

**Authoritarian Criminology and the Racial Profiling Debate in Canada:  
Scientism as Epistemic Violence**

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**Abstract**

*The scholarly debate about racial profiling in Canada centres on the attack or defence of methods and conclusions. To date, the scholarly literature in Canada has largely excluded the debate about racial profiling as itself a site of inquiry. Focusing on the 2003 Canadian Journal of Criminology and Criminal Justice (CJCCJ) special colloquy that responded to the Toronto Star's claims that the Metro Toronto systemically engage in racial profiling, I use Agozino's critique of imperialist reason and Tauri's concept of authoritarian criminology to demystify how the CJCCJ and its authoritarian respondents engaged in a positivistic agenda setting 'discursive formation' rooted in scientific rationality. Further, I draw on the death of (white) sociology tradition to demonstrate that this discursive formation, rooted in the pretensions of scientific rationalism, constitutes both epistemic violence toward the colonized and people 'of color' while certifying scientific veracity as an embodied property of White middle class and system serving males. The tactic of criminological and legal positivists in this debate is to disqualify, subordinate, ridicule and ultimately invalidate the truth claims of racial profiling victims.*

**Key Word**

Epistemic violence, racial profiling, authoritarian criminology, European enlightenment, scientism

[Criminological]<sup>i</sup> research thrives on a low level of social unrest, widely diffused; but when, as in recessions and depressions, unrest changes from passive to active, when resistance breaks out in overt acts, in strikes, revolts, riots, and revolutions, then the weapons of the intellect, which [criminological] research supplies to the authorities become increasingly functionless. What counts as 'hardware' within [criminology] counts as 'software' for sovereignty. When the ruling class switches its funds from [criminological] hardware to the hardware of sovereignty, the [criminological] profession has little alternative but to retreat behind the line of truncheons, hoping the social organization of repression will be inefficient enough in the eyes of its masters to warrant [criminological] research, so that something, at least, can be salvaged (Martin Nicolaus, 1969: 384).

But it is also true that *official-knowledge* produced by social scientists can be *dangerous-knowledge* because it provides a powerful rhetoric to the officials

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that they use in achieving their goals... Then it is not merely the officials...who are suspect...but...also the 'scientists' who support the official policies and general perspectives [emphasis in original] (Jack Douglas, 1971: 77).

### Introduction

The *Toronto Star* released a firestorm of controversy when it published a 2002 multi-part report analyzing policing data it claimed demonstrated racial profiling. At issue is whether systemic racism accounts for major racial disparities in arrest, remand and discovery of 'out-of-sight' offences or whether criminality inheres in the colonized and people 'of color'. Reactions varied among those in academia, policing and society generally. Some denied the existence of racial profiling, claiming the allegation is "inflammatory rhetoric" (Gabor, 2004)<sup>ii</sup>; relatedly some, being more cagey, suggested racial profiling is a matter of appearances since, unfortunately, some groups call 'targeted' policing down on themselves by their greater propensity toward criminality or the incivility of 'broken windows' in their communities – read: 'good' law enforcement *can* be mistaken for racial profiling (Gold, 2003; Melchers, 2003). More recently is a third view rooted in symbolic interactionism. It is relativistic and power neutral. It claims that whether racial profiling exists is not as relevant as understanding the respective views of the police and negatively racialized communities (Satzewich and Shaffir, 2009). Finally, a slightly more critical view is that racial bias in policing is part and parcel of the historic racism that is pervasive in Canada (Tator and Henry, 2006; Tanovich, 2006; Wortley and Tanner, 2003).

Nowhere among Canadian scholars is the debate about racial profiling as distilled, caustic, and prolonged as in the pages of the *Canadian Journal of Criminology and Criminal Justice* (hereafter *CJCCJ*). In its pages, both the *Toronto Star's* analysis and the work of Canadian criminologists, who claim to demonstrate racial profiling, are ridiculed as 'unscientific' or 'inflammatory'. Contending that claims and counter-claims of racial profiling are confusing the public and, more importantly, that unjustified and "anecdotal" claims are irreparably damaging the reputation of the Toronto police force, not to mention the forces' capability/willingness to do 'their job', the *CJCCJ* has called for the restoration of confidence in the police and the system overall (Roberts, 2003).

Though it is a robust body of literature at this point in time, the scholarly debate about racial profiling in Canada largely centre on the attack or defence of methods and conclusions. Interventions in the debate, such as critiques over how the Ontario Human Rights Commission, a semi-autonomous state agency, strategically deploys the standard definition to appropriate the narratives of the oppressed and legitimize state ameliorative action (Williams, 2006), or how racial profiling is defined to more effectively enable racial governance (Murdocca, 2004), are few. It is noticeable then that the criminological literature in Canada excludes the debate itself as a site of inquiry. In the absence of a sociology of knowledge that takes the structuring of the debate as a site where conflict over the representation of reality is manifested, basic questions of power are excluded: how are knowledge claims

framed, by whom and under what terms; whose interests are served and how are they articulated; what is the genealogy of ideas used to sustain positions of denial and negation; and is the rhetoric of science appropriate to the task. I suggest, that given the agenda setting role of the *CJCCJ* and the response of its invited criminologists, whose perspective is 'authoritarian' (see Tauri, 2012), an examination of their narrative reveals the production of a positivistic 'discursive formation' (Foucault, 1972). My assertion is that this move constitutes epistemic violence and 'bad faith' toward the victims of racial profiling while structuring scientific rationalism as a property of White middle-class system serving males.

### **The Roots of Authoritarian Criminology and Epistemic Violence**

In order to contextualize the narrative and method of Canadian authoritarian criminologists in the debate on racial profiling as constitutive of epistemic violence, I must briefly do what most participants in this debate, pro and contra, have thus far failed to: articulate the philosophy, theory, and specificity of their own epistemological worldview. This is a vital and politically necessary act of declaring the foundations upon which one enters the contest over how to view reality more clearly and objectively. The objective of debate is to clarify, through critique and probing exposition, one's commitments and interests (Name, 1985). Facts and values, then, are declared upfront as one takes the stance of what Shapin and Schaffer (1985) call the 'informed stranger'. When, however, disputants take for granted the philosophical and theoretical foundation of their knowledge claims, as well as that of their opponents, the issue *appears* to be mired in confusion. Sadly, clarity of facts and values is not a consequence of *CJCCJ's* 2003 special colloquy, and for that matter its 2011 one. As a result, whether the disputants are conservative or liberal their shared commitment to positivism amounts to the narcissism of petty differences. That the antagonists in the final analysis share in common a commitment to scientific rationalism and natural law, leading to disputes over *how* to determine racial profiling and whether it exists, we are inundated with bourgeois disputations over citizenship and law and order. What is avoided, is the more substantive issue of *why* the 'how to determine racial profiling' is determined in the first instance by the imperialist reasoning (see Agozino 2003) of *European Enlightenment* moral philosophy and scientific rationalism – both of which treat 'crime' as objectively real and measurable. My concern, therefore, is not with liberal critics of racial profiling. Rather, it is with those whose views, a priori, define the debate because their facts and values conform to what Howard Becker (1967) called the 'hierarchy of credibility'.

