small numbers issue if some evidence or examples had been provided in his critique.
Misreading the Kingston Report

Throughout the RCMP report, Melchers systematically misreads the Kingston study report in order to discredit the report and its authors. Rather than cite the wording of the findings of the Kingston report itself, Melchers only cites sensationalist media reports about the findings of the report. Thus, Melchers avoids presenting the detailed caveats and limitations that were meticulously written into the Kingston report, and instead presents slapdash third-party headline reports of the study that put their own spin on the findings of the report. This is an explicitly political tactic. For example, rather than cite the Kingston report in a discussion of the Kingston project on page 59, Melchers cites reports from the Kingston Whig-standard and the Quebec Human Rights Commission. Melchers repeatedly implies that the study claimed to have found proof or ‘irrefutable evidence’ of racial profiling and widespread bias because some third-party reports of the study made such claims. The implication that the study and its authors claimed to prove racial profiling is simply not true and a cynical misrepresentation of the report findings.

Melcher makes further inaccurate claims regarding the Kingston study. For example, he claims, falsely, that the study does not control for appropriate variables such as age (p.64, p.75), gender (p. 75) and non-resident university students (p. 63). Melcher also erroneously suggests that observational benchmarking was not used in the study (p. 71). He implies that the study is invalid because it reports on traffic stops for people under 15, when in fact the majority of stops reported in the study are pedestrian stops (p.75).

Melcher also faults the Kingston report for not controlling for such things as marital status, low income, housing, and residential mobility (p.64-65, p.76). He discusses these census variables without explaining why they are relevant and without reference to the literature on race, neighbourhoods, or policing. He does this again when he suggests that the Kingston study fails to account for people’s ‘life circumstances’ (p.75), without providing any context (ironically, in a section titled ‘contextualization’). While there are indeed myriad variables that have possible importance to police stops, it is methodologically unjustified to suggest inclusion of variables simply because they are available in the census of population and dwellings.
Disregarding the Academic Literature

Reading the Melchers report, one would think that very few people have investigated the area of race, stops and policing in Canada and the U.S. One would also get the impression that no work on this issue has been done overseas. The report patently ignores swathes of literature in criminology, sociology, economics, and psychology, as well as critical race theory. The most obvious omissions are a failure to acknowledge dozens of U.S. traffic stop studies in his section called ‘The US Experience of Racial Profiling data collection”. As pointed out earlier, Melchers chooses to rely on the Police Contacts Survey data instead of the rigorous and detailed traffic stop studies of US colleagues, which is doubly puzzling as he earlier dismisses survey research as mere collection of mass ‘anecdotes’. The unsubstantiated claims about the academic literature, and indeed, the world, are almost too many to enumerate here. Some examples are given below.

Melchers asserts there is a ‘universal’ preference for measures other than data collection to address racial profiling claims (p. 71). No citations or examples are given. He also claims there is universal consensus that census benchmarking is bad practice (p. 62). The latter claim is particularly puzzling because he later quotes Fridell’s correct assessment that the vast majority of current studies on racial profiling use census benchmarking (p. 73).

Melchers appears to summarize existing research through his use of phrases and language, but without actually summarizing or citing research. For example, he writes:

The euphemistic phrase “disparity that is largely the result of factors other than race”, that appears over and over in most well-conducted and credible studies of purported racial bias in policing, refers to that which is seldom mentioned directly: disparities in offending behaviours (Melchers, 2006, p. 76).

Melchers does not provide more than one example of a ‘well-conducted’ study that uses this euphemistic phrase (on the previous page a RAND Corporation study is cited). Not a single study that supports the ‘Black offending’ hypothesis is cited in the Melchers/RCMP report (the RAND report does not make this claim). It is surprising that an official report for the RCMP would so offhandedly suggest that one racial group is responsible for more offending than another without a scrap of supporting evidence. It becomes more worrying when the only evidence Melcher provides to support his ‘Elephant in the Room’ (p. 76) (i.e. Black offending) hypotheses is the racial make-up of crime reported in the media:
It is astonishing before the *seas of Black faces* of victims and accused of violent crimes in Toronto, seen in newspapers, funerals and in courtrooms that there are still so many who insist that suggestions of racial disparities in offending are evidence of racist attitudes. (Melchers, 2006, p. 76, emphasis added)

For Melchers, a ‘sea of Black faces’ is all the evidence he needs. Again, there is not a single citation to the literature on media representations of race and crime.

In the next paragraph Melchers asserts an ‘absence of any evidence of widespread bias and discriminatory practice in policing’ (p. 77) without providing any supporting citations. He has not presented any review of studies of race and policing throughout the report, and thus it is inconceivable that he can reasonably make this claim.

Not only does Melchers make unsubstantiated claims about research on race and policing, he also makes similar claims about the world. It is claimed throughout the report that racial profiling research hurts the community, and that claims of racial profiling is danger to the public. These claims are floating in the text of the report with no anchoring theory, logic or sources. For example,

> Such an asymmetry [between legal rights and police powers] threatens to place justice into disrepute, makes the work of ensuring *public safety* and enforcing the law more difficult when it involves members of visible minority communities and *threatens to endanger the security* of visible minority communities themselves by empowering criminals and criminal organizations in their midst. (Melchers, 2006, p. 2, emphasis added)

and,

> Racial profiling beliefs are a *danger to social cohesion and public safety*. (p. 46, emphasis added)

The explosive claims that the rise of legal rights through racial profiling decisions in the courts will endanger the public and empower criminals are a good example of the type of rhetoric that swings ‘law and order’ issues to the right of the political spectrum in public discourse. Melchers dropped the contention into the text without citations or explanation, and moves on to a different topic in the next paragraph. At the very least, a short discussion of the tension between due process and crime control models of criminal justice (e.g. Packer 1968) or research on the effect of perceptions of police legitimacy on crime detection and prevention are called for here.

The report is also marred by basic deficiencies in the scholarly apparatus, including page after page of claims with no actual sources cited. On page 51 he uses the term ‘most studies’, but
actually only cites the Police Contact Survey, which he has relied on throughout the report. In the next paragraph he writes that ‘studies’ have been unable to determine whether biased policing is responsible for the over-ticketing and searching of young Black males; no citations are provided. He again claims that ‘most well-conducted studies’ show no racial differences in stop rates by police, but provides only one source for this claim: the Police Contacts Survey. On page 75 he appears to sum up the findings of all post-stop studies in two paragraphs, concluding with “Once arrest is factored in, racial differences in post-stop decisions are often found to be spurious” (p.75)-- using only two sources: the RAND corporation study and the Police Contacts Survey.

The lack of sources is most glaring in the section on ‘US experience of racial profiling data collection’, when not a single article on traffic stops is included in the discussion. Melcher writes this section relying entirely on four sources: the Police Contacts Survey, two guidebooks published by the US government and one memo published by the Police Executive Research Forum. In the section on benchmarking, Meltchers uses only three sources: the Police Contacts Survey; a government guidebook; and a study by RAND corporation researchers.

More unanchored claims without context include, according to Melchers, that the ‘War on Drugs’ meant that violence “spilled over our border” (p.76) from the US – no discussion of the literature on drug offending or a single reference to the literature.

Finally, there are two criticisms about the census on page 63 that are not supported by sources or evidence. First, Melchers casts doubt on the utility of census data, stating that there is a ‘non-negligible non-response rate for the Census long form” (p.63). He does not provide any data or sources to illuminate this statement, ignoring the many technical reports produced by Statistics Canada on this subject that detail the strategies employed to reach hard-to-read groups during census enumeration, etc. Second, he questions the concept and utility of race questions (population group, ethnic group) on the census, and concludes that ‘Forming groups by racialized traits is a futile task, whether it be by self-identification or the judgements of others’ (p.64). This section contains no references to any sources. It appears to merely be his opinion, without reference to the considerable inter-disciplinary literature on the challenge of measuring race in the census in white settler societies for over a century (see for example Marshall, 2001). There is also no mention of Statistics Canada’s technical reports on these variables. Melcher’s
declarations are disingenuous, since he relies heavily on survey questions on race as collected by the Police Contacts survey throughout his report.

Muddled and Contradictory claims

Melchers is not only guilty of unsubstantiated claims (his opinion masquerading as research) but he also makes some contradictory and indeed outrageous claims in the report. One of his main complaints is that the Kingston project should not have taken place, and that there should be no further racial profiling research in Canada. He claims it is dangerous. Yet, he does not reconcile this insistence with his acknowledgement of the fact that research on racial profiling is widespread in the US. He writes: “At last count probably over a thousand U.S. law enforcement agencies have undertaken, or been mandated to undertake, some form of racial profiling data collection.” (p.70) Melchers simply does not address why a practice that is common in the US is unacceptable for Canadians. The implication is that Canadians are somehow different than Americans, but how and why? It is a mystery why Melchers holds a double standard for the two countries. There is a substantial gap in his logic: he does not apply his assertion that data collection leads to endangerment of visible minorities and is a threat to public safety to the thousands of jurisdictions who employ data collection projects in the US. The only data collection project that is dangerous is the Kingston study.

