
The War on the Police

... and how it harms the war on terrorism.

BY HEATHER MAC DONALD

I've been amusing myself recently with the following experiment: I call up the most strident anti-police activists of recent years, people like Georgetown law professor David Cole, who argues that every aspect of the criminal justice system is racist. I ask these police critics the following question: Suppose that in the wake of September 11, the FBI decides to check out recent graduates of American flight schools to see who else may be plotting to use airplanes as weapons. Which students, I ask, should the FBI investigate—all of the would-be pilots, or a subset of them?

Without exception, I get the following answer: "The FBI should investigate everyone."

"Everyone?" I respond, "that's a big number. You'd be stretching the resources of the FBI dangerously thin. Wouldn't you look," I ask, "at a student from Saudi Arabia more closely than you would at someone from Kentucky?"

Nope, comes the reply. The FBI has to investigate everyone equally to avoid racism. A civil liberties law professor from St. Louis University even insisted: "I'm sure the FBI has the resources to investigate everybody."

Now I have drawn the following conclusions from my experiment: First, these self-described policing experts know absolutely nothing about police work. Any police investigation has to use known facts to narrow the scope of the inquiry, since manpower is finite. In this case, the FBI would be nuts *not* to use the nationalities and religious identities of the 19 hijackers to search for their co-conspirators among flight school alumni, since the hijackers themselves define their mission in religious terms.

Heather Mac Donald is a senior fellow at the Manhattan Institute and the author of The Burden of Bad Ideas: How Modern Intellectuals Misshape Our Society (Ivan R. Dee, 2000). This article is based on her recent Bradley Lecture at the American Enterprise Institute in Washington, D.C.

Yet despite their obvious ignorance, the police critics in my canvass and others like them have controlled the public discourse about law enforcement for the last half-decade, creating a public relations and policy nightmare for cops.

I also conclude from my experiment that if these professional police-bashers exert the same influence over counterterrorism as they have over domestic policing, we're all in trouble. Indeed, we may have missed an opportunity to avoid the terror of September 11 because of their baneful effects.

It seems worth exploring, then, the premises of the anti-police crusade and its implications for fighting terrorism.

Since the 1960s, anti-cop sentiment has been a fixture of elite American culture. Never did it reach the prominence, however, that has been achieved by the anti-racial profiling movement of the late 1990s. That movement is the most powerful assault on policing in decades, spawning fatuous presidential pronouncements and a spate of ill-conceived bills in Congress, the states, and localities. Nearly every week, police officers from across the country traipse off at taxpayer expense to sundry racial profiling conferences (I've been to a few myself) to hear how racist they are.

All this has been achieved without a shred of credible evidence that so-called racial profiling is a widespread police practice.

The anti-profiling juggernaut is based on a patent fiction: that all racial and ethnic groups commit crime at the same rate. Oh c'mon, you say. No one believes that anymore. Well, listen to New Jersey senator Robert Torricelli, who asserted in a Senate hearing in March 2000 (and you're going to have to use creative language skills to understand him): "Statistically it cannot bear evidence to those who suggest that certain ethnic or racial groups disproportionately commit crimes. They do not."

Such willful blindness lies at the heart of the racial profiling crusade. The debate around racial profiling is

ultimately a debate about how to interpret numbers—specifically, the high stop and arrest rates of minorities. The people screaming about racial profiling hope to persuade the public that if the police stop and arrest proportionally more blacks than whites, for example, it's because officers are racist.

But there's obviously another possible explanation: Blacks are stopped and arrested more than whites because they commit more crimes; so-called racial profiling has nothing to do with it.

To see how this debate plays out in practice, let's look at a statistic beloved of anti-police activists in New York. Blacks are 25 percent of New York City's population, but are the subject of 50 percent of the stop-and-frisks conducted by the New York Police Department.

Now this statistic provides clear evidence of police bias, as the activists claim, only if all groups commit crimes at equal rates.

But the facts are these: Blacks in New York are 13 times more likely to perpetrate a violent assault than whites, according to victim identifications of their assailants.

Blacks commit about 62 percent of the assaults in New York City, so they are actually being frisked less than what their level of crime would predict.

Crime data and community complaints about crime, not racism, send the police to minority neighborhoods; once the police are deployed there, so-called racial profiling would be useless, because most people on the street are of the same race. Instead, the police look at suspicious behavior and location—a known drug corner, say—in determining whom to stop. This is just good police work.