The luminaries of the European Enlightenment, regarded as the 'classical school' of criminology, couldn't agree more with the epistemology of the dominant perspective in Canada's racial profiling debate. Hobbes, Locke, Smith, Rousseau, Ricardo, Montesque, Hume, Kant, Buffon, Bentham and Hegel, *inter alia*, were all beneficiaries and apologists of capitalism and white supremacy that inhered in

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European colonialism and slavery, be it of Ireland, northern and southern Italy (in Beccaria's case), Norway (in Linnaeus' case) or more commonly known geographies (Agozino, 2003; Ani, 1994; Eze, 1995; Mills, 2006, 2007; Simon-Aaron, 2008;). Despite the philosophes being members of a bourgeois social movement rather than anything resembling a 'school of criminology', their contribution to criminology is to be noted. John Locke, a forerunner of the Enlightenment, developed his labour theory of value to justify the land dispossession and enslavement of indigenous peoples in the Carolinas, with the enslaved Africans as a supplement (Simon-Aaron, 2008). Immanuel Kant, though never leaving Germany, pontificated on the inherent artlessness and stupidity of Africans. Since the Brandenburgers and other Germans were major slave traders, he claimed expertise to advise slave masters (the non-producers) of how to cure enslaved Africans of laziness through administering the lash of bamboo rods, just so to break the skin (which is really thick) (Eze, 1995). Toward producing docile labour, Jeremy Bentham in part developed the idea of the panopticon from the epistemological traffic between the metropolitan factory and the colonial/slave periphery (Davis, 1975). The four corners of the conquest-driven capitalist and white supremacist European world produced a specified body of knowledge that unhumanized and criminalized the colonized world 'of color' and called it 'science'. Ironically, while this 'science of man' cut its moral teeth opposing the wrongful conviction and capital punishment of one 18<sup>th</sup> Frenchman, Jean Calas, it had nothing to say about the routinization of genocide that paved the way for the White man's demographic explosion and his expropriation of the wealth of others (see Agozino, 2003).

The moral and political specificity of the *European Enlightenment* epistemological project, was to recognize the agency of *man* (White and propertied) and to free *him* from the clutches of despotic government via institutionalizing a regime of juridical equality. The hidden dimension of this largesse, however, was that it established patriarchy, property and white supremacy as the essential standard for what it meant to be human. The 'science of man' required that some be left out of its universalism as 'not yet fully human' but because of their inherent tendency toward mental/moral defectiveness and criminality. The sins of the enslaved and colonized included dissimulation, 'self-stealing' and outright forceful resistance to subjugation, dispossession. Deepening the impression in the sand left by Stanley Cohen (2007), and anticipated by Maureen Cain (2000) and Mark Brown (2001), Biko Agozino (2003) followed by Kalunta-Crumpton (2004), Kitossa (2014), and Tauri (2012) show that in the *Enlightenment* colonialist rationalizations of the 'science of man' lay the epistemological architecture for criminology.

Given this social history, criminology and the criminologist emerge as purveyors of a specialized body of knowledge that legitimates bloody force. Genocide, enslavement, imprisonment, massacres, and transportation of the colonized and the working classes, in the name of profit and power, were justified on grounds that either stern discipline was needed to 'correct' the savages or that, because they *are* savages, they are beyond humanizing: objects, things, whose lives were not worth living beyond their use value to capitalism, colonialism, and White male power. From whatever

epistemological tributary then – anthropology, biology, chemistry, history, philosophy, and statistics *inter alia* – the *European Enlightenment* stands as the grand river from which flows “western knowledge or epistemology...used to justify the violent exercise of political and military force over other non-western [peoples and ] cultures” (Morrison, 2003: 19). Through an epistemic architecture – that holds out non-western, poor, and working class peoples as objects for exploitation (capitalist, colonialist, and imperialist), cultural domination, and state violence – criminology and other colonialist epistemologies are deeply implicated in an archipelago of violence distinctive to the West since 1488 – the year Henry Infante of Portugal began slave raiding on the African coast. What is of particular significance in the formation and continuity of criminology is its ‘bad faith’ in perpetuating epistemic violence. Like its *Enlightenment* philosophical progenitors who argued for juridical equality but supported material inequality on the grounds that not all people are equally gifted to merit juridical equality, criminology is committed to a ‘regime of truth’ that grants practitioners of political domination epistemic cover. In effect then, criminology is not only a White man’s ‘discipline’ – it is a White man’s ‘discipline’ in the truest sense because only White men are constitutive of the scientific rationality upon which the ‘discipline’ is presumed to be built.<sup>iii</sup>

### **White Middle Class Male Embodiment as Scientific Rationality: Making Unmaking of Truth**

Through the project of ‘moral geography’, the *Enlightenment* philosophers appropriated the prior epistemological gymnastics of Greco-Roman scholars such as Aristotle, Galen, Pliny the Elder, and Pliny the Younger for the same purpose and effect – to justify empire and locate the capacity for specialized knowing (science) as an inherent property of White middle class males. Be it in antiquity or in the 18<sup>th</sup> century, ‘moral geography’ was an omnibus concept where natural and social science were undifferentiated cognitive practices and processes for how Greco-Romans and *Enlightenment* Europeans made sense of the world. The effort was to provide an exculpatory rationale for conquest that inhered in politically formulated epistemic dichotomies: beautiful vs ugly, civilized vs barbarian, democratic vs despotic, master vs slave, moral vs immoral, and rational vs irrational. The schema of ‘moral geography’ had regional valences that were co-determined by race, culture and/or color: all of which purportedly revealed the essential characteristics of whole groups of people. Nevertheless, just as *Enlightened* financiers loaned money to acquisitive war-mongering despots, aristocratic generals marshalled forces, and yeoman soldiers wielded new and deadly weapons produced by the brightest minds (e.g. Galileo), the philosopher marshalled the pen to construct images of the other, internally and externally, to be conquered for the benefit of the ruling class. In doing so the philosopher, later criminologists and sociologists, carved a special place of value to the administrators of power (see Douglas, 1971; Liazos, 1972; Nicolaus, 1969). In the process, the intelligentsia class not only became the carriers of

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western logic, reason, and rationality, they became a priest-class in whose body these cultural traits inhered.

In the context of 18<sup>th</sup> century 'moral geography', the body was the topography on which was played out the exercise of the mind as an object for determining essential non/human characteristics. Following the Cartesian logic, "I think therefore I am", which elevated abstract thinking to the highest level of human expression (Mills, 2007), the politics of Enlightenment exclusion of White women, the enslaved and colonized races, imagined the White middle class male body as 'scientific' rationality in action. But the specificity of that point was concealed by universalizing the idea that abstract thinking is the hallmark of humanness. The latter point was asserted by Hegel, Montesquieu, and others regarding the despotic Oriental as a culturally advanced but arrested human subspecies (Simon-Aaron, 2008). None more effectively dramatize the point than Kant, however. He contended that an Afro-German carpenter evidenced clear proof that he was stupid because he was black from head to foot (Eze, 1995). Such culture/race-intellect assertions carry the implicit contention that truth claims depend on the gender and race of the speaker. The tautology of the White middle class male as thinker (rational/human), established a regime in which truth (imagined as value-free facts) can *only* be achieved by White middle class males.

