

DETROIT

Officer says racism at Port Huron-Canada border happens daily: 'It needs to be exposed'



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Officer Johnny Grays still fumes about the day he pulled his gun on a driver while the man's children screamed in the back seat, "Don't shoot my daddy!"

The driver wouldn't turn off his engine or roll down his window as asked at the inspection border station in Port Huron. Then he refused to show his hands, but instead reached in his coat pocket and then the glove box — so Grays drew his gun and pointed it at the motorist's head, fearing he was armed.

Turned out, the driver was only looking for his key fob.

He was Black. So is Grays, a Customs and Border Protection officer who is now suing the federal government, alleging racial profiling put him in harm's way that day, caused an innocent family to be terrorized and for years has demeaned and humiliated scores of Black travelers at the Port Huron-Sarnia border crossing.

In a new lawsuit filed in U.S. District Court, three Black CBP officers are suing the Department of Homeland Security, alleging CBP routinely targets and harasses Black travelers at the Blue Water Bridge between Port Huron and Sarnia, Ontario. Of the 275 CBP officers who work at that location, four are Black.

Grays, 42, who is married with three children, has worked at the CBP for almost 13 years. He says not only has he witnessed racial profiling, but he has also been

ordered to take part in it. And when he and his co-plaintiffs have complained about workplace discrimination, the suit states, they've either been ignored, harassed or retaliated against. Grays has been placed on desk duty since filing his discrimination complaint almost a year ago.

More: [Border Patrol tried to hide its racial profiling in Michigan — then ACLU sued | Opinion](#)

More: [Dearborn police arresting Black people disproportionately, sparking complaints](#)

The Michigan lawsuit highlights what some immigration and civil rights advocates describe as a pervasive and unchecked problem of racial profiling at the CBP, an agency they say has been steeped in institutional racism for decades. Similar racial profiling lawsuits have been filed over the years in Montana, Virginia, Texas, Washington, Ohio and Maine, though the CBP has routinely denied culpability and avoided repercussions

"These are issues that we are seeing over and over. There have not been consequences in a culture of racism, of a brotherhood that protects other officers at all costs," said Katy Murdza of the American Immigration Council and co-author of a report released in February titled: "The Legacy of Racism within the U.S. Border Patrol."

"Unfortunately," Murdza said, "a lot of these instances that we see have been consistent throughout history."

Grays hopes to change that.

"There needs to be some accountability for what's going on. It needs to be exposed," Grays said in a recent interview with the Free Press. He alleged racial profiling at the Port Huron-Canada border "is a daily thing."

"These things are happening. Minorities and Blacks are being scrutinized at the border," Grays said. "The main purpose of this lawsuit is to expose that and change that."

CBP spokesman Kristoffer Grogan declined comment, citing agency policy not to comment on pending litigation, though he has [previously denied racial profiling by the agency](#).

"It is the policy of U.S. Customs and Border Protection to prohibit the consideration of race or ethnicity in law enforcement, investigation and screening activities, in all but the most exceptional circumstances," Grogan has previously said. "CBP is fully committed to the fair, impartial and respectful treatment of all members of the trade and traveling public."

Grogan was partially quoting the CBP's nondiscrimination policy, which explains under what "exceptional circumstances" race can be considered by federal police.

"CBP personnel may use race or ethnicity when a compelling governmental interest is present and its use is narrowly tailored to that interest," the policy states. National security is one compelling interest under the policy. Race or ethnicity-based information that is specific to particular suspects, incidents or ongoing criminal activities may also be considered by CBP.

"These standards are designed to ensure that racial and ethnic stereotypes will not be used in conducting stops, searches and other law enforcement activities," the policy states.

But the policy contradicts what Grays and many others say they have witnessed at border crossings and checkpoints across the country.

"'Stop that Black guy' ... I have been told to do that," said Grays, stressing he typically "shuts down" those requests and demands explanations.

That's what he did the day he was ordered to pull over the Black driver who was fumbling for his key fob, he said.

But he never got a straight answer.

'It was a good look'

It was March 2020 when Grays got the radio transmission to pull over the white GM Suburban with Maryland plates and tinted windows. An officer had spotted the SUV leaving a Port Huron hotel and heading for the bridge and became suspicious, he said.

Grays did as he was ordered, quickly learning the travelers were Black.

When the SUV pulled up at the inspection station, Grays asked the driver to shut off the engine, but the man didn't comply, he said. Then he asked him to roll his window down. Again, no response. Then he asked him to show his hands.

That's when the man reached into his coat pocket, rifled through the glove box and finally rolled down the window. But by then Grays had drawn his gun and reached into the car yelling, "What are you doing?"

"I was feeling to see if he did in fact have a gun," Grays recalled. "I had my gun about 12 inches from his face. I had to make a judgment call."

And he had to keep his calm. There was a family to consider.

"His two kids in the back seat were hysterical, crying, screaming, 'Don't shoot my daddy!' " Grays said.

Yet he remained calm, long enough for the driver to explain himself.

"He said, 'I was looking for the keys. This thing has a fob. It's a rental car,' " said Grays, noting the man simply got nervous because he didn't know if he needed the fob to roll the window down.

