SEEING GENDER DIFFERENTLY IN RACIAL PROFILING

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While the research and literature on racial profiling has grown substantially over the years, with strong evidence pointing toward systemic racism embedded within the police force and the criminal justice system, the experiences of racialized women, Black women in particular, have yet to be explored. Much of the academic scholarship in Canada on racial profiling focuses on the experiences of young racialized males as the targets and victims of police violence and brutality. However, Black women have also been, and continue to be, subject to racial profiling. The paper cites a number of incidences in which Black women were unjustly targeted and their rights violated by police officers.

While the literature and research on racial profiling has grown substantially over the years, with strong evidence of systemic racism embedded within policing and the criminal justice system in general, the experience of women of colour, Black women in particular, has yet to be fully explored. With the exception of a few, much of the literature in Canada on racial profiling focuses on the experiences of young Black men as the targets and victims of police misconduct. National attention surrounding incidents of police misconduct against women view them as isolated deviations from the policing norm. However, there is growing evidence that women of colour are uniquely subjected to racial profiling. The piece focuses on the marginalized experiences of women of colour in the discourse on racial profiling. While racial profiling is one of the most controversial topics in the criminal justice system, it illustrates the ways in which a dominant ideology can operate to exclude the narratives of women.

If the typical subjects of racial profiling are men, what happens to our common sense notions of police misconduct and, in turn, the community demands for accountability in law enforcement when we shift the center of focus on a group that has rely been seen as targets of racial profiling? Research in the United States has shown that women, particularly women of colour, are sexually assaulted, brutally strip searched, shot and killed by law enforcement officers resulting in racialized women "experiencing many of the same forms of law enforcement violence as men of color, as well as gender-and-race specific forms of police misconduct and abuse" (Ritchie, 2006,139). Though the experiences of women of colour have not been entirely absent from racial profiling discourse in Canada, one finds that the few studies that analyze the experiences of racially profiled women and how women are profiled generally reveal that women are profiled in gender-specific ways, for example, as suspected drug users, drug couriers and sex workers (Lawrence & Williams,

2006; Martin & Kuszelewski, 1997; Tanovich, 2011). However, there is little data that attests specifically to the experiences of Black women in the law enforcement practice of racial profiling.

By challenging the ways in which racial profiling has been understood, this piece questions why women have only been discussed in very limited ways in the dominant discourse on racial profiling, usually only to be heard as the voices offering support on behalf of their male counterparts. This is not to suggest, as data shows, that men are not more vulnerable to police stops, questioning, arbitrary detentions and illegal searches, rather by including the female experiences in a meaningful way one can gain a clearer picture of the impact of racial profiling, better understand the unique positioning of women as targets of gendered and racialized violence as well as the challenges of sexism and racism in the justice system in general.

Black women's narratives of law enforcement's practice of racial profiling have been the subject of discourse or organizing. There are a number of Ontario cases that have demonstrated the experiences of racially profiled women. For example, the 1993 incident involving Audrey Smith, a 37-year-old Jamaican tourist who was publicly stripped and searched in downtown Toronto, contributed to the heightened tensions between Black communities and Toronto police in the early 1990s. Smith was accused of having drugs in her possession and was immediately handcuffed and placed in a police cruiser. After being detained and her assertion of innocence being ignored by the police officers, Smith thought her only option was consent to a search, presumably at the police station. Instead, Smith was publicly strip searched on the busy streets of Parkdale. No drugs were found. In 1995, a three–person panel of inquiry cleared the three police officers of the discreditable misconduct charged.

In 2007, the Ontario Human Rights Tribunal ruled that a Black woman from Mississauga was the victim of racial profiling when she was subjected to an intense, verbal interrogation even after evidence revealed she had been wrongly accused. Jacqueline Nassiah was shopping for a bra at a Sears store in 2003 when she was stopped by a security guard and accused of stealing an item worth less than 10 dollars. The Tribunal found that a Peel Regional Police Constable assumed Nassiah did not speak English, ignored the videotape evidence exonerating her, and called for a body search when did not find the allegedly stolen items. After the second body search confirmed that she did not have the item, the investigation continued, lasting over two hours. Nassiah was subjected to verbal abuse when as the officer called her a "fucking foreigner" and threatened to take her to jail if she did not produce the item.

In 2008, Stacy Bonds, a 27-year old make-up artist with no criminal record, was questioned by two male officers (one who was White, the other Hispanic) on Rideau Street in Ottawa. One of the officers testified that he had seen Bonds with a beer bottle, speaking to occupants of a van. After checking her name and date of birth, the officers let Bonds go. Bonds asked the officers why they had stopped and questioned her. The officers told her to go home. When Bonds insisted on an answer, one of the officers placed her under arrest for public intoxication. After her street arrest and pat down search, Bonds was taken into custody.

