“I Can Stop and Search Whoever I Want”

Police Stops of Ethnic Minorities in Bulgaria, Hungary, and Spain

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Ethnic Profiling by Police in Europe: An Overview of the Justice Initiative Project

In 2005, the Open Society Justice Initiative, which works around the globe to foster rights-based law reform, launched an effort to address ethnic profiling by police in Europe. The Justice Initiative was concerned, on the one hand, by long-standing allegations of police discrimination against Roma and members of other visible minorities in the course of ordinary crime prevention activities and, on the other, by new reports about the targeting of Muslims by law enforcement officers engaged in the fight against terrorism.

The term "ethnic profiling" refers to the use, by law enforcement officers, of ethnic or racial stereotypes as a basis for decisions about who may be involved in criminal or terrorist activity. Although ethnic profiling is widespread, the practice has been insufficiently studied. Because ethnic profiling constitutes discrimination, it breaches fundamental human rights norms, but it has not been expressly outlawed by any European government. To date, no European countries other than the United Kingdom collect information on ethnicity and police stop and search practices. Profiling is also counterproductive. It misdirects law enforcement resources and alienates some of the very people whose cooperation is necessary for effective crime detection. Without hard qualitative and quantitative information about its extent, however, ethnic profiling can be neither addressed nor corrected.

Recognizing these challenges, and working in partnership with local and regional institutions, the Justice Initiative's project is pursuing three principal objectives:

- To make law enforcement officers, human rights advocates, policymakers, and the general public more aware of the prevalence and effects of ethnic profiling by engaging in research, documentation, and other activities

- To secure the adoption of pan-European and national legal norms that explicitly ban ethnic profiling as a manifestation of particularly egregious discriminatory conduct

- To support national civil society and law enforcement agencies in efforts to work jointly in developing and applying good practices to monitor police behavior and eliminate ethnic profiling and other discriminatory practices

Since January 2005, the Justice Initiative has worked on several fronts. First, in cooperation with the police and NGOs in Bulgaria, Hungary, and Spain, the Justice Initiative carried out interview-based research that found markedly disproportionate treatment of minorities during police stops, significant prejudice among the police and majority populations about minorities and crime, nonexistent or inadequate citizen-complaint mechanisms, and little or no measurement of the productivity of police stops. Second, in Russia, the Justice Initiative conducted observational research that documented profiling practices by police throughout the Moscow Metro system. The results show that the police are more than 20 times more likely to stop non-Slavs than Slavs—the most extreme racial profiling ever documented. The Justice Initiative is also preparing a report that will document for the first time the extent of ethnic profiling during both ordinary police operations and counterterrorism activities throughout the European Union. Finally, the Justice Initiative is exploring further research in France, the Netherlands, and other countries.

Open Society Justice Initiative Resources on Ethnic Profiling

"Ethnic Profiling and Counter-Terrorism: Trends, Dangers and Alternatives," presentation by James G. Goldston, executive director, Open Society Justice Initiative, before "Counter-Terrorism and Ethnic Profiling," a seminar sponsored by the European Parliament Anti-Racism and Counter-Terrorism Intergroup, Brussels, Belgium (2006). www.justiceinitiative.org/db/resource2?res_id=103239.

Ethnic Profiling in the Moscow Metro. Open Society Justice Initiative, New York (2006). www.justiceinitiative.org/db/resource2?res_id=103244.

Justice Initiatives: Ethnic Profiling by Police in Europe. Open Society Justice Initiative, New York (2005). www.justiceinitiative.org/db/resource2?res_id=102731.

Summary of Findings

Across Europe, the problem of police discrimination is well known. Regional and national entities have documented frequent raids on Roma communities; disproportionate surveillance, identity checks, and searches in immigrant neighborhoods; and acts of police violence against members of ethnic minorities. More recently, human rights and monitoring organizations have begun paying attention to the specific problem of ethnic profiling, a particular kind of police discrimination that is less recognized within Europe. Although organizations have documented many examples that suggest ethnic profiling by police may be widespread across Europe, the issue has not been subject to systematic research.

Police officers engage in ethnic profiling when they use ethnic or racial stereotypes as a basis for suspicion in directing law enforcement activity. This practice is a particular concern in police-initiated stops—typically identity checks that may lead to a search. The use of ethnicity as a basis for law enforcement decision making is legitimate only when it is part of a suspect description stemming from a particular incident, or when specific time- and place-bound operational intelligence provides an objective and reasonable basis for directing suspicion.

To date, only the United Kingdom systematically collects information on ethnicity and police stop-and-search practices. The lack of statistical information from other European countries is a serious problem. Without hard information about the extent of ethnic profiling and data on patterns of law enforcement practice, it is difficult—if not impossible—to develop strategies that address the impact of profiling on police relations with minority communities.

During 2005, in response to this problem, the Justice Initiative partnered with GEA 21 in Spain and with the Center for the Study of Democracy in Bulgaria and Professor András L. Pap and TÁRKI in Hungary to design and implement research that would begin to fill some of these knowledge gaps. The research examined the experiences of members of the Roma minority during encounters with the police in all three countries and the experiences of immigrants in Spain.[1] In each country, the researchers conducted interviews with 60 or more police officers and led focus groups and interviews with members of minority groups. In Bulgaria and Hungary, these interviews included household surveys on people's experiences and perceptions of police stops. In Bulgaria, the survey included a booster sample of Roma, which yielded statistically more conclusive findings.

After initial background research on seven European states, researchers selected Bulgaria and Hungary because of their large Roma populations and Spain because, like many other Western European countries, it has both an indigenous Roma population and a large population of (mostly non-Roma) immigrants. Other factors in the selection of the three countries included the willingness of police to participate in interviews and the capacity of local research partners.

Working with social science methodologies to detect patterns of police practice, the research focused on four fundamental questions:

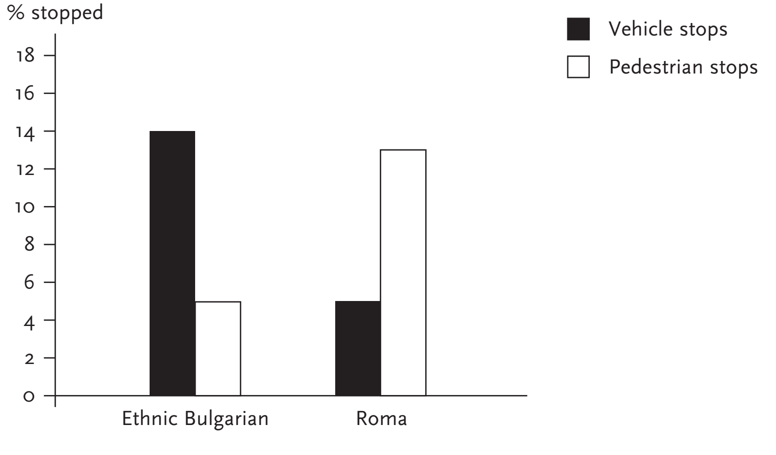
- Do members of different ethnic groups have different experiences of being stopped by the police?
- What can explain the different experiences members of different ethnic groups have with police stops?
- Is there evidence of ethnic profiling?
- Are police stops used effectively to tackle crime?

Despite the differing national contexts in which the research was conducted, the results indicate that the police in all three countries practice ethnic profiling. Due to methodological variations in the research, however, the results do not reveal the extent of the profiling. Roma pedestrians in Bulgaria and Hungary and immigrants in Spain have valid reason to believe that they will be stopped by police more frequently than majority nationals of these countries. They are also more likely to have unpleasant experiences during vehicle and pedestrian stops, even when the population of individuals stopped by the police matches the ethnic or racial structure of the overall population. The study draws attention to the waste of police time and resources—given that ethnic profiling is an inefficient method for reducing crime—and the lack of meaningful oversight or assessment of police procedures.

Ethnic Disparities in Police Stops

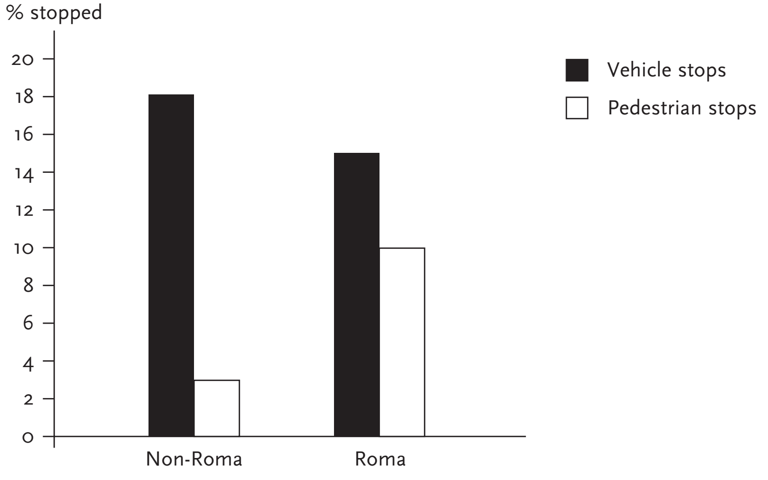
In both Bulgaria and Hungary, Roma are roughly three times more likely than non-Roma to be stopped by police in pedestrian stops (see Figures 1 and 2). However, when both vehicle and pedestrian stops are considered together, there is no overall measurable difference in the frequency of stops between Roma and non-Roma.[2] In fact, in Bulgaria, there is evidence that the rate of vehicle stops is higher among majority ethnic Bulgarians than among minority Roma. This variance probably reflects higher rates of vehicle ownership among non-Roma in Bulgaria and Hungary (51 percent of ethnic Bulgarians own vehicles as compared with 20 percent of Roma and in Hungary 58 percent of non-Roma own vehicles as compared with 35 percent of Roma).

FIGURE 1
Bulgaria: Rates of police stops by ethnic background*



Note: * = Percentage of respondents to a 2005 household survey who indicated they were stopped by police in the previous six months.

FIGURE 2
Hungary: Rates of police stops by ethnic background*



Note: * = Percentage of respondents to a 2005 household survey who indicated they were stopped by police in the previous year.

In addition to the disproportionate number of pedestrian stops of Roma, the research also found profound differences in the character of the stops. For both Roma and non-Roma people in Bulgaria and Hungary, reports of stops that did not result in negative experiences were more prevalent than reports of those that did, but Roma were more likely to report unpleasant experiences. For example, the survey indicated that in Bulgaria, 20 percent of Roma who were stopped experienced insults, one percent experienced threats, and five percent experienced the use of force. For ethnic Bulgarians, only three percent experienced insults, five percent experienced threats, and one percent experienced the use of force. In Hungary, the survey indicated that nine percent of all Roma were likely to experience what they perceived as a "disrespectful" stop, compared to three percent of the non-Roma population, although non-Roma individuals were stopped at similar rates.

The qualitative data gathered in Spain reveal a clear perception among minorities that they are targeted for police stops. These data suggest that Roma and immigrants often have negative experiences during police stops, and survey respondents recounted numerous examples of disrespectful and humiliating treatment.

Reasons for Ethnic Disparities in Stop Experiences

In all three countries, the legal controls over police powers to stop people, ask for their identification, and conduct searches are relatively limited. Despite the fact that ethnic profiling contravenes international and European law, the Constitutional Court of Spain has expressly endorsed ethnic profiling as a tool of immigration control.[3] In Bulgaria and Hungary, there are no clear legal prohibitions.

Interviews with police officers in Bulgaria and Hungary provide evidence that, while carrying out stops, some officers specifically target people who appear to be Roma. In Spain, some police officers reported that they target people who appear to be immigrants, especially when enforcing immigration laws. Roma in all three countries and immigrants in Spain report feeling targeted on the basis of ethnicity. Taken together, these findings are consistent with a pattern of ethnic profiling among at least some police officers. The evidence suggests this ethnic profiling is most systematic for immigrants in Spain.

The Effectiveness of Police Stops

The research methodology could not directly determine the effectiveness of police stops in the three countries. Evidence gathered in other countries suggests that, in order to tackle crime efficiently and effectively, police should target stops based on, among other factors, up-to-date intelligence on current crime patterns, observations of objectively suspicious behavior, and police-community dialogue.[4] The accounts given by officers interviewed for this study provided little evidence of use of these strategies. In Bulgaria and Hungary, police stops—notably of vehicles—appear to be more frequent than in the United Kingdom or the United States. Additionally, in all three countries, although police officers target known offenders and sometimes make reference to geographical areas associated with higher crime rates, they do not otherwise appear to systematically analyze key suspects, crime hot spots, or linked crime events, as effective, intelligence-led policing requires. Finally, the research finds only limited evidence that the police and other officials in the three countries conduct routine internal monitoring and assessment of stops.

Research in the United Kingdom and elsewhere has highlighted the negative consequences for minorities of disproportionate and negative encounters with police and the negative effects such encounters have on policing.[5] When confidence and trust in police are diminished or lost, members of minority groups are less willing to report crime or cooperate with police in investigations. A significant body of research indicates that when police treat people politely and provide a reason for the stop and when the stop is less intrusive (not followed by a search, for example), public satisfaction with police procedures is much higher. Efforts by police managers to encourage their officers to treat people respectfully, including the sanction of problem officers, can result in more respectful treatment of the public by police.

Recommendations

On the basis of this research, the Justice Initiative has identified a range of possible improvements to police stop procedures and believes these improvements can benefit the police and all segments of the population. These improvements focus on reducing the number of unnecessary and unpleasant stops (in particular, identity checks and searches) of all segments of the population; reducing the targeting of members of minority and immigrant groups; improving the treatment of members of minority and immigrant groups during police encounters; making stop tactics more effective as a crime fighting tool; and strengthening public confidence—especially among minority and immigrant group members—in police and police tactics.

Recommendations to ministries of the interior and political authorities responsible for public security

- **Speak out against ethnic discrimination, including ethnic profiling.** Emphasize that profiling is not an effective tactic in the fight against crime.

- **Set clear and precise written standards for initiating stops and making identity checks and searches.** National law and police guidelines should set clear grounds for identity checks, stops, and searches, based upon a reasonable suspicion that the subject has committed or is in the act of committing a crime. These standards should stress that ethnicity and other superficial personal characteristics do not provide a sound basis for stops and searches. Rather, these standards should emphasize those factors—such as objectively suspicious behavior and current intelligence about crime patterns—that enhance the effectiveness of police stops, identity checks, and searches.

- **Build a robust public-complaint mechanism that includes specialized independent oversight or control.** Bulgaria has recently created a human rights ombudsman office and a new antidiscrimination body. Neither focuses exclusively on the police, although the ombudsman can address cases of police abuse and the antidiscrimination body can consider individual cases of discriminatory policing. Spain and Hungary also have ombudsman offices that do not have oversight of policing. Civilian oversight can enhance the legitimacy of the complaints process and improve policing by challenging problematic practices—particularly by supporting the research and analysis of underlying patterns of complaints.[6]

Recommendations to police authorities

- **Implement systems for monitoring stops according to ethnicity.** Ideally, such systems should measure both the number of encounters and their character and quality relative to ethnicity. There are a number of ways in which police stops can be monitored: for example, radio calls can be tracked; police officers can record stop information with handheld electronic devices or paper forms. Under current laws in the three subject countries, the individuals stopped must give explicit permission for police to record ethnic data. Records of police stops should also include information on the reasons for the stops and information on the surrounding circumstances and the outcomes. The Justice Initiative suggests eliciting on-the-spot feedback from the people stopped, perhaps by having them note their level of satisfaction with treatment. Analysis of the data produced by these monitoring systems might include the following:

    — Compare the ethnic breakdowns of those stopped with benchmarks, such as area residential populations, to measure ethnic disparities.
    — Compare the ethnic breakdowns of stops undertaken by different police officers and teams of officers to identify problematic practices by individuals and contingents of the force.