The arguments in the drug arena are just as specious. In April 1999, then-New Jersey governor Christine Todd Whitman famously accused the New Jersey state troopers of racial profiling on the highways. The value of this accusation to the racial profiling juggernaut cannot be overestimated. Only problem was, Whitman's allegation was based on junk science.

According to the state's data, black drivers constitute 53 percent of consensual drug searches conducted on the New Jersey turnpike, but only about 13 percent of the turnpike population. Again, this looks like racial profiling if whites and blacks transport drugs at equal rates. But if blacks are more likely to engage in drug trafficking than

whites, *and* if troopers can recognize the non-racial signs of a drug courier once they have pulled over a car, then a higher search rate for blacks merely reflects good law enforcement, and likely has nothing to do with race.

The Whitman study was silent on the question of what the actual incidence of drug trafficking is among different racial groups, so its conclusion that the police are searching "too many" blacks is worthless.

Is there evidence that minorities dominate the retail drug trade in this country? Absolutely. Police investigations and the resulting arrests consistently reveal minority control of local drug markets. Critics dismiss drug arrest data as a function of officer racism. But homicide data, which no one has yet had the gall to attribute to police bias, also demonstrate racial imbalance in the drug trade. The proportion of black

victims and killers in drug turf-war homicides—about 65 percent—actually exceeds the proportion of drug offenders in state prisons who are black—about 60 percent. Unless white dealers are notably more pacifistic than their

black counterparts, the drug homicide data suggest that blacks *are* in fact overrepresented among traffickers.

The second condition necessary to explain the higher search rate for black drivers is an officer's ability to detect drug trafficking from behavioral cues, regardless of race. And indeed, once the police have pulled over a car, they have plenty of color-blind ways to spot a drug vehicle.

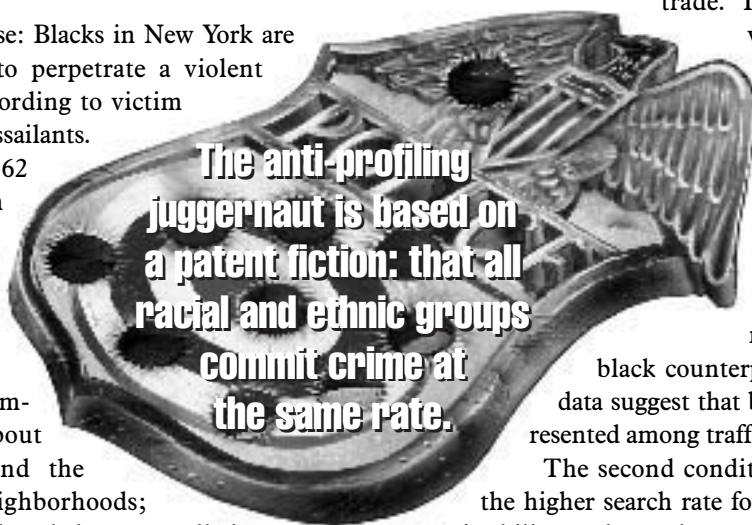
* Do the driver and passengers know each others' names, for example, or agree on their destination, origin, or reason for travel? Drug couriers almost never do.

* Is the driver nervous?

* Does his amount of luggage match his itinerary?

* Are there signs that the compartments of the car have been turned into drug and gun chambers?

The fact that the hit rates for finding contraband have tended to be equal on black and white drivers suggests that the police are using the same set of cues to search members of each group. If those cues correlate with black drivers more often than white, we shouldn't blame the police. Yet that is precisely what the anti-racial profiling crusade does, in an attempt to deflect attention from the overwhelming problem of minority crime.



To sum up, the first tenet of recent anti-police discourse is the false notion that crime commission is spread evenly across society.

The second is hyperbole. After the Rodney King beating, activists strove mightily to make police brutality a national issue. They ran up against a hard fact: Real police brutality—the conscious use of excessive force—is thankfully a rare, rare occurrence these days.

No problem; the anti-police crowd merely redefined the term to encompass anything they don't like. Thus, for the last several years, the press has routinely conflated stop-and-frisks and alleged racial profiling with brutality. Even asking questions of civilians in minority neighborhoods has been presented as a form of police abuse. The entire gamut of activist organizations has jumped on the bandwagon; Amnesty International preposterously denounced the United States in 1999 for police brutality, a cause it elevated over human rights abuses in China.

The result of this campaign against the police has been officer demoralization and unnecessarily strained police-community relations in minority neighborhoods. In those cities where the anti-police rhetoric has been particularly virulent, such as Cincinnati or Los Angeles, the cops have pulled back from discretionary activity, like getting guns off the street.

