

WHAT IS ETHNIC PROFILING?

Law enforcement engage in ethnic profiling when they base their actions on ethnicity, race, religion, or national origin instead of an individual's conduct or objective evidence.

What does ethnic profiling look like in practice?

Ethnic profiling may result from individual law enforcement officers' decision-making or institutional policies and practices that adversely affect specific ethnic, racial, religious or national groups, even if they are not explicitly designed to target them.

Ethnic profiling may occur during:

- identity checks
- stop and searches
- border and customs checks
- targeted fines
- raids
- vehicle inspections
- surveillance
- data mining

Ethnic profiling may occur in all ranks of law enforcement, including:

- **local, national, or civil policing**
- **immigration control**
- **customs and borders**
- **counter-terrorism**
- **private security, hired by the state**

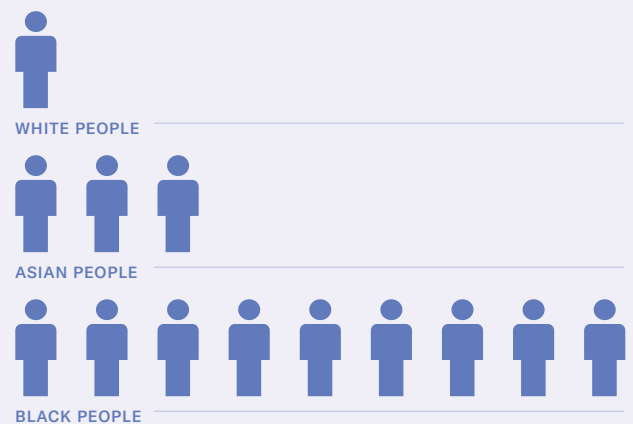
How common is ethnic profiling in Europe?

Research and the lived experiences of minority communities show that ethnic profiling is a pervasive problem across Europe.

UK RATES OF STOP AND SEARCH

2017-2018

Statistics from the UK Home Office show that Black people were stopped and searched at nine times the rate of White people, while Asians were stopped and searched at nearly three times the rate.



PERCEIVED ETHNIC PROFILING

2015-2016

The Fundamental Rights Agency's EU-wide survey of 25,515 minority respondents found that, on average, nearly every second respondent with Asian, Sub-Saharan, North African, and Roma background thought their last police stop took place due to reasons related to their immigrant or ethnic background.



U.K. Home Office statistics (2017-18)

European Union Agency for Fundamental Rights: EU MIDIS II (2017)



“My son asked me, ‘So I can be stopped because I look a certain way?’ I said yes, and so he said to me, ‘Well, how can that be right? Does that happen to everyone, Dad?’ And I said no. And he said, ‘It doesn’t happen to white people, does it?’”

PAUL MORTIMER | UNITED KINGDOM
Retired professional footballer and educator

What is unlawful about ethnic profiling?

Ethnic profiling violates the basic principle that law enforcement actions should correspond with an individual’s conduct, not their identity. The practice leads to the violation of core international treaties that protect fundamental rights. It also violates European and domestic laws, including the right to:

- prohibition of discrimination
- freedom of movement
- liberty and security (when police use force)
- freedom of religion (fear to practice religion because of risks of being stopped)
- privacy (pat down and search can be invasive; stops create an element of coercion and humiliation and embarrassment)

The United Nations, Council of Europe, and the European Union issued multiple recommendations to end ethnic profiling.

“[N]o difference in treatment which is based exclusively or to a decisive extent on a person’s ethnic origin is capable of being objectively justified in a contemporary democratic society built on the principles of pluralism and respect for different cultures.”

**THE EUROPEAN COURT OF HUMAN RIGHTS
IN *TIMISHEV V. RUSSIA***

What is the impact of ethnic profiling on society?

Ethnic profiling leads law enforcement to target people based on racial and ethnic characteristics, which has negative impacts on individuals, communities, and law enforcement.

It is unfair

Victims of ethnic profiling report feeling frightened, humiliated, and harassed by the police. The practice leads to disproportionate distribution of criminal justice sanctions and stigmatizes minority communities by perpetuating negative stereotypes, legitimizing racism, and eroding trust in law enforcement and the criminal justice system.

It is ineffective

Ethnic profiling is over-inclusive and under-inclusive. When law enforcement officers treat an entire group of people as suspicious, they target many innocent people and are likely to miss criminals who do not fit the profile. Reliance on ethnic profiling does not improve hit rates, meaning the proportion of identity checks or stops and searches that lead to formal law enforcement action (like arrest).

