

Profiling Minorities

A Study of Stop-and-Search Practices in Paris



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Contents

Acknowledgments	7
Executive Summary and Recommendations	9
I. Introduction	15
II. Ethnic Profiling in France: The Costs to the Public and the Police	19
III. Profiling Minorities in Paris: Disproportionate Stops of Blacks and Arabs	25
IV. The Law and Practice of Police Stops in France	39
V. Conclusion	49
Appendix	
The Methodology behind <i>Profiling Minorities: A Study of Stop-and-Search Practices in Paris</i>	53
Notes	63

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Executive Summary and Recommendations

French residents of immigrant origin, particularly those of North African and sub-Saharan African background, have long complained that police single them out for unfair, discriminatory, and unnecessary identity checks. If these perceptions are true, it means that French police are engaged in “ethnic profiling.” That is, police officers are basing decisions about who may be suspicious on the basis of the color of their skin or their assumed ethnic identity rather than on the basis of their individual behavior.

In 2007, the Open Society Justice Initiative launched a study to examine whether and to what extent law enforcement officers stop individuals based on their appearance. This study was conducted in collaboration with Fabien Jobard and René Lévy, researchers with the National Center for Scientific Research (Centre National de la Recherche Scientifique) in France. The study was carried out under the technical supervision of Lamberth Consulting.

Examining five locations in and around the Gare du Nord and Châtelet-Les Halles rail stations, all important transit points in central Paris that are also the sites of heavy police activity, *Profiling Minorities: A Study of Stop-and-Search Practices in Paris* gathered data on police stops carried out by National Police and Customs officers, including information on the ethnicity, age, gender, clothing, and bags carried by the persons who were stopped. This study, which generated unique information on over 500 police

stops, is the first to gather the quantitative data necessary to identify and detect patterns of ethnic profiling in France.

The study confirmed that police stops and identity checks in Paris are principally based on the appearance of the person stopped, rather than on their behavior or actions. Persons perceived to be ethnic minorities were disproportionately stopped by the police. The results show that persons perceived to be “Black” (of sub-Saharan African or Caribbean origin) and “Arab” (of North African or Maghrebian origin) were stopped at proportionally much higher rates than persons perceived to be “White” (of Western European origin). Across the five observations sites, Blacks were overall six times more likely than Whites to be stopped by police; the site-specific rates of disproportionality ranged from 3.3 to 11.5. Arabs were generally 7.6 times more likely than Whites to be stopped by the police, although again, the specific rate of disproportionality across the five locations ranged from 1.8 and 14.8. Follow-up interviews with the individuals who were stopped also suggest that these two groups regularly experience far more police stops than Whites.

An equally important determinant of who was stopped by police for identity checks was the style of clothing worn by the stopped individuals. Although people wearing clothing typically associated with French youth culture (including “hip-hop,” “tecktonic,” “punk,” and “gothic” styles) made up only 10 percent of the population available to be stopped by police, they made up 47 percent of those who were actually stopped. The study revealed a strong relationship between the ethnicity of the person stopped, the style of clothing they were wearing, and their propensity to be stopped by police; fully two-thirds of the individuals dressed in youth culture clothing were also classified as belonging to a minority ethnic group. It is likely that police consider both belonging to an ethnic minority group and wearing youth clothing to be closely tied to a propensity to commit crimes or infractions.

Although persons from all ethnic backgrounds reported police behavior to be generally polite or neutral, those who were most targeted for police stops and identity checks—Blacks and Arabs—nevertheless expressed anger and frustration at what they believed was a pattern of police singling them out for stops and searches.

The study used a methodology which compared the population *available* to be stopped by police (the benchmark population) with the population that is *actually* stopped by the police. Both the benchmark data and the stop data were categorized according to perceived ethnicity, age, gender, clothing, and the type of bag carried. In observing stops, monitors also recorded the outcome of the stop and, where possible, conducted brief interviews with individuals who had been stopped to find out how often they experienced identity checks, what they thought of the officers’ behavior during the identity checks, and their emotional reaction to being stopped.

Absent legitimate policing strategies that explain these stops in other than ethnic terms, the behavior of the French police documented in this study is highly consistent with ethnic profiling. In principle, ethnic profiling violates many French national non-discrimination standards, including the police code of ethics. It also violates European human rights standards which prohibit distinctions on the basis of race or ethnicity when these have no objective or reasonable justification. The evidence of studies from other European countries and the United States suggests that ethnic profiling practices do not meet this threshold, as their harms significantly outweigh their benefits.

In targeting certain persons because of what they look like and not because of what they have done, law enforcement officers justify and perpetuate ethnic and racial stereotypes. Unsatisfactory police-public contact creates a lack of trust in and unwillingness to cooperate with police, decreasing their effectiveness in preventing and detecting crime. The heightened police attention resulting from a reliance on stereotypes associating persons of particular ethnic, racial or national origins with criminality can lead to increased conflict with the police with consequences for both the safety of the public and of police officers.

The negative impact of ethnic profiling in France has reverberated in a series of riots that have rocked France over the past two decades, most recently in 2005 and 2007. It is also felt in the smaller-scale, everyday altercations between police and immigrant-origin youth and their families; and in a broad loss of confidence in the French criminal justice system by the communities which are disproportionately targeted by police.

French politicians have yet to recognize or take steps to address ethnic profiling by police in France. In order to address this form of discrimination and live up to the true essence of the French republican ideal of the equality of all citizens, ethnic profiling must first be recognized as a problem, and then promptly addressed. To that end, and based on the evidence contained in this report, the Justice Initiative makes the following recommendations.

To Political and Legal Authorities:

- Publicly acknowledge ethnic profiling by French police as a problem.
- Encourage and fund research to determine the magnitude of the problem in various localities across France.
- Undertake a broad review of the legal standards, policies and practices that underlie patterns of ethnic profiling.

- Modify Article 78.2 of the Code of Criminal Procedure to include an explicit prohibition on discrimination by all police officers; to clarify and strengthen the grounds for reasonable suspicion that will serve as justification for police stops; and to clearly specify the circumstances under which searches or frisks may be carried out.
- Maintain and support specialized police oversight bodies like the National Commission on Security Ethics (Commission Nationale de Déontologie de la Sécurité) and equip them with sufficient resources (including financial) to monitor and analyze complaints data for possible discriminatory practices in stop and search and other forms of indirect discrimination.
- Work with local communities and associations on issues of non-discrimination to discuss ethnic profiling and develop policy responses grounded in consensus.

To French Law Enforcement Authorities:

- Review the operational guidelines and procedures that regulate police stop and search activities to determine whether they provide adequate protections against discrimination and ethnic profiling, and to ensure that they conform to the principles of non-discrimination. Provide specific guidance and training for police officers on ethnic profiling issues, including permissible versus impermissible uses of appearance in targeting identity checks.
- Require that officers explain the reason for identity check to all persons they stop, and provide all persons who are stopped with information on police and citizens' rights and responsibilities.
- Regularly analyze stop records, and utilize the results in operational briefings and supervision of patrol officers as well as in the targeting of police operations that rely on identity checks to make sure that these powers are used in a fair and effective manner.
- Make public statistical data on identity checks, stops, and searches and their outcomes, and use this as the basis for outreach and dialogue with local residents to discuss the nature and reasons for any disproportionality that appears, and to seek alternative approaches based on agreements about local safety concerns.

- Review, and if necessary, strengthen the supervision of patrol officers' use of identity checks, stops, and searches on grounds of fairness and effectiveness.
- Review all cases of *rébellion* or *outrages* (the French equivalents of “insulting an officer” or “resisting arrest”) to ensure that they do not reflect a pattern of repeated hostile encounters on the part of any individual officers or squads of the National Police, the National Gendarmerie, the Customs Police, and other law enforcement agencies. Where patterns are detected, they must be addressed through policy change, training, re-assignment and/or disciplinary measures as appropriate to the severity of the problem.
- Introduce mechanisms to obtain feedback from citizens on the quality of police services such as comment boxes, surveys, qualitative monitoring by community groups and the like to identify both good and bad practices.

I. Introduction

For three weeks in November 2005, violent riots raged across 300 French cities and towns, at the end of which four thousand rioters were arrested, thousands of vehicles were destroyed, and more than 125 police officers were wounded.¹ The riots were in part a response to the government's callous response to the deadly electrocution of two young men of immigrant origin who were avoiding a police identity check. That these explosive riots were precipitated by a police stop is not incidental: such stops are at the heart of the strained relationship between French youth and police officers, especially those youth of immigrant origin living in depressed urban and suburban areas. This population has long complained that police unfairly target them for habitual, unnecessary, and harassing identity checks and searches. Indeed, they see this practice as a manifestation of the discrimination and exclusion which they encounter on a daily basis when interacting with the broader French society.²

Defined as the use of ethnicity, race, national origin, or religion rather than individual behavior as the basis for law enforcement decisions about who is believed to be or have been involved in criminal activity, ethnic profiling—akin to the practice known in France as *contrôle au faciès* (identity checks on the basis of physical appearance)—has been on the public agenda since the 1980s. Ethnic profiling can take place in a variety of police operations, but is most widespread in the use of powers to stop, check identity, and search individuals. Although civil society organizations, nondiscrimination advocates and academic researchers have long reported on the prevalence of *contrôle au faciès*, this practice has never been studied in a direct or rigorous manner. Rather,

the information available to date is almost all anecdotal and qualitative in nature. As explained by one civil society advocate, “Everyone knows that racial profiling is common in France. Yet knowing it is one thing, showing it is another.”³ In significant measure this reflects French law which prohibits the gathering of ethnic statistics, as well as French police practice which records only a small percentage of the stops conducted by police.

Profiling Minorities, the first objective and systematic study of ethnic profiling in France, starts to fill this empirical gap. The study was carried out from October 2007 to May 2008 by the Open Society Justice Initiative⁴ in collaboration with Fabien Jobard and René Lévy,⁵ researchers with France’s National Center for Scientific Research (Centre National de la Recherche Scientifique), and under the technical supervision of Lamberth Consulting.⁶ It employed the rigorous statistical methodology of observational benchmarking and monitoring to scrutinize law enforcement stops and identity checks carried out by National Police and Customs officers at five locations in Paris. The study measured the perception of ethnicity and other key variables, including age, gender, style of clothing, and type of bag carried, which were thought to impact police officers’ decision-making about whom to stop and subject to an identity check. The five sites under observation—three located in different sections of the Gare du Nord station and two located in and around the Châtelet-Les Halles commuter rail station—all represent important transit, commercial, and social hubs within Paris. They are also heavily policed locations, and have been the site of repeated conflict between law enforcement officers and the public.

The data gathered revealed that police stops and identity checks are based on the person’s physical appearance rather than individual actions that would lead police officers to determine they have committed or are about to commit a crime or infraction. The strongest determining factors of who was stopped by police were ethnicity and style of clothing. Persons perceived to be “Black” or “Arab” were far more likely than persons perceived to be “White” to be stopped by police. The same was true for persons dressed in clothing styles widely associated in France with youth, such as the “hip-hop,” “tecktonic,” and “punk” styles. Given the close association between these two variables—fully two thirds of the people wearing youth culture clothing were also visible ethnic minorities—clothing can be described as a racialized variable, as stops that were directed at certain styles of clothing resulted in disproportionate stops of ethnic minorities, particularly Black youth.

Absent some legitimate policing strategy that explains these stops in other than ethnic terms, the behavior of the French police at these five locations is consistent with ethnic profiling.

This report presents the detailed results of *Profiling Minorities* as contextualized by the broader discussion of the pervasiveness, permissibility, and harmful effects of ethnic profiling in France.

SECTION II provides a definition for ethnic profiling and discusses, in both general and specific terms, the harms it causes both to the groups it targets and to policing institutions themselves.

SECTION III discusses both the modalities and the results of *Profiling Minorities*. It describes the rigorous methodology developed to observe police stops at the five observation sites. It then presents the results of the study, discussing the impact that ethnicity, age, style of clothing, and other variables had on the likelihood of being stopped.

SECTION IV surveys French nondiscrimination standards and the extent to which these apply to law enforcement agencies; it then goes on to describe both the laws that govern the use of police powers to stop and search individuals in France in the context of ordinary law enforcement, immigration control, and the fight against terrorism. This section also includes a discussion on the complex policing structure at play in the study's five observation sites. Despite existing regulations which attempt to limit their use of these powers, French police officers still enjoy a high level of discretion when deciding whom to stop for an identity check and for what reasons. The study argues that such discretion has enabled officers to disproportionately target ethnic minorities for stops and searches.

SECTION V closes the report with a summary of *Paris Ethnic Study's Profiling* findings of ethnic profiling, noting that the practice of ethnic profiling violates the essence of France's republican ideal of equality and likely does not meet the required threshold for permissible difference of treatment established in European human rights law. The section urges representatives from government, law enforcement, and civil society to address the issue without delay.

II. Ethnic Profiling in France: The Costs to the Public and the Police

Ethnic profiling is defined as the use by law enforcement of generalizations grounded in ethnicity, race, religion or national origin—rather than objective evidence or individual behavior—as the basis for making law enforcement and/or investigation decisions about who has been or may be involved in criminal activity.⁷ This definition encompasses situations where these factors are a significant, even if not an exclusive, basis for making law enforcement decisions.⁸ While ethnic profiling can be driven explicitly by discriminatory law enforcement policies, it is often the cumulative result of decisions made by officers about which to stop, search or otherwise subject to investigation. These officers may be unaware of the degree to which generalizations and ethnic stereotypes drive their subjective decision-making. Ethnic profiling remains persistent and pervasive precisely because it is the result of a habitual, and often subconscious, use of widely accepted negative stereotypes in making decisions about who appears suspicious or who is more prone to commit certain types of crimes.⁹ Ethnic profiling may also result from institutional policies targeting certain types of crimes and/or specific geographic areas without consideration for the disproportionate impact such policies can have on particular ethnic groups. Policy decisions of this sort often reflect larger public and political concerns and, sometimes, public prejudices.

Ethnic profiling can be used across a range of law enforcement operations and tactics. The present study specifically looked at the effect of ethnicity and other factors on National Police and Customs officers' decisions to carry out identity checks as defined by Article 78.2 of the French Code of Criminal Procedure and relevant sections of the French Customs Code. National Police officers carry out these types of identity checks on the street or in other public places such as public transportation, and they target pedestrians and/or passengers¹⁰ where they have reason to suspect that they have committed or are attempting to commit a crime or a disturbance to public order.¹¹ Patrols may be either routine or large-scale operations authorized by the attorney general, which allow officers to conduct identity checks in a specific area for a determined period of time.

Rather than respecting a basic precept of the rule of law—that all persons deserve equal treatment under the law, and that individual behavior should be the basis of legal liability—ethnic profiling targets certain persons because of what they look like and not what they have done. This definition of ethnic profiling does not mean that police and other law enforcement agencies can never take into account ethnicity, national origin, or religion in their crime-prevention or crime-detection work. They may do so where these factors are directly relevant to their investigations. This is most commonly the case when police develop “suspect descriptions,” where victims or witnesses include specific details about the appearances of suspects believed to be involved in particular criminal incidents. These factors may also be taken into account when police have specific, timely, and reliable intelligence about specific crimes or patterns of crime where factors such as ethnicity, national origin or religion are directly related and necessary to their investigation or prevention.

Police officers are not alone in holding pejorative stereotypes about minorities and criminal activity; too often, such attitudes are widespread throughout society. Police officers, however, have a sworn duty to uphold the law, and when they engage in ethnic profiling they not only fail that duty, but also appear to justify broader social stereotypes.