Crime has shot through the roof.

Unfortunately, it's not the American Civil Liberties Union that pays for police demoralization, it's the minority victims of crime. As I've discovered, in poor neighborhoods, law-abiding minority citizens are legion who see criminals, not the police, as the biggest threat in their lives, and who support law enforcement with all their hearts. The mainstream press, however, never seems to find them. Too busy running after Al Sharpton or Kweisi Mfume, I guess, for another incendiary quote.

Now the fictions and exaggerations of contemporary police-bashing, including the assault on racial profiling, would be bad enough if they resulted only in more domestic lawlessness. But I fear that they have also left us vulnerable to terrorist attacks.

In 1996, Vice President Al Gore chaired a commission on aviation security to strengthen airline defenses against terrorism. When word leaked out that the commission was considering a profiling system that would take into account an air passenger's national origin and ethnicity, among other factors, in assessing the security risk he posed, the anti-law enforcement, as well as the Arab, lobby went ballistic. The counsel for the ACLU fired off an op-ed to the *Washington Post* complaining that "profiles select people who fit the stereotype of a terrorist. They

frequently discriminate on the basis of race, religion or national origin."

Now when the author invoked the terms "stereotype" and "discriminate," the reader was supposed to shriek in revulsion and march on the FAA in protest. But can we turn off our exquisitely honed racism radar for a moment and consider the question of terrorist profiles with cold reason? The ACLU's counsel complains that "profiles select people who fit the stereotype of a terrorist." But a stereotype in this case is nothing more than a compilation of facts about who has attacked American interests in the past and who, given what we know about the networks that promote anti-American terrorism, is most likely to do so in the future. It is al Qaeda and its brethren that have defined themselves by religion and regional interest, not American law enforcement.

Islamic anti-American terrorism is *ipso facto* perpetrated by Islamists to avenge American imperialism in the Middle East. If we concentrate our investigation on Middle Eastern Muslims, we are not playing the odds, we are following the terrorists' own self-definition.

Such hard truths about the terrorist threat, however, violate the central precept of our modern discourse about crime and law enforcement: that all groups commit crime, or, in this case, terrorism, at equal rates. So the Gore commission dutifully abjured the inclusion of national origin, religion, ethnicity, and even gender in its recommended passenger profiling system. The result, the Computer-Assisted Passenger Profiling System, or CAPPs, now in use in U.S. airports, omits precisely those criteria that are the major predictors of a predisposition to anti-American terrorism. Instead, CAPPs looks only at such behaviors as cash payments for tickets, and one-way trips, behaviors which terrorists can easily change.

And the anti-law enforcement ethos of the time further emasculated the terrorist-fighting potential of CAPPs. Because questioning or searching someone is now seen as akin to brutality—even, apparently, when performed by private security guards—the CAPPs system was used until September 11 only to secretly screen checked luggage; the owner of that luggage could not himself be searched, for that would be discriminatory.

Had a fully rational profiling system been put into place instead of CAPPs, one that takes advantage of everything we know about anti-American terrorism, there is a chance that the September 11 plot would have been foiled. As it was, two of the September 11 terrorists were flagged that day, presumably because of their travel itineraries and method of payment, but, consistent with the rules of the system, only their checked luggage was scrutinized. Had they themselves been searched, security officials might have wondered why two Arab men already

under suspicion were carrying box-cutters, and looked further.

After the implementation of CAPPs, as the hijackers were learning to fly and casing their targets, the promoters of the equal crime and terrorism fiction busily kept up the pressure. Hussein Ibish of the American-Arab Anti-Discrimination Committee fumed in early 2000 that Americans were really hung up on this silly notion of Islamic terrorism. "Shadowy Arabs and Middle East terrorism fit into the mind of the media," he sneered. Of course an Algerian had just been caught with explosives to blow up the Los Angeles International Airport for the millennium, and Jordan had foiled other millennial plots against American interests in the Middle East. But we can't notice those facts, since doing so would contribute to stereotypes.

Islamic advocacy groups also incessantly complained about airport searches. The Department of Transportation penitentially ordered an audit of airline security checks, even though in all of 2000, only 15 Arab Americans actually filed discrimination complaints.

The results of that audit, performed last June at the Detroit Airport, remain a secret. It's not hard to guess why.