The tautological process by which the rational knower inheres in the identity of the White middle class male needs to be imagined as an act of cultural violence. To be sustained, it requires 'bad faith' and negation of the knowledge conceptions, reality, and worldview of women and people 'of color'. Violence, as Johann Galtung (1969) argued, is the absence of peace; to this extent, knowledge forms that are symbolically violent and which promote *actual* physical privations and killing, take their place as agents of injury just as well. Further, as Charles Mills (2007) suggests, it cannot be argued that the 'truth' or epistemology of the colonizer, or White people in a collective cultural sense, is equal to the truth or epistemology of the colonized or people 'of color'. To this end, the truths of the White male middle class colonialist *cum* authoritarian criminologist, who asserts that crime is real and an essential character of people 'of color' and the poor is not merely a lie, it is violence since lies violate the true beliefs that enable just recognition of the full humanity of entire groups marked as 'criminal' by their color or culture (Kitossa, 2009). Colonialist or hegemonic Eurocentric mythologies requiring denials of reality are, therefore, cases of what Charles Mills (2007: 6) calls "White ignorance". This is not merely a case of not knowing but of willful unknowing (Mills, 2007). How else to maintain the privilege of whiteness that accrues from excommunicating the racial 'other'?

For societies 'structured in dominance' ways of knowing are neither passive nor neutral. Rather as a matter of politics, knowledge derives from and shapes the milieu for social relations. For the powerful, when dominant ideology no longer persuades the colonized to submit, there is always force. This enforcement may take a variety of punitive and suppressive forms: be it lynching, demotions, unemployment, and negating the truth claims of the colonized to undermine policy

changes. Bodies clearly matter, both as objects of control and objects for the legitimation and production of veridical truth. On this point, the growing US scholarship demonstrating the gross underrepresentation of criminologists of color (Mann, 1993) in contrast to the hyper incarceration of African Americans and Latinos, exemplified the systemic exclusion of colonized/persons 'of color' in academic criminology.

As a result of the foregoing, and contrary to western scientific rationality, epistemology cannot exist without bodies being understood as carriers of prior and contemporary relations. In McLuhanesque form, the medium of the body is itself a message. To this end, academics 'of color' engaging with criminology are generally skeptical of hegemonic discourses on crime because of their ongoing penalizing encounters with whiteness. These scholars, according to the National Minority Advisory Council on Criminal Justice (NMACC), do not begin with the assumption that human behaviour is independent of relations and structures of dominance (both contemporary and historically). Thus, they tend to develop theories and research interests that "may challenge existing paradigms and institutions" (NMACC, 1982: 346). Naturally, governments and law enforcement institutions that require knowledge structured in dominance to justify their budgets and worldviews are not likely to fund research implicating them in the problems they claim to want to solve. Indeed, the professional and collegial ideologies of the criminological enterprise as well as research sponsors are likely to assume counter-colonial criminologists "...are too sensitive and subjective in cases related to other minorities. This assumption presupposes the existence of "value-free, objective research" (Ibid: 347). Vitally, the NMACC report continues, while academics of color continue to conduct research in spite of many systemic barriers, it is inescapable that "...many have had their findings 'neutralized' by challenges to the relevance of the results, merit of their research, and challenges to their overall job performance. Valuable investigations have been overlooked because of the criticisms directed toward current criminal justice practices" (Ibid: 348). Bodies, therefore, matter as sites for hegemonic and counter hegemonic discourses.<sup>iv</sup>

### **What the Toronto Star Said**

Having established that epistemic violence and truth claims of the elite are tightly bound with racial ontology in colonial/racist contexts, I turn my attention to briefly summarizing the findings of the *Toronto Star*. Then I will explore how, as a discursive formation, the *CJCCJ* crafted the terms for legitimating the testimonials of the authoritarian criminologists selected for its colliquy.

Through a Freedom of Information request, the *Star* analyzed the race impact of police discretion in arrest, motor vehicle stops and detentions. At issue in its analysis is the Metro Toronto Police's Criminal Information Processing System (CIPS), which between 1996 and 2001 recorded roughly 480,000 incidents that

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produced 800,000 criminal code and other offences. Race enters the record of incidence and prevalence because police officers record the race of suspects as they perceived it. To get an accurate picture of how race was connected to police decision-making the *Star* focused on simple possession charges as well as traffic stops. The latter is significant since out-of-sight charges, such as a suspended licence and driving without insurance arise therefrom. The reason for the *Star's* choice is that these incidents are highly discretionary: whether an officer will stop, arrest, charge or issue a summons for simple possession to motorists is not determined by statute but by common law as legally sanctioned forms of bias. To ensure the rigor of its statistical method and analysis the *Star* contracted the services of renowned social statistician, Michael Friendly.

For simple possession, the *Star* examined 10,000 arrests to determine the distribution of charges for Black, Brown, White, and "other" racial groups. Drawing on Toronto's census population data for the time, African Canadians were 8.1% of the population as compared to Euro-Canadians who were 62.7%. For simple possession, the police recorded the race of White people was 63.8%, Black people 23.6%, and 'other' 12% (Brown, Chinese and Far East Asian). The results indicate that White people were released at the scene 76.5% of the time but Black people 61.8% of the time. For those remanded in custody for bail, Black people were held 15.5% of the time but White people 7.3%. Accounting for factors that might influence discretion such as age, offence history, employment and immigration status, and whether the suspect had a fixed address made little difference for the outcome of the *Star's* analysis.

Nevertheless, the racial variance for out-of-sight traffic offences revealed an inverse ticketing pattern to simple possession. Second level analysis reveals a distinctive pattern of racial bias. The *Star* found that of 7,500 vehicle stops the police recorded skin color 66% of the time. Within that sample, White motorists represented 52.1% of all charges while Black motorists were nearly 34% of all charges. But, taking into account the aggregate census racial data and that African Canadian male motorists between 25 and 34 comprise just 7.9% of that cohort, they represented 39.3% of the charges for that cohort. In sum, the *Star* claimed that African Canadians generally and especially in the low income areas of the city could expect to be treated more harshly than White Torontonians. The *Star's* report was greeted by denials by the then police chief, Julian Fantino, and Police Services Board and howls of protest from the police union which launched a \$2.7 billion defamation suit (which was denied standing).

### **The *CJCCJ*: 'Discursive Formation' and Manufacturing Consent**

Academic journals are the life-blood of the professoriate and other specialists. They are outlets to demonstrate 'productivity', share research, and engage in debate, and are indispensable for professionalization (tenure, promotion, post-doctoral socialization and 'disciplining'). In their pages and through the (blind?) peer review process, peers meet on an "equal" footing to be assessed/judged as contributing sound empirical evidence and theoretical ideas. In an increasingly market driven



and competitive scholastic world, however, journals are ranked by their 'impact value' – some being standard bearers, often clearing houses for acceptable ideas that pass for core intellectual 'competency', while others stand on the margins, accessible to more iconoclastic scholars, no more mediocre than those at the heart of 'top tier' journals. Journals abound, therefore, because of the proliferation of "production", and, quite often because of disciplinary fractures, political divisions over the meaning and substance of knowledge in a given area and because subspecialist research may find no critical appreciation in hegemonic academic media. In the midst of increasing concentration of power by publishers who either own journals or control their access, journals are more than places where likeminded scholars and readers meet. The dual effect of standardization plus marketization in academia ensures that journals, whether by accident or design are power brokers for ideas (and careers).

