Are Police the Enemy?

Rutgers University has made this article freely available. Please share how this access benefits you. Your story matters. [https://rucore.libraries.rutgers.edu/rutgers-lib/21385/story/]

This work is an ACCEPTED MANUSCRIPT (AM)

This is the author's manuscript for a work that has been accepted for publication. Changes resulting from the publishing process, such as copyediting, final layout, and pagination, may not be reflected in this document. The publisher takes permanent responsibility for the work. Content and layout follow publisher's submission requirements.

Citation for this version and the definitive version are shown below.

Citation to Publisher Version:

Citation to this Version:

Terms of Use: Copyright for scholarly resources published in RUcore is retained by the copyright holder. By virtue of its appearance in this open access medium, you are free to use this resource, with proper attribution, in educational and other non-commercial settings. Other uses, such as reproduction or republication, may require the permission of the copyright holder.

Article begins on next page
On February 28, 1999, New Jersey Governor Christine Todd Whitman forced the resignation of Colonel Carl A. Williams, superintendent of the New Jersey State Police, for "insensitivity" because of remarks he had made in a newspaper interview. In replying to accusations that the State Police targeted black motorists on the New Jersey Turnpike for traffic stops, Colonel Williams had insisted to editors of the Newark Star-Ledger that there was no racial profiling and that stops were made only "on the basis of a traffic violation." However, he also was quoted as saying that certain crimes were associated with certain ethnic groups and that it would be naive to think that race was not an issue in drug trafficking.

Responding to that statement, a group of black state legislators, ministers, and civil rights advocates gathered at the offices of Assemblyman Leroy J. Jones, Jr., to denounce him as a racist. "His views are dastardly ....," said Mr. Jones, "... he's unfit to hold such a critical, important office." Within hours Governor Whitman dismissed Colonel Williams.

Firing Colonel Williams did not stop the charges of racism against the State Police, Attorney General Verniero, who supervised the State Police before Governor Whitman appointed him to the New Jersey Supreme Court, and Governor Whitman herself. The accusations and demonstrations continued, including an attempted shutdown of the Atlantic City Expressway on July 4 by the Reverend Al Sharpton and some 200 of his New York supporters and accompanied by 50 New Jersey protesters wearing T-shirts saying, "New Jersey, the Police State." Sharpton led chants of "No justice, no peace."

A contributing writer for the New York Times, Jeffrey Goldberg, interviewed Governor Whitman a couple of months after the firing for an article on racial profiling; the article appeared in the New York Times Magazine on June 20. By that time Governor Whitman must have realized that Colonel Williams was only repeating what the federal Office of Drug Control Policy said on its web site about which ethnic and racial groups sell which drugs in different cities. "You don't have to be racist to engage in racial profiling," the governor is quoted as saying. "Profiling means a police officer using cumulative knowledge and training to identify certain indications of criminal activity.... Race may be one of those factors, but it cannot stand alone. Racial profiling is when race is the only factor."

Governor Whitman seemed to be conceding that Colonel Williams was repeating the conventional wisdom of criminologists. But he had generated political heat by failing to tiptoe more gently over an unpleasant reality: interdicting drug shipments on the New Jersey Turnpike required stopping more black than white motorists. In the New
York Times Magazine article, tellingly entitled, "The Color of Suspicion," the author reports on the reactions of police officers in California, Maryland, Pennsylvania, and North Carolina to the brouhaha. Most of them were outraged. Sgt. Mike Lewis, a Maryland state trooper, with an outstanding record for drug arrests, said he was depressed, "The superintendent of the New Jersey State Police told the truth and he got fired for it... I don't care if the drugs go through. I don't." Other officers may have acted on that same feeling of demoralization. Back in New Jersey, as state and federal inquiries into racial profiling ground on, drug arrests linked to traffic stops took a dramatic downturn: In April 1999 state troopers arrested only 13 people on drug charges on the New Jersey Turnpike compared with 166 in April of 1998.

Higher-ranking police officers, including black police chiefs in Los Angeles and Charleston, South Carolina, also agreed that Colonel Williams had received a bum rap. Chief Bernard Parks of Los Angeles put it this way, "It's not the fault of the police when they stop minority males or put them in jail. It's the fault of minority males for committing the crime."