Another troubling claim is contained in a subtle suggestion regarding the treatment of poor and working class women and children:

The number of young Black Kingston residents in the age category most likely to come into contact with police will increase considerably over the next decade. . . . Furthermore, these families are in greater social and economic need and may need additional help and resources in ensuring that their children grow up safely and peacefully. (p.65)

In a few lines later he writes:

105 If Melchers had argued that these data collection projects have not been successful in ‘fixing’ the relationship between police and Black communities the US, this section would have been more convincing. He makes no such argument.
Inconclusive research and questionable findings [i.e. the Kingston Study] reinforce stereotypes and inhibit rather than promote dialogue between police and the public. They promote insecurity and a sense of vulnerability among minority populations and makes the work of police in ensuring public safety and public order more difficult. (p 65)

Melchers predicts the police will not be able to ensure public safety (due to the Kingston report and other research, not because of choices police make in deployment), and the people who will bear the brunt of this are the most vulnerable people, families in ‘great social and economic need’, very likely to be households headed by women with dependent children. This prediction is outrageous and dangerous in itself; it almost gives police permission to treat the vulnerable badly.

Melcher revisits conspiracy theories. Although he earlier attempts to discredit anti-racial profiling advocates by likening them to ‘conspiracy theorists’, he himself ends a section titled ‘Contextualization’ with a sentence that insinuates that there is a sinister plot in the Black community: “One even wonders if it is not their purpose to reinforce stereotypes for purposes of isolation, or creation of a collective identity of grievance and mobilization” (p. 77). In other words, an official RCMP report suggests that there is a plot amongst anti-racial profiling advocates, including leaders in the Black community, lawyers and academics, to manufacture perceptions of racial profiling.

Mercedes Benz and Reputational Risk

The Melchers/RCMP report ends with the implication that police should not care about stop and search practices; the only thing that matters is whether there is a perception of racial profiling. The last page of the report focuses on a police-led symposium held in 2005. Here Melcher repeats the police view that police departments have proven that racial profiling does not exist through data collection, although no examples or citations are given. Somewhat incongruously, a long quotation from a management professor appears. It is the story about how Mercedes Benz responded to a reputational crisis:

When an enterprising reporter conducted a safety test that caused the car to roll-over, the company at first tried to point out that the test was not conducted properly. Mercedes engineers tested and re-tested and maintained that the car was safe. No one seemed to hear them. The story of the bad test spread throughout the media. Despite the fact that the story was not necessarily scientifically accurate, the perception stuck. … Even though
there was no evidence that the car was unsafe, Mercedes recalled it, redesigned it and recovered. The recovery involved launching a campaign about how Mercedes “had reinvented safety” with that very same car. The Mercedes executives felt that the expense of creating what was probably an unnecessary fix was well worth it, especially when the Mercedes reputation was at stake. (p. 78)

Melchers says the story is ‘analogous’ with ‘persistent accusations of racial profiling’. Many of the themes (discourse strands) that are discussed in the next section are evident in the Mercedes Benz story: the car test (racial profiling claims) are unscientific; the enterprising reporter (the media) are responsible for the crisis; Mercedes Benz (the police) are victims of an injustice.

What is highlighted in the quote is the importance of perception to the organization. The actual existence of a safety fault in the car (the actual existence of racial profiling) is almost irrelevant from the point of view of the management of the car company (police leaders). The reason perception is so important is that the reputation of the organization is ‘at stake’. Melchers has unwittingly ventured into the reputational risk theoretical landscape, although he does not cite any sources or incorporate a discussion of the concept of risk. Nevertheless, it is very telling that he chooses to end the report with the idea of organizational reputation.

I return to a discussion of reputational risk after the next section, which examines five discourse strands in the Melchers/RCMP report that are used to produce a particular political agenda in policing in Canada.

6.4.2 Analysis of Discourse Strands

Discourse Strand #1 - Racial profiling advocates are irrational, political, and unscientific (but Police are rational, apolitical, and scientific).

Huey & Hryniewicz (2012) found that police union leaders sought to reverse meaning and manipulate thought through their use of language. The Melchers/RCMP report primarily seeks to persuade the reader that racial profiling ‘advocates’ are irrational, unscientific (anti-positivist), subjective, and political (that is, self-interested). In this way, racial profiling allegations and research are denied and discredited. For example, in a paragraph in the introduction, Melchers evokes an unflattering image of self-identified victims of racial profiling:

Every single treatise alleging racial bias in policing begins with a recounting of alarming incidents in which citizens, ultimately shown to be innocent of any wrongdoing, were
subjected to police use of force, usually in an excessive and humiliating manner. Only listed are cases in which citizens are from groups with long experiences of bias and discrimination, implying that these groups are alone subjected to such treatment. This approach is a rhetorical device, *the intent and impact of which is to frighten*, to immediately locate all in the intended audience on the first rung of a ladder upon which every routine police stop they have ever experienced is seen as a potential escalation towards the otherwise unimaginable extreme illustrated by these examples. *It causes thoughts of “what might have happened” to take the place of “what did happen”* and creates the sense that any contact with police is an infringement of rights. It polarises subsequent discussion, moves its focus away from actual experience into *imagined fears and permits only empty exchanges of anecdotes*, allegations and denials. (Melchers, 2006, p.8, emphasis added)

In this story, people who make allegations of racial profiling are irrational, and unable to tell the truth from fiction (*‘It causes thoughts of “what might have happened” to take the place of “what did happen”).* Citizens are also accused of maliciously intending to frighten their audience by recounting their stories. Melchers labels first person accounts of racial profiling as ‘imagined fears’, ‘empty exchanges’ and ‘anecdotes’, thereby dismissing the considerable accumulating qualitative evidence of perceptions of racial profiling.

In contrast, Melchers invokes an image of the police as the rational actors in the racial profiling debate. He asserts that police are objective and interested in ‘just the facts’. For example, in a sentence on page 12 he labels definitions of racial profiling (and thereby the definers) as ‘fugitive’, thus conjuring the image of the fugitive (bad guy) being pursued by the Sheriff (good guy), and then suggests that racial profiling researchers are engaged in conspiracy theories (p. 12). Conspiracy theorists seems to be a favourite trope for Melchers; he uses the image again in a footnote on page 37 to produce another very unflattering image of African Americans:

> In 1994 Ted Goertzel of Rutgers University conducted a study in which subjects read 10 conspiratorial legends and were then asked which they found credible. A large proportion of *African-Americans in the study believed the U.S. government had created the AIDS virus in secret laboratories and had deliberately infected Black people.* (Melchers, 2006, p.34, emphasis added)

The implication is that African Canadians will be similarly irrational, and their ‘belief’ in racial profiling stems from Black people’s alleged innate tendency to believe in conspiracy theories about the authorities. This is democratic racism, indeed unadulterated racism.
The image of a conspiracy theorist is a powerful way of conjuring the image of a paranoid, unstable naysayer. The Sheriff is also a powerful image, and Melcher’s use of the duo images is a tell-tale sign that the dominant discourses he is trying to ‘sell’ are unstable, contradictory, and quite frankly farfetched. The ‘wild west’ imagery is a deeply racialized image especially in the context of a white settler society such as Canada (‘cowboys’ and ‘Indians’) and it is troubling that it is used more than once in the report in an attempt to establish the police as the arbiters of ‘truth’. For example, in relation to discrimination cases in Canada, Melcher writes, “Human rights commissions and the courts, rather than objective triers of facts, may have become the wild west of statistical and scientific reasoning and the battleground of competing experts” (p. 4).

Melcher’s main argument is that perceptions of racial profiling are not real perceptions but just ‘beliefs’. In asserting that racial profiling ‘advocates’ fervently ‘believe’ in racial profiling, he conjures an image of religious zealots who mindlessly believe regardless of ‘facts’. Indeed, he dismisses perceptions of racial profiling as “fundamental articles of faith” (p. 9). In a critique of the report of the Commission on Systemic Racism in the Ontario Criminal Justice System (1995), Melchers uses an analogy that seems utterly inappropriate in a government report; he compares racial profiling ‘beliefs’ to beliefs about horoscope (‘star’) signs:

Nor can disparities between “racialized” groups be held as evidence of legally prohibited bias and discrimination. The same process described here as “racialization” could equally explain how beliefs in astrology are commonly held. It is not unlikely that one could find statistical disparities among groups of offenders formed by the signs of the Zodiac, just as significant disparities should be expected among sufficiently large groups formed by any arbitrary classification scheme, moreover so by classification schemes that may garner some degree of belief within a population and thereby tend to fulfill their expectations. (p. 32)

Melchers is desperate to discredit racial profiling researchers and activists by associating them and their work with a collection of negative words and tropes. In addition to astrology, myriad other descriptions of anti-profiling advocates are used: “fugitive” (p.12), “incendiary” (p.42); ‘unfalsifiable” (p. 42); “eager to leap to conclusions” (p. 58); “unreliable” (p. 42); “disingenuous” (p. 18); “pernicious” (p. 22); “affective, essentially rhetorical” (p. 67), “political” (p.66); “fallacious”, “contrived and distorted… unconscious subversion” (p. 3); “dramatic” (p. 58, 59, 61) and “pseudo-scientific”(p.76).