The agenda setting function of journals takes on a unique dimension where criminology and criminal justice are concerned. Given its preoccupation with producing the latest empirical findings about 'crime control', such publications generally attend less to theory and more to 'scientific' management (Hirschi, 1993; Young, 2011). This effect has long been noted in Canada where the merger of criminology and criminal justice is largely seamless, if ever they were separate (Chunn and Menzies, 2006; Menzies and Chunn, 1999; Ratner, 1985).

In the case of Canada's *CJCCJ*, being a hybrid scholarly-enforcement-practitioner space in principle but not entirely in fact, its prominence as *the* space for legitimate expression of acceptable ideas in criminology (tolerated in the case of critical criminology) allows gate keeping and agenda setting to cohere. It is in this hybrid but largely system-serving context that the debate on racial profiling takes on significance. Given (inconvenient) theory takes second place and because the *CJCCJ*'s unique status allow it to set-out and frame when and which (important) debates and contributors are presented in its pages, choices appear naturalistic and value neutral. Troubling questions, however, never enter for public consideration. Such as: Why debate now and not before? Who makes the choice of whom to invite for the colloquy? What is the nature of the decision-making to include or exclude potential contributors? What is the ideological stance of decision-makers? And, how are the terms for the debate conceived and articulated as to appear value-neutral?

The significance of these questions is not that they politicize knowledge-making in the *CJCCJ*, which is already the case, but that they demand explicitness about the nature and meaning of that politic. By avoiding these questions and their implication, the *CJCCJ* is engaged in manufacturing consent about its political neutrality. Partially funded by Correctional Services Canada (Michael 2012: 86) and criminal justice associations across Canada, and, produced at the University of Ottawa, the *CJCCJ* is committed to popularizing the mystique that 'crime' is

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ontologically real. What is more, however, is that the *CJCCJ* fully demonstrates its utility to power by autonomously engaging in agenda setting that amount to what Michel Foucault (1972) calls a 'discursive formation'. Behind the façade of value neutrality, the journal presents scientific rationality as the basis for the 'discovery' of racial profiling. If, at all, racial profiling exists, it is framed as a purely technical matter to be managed at the discretion of public policy elites. In this context, that a 'discursive formation' is a political tactic in which knowledge is a tool that restores the utility of authoritarian criminologists in the eyes of their masters, it is necessary to safely restrict the debate in two ways: to the domain of specialist claims of scientificity and only to eligibles whose credibility inheres in their white middle class maleness and professional allegiance to authoritarian (or liberal criminology). The *CCJCJ*'s embeddedness in the power structure of approved knowledge-making ensured that it would set the terms of the debate in ways that represent the state as well-meaning but innocent victim to the false, incredible and misinformed claims of those whose racial embodiment constitutes criminality and parochialism.

### **Julian Roberts: Value Free Sociology, Scientism and How to be Neutral about Inequality**

It is an act of autonomy for the colonized and racially criminalized to name the ideology, repressive tactics, and surveillance techniques of the capitalist and colonialist state. The insurgency of 'subordinated knowledge' (Foucault, 1980) makes explicit the interests of victimized communities as against failings and mythologies of the liberal democratic state. The implications of the ruled so cogently articulating a counter-hegemonic narrative are clearly recognized as dangerous by Julian V. Roberts, who introduced the *CJCCJ*'s reaction papers to the *Toronto Star*'s 2002 series. He opines that should allegations of racial profiling be founded, "...public confidence in the police, and indeed, the justice system, will be dealt an irreparable blow" (Roberts, 2003: 344). Despite his role as arbiter of the debate between liberal and conservative criminological academicians, such anxiety is both shrill and implicitly aligned with the system. In a society structured in dominance to take *a* side, as Becker (1967) advocated, rather *the* side of principles, as Gouldner (1970a; 1970b) asserts, raises ethical and epistemological questions: Whose interpretation of reality should be recognized as objectively real for the oppressed? The police/state or Aboriginals, African Canadians and other racially marginalized groups subject to repressive social control? Given that dominant narratives are twinned with the repressive force that sustains inequitable social relations, how ought the struggle over narratives of reality to be resolved? Should narrative and policy resolution over repression occur through public demonstration arising from multiracial alliances and mobilization of the down-pressed or 'rational' debate in criminology journals? Or, is there another way?

For Roberts and the *CJCCJ*, *science* is the answer. There is of course nothing wrong with science, which has through the socialization of experiment played an important role in managing social conflict since the European Enlightenment (Shapin and

Schaffer, 1985). However, science and *scientism* are not the same things, though often confused. Natural sciences, Maurice Cornforth (1977) reminds us, “springs from ideas, or the knowledge, accumulated in the production process” (p.95). *Scientism* on the other hand is the socialized deification of an approach to science as though by means of quantification and technical definitions the vast domain of human experience and interaction, like molecules in a test tube, are quanta. This view, arising from but concealing class struggle, is a product of the needs of the ruling classes, elites, and the state to generate illusions that conceal the exploitative nature of social relations (Ibid: 109). As noted by Friederich Hayek (1979), of all people given his conservatism, what the scientist means by the study of objective facts and phenomena is that both the facts and the study of them are “...independent... of ...what men [sic] think or do about them” (p.39). Naturally, as objective phenomena, it makes a difference that molecules, radiation or stellar phenomena cannot talk back or communicate emotions and values.

Furthermore, while the neutrality of science occurs within culturally and socially acceptable conventions there is scope for heresies to become new and contingent ‘paradigms’ (Kuhn, 1970). *Scientism*, on the other hand, is a fetish, a religion of sorts that utilizes the rhetoric of the natural science and its methods to maintain extant relations and conceptions of reality (Douglas, 1970). Where dominant institutions have already at their disposal an influential and hegemonic ideal that depoliticizes *scientism*, resorting to the rhetoric of science as arbiter of societal conflict is a ‘discursive formation’. Thus, *scientism* emerges as a system-serving epistemological weapon to confound and disparage as unscientific and irrational the contestations of those whom the system is most desperate to control in mind and body. Sadly for Roberts, ignoring the distinction between science and *scientism* leads to making claims of neutrality that are entirely inconsistent with the social organization of inquiry in the social ‘sciences’. Now, as with F. A. Hayek (1979: 23), my disquiet is not toward “the methods of science in their proper sphere”, though this too is not unproblematic, but rather to the pretensions of *scientism* in its “slavish imitation of the method and language of Science” applied to what Biko Agozino (2010: i) calls the “control freak discipline” of criminology.

Given then *scientism* is in fact the medium by which Roberts and the *CJCCJ* imagine political conflict ought to be resolved, it makes sense that Roberts would hint the *Star’s* headline – “Police Target Black Drivers” – is irrational and suggestive of specious scientific inquiry. For Roberts the real danger is not accurately describing the existence of systemically required tactics of repression, but undermining *necessary* institutions such as policing. In a way as a foregone conclusion, contrary to the open-endedness he advocates, Roberts (2003: 344) posits research on racial profiling can be more *safely* conducted “(1) by individuals who have considerable experience in the area and (2) by individuals who have taken no *a priori* position with respect to the issue”. It can be inferred from Roberts’ criteria for the credibility

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and credible production of 'science' that Michael Friendly, hired by the *Toronto Star* to analyze its data, was both unqualified and disqualified by his ostensible *a priori* assumptions.