— Take random individual samples (dip samples) of stop records and require officers to account for stops that appear problematic.
— Review the percentages of stops that produce arrests.
— Assess the extent to which stops, checks, and searches correspond with current intelligence about local crime problems and priorities.
— Introduce public satisfaction measures, overseen by members of minority ethnic groups, police teams, and individual officers.

► **Closely supervise police officers carrying out stops, identity checks, and searches to ensure they adhere to established standards.** Police supervisors should routinely review the reasons that officers give for carrying out stops, identity checks, and searches. Strategies for supervision should include authorization of the reasons for stops, direct physical oversight of patrol officers and their conduct during stops, and analysis of aggregate patterns of officer behavior during stops.

► **Promote and enforce better treatment of all members of the public during police stops.** A combination of clear standards, training, and supervision of officer conduct during police stops might improve public satisfaction with the quality of police encounters among all sections of the population.

► **Convene regular meetings with community members, particularly those representing minority or disadvantaged sections of the population.** Meetings between police and community members foster the officers' accountability to the communities they are policing. Meetings also provide a means for gathering valuable intelligence on crime problems, setting police priorities, and finding solutions to crime and other issues of concern to the community. This is not simply a "feel good" measure. Studies in various countries show unambiguously that regular community consultation contributes directly to reducing crime and improving the public's sense of security.[7]

Recommendations to civil society

► **Contribute to advancing knowledge and good practice by researching, monitoring, and reporting on ethnic profiling practices and the policing of minority communities.**

- **Conduct education campaigns on rights and responsibilities in police-community relations and support police-community dialogue whenever possible.**

Recommendations to European regional authorities and agencies

- **Make it clear that international and regional legal standards prohibit ethnic profiling.** Incoporate this concept into the policies and programs of the principal European regional organizations concerned with policing, security, and fundamental rights—the European Union (EU), the Council of Europe, and the Organization for Security and Cooperation in Europe. (Recognizing the very limited remit of the EU in the realm of domestic policy, law enforcement agencies in this area should increase cooperation to address the dangers of profiling.)

- **Continue to study ethnic profiling practices.** The European Commission against Racism and Intolerance, the European Monitoring Centre on Racism and Xenophobia, and other monitoring agencies should conduct new research to generate additional data on the extent and patterns of profiling practices in their respective areas of responsibility.

- **Fund programs for law enforcement cooperation and exchange.** Ensure that these programs support more effective police practices and highlight the damage and inefficiency caused by ethnic profiling.

Introduction

The term “ethnic profiling” refers to the use by police of ethnic, racial, or religious stereotypes (rather than individual behavior, specific suspect descriptions, or accumulated intelligence) as a basis for suspicion in directing law enforcement actions—in particular, discretionary decisions by officers to stop, question, and search pedestrians or vehicle drivers.[8] This practice amounts to discrimination and is illegal according to international and regional standards and national laws in many countries.

Police stops, identity checks, and searches are manifestations of the investigative powers of the police to detect or prevent crime.[9] The terms “stop” and “search” refer to a range of encounters that involve some element of police suspicion.[10] For the purposes of the research described in this report, a stop is any police-initiated encounter in a public place. At the most basic level, a stop involves an individual’s being called to account by the police. In many cases it may also involve an officer’s request to see personal identification and a search of the person or the person’s vehicle.

There are considerable differences among European nations in the legal powers of the police to conduct identity checks and stops. The legal standards in the three research countries allow the police to make stops and undertake searches with few restrictions or none at all. (See Appendix B for a description of the legal standards for police stops in each of the study countries.) A number of countries require that police articulate their minimum reasons for suspicion of an individual and their grounds for undertaking a public stop and search. The definition of such minimum reasons and grounds varies in case law and police guidelines.[11]

For the purposes of this report, the term "racial profiling" is synonymous with the term "ethnic profiling." The term "racial profiling" was first coined in the United States to describe the use of racial or ethnic characteristics as clues for the police to decide who to stop, question, search, or otherwise investigate. The approach assumes these characteristics will help predict which people may be involved in law-breaking behavior.[12] This approach is illegal according to international and European law. Available evidence suggests it is also an ineffective crime fighting strategy and may actually be counterproductive. Ethnic profiling is not simply an inconvenience for members of minority groups. It has far broader and more pervasive negative effects for individuals and communities. Profiling perpetuates negative stereotypes and stigmatizes entire groups as "suspect communities." Furthermore, ethnic profiling misdirects law enforcement resources and threatens to alienate persons whose cooperation is necessary for effective crime detection and terrorism prevention. (See Appendix C for more on the ineffectiveness of ethnic profiling.)

Not all use of ethnicity is illegal or constitutes profiling. Police actions may include ethnic criteria as part of a description of a specific suspect in a particular crime or when police have specific, concrete intelligence regarding future crimes "involving a particular group of potential suspects at a specific location, for a short, specified duration of time."[13] A police stop based on specific information of this sort is termed a "low discretion" stop, but many police stops are high discretion stops—that is, based on the officer's subjective judgment of suspicion rather than on specific information.

The Definition of Ethnic Profiling Used in this Research

Ethnic profiling describes the police use of ethnic or racial stereotypes as a basis for suspicion in directing law enforcement actions. Ethnic profiling occurs regardless of whether such stereotypes displace or are used in addition to legitimate factors directing police suspicion—such as individual behavior, suspect descriptions, or accumulated and specific operational intelligence. Ethnic profiling does not occur when these legitimate factors alone direct police attention to specific individuals from a particular ethnic group.

International and regional organizations, human rights organizations and NGOs have highlighted numerous examples of ethnic profiling,[14] but in continental Europe this practice has been subject to little scientific research and analysis. This is a serious problem as, absent reliable information about the extent of ethnic profiling, it is difficult to develop strategies to address the impact of profiling on police relations with minority communities. Similarly, there is limited awareness of the issue of ethnic profiling and of the good practices that may help eliminate the problem where it exists. This report is an effort to fill some of these knowledge gaps. It presents the results from a new program of research on police stops, reviewing evidence of ethnic profiling among law enforcement agencies in Bulgaria, Hungary, and Spain.

The research was carried out during 2005 by national organizations in each country, working in collaboration with the Open Society Justice Initiative.[15] It sought to answer the following questions:

- Are there differences in the stop experiences of different ethnic groups within the study countries?
- What can explain differences in stop experiences among ethnic groups?
- Is there evidence of ethnic profiling?
- Are police stops used effectively to tackle crime problems?

Following meetings held in Budapest and Sofia of NGO and police experts from the United Kingdom, the United States, and a number of European countries,[16] a methodology was developed for an in-depth assessment of ethnic profiling. The studies focused on police stops of members of Roma minorities in all three countries and police stops on the immigrant population in Spain. The research involved three main methodological strategies, although there were important variations among countries. The strategies included:

- extensive interviews with police officers about their activities and attitudes;
- focus groups and interviews with members of the public, including members of the majority and minority populations, about perceptions and experiences of policing; and
- national surveys in Bulgaria and Hungary, which included questions about experiences of and attitudes toward policing.[17]

In each country, the research benefited from the input of consultative committees comprised of academics, representatives of the police and government, minority and community groups, and other NGOs. The committee members drew on their experience in research, policing, and working with minority communities to help formulate the methodology, design questionnaires, and select research sites. They also analyzed and discussed the results and supported the formulation of the policy recommendations. Additionally, the research drew on an extensive review of national and comparative legal and academic literature. Table 1 summarizes the main methodological strategies in the three countries. Appendix D also provides details of the survey methods used in Bulgaria and Hungary.

TABLE 1.
Summary of research methods used in each country

Country	*Public surveys*	*Community interviews and focus groups*	*Police interviews*
Bulgaria	Nationally representative household survey sample of 1,202 respondents plus a booster sample of 534 Roma respondents, all age 15 or over.	3 focus groups, with Roma participants, in Sofia, Plovdiv, and the smaller town of Sliven.	55 interviews with officers from metropolitan areas (Sofia, Plovdiv, and Varna), regional districts (Sliven and Kyustendil), and small towns with a significant Roma population (Botevgrad, Kazanlak, and Levski).
Hungary	Nationally representative household survey of 1,047 adults, including 56 Roma.	6 focus groups in Budapest, Miskolc, and Pécs (3 with Roma and 3 with non-Roma). 20 interviews in Budapest, Miskolc, and Pécs with people (10 Roma and 10 non-Roma) who have experienced police stops.	80 interviews with officers who conduct police stops in Budapest, Miskolc, and Pécs.

Country	*Public surveys*	*Community interviews and focus groups*	*Police interviews*
Spain		10 focus groups in Madrid, Barcelona, and Malaga (2 with Moroccan immigrants, 3 with Roma, 2 with non-minority Spanish, 1 with Sub-Saharan African immigrants, 1 with Latin American immigrants, and 1 with a mixed group of immigrants). 12 interviews with people who have experienced police stops in Barcelona, Madrid, and Pamplona (2 Roma, 4 Moroccan immigrants, 1 Ecuadorian immigrant, 1 Puerto Rican immigrant, 2 Senegalese immigrants, 1 Angolan immigrant, and 2 non-minority Spanish).	61 police officers (18 national police, 19 civil guards, 10 Catalan police, and 14 municipal police) from Madrid, Fuelanbrada, Getafe, Malaga, and Prat de Llobregat in Catalunya.

Ethnic Differences in the Experience of Being Stopped

In Bulgaria and Hungary, the research found no overall difference between the frequency of police stops of Roma and non-Roma when considering both vehicle and pedestrian stops. A closer examination, however, reveals that this general finding obscures important differences. In both Bulgaria and Hungary, Roma are more often subject to pedestrian stops than non-Roma. In Bulgaria, there is evidence that the rate of vehicle stops is higher among non-Roma—a fact probably substantially influenced by higher rates of vehicle ownership among the non-Roma in Bulgaria and Hungary. Furthermore, in both Bulgaria and Hungary, Roma are more likely to have unpleasant experiences of stops and view police treatment as disrespectful. The Spanish research did not generate strong quantitative evidence about ethnic differences in stop rates, but there is a strong perception among both Roma and immigrant minorities in that country that they are targeted by police and and they frequently report having unpleasant experiences when stopped.

Rates of Police Stops

For this research project, Bulgarian and Hungarian partners collected data in public surveys, a methodology that allows for a credible assessment of the existence of disparity.[18] As the Spanish partner was not able to conduct a survey, assessment of evidence for disparity in Spain relies instead on the qualitative data, which provide only anecdotal evidence. This section reviews how similar stop rates among Roma and non-Roma in Bulgaria and Hungary are coupled with lower rates of vehicle stops of Roma in Bulgaria and higher rates of pedestrian stops in both Bulgaria and Hungary. It also examines qualitative evidence in Spain that highlights perceptions among the Roma and immigrant minorities that they are targeted for police stops.

Bulgaria

The data from Bulgaria on rates of stops are the most reliable collected in the three countries. It not only includes a large survey of the Bulgarian population, it also takes in a substantial "booster" sample of Roma, which allows for more reliable comparisons between Roma and non-Roma.

TABLE 2.
Frequency of stops among the Bulgarian population, by key ethnic groups***

	Ethnic Bulgarian percentage	*Roma percentage*	*Other (e.g. Turkish) percentage*	*Significance of ethnic difference*
All stops	18	18	19	
Vehicle stops	14	5	19	**
Pedestrian stops	5	13	4	**
Sample size	**981**	**547**	**125**	

Notes: * p < 0.05

** p < 0.01. Pedestrian stop totals are inferred from a combination of survey questions that suggest that respondents were not in vehicles at the time they were stopped.

*** Percentage of respondents to a 2005 household survey who indicated they were stopped by police in the previous six months.

The data, presented in Table 2, do not offer a simple picture of disparity. In fact, the absolute rates of stops among three groups (ethnic Bulgarian, Roma, and other ethnic minorities) are strikingly similar: In each of these groups, approximately one in five individuals had been stopped in the previous six months.

The picture is more complex when different types of stops are examined separately. Vehicle stops—the most frequent type of stop in the general population (14 percent of the persons surveyed reported vehicle stops, while just 5 percent of the persons surveyed reported pedestrian stops)—are about three times more frequent among ethnic Bulgarians than Roma, and about four times more frequent among other ethnic groups than Roma. In other words, vehicle stops show a disparity that disfavors the majority Bulgarian population and other non-Roma ethnic groups. The next chapter of this report explores why this happens, but it is important to note that vehicle ownership is much higher among ethnic Bulgarians (51 percent) than Roma (20 percent), which has very clear implications for this pattern of stops.

Conversely, the pattern of pedestrian stops presents almost a mirror image. This type of stop is approximately three times more common among Roma than non-Roma.

Hungary

The Hungarian survey lacked the ethnic booster sample of the Bulgaria survey and relied on only 55 Roma respondents. This small sample size limited the survey's ability to explore in detail the dimensions of ethnic difference in stop experiences. Even with this limited sample size, however, important conclusions can be drawn.

As shown in Table 3, Hungary has a lot in common with Bulgaria, and, overall, there is no clear evidence of disparity in stops. Vehicle stops are by far the most prevalent type of stop (18 percent of the survey respondents reported vehicle stops in the previous year, and just 3 percent reported pedestrian stops), but there are no statistically significant differences between the total number of stops (both vehicle and pedestrian) of Roma and non-Roma individuals. Car ownership rates in Hungary are substantially higher for non-Roma (58 percent) than for Roma (35 percent). Pedestrian stops do show important differences: They are approximately three times more common among Roma than non-Roma.

TABLE 3.
Frequency of stops among the Hungarian population, by Roma and non-Roma***

	Non-Roma percentage	*Roma percentage*	*Significance of ethnic difference*
All stops	24	29	
Vehicle stops	18	13	
Pedestrian stops	3	10	**
Other stops	3	6	
Sample size (minimum)	**986**	**55**	

Notes: * $p < 0.05$

** $p < 0.01$. Subgroups of stops (vehicle or pedestrian stops, for example) relate only to the last recounted stop within the previous year, which results in a slight undercount.

*** Percentage of respondents to a 2005 household survey who indicated they were stopped by police in the previous year.

Spain

Statistical data that would allow for comparisons between majority and minority stop rates were not available in Spain. Focus group data, however, provided personal accounts and perceptions of police stops for different ethnic groups. These data indicate that minority groups perceive they are targeted for police stops.[19] Similarly, people who had been stopped by the police and were interviewed reported that they were stopped frequently.

> *"I get stopped about once a month, maybe a little less."* (Roma interviewee)

> *"I get stopped almost every day in the center by police. Sometimes twice a day."* (Moroccan interviewee, undocumented youth)

The Character of Stops

In addition to establishing the disproportional rate of police stops, the research provides data on the actual character of the stops as experienced by members of the Roma and non-Roma populations. The survey data for Bulgaria and Hungary indicate that

Roma are more likely to have what they perceive as unpleasant experiences during stops. In Spain, qualitative data suggest that when stops occur, Roma and immigrants experience them in a negative way.

Bulgaria

Table 4 presents data about survey participants' reported experiences of police stops in Bulgaria and reveals that the Roma are consistently at a disadvantage. Specifically, the pattern suggests that Roma are more likely to be searched and more likely to be treated disrespectfully (including being insulted and threatened).

