

police brutality.

part two: misconduct and the marginalized

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The US History Encyclopedia defines police violence and brutality as a form of police misconduct that constitutes intentional use of excessive force by police officers. Force should only be used up until the point of compliance, for a legitimate lawful purpose. Other forms of misconduct can include false arrest, racial profiling, intimidation and police corruption. Throughout history, race and class discrimination have laid the groundwork for ongoing policies and prejudices that still exist in current times. As a result, police violence and impunity remain publicly sanctioned means of social control, perpetuating race and class stereotypes and the ongoing criminalization of those most marginalized in Canada. How do police use race and class profiling to criminalize marginalized communities and then rationalize all levels of violence, including death, when “policing” our streets? By considering some cases from the Montreal area, this paper aims to delineate connections between race and class profiling in everyday police patrol and activity, and to consider some possible means of address.

There have been over 60 deaths caused by the Montreal police since 1987 (Flics-assassins), most of which have been visible minorities or economically impoverished people. The institutionalized logic that people at the bottom of the social and economic classes are the first to commit crimes is the dominant discourse informing everyday police work, judges' decisions, and many other public service departments. Skin colour is closely tied to one's position in society, and those marginalized by race and class are also often seen as disposable and inferior (Tator & Henry, 2006, 10). "Racial profiling" refers to police behaviour based on stereotypes and prejudices, and refers to the discretionary authority of the police to control racialized minorities.

Mohamed Anas Bennis was walking home from morning prayer at his nearby neighbourhood mosque on the morning of December 1, 2005 when he was shot by a Montreal police officer. The officer claims that Anas attacked him with a kitchen knife, although no evidence has been shared to support this claim. The authorities are withholding valuable video footage of the attack, something the family has requested repeatedly to help shed light on the incident. The family is still waiting for a public inquiry into Anas' death; they are asking for the release of investigation reports concerning his death, a full public independent inquiry, and an end to racial profiling and police impunity (Bennis, 2010).

Quilem Registre, a Haitian-born Montrealer, was tasered six times in the span of 53 seconds, and was the second person in a week in Canada to die as a result of being tasered. He died in hospital on October 18, 2007, just four days after Robert Dziekanski died at the Vancouver International Airport. Medical staff at Sacré-Cœur Hospital were initially told that he was in a motor vehicle accident, and did not treat him for the taser injuries that were unknown to them. He suffered cardiac arrest, and coroner Catherine Rudel-Tessier stated that "multiple electrical shocks possibly contributed" to his death. No charges have been laid against any of the officers involved, and the family is still waiting for a public inquest (Registre, 2010).

Gladys Tolley was an Algonquin woman struck down on the side of Highway 105 by a patrol car just outside Maniwaki, Quebec on October 5, 2001. The family was informed of her death after the case was closed. The coroner made his report without even seeing Gladys' remains. The investigation was conducted by the brother of the officer driving the patrol car. The family is still struggling to receive data regarding her death, and continue to seek justice through independent investigative channels (Tolley, 2010).

Fredy Villanueva was just eighteen years old when he was shot to death on August 9, 2008. He was unarmed, playing dice with friends in Henri-Bourassa Park in the subdivision of Montreal North. The ballistics evidence shows traces of gunpowder on his shirt, estimating the gun that fired the shot that killed him to be within fifteen inches of him (Montgomery, 2009). Fredy's brother, Dany, who was one of the key witnesses to Fredy's death, is currently waiting for a hearing that will decide if he will be deported back to his native Honduras (Solyom, 2010). Following the police's investigation into the death of Fredy Villanueva, the Quebec director of prosecutions recommended no charges be laid for the officer that fired the gun. Ombudsman Raymonde Saint-Germain proposed the establishment of a Special Investigations Bureau, specifically so that the police are not investigating police misconduct, but Public Security Minister Jacques Dupuis rejected the report (Dougherty, 2010).