To resolve claims and counter-claims, Roberts (2003: 344) suggests "...a judicial inquiry, drawing upon a select group of researchers who are *clearly* impartial" [my italics]. While a judicial panel can be 'impartial', the question of how 'clearly' depends on the context and whose interests are dominant in the society. We know already that within a liberal democratic context the judiciary is selected by an executive that amounts to a committee maintaining a capitalist (and colonialist) social order (Mandel, 1994; Milliband, 1987). Whatever the nature of an impartial judiciary, the fact is such a body is already discursively and politically constituted to arrive at truths consistent with extant economic, cultural, and political arrangements. If, however, an 'independent' judiciary arrives at truths contrary to specific elements in the elite class, this is no more than to arrive at truths that defend the legitimacy of the system even when it appears the interests of the elite class is not being served (Hepburn, 1978). While such a panel might have the benefit of restoring faith that the state can subject its institutions to public inquiry and it might even restore the image of social 'scientists' as other than hired hands, this is no substitute for serious political engagement with the chief enforcer of social order – the police – and behind them the state, elites, and ruling class.

From Roberts' (2003) framing, 'impartiality' is both a question of epistemology and embodiment. Who decides who is "clearly impartial" and who is not? We may take as a hint that the contributors to the *CJCCJ's* 2003 colloquy would likely meet Roberts' standard for impartiality. All of these contributors are middle class White men. None will ever personally experience racial profiling, but such an existential fact is not a requirement. What is problematic is to have *only* White middle class men whose professional alliance is to criminology, be it authoritarian or liberal. What emerges is that identities of certain White middle class men are taken and framed as the *sine qua non* for impartiality and rationality. It cannot be overlooked that central to the journals 'discursive formation' is that experts 'of color' were excluded from the debate. Such exclusion is inexcusable given the availability of such contributors at the time. If nothing else, this exclusion confirms that the capacity to engage 'science' is racially inscribed in the Eurocentric cultural imaginary. Certainly there are limits to how many persons can contribute to a colloquy. The importance of the issue, however, demands quite serious inclusion of counter-hegemonic perspectives. Had a broader base of opinion been sought, Roberts might have been more convincing in his desire to enlighten a "...public [that] must be understandably confused by the wealth of claims and counter-claims with respect to [the] issue [of racial profiling]" (Roberts, 2003: 344).<sup>v</sup>

### **Alan Gold: A Scientific Disquisition on (Social) 'Science'**

Disclaimers are a useful self-presentation technique. They offer the prospect of restoring a damaged reputation, neutralize criticism that may arise from possible conflicts of interest, or simply promote transparency. Whatever the case may be,

objectivity, neutrality, impartiality, and transparency are watchwords that affirm credibility and expertise with the authority to speak and be heard. Given Julian Roberts' admonition for 'experts' that are 'impartial' and 'objective', readers of the CJCCJ's 2003 debate should be alarmed at the implications of Alan Gold's first disclaimer: "I am retained by Chief Julian Fantino on behalf of the Toronto Police Services" but "[my] commentary is written purely in my private capacity and reflects no one's view other than my own on a matter of scientific and educational interest and importance" (Gold, 2003: 399). Now, it is not that Julian Fantino's hired hand should not have the opportunity to expose his ideas to a discerning public. Yet, the most obvious fact of a conflict of interest should have set alarms ringing to the editor, Julian Roberts, that problems arise in the determination of neutrality where a consultant/lawyer is beholden to a chief of police overseeing a police force widely accused of systemic racism.

Further to that first disclaimer, Gold (2003: 399) seeks to affirm his expertise by disclosing that: "I am also the author of the recently published *Expert Evidence in Criminal Law: The Scientific Approach*". In an article that loudly trumpets Gold's scientific credentials, that he provides only *one* citation for his arguments, which he uses to condemn Scot Wortley and Julian Tanner, but he is never clear about the nature of his science, the discerning reader is deprived of the minimal demonstration that would confirm social 'scientific' rigor – a citation trail. If readers exercised the skepticism necessary to assess whether a claim is 'scientific', aside from wondering whether an essay with only one citation was ever blind peer reviewed, it is necessary to examine *how* the rhetoric of science is used as a currency to defend the state and engage in epistemic violence against the criminalized victims of colonialism and internal-colonialism.

What then does Gold (2003: 391) mean by 'good science' and how might he and his procedure be classified? Using his own criteria: a clear and concise understanding of the object under investigation; methodological rigor in terms of objective and reliable gathering of data; and, "...rational analysis..." of the data "...in order to draw sound conclusions". In order for racial profiling to be proven, then, there must be definitional concurrence on what racial profiling is in order to determine what is being measured and how. If we accept, that Gold is treating racial profiling as an objective fact only when there is consensual agreement, as when scientists agree on the molecular composition of water since the objective facts based on experiment are irrefutable, it is safe to say he is a positivist. To this end, if there isn't agreement on what racial profiling is, Gold asserts, it will be rather difficult to undertake a methodology to prove its existence. If we move toward classification of Gold and his "science" by submitting his argument to the rigor of the procedure he champions, his arguments are seen to rest on the rhetoric of "science" and not much more.

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Assuming that for social phenomena to be objectively real, therefore measurable, there must be consonance about their definition. To the extent that Gold assumes consensus and measurement are the basis for his determination of [social] “science” and moral phenomena (i.e., ‘crime’), he is a positivist. But, Gold’s positivism is not of the crass Lombrosian and Bayesian<sup>vi</sup> type used to justify statistical racial disparities. Rather, his positivism relies on a dissimulation technique that uses class as a proxy for race. Precisely because of his positivism, Gold is lead to reject profiling of whatever sort as ‘junk science’. Profiling, he argues, is unscientific because it depends on the biases and bigotry of the profiler who relies on an inkblot of vaguely defined characteristics to fulfil her/his own prophecy. Therefore, if the charge of racial profiling is to have any merit it is not a question of any systemic practice on the part of police forces but of individual bad apples. Indeed, following the principles that police forces are intolerant of bigotry and root it out when it rears its head, use their resources rationally, and objectively pursue enforcement on the basis of ‘good faith’ and due process of law, the assignation of racial profiling to a whole police force conflates bigoted individual police officers (i.e., bad apples) with the wholly separate context in which the ‘outcomes’ of law enforcement may have the *appearance* of racial profiling.