Ironically, Melchers accuses racial profiling advocates of being political: “The Commission’s effort was clearly political rather than analytical in intent and was crafted for this purpose” (p.
At the same time he relies on a lay assumption that police are apolitical (‘just doing their job’), which goes against the vast majority of literature in the sociology of policing and indeed, criminology (see for example, Beare, 2004, Loader & Mulcahy, 2003; Manning, 1994; Reiner, 2010.)

I suggest that Melchers is also using a once-called “chauvinist” gender ploy in his discourse. According to second-wave feminist theories and the concomitant rise of qualitative methodology in the 1980s and 1990s, there is a deeply gendered conception of science and rationality in Western society (cf. Harding, 1996, Smith, 1987). Melchers is taking advantage of the fact that most people are socialized to relate masculinity to the rational, scientific, and the objective, and femininity to the irrational, emotional and subjective. People also tend to associate policing with masculine authority. In this way, Melcher builds an almost-unconscious picture baseline of the rational policeman. In other words, most people start with the assumption that the (male) policeman is a rational being. Melcher then sneakily seeks to discredit the counter discourse by associating it with the opposite – the feminine, the irrational, the non-authority. In discrediting qualitative research through unconscious gender bias, he can re-establish the superiority of quantitative (male) research. With this accomplished, the first-hand stories of people who have experienced racial profiling are dismissed as ‘anecdotal’ (irrational) as part of patriarchal conceptions of what ‘counts’ as real/truth.

The framing of ‘perceptions’ as irrational and unfactual is a strategy that is repeated throughout the report. According to Melchers, perceptions are ‘beliefs’, and ‘beliefs’ are subjective, illegitimate, and irrational. Melchers refuses to use the word ‘perceptions’ in relation to survey research on racial profiling, and instead uses the term ‘racial profiling beliefs’ throughout the report. In Melchers’ formulation, perceptions have no place in the scientific method and are separate from ‘fact’. This is at odds with 50 years of social science research on public attitudes and perceptions of police, and his own reliance on survey data.

Finally, this discourse strand is used to personally attack the author of the Kingston Study Report, Scot Wortley. Melcher repeats his earlier accusation – in virulently unacademic language – that the study is ‘junk science’, and Scot Wortley is labelled an ‘advocate’ and is corralled into the category of the irrational, emasculated, subjective, political, self-interested activists/advocates. This discourse strand functions to discredit researchers of racial profiling
and serves to support Melchers thesis (which is extraordinary and absurd), that racial profiling research should be banned in Canada.

Discourse Strand #2 - Blame the Media and Research, not the Police

Huey and Hryniewicz (2012) note that police union leaders use language to avoid criticism and minimize or shift responsibility for one’s actions. Although Melchers is careful not to allow that racial profiling exists, he does say that the problem of the ‘beliefs’ of racial profiling exists. Further, he decouples the police from responsibility for this perception. His argument is simply that it is not the fault of the police that people ‘believe’ they have experienced racial profiling. In a variation of the reverse discrimination discourse, Melchers blames the media and researchers for the perceptions of racial profiling and claims that problems in the relationship between police and minority communities are caused by the media and racial profiling research. In this argumentation, the police are absolved of responsibility for the state of police-minority relations.

First, Melcher blames the news and the ‘entertainment industry’ (p. 10, p.17) for popularizing the expression ‘racial profiling’ as well as creating the ‘unfounded’ belief that police engage in racial profiling: “The success of the expression in the entertainment industry laid the groundwork for a popularization of the expression and furthered a widespread belief that law enforcement engage in such practices.” (p. 10).

Second, Melchers blames racial profiling ‘advocates’ for creating poor relationships between the police and minority communities. Here, police are innocent bystanders as the ‘advocate’ wreaks havoc on the police reputation and relationship with public. Advocates “drive a wedge” between police and the community (p.4, p.18, p.22), and advocates’ claims and research “erode confidence” in police (p.17). Melchers does not draw on the literature on media and crime reporting here to discuss the well-researched relationship between the media and police.

According to Melchers, a ‘sub-discipline’ of racial profiling ‘advocacy’ is largely to blame for the racial profiling crisis. “An industry has grown up on the issue” (p.70). He paints a picture of self-serving lawyers and academics who use dodgy tactics such as the “contrived or distorted . . . adversarial use of statistics” (p.68) to ‘win’ in court. For example, he casts aspersions on David Tanovich and Scot Wortley for the work they have done as expert witnesses in the courts. This
strategy mirrors the tactic Tator and Henry (2006) found in Fantino and other police leaders alluding to ‘self-appointed’ people with stakes in dividing the minority community and serves to deflect attention from the lack of response by police leaders and the politicians who protect them.

For Melchers, research is deeply problematic and dangerous. Research is inconclusive, misleads, and divides communities. Research is the problem, not police. In sum, everyone except the police is responsible for the crisis and ‘beliefs’ of racial profiling.

Discourse Strand # 3 - Police are the Victims (not Black people)

Language can be used to distort and reverse meaning (Huey & Hryniewicz, 2012). This strand is a variation of the second strand; because others are made responsible for racial profiling, the police are just victims, caught in the crossfire. This is a form of the discourse of reverse discrimination identified by Tator and Henry (2006) in their analysis of responses to the Toronto Star series. Melchers subtly tries to persuade that the police are victims of the media and victims of research. First, he attempts to paint police as victim/martyrs, where the police are moral and truth-seeking in the midst of immoral advocates and their untruths. Then the police are painted as ‘just doing their job’ and are therefore unwitting victims. Police are then seen as the victims of the misuse of statistics by advocates, which dovetails with Strand 1: advocates misuse statistics (and police don’t), advocates lie (and police only tell the truth).

Earlier we saw that Melchers sees the police as victims of a conspiracy of racial profiling ‘believers’. He also sees the police as victims of the swing from ‘legal rights’ to ‘equality rights’. In this discourse strand, the police have had their power taken away by the Charter, and struggle under the ‘asymmetry’ of the law:

Courts have become quick to lay any violation of legal rights at the altar of “racial profiling” whenever such actions involve members of visible minority groups. Lack of “reasonable grounds”, the Canadian jurisprudential equivalent of the U.S. term “articulable cause”, is often seen as de jure evidence of “racial profiling”, even in the absence of any specific evidence of racial bias. The consequence is an emerging asymmetry in the treatment of legal rights in the area of police powers, especially in the

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106 This is reminiscent of Packer’s (1964) criminal justice models: Crime Control advocates argue for more police powers, and Due Process advocates emphasize individual rights. Melchers is firmly in the crime control, ‘law and order’ advocate group.
application of powers of search, seizure, and investigative detention under sections 8 and 9 of the Charter of Human Rights and Freedoms and the consequence of any failing in the exercise of these powers as per 24(2). Such an asymmetry threatens to place justice into disrepute, makes the work of ensuring public safety and enforcing the law more difficult when it involves members of visible minority communities and threatens to endanger the security of visible minority communities themselves by empowering criminals and criminal organizations in their midst. (p. 2)

Public safety is politicized in this excerpt. Also note the religious connotation of the ‘alter’ of racial profiling (see strand 1). An important aspect of designating the police as victims is to relegate the opposition to that of perpetrator. In other words, if the police are the 'good guys', then there also have to be 'bad guys'. Melchers achieves this semantic switch by taking great pains to deride the sub discipline of racial profiling and human rights advocacy as dodgy, suspect, and dirty. Police use statistics for truth, whereas advocates use statistics for lies and self-advancement.

Discourse Strand # 4 - Black Criminality is responsible for Racial Profiling, not police

Tator and Henry (2006) adeptly showed how one of the hidden undercurrents in dominant discourses in liberal democracies is the unexpressed understanding that Black people are associated with crime in ways that white people seldom are (or ‘criminalBlackman’ as Russell-Brown [2009] suggests). The historical roots of the social construction of Black-as-criminal are explored in the chapter by Charles Smith in their book, as well as in the literature review of this dissertation. In contemporary times, Wortley (2002) and others have shown how the media has perpetuated the myth of Black-man-as-criminal (symbolic assailant) through biased coverage of stories about race and crime. Melchers does not draw on this literature. Instead, he exploits the deeply held (semi-conscious) racialized notions that Black people offend more, that this is the ‘real’ reason Black people are overrepresented in police stops. Contradicting his own emphasis on ‘science’ and ‘facts’, he does not provide any evidence that Black people offend more. Rather he relies on innuendo, 'law and order' sensibilities, and ‘common-sense’ notions of race, crime, and the criminal justice system. In the section called ‘Elephant in the Room’ (Melchers, 2006, p.76), he does not present a single citation of evidence.

As shown in the methodological critique earlier in this chapter, the discourse strategy here is to combine the ‘blame the victim’ discourse with the myth of the ‘criminalBlackman’. It is
shocking that his use of the phrase ‘racial disparities in offending’ is given without any supporting evidence. Melcher assumes the reader is predisposed to hold this belief, and therefore he does not need to provide evidence. (Unfortunately, he may be correct in this assumption.)