This argument about whether the police are unfairly targeting for harassment innocent citizens because they are identifiable as blacks or Hispanics or simply going about their difficult jobs in a reasonably efficient way cannot be settled by listening to the testimony of the police themselves. They are self-interested and, like all of us, better able to understand their own point of view than that of their critics. On the other hand, persons stopped and scolded by the police, given a ticket, or arrested are not objective witnesses either. It is not that they lie, although sometimes they do, as do presidents and philandering husbands; it is that, whatever they have done, they rationalize -- and therefore think of themselves as essentially innocent.

Thus, it should have occasioned no surprise that, when the U.S. Civil Rights Commission held a hearing on New York City police behavior on May 26, 1999, the headline in the New York Times the next day describing the hearing was, "Two Polar Views of Police and Race at U.S. Hearing." Mayor Giuliani and Police Commissioner Safir said that they could show that officers selected members of racial minorities to stop only because race was part of the description of perpetrators given by crime victims. The Reverend Al Sharpton said, "What you are really saying is that because victims say [perpetrators] are black, then all blacks become suspects."

An obvious way to resolve the contradictory perceptions is to get objective data on police behavior, but such data are very difficult--and costly--to obtain. To my knowledge, only the study of police behavior conducted by Professor Albert Reiss in the 1960s for the President's Commission on Law Enforcement and Administration of Justice meets scientific standards of objectivity. Therefore, although Reiss's data were collected more than thirty years ago, they may be able to throw light on the current controversy. Professor Reiss was given a large grant to find out how the police in large cities went about their jobs -- and especially how they decided to make arrests. Reiss conducted the study in three cities, Boston, Chicago, and Washington, D.C., as an observational study rather than an interviewing study with
police or with people who have had contact with police. How can investigators observe the police in action? Reiss arranged to employ graduate students or law students trained and paid by the project to ride along with police officers in their patrol cars on random eight-hour tours of duty; this method gave each time period an equal chance of appearing in the sample of observations.

A critical question in assessing the validity of the Reiss study is: will police officers behave differently because of the presence of observers than the way they ordinarily behave? Reiss assumed that, by and large, they would not. They might try to be on their best behavior for the first half-hour or so, but they would grow less self-conscious as they got more involved in the necessary activities required by their role and as they grew more used to the presence of the observer. (What the observer would do as soon as the tour ended and he had left his companion was to fill out pre-coded forms dealing with everything that happened, including conversations between them and any encounters between citizens and the police officer. A separate form was filled out for each encounter.)

How do we know that Professor Reiss's assumption was essentially correct that police officers behaved toward the public in the presence of observers pretty much as they ordinarily behaved? Mainly because data from Professor Reiss's book, The Police and the Public (Yale University Press, 1971), showed that the police did not bother to conceal from the observers or were unable to conceal from them substantial misbehavior, misbehavior that could have cost them their jobs or even a conviction for a crime. In 5,012 police-citizen transactions, which involved 13,939 citizens, "[p]olice officers openly ridiculed or belittled 5% of all citizens, and they were observed behaving in a brusque or authoritarian manner toward another 5 percent.... Observers judged the use of force to be excessive for only about 3 in 1000 citizens in these encounters" (p. 142). Even more serious were law violations by some police officers: accepting money to alter testimony, receiving money or merchandise from the crime victim when returning stolen property, taking merchandise from a burglarized establishment, giving no citation for a traffic violation in exchange for a monetary consideration. These were law violations; some officers also violated the strict rules of their departments by sleeping or drinking on duty, neglecting their duties, and falsifying reports.

The following anecdote from the study illustrates the process by which even discreditable behavior came to the attention of the observer: A Chicago motorist made an illegal left turn at an intersection where left turns were prohibited. The officer stopped the car and asked for the driver's license and registration. When the driver handed over the license and registration, he placed a $20 bill between them. At this time (1966), there was an informal tradition of small payoffs (bribes) to the police not to issue a ticket. The going price of a moving violation was $10. Why then did the motorist give the officer $20? He could not find a $10 bill in his wallet, and he did not want to waste his time at a traffic court. The officer, being honest within the framework that he lived by, did not want to take $20 for something that was supposed to be $10. But he didn't have $10 in his wallet either. So he turned to the
observer, pointed to a nearby bar, and asked him, as a favor, to go into the bar and get two $10 bills. The observer had strict instructions not to get involved, only to observe, but he didn't see any way out. So he changed the $20 bill into two $10 bills at the bar and gave them to the officer, who gave one of the $10 bills to the motorist and pocketed the other. At the end of the tour, the officer pointed out that he had made an unexpected $10 that day and wanted to take the observer out for a steak dinner. The observer felt that he was not supposed to eat the proceeds of a bribe, but he didn't see any way he could get out of it, so they had a steak dinner together, after which he wrote up his report. When Professor Reiss told this story to the chief of police in Chicago, the chief refused to believe it. "None of my officers is so stupid as to take a bribe in front of an observer." I find the story plausible.