Ethnic profiling is an ineffective and counterproductive law enforcement practice. It exacts a high price on the individuals, groups, and communities that are singled out for disproportionate attention. Police need to have legitimacy in the eyes of citizens, and people must have confidence that the police will act fairly and effectively within the law. People who are habitually stopped by police—a humiliating and sometimes traumatic experience—often lose confidence in law enforcement agencies. British and American research shows that unsatisfactory police-public contacts have a negative impact on public confidence in the police, not only for the individual directly involved but also for their family, friends, and associates.¹²

Ethnic profiling reduces the effectiveness of law enforcement, as policing is profoundly dependent on the cooperation of the general public to report crimes, provide

suspect descriptions, and offer witness testimony.¹³ Ethnic profiling can also lead to conflict and/or increased levels of hostility between the police and the targeted groups, and an increased level of hostility in encounters between individuals and law enforcement agents, as evidenced in France by the multiple riots of recent years.¹⁴ Greater hostility increases the chances that routine encounters will escalate into aggression and conflict, and poses safety concerns for law enforcement officers and community members alike.¹⁵

Furthermore, ethnic profiling can be both over-inclusive and under-inclusive. It is over-inclusive because the majority of people who are targeted for stops and searches are innocent of the suspected crime or infraction. It is under-inclusive in that there may be individuals who do not fit the profile and can therefore escape attention. Over-inclusion imposes unnecessary burdens on those people who fit the profile but who are innocent; under-inclusion may divert police attention from individuals who are actually breaking the law.

Qualitative Evidence of Ethnic Profiling in France

In France, press coverage, reports by nondiscrimination advocacy groups, and social science research studies have documented the common perception among French youth of immigrant origin that they are constantly subjected to discriminatory police stops and identity checks. They complain that police officers treat them harshly and with disrespect. In the words of one young man,

What we want is for the cops to be correct with us: ‘Hello, identity control, do you have your papers?’ But they go, ‘Ok, guys, you want to hassle it out? We’ll have a good time, then! Give me your identity card and shut your trap.’ So you give it to him, and you shut your trap. No hello, no goodbye, they treat us like shit.¹⁶

According to these reports, disproportionate use of stops and identity checks on people of immigrant origin is common in public spaces such as metro or suburban rail stations. As declared by a French advocacy group a decade ago, “You could stand in any station and observe who gets stopped and it won’t be the white, French-looking citizens. It will be the ethnic minorities, regardless of whether or not they have been acting suspiciously.”¹⁷ These assertions are supported by human rights reports and academic research alike. Several reports by Amnesty International found that identity checks tended to occur in metropolitan areas with large populations of young people of non-European immigrant origin,¹⁸ and that these encounters often degenerated into conflict between the individuals stopped and the police.¹⁹ The 2005 report of the National Commission on Security Ethics (Commission Nationale de Déontologie de la Sécurité), the

official body that reviews police conduct, documented over-representation of persons of immigrant origin, particularly young North African and African males, in complaints of police misconduct²⁰—incidents which frequently arose from police identity checks.²¹ Similar results emerged from an independent study of complaints of police abuse: a review of 50 individual cases of police abuse that took place between 2002 and 2004 found that 60 percent of victims were immigrants and that the remaining 40 percent had names or physical appearance that gave the impression of immigrant origin.²²

Media reports have also touched upon discriminatory identity check operations. In 2006, for example, journalists witnessed police on the Paris metro singling out all Asian passengers and removing those without identity papers. When asked for an explanation, the officers responded that they “already had enough blacks.”²³ Human rights advocates suspect that police prevent many more complaints by taking preemptive action when a stop or identity check becomes tense or hostile: the officer or officers will file complaints against the civilian for *outrages* or *rébellion*, charges which are roughly equivalent to “insulting an officer” or “resisting arrest.”

The frequency with which persons of immigrant origin—or those perceived to be of immigrant origin—are stopped by the police has been greatly influenced by France’s increasingly hard-line stance on undocumented migration. With the 2007 establishment of the Ministry on Immigration, National Identity, and Joint Development, (Ministère de l’Immigration, de l’Identité, et du Codéveloppement)—the only institution of its kind in the European Union—the French government began setting annual targets for expulsions of undocumented immigrants from national territory. In 2003 and 2004, 45,500 foreigners were charged with violating the immigration laws; in 2006 this number rose to 67,000, with a further increase to 70,000 in 2007 and 73,000 in 2008.²⁴ Many of these individuals were also detained (35,000 held in detention in 2007 as compared to 28,000 in 2003). At the request of the Ministry on Immigration, French police play an important role in these immigration enforcement operations. At the instruction of the attorney general, police are tasked with carrying out identity checks for the purposes of immigration control and with “making the numbers”—fulfilling the deportation quotas.²⁵ Previously uninvolved with such operations, police forces in France have greatly increased the amount of resources they dedicate to immigration control; in the first quarter of 2008 alone, the National Police increased the time spent on immigration control by 21.7 percent over the same period in 2007.²⁶ The political pressure on French law enforcement forces to combat and control undocumented migration has had an undeniable impact on the nature and volume of identity checks carried out by police officers.

The tense relationship between police and young people of immigrant origin in France has been further shaped by public and political law enforcement priorities. In recent years, the public debate on crime and safety has increasingly focused on

“quality of life crimes,” for which “visible minorities,” particularly youth of North African and sub-Saharan African origin, are blamed.²⁷ Police officers deployed in so-called “sensitive urban zones” (politically correct speak for poor neighborhoods with high concentrations of immigrants and their descendants) are more often than not part of national crowd- and riot-control forces like the Republican Security Companies (Compagnies Republicanes de la Sécurité) and the Mobile Gendarmerie, or internal riot-control units such as the Police Intervention Companies (Compagnies d’Intervention Police) and Mobile Security Units (Unités Mobiles de Sécurités).²⁸

The costs to police-community relationships, and consequently for police safety and effectiveness, have been great. Youth of North African, sub-Saharan African, Caribbean, and other “visible minority” origin see police as the most proximate representatives of a state that targets them for repressive law enforcement control. As a result, police officers often become the physical target of their anger. During the 2005 riots in the suburbs of Paris and other metropolitan centers more than 125 police officers were wounded; in 2007 close to 200 were wounded, including two officers who were seriously injured, and more than 80 who required hospitalization after rioters assaulted them with stones, gas bombs, and firecrackers.²⁹

When carrying out identity checks, police are often surrounded by a crowd of uninvolved people who watch and comment upon their actions. These interactions sometimes become violent, with observers throwing objects at the police. In March 2007, serious disturbances erupted in the Gare du Nord station when a stop of a young Congolese man led to a violent confrontation between police and young people and highlighted how quickly a typical identity check can devolve into conflict.³⁰

French youth of immigrant origin see these actions as a way of “putting pressure” on the police—a means of correcting the imbalance of power between law enforcement officers and the people who are subject to useless and repetitive identity checks, intimidation, humiliation, and even physical abuse.³¹ The police, on the other hand, see their use of identity checks and stops as a way of demonstrating their control over the public space, even if they have to make illegitimate use of their police powers and the legal authority conferred upon them by their status as law enforcement officers.³²

Although the qualitative and anecdotal evidence collected over the past decades has clearly pointed to the role of identity checks in creating tension between police and ethnic minorities, the problem has never been studied rigorously or systematically on the basis of quantitative data.³³ These previous studies could not and did not test hypotheses about the differential treatment of visible minorities by the police, nor did they provide conclusive evidence of ethnic profiling by French law enforcement officers. Without quantitative ethnic data, it was extremely difficult to demonstrate the existence of systemic patterns of discriminatory police practices. *Profiling Minorities* starts to fill this empirical gap.

III. Profiling Minorities in Paris: Disproportionate Stops of Blacks and Arabs

The research for *Profiling Minorities* was carried out utilizing a methodology based on observational benchmarking and monitoring where impartial monitors observed police stops and generated unique demographic and other data to identify possible patterns of ethnic profiling. Carried out from October 2007 until May 2008, the study generated unique information on 525 distinct police stops carried out by National Police and Customs officers in five different locations throughout central Paris.

The study involved several elements, key among them the selection of the sample environment in which to collect statistically reliable and unbiased data. After observing police stops at 21 locations in and around Paris to determine which locations would be most feasible, five observation sites were selected: (1) the street-level Gare du Nord terminal where international and national trains arrive and depart (“GDN-Station”); (2) the Thalys platform at the Gare du Nord terminal, where trains arrives and depart for Amsterdam, Brussels, Cologne, and other European cities (“GDN-Thalys”); (3) the subterranean Gare du Nord concourse for the suburban rail line (Réseau Express Régional, or RER) (“GDN-RER”); (4) the Châtelet-Les Halles RER station (“Châtelet-Station”); and (5) the Fontaine des Innocents Square, a popular outdoor plaza close to the Châtelet-Les Halles station and the Forum Les Halles commercial center (“Châtelet-Innocents”).³⁴

The selected sites had a level of police activity sufficient to allow for the observation of a reasonable number of stops during the study and were also utilized by a diverse cross-section of Parisians. Additionally, they had previously been sites of multiple altercations between French youth and the police, some of them motivated by police stops and identity checks.

The study hypothesized that police in Paris select which individuals to stop based on their physical appearance. Since the study hypothesized that those individuals who appeared to be “White” or of Western European ancestry would be treated differently than those with a non-White appearance, those under observation were classified into six distinct ethnic and national-origin groups: “White,” “Arab,” “Black,” “Indo-Pakistani,” and “Asian.” What was measured was not the actual ethnicity or national origin of the individuals under observation, but rather their *perceived* ethnicity. The study assumed that the monitors’ perception of ethnicity and the law enforcement officers’ perception of ethnicity would be very similar. Other factors that were thought to influence officers’ decisions about whom to stop included the age, gender, clothing style worn by the individuals, and the type of bag they carried.

Impartial monitors were trained on how to classify the individuals under observation according to these variables. To assure consistent classification, an inter-rater reliability test was administered in order to assess the degree to which the observers agreed upon the different variable categories. In order to capture a representative sample of the population at each observation site, monitoring sessions were always conducted on specific days and times from Monday through Saturday.

The study’s observations were of two distinct types: benchmark observations and stop observations. The benchmark observation was conducted in order to define the population at each site that was available to be stopped by the police—which in turn would be compared to the individuals that were actually stopped. To obtain a generalized data set on the available population at all five observation sites, monitors collected data according to the five variables on randomly selected days from October 2007 to February 2008, gathering data for 37,833 individuals. Overall, 57.9 percent of those observed transiting through the five observation sites were classified as White, 23 percent as Black, 11.3 percent as Arab, 4.3 percent as Asian, and 3.1 percent as Indo-Pakistani.

Stop observations were conducted over 75 days from November 2007 to May 2008. The monitors observed police stops at the five locations during the same days of the week and time periods that the benchmarking observations were conducted, recording a total number of 525 stops. Of the recorded stops that were attributed to a specific location, 130 were observed at GDN-RER, 72 at Châtelet-Station, 119 at GDN-Thalys, 119 at GDN-Station, and 82 at Chatelet-Innocents. Of the 524 individuals who were stopped for whom it was possible to assign an ethnicity, 141 were classified as

White, 201 as Black, 102 as Arab, 36 as Indo-Pakistani, 21 as Asian, and 23 as “other ethnic group.”

An additional variable was recorded during the stop observation phase: the post-stop outcome. This variable measured whether the individual was stopped and questioned, stopped and frisked, stopped and searched, or stopped and detained. Following the recording of the stop data, the observers also conducted qualitative interviews with the persons who were stopped by the police. The interview questions addressed the general frequency with which the individuals were stopped, the behavior of the police during the stops, and the individuals’ feelings about the stops.

An expanded discussion of this methodology is presented the Appendix.

The Results

Police Stops and Ethnicity: The Disproportionate Targeting of Blacks and Arabs

The behavior of French police at the five observation sites was highly consistent with ethnic profiling. Blacks and Arabs were far more likely than Whites to be stopped by the police. (The data for Indo-Pakistanis and Asians are not analyzed here because the number of stops that would be expected on the basis of the benchmarks of these two groups is too small to support statistical analysis of any significance. At all five locations, only 36 stops of Indo-Pakistanis and 21 stops of Asians were recorded.)

The best way to understand whether ethnic profiling is occurring is through a statistic called the “odds-ratio.” The odds-ratio quantifies the probability that members of a particular ethnic group are more likely to be stopped by police as compared to other ethnic groups.³⁸ The odds-ratios presented in the report compare the Black and Arab population to the White population. Thus, the statistic can best be understood by filling in the ratio in the following sentence, “If you are Black (or Arab), you are x times more likely to be stopped by the police than if you were White.” The odds-ratio has been widely accepted as the best statistical representation of ethnic profiling because, more than other possible presentations of the same data, it is the quickest and easiest way to compare and understand the different experiences of policing by people of different ethnic origin.

If no ethnic profiling occurs, the odds-ratio would be 1.0, indicating that non-Whites are no more likely to be stopped than Whites. Odds-ratios between 1.0 and 1.5 are considered benign; those between 1.5 and 2.0 indicate that a review of the stop and search practice should be undertaken to determine if an ethnic bias exists. Ratios above 2.0 indicate that there is potential targeting of ethnic minorities for police stops. These values are generally associated with statistical significance in situations where the number of stops at each location is small (generally 100 or fewer), a situation that is fairly common with deployed analyses.

Table 1 shows that when compared to Whites, Blacks are consistently stopped at much higher rates at all five of the locations studied. Overall, Blacks are six times more likely to be stopped as Whites. At Châtelet-Station, Blacks are 11 times more likely to be stopped than Whites. At GDN-Station, they are six times more likely than Whites to be stopped. At GDN-Thalys, Châtelet-Innocents, and GDN-RER they are respectively 5.58, 3.93, and 3.32 times more likely than Whites to be stopped. The data are clear that Blacks are ethnically profiled.

TABLE 1 :
Odds-Ratios for Blacks v. Whites by Location

<i>Location</i>	<i>White Benchmark</i>		<i>Stops of Whites</i>		<i>Black Benchmark</i>		<i>Stops of Blacks</i>		<i>Black v. White Odds-Ratio</i>
	<i>(N)</i>	<i>(%)</i>	<i>(N)</i>	<i>(%)</i>	<i>(N)</i>	<i>(%)</i>	<i>(N)</i>	<i>(%)</i>	
GDN-Station	5,654	82.2%	22	40.7%	1,224	17.8%	32	59.3%	6.7
GDN-RER	3,630	57.1%	26	28.6%	2,724	42.9%	65	71.4%	3.3
GDN-Thalys	3,218	92.5%	63	69.2%	260	7.5%	28	30.8%	5.58
Châtelet - Station	4,906	65.1%	6	14.0%	2,628	34.9%	37	86.0%	11.5
Châtelet-Innocents	4,215	70.8%	24	38.1%	1,742	29.2%	39	61.9%	3.9

Arabs are also more likely to be stopped than Whites. Overall, Arabs are 7.8 times more likely than Whites to be stopped. This general indication of disproportionality, higher than the comparison between Blacks and Whites, reflects the great amount of variation in the Arabs versus Whites odds-ratios. At GDN-Station, Arabs are 13 times more likely than Whites to be stopped, and at Châtelet-Station they are almost 15 times as likely as Whites to be stopped. The odds-ratios at GDN-Thalys and Châtelet-Innocents, while still indicating significant disproportionality in police stops of Arabs, are lower. At GDN-RER, where Arabs are only 1.8 times more likely to be stopped than Whites, the odds-ratio indicates that ethnic profiling may be going on, but is not conclusive to that fact.³⁹

TABLE 2 :
Odds-Ratios for Arabs v. Whites Only by Location

<i>Location</i>	<i>White Benchmark</i>		<i>Stops of Whites</i>		<i>Arab Benchmark</i>		<i>Stops of Arabs</i>		<i>Arab v. White Odds-Ratio</i>
	(N)	(%)	(N)	(%)	(N)	(%)	(N)	(%)	
GDN-Station	5,654	89.0%	22	37.9%	696	11.0%	36	62.1%	13.24
GDN-RER	3,630	74.3%	26	61.9%	1,253	25.7%	16	38.1%	1.8
GDN-Thalys	3,218	96.8%	63	84.0%	106	3.2%	12	16.0%	5.8
Châtelet - Station	4,906	82.4%	6	24.0%	1,048	17.6%	19	76.0%	14.8
Châtelet-Innocents	4,215	79.3%	24	55.8%	1,098	20.7%	19	44.2%	3.0

Police Stops and Age: The Targeting of Young People

The data indicate that young people—those classified as persons who are not middle-aged or older—are disproportionately targeted by the police, as they were overstopped at all five observation sites. Interestingly, there was significant variability of odds-ratios across the different sites. For example, young people at Châtelet-Station were only two times as likely to be stopped as older people, whereas at Châtelet-Innocents, where they constituted 53.3 percent of the total available population but were stopped 98.8 percent of the time, they were 72 times as likely to be stopped. At GDN-RER and GDN-Station, young people were, respectively, 7.9 and 3.6 times as likely as middle-aged and older people to be stopped.