In each of these cases, racial profiling was present in the judgement to act by the police officers involved. The Ontario Human Rights Commission declared in a 2003 racial profiling inquiry report that "practical experience and psychology both confirm that anyone can stereotype, even people who are well meaning and not overtly biased (Tanovich, 2006, 14). Police officers and other law enforcement agencies may not even realize they are racially profiling. Our country's history of racism has laid the foundations of our institutionalized race-based judgements, which have linked racial groups to certain types of activities and stereotypes. This stereotyping has also been fed by the media, as well as through the misinterpretation of information in reports and studies by police and government agencies (Tanovich, 2006, 15).

Proactive policing means being able to identify what abnormal looks like before assessing what do in a given situation – this means that people tend to be categorized by how they look instead of what they are doing (Tator & Henry, 2006, 27). This is evident in police patrolling in Montreal and other Canadian cities, where police officers looking for crime will find it according to biased perceptions. They over-police poorer, more racially-diverse neighbourhoods, searching out crime (Pedicelli, 1998). In a survey of Toronto area high school students in 2000, non-white students were four times more likely to be stopped and six times more likely to be searched by police than the white students, even though none of them were engaging in illegal activities (Tanovich, 2006, i). Research also shows that in Canada police are more likely to use force when dealing with visible minorities and the poor, reflecting the institutionalized race and class biases ingrained in Canada's Criminal Justice System (Pedicelli, 1998, 20). There is more and more evidence of racial profiling in Canada, with one of the most recent being a UN report released in March 2010 outlining the poor treatment of minorities in Canada. Ms. Gay McDougall, the UN's Independent Expert on minority issues states:

The concerns included racial profiling as a systemic practice, over-policing of some communities in which minorities form a large percentage of the population and disturbing allegations of excessive use of force leading to deaths particularly of young Black males. Perceptions persist that the police act with impunity in some localities and that investigations are not conducted by independent authorities. Minorities feel that the justice system is failing them and that mechanisms of redress, including Human Rights Commissions are inaccessible, underfunded and under threat. It is essential that investigations into serious allegations of police misconduct are carried out by bodies that are perceived by the communities to be independent and that mechanisms of civilian oversight are established (McDougall, 2010).

Section 25 of Canada's Criminal Code states that an authorized law officer is allowed to administer use of force in the enforcement of the law, in self-defence, in defence of others, and in situations of arrest if it cannot be done with less force. It is not allowed if "unjustified" or intended to cause death or grievous bodily harm (Chappell & Graham, 1985, 35). This gives an incredible amount of power to police, without setting guidelines for what constitutes an appropriate or justified use of force. Issues of police misconduct and guidelines for reprimands need to be clarified. Officers involved in in-custody deaths must be held accountable and face consequences for their actions.

A thorough review of how police officers are trained could be a good place to start. In early 2009, two off-duty police officers in Vancouver were charged with the assault and robbery of a delivery man. They had asked the delivery driver for directions, assaulted him when he couldn't help them immediately, and took his phone so he couldn't call for help. One of the officers involved in the altercation was a use-of-force expert at the Justice Institute. In this case, his "use of force" involved punching Indian-born Feroz Khan three times in the head as he was out delivering newspapers. The officer was suspended, without pay, and lost his position at the Justice Institute (Hansen, 2009). Examples like this highlight not only the racial mentality of many working police officers, but also their inability to rationalize the consequences for their actions. The officers were charged with robbery, one served an in-house arrest term of three weeks, and both were able to keep their jobs. Khan, the victim of their unwarranted attack, was not able to return to work, and is now emotionally damaged and destitute (Hall, 2009). Changes need to be made in terms of punishments for police involved in cases of police violence, both in order to end race and class profiling and discrimination, and also to ensure that police are aware that there will be repercussions for their actions.

To make a significant impact, the processes of dealing with issues of police impunity must come from a place of compassion. The involvement of outside communities to come up with solutions in the instances of police brutality could be a positive approach toward coming up with a greater picture of healing, not only for the families involved, but also for the community as a whole. Community input could also help build accountability for injustices committed by police or other official institutions. Combined with stories of human experience and emotion, this could help to provide a more complete picture of each incident, rather than having the hegemonic race and class of society determining what the public will see and know about these incidents. Finally, the biggest impact toward accountability in cases of police brutality and impunity will come through external investigative bureaus that review each case brought forward, rather than through the same police departments that were involved in the initial complaints.

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