Once in custody, Bonds was violently kneed twice in the back, had her hair pulled and was forced to the floor with a plastic riot shield in the police department's booking room. She was then strip searched in the presence of three male officers, a hand was shoved down her pants and she had her shirt and bra cut off. She was then left in a jail cell for a period of three hours partially clad and having soiled her pants. These events were captured on police station videotape. Justice Lajoie of the Ontario Court of Justice found "no reasonable explanation for the violent strip search of Bonds." In *R.v. Bonds*, the court held that the treatment of Bonds was "an indignity towards a human being" and "should be denounced."

In *Abbott v. Toronto Police Services Board*, the complainant, Sharon Abbott, a Black newspaper delivery woman was out delivering newspapers to a west Toronto neighbourhood when her erratic driving caught the attention of a police officer. Abbott alleged that she was followed by a Toronto police sergeant who acted aggressively toward her, pinned her to a police car, handcuffed her and held her for 45 minutes before issuing 7 tickets and releasing her.

Early one morning in 2007, Abbott was out on her route. At around 3:15 a.m., she parked her car by an apartment building on Glenlake Avenue in Toronto and went into the building to deliver papers. A Toronto police Sergeant was out on patrol that morning and passed Abbott's car. By this time, Abbott had exited the building and returned her car. The officer took down the license plate, and observed Abbott drive away. It was the officer's evidence that Abbott was not wearing her seat belt and did not signal when making a left turn. Aware that Abbott was a newspaper delivery person; the officer got out of his car and indicated that he wanted to speak to her. Abbott testified that, concerned that she might be the victim of an assault by someone impersonating a police officer, she started to call her husband. The officer repeatedly asked her for her driver's license and insurance. She advised the officer that she would not speak to him until she had a witness on the phone. The officer attempted to place Abbott under the arrest. A struggle commenced as he tried to handcuff her. According to the officer, they fell to the ground as they lost their balance. Crying out for help, Abbott maintained that the officer pinned her in order to handcuff her and that he grabbed her belt at her rear of her pants in order to get her back on her feet. During the struggle, both parties sustained minor injuries. Abbott sustained an abrasion over her left eye and cuts on the inside of her upper lip, as well as bruising from the handcuffs. Abbott

would be charged with seven offences under the *Highway Traffic Act*. She was acquitted of six of those charges.

In *Abbott*, the Ontario Human Rights Commission concluded that her race and/or gender played a role in Sergeant's "failure to take steps to try to de-escalate the situation":

> Racial discrimination, whether on its own or in combination with gender, involves the inappropriate exercise of power by a member of the dominant racial group over a member of what is perceived as a subordinate racial group. There is no doubt that the exercise of powered is inherent in the interaction between a police officer and any member of the public, given the powers that are granted to a police officer by statute. But this imbalance of power can be inappropriately exacerbated when it is layered on top of racial and gender dynamic.
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> In this case, I have tried to hypothesize White women out delivering papers in early morning h aving fairly routine traffic matters escalate into an arrest. I have been unable to do so.

These cases represent a persistent dilemma that confronts Black women's multiple identities as it illustrates the race and gender dynamic in an officer's decision to not stop, detain and ultimately arrest some of these women, but also to humiliate them. The gendered and racial stereotypes at play made these women more vulnerable to the police misconduct. This requires are more complicated analysis of racial profiling.

While racialized women's experiences with various forms of racial profiling has been brought to the public attention - such as the recent case of Mary McCarthy – these experiences are not well framed by the critical discourse that racial profiling has been built on. Why does the female experience in racial profiling matter? Silencing the gender-and-race specific forms of police misconduct reinforces the inequities in the entire justice system. When examining race and crime, the criminal justice process rarely considers how compounded identities such as gender (class and sexuality), might complicate matters and create distinct and varied experiences for those marginalized. The narratives of racial profiling illustrates that an intersectional critique is warranted. As David Tanovich points out, "the issue of gendered violence against racialized and Aboriginal women by police officers is an under-studied and litigated area in Canada" (2011, 149). These are some of challenges facing researchers and advocates who seek to ask where the female experiences are in racial profiling discourse. Until mainstream discourse on racial profiling integrates the realities of women of colour's interaction with law enforcement, voices of the most marginalized will continue to be silenced and their stories hidden. We cannot seek to provide answers to the impact of racial profiling on women through the lens of racism alone.

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