These results are not surprising. Global crime data indicates that young people are the most active population involved in criminal activities, particularly inter-personal violence, theft, and consumption of illicit drugs.⁴⁰ Furthermore, all five locations have been the site of multiple, often violent, altercations between young people and police officers, a pattern that would lead us to expect a higher degree of police attention on this population.

Equally consistent with findings in other countries, males were overwhelmingly among those who were stopped. The odds-ratios for males ranged from 9.88 at Chatelet Station, to 3.50 at Châtelet-Innocents, to 8.83 at GDN-Train, to 1.62 at GDN-Thalys, to 9.35 at GDN-RER.⁴¹

Police Stops and Clothing: The Disproportionate Stops of Individuals Wearing Youth Clothing

People wearing “youth clothing”—different clothing styles typically associated with young French persons such as “hip-hop,” “goth,” and “tecktonic”—were also targeted by the police. See Table 3 for a detailed description of the youth clothing category.

TABLE 3 :
Youth Clothing Descriptions

Hip-Hop	<ul style="list-style-type: none">• Large, distinctive sneakers or tennis shoes• Baggy pants• Extra-large t-shirts• Hooded sweatshirts• Baseball cap worn backwards or to the side
Gothic⁴²	<ul style="list-style-type: none">• Heavy, exaggerated make-up• Head-to-toe black attire• Clunky shoes• Use of accessories such as facial piercings, handcuffs, and nails
Punk⁴³	<ul style="list-style-type: none">• Spiky hairstyles (e.g. Mohawks)• Heavy use of black leather clothing• Use of accessories such as facial piercings, handcuffs, and nails
Tecktonic⁴⁴	<ul style="list-style-type: none">• Heavy use of eye make-up• Tight and bright t-shirts• Slim-cut jeans with distinctive belts

The benchmark data show that while overall, 10 percent of the available population at all five locations were wearing youth clothing, they constituted 47 percent of all the persons that were stopped. People dressed in youth clothing were overall 11.4 times more likely to be stopped than those wearing business or casual clothing,⁴⁵ although there were important variations between the locations. At Châtelet-Innocents, where people dressed in youth clothing constituted 16.4 percent of the population available to be stopped but constituted 73.5 percent of the population that was actually stopped, they were 14 times more likely to be stopped than either those in business or casual clothing. The odds-ratio was even higher at Châtelet-Station, where people dressed in youth clothing were 16 times more likely to be stopped than people dressed in other styles of clothing. At GDN-Station, however, they were only five times more likely to be stopped.

TABLE 4 :
Stops by Clothing and Location

<i>Location</i>	<i>Business</i>			<i>Casual</i>			<i>Youth Culture</i>		
	<i>Bench- mark</i>	<i>Stops</i>	<i>Odds- Ratio</i>	<i>Bench- mark</i>	<i>Stops</i>	<i>Odds- Ratio</i>	<i>Bench- mark</i>	<i>Stops</i>	<i>Odds- Ratio</i>
GDN-Station	16.4%	0.8%	0.44	77.6%	72.7%	0.77	5.9%	26.4%	5.72
GDN-RER	10.0%	0.8%	0.07	75.5%	37.5%	0.19	14.5%	61.7%	9.50
GDN-Thalys	31.6%	6.6%	0.15	66.1%	71.9%	1.31	2.3%	21.5%	11.63
Châtelet- Station	10.0%	1.5%	0.14	80.1%	34.3%	0.13	10.0%	64.2%	16.14
Châtelet- Innocents	6.6%	0.0%	0.00	76.9%	25.3%	0.10	16.4%	73.5%	14.14

It is important to note the high degree of correlation between the youth clothing category and the minority ethnicity classifications. In other words, people wearing youth clothing were overstopped, as were Blacks and Arabs.

The data raise questions about the relative strength of these variables: which is the strongest predictor for being stopped by police—wearing youth clothing or belonging to a non-White ethnic group? The aggregate numbers comparing Whites to *all* other minority ethnic groups (including Indo-Pakistanis and Asians), show that ethnicity matters more: Non-White persons are 3.5 times more likely to be stopped than White persons, while persons wearing youth clothing are 2.9 times more likely to be stopped than people wearing other clothing (business or casual). When the data are disaggregated, however, and Whites are compared only to Blacks or only to Arabs, wearing youth clothing appears as the stronger predictor for police stops, although not by a significant margin. The change in these variables' relative strength is greatly affected by the inclusion and exclusion of stops of the two smaller ethnic categories (Indo-Pakistani and Asian).

In reality, the predictive strength of these two variables is approximately equivalent. It is probable that the police consider both belonging to an ethnic minority *and* wearing youth clothing to be closely tied to a propensity to commit crimes.

Yet even if the clothing style is the key variable at work in police decision-making, this has a disproportionate impact on ethnic minorities since a larger percentage of this population wears youth clothing. Fully two-thirds of the individuals dressed in youth clothing were also classified as belonging to one of the non-White minority ethnic

groups. In the benchmark data, only 5.7 of the Whites wore youth clothing, whereas 19 percent of Blacks and 12.8 percent of Arabs wore youth clothing. Youth clothing may thus be described as a racialized variable. Even if police are targeting their identity controls on the type of clothing individuals are wearing, the end result is a disproportionate number of stops of ethnic minorities, particularly Blacks.

People in business attire were grossly under-stopped at all five locations. Individuals in casual clothing were under-stopped everywhere but at GDN-Thalys. This is probably not surprising as many business people ride the Thalys trains.

Police Stops and Bags: An Unexpected Result

Contrary to the original research hypothesis, persons carrying no bags were overstopped at all locations except for GDN-Thalys. Since all the sites except for Châtelet-Innocents are characterized as sensitive areas under France’s counter-terrorism policy, and therefore subject to special scrutiny under the VIGIPIRATE program (see page 46), the expectation was that police officers would be likely to target people carrying bags of the sort that could accommodate explosives or other harmful weapons. As shown in Table 5, this was not the case.

TABLE 5 :
Odds-Ratios for Bags by Location

<i>Location</i>	<i>Large Bags</i>	<i>Other Bags</i>	<i>No Bags</i>
GDN-Station	0.84	0.19	4.01
GDN-RER	0.55	0.20	11.1
GDN-Thalys	1.35	0.60	1.71
Châtelet-Station	0.30	0.18	9.19
Châtelet-Innocents	0.69	0.20	5.30

The lower odd-ratios at GDN-Thalys for those carrying no bags are perhaps due to the particular nature of that location. Passengers on Thalys trains are traveling to or returning from European cities (including Brussels, Amsterdam, and Cologne), often overnight, and would therefore be expected to carry larger bags. Given that one of the main tasks of the Customs officers that patrol the platform is to search bags for contraband materials, it is therefore likely that individuals carrying large bags would be stopped by them. This may explain the odds-ratio for large bags at GDN-Thalys: 1.35,

constituting a modest over-stopping of those individuals. On the other hand, traveling on an international train with no bags at all can be construed as suspicious, and thus lead to the over-stopping of persons with no bags at GDN-Thalys, even if in lower proportion than at the other locations. It is important to note, however, that the odds-ratios for ethnic minorities and for those wearing youth clothing are higher than those for people carrying large bags or no bags at GDN-Thalys. This may indicate that Customs officers are more interested in the physical appearance of the persons that they stop rather than whether they are carrying a particular type of bag or no bag at all.

Post-Stop Outcomes: Questions on the Effectiveness of Stops

Of the 525 stops observed, 169 were classified as an “ordinary stop”—one where the police merely spoke to the individual for a short while, checked their identity documents, and let them go. Thirty-five stops progressed to frisking, 209 involved a search of the person and/or his or her property, and 73 ended with the person being taken into police custody. Thirty-nine post-stop outcomes were classified as “unknown.”

TABLE 6 :
Post-Stop Outcome by Ethnicity at All Five Locations

<i>Ethnicity</i>	<i>Ordinary Stop</i>	<i>Stop & Frisk</i>	<i>Stop & Search</i>	<i>Stop & Detain</i>	<i>Total</i>
White	57 (43.8%)	4 (3.1%)	60 (46.2%)	9 (6.9%)	130
Black	43 (23.6%)	18 (9.9%)	85 (46.7%)	36 (19.8%)	182
Arab	30 (30.9%)	12 (12.4%)	42 (43.3%)	13 (13.4%)	97
Indo-Pakistani	22 (61.1%)	1 (2.8%)	9 (25%)	4 (11.1%)	36
Asian	10 (50%)	0 (0%)	6 (30%)	4 (20%)	20

It is important to note that being taken into police custody does not mean that the person was necessarily arrested or charged with an offense. In some percentage of cases, possibly many of them, people were simply taken to the police station to verify their identity and were then released (see the discussion on page 43 of the legal and operational difference between a simple identity check [*contrôle d'identité*] and a more rigorous verification of identity [*verification d'identité*]). For this reason, the observational methodology used in this study cannot determine the “hit rate”—the rate at which police stops produce concrete legal outcomes such as fines, citations, arrests, and charges—for the stops that were observed. Nevertheless, the fact that almost a third of the stops were

“ordinary stops” that did not involve further police activity and that fully 78 percent of the persons stopped were let go without any apparent need for police detention raises questions about the effectiveness of these practices.

The data indicate Blacks and Whites are searched at almost identical rates, while Arabs are searched slightly less often. Blacks are searched 46.7 percent of the time that they are stopped, Whites 46.2 percent, and Arabs 43.3 percent. The differences in treatment appear at the level of who is frisked and who is taken into police custody. Blacks and Arabs are respectively four and three times more likely than Whites to be frisked, and they are respectively three to two times more likely to be detained by police than are Whites.⁴⁶

When looking at this data, it is important to note that the disproportionality in police treatment among Blacks, Arabs, and Whites appears to occur at the moment the decision is made to stop someone rather than in what happens to that person after the stop. The relatively small number of stops in each post-stop outcome category and the variation across the five locations means that the differences in post-stop outcome among Blacks, Arabs, and Whites do not reach statistical significance. The data gathered in the study are therefore inconclusive as to whether police are being more punitive toward ethnic minorities after they have been stopped. Further research is necessary to confirm whether the similarities and differences among the different ethnic groups in post-stop outcomes hold true when studying a larger number of cases.

There was also great variation of post-stop outcome across the different locations. For example, stops and searches were very common at GDN-Thalys: 67 out of the 121 stops observed there ended with a search. Such a high rate of searches is to be expected given the duties and functions of the Customs officers that patrol that platform. Stops and searches were also very common at Châtelet-Station, where 30 out of the 68 stops observed for which a post-stop outcome was recorded ended with a search. One possible explanation for the high prevalence of stops and searches at Châtelet-Station is that, unlike the other locations, this observation site did not have a police station on the premises, forcing police to carry out these more invasive inspections in full view of the public rather than in a private area.

In general, there was significant variation in the prevalence of stops across the five locations. Seventy-one percent of all stops observed took place at GDN-Station, GDN-RER, and GDN-Thalys, begging the question of why so few stops were observed at Châtelet-Station and Châtelet-Innocents. Does this lower rate of stops at the last two locations indicate a difference in local policing priorities? What factors could be influencing the higher rate of stops at the Gare du Nord locations? It is beyond the scope of this study to answer these questions, which require discussions with the police and further research.

When considering the “post-stop outcome” variable, it is also interesting to note the relative effects of the ethnicity and clothing variables. The data gathered strongly indicate that ethnic minorities wearing youth clothing are more likely to face more intrusive police intervention once they are stopped. Sixty Whites wearing youth clothing were stopped by the police; of these, 27 experienced ordinary stops while 33 experienced more serious interventions such as searching, frisking, and/or detention. In other words, for every White person that experienced an ordinary stop, one White person went on to be frisked, searched or detained. For Blacks and Arabs wearing “youth-clothing,” however, there is a 1:4 ratio: for every Black or Arab wearing youth-clothing that was simply stopped by the police and let go, four went on to be frisked, searched or detained. Only 22 Blacks wearing youth clothing experienced ordinary stops, while 92 went on to be frisked, searched or detained. Only seven Arabs wearing youth clothing experienced an “ordinary stop,” whereas 33 of them went on to be frisked, searched or detained.

Interview Answers Support Finding of Ethnic Profiling

The monitors attempted to interview all those persons whom they observed being stopped. Interviews with stopped individuals took place concurrently with stop observations, and were conducted at all five observation sites. A total of 173 people were interviewed, but as some people were interviewed in groups, the total number of interviews (147) is lower.

When asked whether this was the first time they had been stopped, an overwhelming majority of respondents (82 percent) answered in the negative; only 23 percent of all interviewees reported never being stopped. In answer to the follow-up question of how many times they had been stopped in the past month, respondents gave both general and specific answers. Thirty-nine percent of the interviewees reported being stopped “often”; 25 percent reported being stopped between two and four times per month; and 16 percent reported being stopped more than five times per month. It should be noted that the range in the number of stops in this last category was large, with people reporting being stopped from five to nine times in the past month to as much as 20 times.

Ethnic minorities reported higher levels of stops. Thirty-one percent of Black respondents reported being stopped between two and four times per month, and 18 percent reported being stopped more than five times per month. Every single individual reporting a rate of stops greater than nine in the last month was Black. Twenty-three percent of Arab respondents reported being stopped “often,” with an additional 53 percent saying they were stopped more than twice a month. Of the Whites that were stopped and interviewed, 56 percent reported being stopped often, 15 percent reported being stopped two to four times per month, and 13 percent reported being stopped more than five times per month.

TABLE 7 :
How do you feel after this stop?
A selection of answers from Blacks and Arabs

“It’s very dispiriting.”

“There’s no justice; it’s always the same people being stopped: the Blacks and the Arabs.”

“There’s injustice and discrimination; the repercussions will be felt in the suburbs.”

“They stop me because of my looks; I feel like slapping them.”

“It’s fine; they’re just doing their job.”

“They’re bastards.”

“It’s disgusting; people are stopped because of how they look..”

“For cops, there is a criminal under every baseball cap. I understand that they are doing their job, but most of the criminals are wearing suits. There was more dialogue when we had community police.”

“They’re just doing their job.”

“It’s racism, plain and simple.”

“It’s fine—It’s the police’s job to stop people.”

“I think I was stopped because I don’t ‘look right.’”

“I don’t mind the stops—they happen all the time.”

In response to the question about the officers’ treatment of them during the stop, only 3 percent of respondents reported racist or insulting treatment by the police; the vast majority—76 percent—were neutral as to police behavior during the stop. Six percent indicated that the police acted in a respectful, polite manner. In their own words: “They were nice, even funny” (*“Ils ont été gentils, voir marrants.”*); “They treated me with

respect,” (*“Ils lui ont traité avec respect.”*); “They were composed and polite” (*“Ils étaient posés et polis.”*).

Despite the generally neutral or positive review of police behavior, these encounters generated strong negative feelings. Although some people said that the police were just doing their job and thus they were not bothered by the encounter, almost half the respondents reported being annoyed or very upset about the stop. Those people who reported being stopped multiple times a month displayed a mix of resignation and anger. Many respondents reported feeling targeted because of the way they looked, with a few explicitly noting that it was Black and Arabs who were always stopped. A fair number spoke to the interviewers about their rage, their shame, and their lack of confidence in the French police. The damage that stop practices can do to the police’s relationship with the public is clear.