TABLE 4.
Characteristics of stops among ethnic Bulgarians and Roma (based only on those stopped in six month period)

Reported experience	*Ethnic Bulgarians percentage*	*Roma percentage*	*Significance of ethnic difference*
Questioning	52	81	**
Search	8	21	**
Insults	3	20	**
Threats	5	14	**
Use of force	1	5	
"Rights disregarded"	11	23	**
Taken to station	4	12	*
Arrested	1	7	
No explanation given	35	43	
Disrespectful treatment	26	41	*
Unprofessional treatment	26	31	
Sample size (minimum)	**122**	**84**	

Notes: * $p < 0.05$
** $p < 0.01$

One Roma focus group respondent in Bulgaria gave a very vivid example of how his Roma identity was associated with bad treatment by the police.

"I was once stopped by the police for drugs: 'Give us your ID and lift up your sleeves.' I was like 'Wait a minute, why don't you go and catch a drug dealer? Why do you check me?' I was almost about to cry. 'Lift up your sleeves and don't talk too much, you dirty Gypsy, [or] I'll put you in the trunk [of the police car].'" (Roma interviewee)

Hungary

Although the survey information on stops in Hungary is less detailed than that for Bulgaria, a similar image emerges from the available data. Table 5 provides information on the relative percentages of Roma and non-Roma interviewees who experienced what they felt to be disrespectful or unprofessional police stops. The data highlight how, overall, Roma were more likely to experience a disrespectful stop. Differences were most marked in pedestrian stops, which, in part, reflect that pedestrian stops are more common among Roma.

TABLE 5.
Experiences of perceived disrespectful and unprofessional stops among Hungarian Roma and non-Roma survey respondents (based on all survey respondents)

	Non-Roma percentage	*Roma percentage*	*Significance of ethnic difference*
Disrespectful stop (any)	3	9	*
Unprofessional stop (any)	2	6	
Disrespectful vehicle stop	2	2	
Unprofessional vehicle stop	1	0	
Disrespectful pedestrian stop	1	4	**
Unprofessional pedestrian stop	0	4	*
Disrespectful other stop	0	2	
Unprofessional other stop	0	2	
Sample size (minimum)	**986**	**55**	

Notes: * $p < 0.05$
** $p < 0.01$

These differences were echoed in the qualitative focus groups carried out as part of the Hungary research. Roma respondents indicated a much higher level of dissatisfaction with the police than non-Roma groups, although in part this was simply due to the greater prevalence of pedestrian stops experienced by Roma research participants.

Spain

Although there was no quantitative data in Spain, interviews with people who were stopped suggest that stops tend to be evaluated negatively by Roma and immigrants.

> *"I often get body searched, and it is very humiliating. They sometimes take my pants down in the street."* (Moroccan interviewee)

The research involved just two interviews with non-minority Spanish, however—too few to establish whether their experiences of stops were fundamentally different from ethnic minority experiences.

What Explains Ethnic Disparities in Police Stops?

A range of social, economic, demographic, and lifestyle characteristics may be associated with disproportionate police attention to ethnic groups. Some groups have more "risk factors" for police attention than others and will tend to be stopped more as a result, irrespective of whether police officers are engaging in ethnic profiling. A set of possible explanations for ethnic disparities in police stops includes the following:[20]

- *Ethnic profiling by police.* Membership in certain ethnic groups alone may be enough to create suspicion in the eyes of police.

- *Other visible differences render some ethnic groups more suspicious* when these differences are stereotypically associated with gang membership or drug dealing, for example. Such associations may lead to ethnic profiling.

- *Geographical variations in police patrol.* Police rarely spread their patrols evenly across space and time, and they are more likely to direct attention to (or perhaps to avoid) problematic areas. This may involve police spending more (or less) time in neighborhoods that have higher concentrations of particular ethnic groups. Although these variations ideally follow objective differences in crime patterns, ethnic profiling may contribute to the targeting of ethnic neighborhoods.

► *Over-representation of certain ethnic groups in suspect descriptions*. Such over-representation may be linked to ethnic differences in crime rates, but it may also be linked to biases in the way people report suspects to the police.

► *Demographic differences*. Some ethnic groups will come under more suspicion because of demographics—for example, if they have a younger population proportionally more prone to engage in criminal activity.

► *Members of some ethnic groups spend less time at home*. These groups may congregate in public spaces where police stops are more likely to take place.

It is important to consider these risk factors for police stops as they can indicate the causes of disproportion among groups and whether such disproportion is reflective of ethnic profiling or some other factor. The final section of this chapter explores some of these explanations more systematically based on data from Bulgaria.

Possible Causes for Ethnic Disparity in Police Stops

- **Ethnic profiling**

  "When you see a Roma in the [name of area], you stop them." (Bulgarian police officer)

  "I consider the Roma suspicious. They get tied up in brawls, they band up in groups in the evening and at night." (Hungarian police officer)

  "During the day I can sometimes see a person who does not look Spanish and could be stopped." (Spanish police officer)

- **Ethnic-specific suspect descriptions**

  "I might get a call for a suspect that is a Moroccan man, dressed this way, [of a certain] height and we stop people that look like him." (Spanish police officer)

- **Intelligence on crime patterns**

  "We understand urban tribes and we do stop and search Latin Kings [a gang with roots in the United States] in discos because we get data on them. We study statistical data and we anticipate." (Spanish police officer)

- **Geographical deployment**

  The weekly and monthly periodic instructions of the Bulgarian police patrol draws the attention of patrol officers to emerging risks in the areas under surveillance and give them an opportunity to respond by adjusting their activities. As a result, certain ethnic neighborhoods may be targeted if the incidence of crime is geographically concentrated there.

- **Lifestyle differences**

  In Bulgaria, vehicle stops are much more common among Bulgarians (14 percent) than Roma (5 percent). At least in part, this reflects the fact that vehicle ownership rates for Bulgarian (51 percent) are substantially higher than for Roma (20 percent).

Police Suspicion and Ethnic Profiling

Although ethnic profiling violates a series of international standards, these standards are not clearly embedded in the national law of the three study countries. Some police officers in Bulgaria and Hungary engage in ethnic profiling by using Roma identity as a basis for stopping people. In Spain, some police report targeting certain groups of immigrants—also a form of ethnic profiling—while enforcing immigration laws. Certainly, many Roma community members in the three countries and immigrants in Spain believe that the police engage in ethnic profiling.

International context

Elements of international and European law—including the UN's Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights—establish that ethnic profiling is illegal. This principle is reinforced in the three countries by the European Convention on Human Rights and by the Council of Europe's European Commission against Racism and Intolerance.[21]

However, abstract legal norms do not always inform the policies and practices of individual police departments. Research suggests that, in the three study countries, there are few restrictions on the practice of stops and searches or on ethnic targeting. Antidiscrimination measures are not strong, and police officers are granted wide discretion in their use of stop tactics and associated searches.

Designing research to pinpoint and measure the precise extent of ethnic profiling is challenging, typically requiring substantial resources and sophisticated methods. Although this research project was not so ambitious, it collected data that provide important evidence as to whether or not ethnic profiling exists in the three study countries. When, as part of this study, police officers provided their reasons for stops, some made it clear that ethnicity was at least some of the time the basis for targeting stops.

Bulgaria

By law, police officers in Bulgaria have the right to carry out identity checks for a wide range of reasons, without a high threshold of suspicion. They also have the right to carry out personal searches on the basis of grounds that appear, overall, to be fairly flexible. There is limited mention of the prohibition against discrimination in police directives, although discrimination is illegal according to national law (see Appendix B).

In interviews, patrol officers highlighted a number of factors they take into consideration when making stops. They said that stops are more likely to be carried out when someone

- fits the profile of crime suspects;
- is an outsider to the neighborhood, town, or village (often a Roma);
- has a "suspicious' look (based on the officer's instinct or feeling, but also sometimes on the individual's behavior or appearance);
- is out late at night;
- carries a large bag or a package;
- is riding in a horse cart—a criterion particularly relevant to Roma (in some cases, stops of these carriages were routine);

- is obviously an intravenous drug user;
- could be an information source;
- appears to be Roma.

Another motivation for police stops is economic: asking for a bribe. According to the household survey, about 10 percent of those who reported vehicle stops indicated that patrol officers demanded some sort of a bribe. Less than 1 percent of the pedestrian stops included demands for bribes.

A number of police officers emphasized Roma ethnicity as a reason for stops, primarily because the police perceive Roma as being heavily involved in crime.

> *"You can't really tell who [among the Roma] steals and who doesn't. They almost all do."* (Bulgarian police officer)

For these officers, Roma identity alone was a strong basis for stopping individuals. One officer suggested that he stopped all Roma, although in subsequent questioning he admitted he made a number of exceptions, such as not stopping Roma individuals that he knew personally.

Many Roma believe that they are targeted by the police. In interviews in the region of Stara Zagora conducted by the Bulgarian NGO Links, Roma respondents stated that the police deliberately target Roma.[22]

> *"If somebody makes some mischief, the police immediately arrest a whole group of Roma for interrogation."* (Roma interviewee)

Many officers, however—particularly those working in Roma neighborhoods—did not have a generalized suspicion of the entire ethnic group.

Police officers mentioned other variables linked to ethnicity that are markers for suspicion. Depending on the neighborhood, a member of an ethnic minority might be more likely to be viewed as an "outsider." The ill-defined criterion of a "suspicious look" also increases the possibility that ethnic stereotypes may influence the police's decisions. Lifestyle characteristics may also make certain ethnic groups more prone to suspicion. For example, targeting people riding a horse and cart naturally directs suspicion toward the Roma, who tend to travel this way, and away from other Bulgarians, who do not—an approach that could constitute ethnic profiling.

Hungary

Hungarian law gives police wide discretion in conducting stops and searches. Indeed, police have the authority to stop and ask for identification from "anyone whose identity needs to be established," if it is "deemed necessary for the establishment of the identity, or if there is suspicion of a criminal or petty offense, or it is needed to prevent danger."[23] There is no reference to ethnic profiling in Hungarian law, although the constitution outlaws discrimination in policing. As in Bulgaria, some interviewees reported being stopped by police seeking bribes.

When describing their reasons for searches, police officers highlighted three main factors, which are similar to those described by the Bulgarian police:

- Has the person broken the law?
- Does he or she look like someone on a wanted list?
- Is he or she acting suspiciously?

When discussing the basis for suspicion, Hungarian police described a number of factors, including:

- shifty appearance and behavior (with clothing and neatness important factors);
- location and the time (perhaps the scene of a crime; someone whose presence is unusual at that place at that time of the day; "strange" behavior);
- the age and condition of the individual's car; and
- appears to be Roma.

About half of the police officers interviewed in Hungary said that some of their colleagues tend to stop members of certain ethnic groups more than others—and, most often, the Roma. In at least some cases, this tendency directly drove practice.

> *One has to pay more attention to the Gypsies. There is a greater chance that I catch someone off the wanted list. . . . I therefore assume that we should check them more closely, more frequently."* (Hungarian police officer)

The idea that Roma origin might be a basis for a stop was explicit and common in focus group data in Hungary.

> *"Compared to a non-Roma, a Roma has a far greater chance of being stopped and searched by an officer, in any situation, for any reason."* (Roma interviewee)

Spain

In Spain, the legal limit of police powers—to stop persons for identification purposes and for searches—is not well defined. The law states that there must be a "motive" to require a person to identify himself or to carry out a search, but the definition of "motive" is vague. Regarding ethnic profiling, the situation is similarly unclear. Although discrimination is outlawed by the police law, ethnic profiling has been upheld by the Constitutional Court of Spain in the case of immigration control (see Appendix B).

The vast majority of police officers interviewed stressed the need for a justifiable motive for stopping, identifying, and searching someone. When asked to discuss specific reasons for carrying out stops, a number of factors were highlighted:

- direct observation of crimes and infractions (particularly in relation to vehicle stops)
- suspicious behavior, such as nervousness, avoidance of police attention, or carrying something
- physical appearance (for example, poor attire)
- time of day (for example, late night)
- resemblance to suspect descriptions
- record of prior criminal acts
- outsider status
- "sixth sense" feeling about a person's intentions
- ethnicity

- suspicion of undocumented immigrant status
- random preventative criteria

Officers rarely suggested that Roma identity was a direct reason for suspicion. Instead, they said Roma were stopped more frequently as a result of the legitimate policing of crimes in which Roma were more likely involved.

> *"In [a certain neighborhood], police stop Gitanos [Roma] a lot more, but not due to their ethnicity but due to their way of acting. They do not work at all, they commit robberies, and engage in fights."* (Spanish police officer)

In some interviews, police described a more explicit connection between ethnicity and stops. In particular, the efforts to counter illegal immigration seemed to provide some police officers with what they considered a legitimate and legally sanctioned basis for targeting anyone who appeared to be from an immigrant minority group. Although many police officers emphasized that apparent immigrant status was by itself not enough to justify stopping someone, appearance featured significantly in police accounts of reasons for stops.

> *"We stop foreigners to see if they are illegal. How can we enforce the [immigration law] if we don't stop people that look like foreigners?"* (senior police officer, Spain)

The willingness to enforce immigration laws through ethnic profiling may not be surprising given that this principle has been upheld as legal practice by the Constitutional Court of Spain (see Appendix B).[24] Yet, some officers directly resisted the suggestion that they target stops on the basis of ethnicity.

> *"I will not stop Muslims or anyone one else due to his ethnicity or nationality."* (Spanish police officer)

Members of minority groups—both immigrant and Roma—who took part in focus groups or whose opinions were articulated by NGO representatives, confirmed that ethnic profiling does occur, although some felt the practice was more widespread than others.

"You are a suspect, by the hair, by the face, because you have a photocopy of your ID papers but not the [national residence number] . . . and that makes us nervous." (Immigrant interviewee)

"I believe that we were stopped just for being Gitanos [Roma]. They came directly at us. A Gitano who looks like the stereotype is stopped more." (Roma interviewee)

A report from SOS Racismo, a Spanish NGO, cites specific incidents of police harassment and brutality targeted against Muslims. In some of these cases, police insulted victims by accusing them of involvement in the March 11, 2004, bombings in Madrid.[25]

Demographic and Lifestyle Factors

As noted, factors other than ethnic profiling can contribute to ethnic disparities in police stops. Bulgaria is the one study country where the research produced sufficient evidence to examine this issue in detail. The study shows that higher rates of vehicle stops among non-Roma in Bulgaria are fully explained by social and lifestyle differences—due to the higher rate of vehicle ownership among non-Roma and the underpolicing of Roma-only communities. It also shows that demographic and lifestyle factors do not explain higher pedestrian stop rates among Roma in Bulgaria, reinforcing evidence that ethnic profiling accounts for this type of stop. Additionally, the research indicates that underpolicing of Roma-only communities actually acts to reduce the number of pedestrian stops experienced by Roma, superficially depressing reports of ethnic profiling.

Differences between ethnic Bulgarian and Roma populations

To explore how social, demographic, and lifestyle factors might play a role in stop disparities, it is important to examine some key variables between ethnic Bulgarian and Roma populations in Bulgaria. Table 6 shows profound differences between the two groups. Overall, the Roma individuals are younger, much more likely to be unemployed and less likely to have completed high school, and much less likely to own a car. There are also significant geographical differences between the two populations. The majority of both ethnic Bulgarians and Roma live in neighborhoods inhabited almost exclusively by their own ethnic group. Only one-quarter of ethnic Bulgarians and one-third of Roma live in neighborhoods that are ethnically mixed.