Racial profiling, then, according to Gold is ‘junk science’ and the Toronto police force does not condone it. Where then does the perception come from? To Gold, the emergence of racial profiling in Canada is an unfortunate import of the United States. This of course, he contends, is not to deny how important it is that the “anecdotal evidence”<sup>vii</sup> supports the claims of those who feel aggrieved by the perception of it. But, *anecdotes* and *facts*, says Gold, are two different things and the *Toronto Star’s* conclusions are less of the latter because it relies too strongly on the former. Aside, then, from US indoctrination, the mistaken belief in racial profiling can be traced to two home-grown sources. First, to liberal do-gooding media such as the *Toronto Star* who seek to increase circulation through anecdotes “...generally told by sympathetic victims of some injustice or other, accompanied by sweeping generalizations couched in emotional and provocative language...” of (Gold, 2003: 391). The second, relating to the first, is the amplification of false belief in racial profiling precisely because the media reports on it with increasing vigor. Yet, whereas the ‘cost’ of crime is usually increased budgets and militarization of policing, for Gold the costs of the mystique of racial profiling have no such salutary gain for the police or society. On the contrary, the wide-spread media led ‘conspiracy’ of racial profiling will not only harm community-police relations, it will have the distinct disadvantage that “Guilty [?] *accused*... may use every conceivable avenue to escape punishment” [emphasis added] (Gold, 2003: 392). Aside from an affirmative nod to an inquisitorial legal system and the abrogation of due process, Gold has no complaints when the news media routinely advertise a morality drama of good/evil that depoliticizes the liberal democratic legal system.

For Gold then, the determination of racial profiling must rest on evidence produced by science not ‘anecdotes in bulk’ such as that generated by the *Toronto Star’s* interpretation of bulk data recorded by the police themselves. The *Star’s* error we

are told is that 'its' data, both misunderstands the context of policing and makes erroneous conclusions from a flawed methodology. For Gold, the *Star* does not and cannot parse the police data to determine whether the facts that precipitate police detention of a suspect arise from 'reactive' or 'proactive' policing.<sup>viii</sup> Gold concedes that proactive policing may give scope for bigoted policing bias, but this cannot be the case for 'reactive' policing which is a response to calls from the public. We are told without substantiation that "It is really quite surprising how much police activity is in fact reactive and how little is proactive" (Gold, 2003: 395). To determine whether racial profiling occurred, the *Star* had to parse the totality of the police files in question to determine whether and how much of the arrests, charges and detentions were reactive or proactive. Further rigor is required to determine the validity of data collection by not cherry-picking. Basically, Gold argues, the *Star* erroneously took bulk police data as a random and representative sample of police-citizen contact rather than the sample being a reflection of police contact with citizens who warrant attention through 'reactive' policing.

Fundamentally, Gold's argument is that the *Star's* use of aggregate population statistics as a baseline for assuming police data are a random sample overreaches to conclusions the police data does not make possible. To warrant its conclusions the *Star* would need to use randomly generated comparative racial data on kilometers driven or walked prior to police-citizen contact, age of persons stopped/arrested, time of day/night and location – basically, the more a person is out in public and for longer, the younger, male and out at night, the more likely some other citizen will report them to the police for having broken the law. Gold suggests that even if all things were equal, statistically significant racial variances may still arise. This would not prove discrimination, only the "limits of our [statistical] ingenuity" (Gold, 2003: 398).

### **Ron Melchers: The Political Implications of Scientific Agnosticism**

Whereas Alan Gold's criticism of the *Toronto Star's* methodology and conclusions rely on crass scientism and the expert authority of one, this is not the case with Ron Melchers' contribution to the colloquy, though his commitment to positivism is no less apparent. Melchers undertakes a deep, wide-ranging and thoughtful evidenced based examination of the *Star's* procedure and underlying assumptions. True to the principle of organized skepticism, relying on carefully demonstrated proof, Melchers offers social statisticians, other experts and lay observers clearly articulated justifications for why he believes the *Toronto Star's* method is flawed, and, thus overreached the evidence to form its conclusions. Insofar as he is persuasive in demonstrating that the census statistics and police data the *Toronto Star* used are problematic in and of themselves, Melchers makes a sound argument that to combine statistically incommensurate categories such as *incidence* and *prevalence* strains confidence in any definite conclusion.

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The problem is that in so successfully deconstructing social statistics, one wonders why Melchers restricts his criticism to the *Toronto Star's* conclusions and not to the police who also use social statistics in similar ways when allocating resources and make claims for increased budgets, powers and militarization. Taken to its logical conclusion, Melchers' basic agreement with the adage that statistics can be used to prove anything actually undermines the basis for social statistics to justify *any* public policy for the distribution of human services. The *cordon sanitaire* Melchers draws around the *Toronto Star's* use of available data and methodological procedures demonstrate that the conclusions drawn from social statistics are not matters of science, but a function of the underlying dynamic interaction between worldview, ethics and values, and epistemological choices. Thus, while Melchers' critique of social statistics is impeccable, his reliance on the rhetoric of the scientific method and erroneous understanding of the criminal law lead him into contrary and paradoxical positions.

In the first place, Melchers' agnosticism about conclusively asserting racial profiling because the scientific method and the problematic nature of the evidence disable any certainty, stands in contrast to his admission that:

...some groups of Canadians – for example Aboriginal and African ancestry – have experienced and continue to experience discrimination in so many ways that it would be unreasonable for the consequences not to show up in virtually every aspect of society (Melchers, 2003: 362).

Such an admission raises problems for Melchers' agnosticism: first, the scientific method, given the problems associated with social statistics, ought not to be able to provide conclusive evidence for racial profiling one way or the other, so why bother at all with any social statistic; and second, by his admission that racial discrimination exists in society, it is clear the scientific method is not required to determine the existence of racial discrimination – so why then cannot racial profiling exist since it is merely a manifestation of racial discrimination? To stand, therefore, on the scientific fence and yet admit the existence of racial discrimination but then to exclude the institution of policing from the dynamics of pervasive racial discrimination in Canadian society is to make ethical choices for which Melchers is unwilling to be accountable. It should be obvious to Melchers that natural science or social studies inquiry cannot proceed without basic assumptions, unless, of course, he presumes that for conclusions to be valid researchers stand apart from the phenomena being examined. Indeed, as I will argue, Melchers sits on a scientific fence whose pitch lists so deeply to the perspective of the police that to claim racial discrimination exists in society but not in policing is not only fantastical double-speak, its ultimate logic disclaims the existence of discrimination altogether. Secondly, Melchers' *a priori* assumption that racial profiling is a mystification created by overfed media imaginations and flawed reasoning that mistakes 'anecdotal' evidence of racial profiling for good policing, forces him to concoct legal principles that don't exist.



Rather than belabor this essay with an overlong reproduction of Melchers' demonstration of the methodological problems with the *Star's* analysis, I will briefly summarize his concern with both the data and the *Star's* analysis. Melchers shows that of the 483,614 *incidents* in the police offence data management system more than 800,000 criminal code, statute and by-law charges were laid. Of the latter 301,551 were criminal code or drug offences. Melchers reminds readers that a variety of problems arise with the completeness of the records themselves, particularly since the more complete records identifying the perceived race of the suspect, among other things, is more likely with *incidents* that are either serious or for which followed-up is likely. Thus, for completeness and because they are good indicators of police discretion and out-of-sight charges, the *Star* examined 93% of the 10,729 ( $n=9,978$ ) *incidents* of simple drug possession and 63% of 7,511 ( $n=4,696$ ) *incidents* of traffic violation, respectively. Complete as these records may be, Melchers reports that between 1996 and 2001 when the CIPS was progressively implemented reporting was inconsistent because police divisions voluntarily submitted data. The foregoing indicates there are major sampling problems within the police data analyzed by the *Star*.

