

Children, Cops, and Citizenship: Why Conservatives Should Oppose Racial Profiling

James Forman, Jr. *

"How can you tell US we can be **anything** ill/ley treat us like we're **nothing**?"
Sophomore, *Maya Angelou Public Charter School, Washington, D.C., 2001*

The Maya Angelou Public Charter School in Washington, D.C., is the kind of institution conservatives support—a place that offers opportunity but demands responsibility. Students are in school ten and a half hours a day, year-round, mostly studying core subjects such as reading, writing, math, and history. When not in class, they work in student-run businesses, where they earn money and learn job skills. Students who achieve academically are held in esteem not only by their teachers but by their peers. Those who violate the school rules are subject to punishment, including expulsion, as determined by a panel of students.

The school delivers a profoundly traditional message to kids: work hard and play by the rules, contribute to your community, and no matter what your background, society will give you a chance. As for race, the message is that our nation's history of racial oppression should be a motivation, not an impediment, to higher achievement.

The results have been impressive. The Maya Angelou student body is 98 percent African-American; over 95 percent of our students qualify for free or reduced lunch. Most Maya Angelou students have had academic difficulty at their previous schools. More than one-half had stopped attending school on a regular basis, and more than one-third had been in

the juvenile justice system. Yet more than 90 percent of graduates go on to college, compared with a citywide rate of just 50 percent. This success stems in part from the school's small classes, innovative curriculum, and dedicated staff. But it is also in part due to the school's conservative ethos: if you work hard and don't make excuses, society will give you a chance, no matter what your background is. Though Maya Angelou is the school I know best, I also know there are other adults, both in this city and in others, who are struggling hard to teach similar skills and values.

But what does it mean to preach these virtues if the government's most visible representatives in your community violate those rules routinely, and at your expense? Police officers are the principal arm of the state that inner-city kids see. With the exception of teachers, whom adolescents do not see as public officials, police officers are the government representatives with whom they have the most contact. This places an awesome responsibility on officers of the law, because how they treat young people, particularly in inner-city neighborhoods that tend to be heavily policed, will have a profound impact on how kids begin to see the state, society, and themselves.

Unfortunately, the news is not good. Since the early 1970s this country has increasingly turned to the criminal justice system as a solution to urban problems. The most striking result has been the huge growth in the nation's overall prison population between 1972 and today.' The costs of our increased commitment to incarceration are disproportionately borne by the African-American community. Increasingly, the same impulses that have led the nation toward accepting higher and higher incarceration rates have also fueled support for increasingly punitive approaches to policing. Here, too, communities of color are most directly impacted.

Most of the nation is now aware of the phenomenon of racial profiling. In state after state, statistical studies are showing that being black substantially raises the prospect of a person's being stopped and searched by the police.' Responsible law and order conservatives concede what is happening on the street to people of color.' These studies

From Mauer & Lind *Invisible Punishment: The Collateral Consequences of Mass Imprisonment* — 2002

confirm what black people (and, frankly, many police officers) have long known. As Henry Louis Gates has pointed out, stories of being singled out by the police are shared regularly within the black community.

Blacks—in particular, **black** men—swap their experiences of **police encounters** like **war** stories, and there are few who don't have more than one story to tell. Erroll McDonald [Pantheon Books executive director] tells of renting a Jaguar in New Orleans and **being stopped by the** police—simply to show cause why I shouldn't be deemed a problematic Negro in a possibly stolen car." Wynton Marsalis says, "Shit, the police slapped me upside the head when i was in high school. i wasn't Wynton Marsalis then. I was just another nigger standing out somewhere on the street whose head could he slapped and did get slapped." The crime novelist Walter Mosley recalls: "When I was in Los Angeles, they used to stop me all the time, beat on me, follow me around, tell me that i was stealing things." Nor does William Julius Wilson—who has a son-in-law on the Chicago police force—wonder *why* he was stopped near a small New England town by a policeman who wanted to know what he was doing in those parts.'

Some incidents take an almost comical twist, such as when the police targeted Paul Butler, an African-American law professor at George Washington University. Butler was walking home to his house in Washington, D.C., while carrying a copy of *Race, Crime and the Law*, by Randall Kennedy, perhaps the nation's most well-known African-American law professor. During the impasse between Butler and the officers, Butler asked for the opportunity to read from a section of Kennedy's book that discusses racial profiling. The officers listened, but they nonetheless refused to leave Butler's presence until his neighbor identified him as a resident."