The incident sent him reeling. The family, he would learn, were U.S. citizens headed to New York to visit family and were cutting through Canada.

"I confronted management about it. I was livid," Grays recalled. "I said, 'Look, had that not been me out there, you may have had a completely different situation.' "

Grays said that he pressed his supervisor to explain why he had to stop the vehicle. The only response he got: "They said it was a good look," he recalled. "When I asked what that means, I wasn't given any more information."

Shortly after that incident, Grays filed a race discrimination complaint with the U.S. Equal Employment Opportunity Commission, which granted him a right-to-sue letter on Jan. 12. Two months later, he and his colleagues, CBP officers Mikal Williams and Jermaine Broderick Sr., filed their lawsuit.

"I felt extremely bad for that family, especially for the kids," Grays said. "I couldn't think of a worse thing."

'This is our country, too'

One month before the key fob incident, Grays witnessed a CBP officer pull over a group of 17 Black men who were returning to the U.S. from Toronto in two late-model SUVs. They were all U.S. citizens and had valid passports, he said, but a secondary inspection was requested.

Grays was the first officer who came into contact with the group at the inspection station.

"They were upset," he said, noting they had no idea why there were being scrutinized.

Grays said that he explained to the group that a secondary inspection typically occurs when an officer can't verify a traveler's information, documentation is missing or questionable, or the photo doesn't match the person in the car. Pulling drivers over helps inspectors conduct more research in order to verify information without causing delays for other passengers.

"They were completely compliant," Grays said. "They were minding their own business and what happens next is an additional officer came out, saw them. And then what happened is something I've seen happen hundreds of times — the demeanor of the officer's face changed.

"Nothing was said, his face just turned hateful. It's a look I saw frequently in Georgia while living there during my instructor time at the academy."

Grays said the situation grew tense in the waiting room. He felt the 17 men were being racially profiled. They did, too — if their words are any indication.

"They ended up getting up and leaving," Grays recalled. "And on their way out, they were saying things like, 'Hey, this is our country, too. We want to be treated like human beings.' We legitimately had no reason to hold them there, so they got up and left."

According to Grays, one of the 17 travelers appeared to have an issue with his documentation. Still, he noted, no one at CBP pursued the group after they left on their own.

"They were all U.S. citizens, *returning* to the United States," Grays said.

After the incident, Grays went to his supervisors and requested that the officers who interacted with the group receive disciplinary counseling, calling their behavior disrespectful and insulting. He also said "racial profiling was not in line" with the values of Homeland Security, which oversees his agency. According to the lawsuit, no one was ever disciplined.

The Michigan lawsuit also alleges the following:

In October 2020, a Black family from Texas had made a wrong turn onto the Blue Water Bridge when a supervisor directed officers to call the Port Huron police to report that the driver did not have a valid driver's license. This doesn't happen to white travelers in similar situations, the suit states.

Even though the Port Huron police declined to intervene, the CBP supervisor threatened to arrest the driver unless he had someone come to the port to drive his vehicle home, the suit alleges.

In February 2021, CBP officers pulled over two Black male travelers for a secondary inspection, removed them from their vehicle and subjected them to a criminal record check, all because they had turned into the wrong lane. This would not have occurred if they were white, the suit claims.

Attorney Deborah Gordon, who is representing the three officers, said this lawsuit is about her clients being forced to work in a hostile environment by having to watch Black drivers get mistreated, and protecting drivers' rights at the border.

"Unlike an employment case where you go to your Human Resources department," Gordon said, "as a traveler at the border, you have no voice."

Nationwide, Black people account for less than 6% of the total CBP workforce of 21,185. More than 62% of employees are white; another 25% are Hispanic.

The CBP could not provide data on how many minorities versus white travelers are pulled over for secondary inspections at border crossings or how many are detained.

Diplomat repeatedly profiled

The victims of alleged racial profiling at the border are many, both everyday folks and prominent figures.

Take the case of former U.S. diplomat Tianna Spears, a Black woman who was stopped at the U.S.-Mexico border in El Paso for inspections 25 times in a six-month span in 2019, despite repeatedly identifying herself as a U.S. government official.

According to Spears, CBP officers sometimes did not believe she was a diplomat, accused her of stealing her car and suggested she was a drug smuggler. Her case triggered a congressional investigation last year into racial profiling of U.S. officials at U.S. borders.

“The harassment I received at the border began to affect me emotionally and physically. I developed a stutter. I could not look people in the eye. I was extremely on edge all the time ” Spears wrote in a 2020 column for Politico. "How did I arrive to a career as a U.S. diplomat, only to be bullied and harassed by U.S. officials at the port of entry of a country I was born in and working for?"

Then there's the case of Ikechukwu “Ike” Owunna, a U.S. citizen who alleges CBP officers at Dulles International Airport in Washington, D.C., unlawfully bound his hands and feet and forced him to undergo X-rays on his stomach at a hospital on suspicions that he had smuggled drugs inside his body. The man had just returned from a memorial service for his father in Nigeria. He filed a racial profiling lawsuit in federal court in Virginia. The court sided with the officers.

