



Seeking The Truth About Racial Profiling in Ann Arbor

by Audrey Jackson

Editor's Note: While the interviews reported in this article do not constitute a scientific survey, the survey reached a broad range of people—community leaders, professionals, regular guys, students—with little or no individual relationships to one another. It's akin to a "pilot test" conducted to gauge whether a systematic study would be worth undertaking.

While we have not made any attempt to verify the accounts, they appear plausible and are important to share as a reflection of fairly widespread views in the community. We must respect the wishes of those interviewed to remain anonymous, a wish typically based on fear of police retaliation. We recognize that this makes their reports difficult or impossible to check. Nevertheless, it is important to make such accounts publicly available, so that others may be encouraged to step forward with verifiable complaints, and so that the community and city government can assess what positive actions may be needed to investigate the extent of this national problem locally.

This attitude contrasts with that of the Ann Arbor police department, which has so far refused to relate the content of the anonymous complaints it has received, or even general statistics about the kinds of complaints received. One high-ranking officer, with an unquestioned opposition to racial profiling, tried to cast broad doubt on anonymous complaints by suggesting that many complainers are merely trying to wriggle out of traffic tickets. When I pointed out that no one could reasonably hope to have a ticket torn up through an anonymous complaint, the officer retreated to the idea that many people merely want to stir up trouble in the community. Through a secret communication with a desk cop, it appears.

In fact, this kind of attitude on the part of police may in part explain why more people do not register and sign formal complaints with the police. Most of those interviewed expressed fear that formal complaints of police harassment would be dismissed as attempts to counter tickets.

I wish we could reveal the identity of the officer with such disparaging views about anonymous testimony, but we must also respect the officer's own explicitly stated wish to remain anonymous. Officer X explained that since X does not know me personally, X must worry that I will misquote X. I would be greatly surprised to learn that this standard is applied to staff of the daily news media.

For balance I should add that police and government officials were also interviewed for this story, and we follow the rampant practice in the news media of presenting what they say to the public even though we have made no attempt to verify their claims. —Eric Lormand

Across the nation, in the largest-scale studies that have been reported, while black people make up roughly 20 percent of drivers, they account for roughly 67% of all traffic stops ("Driving While Black: Racial Profiling on Our Nation's Highways," ACLU Special Report, June 1999; www.aclu.org/profiling/report). On the plausible assumption that black motorists are not overwhelmingly more likely to speed or forget to use turn signals than white motorists are, there appears to be an unjust pattern of "racial profiling" in determining which motorists to stop. In its effect on real people's lives, it is as if Driving While Black (DWB) were a legal offense, only mildly less serious than Driving While Intoxicated.

AGENDA randomly interviewed 14 local African-American men for this article, asking about their personal experiences of being stopped while driving by local police officers. One of the men was not a motorist. Of the remainder, seven men (54%) recounted stories of apparent "pretext stops" (traffic stops motivated by or used for nontraffic purposes). Five others (38%) described encounters with police purely for traffic purposes (speeding, accident, headlights), and 1 college student (8%) reported no encounters. Here are the apparent pretext-stop stories:

- (1) 18-year-old: Was stopped and asked whether he knew someone the police were looking for. No ticket or warning issued. (Do all blacks know each other any more than all whites do?)
- (2) 18-year-old: Was stopped at night and told "it was too dark in the car", police asked for ID of everyone in car. No ticket or warning issued.
- (3) 25-year-old: Was told his car "looked suspicious" and that police were looking for a stolen car so they wanted to search his vehicle. Was asked where he was coming from and whether he "had proof" he had just left work. An officer kept her weapon drawn on him while another police car arrived. He allegedly fit the description of a man who had robbed a house. No ticket or warning.
- (4) 30-year-old professional: Was stopped for driving a "suspicious car"; was asked where he was from and why he was at this spot; was given a warning for a cracked windshield.
- (5) 33-year-old city employee: Was ticketed for driving 5 miles per hour over the speed limit, but was also told that his car "looked like one that was stolen" in the area.
- (6) 38-year old: Was ticketed because his blinkers were not working; was asked to get out of his car and was "patted down"; car was searched.
- (7) 55-year-old community leader: Was stopped because car was "suspicious"; officer kept his hand on his weapon while driver located license; no ticket issued.