Melchers shows there is *base error* when a census population is compared to the number of *incidents* recorded in the database per racial group. For example, each Aboriginal person that may have been stopped is an *incident* and this is so for every separate occasion the same person is stopped. This is, however, different from a) how many charges were laid per Aboriginal per stop and b) the percentage of Aboriginals in the population (*prevalence*). Because *incident* and *prevalence* are measuring two different things to assume both are equivalent constitutes *base error*. Given that Melchers takes on trust the ontological reality of 'crime' and the truism that it is not randomly distributed, it is possible that within a specified ethno-racial group where more 'criminals' presumably abound, only a few individuals may commit the bulk of criminal offences. This may present the impression that a particular group has more 'criminals' than it really has. This is called *aggregate error*, but in terms of ethno-racial comparisons it is a relative matter. To demonstrate the point, Melchers provides an example: "a single address in a street block to which police are frequently called may result in an otherwise peaceful and law-abiding neighbourhood's being branded as 'crime ridden'" (Melchers, 2003:351). Aside from these errors, Melchers adds that census figures themselves, based on a random distribution of 1/5 of census long forms that gather information such as ethnicity and color, are imprecise measures of populations.<sup>ix</sup> Thus, ethno-racial groups can be larger or smaller than recorded census numbers.

As to the *Star's* analysis and claims to have discovered evidence of racial discrimination, Melchers suggests we enter the domain of *spuriousness*. That is, a statistically significant effect such as racial disparity can be attributed to incorrect sources. For example, according to Melchers, since 'crime' is neither random nor

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unique to particular populations, though this is an inherently contradictory proposition, a wide range of factors aside from discrimination must be considered. Variables such as whether the stop was a 'low' or 'high' discretion, time of day, type and condition of vehicle etc, the police may not be acting from bias but expertise and the requirements of the law. Therefore, good policing, resting on environmental scans that correlate "...the level of crime...[to]... allocate [the] deployment of police resources in a neighbourhood" will show statistical effects that may only look like discrimination. In addition to whether the stop was 'low' or 'high' discretion, more precise information is required to determine discrimination: how many kilometers driven, time of day, spatial distribution, percentage of drivers in the total population with specific self-reported racial characteristics that will be accurately perceived by police officers, perceived attitude of the driver, car ownership by age and racial group – in short, there is a vast domain of factors *The Toronto Star* did not include to which the disparity may be attributed. None of the foregoing hardly constitutes a basis to be deprived of liberty and in some cases life.

The number and weight of variables will therefore influence the procedure to be used. The problem is an insuperable one: "the results of these procedures, expressed as relations among different statistical probabilities, are notoriously difficult to interpret and translate into plain language explanations" (Melchers, 2003: 358). Consequently, given problematic data and confronted by a welter of unknowns (which can only be included if known?), social 'scientists' are "...to make only modest claims for explanations their observations enable them to exclude" (Ibid: 359). We are told then that confronted with "any number of equally valid explanations....[t]he best research can conclude in such cases is the modest statement that the possibility of discrimination cannot be excluded. In the absence of compelling evidence, to make any more ambitious statement goes against the scientific ethic" (Ibid: 363). Given Melchers' agnosticism, his logic could apply to the police's procedures and conclusions for mapping 'crime' distribution. By this logic the police's statistical procedures are as flawed as the *Toronto Star's* basis for its conclusions. Imagine police departments claiming the need to increase their budgets for a range of 'services' because of the statistical probability that 'criminality' cannot be excluded!

One might accept Melchers' agnosticism and scientifically pretentious critique of the *Star's* method and conclusion if one accepts the possibility of value-neutrality in any research endeavor. But, one need not accuse Melchers of bias or seeing only what he wants to see when he provides evidence that seems to undermine the arguments he spends so much care developing. Melchers poses the issue this way: if racial profiling cannot be scientifically confirmed because of flaws in the police data and the *Star's* methodological procedure, why does this false belief persist. Melchers gives readers four possibilities, but it should be noted the first two options appear to be little more than window dressing. First, "...because so many organizations have indeed done so, despite overwhelming indications of the folly of such approaches" (Melchers, 2003: 361). Second, there is "...scientifically credible studies that offer clear evidence that at least some members of some police organizations

have done so" (Ibid: 361). Third, because contrary evidence cannot be denied all the time, options one and two combined with the shop worn and casual argument that "whether or not racial profiling is officially sanctioned in an organization, the statistical results of police operations often look the same" (Ibid: 361). Finally, again dismissing the institutional and systemic implications of options one and two, Melchers suggests racial profiling is a mass delusion: a "...feed-back loop of self-fulfilling prophecy..." organized by media campaigns that certify to "minorities" disposed to believe in racial profiling that their anecdotes are valid (Ibid: 361).

To assume the *Star's* conclusions are hyperbolic while providing contradictory accounts for why the belief in racial profiling persists among 'minorities', the logic of Melchers' gymnastics leads to the troubling conclusion that he is obfuscating the ethical implications of his epistemology. More to the point, his scientific agnosticism about asserting discrimination makes him morally indifferent to suffering caused by state coercion and repression. Like Alan Gold, Melchers makes a tautological argument: non-whiteness and low social class equal crime and vice versa. Contrary to this view, self-reports notoriously show that 'crime' is randomly distributed in the population across class and race, though varying by gender, (Gordon, 1973; Reiman, 2013). This of course raises thorny problems of why the rich break the law conferred by Jeffrey Reiman (2013) calls the 'bonus of bias' – capitalism + preferential capitalist law – in addition to *a priori* systemic prejudice and capitalist 'externalities' borne by the masses of people. That aside, the concoction of a non-existent legal principle – 'high' and 'low' discretion – helps Melchers avoid evidence that 'crime' is mundane and unmarked by race. Yet, neither common nor statute law recognize any legal principle compelling the police to use their discretion one way versus another, save in rare provincial legislation requiring mandatory charges for spousal assault (see Report of the Commission on Racism in the Ontario Criminal Justice System, 1995: 101-2). Given, moreover, that, as various police exposés demonstrate (Juarez, 2004; Stamper, 2005), it is significant that police officers casually admit to using race as a "significant, if not determinative factor in deciding whom to follow, detain, search or arrest" (*Harvard Law Review* cited in Reiman and Leighton, 2013: 126).<sup>x</sup> In the Canadian context, African Canadian police officers in Toronto both admit to using racial profiling as well as being profiled by their white peers (Tanovich, 2006). It appears that racial profiling is not only deeply embedded in police culture but derives its logic from the objective and structure of policing in a capitalist and White settler colonial society.

Assuming for arguments sake that 'crime' is in fact randomly distributed but the results of enforcement are not, Melchers' agnosticism cannot rely on science, since the criminal law and its enforcement is structured in dominance in a capitalist and colonialist society. Moreover, if all that 'science' can claim, is the possibility that discrimination cannot be excluded, how does the possibility of discrimination come to be *included*, if it cannot be excluded from among other known or unknown

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possible explanations? In other words, if discrimination is a known factor, it is necessary to determine why Melchers believes that what is known *must* be equal to the unknown. Clearly, we are not dealing with a situation such as that of the Russian chemist Mendeleev who intuited the existence of certain elements unknown to chemistry at the time. Rather, we are dealing with a political context of socially organized repressive force in which 'crime' does not have the ontological reality of natural elements. What we have then is a strange alchemy that denies the possibility of concluding that the *Star* may be correct as is possible with the availability of known and knowable factors.