TABLE 6.
Demographic and lifestyle characteristics of Bulgarians and Roma

	Ethnic Bulgarian percentage	*Roma percentage*	*Significance of ethnic difference*
Under 35	32	42	**
Completed high school	79	11	**
Unemployed	7	43	**
Vehicle ownership	51	20	**
Goes out more than once a week	37	38	**
Bulgarian neighborhood	74	3	**
Mixed neighborhood	26	35	
Roma neighborhood	0	62	
Urban neighborhood	75	75	
Vehicle stops	14	5	**
Pedestrian stops	5	13	**
Sample size (minimum)	**986**	**579**	

Notes: * $p < 0.05$
** $p < 0.01$

How ethnic differences affect disparities in stops

Statistical models provide a way of determining whether certain factors, such as those in Table 6, have a direct influence on (rather than just a correlation with) the probability that a person will be stopped by the police. Furthermore, they allow analysis of the relative significance of ethnicity as a predictor of stop rates after accounting for the statistical effects of other variables. If ethnicity remains a significant predictor, ethnic profiling is likely a factor.

Table 7 summarizes this analysis, focusing separately on vehicle stops and pedestrian stops (see Appendix D for more details).

TABLE 7.
Summary of statistical models for predictors of stops (Bulgaria)

	Vehicle stops	*Pedestrian stops*
Age (older)	–	–
Female	–	–
High school completed	+	
Vehicle ownership	+	
Goes out every week	+	
Urban area		+
Roma in ethnically mixed neighborhoods		+
Roma in Roma-only neighborhoods	–	

Notes: + increased likelihood of stops
– reduced likelihood of stops

Vehicle stops: Taking a range of variables into account, Roma ethnicity does not increase the likelihood of vehicle stops. Instead, vehicle stops are more or less likely due to a combination of factors: age, gender, education (which may also be related to aspects of lifestyle), vehicle ownership, the person's social activity during the week, and, finally, the character of the neighborhood. Notably, Roma people from exclusively Roma neighborhoods are actually less likely—other factors being equal—to experience vehicle stops. This fact may indicate the underpolicing of these neighborhoods. Table 8, considered in the context of the information in Table 7, supports two conclusions: that vehicle stops of non-Roma are more frequent because non-Roma are twice as likely to own vehicles and police are less likely to stop vehicles in Roma-only neighborhoods, perhaps due to underpolicing.

Pedestrian stops: By contrast, the model for pedestrian stops shows that, after controlling for other variables, Roma ethnicity increases the chances of a stop. Specifically, Roma living in ethnically mixed neighborhoods alongside ethnic Bulgarians are more likely to be stopped, other factors being equal. Age, gender, and residence in an urban neighborhood are also important in predicting the likelihood of being stopped. The data on pedestrian stops add substantial weight to the existing evidence that Bulgaria's police routinely practice ethnic profiling of Roma. Furthermore, it suggests that such profiling occurs specifically among police conducting pedestrian stops within ethnically mixed neighborhoods.

The Effectiveness of Police Stops

To enhance public security, police stops must be used efficiently and wisely. The research methodology does not allow a direct measurement of the effectiveness of police stops. In the context of international research on effective policing, however, the accounts given to the Justice Initiative by police officers allow for some provisional judgments.

It is reasonable to assume that police stops will be most effective in tackling crime problems and reassuring the public when these stops are carried out in ways proven to be effective by research on police stops and on policing in general.[26] International evidence finds little support for the idea that ethnic profiling is an effective police tactic (see Appendix C).

The research suggests that police stops are most effective at detecting and reducing crime and reducing public fear of crime when stops meet these criteria:

- based on strong grounds for suspicion, informed by current intelligence
- focused on current crime "hot spots"
- focused on more serious and active offenders
- focused on crimes of concern to the public

- based on definable suspicious behavior
- carried out in the context of community-police dialogue and cooperation
- carried out in a respectful manner, including a clear explanation of the reason for the stop

The research from Bulgaria, Hungary, and Spain does not indicate directly whether these criteria were met in the three countries. Two tests, however, provide strong indications of whether these guidelines are generally followed:

- Are stops guided by up-to-date operational intelligence (for example, focused on active offenders, local crime trends, and specific crime hotspots)?[27]
- Are stops subject to routine monitoring, evaluation, and feedback to ensure they are well targeted and meet effectiveness criteria?

Measured against these criteria, the Justice Initiative's research on stop practices in the three countries shows them to fall well below international standards of good practice.

General Observations about the Exercise of Discretion

Police officers in the three study countries said that, in targeting stops and searches, they had fairly wide discretion.

> *"The law says I can stop and search whoever I want."* (Hungarian police officer)

One way to assess how this discretion is exercised in practice is to compare the surveys of Bulgaria and Hungary with recent surveys conducted in the United States and in England and Wales, as in Table 8.

TABLE 8.
Rates of police stops in Bulgaria, Hungary, England and Wales, and the United States in 6 and 12 month periods[28]

	Bulgaria (2005) [last 6 months only]	*Hungary (2005)*	*England & Wales (2002/2003)*	*United States (2002)*
Percentage of drivers stopped	[15]	18	10	8
Percentage of pedestrians stopped	[5]	3	3	5

Note: Survey questions are not strictly comparable between countries, so some statistical differences may be explained by differences in methodology.

Table 8 shows that police stops of drivers in Bulgaria and Hungary are twice as common as in the United States and notably higher than in England and Wales. This suggests that discretion may be exercised more widely in Bulgaria and Hungary, and that stops—at least, of vehicles—are more a routine practice than a targeted effort. It is worth noting that, according to research conducted in the United Kingdom, in general, more frequent stops are associated with lower arrest rates.[29]

One explanation for the higher rates of stops in Bulgaria and Hungary is the broader remit of police responsibilities and the consequently greater attention police give to identity checks in these countries. In Bulgaria, for example, ensuring that all citizens are in possession of personal identity cards is one of the legally stated purposes of police stops. In Spain, identity checks are also legally sanctioned and are an important factor in police stops, according to the research interviews (although the data do not show the overall rate of stops). This policing imperative is less relevant to the United States and the United Kingdom, where identity cards are not mandated.

Bulgaria

In Bulgaria, there is some evidence that police stops occur based on suspect information and, to a lesser extent, location. Stop practices, however, do not seem to reflect a detailed analysis of information to identify the more serious offenders, current hot spots, or interrelated criminal events. For the most part, police officers did not indicate that information about crime problems (such as crime trends or high-crime locations) was relevant in the development of suspicion.

Patrol officers are required to radio in details of all stops of persons and vehicles; all registered offenses or disturbances of public order; and "official actions" taken in relation to stops, crimes, and offenses.[30] Interviews with police officers indicated that, in practice, they radio in information only for stops that raise further suspicions or that involve a person whose identity cannot be established. Furthermore, neither the police officers interviewed nor their supervisors considered the "hit rate" of stops to be an indicator of efficiency. Analysis of ratios of arrests to stops was not used in any of the performance data summaries.[31]

Hungary

Most police officers interviewed in the Hungary research considered stop-and-search to be a justified and an effective procedure in criminal investigation (leading to the identification of wanted individuals) and, to a lesser extent, in crime prevention.

> *"Stop and search is the foundation of every procedure: without this, we cannot take the next step."* (Hungarian police officer)

Police officers in Hungary did not emphasize the relevance of up-to-date intelligence in the development of suspicion. Rather, suspicion seemed to be based on generalities—an approach that can potentially lead to ethnic profiling.

The nature and purpose of monitoring and reviewing stop practices are not clear from the available data. On the positive side, significant attention is paid to police data collection and the reporting of stops. Police fill out paper forms at the stop location and later enter the data into a computer system at the police station. It is not clear, however, how the data are used to direct stop activity. Notably, only one-quarter of the officers interviewed reported that their superiors oversee their stop practices.

Spain

In interviews, Spanish police were also supportive of current stop practices. Officers felt that stops prevent crime, both by deterring and by intercepting wanted people. Officers even suggested that there is a perceived psychological benefit from stops among the population.

> *"You get a sensation of security when you see seven or eight police on a corner and you do not have to worry about what is happening on your block."* (Spanish police officer)

Evidence that police stops might conform to effective principles was again limited. One officer mentioned intelligence-based targeting of police stops with reference to a criminal gang, but, in general, police stops did not seem to be primarily based on objective and systematic principles."I might suspect someone but another police officer will not. It is very arbitrary," one officer said.

Additionally, among the diverse police forces studied, there is no systematic protocol for gathering data on the people who are stopped, identified, and searched, although there are some local initiatives in specific settings. This absence of protocol suggests that stops in general are subject to little ongoing assessment and evaluation for their appropriateness or effectiveness.

> *"I never talk to other police about my criteria for stopping."* (Spanish police officer)

Public Support for Stops

Reliable information on public support for stops is not available for the three study countries, but some observations can be made from available data.

Bulgaria

The research does not reveal what Bulgarians think about police stops. Recent public polls show, however, that most people in Bulgaria are concerned about their security and are in favor of strong police tactics against crime.[32]

One way to examine the effect of stops on public opinion is to explore their direct relationship to determinants of public opinion, using multivariate statistical techniques. After controlling for other factors, statistical models indicate the factors associated with the public's low confidence in police are

- direct experience of "disrespectful" treatment during a stop;
- residence in a Roma neighborhood; and
- ethnic Bulgarian or Roma origin (as s opposed to Armenian, Vlach, or another ethnicity).

Hungary

The research in Hungary shows a very high level of public support for stop tactics. In the national survey, 85 percent agreed (somewhat or strongly) that there should be more targeting of drivers, and 88 percent favored focusing on underground passageways and train stations for frequent stops and searches. It also appears, however, that this support was for stops targeted at particular groups. Some 60 percent of respondents agreed that persons who appeared to be Roma should be stopped and searched more than people who do not appear to be Roma; 57 percent agreed that persons who appeared to be Arab should be stopped more than those who do not; and 55 percent would support stopping and searching young persons more frequently. By contrast, 45 percent of the respondents indicated that they supported more stops and searches among the general population if subgroups were not singled out for attention.

Even interviewees who had been stopped (about one-third of whom were Roma) were predominantly in favor of stop tactics, considered the practice to be right and justified, and would not want to change it.

Spain

The research in Spain did not collect data directly on the general public's attitudes toward police stops, beyond noting the discomfort expressed by those who were stopped, notably members of the migrant communities. A national survey, however, recorded that between 67 and 80 percent of people (depending on the police agency) found police patrols helpful. This result suggests that the public is not negative about routine police activity but does not support further conclusions about their attitudes toward police stops.

Conclusions

The research found evidence of at least some ethnic profiling in each of the three countries studied, although the extent of it is unclear. These findings should help to advance thinking about ethnic disadvantage in police stops. First, they highlight how the experiences of stops can be worse for ethnic minorities, even when the rates of stops are not much different among groups. Second, in Bulgaria there is evidence that the underpolicing of Roma-only neighborhoods produces fewer stops in those neighborhoods. Third, the findings raise questions about the value of aggregate stop rates as an indicator of ethnic profiling, because other factors have a substantial impact on disparities in stop rates.

Experiences of Ethnic Minorities

- **There is evidence of ethnic profiling in each of the three study countries, although not of its extent.** This evidence is derived from interviews with police officers and Roma in the three countries and with immigrants in Spain. Police officers in Bulgaria and Hungary who described ethnic profiling referred to Roma, while officers in Spain who described ethnic profiling referred primarily to immigrants rather than Roma. Statistical data from Bulgaria indicate that ethnic profiling is probably a feature of pedestrian stops rather than of the far more numerous vehicle stops, an idea supported by multivariate statistical analysis. Statistical data from Hungary, although less detailed and reliable, also suggest ethnic profiling may be a feature of pedestrian stops in particular.

- **Immigrants in Spain are probably subject to the most systematic form of ethnic profiling identified by the research.** Stopping people in part because they "look like foreigners" appeared, in some cases, to be accepted operational policy within the Spanish police force. This type of ethnic profiling, in relation to immigration enforcement, has been upheld as legal practice by the Constitutional Court of Spain, even though it contradicts other police laws and European nondiscrimination standards.

- **Roma in Bulgaria and Hungary are treated less respectfully during stops than members of majority populations.** This finding must be set in the larger context in which—for both Roma and non-Roma ethnic groups in Bulgaria and Hungary—the number of neutral experiences with police stops is greater than the number of negative experiences. Yet, the difference in the experiences of Roma and non-Roma is an issue of concern. In Spain, the data do not support direct comparisons of ethnic groups, but in interviews many Roma respondents and members of immigrant groups provided accounts of unpleasant stops. In the context of other findings, the results suggest that stop quality (how people are treated during a stop) may be as important as stop quantity (how often stops occur) in understanding ethnic disadvantage.

- **In Bulgaria there is evidence of under-policing of Roma neighborhoods.** (Similar data are not available for Hungary or Spain.) Other factors being equal, people living in Roma-only neighborhoods are much less likely to be stopped in vehicles, suggesting that police patrols in these neighborhoods may be less frequent or intensive. Although this pattern will tend to reduce the aggregate number of Roma targeted for police stops, it may also indicate a lower level of policing services provided to the Roma.

- **Aggregate numbers of stops in Bulgaria and Hungary show no detectable ethnic differences.** (Similar data are not available for Spain.) Ethnic profiling was more evident in the incidence of pedestrian stops in Bulgaria and, to a lesser extent, Hungary than in the more numerous vehicle stops. In Bulgaria, at least, traffic stops were even more frequent among the non-Roma population. The higher rate of car ownership in the majority population of Bulgaria seems to account for much of this vehicle-stop pattern in Bulgaria and may also be important in patterns documented in Hungary. Additionally, in Bulgaria, the low incidence of vehicle stops in Roma-only neighborhoods further explains a comparatively higher rate of vehicle stops among non-Roma. The findings add to existing doubts about the value of aggregate stop rates as a measure of ethnic profiling, given that social, demographic, and lifestyle differences among ethnic groups can also profoundly influence ethnic stop rates.[33]

Other Observations about stop tactics

- **Routine stops place a burden on majority populations.** Stops in Bulgaria and Hungary—specifically, traffic stops—are prevalent and much more common than in the United States or England and Wales. In part, this pattern may be driven by the regularity of identity checks, which are a routine part of operational policing in all three study countries.

- **Police stops do not closely adhere to international good practice for reducing crime.** Although the research could not directly measure the effectiveness of stop tactics, there is no evidence that police in the three countries closely adhere to internationally recognized good practice. Specifically, there is little evidence that police stops are targeted according to up-to-date intelligence on current crime patterns—beyond basic use of suspect descriptions—or that they are subject to systematic internal review.

Appendix A: Country Characteristics and the Situation of Ethnic Minorities

In recent decades, all three of the study countries have made a transition from authoritarian or totalitarian governments to democracies, although the timing and outcomes of these transitions have been very different. Today, their economic circumstances are profoundly different, with Spain the most affluent. Bulgaria faces the worst economic problems, dating back to its transition from communism.

Table 9 highlights key statistics from the United Nations and other sources that reveal some of the variations among the countries.