These well-publicized cases, however, threaten to obscure an important reality. Celebrities and law professors can tell their stories and file lawsuits. But for the everyday black kid in the neighborhood struggling just to survive, being targeted by the police is not only more routine, it is more disempowering. There doesn't appear any way to fight back. These kids face officers who, as one admitted, "are willing to toss anyone who's walking with his hands in his pockets. . . . We frisk 20, maybe 30 people a day. Are they all by the book? Of course not; it's safer and easier to just toss people."

The "tossing" of kids happens with alarming regularity to Maya Angelou students. Here is a sampling of stories, each of which occurred on the corner of 9th and T Streets, NW, in front of our school, during the spring of 2001:

—On numerous occasions, officers have arrived at the corner in front of our school, thrown our students against the wall, and searched them. These searches are not polite encounters. They are an aggressive show of force in which children are required to "assume the position" (legs spread, face against the wall or squad car, hands behind the head). They are then searched by officers, who feel every area of their body. Our students have committed no crime other than stand outside of a school that is unfortunately in a high-drug neighborhood. At no point during these frequent searches have officers recovered any drugs, and none of our students has ever been found in violation of the law as a result of these stops.

—A few weeks after we began complaining about these incidents, another police officer chased one of our male students into the school, wrestled him to the ground, and then pulled out a gun. According to the officer, this was because the officer "knew this kid" from the past and believed he was a bad kid, likely carrying drugs. No drugs were found.

—Two weeks later, after one of our students refused to leave the corner in front of our school (the student was in compliance with school rules and D.C. law, taking a short break between classes), an officer grabbed the student and began to arrest him and place him into a police van. Only after a staff person came outside did the officer let the student go.

Liberals generally decry such incidents; conservatives generally deny that they take place. "The racial profiling we're all supposed to be outraged about doesn't actually happen very much," explained Jonah Goldberg in the *National Review*. "The idea that legions of law-abiding black folks are pulled over just for 'Driving While Black' is wildly over-hyped." And even those conservatives who admit the practice's frequency still insist it does more good than harm. "The evidence suggests," William Tucker wrote in the *Weekly Standard*, "that racial profiling is an effective

law enforcement tool, though it undeniably visits indignity on the innocent."

But conservatives who deny the reality of racial profiling or dismiss its importance are missing the fact that racial profiling profoundly violates core conservative principles. Conservatives, after all, are who remind us that government policy doesn't affect only resources; it affects values, which in turn affect people's behavior. This argument was at the heart of the conservative critique of welfare policy. For years, conservatives argued that welfare policies—such as subsidizing unmarried, unemployed women with children—fostered a culture of dependency.

If sending out welfare checks with no strings attached sends the wrong message, so does racial profiling. For the conservative ethos about work and responsibility to resonate, black citizens must believe they are treated the same way as white citizens—that with equal responsibilities go equal rewards. In *The Dream and the Nightmare*, which President Bush cites as one of the most influential books he has ever read," the conservative theorist Myron Magnet writes, "What underclass kids need most is an authoritative link to traditional values of work, study and self-improvement, and the assurance that these values can permit them to claim full membership in the larger community." Magnet quotes Eugene Lang, a businessman who promised scholarships to inner-city kids who graduated from high school: "It's important that [inner-city kids] grow up to recognize that they are not perpetuating a life of a pariah, but that the resources of the community are legitimately theirs to take advantage of and contribute to and be a part of."

Magnet is right. But random and degrading searches do exactly the opposite. They tell kids that they are pariahs, that no matter how hard they study, they will remain potential suspects. As one Maya Angelou student explained: "We can be perfect, perfect, doing everything right, and they still treat us like dogs. No, worse than dogs, because criminals are treated worse than dogs." Or, as another student asked me in pointing out the contradiction between the message delivered by the school and that offered by the police: "How can you tell us we can be anything if they treat us like we're nothing?" The stigma from this mistreatment

makes it all the more difficult for striving kids to achieve Magnet's laudable goal of "claiming full membership in the larger community." Not only do they not have full membership in the community, they do not have the most basic right to stand in front of their school or walk down the street without being searched.

