



Racial profiling and random stops : Are we not a free society ?

OPINION

« Although public officials use high minded words to denounce racial profiling and promise reform, what they deliver is plenty of nothing. »



On June 22, Montreal Police Chief Fady Dagher rejected the recommendation contained in the final report of a study requested by the Montreal police on the matter of police stops and racial profiling, namely, that a moratorium be declared on any police stop that is not justified by the investigation of a specific crime or by the reasonable suspicion of illegal activity.

Dagher has stated that adopting this recommendation would amount to no more than a “**symbolic measure**”. That the real solution to the injustice of racial profiling lies in changing police culture.

Few would doubt Dagher’s commitment to reforming the Montreal police. But real change requires real action. Although public officials use high minded words to denounce racial profiling and promise reform, what they deliver is plenty of nothing. Consider our recent history.

On June 2, 2020, one week after the killing of George Floyd, Mayor Plante added Montreal’s voice to the chorus of North American politicians expressing righteous indignation over this senseless crime.

A crime brazenly committed by a police officer and rooted in systemic racism.

Mayor Plante stated that Montreal police would be equipped with body cameras “**as soon as possible**”. Implementation of this measure was to start in the fall of 2020.

Over three years have passed since that press conference — no body cameras in sight. Meanwhile the RCMP and Toronto began equipping their police officers with body cameras, joining the ranks of other North American police forces that have considered body cameras standard police gear for years.

Body cameras are not a panacea to eradicating racial profiling. But there is no denying that this equipment would modify the behaviour of police officers in their dealings with the public.

On October 25, 2022, Superior Court Justice Michel Yergeau rendered judgment in the Luamba case that dealt a major blow to racial profiling by invalidating Section 636 of the Quebec Highway Safety Code.

A law that allows police to stop any motorist without being required to provide any reason for the stop. A law that has given legal cover to “**driving while black**” interceptions of too many innocent racialized persons.



Racial profiling and random stops : Are we not a free society? (Continued)

OPINION

A law that has given legal cover to “**driving while black**” interceptions of too many innocent racialized persons. A law supported by a 1990 split decision of the Supreme Court of Canada called *Ladouceur*. In his dissenting opinion Justice Sopinka aptly predicted that upholding this kind of legislation would breed racially driven police stops.

The term “**systemic racism**” did not exist in 1990. Instead of complying with the *Luamba* judgment and accept that after 32 years it was high time that *Ladouceur* be overturned, the Quebec government appealed the decision, assuring us years of further delay. Because in the words of our Prime Minister, “**we have to let the police do their job**”. Policing in Montreal needs to be reinvented. We need a new type of police officer and police leadership. We need to rethink the mission of patrol officers and the nature of their interactions with the population they are tasked to serve.

Changing police culture is long overdue but this will take at least a generation to accomplish. But embracing the goal of culture change, though laudable, should not become the rote response to those advocating for change now. Massimiliano Mulone, one of the authors of the final report, has rightly opined that we can work on the longterm goal of changing police culture but nonetheless immediately change policing practices that do not align with a respect for human rights and that enable racial profiling.

The two initiatives are hardly mutually exclusive. Rejecting a moratorium on random street stops and solely focusing on culture change ensures that the pace of reform will continue to be glacial.

Random police stops are unlawful, having no basis in law. Section 7 of the Canadian Charter of Rights and Freedoms guarantees that everyone has “**...the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice**”. This section enshrines our right to be left alone. The right to pursue our lives as we see fit and not to be interfered with so long as we respect the rights of others. It is hardly radical to require that a police officer have a reasonable suspicion of the commission of a crime as a condition precedent to stopping anyone as they walk or jog in public. There should be nothing random about violating a person’s Section 7 Charter rights.

It is commonplace for police to randomly stop people to question them, demand and obtain their identification and record that information in police data banks in a dictatorship but not in a free society.

Are we not a free society?

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