TABLE 9.
Population characteristics of study countries

	Bulgaria	*Hungary*	*Spain*
Total population in millions (2003)	7.8	10.2	42.1
GDP per capita (2003)	$7,731	$14,548	$22,391
Adult literacy rate (2003)	98.8	99.3	97.7
Life expectancy (2003)	72.2	72.7	79.5
Estimated Roma population	5 to 10 percent	6 percent	1.5 percent
Estimated foreign national population	1 percent	1 percent	9 percent

Sources: All figures except the Roma and immigrant population estimates come from United Nations Human Development Reports, http://hdr.undp.org/statistics/data/countries.cfm.Roma estimates are drawn from various sources, including: United Nations Development Programme (UNDP) (Bulgaria), I. Kemény and B. Janky, 2003 (Hungary), and Fundación Secretarido Gitano (Spain). Immigrant statistics are drawn from: National Statistical Institute, Sofia[34] (Bulgaria), Hungarian Statistical Office (Hungary) and Secretaría de Estado de Inmigración y Emigración, Ministerio de Trabajo y Asuntos Sociales, and Instituto Nacional de Estadistica (Spain).

Bulgaria

The social cost of the democratic transition in Bulgaria, which began in 1990, has been one of the highest in Central and Eastern Europe. Gains for the population in terms of human rights and civil liberties are set against increases in unemployment, poverty, inequality, and economic insecurity,[35] although, following an economic crisis in 1996–1997, there has been consistent economic growth and falling unemployment since 2000. Bulgaria became a member of the European Union (EU) in January 2007, although outstanding issues need to be addressed—including organized crime and corruption—through reforms in the judiciary and public administration systems.[36]

Within the country, there are several ethnic minority groups. The largest are the Roma and the Turkish minorities, although there are also Armenians, Vlachs, Bulgarian-speaking Muslims, Jews, and Macedonians. The census from 2001 registered about 6,605,000 ethnic Bulgarians, 747,000 ethnic Turks, and 371,000 Roma. Roma leaders and experts estimate, however, that the number of Roma in Bulgaria is much higher than the census suggests.[37] The UNDP estimates the Roma population to be between 600,000 and 750,000.[38] The relative status of the two main minority groups in Bulgaria is very different; the Turkish minority fares much better than the Roma on most indicators.

Hungary

Hungary is considered a stable liberal democracy with a functioning market economy and, in contrast with Bulgaria, represents one of the most successful post-transition countries in Central and Eastern Europe. During the transition period, the country recorded strong growth and, by 2002, was attracting more than one-third of all foreign direct investment coming into Central and Eastern Europe (including Russia).[39] Hungary's successful transition culminated in its membership in the EU in 2004.

Within Hungary there are thirteen recognized national and ethnic minorities including Roma, German, Slovak, Croat, Serb, and Romanian. The number of immigrants and foreigners with non-European origins has been increasing in recent years, although the number is still relatively small and includes mainly transitory people and those from neighboring countries. About 80,000 to 100,000 immigrants arrive each year, but as Hungary is mainly a transit country of international migration, most of them depart to Western Europe within a few days or weeks.[40] The Roma are the largest minority in Hungary. The most definitive research, conducted in 2003, indicates a Roma population of between 570,000 and 600,000.[41]

Spain

Spain made its transition from dictatorship to democracy after 1975 and became a member of the European Community (now the European Union) in 1986. Since then, the country has made substantial economic progress, and recent improvements in living standards are starting to make up for its years of underdevelopment relative to other parts of Europe.[42]

Spain has an estimated Roma population of between 600,000 and 800,000, representing about 1.5 percent of the total population.[43] Other ethnic or racial minorities in Spain include recently arrived foreign immigrants, with non-Europeans only recently highly visible within the country. In December 2005, there were approximately 2.7 million foreign migrants with residency papers in Spain, of which about 825,000 are from Latin America, 570,000 from EU countries, and 600,000 from Africa (mostly Morocco).[44] These figures do not include the estimated 800,000 to 1 million undocumented migrants and those immigrants who have received Spanish citizenship, totaling about 210,000 in 2003.[45, 46]

The Situation of the Roma

All three study countries have a significant population of Roma. This section describes how this group represents the most disadvantaged and discriminated-against minority group in all three countries, and probably in Europe generally.

Bulgaria

In Bulgaria, Roma face enormous social and economic disadvantages. Most Roma live in urban areas (about 54 percent, based on the 2001 census), either in the capital city of Sofia or in regional centers. Often these settlements are walled, and the majority of the dwellers rarely venture outside. More than 90 percent of Bulgaria's Roma say they have sometimes or often experienced food-deprivation;[47] 65 percent of the Roma, ages 16 to 60, are unemployed.[48] One in every five Roma has been unemployed for more than 10 years, and one in two has been unemployed more than five years.[49] The Roma illiteracy rate is 15 times higher than that of the non-Roma population.[50]

This disadvantage is closely linked with discrimination against Roma. Indeed, public polls reveal an increasing intolerance toward Roma among both Bulgarians and Turks. For example, 86 percent of Bulgarians consider the Roma irresponsible and lazy, and 92 percent judge them as inclined toward criminal acts.[51] The European Roma Rights Centre, among other organizations, has raised a range of concerns about discrimination, including evidence that Roma are the targets of racially motivated violence, abuse at the hands of police, and systematic racial discrimination in areas such as education, housing, medical care, and employment.[52] Police abuse in Bulgaria appears to be frequent and is relatively well documented.[53] As recently as 2004, the European Court of Human Rights found the police liable for abuse of Roma.[54]

Roma are substantially overrepresented in Bulgaria's criminal justice system.[55] This fact could indicate either higher rates of criminality (which would not be surprising in the context of the group's economic marginalization) or discrimination by police and the criminal justice system—or a combination of both. Unpublished statistics from Bulgaria's Ministry of the Interior suggest that disproportionate Roma involvement in police-suspect statistics may have decreased relative to peaks in the 1990s, but Roma are still overrepresented by a factor of between 2.7 and 4.7.[56] Homicide data, usually considered the most reliable of police data as an indication of underlying crime (although not necessarily of suspect characteristics), suggest over-involvement of Roma in murder by a factor of at least two. In a 2002 study of 12 Bulgarian prisons, self-identified Roma constituted between 38 percent and 40 percent of all prisoners in 10 facilities. According to prison staff and officials from the judiciary branch, the figure could be as high as 80 percent, given that many Roma choose not to identify themselves as Roma.[57]

Hungary

Roma in Hungary are also economically disadvantaged, with unemployment rates at around 50 to 55 percent and dependency upon social assistance at 22 percent. Few Roma have acquired a secondary or higher level of education.[58] More than half of the Roma households in Hungary do not have access to hot running water, and 35 percent do not have access to cold running water. More than half of the houses do not have indoor toilets, and 13 percent have one or more members of the household sleeping on earthen floors.[59]

In some respects, however, the Roma may be less disadvantaged in Hungary than some other European countries. Hostile public attitudes toward the Roma appear to have decreased since the late 1990s.[60] Similarly, compared to Bulgaria, the generally higher economic living standards in Hungary place the Roma there in a better situation.[61]

Yet public opinion and media representation of the Roma reinforce stereotypes that associate the Roma with criminality.[62] This association is likely linked to the substantial overrepresentation of Roma within the criminal justice system of Hungary. Research from the 1990s suggests that at least 40 percent of prison inmates are Roma.[63] At least part of this overrepresentation may be explained by the poor treatment of Roma within the justice system, with a number of reports highlighting problems of discrimination, ill treatment, limited legal representation, and high rates of pretrial detention.[64] Overrepresentation in criminal activity is not surprising, however, given the significant economic marginalization of Roma in Hungary.

Spain

Considering Spain's higher level of economic development, levels of poverty and social exclusion among Roma communities there are less than they are in Central and Eastern Europe, although Spanish Roma face many of the same kinds of problems.[65] Few Roma hold salaried jobs, for example, and most are engaged in independent, part-time, or informal labor. Government statistics suggest that most jobs held by Roma are low paid and are primarily in the informal sector, with 50 percent to 80 percent working in "traditional professions" of peddling, collecting solid waste, and performing seasonal work.[66] NGOs highlight the continuing problem of discrimination in employment, housing, education, and other services.[67] The Spanish government has developed explicit policies to improve the circumstances of the Roma, including the National Program for the Development of the Roma, which combines the efforts of national and local governments and NGOs.

As in other countries, Roma communities are subject to stereotyping. The stereotype of Roma as criminals has a long history, and there are many examples of this stereotype's perpetuation by politicians, opinion makers, and the media.[68] Although there is limited data on the subject, the Roma appear to be substantially overrepresented in the criminal justice system. For example, a 1999 study of female prisoners showed that 25 percent of Spanish women prisoners were Roma—more than 10 times their representation in the country's population.[69] The same study concluded that discrimination was likely to be an important reason for this overrepresentation.

Discrimination toward the Roma by the Spanish criminal justice system has strong historical roots. It was only in 1978 that three articles in Civil Guard Regulations, calling for specific police surveillance of Roma people, were repealed. In the contemporary context, there are still examples of policing practices that are aggressively directed at Roma, including heavy-handed raids of Roma neighborhoods.[70]

Immigrants in Spain

As noted, immigrants from a diverse range of national and ethnic origins represent a substantial part of Spain's population. Their growing presence has also led to the rise of many popular fears and misconceptions in Spain, such as the association between immigration and increased crime rates. A recent study found that the percentage of people who describe themselves as anti-immigrant has grown from 8 percent to 32 percent in the past eight years. About 60 percent of the population relates crime to immigration.[71]

Immigrants in Spain fare less well in socioeconomic terms than Spanish citizens. For example, Spanish government data on Ecuadorians, Colombians, and Moroccans show that immigrant workers from these groups are substantially less likely to hold permanent contracts than Spanish workers.[72] Immigrant workers are also segregated by economic sector, with men concentrated in construction and agriculture and women in service industries, particularly domestic service, the hotel industry, and retail trade.[73] Although 9 percent of Spanish people live in houses with six or more people, the same is true for 40 percent of African immigrants, 38 percent of Latin American immigrants, and 29 percent of Eastern European immigrants.[74]

Like the Roma, Spain's immigrants are also overrepresented in the criminal justice system. Although immigrants constitute only 9 percent of the national population, they make up 31 percent of those arrested.[75] Again, there is evidence that this group of minorities may be subject to discrimination within the system. For example, foreign prisoners are substantially less likely to be paroled than Spanish prisoners.[76]

Appendix B: The Police and Their Powers

There are important distinctions in the way the police forces are structured in the three study countries. One key difference is the degree of centralization in the three systems. Bulgaria and Hungary have highly centralized police agencies, whereas Spain includes tiers of regional and municipal police agencies.

Bulgaria

Except for the military police, all Bulgarian police services are part of the Ministry of the Interior, with the Law for the Ministry of the Interior regulating their functions, powers, and duties.[77] The police agencies include the National Police Service, the National Service for Combating Organized Crime, the Border Police Service, the National Fire Safety and Protection of Population Service, and the National Gendarmerie. Of these, the National Police Service is the major policing organization dealing with crime detection, crime prevention, and the protection of public order, including control of highway traffic. The Security Police forms the key part of the National Police Service and is responsible for public order, the protection of individuals' rights, and the preservation of property rights. This uniformed body is in charge of the police patrol, but it also supports other departments of the National Police Service that are in charge of crime detection and investigation.

In Bulgaria, two main agencies can carry out police stops: the Security Police and the National Gendarmerie. Most stops are carried out by the Patrolling and Guarding Activity units of the Security Police. The Security Police is always the largest unit within an Area Police Department (APD). It is headed by a senior officer and supervisor, who reports to the head of the APD. Other Ministry of Interior agencies can conduct stops, but only under specific conditions.

Hungary

The national chief commissioner of police in Hungary is directly subordinate to the Minister of the Interior. Local police branches operate independently of the local governments and are, therefore, not accountable at that level. The centralized state police force operates under a strictly hierarchical system that runs parallel to the military hierarchy. At the top of the hierarchy is the National Police, whose head is the chief police commissioner, who carries the rank of police general. There are 19 county police organizations in addition to the Budapest police headquarters, each of which is directed by a police commissioner. Provincial police stations function as subordinates to the regional police headquarters. Each of these provincial stations is directed by a police superintendent.

The public prosecutors' offices are responsible for safeguarding the lawfulness of criminal investigations. They have the power to revise measures taken by police authorities during the course of their investigations, to assess and oversee the lawfulness of arrests, to hear complaints against decisions taken during the investigation, and to represent the case in court.[78]

Spain

Spain's police agencies are more layered than those of Bulgaria and Hungary, combining national and regional police agencies with municipal police forces. The two national police forces are the Civil Guard (which is responsible for rural areas, national traffic, and border control) and the National Police Corps (which is responsible for urban areas and control of foreigners). These centralized agencies include more than two-thirds of the police officers in Spain. There are also three autonomous regional police forces that have assumed much of the role of the national forces in Catalunya, the Basque Country, and Navarra.[79]

These large force structures overlay a highly localized patchwork of about 1,700 police forces run by municipal governments. These police forces have the power to undertake patrols, make stops, carry out searches, and make arrests.

Legal Regulation of Police Stops and Discrimination

Elements of international and European law suggest that ethnic profiling is illegal.[80] On an international level, the UN's International Convention on the Elimination of All Forms of Racial Discrimination prohibits racial discrimination with respect to "freedom of movement" and the "right to equal treatment before the tribunals and all other organs administering justice."[81] The International Covenant on Civil and Political Rights prohibits racial discrimination in relation to "the right to liberty and security of the person," outlaws "arbitrary arrest or detention," and bars deprivation of liberty "except...in accordance with procedure[s]...established by law."[82]

At the regional level, the European Convention on Human Rights prohibits racial discrimination in the enjoyment of civil and political rights, including the rights to liberty and security of the person, and also the determination of civil rights and any criminal charge.[83] In recent years, the European Court of Human Rights in Strasbourg, France, has increasingly applied these provisions to policing.[84] The European Commission against Racism and Intolerance, a body of the Council of Europe, has also specifically addressed ethnic profiling in stops and identity checks, even within the context of the war on terror.

Bulgaria

Under Bulgaria's law, all police officers and police aides have the right to carry out identity checks for a wide range of reasons that do not necessarily require a high threshold of suspicion.[85] Grounds include: suspicion that the person has committed a crime or an offense, detection or investigation of a crime, examination of ID documents or residence permit, standard procedure at police checkpoint, and the request by another state body for assistance. All police officers can stop vehicles to check IDs or driving licenses. A police officer may detain individuals whenever there is evidence indicating they have committed a crime, they have refused to follow lawful police orders, they are fugitives from lawful detention, or their identity cannot be established.[86]

Police officers and police aides also have the right to conduct personal searches on grounds that appear, overall, to be fairly flexible.[87] Searches can take place whenever police have information indicating that suspects are carrying prohibited objects or have been found in a place where a crime or a violation of the public peace has occurred. Inspection of personal belongings is also permitted in all cases in which the police check personal identity and have enough information or material evidence that a crime is being concealed. Police officers and police aides also have the right to carry out inspections of vehicles when informed of a violation of the public peace.

Currently, the only provisions prohibiting discrimination in police work are elaborated in the Law on the Ministry of the Interior (LMOI), Instruction I-23, which requires officers to "respect the dignity and rights of all citizens, without discriminating according to age, gender, sexual orientation, race, ethnicity, political views and nationality." Neither the LMOI nor its Implementation Regulation, however, contains provisions to restrict discrimination. Although the practice of ethnic profiling may comply with all police provisions, it nonetheless remains a violation of the Constitution and the Law on Protection against Discrimination.