Based on respondents’ answers, the police did not provide any reason for the stop more than 60 percent of the time. When officers did provide a justification, the reason was linked to an easily observable infraction—fare dodging, cigarette-smoking, or public drinking—or was described as a “routine” stop.

IV. The Law and Practice of Police Stops in France

The conclusion of *Profiling Minorities: A Study of Stop-and-Search Practices in Paris* that the French police are disproportionately targeting Blacks and Arabs for stops and identity checks in the five observation sites begs the question: Why is this happening? What underlies the apparently disproportionate focus on these ethnic minorities? What could justify such discrimination in police use of identity controls?

Before examining French police powers to conduct stops and searches for the purpose of crime detection, immigration control, and the prevention of terrorism, the section reviews French nondiscrimination standards and the manner in which these apply to policing practices. As described below, extensive nondiscrimination standards have limited application as regards policing and the use of identity checks. In these matters, the critical standards are set out by the French codes for criminal procedure, immigration, and customs. The legal grounds for identity checks established in these codes grant French police officers wide discretion in stopping and searching individuals. This discretion, combined with limited recording of stops and no monitoring of possible ethnic bias, creates the opportunity for these powers to be used in a disproportionate and discriminatory manner.

French Nondiscrimination Standards

The principle of equality is enshrined in the very first article of the French Constitution, which guarantees that “France shall be an indivisible, secular, democratic and social Republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs.”⁴⁷

As a member of the Council of Europe and the European Union (EU), France is also bound by the general nondiscrimination treaties and laws such as the European Convention on Human Rights and various discrimination-related EU directives. The most important among these is Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (commonly known as the EU Race Directive), which establishes the principle of equal treatment in the case of either direct or indirect discrimination based on racial or ethnic origin.⁴⁸ The scope of application of the Race Directive includes employment, social protection mechanisms, social advantages, education, and “access to supply of goods and services which are available to the public.”⁴⁹ The common understanding among European law experts is that the EU Race Directive applies only to those goods and services encompassed by the Treaty of Amsterdam, which excludes domestic law enforcement. This interpretation has yet to be challenged in European courts.⁵⁰

The EU Race Directive was transposed into French law in November 2001⁵¹ and amended existing French nondiscrimination standards in both civil and administrative law (primarily in the Labor Code) as well as in criminal law.⁵² The key provisions modified the scope of grounds for discrimination; introduced the concept of indirect discrimination (in civil law only); and introduced the reversal of the burden of proof in discrimination cases. As amended by the 2001 law, discrimination is defined by Article 225-1 of the French Penal Code as follows:

Discrimination comprises any distinction applied between natural persons by reason of their origin, sex, family situation, physical appearance or patronymic, state of health, handicap, genetic characteristics, sexual morals or orientation, age, political opinions, union activities, or their membership or non-membership, true or supposed, of a given ethnic group, nation, race or religion.

Discrimination also comprises any distinction applied between legal persons by reason of the origin, sex, family situation, physical appearance or patronymic, state of health, handicap, genetic characteristics, sexual morals or orientation, age, political opinions, union activities, membership or non-membership, true or supposed, of a given ethnic group, nation, race or religion of one or more members of these legal persons.⁵³

Article 225-2 of the Penal Code sets out the scope of application of this provision in criminal law;⁵⁴ but as of yet these provisions have not been applied to policing practices.⁵⁵

In addition to these legal provisions, the French National Police are bound by the National Police Code of Conduct (Code de déontologie de la Police Nationale) which prohibits discrimination and describes polite and respectful treatment.⁵⁶ It applies to the National Police only (including those who exercise immigration and counter-terrorism functions), not the Gendarmerie Nationale or the customs authorities. Municipal police forces have their own, nearly identical code.⁵⁷ These codes of ethics do not specify race or ethnic origin as specifically prohibited grounds for discrimination.

Article 7 of the National Police Code of Conduct mandates that:

...in the service of the public, police officials are to behave towards the public in an exemplary manner. They are to demonstrate an absolute respect of all persons, whatever their nationality or their origin, their social situation, or their political, religious or philosophical beliefs.⁵⁸

According to Article 6 of this code, “[f]ailure to meet the obligations set out in this Code can result in disciplinary sanctions for officers, without prejudice, where relevant, to penal law sanctions.” Internal circulars remind law enforcement officers of their nondiscrimination obligations, but these do not provide specific and practical guidance on proper conduct when conducting identity checks and searches.

Complaints against police officers by a member of the public—which may be made directly to the police or to the National Commission on Police Ethics (Commission Nationale de Déontologie de la Sécurité)—give rise to an administrative inquiry. Judicial proceedings may follow the inquiry in the case that the officer is determined to have committed a prosecutable offense. Evidence suggests that these procedures have not proven adequate to prevent discriminatory actions by French police.⁵⁹

Legal challenges to the discriminatory impact of French police’s stop-and-search practices are complicated by several other factors. Given the legal obligation to comply with identity checks created by Article 78.1 of the Code of Criminal Procedure (see discussion below), it is difficult for persons targeted by identity checks to challenge the legality of the stop at the moment it is taking place. To do so would be construed as an obstruction of justice under French law, and could submit the individual to further police action. Thus, the identity check can only be contested after the fact.

Furthermore, the prioritization of immigration control, prevention of terrorism, and the prosecution of petty infractions have placed a performance burden on police officers that can be at odds with respect for nondiscrimination standards. Thus an environment is created where ethnic profiling practices can develop and flourish, especially as there is no apparent attempt to monitor the use of stops in terms of either their effectiveness in preventing or detecting crime, or in terms of their fairness or their potential disproportionate effect.

The critical locus of guidance on police powers in contacts with members of the public is found in the Code of Criminal Procedure, particularly in its provisions on

powers to conduct identity checks and searches. These are discussed in detail in the following sections, along with further powers under the legal framework regulating immigration policies and customs control.

Police Powers to Conduct Stops, Identity Checks, and Searches

In France, police powers to conduct identity checks are regulated by four principal legal frameworks: the Code of Criminal Procedure, the Code of Entry and Stay of Foreigners and of the Right to Asylum (Code de l'Entrée et du Séjour des Étrangers et du Droit d'Asile), and the Customs Code (Code des Douanes). In certain cases, provisions of the national VIGIPRATE counter-terrorism plan can also apply. Although national jurisprudence has attempted to limit the way in which these powers are utilized, law enforcement officers still enjoy a wide margin of discretion in deciding whom to stop, when to stop them, and for what reasons they can be stopped.

Stop and Search in the Context of Ordinary Law Enforcement

Police stops and identity checks in France serve both an investigative and a preventive function: investigative when they are directed at persons who have committed or are suspected of having committed a crime, and preventive when they are used to secure a particular geographic perimeter when there is a threat to public order or to personal security. Both kinds of stops are regulated by Chapter 3 of the Code of Criminal Procedure, titled “Identity Inspections and Identity Checks.”⁶⁰

According to Article 78-1 of the Code of Criminal Procedure, “Any person in the country must agree to submit to an identity check carried out under the conditions and by the police authorities” set out by law. Article 78-2 of the same code establishes that police officers can ask any person to justify his or her identity by any available means when one or more plausible reasons exist to suspect that: (1) the person has committed or has attempted to commit an offense; (2) the person is preparing to commit an offense; (3) the person is able to provide information useful for an inquiry into an offense; or (4) the person is the subject of a judicial investigation. Stops under the first, third and fourth headings are considered “judicial” stops, whereas stops under the second heading are considered “administrative” stops.⁶¹

Under this same article of the Code of Criminal Procedure, a district attorney (*procureur de la République*) can order police officers to carry out stops and identity checks in specific places during predetermined times to combat and detect particular offenses.⁶² When such orders are in place, police can stop any person without needing

to provide justification. Police officers are also authorized to conduct identity checks in all areas open to international traffic, including rail stations, airports, seaports, and highway tolls and other locations specifically designated by ministerial decree, without needing to meet a suspicion threshold.⁶³ Additionally, police may carry out identity checks when they believe there to be a risk to public order or safety of other persons and property, regardless of the behavior of the individual stopped and irrespective of whether the individual stopped is breaking any laws. This power is often invoked during large gatherings or in large public places, and has been used to justify the powers of inspection and search which police officers have in areas covered by VIGIPRATE, the French government's antiterrorism plan (see below).⁶⁴

Police identity checks in France operate on an incremental, escalated scale of action. At one end of the spectrum, is the identity report (*relevé d'identité*) in which police officers stop a person and ask him or her to account for their presence in a particular location through a few simple questions. This type of stop is mainly carried out by municipal police officers or auxiliary police agents who do not have full police powers in response to lower order offenses such as noise disturbances and public health violations. The targeted individual can legally refuse to answer the police officer.

The most common type of identity control, carried out by officers from the National Police—who patrol all urban areas in France and are solely responsible for policing Paris—is the identity check (*contrôle d'identité*). By law, all French citizens are required to comply with this type of check and must provide police officers with identity documents. If the individual stopped is unable to present proper identity documents or if the police officer has reason to doubt their legitimacy, an identity check (*contrôle d'identité*) can become a verification of identity (*vérification d'identité*). As defined in Article 78-3 of the Code of Criminal Procedure, a *vérification d'identité* implies a brief detention in police custody while officers confirms an individual's identity; this is the most coercive form of identity control in France.

Identity controls can sometimes proceed to frisks and/or searches of an individual's person and property. Frisks are considered a measure to ensure a law enforcement officer's security, and searches are seen as an investigative tool akin to a search warrant. Although existing legislation does not specifically regulate the use of frisks and searches, French jurisprudence has established that these two measures should be used under separate circumstances. Frisks are allowed when carrying out an identity check, but searches presuppose that the person is in possession of objects (or has traces or indications of objects) that would give the officer grounds to believe that he or she has participated in a crime. Frisks often lead to searches—since frisks can lead to the discovery of objects such as knives whose possession is likely to result in an infraction. In reality, a frisk provides the grounds for a search, and thus in practice, if not in law, it goes beyond a mere security measure.

Operationally, police officers are granted wide discretion in the utilization of identity checks. When interviewed a few months after the March 2007 disturbances in the Gare du Nord station, the second-in-command police officer explained that the main targets for police are young gang members who loiter at the station. In order to prevent a similar altercation, the police have begun to collect information on “who the juveniles loitering here really are” by systematically carrying out identity checks and noting who was where, when, and with whom. This reconnaissance enabled the police to determine that they were dealing with an amorphous, leaderless group of youths who had no sense of belonging to any particular territory.⁶⁵

French courts have tackled the question of just what kinds of appearances or behaviors are relevant and acceptable to police stops and identity checks of people believed to be acting in a “suspicious” or “abnormal” manner indicative of preparing to commit a crime or offense. Their rulings have identified several behaviors such as changing direction after spotting police officers and hiding from or attempting to flee police officers. Other, sometimes similar behaviors have not been upheld by courts, leading a French legal expert to conclude that “the understanding of the grounds is a delicate matter and the test of their validity sometimes hard to establish.”⁶⁶ A recent police training manual provides the following examples of behavior that would provide legal grounds for a stop or identity control: running away from the police; repeatedly walking by a jewelry store window late at night, walking around in an inebriated state; and hiding one’s bag from the police.⁶⁷ Nevertheless, the jurisprudence on this issue remains unclear and sometimes contradictory.

Stop and Search for the Purposes of Immigration Control

The persons most exposed to stops, identity controls, and searches in France are foreigners (and those presumed to be foreigners) as they are subject to both the identity control provisions regulated by the Article 78.2 of the Code of Criminal Procedure and to those provided in the French Code of Entry and Stay of Foreigners and the Right to Asylum.

Article L611-I of the Code of Entry and Stay of Foreigners and of the Right to Asylum, in effect since 1945, requires all foreigners in France to carry with them at all times proof of their legal stay or right to transit through the country. Under this regulation, French police can subject foreigners to identity checks at any time without having to meet the suspicion criteria established in Article 78.2 of the Code of Criminal Procedure. Furthermore, under this same article a public prosecutor can ask police to target the infraction of undocumented migration by conducting identity checks in a geographical area known for its population of foreign-origin residents.⁶⁸

Police must base their identity checks for immigration control purposes on objective criteria that make it reasonable to assume that the individual stopped is a foreigner.⁶⁹ Several decisions by the French Constitutional Council have set out a

limited number of broad principles limiting police use of stop and search powers for the purposes of immigration control. A 1993 ruling by the French Constitutional Council stipulated that under no circumstances can immigration stops be motivated by any discriminatory indicators.⁷⁰ A related decision ruled that police officers must always base their stops on the particular circumstances surrounding the individual.⁷¹ According to a 1985 ruling by the Cassation Court, the “presumption of foreignness” must be based on objective factors inferred from circumstances external to the individual himself or herself—meaning that police cannot rely on physical appearance to determine who may or may not be a foreigner.⁷² The few rulings by lower courts as to the definition and scope of such “objective factors,” however, have sent law enforcement officers mixed signals as to what factors they can take into account when carrying out immigration stops and searches. In 1992, the Cassation Court ruled that the act of speaking in a foreign language does not justify an immigration identity check.⁷³ However, a first instance criminal court in Versailles postulated that appearance, behavior, dress, or even diction could be considered objective indications of foreign origin.⁷⁴ One court found that it was legitimate for police to stop the people participating in a demonstration by undocumented migrants as their presence at the rally indicated a greater likelihood of their being foreign, but prohibited the exclusive singling out of all dark-skinned people.⁷⁵ Other courts found that activities such as reading a foreign-language newspaper or book, driving or riding in a car with foreign license plates, and/or playing “folk” instruments in a public space could be considered objective indications of foreign origin.⁷⁶ Thus, the existing case law offers police officers at best ambiguous guidance as to what factors constitute legitimate grounds for supposing that a person is a foreigner, and fails to establish comprehensive limits on police stops for the purposes of immigration control.

Stop and Search as a Counter-Terrorism Tactic

The stop and search powers granted by Article 78-2 of the Code of Criminal Procedure also apply to counter-terrorism operations. In 2001, however, French police were granted specific stop and search powers related to the fight against terrorism through the new Law on Everyday Security (*Loi de Sécurité Quotidienne*)⁷⁷ which amended the Code of Criminal Procedure to allow police officers the power to conduct stops and searches of both vehicles and individuals for the purposes of detecting terrorist acts without needing to meet a suspicion threshold.⁷⁸ A formal request by the district attorney that details the actions under surveillance as well as the geographic location and duration of the stop and search operations may be issued, but is not an absolute requirement. Subsequent modifications to the Code of Criminal Procedure also extended the limits of the border zone in which police are allowed to carry out terrorism-related stops on international trains traveling through France.

VIGIPIRATE is the French government's principal counter-terrorism plan, created in 1978 by administrative order and updated a number of times since then. Among its other functions, VIGIPIRATE establishes a graduated four-level alert in response to the threat of terrorism, with specific public security measures implemented at each level. The alert level is determined by the prime minister on the basis of intelligence information, with level-specific measures implemented by different law enforcement agencies working in collaboration with local authorities and other relevant bodies. The general public is not privy to the intelligence information that determines any shift in the terror alert level. Since the July 2005 bombings on the London Underground, VIGIPIRATE has been maintained at alert level three ("Red").

Under the plan, areas open to the public can be classified as "sensitive zones," which establishes—*de facto* if not *de jure*—a presumption of risk to public order that justifies police stop-and-search operations. The permanent enforcement of the VIGIPIRATE plan has granted law enforcement officers the right to stop, carry out identity checks, and search the belongings of persons in large public spaces such as airports and train stations without having to adhere to any suspicion standard. Four of the five observation sites of the present study (all but Châtelet-Innocents) have been classified as sensitive VIGIPIRATE zones where police can stop and search individuals at will.

The legal status of VIGIPIRATE is less clear. A 1998 Cassation Court judgment ruled that invoking the VIGIPIRATE plan does not classify as an automatic threat to public order as specified in Article 78-22 of the Code of Criminal Procedure, and that identity controls should not be carried out under this pretext.⁷⁹ It is unclear whether this ruling has had any effect on the use of these expanded counter-terrorism powers.