Most of these motorists were alone at the time they were stopped. None of the respondents wished to be identified by name for fear of retaliation.

Significantly, all twelve who discussed being stopped by police conveyed anger and hurt at how they were treated individually and how black men as a group are treated.

One man expresses frustration that "even if you have no criminal record, you are still treated like a criminal." One maintains that police are more likely to stop black male motorists because "police claim blacks have a tendency to break traffic rules—especially if you are in an expensive car, you are more likely to get pulled over." A university research assistant feels "the police offenders should be placed on a list just like they do sex offenders." Every single respondent, whether or not they had ever encountered traffic police, is convinced that racial profiling—a crackdown on DWB—is a serious issue for black male motorists locally.

Some of the subjects in this survey not only blamed the police for unfairly assuming they had committed a crime, but felt some of the real reasons they were stopped had to do with police being fearful or suspicious of blacks in general. One says that "police figure all black men are criminals and they harass blacks because they can get away with it." Another states that "they'll stop you for no reason just to run your name in so they'll know who you are the next time they try to harass you."

The men interviewed for this story acknowledge that most incidents of harassment of black motorists go unreported. Some respondents explained that motorists are often afraid to file a complaint, or don't know their rights. Some feel that pretext stops have been taking place for so long without being investigated, that nothing will be done to help resolve their complaint. One man who was detained at gunpoint, as a suspect in a house robbery while returning from work, says he did not report the incident because "everybody else who commits a crime goes to prison, but if a cop commits a crime, they get away with it—they know they have the government and the media backing them."

Others pointed to the lack of a civilian complaint review board. Citizen participation in addressing DWB is crucial in order to maintain fairness in local police enforcement. Although there are dozens of such boards in cities nationwide (Berkeley, Dallas, Los Angeles, New York City, San Diego, Royal Oak, ...), a local board is prohibited by the current Ann Arbor police-union contract, according to which officers need never answer to anyone except other officers. This restriction was used to squelch calls for a civilian complaint review board in the aftermath of the 1996 Klan rally. But it is doubtful that the city has been forced reluctantly into this restriction by a powerful police union, since (rightly or wrongly) police are prohibited by law from striking.

All this makes it difficult or impossible to compile hard data to support the belief that racial profiling takes place in the Ann Arbor community. City officials say as much, in the course of defending their inaction on concerns regarding racial profiling. If the collective response to questions on the issue of "Driving While Black" is any indication, one might suspect that a predetermined point of view has been standardized. Vic Turner, an African-American member of the city's Human Rights Commission, says that "Things have not changed for blacks since 1966, when I came here, so why should they change now? If people have complaints, but don't come forth, I have no sympathy for them." Ann

Arbor's Chief of Police Carl Ent expresses concern that anything said by black male Ann Arbor residents on this topic would have to be substantiated through a formal complaint. City Administrator Neal Berlin emphasizes that "if individuals have complaints [toward the police department], I'm always here to help them address their concerns, but if they don't come forward, there's very little I can do."

Contrast this attitude with a similar case of apparent underreporting out of fear. Notoriously, many victims of domestic abuse and rape do not file formal complaints with the police department. In this case the mayor and city council have empowered a task force on increasing safety for women. City buses bear giant advertisements calling attention to the issue. Special channels are established to invite and encourage women to bring their reports forward. Similarly, black people in the city should be most actively and sympathetically encouraged to come forward with their reports. As a tiny step, for example, instructions about how to register complaints, along with a statement of relevant rights, could be printed in inviting terms on traffic tickets.