In several sections of the RCMP Report, Melfers puts forward the suggestion that racial over-representation in stops is due to Black offending (or ‘legally relevant factors’), evoking the myth of the ‘criminal Blackman’. Melchers writes this in ways that do not directly implicate him in the suggestion. For example, he writes, “The Commission dismisses off-hand any suggestion that disparities in the number of incarcerated Blacks and whites might reflect patterns in offending” and then states the ‘main argument’ in a footnote on page 34:

Such arguments in absurdum only serve to draw attention away from the main argument, that disparities may also reflect legally relevant factors, which cannot be easily dismissed by careful reasoning. (Melchers, 2006, p.34)

In the concluding section of the report, headed “the Elephant in the Room”, Melcher clearly believes that Black offending is the real culprit. This section is important and worth examining again:

The euphemistic phrase “disparity that is largely the result of factors other than race”, that appears over and over in most well-conducted and credible studies of purported racial bias in policing, refers to that which is seldom mentioned directly: disparities in offending behaviours. This is the elephant in the room. One simply cannot dismiss off-hand, as is done in various reports of human rights commissions, commissions of inquiry and by anti-racial-profiling advocacy groups, that such disparities are possible or that to suggest so is racist. The same groups and individuals who once denounced the collection of crime statistics by race for fear that such information would reinforce stereotypes, and who are now clamouring for racial profiling data collection, may find the exercise to be a double-edged sword. One even wonders if it is not their purpose to reinforce stereotypes for purposes of isolation, or creation of a collective identity of grievance and mobilization. (p. 76).

In this short section he explosively suggests that Black people are to blame (blame the victim) and that the obvious reason for Black overrepresentation in stops is Black offending (equating Blackness with criminality/ ‘criminal Blackman’ discourse). It is bewildering that after decrying the lack of or misuse of statistics for 60 pages, Melchers provides no evidence to support his insinuation that Black people are simply more criminal than whites. It is bizarre that the main and concluding argument of the report is so short and without empirical backing. There is also
the sinister suggestion in the last sentence that racial profiling advocates are calling for the collection of data in order to create civil unrest.

**Discourse Strand # 5 - Racial Profiling research is a threat to Public Safety.**

Berry et al (2008) and Finanne (2008) commented on the inclination for police unions to create alarmist discourses and ‘cry wolf’ over crime and public safety (Finanne, 2008, p. 139). The final and most remarkable discourse strand I discovered in the Melchers/RCMP report is one such alarmist rhetoric: the fantastical story that racial profiling beliefs and research are a threat to public safety. The politicization of public safety is a rhetorical strategy worth investigating. This discourse, unlike some of the previous strands, is not hidden and not merely implied. Indeed, Melchers simply states: “Racial profiling ‘beliefs’ are a threat to social cohesion and public safety” (p. 4).

Melchers argues that advocates of racial profiling are a threat to public safety because they damage the relationship between police and minorities. This narrative is a reverse discrimination discourse: police are swapped from those who threaten the safety and well-being of Black people, to the victims of the actions of a third party. The underlying assumption is that if it were not for the interference from advocates, the relationship between police and minorities would be a bowl of cherries. This draws on the first and second discourse strands (‘Advocates are irrational and self-interested’ and ‘Don’t blame the Police’). According to Melchers, advocates drive a ‘wedge’ (p. 4, 18, 2) between police and minorities. The concept of a wedge is important to Melchers. It is so important that the image on the front of the cover of the report arguably tells this story in a picture.107

The research as a ‘public safety’ risk is linked to all the other strands – into which the undercurrents of safety and danger are contained. In the first strand, ‘advocates’ and Black people are irrational, unreliable, and volatile, and are therefore a threat to society. The police – rational and reliable – protect the public from these self-interested activists. For example,

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107 On the report cover, police are seen on one side of a bridge, with representations of the public/communities on the other side of the bridge. The bridge seems more like a wedge or an obstacle between the two groups than a link. The bridge is constructed of small case I’s, standing for ‘information’, or data.
Melchers makes it a matter of public safety for qualitative research on racial profiling to be ignored:

For responses to allegations of “racial profiling” to be measured and effective in ensuring the respect of legal rights of citizens, the respect of the law, and public safety, it is important to focus on actual experience rather than selected and recycled anecdotes promoting unfounded fears and perceptions. Responses that are merely shadow-boxing with presumptive and unsubstantiated claims threaten legal rights, effectiveness in law enforcement and public safety. (p. 9, emphasis added).

Underlying this strand is a form of police fetishism; Melchers draws on the assumption that effectiveness in law enforcement keeps people safe. Melcher’s ignores the research literature on police fetishism (Reiner, 2010) and the limits of police effectiveness (Bayley, 1996; Braga, 2005; Cohen et al., 2003; Dixon, 2005; Fritsch et al, 1999; Kelling et al, 1974; Koper, 1995; Rosenfeld et al, 2005; Sampson & Cohen, 1988; Weisburd & Eck, 2004). Melcher’s strategy is to raise fears by including references to public safety as afterthoughts. For example, most mentions of ‘public safety’ in the report occur at the end of sentences and paragraphs, so that they are throwaway remarks intended to raise questions, but with no subsequent explanation or proof.

The paragraph below is a good example of multiple dominant discourse strands mobilised in a single argument/paragraph, ending with a vague statement about the threat to public safety:

Racial profiling beliefs facilitate a culture of entitlement, disrespect, and lawlessness, especially among young men, that places them at greater risk. These beliefs also render visible minority people more vulnerable to crime and disorder by driving a wedge between their communities and law enforcement. While there are those among groups advocating for belief in “racial profiling” who see such developments as politically useful tools for recruitment to their cause or to enlist support for further claims of measures favouring asymmetrical rights, the consequences of such advocacy are pernicious and widespread in their effects and threaten equality before and respect of the law, as well as public safety. Public policy must seek balance in achieving public good and place public order and safety ahead of the claims for compensatory privilege. (p.22)

In the above rhetoric, Melchers labels young (Black) men as entitled, disrespectful and lawless, and thus deserving of police attention (the discourse of ‘us’ and ‘them, a mainstay of Democratic Racism as explored in the previous chapter). Then Melchers repeats the ‘wedge’ argument, that ‘advocates’ are the cause of the poor relationship between police and citizens (‘don’t blame the police’ strand and ‘Police as victims’ strand). Then Melchers suggests (returning to conspiracy
theory mode) that ‘advocates’ are not altruistic but rather have sinister motives for apparently fighting for the rights of others. He sees the effects of these motivations as threatening public safety. Then he creates a false dichotomy between ‘public order and safety’ and the claims of individuals who allege racial profiling.

Melchers uses this discourse to frame research (all research, because according to Melchers all research is inconclusive) as a risk, as dangerous and a threat to public safety:

Inconclusive research and questionable findings reinforce stereotypes and inhibit rather than promote dialogue between police and the public. They promote insecurity and a sense of vulnerability among minority populations and make the work of police in ensuring public safety and public order more difficult. (p. 65, emphasis added)

This is a claim unique to the Canadian government – I have not found any other documents or sources from other countries that contain the claim that research on racial bias is a public safety issue.

Melchers combines the ‘public safety’ argument with the third discourse strand (the police are victims of the advocates), thus classifying racial profiling researchers as the aggressors and therefore a threat to public safety. The fourth strand (‘criminal Black man’) is also deployed in the public safety discourse strand; according to Melchers, the Black person who is predisposed to criminal offending is the threat to public health and safety, and the ‘advocates’ create asymmetry in the law and hinder the police’s ability to ‘lock em up’. This threatens the public wellbeing too:

Such an asymmetry threatens to place justice into disrepute, makes the work of ensuring public safety and enforcing the law more difficult when it involves members of visible minority communities and threatens to endanger the security of visible minority communities themselves by empowering criminals and criminal organizations in their midst (Melchers, 2006, p.2).

The last sentence also seems to associate the victims of racial profiling with organized crime, thus furthering the ‘Black criminality’ discourse strand, and to extend to the assumption that criminal organizations are associated with visible minorities. Of course, no evidence is provided to support these allegations.

Unlike some of the other discourse strands that are hidden beneath layers of rhetoric, the discourse that research is a threat to public safety is stated explicitly throughout the report. Melcher makes the following assertions: Racial Profiling claims are a danger to public safety;
research/advocacy inhibits dialogue; research/advocacy creates fear; research/advocacy inhibits change; racial profiling ‘beliefs’ are a danger to public safety; and advocates erode trust in police (not the police). According to Melchers police ‘can’t do their job’ because of the activities of racial profiling advocates and racial profiling research. Because Melchers indulges in police fetishism and credits the police with controlling and preventing all crime (also not supported in the literature), he argues that interference from advocates and researchers will lead to increased crime. Melchers exploits the police fetishism (Reiner, 2010) found in most people (the belief that the police are the only thing standing between order and chaos) to strike fear into the public that if the police cannot be effective in their job, due to racial profiling advocates, the entire society is in danger. Melchers is drawing on the risk society thesis, and I will return to the idea of risk management in policing organizations later.

Melchers is correct to make a linkage between levels of trust in police and some measures of police effectiveness. For example, criminological research has shown that police depend on the public to come forward with information about crime; indeed, the vast majority of crimes are ‘solved’ by information from the public (Dixon et al, 1990; Greenwood & Petersilia, 1975; Skogan & Antunes, 1979). When trust in police is low, one measure of police effectiveness - clearance rates for crimes - is reduced. However, Melcher is incorrect in attributing mistrust of police to third party advocates. Most research would suggest that police have a large role to play in the levels of trust that the public express. For example, people’s experience of the criminal justice system and police, as well as the experiences of their friends and families, can and does affect perceptions of the police (Bradford, et al, 2009; Myhill & Bradford, 2012; Skogan, 2005, 2006; Tankebe, 2013). Melchers does not support his own argument that advocates and research create mistrust with evidence.