Hungary

Hungarian law also gives the police wide discretion to make stops and conduct searches. Article 29 of the 1994 Act on the Police gives police full authority to stop and ask for the identification of "anyone whose identity needs to be established."[88] No suspicion is required for this procedure, and failure of a person to identify himself or cooperate can lead to search, arrest, and up to 24 hours of detention without probable cause. A search may be conducted if an arrest is taking place or if it is "deemed necessary" for the establishment of a person's identity; if there is suspicion that a person has committed a criminal or petty offense; if it is necessary to prevent "danger"; or during raids. In effect, Hungarian law allows searches of practically anyone at practically any time. Furthermore, the police are under no obligation to provide an explanation for a search unless it is specifically requested.[89] Further, Article 44 of the Act on the Police allows the police to stop vehicles at any time to check the legality of vehicle operation and possession.

Although the Act on the Police does not refer to discrimination, Hungary's legal system does. For example, the Hungarian constitution has a general antidiscrimination clause that refers to fundamental human and civil rights,[90] and a decision of the constitutional court extended the principle of nondiscrimination to the entire legal system.[91] Hungary also passed an antidiscrimination code, which came into force on January 27, 2004.[92] As the laws are currently understood, however, ethnic profiling does not amount to discrimination, but police leadership has made an official commitment to scrutinize all reports of anti-Roma discrimination within the force. The chief of the national police receives an annual report on these cases.

Almost all of the police officers who participated in the Justice Initiative study said during interviews that they were familiar with the Act on the Police and with the Service Regulations of the Police, both of which regulate police stops. Almost all had also received training on the process of conducting stops. There was some variance in views among officers as to whether the regulations allowed them to stop anybody they wanted or whether the regulations allowed them only to make stops in cases where there was at least some cause. Officers seemed to understand that their legal discretion was wide.

Spain

In Spain, the legal limits of police powers to stop persons for identification and for searches are not very specific. All police can stop and identify persons; however, the law states that there must be a "motive" to conduct a search or to require a person to identify himself. Exactly what constitutes a "motive" is undefined. The Constitutional Court has ruled that the police have the right to search a person, even if there is no previous indication that the person has committed a crime, as long as the police action is carried out "within the framework of prevention and investigation of criminal activity."[93] Spain's Supreme Court has ruled that the procedures for establishing the identity of a person or undertaking a search must be carried out with reasonable care and with a reasonable spirit of investigation; the police can act upon simple suspicion, but the suspicion cannot be "illogical, irrational, or arbitrary."[94] Stops and searches of drunk drivers, however, do not have to have a motive.

Regarding racial profiling, the Law on the Security Forces and Corps states that police officers must act in all situations with "absolute political neutrality and impartiality, and…without discrimination based on race, religion or opinion."[95] A Constitutional Court decision, however, supports racial profiling—at least, in immigration control. The court upheld the legality of a decision by the national police to stop an African American woman with Spanish citizenship solely on the grounds of race.

The vast majority of the police interviewed for the Justice Initiative's study stressed that they must have a justifiable motive for stopping, identifying, and searching a person, and that this motive cannot be random or arbitrary.

Police Culture and Integrity

The data available on the culture and integrity of the police forces in the three study countries are not consistent or strictly comparable. Available data indicate that police agencies in all three countries have been accused of committing human rights violations, although there are also some efforts within the countries' police agencies to address such problems.

Bulgaria

The Bulgarian police service is a relatively closed organization. Despite attempts at reform, its basic structure continues to reflect the Soviet model of a centralized and militarized institution.[96] Since the early 1990s, the spirit of police centralization may have been buttressed by the recruitment of a large number of former military conscripts and officers.[97] Civil control and public transparency have therefore not yet taken a firm hold, and issues of integrity have plagued the Bulgarian police. For example, a survey of the Bulgarian public found police officers at the top of the list of public officials who have asked for bribes in 2005: 28 percent of respondents who had interactions with the police were asked for one.[98]

Repeated international criticism, along with judgments by the European Court of Human Rights (ECtHR), have led the police to introduce reforms aimed at improving treatment of minorities. Despite there being fewer abuses reported now than during the 1990s, a judgment relating to police abuse of Roma was handed down as recently as 2004.[99] The Bulgarian police have begun to organize training programs on human rights and minority issues for their personnel. A specialized human rights committee was set up in the National Police Service in August 2000, and a coordinator has been appointed for each regional police directorate to relay the committee's work by organizing human rights training for police officers at the local level. Additionally, during the past 10 years, the Ministry of the Interior has been working with NGOs and foreign police services on a number of joint projects aimed at bringing the Bulgarian police in line with international professional standards and practices.

For example, in collaboration with the Open Society Institute–Sofia, the Minister of the Interior approved two community-policing projects in Roma neighborhoods in 2002, and there are plans to extend elements of these projects to other areas that have substantial Roma populations. Despite these developments, the Justice Initiative interviews revealed the presence of negative attitudes toward the Roma, with respondents referring to the Roma as "lazy" and "irresponsible." The same interviews showed that police officers did not seem to be able to discuss human rights concepts and principles and did not seem to remember much of the content of courses they attended.

Until recently, Bulgaria had no independent body to investigate complaints of ill treatment or discrimination made against members of the police force. Allegations have instead been investigated by officers from other police stations or by the prosecutor's office. In 2003, however, a new law established the Commission for Protection against Discrimination, an independent, specialized state body to prevent discrimination and ensure equal opportunities. This agency has the power to investigate complaints relating specifically to discrimination made against the police and other governmental bodies.[100]

Hungary

According to Justice Initiative interviews with police officers, all officers have some kind of professional training, although the majority receives instruction from police training schools rather than degrees from police colleges. The same interviews revealed a level of disillusionment with the job, with most police officers bothered by the low social prestige of police work. Many officers also complained about low salaries. There are no statistics on the ethnic makeup of the police force, although some Roma recruiting programs have been launched in recent years.

There are no explicit standards in Hungary for the policing of minority communities, but the police leadership has made an official commitment to scrutinize all reports of anti-Roma attitudes and behavior. Police training also covers issues of racism and human rights, and there are initiatives to recruit Roma into the police force.[101] Evidence suggests, however, that anti-Roma attitudes are strong. Since 1994, ill treatment of Roma at the hands of the Hungarian police has been widely documented by human rights NGOs, including the Legal Defense Bureau for National and Ethnic Minorities, the Hungarian Helsinki Committee, and the Romani Civil Rights Foundation. In 2004, the Hungarian human rights movement enjoyed its first victory in defense of Roma rights before the ECtHR when the court acknowledged inhuman and degrading treatment by the police against a Roma victim.[102] A 1997 survey by the Ministry of the Interior showed that 54 percent of police perceived criminality as a central element of Roma identity, and similar views are echoed in police interviews carried out during this study.[103] As in Bulgaria, there is no independent mechanism in Hungary for investigating allegations of police abuse. Instead, the police or public prosecutor's office conducts investigations.

Spain

The diversity of police agencies in Spain makes it difficult to characterize the country's police in general terms. The municipal police are particularly varied. Some have progressive chiefs, extensive community contact, and significant accountability, while others have more reactionary chiefs with less transparent organizations.[104] NGOs and human rights organizations have published reports on certain aspects of police activity in relation to minority groups, racism, and discrimination. Amnesty International, the UN Committee against Torture, the European Commission against Racism and Intolerance (ECRI), Spain's Movement against Intolerance, SOS Racismo, and Statewatch have all produced documents and periodic reports on racist incidents—directed toward both Roma individuals and immigrants—including police harassment, violence, and brutality.[105]

There is a notable absence of training regarding minority relations in all police academies except the Catalan Police Academy. Human rights training forms a part of the training program for all of Spain's police agencies, however. Such training is conducted with the participation of members of minority groups and NGOs such as Amnesty International, UNESCO, and Fundación Secretariado General Gitano. A study by Amnesty International carried out at the request of the Ministry of the Interior, however, concluded that police training in human rights is insufficient.[106] Spain also lacks an independent body to investigate allegations of police abuse, relying instead on internal investigations and investigations by prosecutors. The ECRI notes that, when complaints are filed, investigations are cursory and lack transparency. Even more disturbingly, countercharges are frequently brought or threatened against those persons who intend to lodge a complaint of police misconduct, and these countercharges, unlike the complaints filed, tend to be successful and swiftly resolved.[107]

Public Attitudes toward Police

The data and relevant literature support several conclusions about the public perceptions of policing. Notably, in Bulgaria and Hungary, the public sees the police as corrupt and incompetent, although this view is coupled with strong support for tough police tactics. In Spain, evidence suggests that popular perceptions of the police are more positive. By contrast, Roma in all three countries and immigrants in Spain are often fearful of the police, a feeling rooted in direct experiences of unpleasant police encounters.

Bulgaria

Public polls show that most Bulgarians are concerned about their security and favor strong police tactics against crime.[108] In general, however, their trust in the police is not particularly high, with half of the survey respondents in the current research expressing "little" or "no" trust in the police (there was even less confidence in some other public institutions). No doubt this relates, at least in part, to the perception of a strong association between police and corruption.[109]

A 2000 survey of ethnic minorities, although not strictly representative, provides some insight into minorities' perceptions of the police.[110] Ethnic Turks had the highest respect for the police and indicated that they found police officers to be professional and well-mannered toward citizens. Despite this generally positive evaluation, they indicated that the police were authoritative, corrupt, and had a tendency to commit professional violations. Roma interviewees, on the other hand, considered police officers to be corrupt, with limited authority, and inclined to violate the law.

Based on data from the Justice Initiative survey, the chart below compares the varying levels of confidence that different ethnic groups have in the police force. Roma have very similar rates of confidence in the police as ethnic Bulgarians—though both are relatively low—whereas Turkish people express more confidence.

The Bulgarian household survey included questions that could be used to develop a scored rating of confidence in police. On a scale based on 10, the scores averaged 5.2, indicating that public confidence in police among the population was not particularly high.

Average confidence in police, by ethnic group

	Bulgarians	*Roma*	*Other (including Turks)*
Confidence in police (scored from zero to 10)	5.0	4.9	7.1

Note: Differences are statistically significant, overall ($p < 0.01$), but only because of the much higher approval rating of the "other" group. Differences between Bulgarians and Roma participants are not statistically significant.

Participants in the Roma focus groups expressed skepticism about the police. They characterized the police force as an inefficient, corrupt organization that has no impact on crime problems. Participants said they would rarely call on police patrols to resolve a crime or a crisis situation and would rarely bring charges as victims. They believe the police are biased against them. Crime victim surveys show that 75 percent of the crimes committed against Roma are not reported to the police, whereas unreported crimes against ethnic Bulgarians average 57 percent.[III]

Hungary

Among the respondents to the household survey carried out in Hungary, there was widespread support for strong police tactics, among both non-Roma and Roma populations: 88 percent of all respondents said there should be more and continuous checks by police in public places.

At the same time, community focus groups in Hungary revealed a generally negative view of current policing. Non-Roma participants emphasized concerns about police corruption, inefficiency, lack of physical and mental fitness, and lack of legal training. These opinions were based on limited personal involvement with the police. Roma focus groups also revealed negative attitudes, although, to some extent, of a different character. Unlike non-Roma, Roma participants reported that they had often been stopped in the street for what they felt were racist reasons and had been subjected to what they felt was disrespectful treatment. Unanimously, Roma interviewees said they believe that the Hungarian police are racist in their stop practices (a view shared by some non-Roma, too). The Roma were also critical of police corruption and concerned about the poor physical appearance of police officers.

Spain

A recent national survey in Spain suggests a generally positive view of policing among the general population.[112] Only 11 percent of respondents felt that ineffective police were to blame for the crime rate in Spain. The same survey found that, when encountering a patrol of the National Police Corps, 80 percent thought the officers were helpful, and 72 percent thought they inspired confidence. The ratings for the municipal police were 78 percent and 67 percent, respectively. Overall, public perceptions of the police suggest that, in general, the four main tiers of policing are rated more positively than negatively by the public. The National Police Corps inspires the most confidence, followed by the Civil Guard, the police of the autonomous regions, and finally the municipal police forces.

Yet, as illustrated by the focus group data collected for this study, views of the police differ among ethnic groups. Non-minority Spanish participants did not express concerns about the police. Among minority participants, however—both Roma and immigrant—there was a fear of police attention and surveillance. The interviewees based their comments on their first-hand experiences—which, in some cases, included disrespectful or aggressive treatment. This view toward police was particularly pronounced among the Roma participants, who felt they were more prone to surveillance and arrest in connection with drugs—a stereotype that they felt colored the police perception of all Roma people, collectively. It is interesting to note that interview participants from immigrant groups held a more positive view of the Spanish police than of the police in their countries of origin.

Appendix C: Is Ethnic Profiling an Effective Tactic?

Some police officials and analysts argue that ethnic profiling can be an effective way to target criminals. Such a case might be made, for example, if there was evidence that a specific ethnic or racial group was more involved in a particular type of crime than others; under such circumstances, it might make sense to seek out people from this more "criminal" group and target them with stops, searches and other police tactics. This argument should not be dismissed casually—indeed it is essential to evaluate such a claim. However, the argument finds little support in the available evidence. In fact, much available evidence suggests that ethnic profiling may actually harm police efforts to solve crime problems.

For example, in the United States, suport for ethnic profiling might be based on a prison population that substantially overrepresents ethnic and racial minorities, which some may see as evidence of higher rates of criminality in minority populations (though explanations for this overrepresentation are complex and likely include racism within the criminal justice system).[113]

According to research in the United States by Harris Interactive, in a number of cases in which statistics are available, higher targeting of minorities is associated both with lower hit rates and with arrest rates that are no better than those for whites. For example, data on stop and search activities in New York during the 1990s showed a substantial overrepresentation of blacks and Latinos, but arrest rates were actually lower for these two groups than they were for whites. In 1999, the U.S. Customs Service also provided an instructive example. Following the service's admission of racial profiling—it introduced significant reforms in its stop-and-search procedures. Race was eliminated as a factor in considering suspicion, and the service focused instead on suspicious behaviors. In 2000, having abandoned racial profiling, the Customs Service conducted 70 percent fewer searches, and their hit rates improved from approximately 5 percent to more than 15 percent.[114]

This well-documented example suggests that a reliance on ethnicity as a marker of suspicion probably does little, if anything, to enhance the effectiveness of police tactics and may even reduce police effectiveness. By contrast, there is much stronger evidence that behavioral factors, coupled with a strong emphasis on police intelligence, provide more important clues to the likely involvement of a person in criminal activity.[115]

The existing evidence raises broader questions about the general effectiveness of stops, identity checks, or searches in reducing crime or detecting criminals. For example, British research suggests that searches are not particularly effective at detecting or preventing crime. Research in the United States on raids—perhaps the most intrusive of police tactics associated with racial profiling—indicates that this tactic may provide only short-term reductions in crime. Police strategies that rely heavily on aggressive and intrusive policing tactics, such as "zero tolerance" policing—the targeted policing of low-level disorders in "problem" areas in an effort to prevent more serious crime—must also be viewed with skepticism. Recent research casts increasing doubt on the significance of the relationship of low-level disorder to more serious crime problems.[116] Although the zero-tolerance approach has been credited by some with helping reduce crime rates in New York City—where the activities of black youths were targeted—crime dropped across all major cities in the United States during the 1990s. Similar reductions in crime were also found in some police departments (in San Diego and Boston, for example) that practiced community policing—an approach that is diametrically opposite zero tolerance.