It is counter-productive

People regularly stopped by the police lose confidence in law enforcement agencies. This lack of confidence reverberates through their family, friends, and communities, negatively affecting police-community relations and leading to decreased cooperation with law enforcement agencies.

Challenges

Political and police resistance: Policy-makers and law enforcement frequently deny the problem of ethnic profiling even exists, preventing any meaningful discourse on solutions. When it is acknowledged, many fail to understand the structural nature of the problem hindering the introduction of meaningful remedies.



“So the influence and importance these police checks can have are very strong. Besides school and parents, they, the police, are the ones representing authority, and the checks can do a lot of damage to the perception young people have of authority. Trust is destroyed and distrust sets in.”

ISSA COULIBALY | FRANCE
Community organizer

Lack of ethnic data and documentation: With the exception of the UK, European countries do not systematically collect or release ethnically disaggregated data, and law enforcement does not document stops, checks, and inspections. This prevents individuals challenging unsatisfactory stops, communities from demonstrating bias in stops and holding the police to account, and law enforcement from introducing effective measure to challenge ethnic profiling.

Lack of effective complaints mechanisms: In most European jurisdictions, victims of ethnic profiling have no effective structures to report complaints of ethnic profiling—and they may be hesitant to share their experience due to trauma, fear of reprisal, or because they have become desensitized to the practice.

Recommendations

Acknowledge and speak out: Governments, police, and civil society must clearly denounce ethnic profiling as a structural problem that harms individuals and communities. It is not an effective tactic in the fight against crime.

Prohibit ethnic profiling and require reasonable suspicion: National legislation and law enforcement operating procedures should clearly establish that sensitive personal factors such as ethnicity and religion may only be used in policing, where there is either a specific suspect description or clear and reliable intelligence. Law enforcement officers must be required to base their decisions on reasonable suspicion.

Data collection: Law enforcement should collect data on the use of identity checks, stops, and searches and the ethnicity of the person stopped in order to monitor and track disproportionate impacts and to assess the effectiveness with which these powers are used, thereby ensuring their legitimacy.

Engage communities: Consulting, involving, listening, and responding to all communities

through ongoing relationships and dialogue, through for example surveys, research projects, public meetings, resident forums, police-community consultative groups and special initiative or projects can serve to identify local issues and priorities and build local police-community relations.

Independent oversight and complaints mechanisms: Judicial oversight and other supervisory or inspection mechanisms, complemented by accessible complaints structures, must be in place to scrutinize the use of police powers and to ensure that all practices meet tests of necessity and proportionality, and comply fully with anti-discrimination norms.

“[T]he physical or ethnic characteristics of the persons subjected [to identity checks] should not by themselves be deemed indicative of their possible illegal presence in the country. Nor should they be carried out in such a way as to target only persons with specific physical or ethnic characteristics. To act otherwise would not only negatively affect the dignity of the persons concerned, but would also contribute to the spread of xenophobic attitudes in the public at large and would run counter to an effective policy aimed at combating racial discrimination.”

THE UNITED NATIONS HUMAN RIGHTS COMMITTEE
IN ROSALIND WILLIAMS LECRAFT V. SPAIN

ETHNIC PROFILING TAKES PLACE WHEN LAW ENFORCEMENT TARGETS PEOPLE NOT BECAUSE OF WHAT THEY HAVE DONE BUT WHO THEY ARE.

What is Open Society Justice Initiative doing to end ethnic profiling?

Through strategic litigation, we aim to establish effective European legal remedies and protections around the use of ID checks, stops, and searches that include requirements of reasonable suspicion and monitoring. This has included court challenges to police stops in the UK, France, and Spain, and has resulted in groundbreaking rulings from the Court of Cassation in France and the UN Human Rights Committee, as well as applications before the European Court of Human Rights (*Seydi and others v. France* and *Zeshan Muhammad v. Spain*).

We work with police to develop fair and effective policing practices, providing technical advice and tools for testing and evaluating good practice. Our pilot projects with police have shown that when police focus resources on genuine threats and build open and positive relationships with ethnic minority communities, they can reduce ethnic profiling and increase their effectiveness.

We support civil society, legal organizations, and local community groups to challenge police discrimination through technical advice, facilitation of international exchange, resources, training, and strategy development.

We advocate for standards, tools, and approaches to address ethnic profiling within regional institutions and civil society in some European countries. **To raise awareness** of the devastating human impact of ethnic profiling and importance of addressing it, we have produced a series of photographic essays and exhibits, featuring first-person accounts from people directly affected by profiling in England and Wales, France, the Netherlands, and Spain.

To learn more about our work, please visit:

www.justiceinitiative.org/publications/ethnic-profiling-in-europe

To connect with our staff and access additional resources, please contact:

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