Finally, in an incredible leap of logic, Melchers tries to connect racial profiling research with terrorism. In the executive summary, he makes a remarkable accusation:

Human rights advocates . . . .found in allegations of “racial profiling” a productive means to further claims for equality rights on behalf, not only of visible minorities, but of all disadvantaged groups and any member of a protected class defined by legislation. *Organizers for extremist causes* have also found a powerful tool for promoting outrage against perceived injustice and a sense of alienation, in particular against minority youth. (p. 3, emphasis added).
It is unclear whether the phrase ‘extremist causes’ is an islamophobic device or is intended to mobilize other prejudices within the intended audience. What is clear is that this report is a deeply political, reactionary text, which is more typical of a right-of-centre rank-and-file police union than the national policing organization for Canada.

6.4.3 Summary

This section has examined the main methodological flaws of the Melchers/RCMP report, and identified five ways in which Melchers uses discourse to produce a dominant narrative that condemns racial profiling research and researchers and absolves police of wrongdoing in relation to the treatment of Black people by police in Ontario and elsewhere. In the wider context of the dissertation, we have seen that the report is part of the suppression of counter-narratives on racial profiling and an attempt by police leaders to ‘control the message’ to do with race and policing in Canada. To a large extent, police elites have been very successful. As noted throughout this and the previous chapter, police leaders, and the politicians who protect them, have used denial and various other discourses to ignore and brush aside allegations of racial profiling, and police organizations have done almost nothing to respond to community concerns. The discourses found in the Melchers/RCMP report are very similar to the dominant discourses found in Part 1 of the previous chapter (media responses to Mark Wallen incidents) and Part 2 (Official responses to the Kingston study). The RCMP/Melcher report remains the only official document on racial profiling on the federal government website. This analysis has shed light on one of the reasons Canada has responded so inadequately to the racial profiling crisis compared to other western countries. It is unfortunate that a document of such shoddy quality merited such detailed examination in this thesis, however, the document stands as the only official response to racial profiling on the government website and warranted a thorough critique. Would that things were different and perhaps this is the beginning of a renewed interest and attempt at quality scholarship regarding racial profiling.

We have also seen that players such as police unions and politicians, and the use of denial, ‘zero tolerance’, and circling the wagons discourses have helped insulate police organizations in Canada from allegations of racism and have allowed police leaders to carry on with the status quo. The analysis of this report, in exposing the underlying racism of the language, tropes and symbols used, has shown how out-of-step Canadian authorities are compared to international responses to the problem of racial profiling.
6.5 OACP Diversity Committee Guidebook on anti-racial profiling best practices

There is some evidence that the police are changing their dominant discourse about racial profiling. They appear to be combining the discourse of denial with strategies of risk management. The Ontario Association of Chiefs “represents senior police executives in federal, provincial, municipal, and First Nations police services across the Province of Ontario” (OACP, nd). The OACP appointed a Diversity Committee to look into racial profiling, which seems to be kept at ‘arms-length’ from the OACP proper (for example, there is no section on the OACP public website mentioning the Committee or its work). However, the Committee did produce a document on racial profiling, which is the only document of its kind that I can find. The document’s title is very telling: *Anti-Racial Profiling Best Practices: A Self Audit to Minimize Corporate Risk*. The document is available online through the Ontario Police College (OPC) library.

The document performs a difficult rhetorical trick; it never concedes that systemic racial profiling exists. Rather, it allows that perceptions of racial profiling exist, as well as a small concession that ‘bad apples’ may exist in the otherwise professional and non-biased police family. This is a difficult line to walk. The substantive content of the report is very limited (only three pages), therefore the Committee has evaded in-depth discussion. The choices for the Appendices are consistent with the discourse of denial and risk management. For example, one of the recommendations is for police leaders to be familiar with the Kingston Study. However, the appendix that is provided does not actually contain the results of the Kingston Study (it contains only Chief Closs’s document on the project published before the results of the study were known). Another example is that the document recommends that police management is familiar with the sociological literature on racial bias, yet the appendix which provides a review of the literature is written by an academic who is not known in the discipline for this research, and who makes errors such as describing the Kingston study as a ‘survey’ of residents of Kingston.

The guidebook uses the language of ‘risk’ in relation to racial profiling. The OACP position on racial profiling appears as cynical as that of Melchers and the RCMP. The organization is
disinterested in whether racial profiling exists, and is more concerned about preventing perceptions of racial profiling, in order to avoid reputational risks as well as monetary sanctions:

The Ontario Human Rights Commission and the Human Rights Tribunal of Ontario have been energetic in pursuing complaints against the police under the Ontario Human Rights Code. For example, in 2007 the Tribunal ordered that the Peel Regional Police take a number of specified actions in connection with a racial profiling complaint against an officer initiated by Jacqueline Nassiah. This included the payment of $20,000 to Ms. Nassiah.

Fines are undesirable, but of even greater importance is the negative focus on the police. A media release from the Commission described the finding against Peel as a “success” (see attached media release Appendix 1). Police services can reasonably expect increased scrutiny and penalty if officers are found to have committed acts that could have been mitigated or prevented through positive action by police leaders.

The document belies the odd situation in Canada that it is tenable for police leaders to refuse to do anything about racial profiling; indeed, the Committee appears to anticipate police leaders’ resistance to change the status quo:

It is recommended that police executives consider the list that follows. Failure to take action, or at least to be able to give informed reasons for not taking action, could put officers and their services at increased risk. (iv)

Finally and incredibly, police resistance to taking action about racial profiling is framed as the fault of the public:

To date, most police services have resisted collecting race based information in routine contacts with citizens such as traffic stops and street interviews. This resistance is based on the belief that the majority of citizens would be uncomfortable having race made a specific issue by the police. (p.v, original emphasis)

What is truly remarkable about this document is that the OACP combines a discourse of reputational risk with the dominant discourse of denial.

6.6 Conclusion

The two qualitative chapters, 5 and 6, in this dissertation have shed light on how police in Canada managed to maintain the status quo despite a firestorm of controversy about racial profiling in the mid-2000s. The power of police to defend themselves against a variety of sources of criticism – an Ontario Human Rights Commission report, an award-winning series in the Star, the publication of the Kingston Study – is quite remarkable. We have observed that this was achieved through careful use of discourses and the suppression of counter-narratives. One
wonders what it would take for police (in Ontario, and Canada) to finally change – they seem oblivious to outside pressure. My analysis also showed a few chinks in the armour – some key oppositional voices such as senior Black police officers. However, despite Berry et al’s insistence that for NZ police “advocating the status quo is not really an option” (2008, p. 127), it seems that police in Ontario are doing just that: there are few signs that the status quo will be shifted in Ontario.
Chapter 7: Conclusion

The final chapter discusses the three main contributions of this dissertation. First, the quantitative analysis found that there were racial differences in police stop rates that could not be explained via crime-related factors. The analysis suggested that police stops were very seldom related to crime, and raised questions about the efficiency and appropriateness of police stops and street checks as a crime prevention tool in the community. Second, the qualitative analysis revealed hitherto unknown patterns of political behavior by police organizations in Canada. In particular, the qualitative chapters revealed how police and security agencies colluded to suppress debate on racial profiling and data collection and pressure politicians into silence and inaction: and they uncovered the importance of police unions in the political discourse on race and policing in Canada, an issue not adequately addressed elsewhere. Third, the dissertation has revealed some serious gaps in the international literature on racial profiling. I argue that the US-centric literature has stymied the methodological and theoretical development of racial profiling research, with a lack of understanding of the historical, cultural and political context within which studies of police stops and debates about racial profiling take place. I call for more internationalization of the field of race and police stops and searches. The policy implications of the quantitative and qualitative findings are discussed, as well as the answer to the question ‘Why Kingston?’ (i.e. why was Kingston at the centre of the discursive crisis about racial profiling and the site of the first voluntary police-reported database of stops and race).

Quantitative Findings

This dissertation established that there are substantial racial differences in the stop rates in Kingston during the study period. Chapter 3 found that Black people had much higher odds of being stopped by police than their white counterparts, given their presence in the resident population. The Black stop rate was 333.1 stops per 1,000 population, compared to 149.8 stops per 1,000 white population (using Kingston City census benchmark). The odds of a Black person being stopped were 2.5 higher than for whites. The analysis also showed that both Black motorists and pedestrians had much higher odds of being stopped than their white counterparts. Aboriginal people had higher than average odds of being stopped on foot (1.5 odds ratio), but had lower odds of being stopped in a vehicle (0.21). Finally, Chapter 3 exposed that young Black males had the highest stop rates during the study period.
Chapter 4 sought to explain the racial difference in stops rates found in Chapter 3 by using data about the reasons and outcomes (dispositions) of those same stops. It did this by using two customized measures: the ‘hit rate’ and the productive targeting index. The ‘hit rate’ was calculated by dividing the number of combined arrests and citations by the number of stops, which is a departure from the ‘search hit rate’ that is widespread in the literature. The analysis found that the hit rate for stops of Black people was not significantly higher than hit rates for whites or other groups.