Does the Reiss study have relevance for the charge that the police arrest or brutalize racial minorities today? I believe that it does. Why? Because thirty years ago urban police officers were largely white, were rarely drawn from the college-educated population, and were far less well trained. If the Reiss study were replicated today, surely it would find much less misbehavior than Reiss's observers found. Some police officers in the three cities studied by Reiss were blacks or Hispanics, but most of them were white; the influx of minority and college-educated officers into urban police forces was only beginning. It would not be surprising that white, relatively poorly educated police officers showed prejudice toward black citizens, and, according to Professor Reiss's observers, they did. In their conversations, many expressed contempt for some of the lower-class blacks they dealt with in poor neighborhoods. But the critical issue is not what they said but what they did. And in making arrests of persons being charged with a crime, the Reiss study did not find that they discriminated against blacks. The police were equally likely to arrest lower-class whites as lower-class blacks in situations where a judgment had to be made as to whether a person should be charged or not, although less likely to arrest middle-class citizens of both races. If there were any profiling, it was class-profiling, not race-profiling. And even social class was not as important an influence on the decision to arrest as the seriousness of the crime, the strength of the evidence, the presence at the scene of a complainant accusing the suspect, and the demeanor of the suspect toward the officer.

This finding should be taken seriously for two reasons. First, the observers were apparently able to observe a wide spectrum of police misbehavior. Some of the behavior they saw, if detected, would have placed officers in greater danger than discriminating against blacks in making arrests. Second, if police officers did not discriminate then, the impact of the cultural messages to accept diversity in the contemporary world would make them even less likely to discriminate now.

Important as discrimination and prejudice are, there is a broader issue: what is the fundamental relationship between the police and the public? Some critics of the police regard the police with a suspicion accorded to an enemy. But even in the 1960s the police, far from being the enemy of the public, were public servants in an immediate sense. Thus, Reiss pointed out that 87% of the encounters between the
police and the public were initiated by citizens rather than by the police (p. 11). Why did citizens call the police? Although one might assume that the police are called mainly by the victim of a crime or a witness, Reiss found that the majority of "calls for service" did not involve criminal activity. People, especially low-income people, call the police whenever an emergency occurs and citizens cannot solve the problem: a traffic accident, a lost child, a pet cat who cannot be coaxed down from a tree, mislaid car keys. Police deal with the problem as best they can. Sometimes they deal with it terribly. Instead of getting a seriously mentally ill person safely to the nearest psychiatric hospital, there is a struggle and someone gets killed: the sick person or the police officer or a bystander. If the sick person is killed or injured, the family is furious at the police.

Nevertheless, even though most police officers spend less of their time dealing with law enforcement problems than in controlling traffic, dealing with emergencies, and serving the community in various ways, like drug education in the schools (D.A.R.E.), the police think of themselves as crime fighters, and the public does too. So citizens are disappointed to learn that when crimes are reported to the police, the police often cannot solve them, especially crimes like burglary or theft where the victim does not usually see the perpetrator. Citizens are still more disappointed when the crime is a freshly committed robbery or assault and the victim has seen the perpetrator but perhaps cannot identify him. There is great pressure on the police from the public to arrest law violators. Paradoxically, one reason the police do not clear a larger proportion of crimes is that they depend largely on public cooperation; yet victims are often so traumatized that they take a half-hour to call 911 to report the crime. The police may arrive quickly following the call but the trail is cold. In short, the police are pretty good peacekeepers and social workers but only mediocre crime fighters.