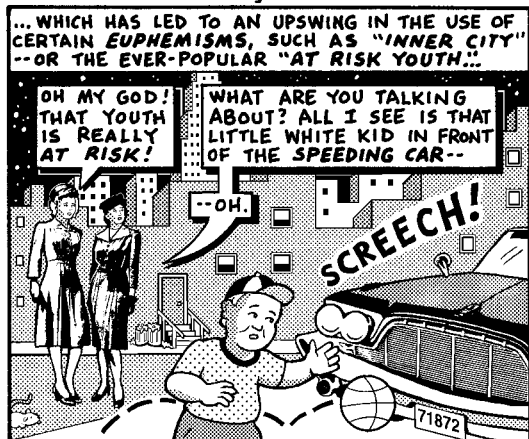
Mr. Turner says that citizens should attend the meetings of the Human Rights Commission to stay informed on human rights issues being addressed by the city. He attributes the lack of response in the black community to apathy. He feels blacks should read the newspaper to find out when the HRC meets. However, the meeting dates and times for this particular city commission are rarely published. In fact, most meetings of city boards and commissions are not published in the local daily newspaper. When asked why the HRC couldn't distribute an invitation to citizens (including those without rather expensive daily news subscriptions) through announcements in local community centers and libraries, Mr. Turner responded, "Well, you tell me where these people are [with the complaints] cause I don't know where to find them." Since over half of the randomly selected black male motorists have such complaints, the Human Rights Commission has its answer: "these people" are everywhere.

Another way to gather evidence bearing on the existence and extent of racial profiling is to analyze racial data gathered over the years at traffic stops. However, according to the Ann Arbor Police Department, since 1985 they have not kept data on the race of motorists involved in traffic stops. Local police officials claim that the Michigan Department of Civil Rights (MDCR) requested that this information not be included, since it might be used unfairly to characterize racial minorities as being more likely than whites to break traffic laws. This seems to be an admission that in 1985 MDCR determined that minorities are stopped in greater numbers than would be predicted from their numbers and behavior on the road, and that local police agencies could not argue otherwise despite having pre-1985 data.

Pressure is growing for a change in the policies regarding racial data. The American Bar Association and the U.S. Department of Justice are now recommending data about the race of motorists and officers involved in traffic stops, so that a perceived pattern of racial profiling against black motorists can be addressed. Ann Arbor is awaiting a

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by TOM TOMORROW



decision from the city attorney before making a decision on recording such data. Pending a ruling by the Justice Department, however, some police departments have already decided to record racial data associated with traffic violations in their communities.

Representative John Conyers has sponsored a bill (HR-118) which would require police to include the race of the motorist and the officer when a ticket or arrest takes place. The bill also requires the Justice Department to study racial profiling, specifically reports of DWB-related abuses in traffic enforcement. All but one of the men interviewed by AGENDA support the Conyers bill.

THE SITUATION ELSEWHERE

How many white motorists avoid passing through all-white suburbs or make travel plans designed to avoid police confrontations? What are the odds that police will stop a white driver during the night because it is "too dark in the car"? What would happen if, as in the AGENDA sample, 54% of all white drivers were stopped and subjected to random searches and police questioning? Lawsuits, that's what. And at long last lawsuits have been filed recently against police departments in Eastpointe and Royal Oak, Michigan, due to complaints about harassment of black motorists. These and various other Michigan cities continue to have a reputation of being strongly anti-black or aversive to black motorists.

In Detroit, both Mayor Dennis Archer and his son have been victims of race-targeted arrests. Archer's son and an acquaintance, both attorneys, were stopped in a Detroit suburb and held at gunpoint for 15 minutes by police from six cars. They were both handcuffed and not allowed to show identification to police. In 1985 police held Archer himself at gunpoint as he returned from a meeting of the Michigan State Bar Association. Only after they searched his briefcase and discovered that he is an attorney did they inform him they were looking for a robbery suspect (*APB 911 News*, August 10, 1999).

In a search for solutions, a group of black New York City policemen, "100 Blacks in Law Enforcement," run seminars emphasizing "cooperation" by motorists to survive cops who are "ready to give beatings for 'contempt of cop,' looking for excuses to frisk blacks" ("Coursework in NYC: Surviving the Police," *washingtonpost.com*, March 16, 1999). The American Civil Liberties Union and other civil rights organizations have initiated successful lawsuits against police departments in various cities. This effort has received the attention and support of the Clinton Administration and the Justice Department, in part due to several serious inci-

