



EDDIE GUY

The conservative case against racial profiling.

Arrested Development

By JAMES FORMAN JR.

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

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The results have been impressive. Most Maya Angelou students had academic difficulty at their previous schools. In fact, more than one-half had stopped even *attending* school on a regular basis before they came to Maya Angelou, while more than one-third had been in the juvenile court system. Yet more than 90 percent of its 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 due to its fundamentally conservative ethos: If you work hard and don't make excuses, society will give you a chance, no matter what your background is.

I can speak to this with some authority because I helped establish the school four years ago and still teach an elective there today. But, for all the school's accomplishments, we keep running up against one particularly debilitating problem. It's awfully hard to convince poor, African American

kids that discrimination isn't an obstacle, that authority must be respected, and that individual identity matters more than racial identity when experiences beyond school walls repeatedly contradict it. And that's precisely what's happening today thanks to a policy many conservatives condone: Racial profiling by the police.

The prevalence of racial profiling is no secret. Numerous statistical studies have shown that being black substantially raises the odds of a person being stopped and searched by the police—even though blacks who are stopped are no more likely than whites to be carrying drugs. As David Cole and John Lamberth recently pointed out in *The New York Times*, in Maryland “73 percent of those stopped and searched on a section of Interstate 95 were black, yet state police reported that equal percentages of the whites and blacks who were searched, statewide, had drugs or other contraband.” Blacks were actually far *less* likely than whites to be found carrying drugs in New Jersey, a state whose police force has acknowledged the use of racial profiling. According to Cole and Lamberth, consensual searches “yielded contraband, mostly drugs, on 25 percent of whites, 13 percent of blacks and only 5 percent of Latinos.”

Behind these statistics are hundreds if not thousands of well-chronicled anecdotes, some from America's most prominent black citizens. Erroll McDonald, vice president and executive editor of Pantheon publishing, was driving a rented Jaguar in New Orleans when he was stopped—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 be slapped and did get slapped.”

Even off-duty black police frequently tell of being harassed by their unsuspecting white colleagues. Consider the case of Robert Byrd, an eleven-year veteran of the D.C. police, who was off duty and out of uniform when he tried to stop a carjacking and robbery in Southeast Washington last March. After witnessing the crime, Byrd used his police radio to alert a police dispatcher, then followed the stolen van in his own. Byrd got out of his van as marked police vehicles arrived. According to Byrd, white officers then began beating him in the belief that he was the African American suspect. The real perpetrators were caught later that night.

None of these stories would surprise the students at Maya Angelou. Almost weekly this past spring, officers arrived at the corner of 9th and T Streets NW (in front of our school), threw our students against the wall, and searched them. As you might imagine, these 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. Police officers then search them, feeling every area of their bodies. Last spring, a police officer chased one male student into the school, wrestled him to the ground, then drew his gun. Another time, when a student refused a police request to leave the corner in front of our school (where the student was taking a short break between classes, in complete compliance with school rules and D.C. law), the officer grabbed him, cuffed him, and

started putting him into a police van, before a school official intervened. These students committed no crime other than standing outside a school in a high-drug-use neighborhood. Indeed, despite the numerous searches, no drugs have ever been discovered, and no student has ever been found in violation of the law.

LIBERALS GENERALLY DECRY such incidents; conservatives generally deny that they take place. “[T]he racial profiling we're all supposed to be outraged about doesn't actually happen very much,” explained Jonah Goldberg in his *National Review Online* column last spring. And even those conservatives who admit the practice's frequency often still insist it does more good than harm. “The evidence suggests,” William Tucker wrote in a recent issue of *The Weekly Standard*, “that racial profiling is an effective law enforcement tool, though it undeniably visits indignity on the innocent.”

In other words, liberals—who are generally more concerned about individual rights and institutionalized racism—believe racial profiling contradicts their principles. Conservatives, on the other hand—who tolerate greater invasions of privacy in the name of law and order—consider racial profiling to be generally consistent with theirs. But conservatives are wrong—racial profiling profoundly violates core conservative principles.

It is conservatives, after all, 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 (along with some liberals) argued that welfare policies—like subsidizing unmarried, unemployed women with children—fostered a culture of dependency. Only by demanding that citizens take responsibility for their own fates, the argument went, could government effectively combat poverty.

But 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 rights. 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: “[W]hat 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 Lange, 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 the 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 police searches radically undermine this message. They tell black kids that they are indeed pariahs—that, no matter how hard they study, they remain suspects. As one Maya Angelou first-

year student explained to me: "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 a junior asked me, noting the discrepancy between the message delivered by the school and the message delivered by the police: "How can you tell us we can be anything if they treat us like we're nothing?"

Indeed, people like myself—teachers, counselors, parents—try desperately to convince these often jaded kids that hard work really will pay off. In so doing, we are quite consciously pursuing an educational approach that conservatives have long advocated. We are addressing what conservative criminologist James Q. Wilson calls "intangible problems—problems of 'values,'" the problems that sometimes make "blacks less likely to take advantage of opportunities." But we are constantly fighting other people in the neighborhood who tell kids that bourgeois norms of work, family, and sexuality are irrelevant and impossible. Since the state will forever treat you as an outlaw, they say, you might as well act like one. Every time police single out a young black man for harassment, those other people sound more credible—and we sound like dupes.