But that doesn't mean that the police are completely helpless in the face of crime. Most criminologists believe that the substantial reduction of American crime rates in the 1990s was partly due to new tactics developed by the police to apprehend offenders and to get weapons off urban streets. For example, a big idea in criminal justice, a counter-intuitive idea that revolutionized police practice, is that a good way to prevent robberies, murders, and other serious felonies is to go after minor offenses. Thus, when William J. Bratton was chief of the Transit Police in New York City a decade ago, part of his strategy for controlling violence in the subway system was to order his officers to crack down on minor infractions -- fare beating, panhandling, graffiti, smoking, boisterous behavior. In the two years after the policy to control disorderly behavior in the subways was adopted, the number of felony crimes declined more than 30 percent. Why? Well, one out of every six fare-evaders stopped by the New York Transit Police in 1991 was either carrying a weapon or was wanted for another crime on an outstanding warrant. By paying attention to behavior that most people regard as not worth bothering about, the Transit Police prevented some violent crimes on the New York subways before they had a chance to happen.
The same principle applies to drug traffickers on the New Jersey Turnpike. They may well be driving a stolen car, speeding, or violating other traffic regulations. Consequently, stopping a motorist on the New Jersey Turnpike for a minor traffic violation has led to the seizure of major shipments of illegal drugs headed to Newark or New York and even to the apprehension of a wanted murderer. Recall that the Oklahoma City terrorist bombing might have gone unpunished had the Perry, Oklahoma, police not stopped Timothy McVeigh because he did not have a license plate on his pickup truck.

Some police critics argue that the police should not bother about minor traffic violations; they should concentrate on catching murderers, rapists, and armed robbers. Unfortunately, murderers, rapists, and armed robbers do not walk around wearing signs telling about their recent criminal activities. So, paradoxically, the best chance of catching such offenders is to catch them for less serious offenses. And since blacks and Hispanics are disproportionately the victims of serious crime, they have been big beneficiaries of the decline in crime rates that this policy helped to bring about.

True, there was a civil-liberties cost to enlarging the police net. The strategy of cracking down on fare-beaters on the New York subways snared (and embarrassed) passengers in a great hurry to get to appointments and afraid of missing their trains. Similarly, although the police have caught major drug traffickers by searching the vehicles of motorists stopped for traffic offenses on the New Jersey Turnpike, this success is counterbalanced by unsuccessful but intrusive vehicle searches of otherwise respectable citizens who made an illegal turn or drove faster than the speed limit. A disproportionate number of these were apparently blacks or Hispanics.

It is not clear why minorities were caught disproportionally in this net. It could have been that, even in the absence of an official policy to target minorities for extra scrutiny, individual troopers believed that blacks and Hispanics were more likely to be traffickers and acted on their belief without reasonable cause to make a stop. Unfair, yes, but not entirely unreasonable. Here is a more sympathetic interpretation of the disproportionate arrests of minorities on the New Jersey Turnpike: Much higher proportions of black children than white are born to single mothers and grow up economically and educationally disadvantaged. No surprise that some male blacks are more tempted to break society's rules than luckier white males. Although blacks are only 12% of the American population, they were in a recent year 56% of the nationwide arrests for murder, 42% of the arrests for rape, 61% of the arrests for robbery, 39% of the arrests for aggravated assault, 31% of the arrests for burglary, 33% of the arrests for larceny, and 40% of the arrests for motor vehicle theft. Why shouldn't they be over-represented in drug trafficking too, as the Drug Enforcement Administration has alleged? If so, the police don't need to be prejudiced to arrest a higher proportion of black and Hispanic than of white motorists stopped because of minor traffic violations; police simply have to know the telltale indications of a possible courier.
Are police the enemy or are they human beings who sometimes use bad judgment out of fear or anger? Public policy should not be made on the basis of police mistakes like the Amadou Diallo shooting in New York City where four white officers fired a lethal 41-bullet fusillade at an unarmed black suspect. All professionals make mistakes; surgeons operate on the wrong kidney, lawyers mess up cross-examinations, accountants overlook legitimate tax deductions. Fairness requires that mistakes be looked at in the context of the more numerous examples of good judgment.

But the police deserve extra leeway for mistakes because, unlike other professionals, they don't have the luxury of turning down unpleasant cases. If you call the police and tell them in a frantic voice that two armed men have just hijacked your car with your wife and baby in it, they can't reply, "That sounds like too difficult a problem. See if President Clinton can help you." They come despite personal danger, not only from criminal offenders but from paranoid schizophrenics who have not taken their medication, from suicidal persons about to throw themselves off a bridge, from quarreling spouses who are disturbing the neighborhood, from inebriated partiers who are getting out of hand. The buck stops with them. Are police the enemy? You gotta be kidding.

~~~~~~~~

By Jackson Toby

Jackson Toby, professor of sociology at Rutgers University, was director of the Institute of Criminological Research at Rutgers from 1969 to 1994.