These searches make those of us who are telling kids to do right look like dupes. Kids of color in inner-cities are pulled in opposite directions. On the one hand, there are teachers, counselors, youth workers, and other responsible community members who push, pull, cajole, beg, and otherwise do everything possible to keep kids on the right path. This group is doing just what conservatives welcome—we are addressing what conservative criminologist James Q. Wilson calls "the intangible problems, the problems of values," the problems that sometimes make "blacks less likely to take advantage of opportunities." Against this group is arrayed a variety of forces pressuring kids to choose crime and other irresponsible options. By treating kids who are trying to do the right thing as if they are hoodlums and thugs, police harassment reinforces the notion that the good guys are deluded, thereby undermining our legitimacy as role models. Why should kids believe anything we say if we are regularly proven wrong about something so fundamental? The police instead reinforce the legitimacy of those who teach young people that since the state will forever treat you as an outlaw, you might as well act like one.

Racial profiling also runs contrary to another conservative tenet: Everyone must follow the rules. If there is anything we preach at Maya Angelou, it is that rules matter. We say that students have to live by and be governed by a set of rules because as citizens in society we live by rules. Order and security depend on a community's commitment to abide by these rules. But these teachings are undermined whenever police stop and search innocent children. Teenagers have a general sense of how the police are supposed to treat them. While only some can name the specific constitutional command (the Fourth Amendment's protection against unreasonable searches and seizures), all are aware that the government does not have the unlettered right to search you when you

have done nothing wrong. These young people know it is wrong when the police shove and search them for no reason; they know it is wrong when an officer chases them into their school simply because the officer "knows" them from the neighborhood; they know it is wrong when the police arrest them because they have not heeded an unlawful directive to move from outside their own school. Yet police misconduct teaches them that the government violates these rules every day and that they have no recourse. If their government does not follow the rules, reason the students, why should they?

And then there is the question of color blindness. If there is a single fundamental tenet of conservative philosophy on race, it is that historic governmental discrimination against minorities has been eliminated (and that private discrimination has radically diminished)." Conservatives argue that given that racial discrimination is on the wane, continuing to focus on race is counterproductive. Against the backdrop of historic discrimination, it is essential, say conservatives like Abigail and Stephen Thernstrom, that we fight the "politics of racial grievance" and counter the "suspicion that nothing fundamental ha[s] changed."" Failure to do so will consign poor people of color to another generation of missed opportunity, *says* Magnet, because "when you believe that the government or the whole white race is waging genocidal biological warfare against you, how can you possibly see that opportunity is open to you? If you believe that the government is forcing blacks into such self-destructive acts as taking drugs and sharing dirty needles, how can you possibly think that you have the power or the responsibility to forge your own fate?" Seizing the day for the underclass means overcoming the victim mentality, understanding that there is a core fairness to the system that did not exist two generations ago, and acting accordingly. According to Magnet, society "needs to tell [blacks] that they *can* do it—not that, because of past victimization, they cannot.""

We will not convince young people of color that race is no longer an obstacle, however, when the government through the police teaches that it is. Students such as those at Maya Angelou are acutely aware that when they are searched and seized illegally, race has played a factor. They

know that police are not treating young people the same way across town at Sidwell Friends and St. Albans, schools for Washington's elite. They don't need Ron Hampton, executive director of the National Black Police Association, to tell them that "the way you police in an affluent white community is not the way you police in a poor black community."" That the police are the ones doing the harassing is all the more demoralizing for those who seek to move beyond the color line. For African Americans, mistreatment at the hands of the police is a historical fact with great resonance. By turning Magnet's "past victimization" into present victimization, the police undo efforts to move beyond race.

Conservatives should also be able to understand (and understand more quickly than liberals, who have trouble with this point) that police harassment of kids of color is a problem regardless of the race of the officer. For a host of reasons, including the fact that many police forces are only recently overcoming their segregated past, many mistakenly assume that racism is only an issue when the officers are white. The uncomfortable truth is that police harassment comes in all colors. As Ta-Nehisi Coates says in the *Washington Monthly*, "In more and more communities, the police doing the brutalizing are African-Americans, supervised by African-American police chiefs, and answerable to African-American mayors and city councils. In the case of [Washington, D.C., suburb] Prince George's County, the brutality is cast against the backdrop of black America's power base, the largest concentration of the black middle class in the country." "That's why the typical remedy of hiring more police officers will not by itself change practices. As Jill Nelson points out, more officers of color will not "somehow create a kinder, gentler police force, when evidence shows that, as often as not, the blue uniform trumps black or brown skin."" Changing the complexion of the officers won't make a difference, says Ron Hampton, "Not if we are going to send [black officers] through the same training academy that [white officers] have been going through. The policies and practices change when the philosophy changes. Why do we think that if we hire more blacks and women, that if we send them to the same institutions, that things will change?" In the meantime, black faces on officers doesn't change the