We might say that since non-randomness of 'crime' cannot be sustained, then statistically significant racial disparities are best explained by racial discrimination *until* disproven by some yet unknown and undiscovered factor. But, since Melchers is not dealing with science but rather *scientism*, he can ignore the inherent politicality of the vast domain of human behaviour and interaction as though they are free floating molecules to be isolated and "controlled". Some of the best results from scientific inquiry arise from accident and error, but is any such thing possible with a 'science of morality' (i.e., criminology) that would preserve everything existing? What scientific accident is required to treat racial injustice as an injury to be eradicated? When "the point is not to reinterpret oppression but to end it" (Nicolaus, 1969: 387), it does not pay to rely on a science of morality since one is led to immunize the state and be indifferent to (racial) suffering. I wonder what Melchers would answer Martin Nicolaus: "What 'science' is this ... that only holds true when its subjects hold still? Strange 'laws' ... that presuppose humanity in formaldehyde! What scientists are these, who peer into everything below, yet see nothing ahead?" (Ibid).

### Conclusion

If we are to believe the *CJCCJ* and its authoritarian criminologists Julian Roberts, Alan Gold, and Ron Melchers, the determination of racial profiling is a matter for scientific inquiry. Such a view presupposes the value neutrality of a science of morality, which is plainly unacceptable given 'crime' is socially and politically constructed by dominant forces within unequal social relations. This arrangement denies authenticity to the counter-hegemonic truth claims of colonized and criminalized populations. What is at stake in getting knowledge wrong when our object of study is moral philosophy and force on the ground in defence of interests of the few? For the authoritarians it is nothing less than the existence of order itself. They believe allegations of racial profiling will damage the reputation of the criminal legal system, make prosecutions difficult, if not impossible, and give 'criminals' the run of the 'streets'. Such a view fails to see its own violence in conjuring lies and claiming science as its authority. That the positivism of the *CJCCJ* and its resident authoritarian criminologists rests on a Eurocentric specificity and positions the bodies of White middle class male servants of power as scientific rationality in action, we are confronted with a morally exhausted and dying imperialist reason. Rather than that the allegation of racial profiling will undermine

all that is 'civilized', the irrepressible demand for social justice might just remove the moat from the eye of the European *Enlightenment*.

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### Endnotes

- <sup>i</sup> I have replaced 'sociological' with 'criminological'.
- <sup>ii</sup> Thomas Gabor (2002), one of Canada's leading authoritarian and administrative criminologists is not among the participants of the 2003 *CJCCJ's* colloquy. His 2004 polemic against Scot Wortley and Julian Tanner, not to mention his overall commitment to scientism, reveals him as one of the *CJCCJ's* most trenchant authoritarian criminologists. Interestingly, though Gabor's prior work hints toward liberalism, he has over time abandoned such 'sentimentality' for hardcore authoritarianism. For instance, along with Julian Roberts, editor of the 2003 colloquy, Gabor's prior research calls the race-crime link 'Lombrosian wine in new bottle' (1990). This was not, however, because he rejected 'race' as an indicator of 'crime', but only because 'race' is ontologically ambiguous (1994a). Without a hint of contradiction, however, because he assumes 'crime' is real and rooted in low socio-economic status, Gabor's subsequent work avoids



Lombrosianism through the mystical concept of the 'non-randomness' of crime (1994b). So while 'race' is not ontologically real 'crime' is. Result? Arrest and imprisonment statistics indicate the predisposition of blackness toward criminality (1994b; 2004). From the standpoint of counter colonial epistemology, the passionate commitment Gabor's ilk to dispassionate official statistical has been thoroughly exposed (Covington, 1995; Haymes, 1997; Zuberi, 2003).

- iii Because it is tangential to this paper, I cannot elaborate whether a non-dominative and counter-colonial criminology is in fact possible. This is precisely the arduous debate that fractured Radical Criminology into Critical Criminology and Left Realism. I encourage readers to formulate their own conclusion by reading, side by side, two differing 'critical' perspectives that grapple with the issue: Agozino (2003) and Smart (1990). Working in the shadows of this debate, I find it logically consistent do declare myself an anti-criminologist committed to counter colonial epistemology rather than a counter-colonial *criminologist*.
- iv In his devastating criticism of professional sociology Alvin Gouldner demonstrates the vital task of criticism is to examine how science is made "rather than publicly reported", to see the "whole scientist by whom it is made, with all his (sic) gifts and blindnesses, with all his (sic) method as well" (Gouldner, 1970b: 83). Since the (social) scientist is a social being, constituted but not determined by a vast domain of trace prior relations that give them form, function and meaning, to analyze individuals relative to their group membership is to identify their taken-for-granted values, propositions and ways of knowing and *being* (Coulson and Riddell, 1980: 6-7).
- v Periodically, and rarely, the *CJCCJ* publishes work critical of Canada's criminology industrial complex (Menzies and Chunn. 1999; Chunn and Menzies, 2006). Interestingly, the foundation of such work partly rests with Robert Ratner's (1985) criticism of the *CJCCJ* as a semi-autonomous state organ.
- vi For an excellent discussion of statistical reasoning in society, criminal law and enforcement see Jodi Armour's (1994) 'Race Ipsa Loquitur'.
- vii A central plank in Gold's argument is that self-reports of racial profiling are 'anecdotes' in bulk. This is surprising since, as a lawyer who claims to hold the keys to a scientific approach to evidence, Gold must be aware that sworn testimony, which is an anecdote, is verifiable *fact/evidence* in the eyes of the law unless perjury annuls it. In addition, what becomes of testimony as 'fact' in the event of an acquittal? In reality, the outcome of trials is principally a function of narrative created by prosecution (relying on the police's story) and defence. Both of which are set within a larger bourgeois narrative of equality. Moreover, one can easily say that calls to the police as well as police testimony are themselves 'anecdotes' since they too are stories, which need not be truthful even if a conviction arises. Just as Durkheim intended, the making of 'facts' is a confidence game determined by authority and power rather than science. To prove the point, we need only look to wrongful convictions, wrongful accusation, botched and manipulated Coroner's reports, negligent investigation, forensic laboratory foul-ups, eye witness error, frame-ups, *agent provocateurs*, offender assessment and predictive profiling, victim impact statements and the dramaturgy of court proceedings (see Michael, 2012; Nunn, 1995).
- viii These are arbitrary to the extent that 'proactive' policing is ostensibly predicated on 'problem oriented policing' which relies, in the first instance, on the supposed frequency of calls or that farce - 'broken windows'. What both processes mystify is that the police expertise to control and manage 'crime' is dependent on information subsidies from the public. What the provision of such information conceals is not simply that the failure of the police to prevent 'crime' is manipulation insecurity generated by capitalism, but the accommodation of the public to the ethos of a liberal

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democratic order which supposes windows mites and the captains of industries billions are equally protected (Brogden, 1982).

- ix As of 2011, the government of Prime Minister Stephen Harper abandoned the legal requirement for sampled households to complete Census Form 2B or the 'long form'. Now, the National Household Survey is entirely optional for recipients. Because, however, the statistics act demands it, labour force as well as business survey or agriculture surveys are mandatory.
- x See note 1.