Finally, an assessment of the effectiveness of ethnic profiling must include the broader context of police-community relations, particularly in communities disproportionately scrutinized by police. Ethnic profiling can affect the public's willingness to cooperate with the police—a critical factor in effective police work. Research in the

United Kingdom and the United States establishes that unsatisfactory contact can negatively affect public confidence in the police, both for those directly interacting with police and for their family, friends, and associates.[117] Research has shown that bad treatment by the police is associated with lower level of cooperation.[118] Worse still, intrusive and apparently discriminatory policing can increase crime and disorder through civil unrest. In 2005, the accidental deaths of two youths who were allegedly pursued by police triggered extensive rioting across immigrant areas of France. In 1992, riots broke out in Los Angeles in response to the televised beating of a black motorist and the subsequent failure to convict the officers involved. In 1981, in London's Brixton neighborhood, disorder followed a law enforcement operation that involved heavy-handed policing and widespread searches of black youths on the streets.

A significant body of research indicates that public satisfaction with police behavior is higher when stops include polite and courteous treatment, a clear explanation for the stop, and less intrusive practices (without searches, for example).[119] It is also important to note that when police managers make a significant effort to promote respectful treatment and exercise sanctions against problem officers, it may lead to more respectful treatment of the public by police.[120]

Appendix D: Survey Methods in Bulgaria and Hungary

Bulgarian Survey

Vitosha Research, a sociological research agency, conducted the household survey with face-to-face interviews at the end of November 2005—a time of year in which many Roma who are seasonal workers or who spend summers in villages relocate to urban areas. The size of the main sample was 1,202. Additionally, there was a booster sample of 534 Roma. The targeted general population was Bulgarians age 15 and older.

The first stage of sampling was based on the list of electoral sections from the last presidential election. The selection of electoral sections was based on systematic random selection. The main purpose was to ensure a random selection of starting points, which were used in the selection of respondents in the second stage. The number of clusters (electoral sections) for the sample was 134. The actual selection of respondents was based on random route sampling.

The booster sample was developed in two steps. In the first step, 100 localities (in all 28 administrative regions of the country) were randomly selected. In each of these localities, the research team used sociological, census, and police information to determine whether there was a concentrated Roma population. All booster sample interviews were conducted in Roma neighborhoods.

The persons interviewed were

- at least 15 years of age;
- citizens of the country;
- permanent residents of the household (persons who actually live there, regardless of whether they are administratively registered as living elsewhere);
- the only member of the household interviewed;
- interviewed individually without disturbances or suggestions from anyone else.

The response rate for the main survey was 79 percent; for the booster sample, the response rate 94 percent. Analysis of the data incorporated a weighting variable, based on age and gender distributions.

Hungarian Survey

The Hungarian survey questions were included during the regular, face-to-face omnibus survey carried out by TÁRKI in September 2005. The survey involved a single, nationally representative sample of 1,047 residents age 18 and older.

The survey sample involved multistage probability methods. In the first stage, localities were chosen within counties. In the second stage, the respondents were chosen from the localities with simple random sampling. When creating the sample of localities, a universe was made with counties as a first strata and type of settlements as a second. Localities were then chosen from within strata using random sampling. As a general principle, Budapest and all county seats (19) were included in the sample. For each county, one additional town and at least one village were selected. After creating the locality sample, the specific respondents for each locality were specified.

The survey used sampling of preselected addresses based on names and addresses obtained from the central registry and electoral office.

The number of wrong addresses (due to relocation, death, etc.) and the number of refused interviews were greater than expected. In total, 1,047 interviews were realized from a starting sample of 2,227 addresses. Excluding ineligible addresses, the overall response rate was 52 percent.

Final data were weighted according to social-demographic data from the national census of 2001, specifically in relation to gender, age, type of settlement, and level of education.

Appendix E: Bulgarian Multivariate Models of Stops

This appendix provides results from a series of models that inform the analyses presented elsewhere in this report. The first two of these are logistic regression models. The third is an analysis of covariance (ANCOVA) model.

Logistic regression: Experience of vehicle stop

	B	*S.E.*	*Wald*	*d.f.*	*Sig.*	*Exp(B)*
Age	–0.02	0.01	12.86	1	0.00	0.98
Female	–1.61	0.22	55.55	1	0.00	0.20
High school completed	0.64	0.29	4.69	1	0.03	1.89
Unemployed	0.51	0.29	3.00	1	0.08	1.66
Vehicle ownership	2.91	0.32	83.53	1	0.00	18.32
Goes out every week	0.44	0.22	4.21	1	0.04	1.56
Urban area	0.29	0.26	1.25	1	0.26	1.33
Bulgarian in Bulgarian only neighborhood			12.56	4	0.01	
Bulgarian in mixed neighborhood	–0.09	0.30	0.09	1	0.77	0.92
Roma in mixed neighborhood	0.54	0.42	1.67	1	0.20	1.72
Roma in Roma-only neighborhood	–1.13	0.47	5.84	1	0.02	0.32
Other ethnic group	0.15	0.36	0.18	1	0.67	1.16
Constant	–1.73	0.65	7.05	1	0.01	0.18

Notes: Nagelkerke R Square = 0.387
N = 1.619

Logistic regression: Experience of pedestrian stop

	B	*S.E.*	*Wald*	*d.f.*	*Sig.*	*Exp(B)*
Age	–0.03	0.01	14.24	1	0.00	0.97
Female	–1.12	0.22	25.96	1	0.00	0.33
High school completed	–0.10	0.29	0.12	1	0.72	0.90
Unemployed	0.00	0.25	0.00	1	1.00	1.00
Vehicle ownership	0.39	0.23	2.74	1	0.10	1.47
Goes out every week	–0.01	0.23	0.00	1	0.97	0.99
Urban area	0.65	0.27	5.64	1	0.02	1.91
Bulgarian in Bulgarian only neighborhood			33.64	4	0.00	
Bulgarian in mixed neighborhood	–0.24	0.44	0.29	1	0.59	0.79
Roma in mixed neighborhood	1.59	0.35	20.63	1	0.00	4.90
Roma in Roma-only neighborhood	0.50	0.37	1.84	1	0.17	1.66
Other ethnic group	–0.33	0.57	0.33	1	0.57	0.72
Constant	–0.90	0.64	1.97	1	0.16	0.41

Notes: Nagelkerke R Square = 0.180

N = 1.633

ANCOVA model: Public confidence in police

Source	*Sum of squares*	*d.f.*	*Mean square*	*F*	*Significance*
Corrected model	6,704	12	0.559	7,705	0.000
Intercept	15,958	1	15.958	220,088	0.000
Age	0,126	1	0.126	1,742	0.187
Unemployed	0,249	1	0.249	3,437	0.064
High school	0,203	1	0.203	2,803	0.094
Sex	0,100	1	0.100	1,377	0.241
Ethnic group	3,507	2	1.754	24,186	0.000
Urban area	0,306	1	0.306	4,220	0.040
Neighborhood type	0,284	2	0.142	1,957	0.142
Stopped for bribe	0,019	1	0.019	0,263	0.608
Bad stop experience	0,609	2	0.304	4,199	0.015
Error	113,472	1,565	0.073		
Total	538,182	1,578			
Total corrected	120,175	1,577			

Notes: R Square = 0.056 (adjusted R Square = 0.049)
N = 1.578

Appendix F: Further Analysis and Research

The research relied on surveys, focus groups, and interviews to explore patterns of ethnic disadvantage, effectiveness, and public and police perceptions of police stops. Other methodologies would further increase our knowledge of the practice of police stops in the study countries. Table 10 highlights the range of research strategies available, including those applied in this study. The sections that follow list opportunities for further research.

TABLE 10.
Research and monitoring tools for asking key questions relating to police stops and ethnicity

Concept to be measured/ understood	*Research/monitoring method*					
	Public surveys	*Police interviews or focus groups*	*Community interviews or focus groups*	*Police internal monitoring*	*External bench-mark studies*	*(Quasi-) experi-mental studies*
Disparities in stop rates	**	*	*	*(*)[121]		
Ethnic profiling	*	*	*		**	
Police treatment	*	*	*			
Public confidence in policing	*		*			
Problem police officers		*	*	**	**	
Police deployment		*	*	**	**	
Productivity (e.g. arrests)	*	*		*		
Effectiveness (crime reduction)		*		*		**

Notes: Grey shading = Methods used in the Justice Initiative research in Bulgaria, Hungary, and Spain

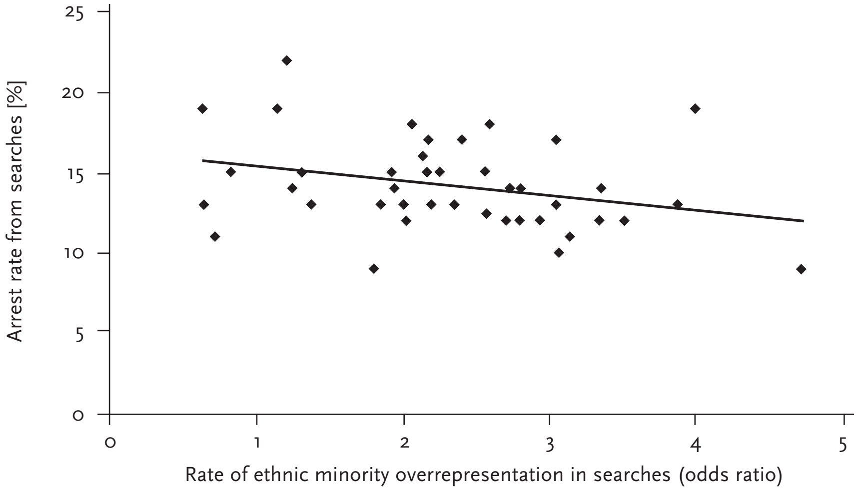
* = at best, can provide suggestive research evidence; ** = at best, can provide strong research evidence

Analysis of Internal Police Monitoring Data

As discussed previously, internal police monitoring allows for the generation of statistics to assess both ethnic disparity and the productiveness of police stops. It relies on a system of monitoring and tracking ethnic data for each stop, identity check, or search. Ethnic monitoring data in England and Wales can shed light on ethnic patterns of stopping, including these patterns' relationship to crime fighting objectives.

Police forces in England and Wales are mandated by law to produce annual statistics on ethnic minorities in the criminal justice system, including those who experience stops and searches. This data can be used to explore the relationships between location, search productivity, and ethnic disparity in searching, as shown in the following example:

Arrest rates from searches by rate of minority overrepresentation in searches (compared to residential census population) across 42 police force areas in England and Wales in 2003/2004



Although the graph provides only a descriptive picture and should not be used to infer causation, it reveals that, as rates of ethnic disparity in police searches increase (in other words, as proportionally more ethnic minorities than whites are searched), arrest rates tend to decrease. On the face of it, this finding provides little support for the idea that ethnic profiling is an effective crime-fighting strategy and instead suggests that, in fact, ethnic profiling is counterproductive to fighting crime.

External Benchmarking Studies to Measure the Extent of Ethnic Profiling

External benchmarking studies attempt to find an appropriate ethnic profile against which to compare patterns of police-stopping activity (accounting for demographic, lifestyle, and lawbreaking differences among ethnic groups). Census data and other population estimates rarely indicate the actual population that might be the target for a police stop. External benchmarking studies are often highly technical, and even good studies sometimes fail to fully resolve debates about the existence of ethnic profiling.

A study focused on the Moscow metro system shows very clear examples of ethnic profiling by the police.

The study was carried out by the Justice Initiative with Lamberth Consulting and JURIX, a Russian human rights NGO. It examined ethnic profiling by police within 15 metro stations in Moscow.[122] The study first created a benchmark percentage of individuals of non-Slavic ethnicity passing through each of the stations. The value of this benchmark was that it looked only at those persons who were "available" to be stopped by the police, and so it controlled for lifestyle differences that might affect the likelihood of metro use. By contrast, a measure based simply on the residential population of Moscow would not have accounted for ethnic differences in use of the metro system.

A second measure was created to account for the ethnic breakdown of actual police stops carried out at the same 15 stations and matched to the same times of day as the benchmarking sample.

Comparing the numbers of stops with the benchmark of metro users showed that ethnic minorities, although they comprised only 5 percent of the riders on the metro system, accounted for more than one-half of the people stopped by police. In other words, non-Slavs were on average 22 times more likely to be stopped than Slavs—a clear indication of ethnic profiling among police officers.

Studies on Effectiveness of Police Stops

A final possibility for further research is to develop sophisticated methodological studies that compare the impact on crime of stops, identity checks, and searches with the impact of enhanced stop practices (for example, those that rely on intelligence, target hot spots, and analyze crime patterns). These studies may provide insight into an approach to police stops that will not place an unnecessary burden on law-abiding members of the public but will produce maximum gains for the police and public in reducing crime.

Endnotes

1. In addition to reviewing background legal and research literature, the research in each study country relied on interviews with police officers about their operational activities and attitudes; focus groups and interviews with members of majority and minority groups about perceptions and experiences of policing; and, in Bulgaria and Hungary, national surveys that included questions about experiences of and attitudes toward policing.

2. Due to the considerable costs of conducting public surveys in Spain and the inability to add questions to another survey, the study has no similar quantitative data for Spain.

3. Decision No. 13/2001 (2001), Constitutional Court of Spain (currently on review before the United Nations Human Rights Committee as *Rosalind Williams Lecraft v. Spain*).

4. Paul Quinton, N. Bland, et al, *Police Stops, Decision-Making and Practice* (London: Home Office, 2000).

5. V. Stone and N. Pettigrew, *The Views of the Public on Stops and Searches* (London: Home Office, 2000); and Ben Bowling and C. Phillips, *Racism, Crime and Justice* (London: Harlow and Longman, 2002).

6. Joel Miller, *Civilian Oversight of the Police: Lessons from the Literature* (New York: Vera Institute of Justice, 2002).

7. David Weisburd and John E. Eck, "What Can Police Do to Prevent Crime, Disorder and Fear," *Annals of the American Academy of Political and Social Science* 593, no. 1 (2004):42–65); David A. Harris, *Profiles in Injustice: Why Racial Profiling Cannot Work* (New York: New Press, 2002); and Rachel Tuffin, Julia Morris, and Alexis Poole, *An Evaluation of the Impact of the National Reassurance Policing Programme* (London: Home Office, 2006).

8. “In making routine or spontaneous law enforcement decisions, such as ordinary traffic stops, Federal law enforcement officers may not use race or ethnicity to any degree, except that officers may rely on race and ethnicity in a specific suspect description. This prohibition applies even where the use of race or ethnicity might otherwise be lawful. In conducting activities in connection with a specific investigation, Federal law enforcement officers may consider race and ethnicity only to the extent that there is trustworthy information, relevant to the locality or time frame, that links persons of a particular race or ethnicity to an identified criminal incident, scheme, or organization. This standard applies even where the use of race or ethnicity might otherwise be lawful.” U.S. Department of Justice, Civil Rights Division, *Guidance Regarding the Use of Race by Federal Law Enforcement Agencies* (Washington, D.C.: U.S. Department of Justice, June 2003),www.usdoj.gov/crt/split/documents/guidance_on_race.htm.

9. Laurence Lustgarten, “The Future of Stop and Search,” *Criminal Law Review* (2002): 603–18.

10. In the U.S. context, Ramirez distinguishes five types of stops: truly voluntary encounters; judicially deemed “consensual” stops; criminal predicate stops (probable cause required); motor vehicle stops (probable cause threshold); and border stops (no predication required to search people and their possessions). Deborah Ramirez, Jennifer Hoopes, and Tara Lai Quinlan, “Defining Racial Profiling in a Post-September 11 World,” *American Criminal Law Review* 40, no. 3 (Summer 2003):1195–1233.