equation on 9th and T Streets. As one Maya Angelou student responded when asked whether black and white officers treated kids differently, "No, black or white, none of them know us, they don't know who we really are or what we're trying to do with our lives, they just see us and think trouble. You think they would try that stuff with white kids? Never."

In response to the random stops and searches the Maya Angelou students experienced this past spring, students organized a meeting with the local police officers. After students explained their perspective, the officers present responded by suggesting that students who wanted to be exempted from random seizures should wear large "Maya Angelou Public Charter School" identification cards in a prominent place on the outside of their clothing. Throughout the antebellum South, of course, any unsupervised black person was suspect, and in North Carolina, to make it easier for law enforcement, blacks who were not slaves had to wear shoulder patches with the word "free." It would trivialize slavery to equate those laws to the officers' suggestion of I.D. cards for students. Still, given our nation's racial history, it cannot be denied that a child's sense of victimization will not be quickly overcome as long as the government suggests that I.D. cards are necessary for black children to avoid being searched by the police.

So, what is the downside to changing how police treat minority children? Will taking a stand against police targeting of inner-city kids jeopardize law and order? No. Let me be clear: this is not a call for an end to policing, or for a relaxation of crime control. Nor do I suggest we abandon the many law-abiding minority community members who seek relief from neighborhood drug dealers and gang-bangers. Maya Angelou students also want to be protected from crime. But there is nothing inconsistent between wanting order and seeking a new approach to policing. We want the police in our communities *and* we want them to treat us equally and fairly.

Indeed, changing the way police do business may be the only way to achieve lasting crime control. Current police practices have created a level of hostility between police and communities of color that under-

mines community support for crime fighting. Imagine that you are seventeen, standing outside of your school during a break from class, talking to friends, laughing, playing, and just relaxing. Imagine that, for no reason, squad cars pull up, officers come out shouting, guns drawn, and you are thrown up against the wall, elbowed in the back, legs kicked apart, and violently searched. Your books are strewn on the ground. You ask what's going on, and you are told to "shut the fuck up" or you will be taken downtown. When it finally ends, the officers leave, no apology, no explanation, and you are left to fix your clothes, pick up your books, and gather your pride. Imagine that this is not the first time this has happened to you, that it has happened, in one form or another, routinely throughout your adolescence. Now imagine that the day after this latest random search, there is a crime in your neighborhood, about which you have heard a rumor. You hear that the police are looking for information, and you see one of the officers who searched you yesterday (or indeed any officer) talking to other people about the recent crime. What are you likely to think as you decide whether to talk to the officer? What are the chances you will cooperate with the police in their investigation?

Research indicates that if the same officers had gone about their business differently, they would get better results. As criminal justice professor Stephen Mastrofski points out, citizens care most that police officers are fair. Fair procedure is so critical that those who are treated fairly reported a stronger inclination to obey the law in the future. Indeed, procedural fairness is so important to people that it had a more powerful impact even than the outcome of the process. People also care about simple things like manners, and bad manners are among the most frequent complaints that citizens have about their contacts with the police. How police treat citizens with whom they interact is so important that citizens are more likely to be law abiding in the future when those who enforce the law do so respectfully."

The costs imposed on law enforcement by hostile policing are increasingly evident. Why did crime-plagued New York City public housing residents cheer accused murderer Larry Davis after a seventeen-day manhunt finally resulted in his arrest? Not because public housing resi-

dents support crime. They cheered because they resent the actions of the police. It is the principle of "the enemy of my enemy is my friend" taken to unfortunate lengths. As Randall Kennedy explains,

The communities most in need of police protection are also those in which many residents view police with the most ambivalence, much of which stems from a recognition that color counts as a mark of suspicion relied upon as a predicate for action—stopping, questioning, patting down, arresting, beatings, and so forth. This causes people who might otherwise be of assistance to police to avoid them, to decline to cooperate with police investigations, to assume bad faith or dishonesty on the part of police officers, and to teach others that such reactions are prudent lessons of survival on the streets!