A second measure – the productive targeting index – was constructed to address the issue of the hit rate and the stop rate since the hit rate in isolation did not give an accurate picture of the community experience of over-stopping and does not take into account that there are more stops of Blacks than whites proportionally. The productive targeting index divides the hit rate by the surveillance rate (the stop rate expressed as a percent), to give a ratio indicator of the relationship between how frequently a group is stopped and how many hits police get from stopping that group. The productive targeting index analysis showed that some groups with very high surveillance rates (such as Blacks and males) had low or medium hit rates. Conversely, the analysis showed that some groups with the lowest surveillance rates (South Asians, whites and females) had the highest hit rates. The index findings, although paradoxical, are consistent with the hypothesis that police stops are not predominantly about crime control. This leaves open the question of why Black Kingstonians were stopped more than their white counterparts. The productive targeting index findings partially rule out the explanation that Black citizens were stopped due to their behaviour. In other words, the analysis in chapter 5 rules out the ‘Black offending’ thesis of high stop rates. An alternative explanation was explored: that Black people in Kingston were stopped on ‘pretext’. Surprisingly, low hit rates for HTA stops and high warning rates for Black people during the study period indicate that if Kingston police officers were stopping citizens on pretext, pretext stops were a very poor strategy for detecting crime (‘hits’). These insights are tentative and must be taken in context of the limitations of the data. The data cannot tell us the true motivations of the police officers – perhaps Black people were being stopped because of crime-related reasons, but officers chose not to charge minorities because they were aware of the study and did not want to appear harsh on minorities (i.e. the Hawthorne Effect).
There are several policy implications emerging from the quantitative findings. The low hit rates observed overall for stops of Blacks, as well as the zero percent hit rate for some types of stops, such as ‘citizen-generated’ stops and ‘street checks,’ raises questions about police deployment of resources. It suggests that greater scrutiny of police practices may be in order. Following Kane’s (2007) call for greater transparency, the Kingston study suggests that much could be learned from the public release of police-collected data. This call was echoed by the outgoing Ontario Ombudsman, Andre Marin. Shortly after leaving his post, Marin submitted a report questioning the crime control value of street checks:

There is insufficient evidence to back up the police claim that “carding” is a necessary tool, and the detrimental effects of the policing practice “are simply too great to justify,” Ontario’s government watchdog says in a submission to the province released Thursday.

“(The province) should not simply accept the subjective and anecdotal protestations of its policing partners,” Marin writes in his submission to the Ministry of Community Safety and Correctional Services. . . .

“I remain unconvinced, based on the available information, that there is a public interest purpose sufficient to override the infringement of the right to be free from the arbitrary detention that street checks represent,” writes Marin, who calls the current practice of carding “wrong and illegal.” (Gillis, 2015).

The results of the Kingston study support Marin’s view that there is simply not evidence that police stops in general, and street checks in particular have value that outweigh the costs. The results of this dissertation’s quantitative analysis, as well as the literature review, have highlighted that most of what police do, why they do it, and the consequences of what they do are not known or understood by the general public, recalling that much of the ‘backstage’ of the criminal justice system remains hidden from view.

If we take racial differences in police stops as the ‘tip of the iceberg’ in terms of racial differences throughout the criminal justice process, then we need more research on all aspects of the cumulative effect of racial difference, such as carding and the use of intel databases, running plates, DNA banks, stop-and-accounts, stop-and-searches, etc. Carding or street checks are seen as particularly insidious because they appear to be pure intelligence gathering, but they are a small part of the overall picture of police activities and police stops, frisks, stops-and-searches, and stop-and-accounts.
One policy response that has emerged is that police stops can be regulated or reformed. The act of data collection or monitoring is thought to reduce the overall number of stops and make it more likely that officers would stop people on stronger grounds. Several more radical proposals have also been made. Bernard Harcourt proposes that police stops would be more efficient if they were entirely random. Tighter supervision and control on stops is proposed by many, and Goel et al (2015) have taken this approach even further by developing a heuristic or ‘shorthand’ scorecard for police officers to use to make race-neutral, stop-and-frisk decisions (Goel et al, 2015).

Despite the perceived problems with police stops, few have advocated abolishing all police stops. Certainly, the banning of carding is seen as an appropriate stance, but few people would advocate abolishing all police stops and searches. This points to the true function of police stops being not about crime but about managing risky and marginalized populations.

Alongside the reformists, another school of thought suggests that the police power to stop and search cannot be reformed. Bradford and Loader (2016) take as a starting point Dubber’s (2005) configuration of police authority as “potentially limitless, uncontrollable, extra-legal power” (p. 1)

The point that Dubber makes in The Police Power is that modern democratic states do not only govern through law. They also manage through police via the aforementioned slippery, elusive power to regulate people and things so as to maximise the welfare of a community - to do what is necessary to produce and sustain (what is felt to be) good order. This, Dubber suggests, is a power that diverges radically from the conception of limited, rule bound, constitutional government imagined and defended by liberal legalism (cf. Shklar 1964) – and one that disturbs and offends liberal sensibilities. The police power is, in Dubber’s view, indefinable (and thus radically discretionary), ahuman (in the treatment of subjects as things to be managed), hierarchical (in terms of the relation it posits between governor and governed), and alegitimate (answering to dictates of efficiency in ways that render any wider insistence on its legitimacy a category mistake). (Bradford & Loader, 2016, p. 30, original emphasis)

Bradford and Loader point to their own quantitative findings from the Crime Survey of England and Wales to suggest that police stops in England and Wales may have less to do with crime than would be expected.

We might conclude that while stop and search activity is not unrelated to crime, it is at least as importantly a tool used by the police to keep tabs on the usual suspects, to let people know who is in charge, and/or to exercise discipline over individuals and
communities. If it was primarily related to crime, we would expect a stronger correlation between area level disorder and crime rates and stop/search, and for more of the behavioural variables – notably going to pubs and clubs – to be significant in the models. Moreover while this form of police activity is differentially distributed across physical space – stop and search rates are higher in areas with more crime, larger minority populations and more deprivation – it seems to be the characteristics of the people living in those areas that is the important factor. (Bradford & Loader, 2016, p. 19)

Bradford and Loader call for an end to the ‘fiction’ of the need for stop and search for crime control. Their stance is quite cynical - they berate ‘liberal critics’ for sustaining the fiction “that stop and search can and should be transformed into a reactive, investigatory tool and that its application can, as such, be made less ethnically disproportionate and subject to law” (p. 32) and suggest that even banning stops would not work, as the stops would simply take place undocumented.

I agree in principle with Bradford and Loader when they say that in the very least, the ‘fiction’ that stops and searches are an effective crime reduction tool needs to cease. Bradford and Loader call for politicians, journalists, academics, and police themselves to own up to the public that these activities have little, if anything, to do with crime, echoing Bayley’s shrewd observation: “The police do not prevent crime. This is one of the best-kept secrets of modern life. Experts know it, the police know it, but the public does not know it. Yet the police pretend that they are society’s best defence against crime ... This is a myth.” (Bayley, 1994, cited in Rowe [2008, p. 214]). I agree with this approach. The crime fighting fiction makes the intrusiveness of stops and searches more palatable to middle class people in liberal democracies. This needs to stop.

The dissertation has contributed to the body of quantitative work on racial profiling. The Kingston Police data collection project was the first study of its kind in Canada and had a lasting impact on the ongoing debate over racial profiling in Canada. However, the dissertation also contributes to the qualitative research in this field.

Qualitative Findings

The second major contribution of the dissertation is insight into the politics of policing in Canada. In the qualitative chapters, the responses to the discursive crisis in Kingston from the public, politicians, police unions and police organizations revealed the police in Canada operate
on a very political plane. In particular, police unions showed themselves to be a powerful force in Canadian politics throughout the Kingston episode. Other scholars have suggested that police unions have contributed to the ‘swing to the right’ in countries such as the US, Australia and New Zealand. Although this dissertation was not a study of police unions per se, the findings of the qualitative chapters are consistent with the idea that police unions have shifted the political landscape to the ‘right’ in Canada. Further, the dissertation found evidence consistent with the contention that police unions are reactionary and tend to stymie reforms (Morabito, 2014). Indeed, the failure of the Kingston project to be implemented as an ongoing data-monitoring model can be directly attributed to the activities of the police unions in Canada. The qualitative chapters have exposed a dire lack of basic information about police unions in Canada (organization, membership, coverage, lobbying activities, etc.), and clearly point to the need for this serious deficiency to be addressed.