THEN THERE'S THAT other vaunted conservative ideal: color-blindness. In recent years, conservatives have argued relentlessly for placing less emphasis on race. Since discrimination is on the wane, they suggest, government itself must stop making race an issue—i.e., no more affirmative action in admissions, no more set-asides in contracting, no more tailoring of government programs to favor particular racial or ethnic groups. In the words of affirmative action critics Abigail and Stephen Thernstrom, it's essential to fight the "politics of racial grievance" and counter the "suspicion that nothing fundamental [has] changed." Society, says Magnet, "needs to tell [blacks] that they *can* do it—not that, because of past victimization, they cannot."

But it's hard to tell young black men that they are not victims because of their race when police routinely make them victims because of their race. Students at Maya Angelou are acutely aware that the police do not treat young people the same way at Sidwell Friends and St. Albans, schools for Washington's overwhelmingly white elite. As another Maya Angelou first-year told me, "You think they would try that stuff with white kids? Never." Such knowledge makes them highly suspicious of the conservative assertion that blacks should forego certain benefits—such as racial preferences in admissions—because of the moral value of color-blindness. Why, they wonder, aren't white people concerned about that principle when it hurts blacks as well as when it benefits them? And racial profiling makes them cynical about the conservative demand that blacks not see the world in racialized, group-identity terms. Why, they wonder, don't white people demand the same of the police?

Most conservatives who support racial profiling are not racist; they simply consider the practice an essential ingredient of effective law enforcement. But it isn't. Indeed, the great irony of conservative support for racial profiling is that conservative principles themselves explain why racial profil-

ing actually makes law enforcement less effective.

For one thing, discriminatory police practices create unnecessary and unproductive hostility between police and the communities they serve. Imagine that you are 17, standing outside your school during a break from class, talking to friends, laughing, playing, and just relaxing. Imagine that squad cars pull up; officers jump out, shouting, guns drawn; and you are thrown 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, giving 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 repeatedly, in one form or another, throughout your adolescence. Now imagine that, the day after the search, there is a crime in your neighborhood about which you hear a rumor. You know the police are looking for information, and you see one of the officers who searched you yesterday (or indeed any officer) asking questions about the crime. How likely are you to help?

Racial harassment hampers law enforcement in another, more subtle way as well: by reducing the stigma that law-abiding neighborhood residents attach to a person they see being detained by the police. For a community to be vigilant, it must have some idea of who is—and who isn't—a lawbreaker. People generally take their cues on this from a variety of sources, including watching which people the police themselves stop and search. Then they keep a closer eye on those people themselves. But random police searches undermine that calculus. Many black people report that, when they see the police pulling over a car with a black driver or searching a black kid on the street, they don't ask: "What did that guy do?" They instead wonder: "Why is that cop harassing that guy?" The stigma of lawbreaking is weakened. Conservatives—usually the ones arguing for attaching more, not less, stigma to lawbreakers—ought to grasp this intuitively.

IN FACT, FOR all the conservative paeans to New York Mayor Rudy Giuliani, the data show that police forces that win the respect of high-crime communities reduce crime at least as much as those that simply bust heads. Look at San Diego. During the 1990s San Diego police divided the city into small residential units. (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 1,200 citizen volunteers who became eyes and ears for the police.

Compare this to Giuliani's New York, which (particularly after the departure of Commissioner William Bratton, architect of the city's original police reform program) 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 emblazoned with the

Hemingway quote: CERTAINLY THERE IS NO HUNTING LIKE THE HUNTING OF MAN, AND THOSE WHO HAVE HUNTED ARMED MEN LONG ENOUGH AND LIKED IT, NEVER REALLY CARE FOR ANYTHING ELSE THEREAFTER. It was a deliberately antagonistic posture, one that contributed to the attack on Abner Louima and to the killings of Amadou Diallo and Patrick Dorismond. And it has left many black New Yorkers profoundly alienated from the police officers 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's was the second-highest-rated force; New York's finished third 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. In testimony before the Senate Judiciary Committee, University of Toledo Law Professor David Harris said that "while homicide in New York fell 70.6 percent between 1991 and 1998.... San Diego's results were even more impressive ... a fall of 76.4 percent, the best in the country." Statistics were similar for robbery: It fell 60 percent in New York but 63 percent in San Diego. And because they enjoyed more help from average citizens, says Harris, the San Diego police got those results with a much smaller force: The city has just 1.7 officers per 1,000 residents, while New York has 5. In other words, smaller government—something else conservatives care about quite a bit.

And San Diego's experience is not unique. As Heritage Foundation fellow Eli Lehrer has shown, cities that have instituted genuinely community-oriented approaches to policing have reduced crime while simultaneously developing stronger relationships with citizens. The most successful forces do not rely on ironfisted 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 found 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 conservatives' ears—but only if they are willing to listen. ■



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