Police and Security Structure in Paris

In France, public security is entrusted to two law enforcement agencies, both of which fall under the authority of the Ministry of the Interior. The National Gendarmerie is responsible for policing rural areas, while the National Police force is responsible for protecting urban areas, including Paris.⁸⁰ The structure of both forces is highly centralized. The National Police is regulated by the General National Police Directorate (Direction Générale de la Police Nationale), which itself is divided into multiple sub-directorates such as the Central Directorate for the Judicial Police, the Central Directorate for Public Security, and the Central Directorate for Border Police. The Customs officers fall under the authority of the Ministry of Budget, Public Accounts, and Civil Service.

Municipal police forces also operate in many French cities, but they generally enjoy limited powers, particularly in the area of stop and search (as explained above, they may only carry out the *relevé d'identité*). There is no municipal police force in Paris,

as the city operates under a unique policing structure wherein all public security forces operating there, including the National Police, fall under the command of the Paris Police Prefecture. The Paris Police Prefect is answerable to the Minister of the Interior but enjoys significant autonomy in setting the Parisian region's policing priorities, including the allocation of human and other resources.

The Paris Police Prefecture also has the power to request from the central government additional security forces to provide surveillance at large public events. For example, it can request reinforcements from the National Gendarmerie or specialized squads of the National Police, such as the anti-riot Republican Security Companies (Compagnies Républicaines de Sécurité) and the Mobile Gendarmerie (Gendarmerie Mobile). It also has the power to assign police agents to operations initiated by the district prosecutor, such as the search for a particular suspect in a specific crime.

Four of the five observation sites included in *Profiling Minorities* are located in railway zones and/or train and metro stations. All security operations in these sites fall under the command of the Paris Police Prefecture, including those of private security agents. Within the National Police there is a specialized force—the Regional Service of Transport Police (Service Régional de Police des Transports)—charged with securing the 1300 trains of the metro, suburban, and national rail lines throughout Paris and its environs. This division, which includes 1300 agents divided up into 160 different police squads, carries out targeted surveillance missions several times a month.

Moreover, the four observation sites that have been designated as sensitive VIGIPRATE are also patrolled by army soldiers. The soldiers exercise no police powers, and are not authorized to carry out identity checks. Their presence is meant only to serve as a deterrent to terrorist activities. The Gare du Nord has also been named as a “Schengen” area by ministerial decrees, allowing police officers to carry out identity checks as established by Article 78-2 of the Code of Criminal Procedure.

Customs officers patrol the GDN-Thalys platform under the authority granted to them by Article 67 of the Customs Code.⁸¹ Customs officers can levy duties on imported goods, combat the trafficking of illicit substances, and regulate the entry and exit of foreigners. In order to fulfill these duties, they are authorized to carry out identity checks and searches without condition.

Additional security forces are provided by the different metro, suburban, and national rail companies operating within Paris. Although private, these security forces still fall under the authority of the Paris Police Prefecture, and sometimes engage in collaborative operations with the National Police. Their powers to do so are severely limited, however. For example, agents of the Group for Network Protection and Security (Groupe de Protection et de Sécurisation des Réseaux), retained by the Autonomous Authority for Parisian Transportation (Régie Autonome des Transports Parisiens), the agency in charge of all metro and suburban transport in Paris and Île-de-France), have

been deputized by the Police Prefecture and can intervene in violations of transportation regulations, in self-defense, or in cases of flagrante violations of the law. They can give tickets and remand individuals into police custody, but they cannot conduct identity controls. On the other hand, security officers hired by the National Society for French Railways (Société Nationale des Chemins de Fer Français), also deputized by the Paris Police Prefecture, have been able to carry out identity controls since 2001, but can only do so in the case of violations of transit laws. The study's observation sites are also patrolled by multiple private security companies hired by surrounding businesses. They play no public security role whatsoever, and cannot carry out identity checks.

French intelligence efforts are organized by the Central Directorate of Internal Intelligence (Direction Centrale du Renseignement Intérieur), which in turn is manned by National Police officers who have been assigned to these specialized duties. These officers do not have special stop and search powers, and must operate under the guidance of the relevant articles of the Code of Criminal Procedure.⁸² Their actions did not form part of this study.

The policing structure in Paris is complex. For the average person traveling through any of the five observation sites of this study, it can be quite difficult to distinguish between the different public and private security forces patrolling the area. Many wear very similar uniforms and sometimes engage in joint patrols and operations, making it difficult to distinguish who is conducting the stops and identity checks and whether they have the competency to do so.

V. Conclusion

In establishing that Blacks and Arabs, particularly those dressed in youth clothing, are disproportionately targeted for identity checks at all five observation sites, particularly those who are dressed in youth clothing, *Profiling Minorities* provides the first quantitative evidence that police in France are engaging in ethnic profiling. Based on a rigorous methodology that found statistically significant differences in the treatment of ethnic minorities, the study marks an important first step in addressing this discriminatory practice.

Contrary to a basic precept of the rule of law—that all persons deserve equal treatment and that individual behavior should be the basis of legal liability—police appear to be targeting individuals for stops based on what they look like rather than what they do. The permissive legal framework that regulates the use of stop and search powers facilitates such discriminatory practices by granting police officers broad discretion to use these powers without establishing firm parameters for suspicion, especially in the areas of immigration control and counter-terrorism operations.

When confronted with such data, many police institutions are likely to justify such disproportionate treatment by invoking crime rates and apparently different patterns of offending among particular ethnic groups. In countries such as the United States, where criminal justice data can be disaggregated by ethnicity, this has been used to demonstrate apparent differences in crime rates between Whites and ethnic minority groups.⁸³ Similar comparisons can be made in France between French citizens and foreign nationals, rather than among different ethnic groups.⁸⁴ Indeed, much research exists to

suggest that police in France, like law enforcement forces in many other countries, have developed suspect profiles in which ethnic characteristics play an important role.⁸⁵ This argument—that the disproportionate impact of police practices such as stop and search is a justified response to ethnically disproportionate involvement in crime—is deeply flawed for several reasons.

It has been well documented that police detect only a fraction of the crimes that are committed.⁸⁶ Additionally, crime detection rates vary across different social groups, as evidenced by the comparisons between victimization surveys and police crime statistics.⁸⁷ The number of criminals identified by police is not a representative sample relative to the universe of offenders. Moreover, existing studies indicate that the disproportionate targeting of minority ethnic groups for stops and searches is more a reflection of stereotypes than it is a reflection of real offending rates. One way to measure the success of a stop is by its “hit rate”—the rate at which a stop leads to the detection of an actual crime. There is evidence that when police base their stops on racial or ethnic stereotypes rather than on individual behavior, their hit rate suffers.⁸⁸ In several municipalities in Spain and Hungary, where police have been trained to conduct their stops on the basis of behavioral indicators rather than an assumed link between ethnicity and certain types of crime, police forces have seen their hit rate go up at the same time as the total number of stops have decreased.⁸⁹

In all probability, French police engaging in ethnic profiling in the study’s observations sites are in violation of European human rights norms established under the European Convention on Human Rights and by the European Union. The jurisprudence of the European Court of Human Rights has established that when ethnicity constitutes an exclusive or decisive basis for law enforcement action, it almost certainly constitutes discrimination under the convention.⁹⁰ Differential treatment violates the principle of equality when it is “devoid of objective and reasonable justification, the existence of this justification must be assessed in relation to the purpose and effects of the measure.”⁹¹

It is difficult to imagine that the disproportionate treatment of Blacks and Arabs identified in this study would meet the “objective and reasonable justification” standards set by the European Court of Human Rights.⁹²

France stands at a crossroads. The country has already experienced the negative impact of the discriminatory use of these law enforcement powers—in the violent uprisings of November 2005 and November 2007, in the smaller-scale everyday altercations between police and immigrant-origin youth, and in the general loss of confidence in the French criminal justice system by those communities and towns that are disproportionately impacted by these operations. In the absence of any policy change to address this environment, the situation in France will remain tense and may continue to deteriorate.

At the same time, there are hopeful indications that the country is ready to face the issue of police discrimination head-on. The issue of ethnic profiling has become a hot topic of discussion in the French media. In December 2008, the president appointed a commissioner on diversity and equal opportunities whose work is being followed with much interest by policymakers, civil society advocates, and the media alike. The National Police has recently partnered with the national equality body, the High Authority against Discrimination and for Equality (*Haute Autorité de Lutte contre les Discriminations et pour l'Égalité*) to provide officers with training on how to identify and document discrimination claims and reports of hate crimes. Some police unions are also collaborating with civil society organizations to provide “know-your-rights booklets” and information on ethnic profiling. A spirited discussion also continues in policy and academic circles about the collection of official ethnic statistics. In short, the moment is ripe for the issue of ethnic profiling to be taken seriously by policymakers, law enforcement agencies, and civil society actors. The existence and nature of the problem must be recognised frankly and openly by political and police authorities. This recognition and awareness will provide the first steps toward developing the policies and practices that end ethnic profiling in France.

Appendix: The Methodology behind *Profiling Minorities*: *A Study of Stop-and-Search Practices in Paris*

The observational research methodology utilized for *Profiling Minorities* was pioneered in the United States by Dr. John Lamberth, who, together with the Justice Initiative and Dr. René Lévy and Dr. Fabien Jobard, policing experts with the National Center for Scientific Research (Centre National de la Recherche Scientifique) adapted the methodology to the French context and implemented the study in Paris. Preparatory steps including the selection of observation sites and the training of observers, was completed by Autumn 2007. The field research was conducted in the five Paris locations from October 2007 to May 2008.

The study involved several key elements: selection of locations at which to conduct the observational monitoring; selection and definition of the variables to be studied; training of objective monitors; benchmarking of the available population in the selected sites according to the specified variables; and observation and recording of police stops according to the same variables. This approach generated an exact benchmark of the

population present in specific places at specific times, including demographic information on their perceived ethnicity and other factors. It also generated a unique description of hundreds of police stops, including information on the ethnicity and other key traits of the individuals stopped. In addition to these quantitative elements, the monitors conducted interviews with the persons stopped to obtain further qualitative information on the nature of the encounter and past experiences of being stopped.

Selection of Observation Sites

In selecting the observation sites for the present study, it was important to choose public spaces where the level of police activity would be sufficient to allow the monitors to observe a reasonable number of stops during the observation period. This selection is called a deployed analysis, different from a random selection of observation sites.⁹³ It was equally important to select sites that would be utilized by a diverse cross-section of Parisians. The five selected observation sites fulfilled these requirements. They also provided an environment in which monitors could consistently observe the actions of the police in an unobtrusive manner, thereby ensuring the accuracy of the study. Furthermore, most of the sites were located within the Paris public transport system—a public space long reported to be a key site of ethnic profiling.

After observing police stops at 21 locations in and around Paris to determine which locations would be most feasible,⁹⁴ five observation locations were chosen:

- the street-level Gare du Nord terminal where international and regional French trains arrive and depart (“GDN-Station”);
- the Thalys platform of the Gare du Nord terminal, where trains arrive and depart for Amsterdam, Brussels, Cologne, and other European cities (“GDN-Thalys”);
- the subterranean Gare du Nord concourse for the suburban RER (Réseau Express Régional) rail network (“GDN-RER”);
- the Châtelet-Les Halles RER station (“Châtelet-Station”);
- the Fontaine des Innocents square, a popular outdoor plaza close to the Châtelet-Les Halles station and the Forum Les Halles commercial center (“Châtelet-Innocents”).

Of all the potential observation sites surveyed, these five were the only ones where the study’s designers observed a sufficient level of police activity that would make the study feasible. Furthermore, the five observation sites are some of Paris’ principle trans-

portation and social gathering hubs. More than 180 million people transit through the Gare du Nord complex each year; it is the biggest train station in France (one of the largest in Europe in terms of passenger traffic) and serves dozens of metro, suburban, regional, and international trains. The Châtelet-Les Halles Station is also a major stop for several metro, RER, and regional train lines; approximately 13 million people pass through it every year.⁹⁵ These train stations are two of the few public spaces easily accessible to and shared by Parisian residents of all backgrounds. This is also true of Joachim du Bellay Place (site of the Fontain des Innocents), located a few meters outside the main entrance to the Châtelet-Les Halles Station. All three of these locations have also been sites of multiple altercations between young French people and the police, some of them motivated by police stops and identity checks.

The Thalys platform at the Gare du Nord was selected for a different reason. The Thalys is an international train service with routes to Belgium, Germany, and the Netherlands. The Thalys platform is patrolled by Customs officers, rather than National Police officers. The study selected this site with an interest in observing any similarities or differences in the behavior of this different law enforcement body.

Monitoring Schedule

Monitoring sessions were conducted at specific times to capture a representative sample of the population at each observation site. From Monday through Saturday, GDN-Station, GDN-RER and Châtelet-Station were observed during three four-hour sessions: 8:00 to 12:00, 12:00 to 16:00, and 16:00 to 20:00. Because Thalys trains arrive and leave most frequently in the morning and in the late afternoon and early evening, week-day monitoring sessions at GDN-Thalys took place from 8:00 to 12:00 and 16:00 to 20:00 only.⁹⁶ Since people gather at Châtelet-Innocents primarily in the late afternoons and evenings, observations at that location took place from 16:00 to 21:00 on Mondays through Thursdays, 16:00 to 22:00 on Fridays, and 16:00 to 23:00 on Saturdays. No observations were scheduled on Sundays for any of the locations.

Selection of Observation Variables

In order to identify possible stop and identity check patterns and to highlight factors that might be influencing officers' decisions about whom to stop, the study observed individuals and classified them into different categories. The study hypothesized that police officers in Paris select individuals to stop based on their physical appearance. Ethnic profiling occurs when, rather than basing their decision to stop someone on operational briefings, suspect descriptions or flagrant law-breaking, police select people to stop based on how they perceive that person's ethnicity and on their own associations about ethnicity and the likelihood of those persons committing offenses. Thus, what was being measured was not the actual ethnicity of the persons under observation, but rather

their *perceived* ethnicity. The study assumed that the observers' perception of ethnicity and the police officers' perception of ethnicity would be very similar.

The study hypothesized that those individuals who appeared "White"—or of Western European ancestry would be treated differently than those with non-White appearance. Both the benchmark population (the population of people available to be stopped by the police) and the population of persons who were actually stopped were classified into six distinct ethnic/national origin groups as listed in Table A1.

TABLE A1 :
Ethnic/National Origin Categories

"White"	Persons perceived to be of Western European origin
"Arab"	Persons perceived to be of North African or Maghrebian origin
"Black"	Persons perceived to be of sub-Saharan African or Caribbean origin
"Indo-Pakistani"	Persons perceived to be of Pakistani or Indian origin
"Asian"	Persons perceived to be of Chinese, Japanese, Korean, or Vietnamese origin

The study's designers considered including an additional category for Roma people. However, the Roma population appeared to be too low at the five observation sites to warrant inclusion in the study. The categories of Indo-Pakistani and Asian were included because they were a known "visible minority" population in the Gare du Nord and Châtelet-Les Halles areas. Additionally, media and other reports had indicated that they were a target of police stops, particularly for the purposes of immigration control.

The designers of *Profiling Minorities* posited that police stops could also be influenced by factors other than ethnicity. To test this hypothesis, data were gathered for four variables as described in Table A2.

TABLE A2 :
Other Variables

<i>Variables</i>	<i>Categories</i>	<i>Comments/Explanations</i>
Age	<ul style="list-style-type: none"> • Young • Middle-aged and older 	Pilot observations had indicated that a preponderance of those stopped by police were young. Since the visual determination of exact ages is visually impossible, only two categories were recorded.
Gender	<ul style="list-style-type: none"> • Male • Female 	Pilot observations indicated that most of those who were stopped by police were male. To confirm this, monitors collected benchmarking and stop data on gender.
Clothing	<ul style="list-style-type: none"> • Business/Well-dressed • Casual • Youth Culture 	Type of clothing appeared to be an important determinant of who was stopped. The “youth culture” category encompassed hip hop, punk, gothic, ragamuffin, new-wave, tecktonic, and other styles popularly associated with young people. “Casual” clothing indicated normal every-day attire, distinct from the more formal “Business/Well-dressed” style.
Bags	<ul style="list-style-type: none"> • Large bag • No bag • Other 	It was hypothesized that the carrying of large bags capable of carrying explosives or other contraband, particularly those that could be used in a terrorist attack, could impact a police officer’s decision of whom to stop. Thus, monitors collected benchmarking and stop data on the size of the bag carried by individuals.