Approaching the data collection study though a political lens has provided some answers to the question ‘Why Kingston’?. Throughout the dissertation, this question has likely dogged the reader, as it has the author. At the start of the research journey, it was not at all clear to me why Kingston was the site of the first racial profiling study in Canada. It seemed like a fluke with no obvious explanation. However, ten years on through the research journey, some factors have emerged that explain why a small predominantly white city in eastern Ontario became a hot spot on race and data. The table below enumerates the factors that may have contributed to the origins of the project.
<table>
<thead>
<tr>
<th>Factor</th>
<th>Brief Discussion</th>
<th>Importance of this factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Kingston’s Demographics</td>
<td>Kingston is a very low crime city, with a very small Black community, therefore, the stakes were lower, compared to Toronto or Montreal</td>
<td>Very important</td>
</tr>
<tr>
<td>2. Kingston Police Association</td>
<td>Kingston Police Association is much weaker, smaller and slower to respond than the Toronto Police Association in similar circumstances (i.e. the Star series on Race and Crime)</td>
<td>Very important</td>
</tr>
<tr>
<td>3. Chief Bill Closs</td>
<td>Personal attributes of the Kingston Police Chief Bill Closs– conventional liberal attitudes about race and multiculturalism, ‘white guilt’, need for approval, early adopter of New Public Managerialism and reputational risk tactics, position not as politicized and beholden to unions as were Toronto counterparts (Chief Fantino, Chief Blair)</td>
<td>Very important</td>
</tr>
<tr>
<td>4. High profile armed takedown of Black teenagers</td>
<td>Extraordinary circumstances of armed takedown of teenagers in 2001 and again in 2003 – an extreme and dramatic injustice against innocent youths (cases of mistaken identity). Both incidents involved Mark Wallen.</td>
<td>Very important</td>
</tr>
<tr>
<td>5. Kingston Whig-Standard</td>
<td>Daily newspaper, the Kingston Whig-Standard, high profile within the community with some quasi-activist journalists and columnists raising the issue of racial profiling. Letters-to-the-editor function as broadcast to elites from elites (authorized knowers).</td>
<td>Important</td>
</tr>
<tr>
<td></td>
<td>6. An Ideal Victim</td>
<td>Mark Wallen was an ‘ideal’ victim and was willing to speak out.</td>
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<td>-------------------------------------------------</td>
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<tr>
<td>7.</td>
<td>Strong counter discourse to police discourse of denial</td>
<td>There was a strong counter narrative in support of the Wallen family from high-status individuals in the community, as evident from published letters in the Whig-Standard. Support from ABLE also strengthened the pro-Wallen counter-narrative.</td>
</tr>
<tr>
<td>8.</td>
<td>University Town</td>
<td>The presence of one of the most prestigious universities in the country, a highly educated readership of local newspaper, highly educated Black community, presence of activist (anti-racist) students, and involvement of university professors.</td>
</tr>
<tr>
<td>9.</td>
<td>Lack of political influence in police matters</td>
<td>Conservative government in power did not interfere with data collection scheme (possibly right-wing parties not needing to prove they are ‘tough on crime’)</td>
</tr>
</tbody>
</table>

It is a further point of puzzlement why the Kingston project was not continued after the 12 month trial period. The following table lists factors (some speculative) as to why the project was shut down.
Table 7.2 Why was the data collection project discontinued and not repeated elsewhere in Canada (for over 10 years)?

<table>
<thead>
<tr>
<th>Factor</th>
<th>Brief Discussion</th>
<th>Importance of this factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Democratic Racism</td>
<td>Overall, Canada is a nation where democratic racism is prevalent, and discussion about race in general is suppressed and debate about race and criminal justice in particular is discouraged. Calling for data collection to monitor racism in policing would require an admission from elites that there is a problem.</td>
<td>Very Important</td>
</tr>
<tr>
<td>2. Weak counter-narratives and anti-racism advocacy</td>
<td>Overall, there is a weak national counter-narrative to the dominant discourse of democratic racism and the discourse of denial (‘There is no racism’). For example, there is a paucity of strong national organizations from which counter-narratives are broadcast, such as the equivalent of the ACLU or the NAACP in America.</td>
<td>Very Important</td>
</tr>
<tr>
<td>3. Lack of Policing Research infrastructure</td>
<td>Canada has no national policing research hub (see Griffiths, 2014 for comprehensive description of policing research landscape in Canada), such as the Home Office in the UK; the National Police Research Forum, or Police Executive Research Forum (PERF) in the U.S.; or the Australian Institute of Criminology. As a result, Canada may lack research infrastructure to support academics and police organizations in data collection and to maintain momentum on reforms.</td>
<td>Very important</td>
</tr>
<tr>
<td>4. Structure of Police Unions in Canada</td>
<td>Police unions in Canada have strong coverage compared to US counterparts. Police unions in Canada seem to be more centralized than US police unions, but more segmented than the police unions of England &amp; Wales. Therefore, they have been more successful in suppressing demands for data collection in local communities.</td>
<td>Very important (more research required)</td>
</tr>
<tr>
<td>5. Police unions culture and politics: ‘circling the wagons’</td>
<td>Reactionary, activist police unions, campaigning against data collection (TPA, PAO, and OACP) have successfully ‘circled the wagons’ to protect the police family from opening up to reforms such as monitoring and data collection.</td>
<td>Very important (more research required)</td>
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<tr>
<td>6. Official Multiculturalism</td>
<td>The dominance of multiculturalism discourse may undermine claims of communities that racial profiling takes place. (See earlier discussion in 1.2 and the work of critics of multiculturalism from both sides of political spectrum such as Breton &amp; Reitzer, 1994; Henry &amp; Tator, 2005; Gunew, 2004; Razack, 2004).</td>
<td>Possibly important (Unknown, more research required)</td>
</tr>
<tr>
<td>7. New Public Managerialism</td>
<td>The growing trend of the new public managerialism in the policing sector makes it more difficult to successfully demand reforms in policing. (See O’Malley &amp; Hutchinson, 2007, and discussion on organizational theory and reputational risk theory in section 6.2.)</td>
<td>Possibly important (Unknown, more research required)</td>
</tr>
<tr>
<td>8. Privatization of Policing</td>
<td>Privatization and segmentation of the policing ‘market’ (O’Malley &amp; Hutchinson, 2007) also undermines strong counter-narratives for reforms.</td>
<td>Possibly important (Unknown, more research required)</td>
</tr>
<tr>
<td>9. Discrediting Chief Closs and the Kingston Study</td>
<td>Police leaders colluding to attacking Kingston study, attacking personally Chief Closs and the author of the Kingston report. This sends a strong message to any other police chief considering implementing a data collection strategy.</td>
<td>Important</td>
</tr>
<tr>
<td>10. Academics for hire</td>
<td>Some Canadian academics have been willing to produce second-rate/inadequate and misleading racial profiling ‘research’ to support police organizations lobbying campaigns. The debate then becomes ‘between academics’ rather than a real-world racism and equality issue.</td>
<td>Somewhat important</td>
</tr>
<tr>
<td>11. Non-inclusive counter-narratives</td>
<td>Failure of counter-narratives to push back the dominant narrative, failure to empower all victims of racial profiling (injustice only for ‘ideal’ victim)</td>
<td>Possibly important (more research needed)</td>
</tr>
</tbody>
</table>
Lack of Internationalization in the Racial Profiling Literature

The third main contribution of the dissertation has been to expose the lack of internationalization in the racial profiling literature. Research on stops and searches has been dominated by the American ‘Driving While Black’ phenomenon. Most studies of racial profiling concern traffic stops undertaken by state highway patrol, or stop and frisk in New York City. There has also been considerable research from the England and Wales on ‘stop-searches’. However, the cultural, political and historical circumstances in these two countries are very different from the context in Canada that led to the Kingston study. In chapter 5, I noted the ‘split’ in the police union literature between the US and other countries. The US literature which dominates, is based on their decentralized system where small town police unions can consist of a handful of officers, union coverage is inconsistent, unions are not perceived to be very powerful, and an influential national organization does not exist. Berry et al (2008) and others note that research emanating from the US cannot speak to the issues in other countries where police unions are strong, highly centralized, and have very high coverage.
I suggest that a similar ‘split’ exists in the racial profiling literature. The US literature, with its focus on traffic stops, the ‘war on drugs’, and the context of the long-running problems between police and the African American community, does not provide adequate theoretical tools to engage with the race and policing issue in countries like Canada where the context is so different. Canadian jurisdictions such as Kingston, where there is less segregation and a very low density of Black population, and where police are more likely to stop people on foot, are outside the framework of most of the methodological and theoretical tools used in racial profiling research in the US. The US and UK literature also does not help us understand why Canadian governments and police organizations are so resistant to collecting data on race. It is also because of this lack of theory development that it was necessary to look outside of criminology to organizational theory (reputational risk theory) to try to explain the negative responses to the Kingston study by police organizations.

Although it is beyond the scope of this dissertation to produce a complete historical and political analysis of race and policing in the US and the UK, some basic facts can be ascertained. In the US, a strong civil rights movement and civil liberties organizations have blazed a legal path through which thousands of police organizations have had to collect and publish data on police stops. In England and Wales, a centralized department (the Home Office) with a long history of research, routinely publishes stop and search data as result of a major 1990s inquiry into race and policing (the Stephen Lawrence Report), which has drastically depoliticized stop and search monitoring in that country. In Canada, there has been no such context. As a result, Canadian police do not routinely collect and/or publish data on race and police stops.