Let's assume that the audit shows that CAPPs still disproportionately selects people of Arabic ancestry, since it does flag passengers who have traveled frequently to terrorism-sponsoring states. Under the logic of the equal crime and terrorism fiction, the FAA would have to discard the travel criterion, since it is unacceptable that any group be shown to have a greater likelihood of terrorist associations than any other group. Before September 11, it is quite conceivable that the FAA would indeed have monkeyed with its passenger screening system until it created something that flags all groups equally.

Doing so, of course, would mean purging CAPPs of any remaining factors that actually do predict terrorism. No big deal—police and fire departments have long been forced by the federal government to discard any job qualifications that conflict with the goal of proportional racial representation in hiring. Thus, if black police applicants don't score as well as whites on cognitive tests, the answer is to race-norm the tests or get rid of them entirely. The University of California is about to discard the SAT for the same reason.

But after September 11, the FAA may be a little less willing to sacrifice safety for political correctness, so it is simply keeping the audit under wraps. On the other hand, even Dan Quayle was subjected to a full bag search recently at Ronald Reagan Washington National Airport, as a potential terrorist.

If indeed the FAA is having second thoughts about the imperatives of the anti-law-enforcement agenda, the primary keepers of that agenda have been totally unfazed by September 11. No sooner did the FBI begin investigating the attacks than the cries over racial profiling began, enthusiastically amplified by the mainstream media.

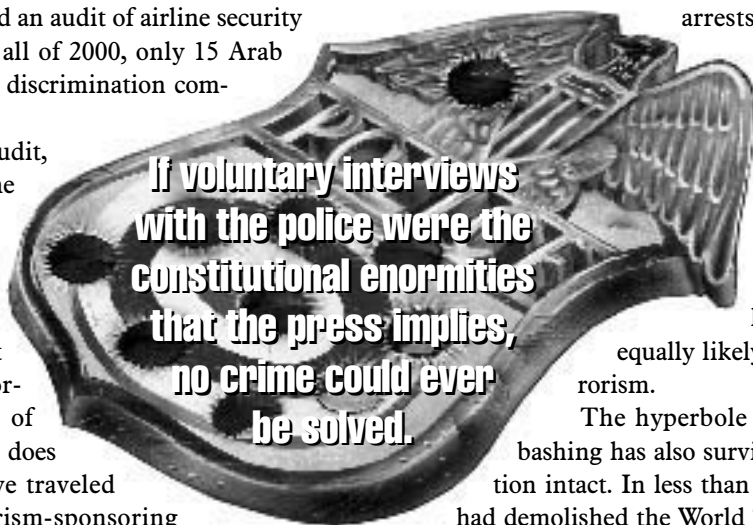
On September 21, the *New York Times* quoted unnamed civil liberties lawyers complaining that "there are signs of profiling in the pattern of arrests so far." In other words,

only racism explains those arrests. Absent FBI bias, imply the *Times's* sources, terrorist suspects would come in a rainbow of religions, nationalities, and ethnicities, because, as we all know, all groups are equally likely to commit crime or terrorism.

The hyperbole of contemporary police-bashing has also survived the terrorist destruction intact. In less than 24 hours after the planes had demolished the World Trade Center, newspapers and TV stations across the country started comparing America's likely response to the attack to the mass internment of Japanese Americans in World War II.

I asked University of Toledo law professor David Harris, easily the loudest voice in the anti-racial profiling crusade, whether the New York police could rationally choose to focus their terrorism intelligence-gathering on mosques in Brooklyn or Catholic churches in Bensonhurst. "Why would I want to speculate on that?" he shot back, ducking the question. I asked discrimination law professor Melissa Cole if there's an equal chance of a Scandinavian and Arab Islamic cell member. "I don't see why not," she said brightly.

One of my favorite headlines came on September 24, in the *New York Times*: "War on Terrorism Stirs Memories of Internment." This, at a time when the government had detained 75 immigrants, or .001 percent of the Arab population in the country. The cumulative total of detainees



is now a little over one thousand, or .03 percent of the Arab-American population. A “vast dragnet,” screams the *New York Times*. I think it unlikely that we will be reading about mass deportations any time soon, however.

The fury over the detention of suspects was nearly eclipsed, however, by the uproar over Attorney General John Ashcroft’s plan to interview 5,000 young males who arrived from terrorism-sponsoring states over the last two years. That’s .1 percent of the Arab-American population.