Training Monitors

Monitors were trained over a two-day period. The training consisted of a short description of the project; an explanation of the places where the monitoring would be conducted; explicit explanations of the data to be collected; instructions on how to record the data; and field work practice to assure that the monitors were comfortable in making their observations.

To assure that the monitors would consistently and correctly classify all the people they observed according to the variables, an inter-rater reliability test was administered to each potential monitor. Six sets of photos of individuals representing the different classification categories (two for ethnicity and one each for age, gender, clothing, and bags)⁹⁷ were flashed on a computer screen at five-second intervals. The potential monitor was required to classify the ethnicity of the person in each picture. After all the monitors were tested, the “correct” answers were determined based on the consensus answers of the monitors’ responses. The monitors selected all scored higher than 90 percent on the inter-rater reliability test.

In order to ensure that monitors would be able to record the measurement of variables as unobtrusively as possible, the study’s designers developed a system whereby mobile phones could be used to record the data. This way, they were able to gather information without using paper, pencil or other recording instruments that would draw attention.

Benchmarking

Disproportionate stops of certain ethnic groups can only be rigorously established by comparing the ethnicity of the individuals who are stopped against a benchmark that determines the proportion of those same ethnic groups in the population that is available to be stopped by the police. The demographic of the available population in a determined location is generated through an “observational benchmark.”⁹⁸ To develop this benchmark, observers monitor the selected sites on randomly-selected days to obtain a sufficient data set to generalize an available population for these locations. The ethnic composition of the population at these locations is then compared to the ethnicity of the individuals who are stopped at the same places. To ensure the accuracy of this comparison, a large benchmark is preferable—at least over 1000 at each location. Benchmarking observation took place from October 2007 to February 2008.⁹⁹

To assure accurate ethnic identification, individuals included in the benchmark must be selected at random. As the observers could not possibly collect data on every person they saw, they collected information on the first person they saw from their observation point, waited three seconds, recorded information on the next person they saw, and so on. The fixed observation points were carefully selected to allow the monitors an unobstructed view of a steady stream of individuals.

Of the 37,833 individuals observed during the benchmarking phase, 99.5 percent of them were successfully categorized. Overall, 57.9 percent of those individuals observed were White, 23 percent were Black, 11.3 percent were Arab, 4.3 percent were Asian, and 3.1 percent were Indo-Pakistani. Less than 1 percent were classified as “Other” or “Unknown”.¹⁰⁰ This benchmark data on ethnicity should only be taken as an indicator of the ethnic make-up of the population transiting through the five observation sites, and not as an indication of the overall population of Paris and its surrounding areas.

Table A3 shows the ethnicity percentages for each of the five locations.

TABLE A3 :
Ethnicity Percentages per Location¹⁰¹

<i>Location</i>	<i>White</i>	<i>Black</i>	<i>Arab</i>	<i>Indo-Pakistani</i>	<i>Asian</i>
GDN-Station	71.7%	15.1%	8.3%	1.8%	2.8%
GDN-RER	42.2%	33.6%	15.2%	6.4%	3.6%
GDN-Thalys	86.5%	7.0%	2.8%	0.7%	3.0%
Châtelet -Station	51.4%	27.5%	12.2%	3.8%	5.0%
Châtelet-Innocents	54.5%	23.9%	14.2%	1.6%	5.7%

Monitoring Stops

Following the benchmarking, the monitors returned to the same locations during the same time periods to observe police stops. Stop observation took place on a total of 75 days from November 2007 until May 2008.¹⁰² Monitors recorded data only on stops carried out by National Police officers and, for the GDN-Thalys location, Customs officers. Stops by metro or rail security guards or private security guards were not recorded.

Monitors worked in teams of two.¹⁰³ One monitor was responsible for observing the stop and recording the established variables. The second monitor was responsible for interviewing, where possible, the individuals whom the team had observed being stopped in order to obtain qualitative data (see discussion below).

During the stop observation phase, one additional variable was recorded: the post-stop outcome.¹⁰⁴ This variable was divided into four categories:

- **Stop & Question:** The police merely stopped the individual and posed some questions.
- **Stop & Frisk:** The police stopped the individual and patted down or frisked the individual.
- **Stop & Search:** The police stopped the individual and conducted a search of their bag or pockets.
- **Stop & Detain:** The police stopped the individual and took him or her into police custody.

Between November 2007 and May 2008, data was collected on 525 stops. Of these stops, 501 were of the five benchmarked ethnicities: 141 Whites, 201 Blacks, 102 Arabs, 26 “Indo-Pakistani,” and 21 “Asian.” Twenty-three of the stops were of “Other” ethnic groups, and only one stop was classified as “Unknown.”

Based on preliminary stop observations carried out during a pilot phase, the research team expected monitors to observe approximately two stops per hour. In reality, the monitors observed about 1.25 stops per hour. These stops did not occur equally at the five locations. Eighty-two stops were observed at Châtelet-Innocents, 72 at Châtelet-Station, 119 at GDN-Thalys, 119 at GDN-Station, and 130 at GDN-RER. On three stops data for location was incomplete.

Interviews

Following the observation and recording of a stop, the second monitor followed the stopped individual (assuming he or she was not detained) until they were both out of sight of the police. Once the interviewee had consented to the interview, the monitor asked a series of questions pertaining to their perception of their encounter with the police. The questions asked went to the general frequency with which the individuals were stopped, the behavior of the police during the stops, and the individuals’ feelings about the stop. The complete interview schedule is provided below.

TABLE A4 : Interview Questions

Question 1

Is this the first time you have been stopped?

[If “no” to previous question] How many times have you been stopped in the past month?

Where were you last stopped?

Question 2

Were the police polite during the stop you just experienced?

How was your experience of that stop?

Question 3

Did the police give you a reason for the stop?

[If “yes” to previous question] What reason did police give you for the stop?

Question 4

How do you feel after this police stop?

The interviews were completely anonymous—no personal data of the interviewee was requested or recorded. To avoid drawing undue public attention, the interviewees' answers were not directly recorded during interviews, but called into a central voicemail service immediately following the interview and later transcribed.

Notes

1. According to the French Ministry of Interior, 195 National Police officers, 6 National Gendarmerie officers, 5 municipal police officers and 26 firemen were wounded. See Ministry of Interior, *Hommage aux policiers, pompiers et gendarmes blessés pendant les violences urbaines de novembre* (December 15, 2005): http://www.interieur.gouv.fr/sections/a_la_une/toute_l_actualite/securite-interieure/archives/violences-urbaines/downloadFile/attachedFile/Honneurs_a_Beauvau_le_15122005.pdf?nocache=1136914958.22; See also Fabien Jobard, “The 2005 French Urban Unrests: Data-based Interpretations,” 2/4 *Sociology Compass* (2008): 1287–1302.

2. Azouz Begag, *Ethnicity & Equality: France in the Balance* (Lincoln: University of Nebraska Press, 2007); Didier Lapeyronnie, *Ghetto urbain: Ségrégation, violence et pauvreté dans la France d'aujourd'hui* (Paris: Robert Laffont, 2008): 282–288.

3. Louis-Georges Tin, “Who is Afraid of Blacks in France? The Black Question: The Name Taboo, the Number Taboo,” 26 *French Politics Culture & Society* (2008): 43.

4. The Justice Initiative is an operational program of the Open Society Institute that promotes rights-based law reform and strengthens legal capacity worldwide. Justice Initiative projects shape policies and achieve concrete results through information-sharing, litigation, advocacy, knowledge-dissemination, hands-on technical assistance, and network-building. A primary focus of its Equality & Citizenship Program is the fight against racial and ethnic discrimination in Europe.

Concerned by long-standing allegations of police discrimination against visible minorities in the course of ordinary crime prevention activities and by newer reports about law enforcement targeting of ethnic and religious minorities in the fight against terrorism, the Justice Initiative launched an effort to address ethnic profiling by police in Europe in 2005. The Justice Initiative aims to address the current gaps in understanding, documentation and resolution of this problem by (a) working to increase awareness of the issue through research and documentation; (b) pressing for

the adoption of a clear European norm and national legislation that explicitly bans ethnic profiling in all contexts, including counter-terrorism; and (3) supporting the development of national civil society and police capacity to work together in developing and applying good practices to monitor and remedy discriminatory patterns. In addition to *Profiling Minorities: A Study of Stop-and-Search Practices in Paris*, the Justice Initiative has carried out qualitative and quantitative research in Bulgaria, Hungary, Russia, and Spain, and has launched multiple regional level advocacy campaigns. An overview of its programs can be found at <http://www.justiceinitiative.org>.

5. René Lévy and Fabien Jobard are preeminent policing experts in France. Both work with the Center for Sociological Research on Rights and Criminal Institutions (Centre de Recherches Sociologiques sur le Droit et les Institutions Pénales), a joint institution of the National Center for Scientific Research (Centre National de la Recherche Scientifique, or CNRS), the Ministry of Justice, and the Université de Versailles Saint-Quentin, which focuses on the study of the criminal justice system. For more information, see <http://www.cesdip.com>.

6. Lamberth Consulting is the leading source of expertise on statistical monitoring of ethnic profiling. It provides racial profiling assessment, training, and communication services to universities, states, cities, litigators, civil rights groups and affected communities. Its technical expert, Dr. John Lamberth, designed the methodology for this case and provided the statistical analysis of the results. Karl Lamberth and Jerry Clayton were key contributors to the selection of observation sites and the training of observers. An overview of the work of Lamberth Consulting can be found at <http://www.lamberth-consulting.com>.

7. European Commission against Racism and Intolerance (ECRI), *General Policy recommendation No. 11 on combating racism and racial discrimination in policing* (ECRI Resolution adopted June 29, 2007), Strasbourg: Council of Europe (2007), para. 39. The ECRI has defined ethnic profiling as the “use by the police, with no objective and reasonable justification, of grounds such as race, colour, language, religion, nationality or national or ethnic origin, in control, surveillance, or investigative activities.”

8. Legal expert Olivier de Schutter defined “ethnic profiling” as “the practice of using ‘race’ or ethnic origin, religion, or national origin, as either the sole factor, or one of several factors in law enforcement decisions, on a systematic basis, whether or not concerned individuals are identified by automatic means.” See Oliver De Schutter and Julie Ringelheim, “Ethnic Profiling: A Rising Challenge for European Human Rights Law,” 71 *Modern Law Review* 6 (2008).

9. In *The Queen v. Campbell* Court of Quebec (Criminal Court, Judgment of January 27, 2006, No. 500-01-004657-042001, para. 34, the court ruled that “As with other systemic practices, racial profiling can be conscious or unconscious, intentional or unintentional. Racial profiling by police officers may be unconscious.”

10. *Profiling Minorities* did not include vehicular stops as regulated by Articles 78-2-2 to Articles 78-2-4 of the French Criminal Code of Procedure; it also excluded identity reports (*vérifications d’identité*).

11. Criminal Code of Procedure, Article 78-2; Law No. 2006-911 of July 24, 2006, on immigration and integration (Loi n° 2006-911 du 24 juillet relative à l’immigration et à l’intégration, *Journal Officiel* no. 170, July 25, 2006) available at http://www.legifrance.gouv.fr/affichCode.do;jsessionid=0F354A4F70C4DA344AD8AE8A877C16BF.tpdj013v_1?pidSectionTA=LEGISCTA000006151880&cidTexte=LEGITEXT000006071154&dateTexte=20080116.

12. Joel Miller, Nick Bland, and Paul Quinton, *The Impact of Stops and Searches on Crime and the Community* (London, Home Office, 2000); Ronald Weitzer and Steven A. Tuch, "Determinants of Public Satisfaction," 8 *Police Quarterly* (2007): 297; Joel Miller, et al., *Public Opinions of the Police: The Influence of Friends, Family and the Media* (Washington: U.S. Department of Justice, 2004); Dennis P. Rosenbaum, et al., "Attitudes toward the Police: The Effects of Direct and Vicarious Experience," 8 *Police Quarterly* (2005): 343–365.

13. Without public cooperation, police rarely identify or apprehend suspects, or obtain convictions. A study in the United Kingdom found that of all recorded crimes solved/cleared up, only 15 percent were attributable to the police acting on their own. The number of crimes solved using only forensic evidence is under 5 percent. Rod Morgan and Tim Newburn, *The Future of Policing* (Oxford: Clarendon Press/Oxford University Press 1997).

14. In 2007, 2008, and 2009, several French cities were periodically rocked by riots during which firearms were turned against the police. In the Paris suburbs, these included Villiers-le-Bel, Grigny, and Les Mureaux; in the east of France, Romans-sur-Isère, Vitry-le-François, Saint-Dizier were affected. Dave Waddington, Fabien Jobard and Mike King, eds., *Rioting in the UK and France, 2001–2008: A Comparative Analysis* (Cullompton: Willan Publishing, 2009); Hugues Lagrange, "Après Villiers-le-Bel: Quand on veut expliquer l'inexplicable," 1 *Esprit*, (January 2008): 155–156.

15. Ontario Human Rights Commission, *Paying the Price: The Human Cost of Racial Profiling* (Toronto: Ontario Human Rights Commission, 2003).

16. Laurent Mucchielli, "Fall 2005: A Review of the Most Important Riots in the History of French Contemporary Society," 35 *Journal of Ethnic and Migration Studies* 5 (2009): 731–751. A recent book by Didier Lapeyronnie dedicates an entire chapter to these types of interactions See *Ghetto urbain: Ségrégation, violence et pauvreté dans la France d'aujourd'hui* (Paris: Robert Laffont, 2008): 282–288.

17. Federation of Associations in Solidarity with Immigrant Workers (Fédération des Associations de Solidarité avec les Travailleurs Immigrés) in Adrian Beck and Kate Broadhurst, "Policing the Community: The Impact of National Identity Cards in the European Union," 24 *Journal of Ethnic and Migration Studies* (1998): 423–425.

18. Amnesty International, *France: Breaches of the Law Cannot Be Solved by Breaking the Law*, Amnesty International public statement, November 10, 2005, <http://www.amnesty.org/en/library/info/EUR21/011/2005.en>. The statement contended that "[t]he number of complaints of ill-treatment [by police] in France has increased in recent years. A rise in such incidents, especially in the context of police identity checks or in police custody, has also been detected. Identity checks often degenerate into violence and, in many cases, this is the result of aggressive or insulting conduct of law enforcement."

19. Amnesty International, *Annual Report 2004—France* (London: Amnesty International, 2004), <http://www.unhcr.org/refworld/type,ANNUALREPORT,AMNESTY,FRA,40b5a1f44,0.html>.

20. Commission Nationale de Déontologie de la Sécurité, *Rapport 2004* (Paris: Commission Nationale de Déontologie de la Sécurité, 2005): http://www.cnds.fr/ra_pdf/ra_2004/CNDS_rapport_2004.pdf.

21. Fabien Jobard, "Police, justice, et discriminations raciales," in Didier Fassin and Eric Fassin (eds.), *De la questions sociale à la question raciale? Représenter la société française* (Paris: La Découverte, 2006): 211–229. As noted in the report, identity checks are often of a preventive nature, sometimes

due to a gathering of young people or nighttime public disorders. The study analyzed what happened after the identity control: sparring matches between police and those they stopped, usually resulting in *outrage* or *rébellion* charges, the frequent use of force and the occasional use of firearms meant only for self-protection. In its 2009 report titled *Public Outrage: Police Officers Above the Law in France*, Amnesty International notes that retaliatory charges of *outrage* and *rébellion* typically take place either following a violent incident in which the individual has made a complaint of ill-treatment against the officers or where passerby attempt to verbally or physically intervene when the witness police apparently ill-treating a third party (Amnesty International, *Public Outrage: Police Officers Above the Law in France*, London: Amnesty International Publications (2009) 32).