11. In the United States, for example, police officers are allowed to stop and perform a limited search of individuals by patting them down outside their clothing, a procedure known as a “frisk,” when they have reasonable, fact-based, articulable suspicion that the suspect is engaged in a crime and may be armed and dangerous. See *Terry v. Ohio*, 368 U.S. 1 (1968); In the United Kingdom, the Police and Criminal Evidence Act of 1986 gives police officers the power to stop and search anyone in public when they have a reasonable suspicion that the suspect possesses stolen or criminal articles. See Richard Keenan, “Stop and Search: the Leicestershire Experience,” in *Justice Initiatives: Ethnic Profiling by Police in Europe*, (New York: Open Society Justice Initiative, June 2005), 82; In Greece, regulations require that in order to conduct a search, Greek police must be able to explain individualized criteria of suspicion including behavioral and other factors. Criminal Procedure Code, art 243.1.

12. David A. Harris, “Confronting Ethnic Profiling in the United States,” in *Justice Initiatives: Ethnic Profiling by Police in Europe* (New York: Open Society Justice Initiative, June 2005), 82.

13. Ibid., 1206.

14. In his report to the Commission on Human Rights on the occasion of its 60th session, the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance noted that, “In a number of countries, certain racial or ethnic minorities are associated in the minds of the authorities with certain types of crimes and anti-social acts, such as drug trafficking, illegal immigration, pick-pocketing and shoplifting. . . . Racial and religious profiling, in view of its widespread practice in all continents, and especially of the responsibility borne by the central law enforcement agencies, appears as an alarming indicator of the rise of a racist and discriminatory culture and mentality in many societies.” In her 2005 progress report, the Special Rapporteur on Discrimination in the Criminal Justice System acknowledged

the "institutional dimension of racial discrimination and racial profiling by police using statistics on challenges and arrests in the street of members of traditionally stigmatized minorities for offences concerning drugs, prostitution or petty crime." Human Rights Commission, *Administration de la Justice, État de Droit et Démocratie: Discrimination dans le système de justice pénale: Rapport intérimaire établi par Leïla Zerrougui, Rapporteuse spéciale*, UN Doc. E/CN.4/Sub.2/2005/7 (2005); In its General Recommendation 31 on the Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System, the Committee on the Elimination of Racial Discrimination (CERD) urged States parties to "eliminate laws that have an impact in terms of racial discrimination, particularly those which target certain groups indirectly by penalizing acts which can be committed only by persons belonging to such groups, or laws that apply only to non-nationals without legitimate grounds or which do not respect the principle of proportionality" and recommended that they "take the necessary steps to prevent questioning, arrests and searches which are in reality based solely on the physical appearance of a person, that person's color or features or membership of a racial or ethnic group, or any profiling which exposes him or her to greater suspicion." These general expressions of concern at the impermissibility of racial profiling have been mirrored in numerous concluding comments and observations issued by United Nations human rights bodies and other regional human rights bodies. See Committee on the Elimination of Racial Discrimination (CERD), *Concluding Observations of the Committee on the Elimination of Racial Discrimination: France 01/03/94,* CERD/A/49/18, para. 145; *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Ukraine 16/08/2001,* CERD/A/56/18, para. 375; *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Canada 01/11/2002,* CERD/A/57/18, para. 33; *Concluding Observations of the Committee on the Elimination of Racial Discrimination: United Kingdom of Great Britain and Northern Ireland 10/12/2003,* CERD/C/63/CO/11, para. 538; *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Russian Federation 21/03/2003,* CERD/C/62/CO/7, para. 181; *Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America 14/08/2001,* CERD/A/56/18, para. 388; *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Republic of Moldova*21/05/2002, CERD/C/60/CO/9, para. 24. See also the European Commission against Racism and Intolerance (ECRI), *Third Report on France*, CRI (2005) 3, adopted June 25, 2004, paras. 109–113; *Third Report on Germany,* CRI (2004) 23, adopted December 5, 2003, paras. 69–90; *Second Report on Italy*, CRI (2002) 4, adopted June 22, 2001, para. 51; *Second Report on Sweden*, CRI (2003) 7, adopted June 28, 2001, paras. 65–67. In all, ECRI has taken note of the problem of discriminatory policing in Austria, Bulgaria, France, Germany, Greece, Italy, Romania, Russia, Spain, Sweden, Switzerland, and the United Kingdom.

15. The national partner in Bulgaria was the Center for the Study of Democracy (CSD), an interdisciplinary public policy institute dedicated to the values of democracy and a market economy. CSD is a nonpartisan, independent organization fostering the reform process in Bulgaria through impact on policy and civil society. In Hungary, the national partners included TÁRKI, a research institute dedicated to the field of social science and market research, and András L. Pap, a research fellow at the Hungarian Academy of Sciences Institute for Legal Studies, professor of law at Kodolányi College, Székesfehérvár, Hungary, and associate professor at ELTE Law School, Budapest, Hungary. In Spain, the principal partner was Daniel Wagman, a researcher and analyst with the GEA 21 consultancy group.

16. See acknowledgments section of this report. See also *Justice Initiatives: Ethnic Profiling by Police in Europe* (New York: Open Society Justice Initiative, 2005) for a series of articles based on presentations at the January 2005 project launch meeting in Budapest, Hungary.

17. Unfortunately, the high cost of conducting public surveys in Spain and the lack of a pre-existing survey to which the research could add questions—as was available in Bulgaria and Hungary—precluded this approach in Spain.

18. The questionnaires in Bulgaria and Hungary were different, both in terms of the structure and phrasing of questions and in terms of the recall period (in Bulgaria, questions were asked about police stops that occurred in the previous six months; in Hungary, questions were about about stops that occurred in the previous year). For this reason, reliable direct comparisons between the two countries are not possible.

19. Survey data from the European Union Monitoring Center, which asked 1,000 minorities whether they had been detained by the police for checks in the last year, found that the rates of detention for checks were 36 percent among Moroccans, 27 percent among Roma, 23 percent among Ecuadorians, and 17 percent among Colombians. Unfortunately, the study did not include a control group of majority population Spanish nationals. F. Villareal and Daniel Wagman, *Experience of Discrimination of Ethnic Minorities in Spain* (Madrid: Colectivo IOE, forthcoming).

20. For more discussion, see M. FitzGerald and R. Sibbitt, *Ethnic Monitoring in Police Forces: A Beginning* (London: Home Office Research Study No. 173, 1997); and Joel Miller and MVA Consulting, *Profiling Populations Available for Stops and Searches* (London: Home Office Police Research Series Paper 131, 2000).

21. James A. Goldston, "Toward a Europe Without Racial Profiling," in *Justice Initiatives: Ethnic Profiling by Police in Europe* (New York: Open Society Justice Initiative, 2005), 11.

22. Links's staff provided interview transcripts for this research.

23. Act on the Police (34/1994), art. 29.

24. Decision No. 13/2001 (2001), Constitutional Court of Spain (currently on review before the United Nations Human Rights Committee as *Rosalind Williams Lecraft v. Spain*).

25. SOS Racismo, *Informe anual 2005 sobre el racismo en el Estado Español* (Barcelona: Icaria Editorial, 2005).

26. U.S. and UK research dominates the field. See, for example, Joel Miller, Paul Quinton, and Nick Bland, *Police Stops and Searches: Lessons from a Programme of Research* (London: Home Office, 2000); David Weisburd and John E. Eck, "What Can Police Do to Prevent Crime, Disorder and Fear" *Annals of the American Academy of Political and Social Science* 593, no. 1 (2004):42—65; David A. Harris, *Profiles in Injustice: Why Racial Profiling Cannot Work* (New York: New Press 2002); and R. Tuffin, Julia Morris, and Alexis Poole, *An Evaluation of the Impact of the National Reassurance Policing Programme* (London: Home Office, 2006).

27. Intelligence-led policing should be clearly distinguished from the uncritical use of information routinely received by the police. According to the Australian Institute of Criminology, for example, "Intelligence-led policing is defined as the application of criminal intelligence analysis

as a rigorous decision making tool to facilitate crime reduction and prevention. . . . This is usually performed by an intelligence section or unit and relies on a range of sources both within and external to the police service." Australian Institute of Criminology, "Intelligence-led Policing," *Crime Facts Infon* 55 (2003), www.aic.gov.au/publications/cfi/cfi055.html; The UK National Intelligence Model highlights four priorities of intelligence-led policing: (1) targeting of (especially active) offenders; (2) management of crime and disorder hot spots; (3) investigation of linked series of crimes and incidents; and (4) implementation of preventative measures, including those that use local community partnerships. Jerry Ratcliffe, "Intelligence-led Policing," *Trends & Issues in Crime and Criminal Justice* 248 (Canberra: Australian Institute of Criminology, 2003).

28. *Source:* Bureau of Justice Statistics, *Contacts between Police and the Public: Findings from the 2002 Survey* (Washington D.C.: U.S. Department of Justice, 2005); S. Nicholas and A. Walker, *Crime in England and Wales 2002/2003: Supplementary Volume 2: Crime, Disorder and the Criminal Justice System 02/04—Public Attitudes and Perceptions* (London: Home Office, 2004).

29. Joel Miller, Nick Bland, and Paul Quinton, *The Impact of Stops and Searches on Crime and the Community* (London: Home Office Police Research Series Paper 127, 2000).

30. Patrol and Guard Code of Practice, art. 72, para. 3, first adopted 1998.

31. This approach may be changing. Police collaborating with the Justice Initiative on this project have expressed interest in the potential usefulness of these indicators and stated that they propose to introduce them.

32. Martin Gramatikov, *Preliminary Data Analysis of the Public Poll Regarding the Police Activities and the Community Policing Model* (Sofia: Open Society Institute, 2002).

33. See, for example, M. FitzGerald and R. Sibbitt, *Ethnic Monitoring in Police Forces: A Beginning* (London: Home Office Research Study No. 173, 1997); and Joel Miller and MVA Consulting, *Profiling Populations Available for Stops and Searches* (London: Home Office Police Research Series Paper 131, 2000).

34. National Statistical Institute (NSI), *Population and Demographic Processes* (Sofia: NSI, 2004), 308—309.

35. United Nations Development Programme (UNDP), Bulgaria, *The National Human Development Report,* http://www.undp.bg/publications.php?id=1166.

36. Euractive, EU news and policy positions and background of EU-Bulgaria relations, www.euractiv.com/Article?tcmuri=tcm:29-129603-16&type=LinksDossier.

37. UNDP, *Avoiding the Dependency Trap* (Bratislava: UNDP, 2002), 24–25.

38. UNDP, ibid.

39. UNDP, Hungary background, http://europeandcis.undp.org/index.cfm?wspc=CP_HU.

40. United Nations High Commissioner for Refugees (UNHCR), *2004 Statistical Yearbook Country Data Sheet: Hungary*, www.unhcr.org/cgi-bin/texis/vtx/country?iso=hun.

41. I. Kemény and B. Janky, "A 2003. évi cigány felmérésről," in *The Situation of Roma People in Hungary at the Beginning of the 21st Century,* ed. E. Kállai (Budapest: MTA Etnikai–Nemzeti Kisebbségkutató Intézete, 2003).

42. Organisation for Economic Co-operation and Development (OECD), *Economic Survey: Spain 2005,* www.oecd.org/document/57/0,2340,en_33873108_33873806_34578361_1_1_1_1,00.html.

43. There are no official figures of the Roma population in Spain, but various sources estimate that it is between 600,000 to 800,000 persons. See Fundación Secretariado Gitano, http://web.fgss.org.

44. Secretaría de Estado de Inmigración y Emigración, Ministerio de Trabajo y Asuntos Sociales, http://extranjeros.mtas.es.

45. Estimates of undocumented foreigners are gathered from figures from the municipal register of the Instituto Nacional de Estadística (National Statistical Institute) and then reduced by the number of those immigrants with residency papers. Instituto Nacional de Estadística (INE), population figures disaggregated by municipalities, January 1, 2005, www.ine.es/inebase/cgi/um?M=%2Ft20%2Fe260%2Fa2005%2F&O=pcaxis&N=&L=0.

46. *Anuario Estadístico de Extranjería 2003* [2003 Statistical Yearbook of Immigration] is used to estimate figures of naturalized immigrants. Ministerio del Interior, *Anuario Estadística de Extranjería 2003,* www.mir.es/MIR/Publicaciones/catalogo/anuarios/anuario03/enlinea/ii1paginas279284seguridadciudadana.pdf.

47. "To Unbind or to Cut the Ethnic Knot?" *Capital Weekly* 41 (October 16, 2004), reporting research conducted by Alpha Research, 2002.

48. Lilia Dimova and others, *The Roma People: The Other Dimension of the Changes* (Sofia: Partners Bulgaria Foundation, 2004), 73.

49. Ministry of Labor and Social Policy, *Program for Social Integration of the Roma by Providing Equal Chances for Access to the Labor Market and by Decreasing the Dependency on Social Assistance* (Sofia: Ministry of Labor and Social Policy, 2004), 12–52.

50. Dena Ringold, Mitchell A. Orenstein, and Erika Wilkens, *Roma in an Expanding Europe: Breaking the Poverty Cycle* (Washington, D.C.: World Bank, 2003).

51. "To Unbind or to Cut the Ethnic Knot?" (see note 47).

52. European Roma Rights Centre (ERRC), www.errc.org/cikk.php?cikk=2252.

53. Survey by the Bulgarian Lawyers for Human Rights Foundation, performed February through June 2000. See also the European Commission against Racism and Intolerance (ECRI), *Third Report on Bulgaria,* CRI (2004) 2, adopted June 27, 2003.

54. ERRC, www.errc.org/cikk.php?cikk=2522.

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86. Ibid., Article 70.

87. Ibid., Article 73.

88. Act on the Police (34/1994), art. 29.

89. Ibid., arts. 29 and 33.

90. Article 70/A of Act XX of 1949 on the Constitution of the Republic of Hungary.

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94. Decision No. 4005/1991 (April 15, 1993), Supreme Court of Spain.

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The Open Society Justice Initiative, an operational program of the Open Society Institute, pursues law reform activities grounded in the protection of human rights, and contributes to the development of legal capacity for open societies worldwide. The Justice Initiative combines litigation, legal advocacy, technical assistance, and the dissemination of knowledge to secure advances in the following priority areas: national criminal justice, international justice, freedom of information and expression, and equality and citizenship. Its offices are in Abuja, Budapest, and New York.

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Ethnic profiling by police in Europe is widespread but little understood. It is a violation of fundamental human rights norms, but has not been expressly outlawed by any European government. In fact, aside from the United Kingdom, no European country even collects information on the ethnicity of those stopped by police.

"I Can Stop and Search Whoever I Want"—Police Stops of Ethnic Minorities in Bulgaria, Hungary, and Spain fills major gaps in what is known about ethnic profiling by police in Europe. Using quantitative data as well as interviews with police officers and members of minority groups, the book looks closely at the practice in Bulgaria, Hungary and Spain—three countries whose significant minority populations make them the face of a changing Europe.

Examining the laws of these countries, the day-to-day practices of police, and the experiences of those who have been stopped, this study makes an important contribution to understanding ethnic profiling by police. In combining statistical analyses, first-person accounts and policy recommendations, *"I Can Stop and Search Whoever I Want"* makes clear that ethnic profiling is taking place in all three countries, and that it is both discriminatory and an ineffective way to fight crime.

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