The study that took place in Kingston in 2003-2004 was an important milestone in the story of race and policing in Canada. This dissertation has shown that the study largely supported the view of some that Black people were more likely to be stopped by Kingston police unfairly. The dissertation has also thrown a light into the dark corners of the current state of race relations in Canada: it has highlighted that Canada lags behind other countries when it comes to open debate about race and policing, and is decades behind in transparency through routine monitoring of police stop activities. It is hoped that the gaps I have identified – the lack of understanding of the political role of police unions in stymying monitoring, and the lack of internationalization in the literature – will be taken up by scholars in the future.
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Glossary

**Backstage** (criminal justice system). The informal, hidden-from-view, less accountable stages of the criminal justice system such as undocumented police stops, ‘running plates’, pretrial detention, pre-sentencing reports and bench (sidebars) conferencing. *Racially motivated decisions made in the back stage may be easily represented as racially neutral ones in the front region.*

**Bulletin/Suspect Description Broadcast.** The recorded legal justification for a stop in the Kingston study, referring to suspect descriptions that are broadcast by dispatcher.

**By-law infraction.** The recorded legal justification for a stop in the Kingston study, referring to a petty offense, the violation of an administrative regulation, an ordinance, or a municipal code, such as noise complaints and pan-handling.

**C.C.C. (Criminal Code of Canada) violation.** The recorded legal justification for a stop in the Kingston study, referring to a criminal act covered by the criminal code of Canada, such as theft and solicitation.

**Citizen Generated Stop.** The recorded legal justification for a stop in the Kingston study, referring to stops that are a result of the public reporting an incident or information to the police.

**Contact Cards.** Paper records of stops (field interrogations) used by Kingston Police officers during the study to record the type of stop, reason for stop, and the race, sex and age of the person stopped. Contact cards are used for various purposes in policing, for monitoring, for supervisory and performance management, as well as intelligence purposes.

**Counter Discourses.** Discourses (texts, voices, stories) that counter or push back against dominant discourses. Counter discourses or counter narratives tell a story that questions or interrogates the dominant discourses in countries were Democratic Racism is prevalent.

**Criminalblackman** “The Black male has always been perceived as a physical threat; however, until recently, that threat was portrayed in sexual terms. Historically, he was viewed as a threat to the purity of the White female. In the past twenty years, the image of the Black male as rapist has evolved into the image of the Black male as the symbolic pillager of all that is good and pure.
The criminalblackman stereotype persists, even though it is contradicted by official data”.
(Russell, 1996, p. 599)

**Critical Discourse Analysis (CDA)** is a type of discourse analytical research that primarily studies the way social power abuse, dominance, and inequality are enacted, reproduced, and resisted by text and talk in the social and political context.

**Democratic Racism** consists of a commitment to a democratic society and egalitarian values of fairness, justice, and equality -- co-existing with negative feelings about people of colour;

**Reverse racism** refers to discrimination against members of the dominate group -- manifested in "double standards" that are thought to favour minorities.

**Discourse of Denial** “Denials of racism are the stock in trade of racist discourse.” – Teun van Dijk. “Canada suffers from historical amnesia. Its citizens and institutions function in a state of collective denial. Canadians have obliterated from their collective memory the racist laws, policies, and practices that have shaped their major social, cultural, political, and economic institutions for 300 years.” – Frances Henry et al.

**Dispatcher recorded stops.** Referred to as ‘OV stops’ by the Kingston Police. Out of Vehicle (dispatcher-recorded) stops are data generated by officers via communication to the dispatcher when officers exit their patrol vehicle to stop or question a citizen.

**Dispositions.** An outcome of a stop, such as arrest or citation.

**Dominant Discourses** contain messages that reproduce power inequalities and racism in liberal democratic societies.

**Driving while black (DWB)** is a phrase in American English that refers to the racial profiling of black drivers. The phrase implies that a motorist might be pulled over by a police officer simply because he or she is black, and then questioned, searched, and/or charged with a trivial offense. "Driving While Black" is word play on the name of an actual crime, driving while intoxicated, commonly referred to as DWI.
**Drug Courier Profile.** In an effort to win the ‘War on Drugs,’ law enforcement agencies used drug courier profiles to identify and detain persons who display characteristics that law enforcement agents believe are typical of drug traffickers.

**Drug-related offense.** The recorded legal justification for a stop in the Kingston study, referring to suspected drug-related offense.

**Frontstage (criminal justice system).** The formal, visible, and theoretically more accountable stages of the criminal justice system, such as documented stops, convictions and sentencing.

**Getting hassled.** The idea that young black males may be stopped by police for reasons other than being suspected of a specific offence. Describes a form of surveillance and social control of risky or marginalized populations.

**Grey literature.** Research that is not published in a peer reviewed or edited journal or book, and therefore is not strictly ‘academic’ literature. Reports commissioned by government departments often use and fall into this category.

**HTA (Ontario Highway Traffic Act) violation.** The recorded legal justification for a stop in the Kingston study, referring to violations of traffic laws in the Ontario HTA. The majority of stops for HTA reasons were of vehicles.

**‘Law and Order’ politics** refers to demands for a strict criminal justice system, especially in relation to violent and property crime, through stricter criminal penalties. These penalties may include longer terms of imprisonment, mandatory sentencing, three strikes laws, and in some countries, capital punishment. Supporters of ‘law and order’ argue that incarceration is the most effective means of crime prevention. Opponents of law and order argue that a system of harsh criminal punishment is ultimately ineffective because it does not address underlying or systemic causes of crime. Political candidates may exaggerate or even manufacture a problem with law and order, or characterize their opponents as “weak” on the issue, to generate public support. The expression also sometimes carries the implication of arbitrary or unnecessary law enforcement, or excessive use of police powers.

**New Public Managerialism (NPM)** emphasizes the concept that ideas used in the private sector must be successful in the public sector.
**Operation Pipeline.** This DEA-funded training program featured state police and highway patrol officers with expertise in highway interdiction who provided training to other officers throughout the United States in the 1980s. Training classes included drug trafficking trends and key characteristics, or indicators, that were shared by drug traffickers. Some attribute the spread of racial profiling in US law enforcement to Operation Pipeline.

**Other/LLA (Liquor Licensing Act)/ Provincial Statute violation.** The recorded legal justification for a stop in the Kingston study, referring to violations of the Liquor Licensing Act, violations of Provincial Statutes, such as trespass, and the catch all category of ‘Other’.

**Pedestrian Stop.** A police stop (field interrogation) of a person on foot.

**Petit Apartheid** refers to the hidden, informal types of racial bias that permeate various stages of the criminal justice system.

**Police union.** A voluntary association or federation that represents the rights, interests and views of police employees. Police unions are for all intents and purposes trades unions and part of the larger workers’ rights unions, with some important distinctions, including limits on the right to take industrial action and political alignment with ‘law and order’ politics, which are explored in this dissertation. Throughout the dissertation, police associations representing police leaders (management cops) and rank-and-file officers (streets cops) are both referred to as police unions.

**Pretext stops.** A pretextual traffic stop involves a police officer stopping a driver for a traffic violation, minor or otherwise, to allow the officer to then investigate a separate and unrelated, suspected criminal offense.

**Productive targeting index,** a measure (ratio) developed for this dissertation, which divides the hit rate (%) of a racial group by the surveillance rate (%) of that same racial group to indicate how productive or successful stops are in relation to the under- and over-stopping of some groups.

**Reputational Risk theory** posits that reputation is the main asset of any organisation and managing reputation is therefore one of the major tasks of executives and board members.
‘Running plates’ also known as ‘running tags’ is when police officers run license plate numbers through their Mobile Data Terminals (MDT) in order to get a ‘hit’, such as warrant. No offence or suspected offence has occurred, the officers are running tags as part of routinized surveillance, the ‘bread and butter’ of patrol work. Running plates is part of the backstage of the criminal justice system because it is an undocumented practice that with the potential to have unequal application.

**Statistical discrimination.** An economic theory of racial or gender inequality based on stereotypes. According to this theory, inequality may exist and persist between demographic groups even when economic agents (consumers, workers, employers, etc.) are rational and non-prejudiced.

**Stop and Account (England & Wales).** When a police officer stops a person and asks them to account for their actions, their being in a particular area and/or what they are carrying.

**Stop and Frisk (United States).** The Fourth Amendment requires that the police have a reasonable suspicion that a crime has been, is being, or is about to be committed before stopping a suspect. If the police reasonably suspect the person is armed and dangerous, they may conduct a frisk, a quick pat-down of the person's outer clothing...

**Stop and Search.** A police officer has powers to stop and search if they have 'reasonable grounds' to suspect you're carrying: illegal drugs, a weapon, stolen property, something which could be used to commit a crime, etc. Some stop and searches can take place without reasonable suspicion.

**Street checks** (or ‘Carding’) a surveillance and intelligence gathering practice involving the stopping, questioning, and documenting of individuals when no particular offence is being investigated.

**Traffic Stop,** commonly called being pulled over, is a temporary detention of a driver of a vehicle by police to investigate a possible crime or minor violation of law.

**Visible minority,** defined by the Canadian government as "persons, other than aboriginal peoples, who are non-Caucasian in race or non-white in colour". The term is used primarily as a demographic category by Statistics Canada, in connection with Employment Equity policies.
**War on Drugs**, an American term commonly applied to a campaign of prohibition of drugs, military aid, and military intervention, with the stated aim being to reduce the illegal drug trade.

**Zero tolerance**, rigorous enforcement of the law, particularly for street crimes and ‘quality of life’ offences, allowing low discretion for patrol officers and ostensibly no clemency for offenders.