22. Commission Nationale Citoyens–Justice–Police, *Rapport d'activité de Juillet 2002 à Juin 2004* (Paris: LDH/MRAP/SAF, 2004): 8.

23. Commission Nationale de Déontologie de la Sécurité, *Rapport 2004*, Paris: Commission Nationale de Déontologie de la Sécurité (2005), http://www.cnads.fr/ra_pdf/ra_2004/CNDS_rapport_2004.pdf. See also the critiques formulated by Fabien Jobard in *Police, justice et discriminations raciales*, Didier Fassin, Eric Fassin, eds., *De la question sociale à la question raciale ? Représenter la société française* (Paris: La Découverte, 2006): 211–229.

24. Ministry of Immigration, *Les Orientations de la politique d'immigration* (Rapport du ministère de l'immigration au Parlement) Art. L-110-10 CESEDA, 2008, 77.

25. For train stations and other rail areas, a specific regulation was passed in January 2006 that charged those police forces responsible for rail security (including the National Police and the SNPF) to combat illegal migration. Ministry of Immigration, *Les Orientations de la politique d'immigration* (Rapport du ministère de l'immigration au Parlement) Art. L-110-10 CESEDA, 2008, 79.

26. Ministry of Immigration, *Les Orientations de la politique d'immigration* (Rapport du ministère de l'immigration au Parlement) Art. L-110-10 CESEDA, 2008, 92. The crime rate recorded by the different French police forces shows an increase in police and gendarmerie activity in proactively detecting violations of the immigration law in the course of other law enforcement activities.

27. Renée Zauberman and René Lévy, "Police, Minorities, and the French Republican Ideal," 41 *Criminology* 4 (2006): 1065–1100.

28. Laurent Bonelli, "Policing the Youth: Towards a Redefinition of Discipline and Social Control in French Working-Class Neighborhoods," in Sudhir Alladi Venkatesh and Ronald Kassimir, eds., *Youth, Globalization and the Law* (Berkeley: Stanford University Press, 2007); Christian Mouhanna, "The French Police and Urban Riots: Is the National Police Force Part of the Solution or Part of the Problem?" in Dave Waddington, Fabien Jobard and Mike King, eds., *Rioting in the UK and France, 2001–2008: A Comparative Analysis* (Cullompton: Willan Publishing, 2009): 173–182.

29. Geraldine Baum, "Riots Outside Paris Speak Volumes," *Los Angeles Times*, November 28, 2007, <http://articles.latimes.com/2007/nov/28/world/fg-frenchriots28>.

30. A violent altercation between police and young people broke out in the Gare du Nord station on March 27, 2007 when RATP (metro) security agents detained a young Congolese man for fare-dodging. From 4:30 in the afternoon until midnight, groups of young people—armed with bottles and other objects—battled with the police, who, in an attempt to calm the situation, eventually released tear gas into the crowd of commuters. Videos of this event are available at <http://bethoalain.wordpress.com/2008/03/16/gare-du-nord-27-mars-2007>.

31. As documented by one policing expert, “In practical terms, those youths finding themselves frequently stopped and checked invariably turn rebellious and proceed to vent their anger and indignation by harassing, insulting and even abusing police controls acting in isolation of their colleagues. This type of assault not only enhances the feelings of prejudice commonly experienced by officers in the banlieues, but also encourages police interventions of dubious legality, stemming from their desire for violent reprisal.” Christian Mouhanna, “The French Police and Urban Riots: Is the National Police Force Part of the Solution or Part of the Problem?” in Dave Waddington, Fabien Jobard et Mike King, eds., *Rioting in the UK and France, 2001–2008: A Comparative Analysis* (Cullompton: Willan, 2009): 173–182.

32. Laurent Bonelli, “Policing the Youth : Towards a Redefinition of Discipline and Social Control in French Working Class Neighborhoods,” in Sudhir Alladi Venkatesh and Ronald Kassimir (eds.), *Youth, Globalization and the Law* (Berkeley: Stanford University Press, 2007): 112.

33. A 1987 study by René Lévy examined the possible interaction between the way police handled *flagrant délit* cases (where individuals had been caught in the act of committing an offense) and the foreign origin of those arrested for the offense. Unlike the restriction on the collection of ethnic data, data on the foreign origin (symbolized by birth on foreign territory) is collected in France. Utilizing the same foreign origin categories as the police—“European profile,” “North African profile,” and “African profile”—Levy reviewed all *flagrant délit* cases forwarded to the Public Prosecutor’s office between 1979 and 1981, and found that persons fitting the “North African” profile were far more likely to have their cases referred to the Public Prosecutor’s offices than the other two categories. The study found that the ethnic make-up of the individuals whose cases were referred to the prosecutor’s office was not the same as the ethnic make-up of those initially charged with the offenses. Additionally, the number of “North African” cases referred to the prosecutor’s office was disproportionate to their presence in the population as a whole. Levy found that this difference in treatment was attributable to the broad discretion granted to police when deciding when to intervene in a *flagrant délit* case and when to refer such cases for further prosecution. René Levy, *From Suspect to Guilty: The Work of the Judicial Police* (Geneva: Médecine et Hygiène/Méridiens-Klincksieck, 1987).

A 2009 study conducted by Fabien Jobard and Sophie Névanen reviewed the cases of 864 individuals who had been charged with “offences against persons invested with public authority” (including insults, assaults, and obstructions of justice) in a Parisian suburb. Looking at data from 1965 to 2005, the researchers classified the defendants according to the same categories utilized by the Criminal Investigation Department—a “European group,” a “North African group,” and a “Black” group. Examining the likelihood that police officers would become plaintiffs in the proceedings and sue for moral damages, the researchers found that police officers exercised this option in 51 percent of the cases involving the “North African” group and in 46 percent of the cases involving “Blacks, but only in 37 percent of the cases involving the “European” group. While presiding judges were found to be impervious to the physical appearance of the defendants, it appeared that police officers’ decisions were indeed affected by the “origin” of the defendants. Fabien Jobard and Sophie Névanen, “Colour-tainted Sentencing? Racial Discrimination in Court Sentences Concerning Offences Committed against Police Officers (1965–2005),” 50 *Revue française de sociologie* (English annual supplement) (2009).

Only one study to date has dealt with the issue of ethnic profiling: a 2008 telephone survey commissioned by the Representative Council of Black Organizations (Conseil Représentatif des

Associations Noires, or CRAN) which sought information on the frequency of police identity checks of members of “visible minority” groups. Five percent of the visible minorities surveyed reported being stopped 11 times or more in the preceding three years, and 38 percent reported feeling that the identity checks to which they had been subjected were motivated by the color of their skin. However, this survey relied on self-identification membership in minority groups—one of the creative alternatives that have emerged in place of actual ethnic data collection—and did not include objective data on police stop practices. See CRAN, *Visible Minorities and Identity Checks: CSA Survey* (Paris: CRAN, 2008).

34. The proper name for the square is Place Joachim du Bellay, but it is colloquially known as “Place des Innocents.”

35. Less than 1 percent were classified as “other” or “unknown.” This data serves only as an indicator of the ethnic composition of the population transiting through these sites, and not as an indication of the overall population of Paris and its surrounding areas.

36. Although a total of 525 stops were recorded, the monitors recorded the location of only 522 of those stops; three locations were unknown. It is important to note that missing data for any specific variable (ethnicity, age, location, post-stop outcome, etc.) will affect the total number of stops (the “N”) being analyzed for each comparison.

37. Only one person was classified as belonging to an “unknown” ethnic group.

38. The odds-ratio is a ratio of two odds: (1) the odds of being stopped if you are a minority (calculated by dividing the proportion of minorities stopped by the proportion of minorities in the benchmark) and (2) the odds of being stopped if you are not a minority (calculated by dividing the proportion of non-minorities stopped by the proportion of non-minorities in the benchmark). The odds of being stopped if you are a minority is divided by the odds of being stopped if you are a non-minority. Thus, the odds-ratio is: [Proportion of minorities stopped/Proportion of minorities in the Benchmark] x [Proportion of non-minorities stopped/Proportion of non-minorities in the benchmark].

39. The odds-ratio discussed in the body of this report deals with a comparison of the likelihood of Blacks and Arabs being stopped by the police versus the likelihood of Whites being stopped by the police. It is possible, however, to calculate a different type of odds-ratio—one that compares the likelihood of one ethnic group being stopped by the police against the likelihood of *all other* ethnic groups being stopped by the police. This odds-ratio can be best explained by the following statement: “If you are Black/Arab/Indo-Pakistani/Asian/White, you are x times more likely to be stopped by the police than if you were non-Black/non-Arab/non-Indo-Pakistani/non-Asian/non-White.” The same parameters apply: if the odds-ratio is 1.0, then the ethnic group under study is not being ethnically profiled. While odds-ratios between 1.0 and 1.5 are considered benign, those that fall between 1.5 and 2.0 indicate that bias may exist, and call for a review of police stop practices. Ratios above 2.0 indicate police are targeting of minorities for stops.

The odds-ratio for Blacks when compared to non-Blacks clearly indicates that they are disproportionately targeted for police stops. At Châtelet-Station, they are stopped 56.9 percent of the time, even though they form only 27.5 percent of the population, which creates an odd-ratio of 3.48. In other words, at Châtelet-Station, Blacks are almost three and half times as likely to be stopped by police as non-Blacks. At GDN-Thalys, Blacks are only 7 percent of the available population, but they are stopped 23.5 percent of the time; they are four times as likely to be stopped as non-Blacks.

The odds-ratios at GDN-Station, GDN-RER, and Châtelet-Innocents, while lower, are all larger than 2.0, and therefore indicative of ethnic profiling.

Arabs also appear to be stopped at rates disproportionate to their presence in the population. While they are under-targeted at GDN-RER, they are subject to disproportionate stops at GDN-Station, GDN-Thalys, and Châtelet-Station. At GDN-Thalys, where Arabs constitute 2.8 percent of the population but are stopped 10.1 percent of the time, they are almost four times more likely to be stopped as non-Arabs. At both GDN-Station and Châtelet Station, they are close to three times more likely as non-Arabs be stopped. The odd-ratio for Arabs at Châtelet-Innocents (1.79) falls into the range that probably, but not conclusively, indicates ethnic profiling.

Whites are under-stopped relative to their proportion of the available population at each of the five observation sites. For example, although Whites were 51.4 percent of the available population at Châtelet-Station, they were only stopped 9.2 percent of the time. At GDN-Station, they were 71.1 percent of the population, but they were only stopped 19.1 percent of the time.

40. Laurent Mucchielli, "L'évolution de la délinquance juvénile en France (1980–2000)," 53 *Sociétés Contemporaines* (1) (2004): 101–134.

41. The lower odds-ratio for Thalys is likely because when the male of a couple traveling together was stopped the female also stopped with him. While we are not positive this was the case, informal observations led to this hypothesis.

42. See http://fr.wikipedia.org/wiki/Mode_gothique.

43. See http://fr.wikipedia.org/wiki/Mode_punk#V.C3.AAtements.

44. See John Laurelson, "Tecktonic Tremors Jolt France," *BBC News*, March 5, 2009, <http://news.bbc.co.uk/2/hi/europe/7923658.stm>.

45. Of all the people wearing youth clothing at all locations, 87.7 percent of them were classified as young. The percentage of young people wearing youth clothing at the five locations was as follows: GDN-Station 81.7 percent; GDN-RER 85.0 percent; GDN-Thalys 89.4 percent; Châtelet-Station 89.1 percent; and Châtelet-Innocents 90.9 percent.

46. When they were stopped, Blacks were frisked 9.9 percent of the time and Arabs were frisked 12.4 percent, whereas Whites were only frisked 3.1 percent of the time. Blacks were also more likely to be taken into custody. When they were stopped by police, Blacks were taken into custody 19.8 percent of the time. Stops of Arabs only ended with police detention 13.4 of the time, whereas stops of Whites only ended with detention 6.9 percent of the time. In the category of ordinary stop—the least intrusive level of the stop encounter—43.8 percent of White stops and 30.9 percent of Arab stops were classified as such, compared to only 23.6 percent of Black stops.

47. French Constitution of October 4, 1958.

48. According to Directive 2000/43/EC, direct discrimination "shall be taken to occur where one person is treated less favorably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin." Indirect discrimination "shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion on practice is objectively justified by a legitimate aim and the means of achieving the means of achieving that aim are appropriate and necessary." European Union, Council Directive 2000/43/EC of June 29, 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Article 2(1).

49. European Union, Council Directive 2000/43/EC of June 29, 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Article 3(1).

50. Under the argument that Article 67 of the Treaty on the European Union states that the Union's objective shall be "to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the fields of police and judicial cooperation in criminal matters and by preventing and combating racism and xenophobia."

51. Law No. 2001-1066 of November 16, 2001, relating to the fight against discrimination (Loi n° 2001-1066 du 16 novembre 2001 relative à la lutte contre les discriminations, *Journal Officiel* no. 267, November 17, 2001), available at <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000588617&fastPos=1&fastReqId=1947390935&categorieLien=cid&oldAction=rechTexte>.

52. Law No. 2001-1066 introduced new provisions into the Labor Code (Code du Travail), the Family and Social Support Code (Code de l'Action Sociale et des Familles), the Social Security Code (Code de la Sécurité Sociale), and the Law on the Rights and Obligations of Civil Servants (Loi portant droits et obligations des fonctionnaires). These built on the standards established in the 1972 Law Relating to the Fight Against Racism (Loi n°72-546 du 1 juillet relative à la lutte contre le racisme, *Journal Officiel*, July 2, 1972).

53. Law No. 2001-1066 of 16 November 2001 relative to the fight against discrimination (Loi n° 2001-1066 du 16 novembre relative à la lutte contre les discriminations) *Journal Officiel*, November 17, 2001, Article 1; Loi n° 2002-303 de mars 2002, *Journal Officiel*, March 5, 2002, Article 4.

54. Penal Code, Article 225-1 (as modified by Law No. 2001-1066 of November 6, 2001, relating to the fight against discrimination):

Discrimination defined by article 225-1, committed against a natural or legal person, is punished by three years' imprisonment and a fine of €45,000 where it consists:

1. of the refusal to supply goods or services;
2. of obstructing the normal exercise of any given economic activity;
3. of the refusal to hire, to sanction or to dismiss a person;
4. of subjecting the supply of goods or services to a condition based on one of the factors referred to under article 225-1;
5. of subjecting an offer of employment, an application for a course or a training period to a condition based on one of the factors referred to under article 225-1;
6. of refusing to accept a person onto one of the courses referred to under 2 of article L.412-8 of the Social Security Code.

Where the discriminatory refusal referred to under 1 is committed in a public place or in order to bar the access to this place, the penalties are increased to five years' imprisonment and to a fine of €75,000.

55. French legal experts have argued that these legal provisions would not apply to the ethnic profiling practices described in this report, in large part because the Penal Code's nondiscrimination provisions replicate the scope of the Race Directive which is generally interpreted as not applying to home affairs and policing matters. Treaty Establishing the European Union, Article 13; European Union, Council Directive 2000/43/EC implementing the principle of equal treatment between

persons irrespective of racial or ethnic origin, Article 3.1 and Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services, Article 3.1.

The Penal Code does include one provision with specific applications to public authorities: Article 432-7 imposes sanctions of three years' imprisonment and a fine of €75,000 for any person holding public authority or discharging a public service mission for "refusing the benefit of a right conferred by law" and/or "hindering the normal exercise of any given economic activity." There is also the Law on the Rights and Obligations of Civil Servants but this addresses only discrimination against civil servants in the course of their career and not discriminatory treatment of the public by members of the civil service. Law on the Rights and Obligations of Civil Servants, (Loi n°83-634 du 13 juillet 1983 portant droits et obligations des fonctionnaires. Loi dite loi Le Pors). Consolidated version of June 19, 2008, at http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=5F2C6700F88EFAC5930CDD2E9E65F718.tpdjoIIV_2?cidTexte=JORFTEXT00000504704&dateTexte=20090518.