The impact that racially based policing has on citizen involvement is tellingly told by Paul Butler, the African-American law professor who was followed by the police in his neighborhood. Butler reports that after his encounter, once the police determined that he resided in the neighborhood, the officers invited him to an upcoming neighborhood crime prevention meeting. Of course, Butler, himself a former federal prosecutor, is exactly the sort of person who would benefit his neighborhood by becoming involved in community action, including crime control. Conservatives know that community involvement from responsible citizens is the most important way to reduce crime. "The best defense against crime is not a thin, blue line, but a community of individuals respectful of others." This is because, as urban anthropologist Jane Jacobs explained over thirty years ago: "The first thing to understand is that public space—the sidewalk and street peace—of cities is riot kept primarily by the police, necessary as police are. Rather, it is kept by an intricate, almost unconscious, network of voluntary controls and standards established and enforced by people themselves."

Unwarranted racial harassment further hurts law enforcement by reducing the stigma that concerned neighborhood residents attach to seeing a person being detained by the police. The notion that a community together fights crime by keeping an eye out for those who are up to no good turns in part on an accurate assessment of who is potential trouble.

Historically, part of that assessment comes from watching whom the police are themselves eyeing, stopping, and searching. Random police searches undermine that calculus, for many black people now report that when they see the police pulling over a car with a black driver, or searching a black kid on the street, they no longer ask: "What did that guy do?" but instead wonder, "Why is that cop harassing that guy?"

Fortunately, while the problems with how we police inner-city communities are entrenched, there is reason to be hopeful. Empirical evidence suggests that when high-crime communities respect the police, crime goes down at least as much as it does when police bust heads. Look at San Diego. During the 1990s, San Diego police divided the city into small residential boundaries (according to a local captain: "We basically threw out the original beat boundaries. We went to the community and said, 'Where do you think your neighborhood boundaries really begin and end?'"). They assigned officers to those specific beats, engaged community leaders in an ongoing dialogue about how to solve various problems, and developed a corps of over 1,200 citizen volunteers who became the eyes and ears for the police.

Compare this with New York, which (particularly after Commissioner William Bratton, architect of the city's original police reform program, left) pursued an ultra-hard-line policy of "zero tolerance." That policy, as practiced by the city's now-notorious Street Crimes Unit, quickly became an invitation to hyperaggressive abuse. The Street Crimes Unit adopted "We Own the Night" as its motto, and some of its officers wore T-shirts reading, "Certainly there is no hunting like the hunting of man, and those who have hunted armed men long enough and like it, never really care for anything else thereafter." It was a deliberately antagonistic posture, one that contributed to the attack on Abner Louima and the killings of Amadou Diallo and Patrick Dorismond. And it has left many black New Yorkers profoundly alienated from the policemen and women who are meant to protect and serve them. In a 1998 Justice Department survey of citizen satisfaction with police in twelve American cities, San Diego was the second highest rated force; New York finished next to last.

But the important point for conservatives is that for all the ill will they

sowed, the New York police were no better at stopping crime than their San Diego counterparts. In fact, they were slightly worse. While homicide in New York fell 71 percent between 1991 and 1998, San Diego's results were even more impressive: a reduction of 76 percent—the best in the country. The same for robbery: it fell 60 percent in New York, but 63 percent in San Diego.' As Professor David Harris concluded after evaluating these numbers: "Making the streets safer does not require the sacrifice of the civil liberties of those in areas with crime problems." And because they enjoyed more help from average citizens, the San Diego police got those results with a much smaller force: the city has just 1.7 officers per 1,000, while New York has 5." In other words, it has smaller government—something else conservatives care quite a bit about.

And the San Diego experience is not unique. As Heritage Foundation fellow Eli Lehrer has shown, cities that have instituted genuine community oriented approaches to policing have seen crime decline while simultaneously developing stronger relationships with citizens. According to Lehrer, the most successful forces do not rely on iron-fisted special units like New York's, but rather invest in neighborhood patrols. When I brought up Lehrer's thesis to several Maya Angelou students, they thought it self-evident. "What do you expect?" asked one. "We know who is doing right and who is doing wrong, and if they talked to us instead of jumping us they might find out too." Such words could be music to conservative ears—but only if they are willing to listen.