dents involving racial profiling incidents in 1998 and 1999. In New York City, police "profiling" proved fatal for a 22-year old unarmed African street vendor, Amadou Diallo; they shot at him 41 times and hit him 19 times. Police arrested Abner Louima, a 19-year-old Haitian immigrant, took him to headquarters, beat him, and subjected him to brutal anal rape with a toilet plunger handle. Such abuses exist in traffic stops, also, and show the lethal side of racial profiling. As the ACLU report describes: In Pennsylvania, Jonny Gammage was pulled over while driving his cousin's Jaguar at 2 a.m. in 1996. As Gammage pulled over, a total of five Brentwood police cars arrived on the scene. One of the officers said that Gammage ran three red lights before stopping after the officer flashed his lights at him. The officer ordered Gammage out of the car and saw him grab something that was reportedly a weapon, but in reality was just a cellular phone. The officer knocked the phone out of Gammage's hand and a scuffle followed. The other officers beat Gammage with a flashlight, a collapsible baton and a blackjack as one put his foot on Gammage's neck. Jonny Gammage died, handcuffed, ankles bound, face down on the pavement shortly after the incident began. He was unarmed.

Even if one is not initially stopped for Driving While Black, one may still have to pay a penalty for Having Been Stopped While Black.

And of course, racial profiling is much more widespread than traffic stops. To take one further important illustration from the ACLU report, "Blacks constitute 13 percent of the country's drug users, but 37% of those arrested on drug charges; 55 percent of those convicted; and 74% of all drug offenders sentenced to prison."

Back on the legal front, the American Bar Association passed a resolution on August 10, 1999 that would require law enforcement agencies to collect data on all traffic stops. The data would include the race and ethnicity of the driver, the nature of the alleged traffic offense, whether a search of the driver took place, and what was found ("Driving While Black," ACLU report).

Hundreds of African-Americans from Portland, Oregon to Portland, Maine have claimed to be victims of DWB-related stops, forcing law enforcement officials to begin a serious review of how their traffic-enforcement and drug-intervention policies have a disproportionate effect on black motorists. The ACLU has suggested a five-part national plan to end racial profiling:

- (A) End the use of pretext stops (use of traffic stops for nontraffic purposes);
- (B) Pass the Traffic Stops Statistics Act (HR 118);

(C) Pass legislation on traffic stops in every state;

(D) Have the Justice Department ensure that racial profiling is not used in federally funded drug-interdiction programs;

(E) Collect traffic-stop racial data in the 50 largest U.S. cities

Additionally, the ACLU has established a toll-free hotline allowing victims of discriminatory traffic stops to make complaints. The Driving While Black hotline is 1-877-6-PROFILE. Citizens Opposing Profiled Police Stops (COPPS) is another grassroots group which receives complaints from motorists, contact (757)624-6620 or www.copps.org. Locally, citizens with complaints on DWB interactions with officers can contact AGENDA at editors@agenda2.org or (734)657-6728, in addition to the option of reporting these incidents to the Ann Arbor Police Department or Washtenaw County Sheriff's Department.

If you are stopped by a police officer, know your rights. Although a 1996 Supreme Court decision allows police to utilize pretext stops (traffic stops for nontraffic offenses), the ACLU suggest the following procedures if you are stopped or arrested by police:

Your Rights and the Police

What you say to the police is important. What you say can be used against you, and it can give the police an excuse to arrest you, especially if you speak disrespectfully to a police officer.

You do not have to answer a police officer's questions, but you must show your driver's license, registration and proof of insurance when stopped while driving a car. In other situations, you cannot be legally arrested for refusing to identify yourself to a police officer.

You do not have to give your consent to any search of yourself, your car or your house; if you so consent to a search, it can affect your rights later in court. If the police say they have a warrant, ask to see it.

Do not interfere with or obstruct the police, even if they begin an illegal search - you can be arrested for it. File a complaint later if you feel your rights have been violated.

Citizens can also contact the accrediting agency for local law enforcement agencies by calling the Attorney General's Office, (313)256-2524. Any citizens dedicated to investigating and eliminating racial profiling can contact AGENDA to get connected with one another.

Even if you are a motorist who is not black, it should be of significant concern to you whether blacks are stopped (and worse) in numbers far greater than one would expect from population data and actual rates of crime. Why shouldn't all drivers travel without fear of being in the wrong place, or in the wrong kind of car, or just the wrong color? Equal enforcement of the law is a civil right for all of us.