56. Decree No. 86-592 of March 18, 1986 on the Code of Ethics of the National Police (Décret n° 86-592 du 18 mars 1986 portant code de déontologie de la police nationale), available at http://www.interieur.gouv.fr/misill/sections/a_l_interieur/la_police_nationale/deontologie/code-deontologie.

57. Code of Ethics for Agents of the Municipal Police (Code de déontologie des agents de police municipale), which has the same provisions as the National Police code of ethics, only the numbering of the articles is slightly different, at http://www.legifrance.gouv.fr/affichCode.do;jsessionid=DFB9F2AC647D5C9ED1B84EF65D3FD656.tpdjoIIV_2?cidTexte=LEGITEXT000006070159&dateTexte=20090519.

58. Other relevant articles of the Code of Ethics for the National Police include Article 2, which obligates police to carry out their missions with regard to respect for human rights, the French Constitution, and international standards; and Article 10, which mandates that all persons arrested by the police are not to be subject to any kind of violence or degrading treatment.

59. In 2005, Amnesty International expressed its concern that individuals at the time could not submit a complaint directly to the CNDS and that the current requirement to submit a case through a parliamentary intermediary can lead to considerable delays in investigation of the complaint. Amnesty International, *France: The Search for Justice* (London: Amnesty International, 2005). See also Amnesty International, *Public Outrage: Police Officers Above the Law in France* (London: Amnesty International, 2009). A 2005 report by the European Commission against Racism and Intolerance strongly encouraged the French government to extend the powers of the CNDS and the facilitation of access to it by members of the public. ECRI, *Third Report on France* (Strasbourg: Council of Europe, 2005).

60. These regulations were first introduced in a 1981 law titled "Security and Liberty" (Loi n° 81-82 de 2 février 1982 renforçant la sécurité et protégeant la liberté des personnes [Loi Peyrefitte], *Journal Officiel*, February 3, 1981) and have been revised 15 times in the interim; the most important modifications took place in 1983, 1986, 1993, and 2003. The text of the successive versions of this law are available at <http://www.legifrance.gouv.fr>. For a review of the political debates surrounding modifications of this law, see Pascal Mbongo, *La gauche au pouvoir et les libertés publiques (1981-1995)* (Paris: L'Harmattan, 1999) and Haritini Matsopoulou, *Les enquêtes de police* (Paris: L.G.D.J., 1998): 428-439.

61. The distinction between judicial and administrative identity controls does not create distinct powers for different police agents and departments, but rather classifies the circumstances under which police officers may conduct stops on the specified grounds.

62. It is a general principle in this matter that the identity check may validly reveal other crimes than those for which the control was originally conducted.

63. In the rare instance where such an identity check would be challenged before a court, law enforcement officers must be able to specify the nature of the threat which caused them to carry out the identity check.

64. Ministry of Interior, *Circulaire du 11 décembre 1995* JUSD9530030C CRIM 95-18 E6/11-12-95, which specified that under this theory, the law authorized a “systematic control” of all the available people, “during a determined period,” and subject to being conducted only for the purposes of detecting infractions related to border crossings. The list of affected sites is fixed by a November 5, 2008, inter-ministerial order published in the *Journal Officiel* on November 15, 2008.

65. *Le Point*, no. 1844, January 17, 2008, 62.

66. Jacques Buisson, “Contrôles et vérifications d’identité, art. 78-1 à 78-5” 10 *Jurisclasseur de procédure pénale* (1998).

67. Document DFPM/INFPN/DOC (September 2006).

68. Christophe Pouly, “Une pratique contenue en germe dans la loi” 190 *Justice* 20-22 (2007); Ministry of Interior, *Circulaire du 21 of Février 2006* JUSDOC0630020C CRIM.06/EI-21.01.2006, 4.

69. Cass. Crim. April 25, 1985.

70. Decision No. 93-323 of the Constitutional Council of August 13, 1993 (Décision du Conseil constitutionnel No. 93-323 du 13 août 1993).

71. Decision No. 93-323 of the Constitutional Council of August 5, 1993 (Décision du Conseil constitutionnel No. 93-323 du 5 août 1993).

72. Cass. Crim. April 25, 1985.

73. Jacques Buisson, “Contrôles et vérifications d’identité, art. 78-1 à 78-5” *Jurisclasseur de procédure pénale*, fascicule (1998) No. 126s; Haritini Matsopoulou, *Les enquêtes de police* (Paris: L.G.D.J., 1996): 459-467.

74. Haritini Matsopoulou, *Les enquêtes de police* (Paris: L.G.D.J., 1996): 464.

75. Groupe d’Information et de Soutien des Immigrés (GISTI), *Le contrôle d’identité des étrangers* (Paris: GISTI, 2003): 5.

76. Groupe d’Information et de Soutien des Immigrés (GISTI), *Le contrôle d’identité des étrangers* (Paris: GISTI, 2003): 5.

77. Law No. 2001-1063 of November 15, 2001, on Everyday Security (Loi n°2001-1062 du 15 novembre 2001 relative à la sécurité quotidienne, *Journal Officiel* No. 266, November 15, 2001), available at <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000222052&dateTexte>).

78. The extension of these powers apply to the fight against terrorism, but also to other serious crimes such as weapons and explosives, theft, trafficking in stolen goods, and drug trafficking.

79. 2nd Cass. Civ., March 18, 1998.
80. In spite of successive reforms, the autonomy of the Police Prefecture of Paris has remained intact and even strengthened in recent years. Olivier Renaudié, *La préfecture de police* (Paris: Librairie générale de droit et de jurisprudence, 2008).
81. If the study were limited only to the Thalys platform, the officers' potential field of intervention would be far greater, given the Customs officers' near-permanent patrol of the area.
82. These codes, however, include specific counter-terrorism provisions.
83. In the United States, where crime rates are tabulated per 100,000 inhabitants of a particular ethnic group, it has been shown that Blacks have a higher crime rate than Whites for certain crimes such as robbery and homicide. However, ethnic differences in crime rates are not so clear when looking at violations of drug laws, as some minority ethnic groups exhibit lower rates of drug use. See Samuel R. Gross and Debra Livingston, "Racial Profiling under Attack," 102 *Columbia Law Review* (2002): 1413, 1415; and Bernard Harcourt, "Rethinking Racial Profiling: A Critique of Economics, Civil Liberties, and Constitutional Literature, and of Criminal Profiling More Generally," 71 *University of Chicago Law Review* (2004): 1329–1330.
84. Pierre Tournier, "Nationality, Crime and Criminal Justice in France," in Tony M., ed., *Ethnicity, Crime, and Immigration: Comparative and Cross-National Perspectives* (Chicago: University of Chicago Press, 1997): 523–551.
85. Michel Wieviorka, et al., *La France raciste* (Paris: Le Seuil, 1992): 262–267; Renée Zauberman, "Gendarmerie et gens du voyage en région parisienne," 105 *Cahiers internationaux de sociologie*, (July–December 1998): 415–438; Dominique Duprez, Michel Pinet, "La tradition, un frein à l'intégration. Le cas de la police française," 45 *Cahiers de la sécurité intérieure* (2001): 111–138; Fabien Jobard, "Ethnizität und Rassismus in der gesellschaftlichen Konstruktion der gefährlichen Klassen. Polizeikultur- und-praxis in den französischen Vororten," 34 *Revue suisse de science politique* 2 (2008): 261–280.
86. Furthermore, police rely heavily on public cooperation to detect and solve crime. A British study found that the police, acting alone, detected only 15 percent of crimes, the rest are recorded through public reports; see Rod Morgan and Tim Newburn, *The Future of Policing* (Oxford: Clarendon Press/Oxford University Press, 1997).
87. Philippe Robert, Renée Zauberman, Sophie Névanen, Emmanuel Didier, "Victimization and Police Statistics in the Ile-de-France Region," 1 *Penal Issues* (2007) and Renée Zauberman, Philippe Robert, Sophie Névanen, Emmanuel Didier, "L'acteur et la mesure. Le comptage de la délinquance entre données administratives et enquêtes," 50 *Revue française de sociologie* 1 (2009): 31–62.
88. In New York City, a 1999 study examined the controversial use of aggressive stop-and-search practices aimed at offenses relating to drugs and guns. The study, which examined 175,000 stops and searches by the New York City Police Department, found that although the Latino population of New York City was about 22 percent, Latinos made up about 33 percent of all of those stopped and searched. While New York City's Black population was approximately 24 percent of the total, Blacks constituted about 52 percent of those stopped and searched. By contrast, the city's 40 percent White population only made up about 10 percent of all of those stopped and searched. Yet the productivity rate, or "hit rate," was higher for Whites than minorities. The hit rate was 12.6 percent for searches

of Whites, 11.5 percent for Latinos, and 10.5 percent for Blacks. Thus while Blacks and Latinos were targeted at higher rates than Whites, the hit rates do not reflect a higher propensity of these groups to commit offenses. In fact, relying on race caused a reduction in police efficiency. Eliot Spitzer, *The New York City Police Department's 'Stop and Frisk' Practices: A Report to the People of the State of New York* (New York: Department of Justice, 1999): 94–95.

89. In 2007, the Municipal Police of Fuenlabrada, Spain, introduced forms to monitor that recorded the national origin of the people they stopped. Over the course of six months, the use of stops declined from 958 in the first month of monitoring to 253 in the final month, while the hit rate increased from 8 percent to 17 percent. Disproportionality was also reduced for all groups. Open Society Justice Initiative, *Addressing Ethnic Profiling by Police: A Report on the Strategies for Effective Police Stop and Search (STEPSS) Project* (New York: Open Society Institute, 2009).

90. *Timishev v. Russia*, App. Nos. 55762/00, 55974/00, European Court of Human Rights, Judgment of December 13, 2005.

91. *Belgian Linguistics Case (No. 2)*, 1 EHRR 252-10 (1968). See also *Abdulaziz and Others v. United Kingdom*, European Court of Human Rights, Judgment of May 28, 1985, para. 72.

92. Further research looking at a wider selection of sites and gathering information on the motivation underlying operations and the effects of these practices will be needed to confirm our results.

93. In the *Moscow Metro* monitoring study carried out by the Justice Initiative in 2005, the stations were randomly selected. It was not possible to do so in Paris for several reasons. Of the 21 sites observed during the pilot phase, only five had sufficient police activity to make monitoring them feasible. That is, it was estimated that it would have taken approximately 200 hours of monitoring to observe approximately 100 stops by police at the location that had the next most police activity. Open Society Justice Initiative, *Ethnic Profiling in the Moscow Metro* (New York: Open Society Institute, 2006).

94. Prior to the launch of the benchmarking and the observation phase, the project team observed the following metro (RATP) and suburban (RER) train stations: Auber (RER), Basilique de St. Denis, Boulevard de Barbès, Boulevard de Belleville, Champs-Élysée, Charles de Gaulle-Étoile, Châtelet/Châtelet-Les Halles, Gare d' Austerlitz, Gare de Lyon, Gare du Nord (main international/regional train terminal), Gare du Nord (RER concourse), Gare Montparnasse, Gare St. Lazare, La Défense, Melun (RER/SNCF), Nanterre (RER), Place d'Italie, Place Châtelet, Saint Denis-Université, Sèvres-Babylone, and Tolbiac.

95. For more information on Gare du Nord and the different transportation services that pass through there, see http://fr.wikipedia.org/wiki/Gare_de_Paris-Nord#cite_note-stif-0 (updated through 2002) and http://www.stif.info/IMG/pdf/6.Satur_rUseau_IDF.pdf. For information on the RER usage rates at the Châtelet-Les Halles station, updated through 2004, see http://www.stif.info/IMG/pdf/STIF_Les_chiffres_2005.pdf. These are the latest public figures available.

96. At GDN-Thalys, observations were not scheduled for Saturday on the presumption that weekend traffic would be mostly tourism-driven (and thus not representative of daily use).

97. Two sets of photos for ethnicity were necessary as a way of deciding whether to include Indo-Pakistanis and Asians. Our academic team strongly urged us to include these two ethnic groups to make the benchmarking more complete, even though there may not have been enough stops of

these groups to allow statistical analysis of them. The research team decided to include these two groups if, and only if, their addition did not seriously affect the reliability of the ethnic identifications made by our observers. Therefore, an inter-rater reliability test was carried out first without the Indo-Pakistani and Asian groups and later with photographs of these groups included. As we saw no deterioration in the accuracy of our observers identifying all ethnic groups when Indo-Pakistanis and Asians were included in the IRR test, we included these groups in the benchmarking and stop data collection.

98. John Lamberth, "Traffic Observations: The What, How and the Why," in Amy Farrell, Jana Rumminger, Jack McDevitt, eds., *New Challenges in Confronting Racial Profiling in the 21st Century: Learning from Research and Practice* (New York: Open Society Institute, 2005): http://www.racialprofilinganalysis.neu.edu/IRJ_docs/Report_NewChallenges21.pdf.

99. All benchmarking was supposed to have concluded by November 2007. Maintaining the original schedule was made impossible by several factors including: the 2007 Rugby World Cup, which caused massive changes in the available population at the Gare du Nord locations and at Châtelet-Station; several labor strikes which affected Paris' transportation system; and the Christmas period, which also changed the available population.

100. Only 0.5 percent were classified as "Other" and only 0.02 percent were classified as "Unknown."

101. These percentages are *weighted* ethnicity percentages. Benchmarking data were collected at either six (GDN-Station, GDN-RER, and Châtelet-Station), three (Châtelet-Innocents), or two (GDN-Thalys) time periods. Stops were also observed at those same time periods. To make the benchmark and stop data comparable, the benchmarks were weighted to reflect the proportion of stops that occurred at each location during each time period. The weighting did not create large differences in the benchmark population, and was utilized to assure the most accurate results possible.

102. Stops were not observed during every month in this interval. Few observations were scheduled in December 2007 and no stop observations took place in January 2008, due to factors such as the monitors' academic schedules and labor contract delays.

103. Monitors were instructed to unobtrusively keep police in sight and to follow them (at a distance) as they conducted their foot patrols in the area. If the police left the delineated observation area (the same one that was utilized during the benchmarking phase), the monitors broke off their observations and waited for the next police patrol.

104. During the course of the study, there was also an attempt to collect data on the level of police discretion involved in the stop—the "type of stop" variable—which was broken down into the following categories: (1) ordinary stop; (2) turnstile jumping; (3) public disorder; (4) gathering or fight; (5) call for help or summons; (6) delivery into police custody; and (7) public intoxication. As the project designers were unable to define with sufficient precision what these different categories meant, and as observers could not be sure that what they were observing conformed to any of these categories and thus could not be consistent in their categorization of this variable, the data was deemed unusable. It is discussed in this report.

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French residents of immigrant origin, particularly those from North and sub-Saharan Africa, have long felt that they are singled out for police identity checks that are unfair, discriminatory, and unnecessary.

Profiling Minorities: A Study of Stop-and-Search Practices in Paris is the first rigorous study to produce quantitative evidence confirming that persons perceived to be ethnic minorities were disproportionately stopped by the police, particularly when wearing clothing associated with youth cultures.

This form of ethnic profiling by the police in Paris violates both French and European antidiscrimination and human rights standards. There is little evidence that it fights crime or increases public security. Instead, profiling practices reinforce stereotypes about ethnic minorities, distract police from effective crime prevention and detection activities, and destroy trust and cooperation between police and minority communities. And they contribute to tensions that can lead to major conflicts that endanger the safety of both the public and police officers.

Profiling Minorities provides an opportunity for French officials to recognize ethnic profiling as a problem and start taking steps to end it. By using the results of this initial research to pursue further studies and policy change, French authorities can work with civil society groups to ensure that policing practices live up to the French republican ideal of the equality of all citizens.