The CBP argued it did nothing wrong and that its officers are immune from liability because of their broad authority to protect the border.

A judge agreed and dismissed the lawsuit in 2019, concluding the officers had a "reasonable suspicion" that he was a drug courier because: he was traveling from Nigeria, a known source of drugs; he was nervous; he had malaria medication, and his suitcase was packed lightly for a two-week trip.

"There was an unusual amount of clothing. I mean, one pair of underpants for a two-week trip?" the judge told Owunna's lawyer at a 2019 hearing, concluding the officers' overall concerns "established a very strong suspicion that your client was a courier."

She added: "Fortunately, he wasn't."

Detroit-Windsor border on feds' radar

The Detroit-Windsor border, which is the busiest international crossing between the U.S. and Canada, has also come under federal scrutiny for racial profiling.

In 2017, the Office of the Inspector General found that the CBP wrongfully retaliated against one of its officers in Detroit who disclosed that Black drivers were being illegally searched at the Detroit-Windsor border. The officer alleged that the border agency was disproportionately targeting Black truck drivers in the Detroit area who took the wrong road leading to the Canadian border.

“Even when vehicles attempted to turn around, CBP would chase them down, stop them, and subject them to warrantless searches under its border inspection powers,” the officer alleged, according to the OIG investigative report.

The OIG probe also revealed that the Detroit officer’s supervisor had instructed him not to disclose his racial profiling allegations to the inspector general. Following its investigation, the inspector general concluded CBP managers violated the officer’s whistleblower rights by denying him a new assignment and placing a letter of reprimand in his file. That letter has since been removed.

A 2019 Inspector General audit also found that Homeland Security, which oversees the border agency, "does not have sufficient policies and procedures to address employee misconduct" and "needs to improve its oversight of misconduct and discipline."

None of this is surprising to the American Civil Liberties Union (ACLU) of Michigan, which has spent the last decade documenting and fighting racial profiling by federal police who they say lack accountability and whose operations "are shrouded in secrecy."

"This is completely in line with what we have been hearing from the community," said ACLU of Michigan attorney Monica Andrade. "For years, immigrants and advocates have been sounding the alarm."

And the alleged racial profiling extends far beyond the actual border. That's because under federal regulations, border police have the right to stop, search and detain individuals up to 100 miles outside the border.

The federal agents who cover this zone work for the U.S. Border Patrol and wear green uniforms. Their tactics have triggered much controversy and numerous lawsuits over the years, largely over their authority to conduct warrantless searches in the so-called 100-mile zone.

In November, [two Montana women settled a lawsuit](#) they had filed against the CBP after a border patrol agent interrogated and detained them as they were paying for groceries at a convenience store.

"Ma'am, the reason I asked for your IDs is because I came in here and saw that you guys are speaking Spanish, which is very unheard of up here," the agent is heard telling the shoppers in [a 2018 video taken by one of the women](#). She asked whether they were being racially profiled. "It has nothing to do with that," the agent responded. "It has to do with you guys speaking Spanish in a store in a state where it's predominantly English speaking."

The lawsuit settled for a confidential amount.

In Ohio, a group of Hispanics and two workers' rights groups lost a years-long legal battle in 2017 with Border Patrol in which they alleged they were unlawfully stopped, harassed and questioned about their immigration status while driving, pumping gas or walking their children home from school — only because of their Hispanic appearance. They also alleged that federal agents hurled racial slurs at them, like calling them "wetbacks."

The plaintiffs lost that case as the court concluded that there was no "pattern or practice" of racial profiling, and that the uses of the word "wetbacks" were only "isolated incidents of poor judgment."

The plaintiffs appealed and lost again.

Years of data finally disclosed

The ACLU says that for years it never knew exactly how many people of color were stopped by Border Patrol in Michigan because the government kept that data hidden — until now.

After a five-year legal battle with the ACLU, which sued to get the data, the CBP last year released thousands of documents involving Border Patrol arrests spanning nine years, including records of more than 13,000 stops. The ACLU disclosed the findings [in a report it released on March 25](#). Among the findings:

More than 95% of those arrested by Border Patrol in Michigan are people of color.

85% of noncitizens arrested by Border Patrol were from Latin America.

At least 33% of people identified as deportable had minor children who were U.S. citizens.

Nearly half of Border Patrol arrests started with a local or state law enforcement agency initiating a traffic stop. Michigan State Police made nearly 37% of these traffic stops; the Macomb County Sheriff's Office made 12%; Detroit police made nearly 8% of the stops.

"Border Patrol must be reined in," ACLU attorney Monica Andrade wrote in a March 25 opinion piece in the Free Press, in which she called for several reforms. These include restricting U.S. Border Patrol enforcement to the immediate border and ending local and state police "entanglement" with federal immigration authorities.

"Without these reforms, I worry for all people of color," Andrade wrote. "Even as an adult, and now a U.S. citizen, with a law degree and full knowledge of my legal rights, those same fears and anxieties flare every time I get behind the wheel, knowing I could still be stopped because I have brown skin."

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