A “dragnet approach that is likely to magnify concerns of racial and ethnic profiling,” brays the ACLU. Not a day passes when the media do not righteously report the indignation and supposed panic that this plan has stirred in the Muslim community. The chair of the Islamic Mission of America denounced it as “encroaching on my civil liberties.” Hussein Ibish compares it to McCarthyism—always a crowd-pleasing analogy with the left.

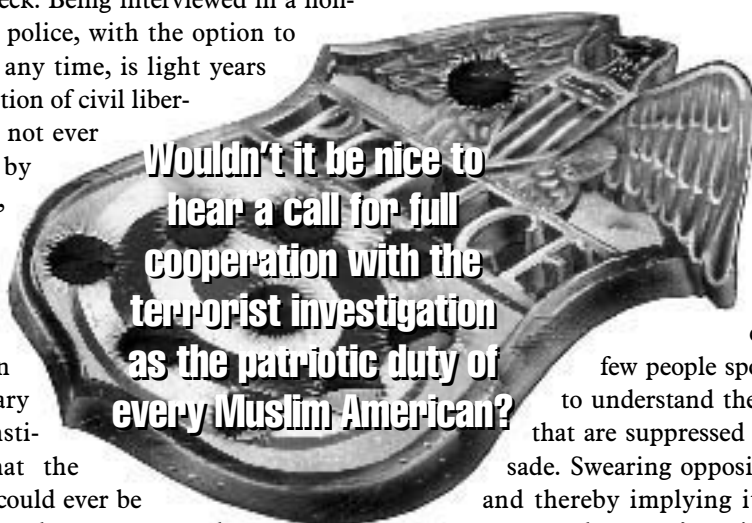
Time for a reality check. Being interviewed in a non-custodial setting by the police, with the option to cut off the interview at any time, is light years from constituting a violation of civil liberties. No one has a right not ever to be asked a question by the police. (Of course, the immigrants whom Ashcroft wants to talk to are not even American citizens, but we’ll leave that objection aside.) If such voluntary interviews were the constitutional enormities that the press implies, no crime could ever be solved. The police have always canvassed local communities for leads after serious felonies. Now, however, the anti-law-enforcement lobby and Muslim advocates want to deny the FBI that basic law enforcement tool after the bloodiest crime ever committed on American soil. What would the ACLU and the Arab lobby have the government do—sit back and just hope that no one is planning another catastrophic attack?

Perhaps if the spokesmen for the Muslim and Arab communities had exhorted their people to come forward and help the government early on, the FBI would not need its canvass. But from September 11 forward, Arab-American and Muslim leaders have played victim politics, portraying the Arab-American community as the object of American bigotry rather than as a critical participant in the war on terror. They have done so by exploiting the twin pillars of contemporary anti-police rhetoric—the fiction that all groups commit crime at equal rates and the hyperbole that casts any action by the

police as hostile and lawless.

It’s not too late for the leaders to change their tune—wouldn’t it be nice to hear a call for maximum cooperation with the terrorist investigation as the patriotic duty of every Muslim and Arab American? I wouldn’t count on it, however. Victimology is too ingrained a habit in American culture today.

So far, Attorney General Ashcroft appears admirably indifferent to the hyperventilating anti-cop crowd as he plots his post-9/11 strategy. But don’t assume that some corners of the government are not second-guessing themselves about potential political fallout. The Immigration and Naturalization Service, for example, has made no effort to track down Middle Eastern visa violators unless asked to do so by the FBI, for fear of the racial profiling charge, reports the *New York Times*.



There is a lesson to be drawn from our current predicament: Bad ideas have consequences. We let them fester at our own risk.

As the campaign against the police gathered steam in the 1990s,

few people spoke up against it, or tried to understand the complexities of policing that are suppressed in the anti-profiling crusade. Swearing opposition to racial profiling—and thereby implying its existence—became an easy way to show one’s racial good faith, even if the swearer had not the slightest idea whether cops really practiced it. Now a construct that was bogus from the start is intruding itself into a battle even more serious than the war on crime.

Before September 11, certain culture war disputes were beginning to seem routine and futile in their ritualistic repetition—I’m thinking of the battles over the multicultural curriculum, victim politics, and even women in the military. For every denunciation of academic trendiness, for example, colleges added three new courses in “America the Bad” or “Victims We Should Know.” But it turns out there were real-world stakes in those battles after all. Thus, the hot new book on campus is *Empire*, whose co-author is an actual terrorist, serving a sentence for his involvement with Italy’s Red Brigades. It turns out these curricular and cultural disputes are momentous and profound. You have to fight bad ideas, because you never know when they will turn into matters of life and death. ♦